



# CONSTITUTION

of

## AUSTRALIAN SWIMMING COACHES AND TEACHERS ASSOCIATION LTD.

A Company Limited by Guarantee

Under the Corporations Act 2001

Australian Business Number (ABN) 72 239 429 765

*Australian Company Number (ACN) 135 046 605*

## TABLE OF CONTENTS

1.	Definitions & interpretation	2		26.	Term of Directors	14
2.	Exclusion of Replaceable Rules	3		27.	Vacancies on the Board	14
3.	Purposes	3		28.	Meetings of the Board	15
4.	Objects	4		29.	Chairman of Board meetings	15
5.	Powers	5		30.	Decisions of the Board	15
6.	Addition, alteration or amendment	5		31.	Office Bearers	16
7.	Liability of Members	6		32.	Chief Executive Officer	16
8.	Income and property	6		33.	Secretary	17
9.	Distribution of property on winding up	6		34.	By-Laws	17
10.	Members	7		35.	Records and Accounts	17
11.	Life Members	7		36.	Auditor	18
12.	Membership Fees	7		37.	Notices to Members	18
13.	Application for Membership	8		38.	Indemnity	19
14.	Register of Members	8		39.	Transitional Provisions	20
15.	Effect of Membership	8				
16.	Cessation of Membership	9				
17.	Reinstatement	9				
18.	Code of Conduct and discipline of Members	9				
19.	General Meetings	10				
20.	Notice of General Meetings	10				
21.	Quorum for General Meetings	11				
22.	Chairman at General Meetings	12				
23.	Voting at General Meetings	12				
24.	ASCTA Board	13				
25.	Nomination and election of Directors	13				

## 1. Definitions & interpretation

---

### 1.1 In this Constitution:

**Act** means the Corporations Act 2001 (Cth).

**Annual General Meeting** has the meaning given to it in Rule 19.

**ASCTA** means the Australian Swimming Coaches and Teachers Association, Proprietary Limited.

**Board** means the Board of Directors of ASCTA.

**By-Laws** means the by-laws, from time to time, made by the Board under Rule 34.

**CEO** means the position of Chief Executive Officer of ASCTA, appointed by the Board.

**Code of Conduct** means the code of conduct for ASCTA Members, as approved by the Board.

**Constitution** means the Constitution of ASCTA.

**Co-opted Director** means a person appointed by the Board to be a Director who in the view of the Board has skills and experience to advance the Objects. A Co-opted Director does not need to be a member of the **ASCTA**.

**Director** means a member of the Board of Directors elected or appointed in accordance with the Constitution.

**Elected Director** means a person appointed by the Board to be a Director. An Elected Director must be a Member entitled to vote.

**General Meeting** means a meeting of the Members of ASCTA.

**Intellectual Property** means all rights or goodwill subsisting in copyright, business name, trade name, registered trademarks (signs or logos), designs, patents, relating to ASCTA or an event promoted or administered by ASCTA.

**Life Member** means and includes those persons recognised under Rule 11.

**Member** means a current financial Member of ASCTA who is entered in the register of Members.

**Office Bearer** means a person elected pursuant to this Constitution holding the office of President, Vice President, Secretary or Treasurer.

**President** means the Director elected as president of the Board.

**SAL** means Swimming Australia Limited.

**Secretary** means the person appointed to the office of Secretary of ASCTA by the Board.

**Serious Criminal Offence** means behaviour that is directed towards a person that is a crime as indicated under the Crimes Act 1900 (Cth) and any other Commonwealth, State or Territory legislation dealing with a person's wellbeing and welfare as applicable from time to time and includes physical abuse, sexual abuse, emotional abuse, neglect and any other violation of a person by another in a position of trust and authority.

