

*Associations Incorporation Act 2009 (NSW) (Act).*

..... **Port Stephens  
Athletic Club Incorporated  
Constitution**

**May 2019**

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## ASSOCIATIONS INCORPORATION ACT 2009 (NSW)

### CONSTITUTION

#### PORT STEPHENS ATHLETIC CLUB INCORPORATED

#### 1. NAME OF CLUB

The name of the Club is Port Stephens Athletic Club Incorporated (**'Club'**).

#### 2. DEFINITIONS AND INTERPRETATION

##### 2.1 Definitions

In this Constitution unless the contrary intention appears:

**'Act'** means the *Associations Incorporation Act 2009 (NSW)*.

**'ANSW'** means Athletics NSW Limited ACN 072 450 296.

**'Athletics'** means the sport of athletics as defined by the International Association of Athletics Federations and Athletics Australia, which is governed by ANSW and Athletics Australia.

**'Athletics Australia'** means Athletics Australia ACN 006 447 294.

**'Committee'** means the body managing the Club and consisting of the Committee Members.

**'Committee Member'** means a member of the Executive or a General Committee Member and includes any person acting in that capacity from time to time appointed in accordance with this Constitution.

**'Competitive Member'** means a person who is registered with the Club as an athlete.

**'Constitution'** means this Constitution of the Club.

**'Delegate'** means the person(s) appointed from time to time to act for and on behalf of the Club to represent the Centre at General Meetings of LANSW or ANSW.

**'Executive'** means the Committee members that the Club elected under this Constitution who hold the positions of President, Vice President, Treasurer, Secretary, and Registrar.

**'General Committee Member'** means a committee member at the Club elected under this Constitution who holds a position other than those on the Executive.

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

**'Individual Member'** means:

- (a) a Competitive Member;

- (b) any parent or legal guardian of a Competitive Member under the age of eighteen (18) years;
- (c) any individual who is a volunteer, coach or official who is associated with the Club;
- (d) any person who is a Committee Member of the Club; or
- (e) any person who meets the criteria for membership as an Individual Member which are set out in the Regulations from time to time.

**'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 Club or any activity of or conducted, promoted or administered by the Club in New South Wales..

**'LAA'** means Australian Little Athletics Inc. trading as Little Athletics Australia.

**'LANSW'** means Little Athletics Association of NSW Inc.

**'Life Member'** means an Individual appointed as a Life Member of the Club under **clause 5.2**.

**'Little Athletics'** means the sport of athletics for children which is governed by LANSW and LAA.

**'Member'** means a member of the Club for the time being under **clause 5**.

**'Objects'** means the objects of the Club in **clause 3**.

**'Public Officer'** means the person appointed to be the public officer of the Club in accordance with the Act..

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

**'Regulations'** mean any regulations made by the Committee under **clause 35**.

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

**Special Resolution'** means a Special Resolution defined in the Act.

### **Interpretation**

In this Constitution:

- (f) a reference to a function includes a reference to a power, authority and duty;
- (g) 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;
- (h) words importing the singular include the plural and vice versa;
- (i) words importing any gender include the other genders;

- (j) references to persons include corporations and bodies politic;
- (k) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (l) 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);
- (m) 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 the completion of online forms; and
- (n) any body which no longer exists or has been reconstituted, renamed, replaced, or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

## **2.2 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.

## **2.3 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. The model provisions of the constitution under the Act are expressly displaced by this Constitution.

## **3. OBJECTS OF THE CLUB**

The Club is established solely for the Objects. The Objects of the Club are established to:

- (a) participate as a member of ANSW and LANSW, so Athletics and Little Athletics respectively can be conducted, encouraged, promoted, advanced and administered in the local community;
- (b) conduct, encourage, promote, advance and administer Athletics and Little Athletics throughout the local community;
- (c) provide opportunities for people of all abilities in the local community to participate in healthy recreation through family and community involvement in Athletics and Little Athletics;
- (d) register with the Club:
  - i) LANSW, children and young people in accordance with the requirements of LANSW;

- ii) ANSW, people in accordance with the requirements of ANSW;
- (e) act, at all times, on behalf of and in the interest of the Members, Athletics and Little Athletics in the local community;
- (f) affiliate and otherwise liaise with LANSW of which the Club is a member and LAA and adopt their rule and policy frameworks to further these Objects and Little Athletics;
- (g) affiliate and otherwise liaise with ANSW of which the Club is a member and Athletics Australia and adopt their rule and policy frameworks as required to further these Objects and Athletics;
- (h) abide by, promulgate, enforce and secure uniformity in the application of the rules of Little Athletics as may be determined from time to time by LANSW and LAA and as may be necessary for the management and control of Little Athletics and related activities in New South Wales;
- (i) abide by, promulgate, enforce and secure uniformity in the application of the rules of Athletics as may be determined from time to time by ANSW and Athletics Australia and as may be necessary for the management and control of Athletics and related activities in New South Wales;
- (j) advance the operations and activities of the Club throughout the local community;
- (k) implement such policies as may be developed by LANSW and ANSW, including (as relevant and applicable) member protection, anti-doping, health and safety, junior sport, infectious diseases, and such other matters as may arise as issues to be addressed in Little Athletics and Athletics respectively;
- (l) have regard to the public interest in its operations; and.
- (m) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Objects.