**1.2** *In this Constitution, unless there is something in the subject or context inconsistent with this Rule:*

- a) a reference to notices includes not only formal notices of meeting, but also all documents and other communications from ASCTA to its members, but does not include cheques;
- b) any words or expressions defined in the Act have the same meaning in this Constitution unless they are otherwise defined;
- c) the provisions of this Constitution displace each replaceable rule under the Act that would otherwise apply other than those mandatory replaceable rules that apply to public companies under the Act;
- d) any reference to Members or Directors "present" means that each Member or Director counted towards a quorum of a General Meeting or Board meeting as the case may be, is able to clearly hear and be heard by every other person at the meeting, whether or not physically present in the same room or able to be seen;
- e) a reference to one gender includes the others;
- f) a reference to the singular includes the plural and vice versa;
- g) a reference to a person includes a body corporate; and
- h) headings are for convenience only and do not form part of this Constitution or affect its interpretation.

**2. Exclusion of Replaceable Rules**

---

The replaceable rules set out in the Act do not apply to ASCTA.

**3. Purposes**

---

**3.1 ASCTA:**

- a) is a company limited by guarantee;
- b) is a charity registered with the Australian Charities and Not-For-Profit Commission;

- c) will operate predominately for the provision of swim teacher and coach training and accreditation. Swimming industry advocacy, membership support, professional development for swimming teachers and coaches, drowning prevention programs at swim schools and to the public, environmental assistance for swimming facility operators, mentoring; within Australia in accordance with the Objects;
- d) will apply its profits (if any) in promoting its Objects;
- e) does not exist for the purpose of profit or promotion of individual Members.

#### 4. Objects

---

##### 4.1 *The Company's object are to further the following charitable purpose(s):*

- a) encourage, promote, foster, develop and assist swimming coaches, swimming teachers and swim schools in Australia;
- b) provide, conduct, encourage, promote and administer educational programs, including professional development and continuing education programs, for swimming coaches, swimming teachers, and swim schools in Australia;
- c) promote the improvement of swimming technique and training methods among our Members by the medium of clinics, meetings, seminars and other educational forums;
- d) promote and foster the professional standing and welfare of swimming coaches and swimming teachers in Australia and the prestige and status of ASCTA;
- e) study existing rules, regulations, and laws that affect Members and make recommendations to the relevant governing bodies so that those rules, regulations, and laws may be coordinated, standardised, and understood by the Members;
- f) promote the growth and development of the sport of swimming and the learn to swim industry;
- g) promote swimming as a water safety, fitness, and life-long recreational activity;
- h) promote 'best practice' methods for the teaching of swimming, the coaching of swimming and the operation of swim schools;
- i) promote cooperation between swimming coaches, swimming teachers, swim schools, swim officials, the media and sponsoring organisations;
- j) promote and represent the interests of ASCTA Members and of the swimming community generally in any appropriate forum;
- k) act in good faith to ensure the maintenance and enhancement of ASCTA and swimming coaching, swimming teaching and swim schools in Australia, including standards, quality

and reputation for the collective and mutual benefit of ASCTA Members and the swimming community;

- l) formulate and implement appropriate policies (including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, and such other matters as arise from time to time) to address issues in swimming coaching, swimming teaching and swim schools;
- m) promote drug free swimming competition throughout Australia and the world; and support organisations dedicated to the elimination of performance enhancing substances and methods;
- n) encourage affiliation with associations or organisations having objects wholly or partly similar to those of ASCTA;
- o) pursue and enter into commercial arrangements with any government authority, corporation, association, or other body to further these Objects;
- p) apply the property (including Intellectual Property) and capacity of ASCTA towards the fulfilment and achievement of these Objects;
- q) present awards in recognition of the pursuit of excellence in swimming coaching, swimming teaching and swim school operation in Australia;
- r) promote an inclusive policy of learn-to-swim and swimming coaching for persons with a disability and encourage persons of all ethnic or religious affiliations to participate in swimming activities;
- s) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve; and
- t) undertake and or do all things or activities which are necessary, incidental or conducive to advance these Objects.

## **5. Powers**

---

- 5.1 ASCTA has all the powers of an individual and a body corporate but does not have the power to issue shares. However, the powers of ASCTA are ancillary to and exercisable only to pursue the objects of ASCTA set out in Rule 4.