#### **4. POWERS OF THE CLUB**

Solely for furthering the Objects, the Club has, in addition to the rights, powers and privileges conferred on it under section 19 of the Act, the legal capacity and powers of a company as set out under section 124 of the *Corporations Act 2001 (Cth)*.

#### **5. MEMBERS**

##### **5.1 Members**

The Members of the Club shall consist of:

- (a) Life Members, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate at General Meetings but have no right to vote at General Meetings;

- (b) Individual Members over the age of 18, who subject to this Constitution, shall have the right to receive notice of General Meetings and to be present, to debate and to vote at General Meetings; and
- (c) Individual Members under the age of 18, who subject to this Constitution, shall have no right to receive notice of General Meetings and no right to debate or vote at General Meetings.

## **5.2 Life Members**

- (a) The Committee may recommend to the Annual General Meeting that any natural person who has rendered distinguished service to the Club be appointed as a Life Member of the Club.
- (b) A resolution of the Annual General Meeting to confer life membership (subject to **clause 5.2(c)**) on the recommendation of the Committee must be a Special Resolution.
- (c) A person must accept or reject the Club's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the Register, and from the time of entry on the Register the person shall be a Life Member.
- (d) Persons holding the status of Life Member under the constitution operating immediately prior to approval of this Constitution under the Act shall continue to hold that status under this Constitution.

## **6. MEMBERSHIP APPLICATION**

### **6.1 Application for Membership**

An application for membership must be:

- (a) made in the manner prescribed from time to time by the Club, LANSW and ANSW as appropriate;
- (b) accompanied by the appropriate fee (if any); and
- (c) accompanied by any other document required for membership by the Club, LANSW or ANSW.

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

- (a) The Club may accept or reject an application whether the applicant has complied with the requirements in **clause 6.1** or not. The Club shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) Where the Club accepts an application, the applicant shall become a Member. Membership shall be deemed to commence upon acceptance of the application by the Club. The Register shall be amended accordingly as soon as practicable.
- (c) Where the Club rejects an application, it shall refund any fees forwarded with the application and the application shall be deemed rejected by the Club.



### **6.3 Renewal**

Members (other than Life Members) must renew their membership annually in the manner prescribed from time to time by the Club, LANSW and ANSW as appropriate.

### **6.4 Deemed Membership**

- (a) All persons who are, prior to the approval of this Constitution under the Act, Members of the Club shall be deemed Members from the time of approval of this Constitution under the Act.
- (b) Any Members of the Club, prior to approval of this Constitution under the Act, who are not deemed Members under **clause 6.4(a)** shall be entitled to carry on such functions analogous to their previous functions as are provided for under this Constitution.

## **7. REGISTER OF MEMBERS**

### **7.1 Centre to Keep Register**

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

- (a) the full name, address, type of membership and date of entry of each Member;  
and
- (b) where applicable, the date of termination of membership of any Member.

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

### **7.2 Inspection of Register**

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

### **7.3 Use of Register**

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

## **8. EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

- (a) This Constitution forms a contract between each of them and the Club and that they are bound by this Constitution and the Regulations and:
  - i) the constitution of LANSW and LAA where registered with or in connection with Little Athletics; and
  - ii) the constitution of ANSW where registered with or in connection with Athletics;

- (b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Committee or other entity with delegated authority;
- (c) by submitting to this Constitution and Regulations they are subject to the jurisdiction of the Club and:
  - i) LANSW and LAA where registered with or in connection with Little Athletics; and
  - ii) ANSW where registered with or in connection with Athletics;
- (d) the Constitution and Regulations are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Little Athletics and Athletics in New South Wales; and
- (e) they are entitled to all benefits, advantages, privileges and services of Club membership.

## **9. DISCONTINUANCE OF MEMBERSHIP**

### **9.1 Notice of Resignation**

- (a) A Member who has paid all arrears of fees payable to the Club may resign or withdraw from membership of the Club by giving one week's notice (unless otherwise agreed in writing by the Committee) in writing to the Club of such resignation or withdrawal.
- (b) Once the Club receives a notice of resignation of membership given under **clause 9.1(a)**, it must make an entry in the Register that records the date on which the Member ceased to be a Member.

### **9.2 Discontinuance for Breach**

- (a) Membership of the Club may be discontinued by the Committee upon breach of any clause of this Constitution or the Regulations, including, but not limited to, the failure to pay any monies owed to the Club, 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 9.2(a)** without the Committee first giving the accused Member the opportunity to explain the breach or remedy the breach.
- (c) Where a Member fails, in the Committee's view, to adequately explain the breach, that Member's membership shall be discontinued under **clause 9.2(a)** by the Club giving written notice of the discontinuance to the Member. The Register shall be amended to reflect any discontinuance of membership under this **clause 9.2** as soon as practicable.

### **9.3 Member may be Reinstated**

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

- (a) may seek renewal or re-apply for membership in accordance with this Constitution; and
- (b) may be re-admitted at the discretion of the Committee with such conditions as it deems appropriate.

#### **9.4 Forfeiture of Rights**

A Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Club and its property and shall not use any property of the Club including Intellectual Property. Any Club documents, records or other property in the possession, custody or control of that Member shall be returned to the Club immediately.

#### **9.5 Refund of Membership Fees**

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance at the discretion of the Committee.

### **10. DISCIPLINE**

#### **10.1 Disciplinary proceedings**

Where the Committee is advised or considers that a Member has allegedly:

- (a) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations or any resolution or determination of the Committee or any duly authorised committee;
- (b) acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Club, Little Athletics or Athletics; or
- (c) brought the Club, any other Member, Little Athletics or Athletics into disrepute,

the Committee may commence or cause to be commenced, disciplinary proceedings against that Member, and that Member will be subject to and submits unreservedly to the jurisdiction, procedures, penalties and the appeal mechanisms of the Club set out in the Regulations.

#### **10.2 Judiciary Committee**

The Committee may appoint a Judiciary Committee to deal with any disciplinary matter referred to it. Such a Judiciary Committee shall operate in accordance with the procedures expressed in the Regulations but is subject always to the Act.

### **11. SUBSCRIPTIONS AND FEES**

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

## **12. EXISTING COMMITTEE MEMBERS**

The Members of the Committee in office immediately prior to approval of this Constitution under the Act and subject to the provisions of this Constitution relating to earlier retirement or removal of Committee Members shall continue in those positions and act as a Committee Member until that position would have become vacant under the constitution operating immediately prior to approval of this Constitution. Upon the retirement of a Committee Member referred to in this clause, the positions of Committee Members shall be filled, vacated and otherwise dealt with in accordance with this Constitution.

## **13. POWERS OF THE COMMITTEE**

Subject to the Act and this Constitution, the business of the Club shall be managed and the powers of the Club shall be exercised by the Committee in accordance with the Objects.

## **14. COMPOSITION OF THE COMMITTEE**

### **14.1 Composition of the Committee**

The Committee shall be elected under **clause 15** and shall comprise:

- (a) five (5) Committee Members who must all be Members who will hold the roles of the Executive; and
- (b) General Committee Members who must all be Members, the number and roles of which shall be determined annually by the Committee before the Annual General Meeting of the Club, and at any other time should the need arise provided that the number of General Committee Members at any time shall not exceed fifteen (15).

### **14.2 Executive Committee Members**

- (a) There shall be five (5) Committee Members elected to the Committee to the Executive positions.
- (b) The Executive positions are:
  - i) President;
  - ii) Vice President;
  - iii) Secretary;
  - iv) Treasurer; and
  - v) Registrar

- (c) No Committee Member shall be permitted to hold more than one Executive position concurrently.
- (d) The Executive positions shall, provided there are sufficient nominations, be held by:
  - i) at least two (2) Committee Members whose principal involvement with the Club is with Little Athletics; and
  - ii) at least two (2) Committee Members whose principal involvement with the Club is with Athletics.

#### **14.3 Portfolios of General Committee Members**

In addition to the positions of the Executive, the Committee may allocate portfolios to General Committee Members and titles to General Committee Members and the role and duties of a General Committee Member who is responsible for a particular portfolio may be set out in the Regulations.

### **15. ELECTION OF COMMITTEE MEMBERS**

#### **15.1 Nomination for Committee**

- (a) Nominations for Committee Member positions shall be called for not less than twenty-one (21) days prior to the Annual General Meeting. When calling for nominations, details of the necessary qualifications and job descriptions for the positions shall also be provided. Qualifications and job descriptions shall be determined by the Committee from time to time.
- (b) If a nomination is for an Executive position, the nomination must specify to which Executive position the nomination relates.
- (c) Nominees must be over 18 years of age.
- (d) Nominees for Committee Member positions must declare any position they hold at LANSW, LAA, ANSW or Athletics Australia.