## **6. Addition, alteration or amendment**

---

- 6.1 No addition, alteration or amendment can be made to this Constitution unless it has been approved by special resolution at a General Meeting of ASCTA.

- 6.2 Any provision of this Constitution including any amendment of any provision which conflicts with or is inconsistent with the Company's charitable status will be read and interpreted as being subject to the Company's charitable status and will be ineffective, but only to the extent of any conflict or inconsistency.

## **7. Liability of Members**

---

- 7.1 The liability of the Members to contribute towards payment of the debts and liabilities of ASCTA or the cost, charges and expenses of the winding up of ASCTA is limited to \$1.00.

## **8. Income and property**

---

- 8.1 The income and property of ASCTA must be applied solely towards the promotion of the Objects.
- 8.2 No portion of the income or property of ASCTA is to be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member.
- 8.3 No remuneration or other benefit in money or money's worth is to be paid or given by ASCTA to any Member who holds any office of ASCTA.
- 8.4 Nothing contained in Rules 8 or 9 prevent payment in good faith to any Member for goods or services actually rendered to ASCTA, whether as an employee or otherwise, in the ordinary and usual course of business:
- a) provided that any such payment does not exceed the amount ordinarily payable between commercial parties dealing at arm's length in a similar transaction; and
  - b) for out-of-pocket expenses incurred by the Member on behalf of ASCTA.

## **9. Distribution of property on winding up**

---

- 9.1 If upon winding up or dissolution of ASCTA there remains after satisfaction of all its debts and liabilities any assets or property, the same must not be paid to or distributed amongst the Members but must be paid to or distributed to an organisation or organisations having objects similar to the Objects and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on ASCTA.
- 9.2 The Members are to decide which organisation or organisations are to receive the distribution of property referred to in Rule 9 at or before the time of dissolution or failing that, a determination by the Chief Judge in Equity of the Supreme Court of New South Wales or such other Judge of the Court as may have or acquire jurisdiction in the matter.

## 10. Members

---

- 10.1 The Board may pass or adopt By-Laws in relation to classes or categories of Members, applications for membership and approval of those applications and any other aspects incidental to membership and may determine and set criteria for membership, even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members.
- 10.2 Despite Rule 10.1, a Member of ASCTA must be either:
- a) a coach of swimming holding a current qualification or accreditation recognised and approved by the Board; or
  - b) a teacher of swimming holding a current qualification or accreditation recognised and approved by the Board; or
  - c) a person or organisation having objects similar to ASCTA.

## 11. Life Members

---

- 11.1 The Board may, from among persons who have provided long and meritorious service to ASCTA, elect Life Members in recognition of their efforts in furthering the interests of ASCTA. A nominee for life membership must:
- a) be an accredited swimming coach or teacher of swimming;
  - b) be an Australian citizen at the time of nomination; and
  - c) have made a significant contribution to the fulfilment of the Objects of ASCTA.
- 11.2 Nomination for life membership must be submitted in writing by a current financial Member to the Board and be received by the CEO at least fourteen (14) days before the Annual General Meeting. A person may only be elected as a Life Member by a resolution of the Board passed by a two-thirds majority.
- 11.3 Upon obtaining life membership the person's details are to be entered on the register.

## 12. Membership Fees

---

- 12.1 Fees including annual membership fees, capitation fees, and levies payable by Members to ASCTA, are to be determined by the Board.
- 12.2 Monies payable to ASCTA for membership must be forwarded to ASCTA by such dates as are prescribed by the Board.



- 13.2 Any Member not paying all monies due (subject to the Board's discretion) may have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until the monies are fully paid or otherwise in the Board's discretion.

### ***13. Application for Membership***

---

- 13.1 An application for membership must be in writing in a form approved by the Board, signed by the applicant and accompanied by any membership fee, capitation fee, or levy, if any, determined in accordance with Rule 12 and any other documents that the Board requires as set out in the By-Laws.
- 13.2 As soon as practicable after receiving an application form under Rule 13 and confirming payment of all money due, the CEO must determine whether to approve or to reject the application.
- 13.3 If the CEO determines to reject the application, the CEO must refer the application to the Board for determination. If the Board determines to reject the application the CEO must notify the applicant, in writing, that their application has been rejected. The CEO may, but is not obliged to give the applicant the reason, or reasons, for the Board's determination.
- 13.4 If the CEO accepts an application, the CEO must as soon as practicable enter the applicant's name in the register of Members.
- 13.5 Members must re-apply for membership of ASCTA each year before the date determined by the Board and as may be set out in the By-Laws.