#### **15.2 Form of Nomination**

Nominations must be:

- (a) in writing;
- (b) on the prescribed form (if any) provided for that purpose;
- (c) signed by two Individual Members over the age of 18;
- (d) certified by the nominee (who must be a Member) expressing his or her willingness to accept the position for which he or she is nominated; and
- (e) delivered to the Club not less than seven (7) days before the date fixed for the Annual General Meeting.

### 15.3 Election of Executive Positions

- (a) If only one nomination is received for a particular Executive position pursuant to **clause 15.1 and 15.2**, then that nominee shall be declared elected only if approved by the majority of Members entitled to vote and in attendance at the relevant General Meeting.
- (b) If there is no nomination received for a particular Executive position pursuant to **clause 15.1 and 15.2**, or if a person is not approved by the majority of Members under **clause 15.3(a)**:
  - i) nominations can be called upon from the floor which will not be required to comply with the provisions of **clauses 15.1 and 15.2** but will require a Member who is entitled to vote to second that nomination;
  - ii) if there is only one nomination from the floor, then that nominee shall be declared elected only if approved by the majority of Members entitled to vote and in attendance at the relevant General Meeting;
  - iii) if there is more than one nomination for a particular Executive position, voting will be by secret ballot; and
  - iv) if there is no nomination from the floor, the position will be deemed a casual vacancy under clause 17.1.
- (c) If there is more than one nomination for a particular Executive position pursuant to **clause 15.1 and 15.2**, voting to fill the vacancy will be by secret ballot. Voting papers shall be used for each such vacancy on the Committee.
- (d) Voting shall be conducted in such a manner and by such a method as determined by the Committee from time to time which may be set out in the Regulations.

### 15.4 Election of General Committee Members

- (a) If the number of nominations received for General Committee Members pursuant to clause 15.1 and 15.2, is equal to or less than the number of General Committee Member positions determined under clause 14.1(b), then each such nominee shall be declared elected only if approved by the majority of Members entitled to vote and in attendance at the relevant General Meeting.
- (b) If the number of nominations received for a General Committee Member positions pursuant to clause 15.1 and 15.2, is less than the number of General Committee Member positions determined under clause 14.1(b), or if a person is not approved by the majority of Members under clause 15.3(a), causing one or more General Committee Member positions not filled under clause 15.4(a):
  - i) nominations can be called upon from the floor which will not be required to comply with the provisions of **clauses 15.1 and 15.2** but will require a Member who is entitled to vote to second that nomination;
  - ii) if the number of nominations from the floor is less than or equal to the number of General Committee Member positions remaining vacant, then those nominees shall be declared elected only if approved by the

majority of Members entitled to vote and in attendance at the relevant General Meeting;

- iii) if the number of nominations from the floor is more than the number of General Committee Member positions remaining vacant, voting will be by secret ballot; and.
  - iv) if there is insufficient nominations from the floor to fill each General Committee Member position, the position will be deemed a casual vacancy under **clause 17.1**.
- (c) If there are more nominations received pursuant to **clauses 15.1 and 15.2** than the number of General Committee Member positions determined under clause 14.1(b), voting to fill the vacancies will be by secret ballot. Voting papers shall be used for each such vacancy on the Committee.
- (d) Voting shall be conducted in such a manner and by such a method as determined by the Committee from time to time which may be set out in the Regulations.
- (e) If no portfolios or Committee Member titles are allocated under **clause 14.3** (other than the positions on the Executive), this **clause 15.4** will apply in relation to nominations for any vacancy on the Committee, with any necessary or incidental amendment.

#### **15.5 Term of Appointment for Committee Members**

General Committee Members elected under this **clause 15** shall be elected for a term of one (1) year. Subject to provisions in this Constitution relating to early retirement or removal of Committee Members, General Committee Members shall remain in office from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the next Annual General Meeting.

### **16. EXECUTIVE PORTFOLIOS**

#### **16.1 President**

The President shall preside as chair at all Committee meetings and General Meetings at which he or she is present. In the absence of the President the Vice President shall preside as chair at such meetings. If both the President and Vice President are unable or unwilling to preside at any such meeting the Committee shall appoint another Committee Member to preside as chair for that meeting only.

#### **16.2 Vice President**

In addition to any other responsibilities, functions and duties assigned or attaching to the office of Vice President, the Vice President shall assist the President as required and act for the President in the absence of the President.

#### **16.3 Secretary**

- (a) The Secretary must, as soon as practicable after being appointed as Secretary, lodge notice with the Club of his or her address.