### ***14. Register of Members***

---

- 14.1 A register of Members must be kept in accordance with the Act.

### ***15. Effect of Membership***

---

- 15.1 Members agree that:
- a) this Constitution constitutes a contract between each of them and ASCTA and that they are bound by this Constitution and the By-Laws;
  - b) they must comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Board or any duly authorised committee or by SAL;

- c) this Constitution and the By-Laws are necessary and reasonable for promoting the Objects and particularly the advancement and protection of swimming coaching and swimming teaching in Australia.

## **16. Cessation of Membership**

---

- 16.1 A person ceases to be a Member of ASCTA when:
  - a) the membership year expires and the Member has not reapplied for membership.
  - b) the Member dies.
  - c) the Member is convicted of a Serious Criminal Offence by a court of law.
  - d) the Member ceases to comply with the requirements of Rule 10.
  - e) the Member is expelled from ASCTA, after completion of the appropriate disciplinary process under Rule 18.
  - f) the Member submits, in writing, their resignation from ASCTA.
- 16.2 A Member who ceases to be a Member, for whatever reason, forfeits all right in and claim on ASCTA and its property. Any ASCTA documents, records or other property in the possession, custody or control of that Member must be returned to ASCTA immediately.

## **17. Reinstatement**

---

- 17.1 Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of ASCTA, on application in accordance with this Constitution and otherwise on such conditions as the Board sees fit.

## **18. Code of Conduct and discipline of Members**

---

- 18.1 The Board may pass or adopt By-Laws in relation to any aspect concerning or incidental to the process of disciplining Members, including the creation and operation of a Code of Conduct Committee, having at least one Board Member.
- 18.2 The CEO may refer disciplinary matters for investigation or determination by the Code of Conduct Committee. The investigation and appeals process is set out in the Code of Conduct. For the purposes of this Rule, disciplinary matters include an allegation or grievance (not being vexatious, trifling or frivolous) by a complainant (who may be, but need not be, a Member) that a Member has:

- a) breached, failed, refused or neglected to comply with a provision of this Constitution, the Code of Conduct, the By-Laws or any other resolution or determination of the Board or duly authorised committee; or
- b) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of ASCTA, swimming coaching or swimming teaching; or
- c) brought ASCTA into disrepute.

18.3 Following investigation and determination by the Code of Conduct Committee, the Board may discipline a Member as set out in the By-Laws.

### **19. General Meetings**

---

19.1 A General Meeting is to be held at least once in every year at such time and place determined by the Board. This meeting is to be called the Annual General Meeting. All other General Meetings are to be called Special General Meetings.

19.2 A General Meeting may be convened:

- a) by resolution of a majority of the Board whenever the Board thinks fit; or
- b) in accordance with the Act.

19.3 Despite any other Rule of this Constitution, no Member is entitled to attend or vote at a General Meeting, unless all monies due by that Member to ASCTA are paid.

19.4 Subject to Rule 19, all Members are allowed to voice their opinion at a General Meeting, subject to the rules of the meeting as determined by the chairman.

19.5 Subject to Rule 19, only those Members entitled to vote, or their duly appointed proxies, are allowed to attend and vote at a General Meeting (including the Annual General Meeting). However, the Board may permit any other person to attend a General Meeting as it sees fit.

### **20. Notice of General Meetings**

---

20.1 Notice of each General Meeting must be given to each Member (at the address appearing in the register of Members) at least 21 days prior to the meeting, giving the place, day and hour of the General Meeting. No other person is entitled as of right to receive notices of General Meetings, except ASCTA's auditor(s).