- (b) It is the duty of the Secretary to keep minutes of:
  - i) All appointments of Committee Members;
  - ii) The names of Committee Members present at a Committee meeting or a General Meeting of the Centre; and
  - iii) All proceedings at Committee meetings and General Meetings of the Club.
- (c) In the absence of the Secretary, the chair of the meeting may appoint another member of the Committee to take minutes of proceedings.
- (d) Minutes of proceedings at a meeting must be signed by the chair of the next succeeding meeting.

#### **16.4 Treasurer**

It is the duty of the Treasurer to ensure:

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

#### **16.5 Registrar**

It is the duty of the Registrar to maintain the register of members.

### **17. VACANCIES ON THE COMMITTEE**

#### **17.1 Casual Vacancies**

Any casual vacancy occurring in a position on the Committee may be filled by:

- (a) the remaining Committee Members from among appropriately qualified persons;  
or
- (b) a Member appointed by the Committee to fill the vacancy.

Any casual vacancy may only be filled for the remainder of the Committee Member's term under this Constitution.

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

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

- (a) dies;



- (b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns his or her office in writing to the Club;
- (e) is absent without the consent of the Committee from three successive meetings of the Committee;
- (f) holds any office of employment with the Club without the approval of the Committee;
- (g) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of that interest;
- (h) in the opinion of the Committee (but subject always to this Constitution):
  - i) has acted in a manner unbecoming or prejudicial to the Objects and interests of the Club
  - ii) has brought the Club into disrepute
- (i) is removed by Special Resolution; or
- (j) would otherwise be prohibited from being a Committee Member of a corporation under the *Corporations Act 2001 (Cth.)*.

### **17.3 Committee May Act**

In the event of a casual vacancy or vacancies in the office of a Committee Member or Committee Members, 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.

## **18. MEETINGS OF THE COMMITTEE**

### **18.1 Committee to Meet**

- (a) The Committee shall meet as often as is required in every calendar year for the dispatch of business (and shall be at least as often as is required under the Act). Subject to this Constitution, it may adjourn and otherwise regulate its meetings as it thinks fit.
- (b) The Secretary will convene a Committee meeting when a minimum of four (4) Committee Members submit a requisition in writing.
- (c) The requisition for a Committee meeting shall state the object(s) of the meeting, be signed by the Committee Members making the requisition and be sent to the Secretary. The requisition may consist of several documents in a like form, each signed by one or more of the Committee Members making the requisition.

- (d) If the Secretary does not cause a Committee meeting to be held within one month after the date in which the requisition is sent to the Secretary, the Committee Members making the requisition, or any of them, may convene a Committee meeting to be held no later than three months after that date.

## **18.2 Decisions of Committee**

Subject to this Constitution, questions arising at any meeting of the Committee shall be decided by a majority of votes and a determination of a majority of Committee Members shall for all purposes be deemed a determination of the Committee. All Committee Members shall have one vote on any question and no Committee Member will have a casting vote. Where voting is equal, the motion will be lost.

## **18.3 Resolutions Not in Meeting.**

- (a) A resolution in writing that has been signed or assented to by circular resolution, facsimile, email or other form of visible or other electronic communication by the Committee Members for the time being 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 by one or more of the Committee Members. A circular resolution under this clause will be effective if:
  - i) at least half of the Committee Members respond to the proposed resolution; and
  - ii) at least half of those responding assent to the proposed resolution.
- (b) Without limiting the power of the Committee to regulate its meetings as it thinks fit, 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 18.3(b)i** from being satisfied by the number of Committee Members which constitutes a quorum, 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 18.3(b)i** is satisfied again. If such condition is not satisfied within fifteen minutes from the failure, 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 present. If no Committee Member is there present, the meeting shall be deemed to be held at the place where the chair of the meeting is located.

#### **18.4 Quorum**

- (a) The presence of at least 3 Committee Members is required to constitute a quorum at meetings of the Committee.
- (b) If at the meeting a quorum is not present within half an hour of the time appointed for the meeting, the meeting is to be abandoned.

#### **18.5 Notice of Committee Meetings**

Unless all Committee Members agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their apology or presence) not less than ten (10) days written notice of the meeting of the Committee shall be given to each Committee Member. The agenda shall be forwarded to each Committee Member not less than three (3) days prior to such meeting.

#### **18.6 Public Officer**

The Committee must appoint a person as Public Officer from time to time who must ensure compliance with the requirements of the regulatory body overseeing regulation of incorporated associations under the Act.

#### **18.7 Conflict of Interest**

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. Unless otherwise determined by the Committee, the Committee Member shall be absent 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. In the event of any uncertainty as to whether it is necessary for a Committee Member to be absent 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.

#### **18.8 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 after the acquisition of the interest by the Committee Member. 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 so interested.
- (b) All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

## **18.9 General Disclosure**

A general notice stating that a Committee Member is a member of any specified firm or company and that the Committee Member is to be regarded as interested in all transactions with that firm or company is sufficient declaration under **clause 18.8**. 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.

## **18.10 Recording Disclosures**

Any declaration made, any disclosure or any general notice given by a Committee Member in accordance with **clauses 18.7, 18.8, or 18.9** must be recorded in the minutes of the relevant meeting.

## **19. DELEGATIONS**

### **19.1 Committee May Delegate Functions**

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

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

### **19.2 Delegation by Instrument**

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

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

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

A function, the exercise of which has been delegated under this clause, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation. Persons exercising a delegated function, but not being Committee Members elected under **clause 15.3** do not have a right to vote at Committee Meetings.

### **19.4 Procedure of Delegated Entity**

The procedures for any committee or person exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the Committee under **clause 18**. The committee or person exercising delegated powers shall make decisions in accordance with the Objects, and it shall promptly provide the Committee with details of all material decisions. The committee or person shall also provide any other reports, minutes and information required by the Committee.

### **19.5 Delegation May Be Conditional**

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

### **19.6 Revocation of Delegation**

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

## **20. ANNUAL GENERAL MEETING**

- (a) The Club's Annual General Meeting shall be held in accordance with the Act and this Constitution. It should be held on a date and at a venue determined by the Committee, provided that the Annual General Meeting is held within the time frame specified from time to time by LANSW and ANSW. In the event of a conflict, the Club must hold the Annual General Meeting in accordance with the Act and within the earliest time frame specified by LANSW and ANSW.
- (b) All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

## **21. SPECIAL GENERAL MEETINGS**

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

The Committee may, whenever it thinks fit, convene a Special General Meeting. When, but for this clause, more than fifteen months would elapse between Annual General Meetings, the Committee shall convene a Special General Meeting before the expiration of that period.

### **21.2 Requisition of Special General Meetings**

- (a) The Secretary will convene a Special General Meeting when a minimum of eight (8) Members entitled to vote submit a requisition in writing.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, be signed by the Members making the requisition and be sent to the Club. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisition.
- (c) If the Committee does not cause a Special General Meeting to be held within one month after the date in which the requisition is sent to the Club, the Members making the requisition, or any of them, may convene a Special General Meeting to be held no later than three months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as close as possible, as those convened by the Committee.

## 22. NOTICE OF GENERAL MEETING

- (a) Notice of every General Meeting shall be given to every Member entitled to receive notice. The auditor (if any) shall also be entitled to receive notice of every General Meeting. This will be sent to the auditor's last known address, (if applicable). No other person shall be entitled, as of right, to receive notices of General Meetings.
- (b) A notice of a General Meeting shall specify the place, day and hour of the meeting and shall state the business to be transacted at the meeting.
- (c) At least fourteen (14) days' notice of a General Meeting shall be given to those Members entitled to receive notice, together with:
  - i) the agenda for the meeting; and
  - ii) any notice of motion received from Members entitled to vote.
- (d) Notice of every General Meeting shall be given in the manner authorised in **clause 36**.

## 23. BUSINESS

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts and the reports of the Committee and auditors (if any), the election of Committee Members under this Constitution and the appointment of the auditors (if any).
- (b) All business that is transacted at a General Meeting and at an Annual General Meeting, with the exception of those matters set down in **clause 23(a)**, shall be special business.
- (c) No business other than that stated on the notice for a General Meeting shall be transacted at that meeting.

## 24. NOTICES OF MOTION

Members entitled to vote may submit notices of motion for inclusion as special business at a General Meeting. Notices of motion shall be called for not less than forty-two (42) days prior to the General Meeting and shall be returned not less than 28 days prior to the General Meeting.

## 25. PROCEEDINGS AT GENERAL MEETINGS

### 25.1 Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Club shall be at least half of the Executive plus one (1) other Member entitled to vote.

### **President to Preside**

The President shall, subject to this Constitution, preside as chair at every General Meeting except:

- (a) in relation to any election for which the President is a nominee; or
- (b) where a conflict of interest exists.

If the President is not present, or is unwilling or unable to preside, the Committee Members present shall appoint another Committee Member to preside for that meeting only.

### **25.2 Adjournment of Meeting**

- (a) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall:
  - i) if convened on the requisition of Members be abandoned; or
  - ii) in any other case, be adjourned to a time or place determined by the chair. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.
- (b) The chair may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place. No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in **clause 25.2(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.
- (e) If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than five (5) Members entitled to vote, but including not less than three (3) of the Executive) shall constitute a quorum for that meeting.

### **25.3 Voting Procedure**

Unless otherwise required by this Constitution, at any meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chair; or
- (b) a simple majority of the Members entitled to vote.