20.2 ASCTA may give the notice of meeting to a Member as set out in Rule 20. The notice must include the business to be transacted at the General Meeting and a list of all nominations received for election to the Board.

- 20.3 The business of each Annual General Meeting is to include:
- a) the consideration of financial accounts;
  - b) reports from the Board and auditors;
  - c) election of Directors (as relevant);
  - d) the appointment of the auditor(s), even if not referred to in the notice of meeting;
  - e) Any other business which under this Constitution or the Act ought to be transacted at an Annual General Meeting.
- 20.4 All other business transacted at an Annual General Meeting and all other business transacted at any Special General Meeting is special business.
- 20.5 Subject to the Act, an accidental or erroneous failure to give notice of a meeting to, or the non-receipt of notice of a meeting by, any Member, does not invalidate the proceedings of any meeting.
- 20.6 A person's attendance at a General Meeting waives any objection that person may have to:
- a) a failure to give notice, or the giving of a defective notice, of the meeting unless at the beginning of the meeting, the person objects to the holding of the meeting; and
  - b) the consideration of a particular matter at the meeting which is not within the business referred to in the notice of the meeting, unless the person objects to considering the matter when it is presented.

## **21 Quorum for General Meetings**

---

- 21.1 No business may be transacted at a General Meeting unless a quorum is present at the time when the meeting proceeds to business. For the purposes of considering business to be transacted at an Annual General Meeting and to elect a chairperson, the Members present constitute the quorum.
- 21.2 The quorum for consideration of all other business at a General Meeting is 30 Members entitled to vote. Each Member who has appointed a proxy for the General Meeting is to be counted when determining whether a quorum is present.
- 21.3 If within half an hour from the time appointed for a General Meeting (including the AGM) a quorum is not present, the meeting is to be adjourned to such other day and at such other time and place as the chairman may determine. 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.

No business is to be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

## **22 Chairman at General Meetings**

---

- 22.1 The President, subject to this Constitution, is to preside as chairman at every General Meeting (including the Annual General Meeting) of ASCTA.
- 22.2 If the President is not present, or is unwilling or unable to preside, the Vice-President is to preside as the chairman for that meeting only.
- 22.3 If the Vice-President is not present, or is unwilling or unable to preside, Members are to elect one of the remaining Directors who must preside as chairman for that meeting only.
- 22.4 If no Director is present, or is unwilling or unable to preside, Members are to elect one of the Members who must preside as chairman for that meeting only.

## **23 Voting at General Meetings**

---

- 23.1 At a General Meeting each Member may vote in person or by proxy and each Member present, in person or by proxy, has one vote on a show of hands or on a poll.
- 23.2 An instrument appointing a proxy is valid if it includes all information and is signed or authenticated in the manner required under the Act. The person appointed as a proxy may be an individual or a body corporate.
- 23.3 A challenge to the right to vote at a General Meeting may only be made at the meeting and must be determined by the chairman, whose decision is final.
- 23.4 At a General Meeting, a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded. Before a vote is taken the chairman must inform the meeting whether any proxy votes have been received and how the proxy votes are to be cast.
- 23.5 On a show of hands, a declaration by the chairman is conclusive evidence of the result, provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chairman nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- 23.6 A demand for a poll may be withdrawn.
- 23.7 A poll demanded on a matter other than the election of a chairman or the question of an adjournment must be taken when and in the manner the chairman directs.

- 23.8 A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

## 24 ASCTA Board

---

- 24.1 The business of ASCTA is to be governed, and the powers of ASCTA are to be exercised, by the Board, except any powers that the Act or this Constitution requires ASCTA to exercise in General Meeting. The Board must act in accordance with the objects of ASCTA and operate for the collective and mutual benefit of ASCTA and the Members.
- 24.2 The Board is to consist of no more than nine (9) Directors, including the President.
- 24.3 Subject to clause 24.2, the Board shall consist of:
- a) up to seven (7) Elected Directors; and
  - b) any number of Co-Opted Directors provided that the total number of Directors does not exceed nine (9) and the number of Elected Directors exceeds the number of Co-Opted Directors.