## **25.4 Recording of Determinations**

Unless a poll is demanded under **clause 25.3**, the chair's declaration shall be conclusive evidence of the result of a resolution decided by a show of hands, unless otherwise required by this Constitution. The declaration does not need to record the number of votes in favour of or against the resolution. The result of the resolution must be recorded in the Club's minutes.

## **25.5 Where Poll Demanded**

If a poll is duly demanded under **clause 25.3** it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chair directs. The result of the poll shall be the resolution of the meeting.

## **26. VOTING AT GENERAL MEETINGS**

### **26.1 Members Entitled to Vote**

Each Individual Member over the age of 18 shall be entitled to one vote at General Meetings. No other Member shall be entitled to vote but shall, subject to this Constitution, have and be entitled to exercise those rights set out in **clause 5.1**.

### **26.2 Exercise of Casting Vote**

- (a) Subject to **clause 27.2(b)**, where voting at General Meetings is equal, neither the chair nor any other Member may exercise a casting vote. Where voting is equal the motion will be lost.
- (b) Despite **clause 27.2(a)**, where voting for the election of Committee Members at General Meetings is equal, the chair may exercise a casting vote but only if the chair is not a nominee for the equal vote.

### **26.3 Proxy Voting**

Proxy voting shall not be permitted at General Meetings.

### **26.4 Postal Voting**

Postal voting shall not be permitted at General Meetings.

## **27. GRIEVANCE PROCEDURE**

- (a) The grievance procedure set out in this clause applies to disputes under this Constitution between a Member and:
  - i) another Member; or
  - ii) the Club.
- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen days after the dispute comes to the attention of all parties.



- (c) If the parties are unable to resolve the dispute at the meeting or if a party fails to attend that meeting, then the parties must, within ten (10) days, refer the dispute for resolution to an independent tribunal established by the most relevant (as determined by the Committee) of:
  - i) LANSW in accordance with the procedures determined by LANSW from time to time; or
  - ii) ANSW in accordance with the procedures determined by ANSW from time to time.
- (d) The Committee may prescribe additional grievance procedures in the Regulations consistent with this **clause 28(d)**.

## **28. RECORDS AND ACCOUNTS**

### **28.1 Records**

The Club shall establish and maintain proper records and minutes concerning all of its transactions, business, meetings and dealings (including those of the Club and the Committee). It shall produce these as appropriate at each Committee and General Meeting.

### **28.2 Records Kept in Accordance with the Act**

Proper accounting and other records shall be kept in accordance with the Act. The books of account shall be kept in the care and control of the Treasurer.

### **28.3 Committee to Submit Accounts**

The Committee shall submit the Club's statements of account to the Members at the Annual General Meeting in accordance with this Constitution and the Act.

### **28.4 Accounts Conclusive**

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

### **28.5 Accounts to be Made Available to Members**

The Secretary shall cause to be made available to all persons entitled to receive notice of Annual General Meetings in accordance with this Constitution, a copy of the statements of account, the Committee's report, the auditor's report (if any) and every other document required under the Act (if any).

### **28.6 Negotiable Instruments**

All cheques and other negotiable instruments, and all receipts for money paid to the Club, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any two duly authorised Committee Members who are not related to each other, or in such other manner as the Committee determines.

## **28.7 Financial Year**

The financial year of the Club is:

- (a) The period of time commencing on the date of incorporation of the Club and ending on the following 31 March, and
- (b) Each period of 12 months after the expiration of the previous financial year of the Club, commencing on 1 April and ending on the following 31 March.

## **29. AUDIT OF ACCOUNTS**

Under the Act, certain incorporated associations are required to undertake an audit. The Act divides large ('Tier 1') and small ('Tier 2') associations and requires Tier 1 organisations to conduct an audit. Tier 1 associations as at 2013 are those with gross annual receipts of \$250,000 or current assets of \$500,000, although these figures may vary over time.

If the Club is required under the Act to undertake an audit:

- i) A properly qualified auditor or auditors shall be appointed by the Club in a General Meeting. The auditor's duties shall be regulated in accordance with the Act. If no relevant provisions exist under the Act the duties shall be regulated in accordance with the *Corporations Act 2001 (Cth.)* and generally accepted principles and any applicable code of conduct. The auditor may be removed by the Club in a General Meeting; and
  - ii) The accounts of the Club shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each financial year.
- (a) If the Club is not required under the Act to undertake an audit the Club shall ensure that the accounts and financial reports presented at the Annual General Meeting are independently reviewed by a person of expertise who is neither on the Committee, nor related to a person on the Committee.