## 25 Nomination and election of Directors

---

- 25.1 Nominations must be in writing from a Member entitled to vote, seconded by another Member entitled to vote, signed by the candidate and submitted to the CEO at least 42 days before the Annual General Meeting. Each candidate may submit a statement of intentions in relation to policies or plans for serving on the Board, together with the signed nomination form.
- 25.2 Members are to be notified in writing at least 21 days before the holding of the Annual General Meeting of the names of candidates nominated for election as Directors and, in the case of an election being required, be supplied with a corresponding ballot paper and any statement of intention submitted under Rule 25.1.
- 25.3 If the number of nominated Members for positions on the Board does not exceed the number of vacant positions for Directors, then those Members are to be declared at the Annual General Meeting as having been elected as Directors of the Board.
- 25.4 If the number of nominated Members exceeds the number of positions available for Directors then the Directors are to be elected from the candidates by a vote of the Members by way of a ballot conducted in accordance with the procedures as prescribed in the By-Laws.

- 25.5 No Member may use a ballot paper other than the one sent to that Member under Rule 25 and no duplicate ballot papers may be issued.
- 25.6 In all matters relating to an election of the Directors for which no procedure is specifically prescribed in this Constitution, a procedure is to be adopted and followed as determined by the President.

## **26 Term of Directors**

---

- 26.1 An Elected Director shall be elected by Members for a term of three years.
- 26.2 A Co-Opted Director shall be a person who in the judgement of the Board possesses the relevant skills and experience to assist the Board to advance the Objects. A Co-Opted Director shall be appointed as a Director for a term of up to three (3) years as determined by the Board.
- 26.3 Directors may be re-elected for no more than four (4) successive terms. The Director serving as President may hold that office for no more than six (6) consecutive years.
- 26.4 A director who has held office for a continuous period of twelve years or more may only be re-appointed or re-elected by special resolution

## **27 Vacancies on the Board**

---

- 27.1 A Director may resign from the Board (giving notice in writing). The resignation takes effect on the date specified in the notice or on its earlier acceptance by the Board.
- 27.2 In addition to any other circumstance in which the office of Director becomes vacant, whether set out in this Constitution or under the Act, the office of a Director becomes vacant if the Director dies, ceases to be a Member, becomes bankrupt or makes any arrangement or composition with his/her creditors generally, 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 or becomes prohibited from being a director of a company under the Act.
- 27.3 Any casual vacancy occurring in the office of Director is to be filled by appointment from the Board within 3 months of the vacancy arising. Any casual vacancy is to be filled only until the next Annual General Meeting.
- 27.4 Directors filling a casual vacancy may stand for election to a full term of office at the next Annual General Meeting.

- 27.5 In the event of multiple vacancies on the Board, leaving insufficient numbers to constitute a quorum, the remaining Directors may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

## **28 Meetings of the Board**

---

- 28.1 The Board is to meet as often as is deemed necessary for the dispatch of business and may schedule, adjourn, and otherwise regulate its meetings as it thinks fit. Directors may meet in person or by electronic communication or a combination of physical and electronic presence provided that all Directors have the opportunity to communicate with all other Directors simultaneously.
- 28.2 A Board meeting may be called by a Director giving written notice (in the manner permitted under Rule 20 to every other Director not less than seven (7) days before the meeting, unless all Directors agree to hold a meeting upon shorter notice. The agenda is to be forwarded to each Director not less than four (4) days before such meeting.
- 28.3 The Board may invite, at the President's discretion, any Members, consultants or advisors to attend a Board meeting.
- 28.4 A quorum will consist of six (6) Directors.

## **29 Chairman of Board meetings**

---

- 29.1 The President must chair any Board meeting at which he/she is present.
- 29.2 If the President is not present, or is unwilling or unable to preside the Vice-President must preside as chairman for that meeting only.
- 29.3 If the Vice-President is not present, or is unwilling or unable to preside, the remaining Directors must appoint one of their number to preside as chairman for that meeting only.

## **30 Decisions of the Board**

---

- 30.1 Subject to this Constitution, questions arising at any Board meeting are to be decided by a majority of votes, determined by the Directors present and entitled to vote.
- 30.2 The President has a casting vote where voting is equal; in the absence of the President the chairman for the meeting has a casting vote where voting is equal.
- 30.3 Directors may declare themselves ineligible to vote on specific resolutions whenever a 'conflict of interest' may occur (such as a financial, selection, or disciplinary matter directly affecting the Director).



- 30.4 The Directors may pass a resolution without a Board meeting being held if each Director entitled to vote on the resolution signs a document containing the resolution and a statement that they are in favour of or against the resolution, or otherwise indicates by other electronic means whether they are in favour of or against the resolution. The CEO is responsible for compiling the vote and notifying the President of the result. No resolution passed by a General Meeting is to invalidate any prior act of the Board which would have been valid if that resolution had not been passed.
- 30.5 The Board may delegate functions in writing to create, establish, or appoint from among the Directors or other persons committees empowered to carry out such duties and functions as the Board determines and make recommendations to the Board for approval. The Board may by instrument in writing, revoke wholly or in part any delegation made under this rule and may amend, repeal, or veto any decision made by a committee.

### **31 Office Bearers**

---

- 31.1 Each year, following the Annual General Meeting where the new Board is elected, the Board will, in accordance with the procedure prescribed in the By-Laws, meet to elect:
- a) a President,
  - b) a Vice-President;
  - c) a Treasurer; and.
  - d) Such additional Office Bearers as the Board deems necessary from time to time.
- 31.2 For the avoidance of doubt, office Bearers shall be Directors and shall not hold office beyond their retirement or removal from the Board.

### **32 Chief Executive Officer**

---

- 32.1 The Board may appoint any person, not being a Director, to the position of CEO for the period and on the terms (including as to remuneration) the Board sees fit. Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the CEO has power to perform all such things as appear necessary or desirable for the proper management and administration of ASCTA.
- 32.2 The CEO is responsible to the Board and reports through the President. In addition to other provisions of this Constitution, the CEO must:
- a) as far as practicable attend all Board Meetings and General Meetings;

- b) prepare all Notices of Motion and meeting agenda for Board Meetings and General Meetings;
- c) ensure that minutes of all Board Meetings and General Meetings are recorded and copies distributed to the Board; and
- d) regularly report to the Board on the activities of, and issues relating to, ASCTA.

### **33 Secretary**

---

- 33.1 The Board must appoint a Secretary in accordance with the Corporations Act.
- 33.2 The Board may appoint the employed CEO as the Secretary.
- 33.3 The Secretary will hold office on the terms and conditions (including as to remuneration) that the Board determines.

### **34 By-Laws**

---

- 34.1 The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend its By-Laws for the proper advancement, management and administration of ASCTA and the advancement of the Objects as it thinks necessary or desirable.
- 34.2 Such By-Laws must be consistent with this Constitution.
- 34.3 All By-Laws made under this rule are in force at the date of the approval.
- 34.4 The CEO must keep a register of the approved By-Laws.

### **35 Records and Accounts**

---

- 35.1 Proper accounting and other records must be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of practice.
- 35.2 The record of accounts must be kept in the care and control of the CEO. ASCTA must retain such records for not less than 7 years after the completion of the transactions or operations to which they relate.
- 35.3 The Board must submit to the Annual General Meeting the accounts of ASCTA in accordance with this Constitution and the Act. The accounts when approved or adopted by an Annual General Meeting are to be conclusive except as regards any error discovered in them within three (3) months after such approval or adoption.

- 35.3 The CEO must cause to be sent to all persons entitled to receive notice of General Meetings of ASCTA in accordance with this Constitution, a copy of the accounts, Director's report and auditor's report for the previous financial year as required under the Act.
- 35.4 Subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with the Act, the accounts are to be open to inspection (but not copying) by the Members.
- 35.5 All cheques, bankers drafts, or other negotiable instruments paid by ASCTA must be signed, endorsed or otherwise executed by two authorised Directors or by one authorised Director and the CEO or in such other manner and by such persons the Directors determine.