## **30. INCOME**

- 30.1 Income and property of the Club shall be derived from such sources as the Committee reasonably determines from time to time but subject to obligations and directives (if any) from LANSW, LAA, ANSW and Athletics Australia and consistent with the Club's Objects.
- 30.2 The income and property of the Club shall be applied solely towards the promotion of the Objects.
- 30.3 Except as prescribed in this Constitution or the Act:
- (a) no portion of the income or property of the Club shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member; and
  - (b) no remuneration or other benefit in money or money's worth shall be paid or given by the Club to any Member who holds any office at the Club.

- 30.4 Nothing in clause 31.2 or 31.3 shall prevent payment in good faith of or to any Member for:
- (a) any services actually rendered to the Club whether as an employee, contractor, Committee Member or otherwise;
  - (b) goods supplied to the Club in the ordinary and usual course of operation;
  - (c) interest on money borrowed from any Member;
  - (d) rent for premises demised or let by any Member to the Club;
  - (e) any out-of-pocket expenses incurred by a Member on behalf of the Club; or
  - (f) providing grants, scholarships or donations to Members where such grants, scholarships or donations reasonably further the Objects of the Club.

Nothing in **clauses 30.2 or 30.3** preclude such payments provided they do not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

### **31. WINDING UP**

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

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

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

### **33. ALTERATION OF CONSTITUTION**

This Constitution shall not be altered except by Special Resolution.

## **34. REGULATIONS**

### **34.1 Committee to Formulate Regulations**

The Committee may formulate, issue, adopt, interpret and amend Regulations for the proper advancement, management and administration of the Club, the advancement of the objects of the Club as it thinks necessary or desirable. Such Regulations must be consistent with the Constitution and those of LANSW and ANSW as far as possible, and any policy directives of the Committee.

### **34.2 Regulations Binding**

All Regulations are binding on the Club and all Members.

### **34.3 Regulations Deemed Applicable**

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

### **34.4 Bulletins Binding on Members**

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

## **35. STATUS AND COMPLIANCE OF CLUB**

### **35.1 Recognition of Centre**

- (a) The Club is a Member of the zone, regional and state body for Little Athletics and is recognised by those bodies as the entity responsible for the delivery of Little Athletics in the local community and is subject to compliance with this Constitution and the LANSW constitution. The Club shall continue to be so recognised and shall administer Little Athletics in the local community in accordance with the Objects.
- (b) The Club is a Member of Athletics NSW and is recognised by the organisation as the entity responsible for the delivery of Athletics in the local community and is subject to compliance with this Constitution and the ANSW constitution. The Club shall continue to be so recognised and shall administer Athletics in the local community in accordance with the Objects. The Club must appoint Member Club Representatives to ANSW in accordance with the provisions of ANSW's constitution and may not resign, disaffiliate or otherwise seek to withdraw from ANSW without approval by Special Resolution.

### **35.2 Constitution of the Club**

This Constitution will clearly reflect the Objects of LANSW and ANSW and will conform to the Constitution of LANSW and ANSW, subject always to the Act.

### **35.3 Zone/Region and LANSW**

The Club must participate in good faith in the relevant zone and region groupings set up under LANSW and may not resign, disaffiliate or otherwise seek to withdraw from its zone, region, or LANSW without approval by Special Resolution and acceptance of the same by LANSW.

### **36. NOTICE**

- (a) Notices may be given by the Club to any person entitled under this Constitution to receive any notice. The notice can be:
  - i) by delivery to the person personally;
  - ii) sent by pre-paid post or facsimile transmission or, where available, by electronic mail to the Member's registered address or facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected three (3) days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected the next business day after it was sent.
- (e) Where an electronic mail address has:
  - i) not been provided by a Member entitled to receive notice of General Meetings; or
  - ii) an electronic mail address has been provided by a Member entitled to receive notice of General Meetings but that Member has elected not to receive notices or information by email communication

a notice of any General Meeting will be effectively given if publication of the notice has been made on the Club's website or Facebook page (if any) or by other means as reasonably determined by the Committee from time to time.

### **37. INDEMNITY**

- (a) Every Committee Member and employee of the Club will be indemnified out of the property and assets of the Club against any liability incurred by them in their capacity as Committee Member or employee in defending any proceedings, civil or criminal, in which judgement is given in their favour or in which they are acquitted or connected with any application in relation to any such proceedings in which relief is granted by the Court.
- (b) The Club shall indemnify its Committee Members and employees against all damages and losses (including legal costs) for which any such Committee

Member or employee may be or become liable to any third party in consequence of any act or omission, except wilful misconduct:

- i) in the case of a Committee Member, performed or made while acting on behalf of and with the authority, express or implied, of the Club; or
- ii) in the case of an employee, performed or made in the course of, and within the scope of, their employment by the Club.