### 36 Auditor

---

- 36.1 A properly qualified auditor or auditors must be appointed by ASCTA at the Annual General Meeting and the remuneration of such auditor or auditors approved by the Board.
- 36.2 The accounts of ASCTA including the profit and loss accounts and balance sheet are to be examined by the auditor at least once in every year.

### 37 Notices to Members

---

- 37.1 Notices may be given to any Member:
- a) personally; or
  - b) by sending it by post to the address for the Member in the register of Members or the alternative address (if any) nominated by the Member; or
  - c) by sending it to the fax number or electronic address (if any) nominated by the Member; or
  - d) by sending it to the Member by other electronic means (if any) nominated by the Member; or
  - e) by notifying the Member that the notice is available (using an electronic means nominated by the Member for such notification) and how the member may access the notice (using an electronic means that the Member has nominated he or she may use for such access).
- 37.2 A notice sent by post is taken to be given 3 days after it is posted. A notice sent by fax, or other electronic means, is taken to be given on the business day after it is sent. A notice given to a Member under Rule 37.1(e) is taken to be given on the business day after the day on which the Member is notified that the notice is available.

## 38 Indemnity

---

38.1 For the purposes of this Rule 38:

- a) **Excluded Legal Costs** means any legal costs and expenses which ASCTA is prohibited from indemnifying a person against under section 199A(3) of the Act or under any other law.
- b) **Excluded Liability** means any liability which ASCTA is prohibited from indemnifying a person against under section 199A (2) of the Act or under any other law.
- c) **Officer** means a Director, Secretary or other person who has the authority to make decisions that affect the whole or a substantial part of the activities of ASCTA.
- d) **Proceedings** means any proceedings, whether civil or criminal, in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as an officer of ASCTA or in the course of acting in connection with the affairs of ASCTA or otherwise arising out of the person holding office as an officer of ASCTA, including proceedings alleging that he or she was guilty of negligence, default of trust or breach of duty in relation to ASCTA.

38.1 Every past and present Officer of ASCTA is indemnified by ASCTA against a liability for legal costs and expenses incurred by that person as an Officer in defending any Proceedings. This indemnity does not apply to any Excluded Legal Costs.

38.2 Every past and present Officer of ASCTA is indemnified against a liability incurred by that person as an Officer to a person other than ASCTA or any related body corporate, except a liability indemnified under Rule 38 or an Excluded Liability.

38.3 ASCTA may make a payment (either by way of advance, loan or otherwise) to a Director or Secretary for the legal costs and expenses incurred by him or her in defending any Proceedings. However, the legal costs and expenses must not be Excluded Legal Costs, and the Director or Secretary must be obliged to repay the legal costs and expenses to the extent that they become Excluded Legal Costs.

38.4 ASCTA may pay the premium on a contract insuring a person who is or has been an Officer of ASCTA against:

- a) a liability for legal costs and expenses incurred by the person in defending any Proceedings and whatever their outcome; and

- b) other liability incurred by the person as an Officer of ASCTA except a liability which arises from conduct that involves a wilful breach of duty in relation to ASCTA or a contravention of sections 182 or 183 of the Act.

### 39 Transitional Provisions

---

39.1 This Constitution must be interpreted in such a way that:

- a) every Director, Secretary or office-bearer in office in that capacity immediately before this Constitution is adopted continues in office subject to, and is taken to have been appointed or elected under, this Constitution;
- b) any register maintained by ASCTA immediately before this Constitution is adopted is taken to be a register maintained under this Constitution;
- c) any seal adopted by ASCTA as an official seal immediately before this Constitution is adopted is taken to be a seal which ASCTA has under a relevant authority given by this Constitution; and
- d) unless a contrary intention appears in this Constitution, all persons, things, agreements and circumstances appointed, approved or created by or under the constitution of ASCTA in force before this Constitution is adopted continue to have the same status, operation and effect after this Constitution is adopted.

# ascta

Australian Swimming  
Coaches & Teachers  
Association