



## 2020 SMNE Annual General Meeting

### Notice of Motion

Notice is hereby given of the following motions to be put to the 2020 Annual General Meeting.

#### CONTEXT

SMNE develops and provides services to swimming Clubs and individual members in a manner which is consistent with our purpose and objects and as set out in our Constitution. Our legal identity is provided by the Associations Incorporation Act 2009.

In 2016, changes were made to the Incorporated Association legislation to improve and assist associations to comply with legislation. However, the SMNE Constitution has not been amended since its adoption in 2010. The SMNE Committee therefore recommends a new Constitution to align and address the changes required under the new legislation.

The SMNE Constitution has been prepared with guidance from the updated model-constitutions recommended by Swimming NSW and NSW Office of Sport.

#### MOTION

That by way of Special Resolution and as per Clause 35 of the association's Constitution, the members of Swimming Metro North East Incorporated approve and endorse the adoption of a new constitution incorporating amendments and additions as below.

Clause	Change/Addition	Rationale for change
5.1	Addition to clause to add the following categories of members: (d) Junior Members, who subject to this Constitution, shall have no right to receive notice of General Meetings and no right to be present or debate or vote at General Meetings and (e) Directors, who shall have the right to be present and to debate and vote at General Meetings.	Directors (or SMNE committee members) shall have right to be present, debate and vote at General Meetings. The current SMNE constitution provides only Club Delegates to vote at the AGM and is not reflective of how it is run today.  A new category of Junior Members is defined as a financial member under the age of 18. It is not desirable for Junior Members to have the same right with respect to AGM as an adult member.
10.1	Additional clause added as below. <b>10.1 Safe Sport Framework</b> Members are bound to comply with the Safe Sport Framework as a result of clause 36.5 of this Constitution. Accordingly, all	This is a new and additional obligation for all members to comply with Safe Sport Framework, and is in line with the new model constitution.



	complaints or disputes under the Safe Sport Framework will be dealt with in accordance with the processes set out under the Safe Sport Framework. Members agree to submit unreservedly to the jurisdiction, disciplinary procedures, penalties and the appeal mechanisms set out in the Safe Sport Framework.	Clubs are recommended to adopt in their constitution, if not already adopted.
13	<p>Additions to the composition of Board section of the Constitution as below.</p> <p><b>13.1 Composition of the Board</b></p> <p>The Board shall comprise of a minimum of (6) Directors and up to ten (10) elected Directors who must all be Individual Members and who shall be elected under clause 14.</p> <p><b>13.2 Qualifications of Directors</b></p> <p>(a) All Directors must be Individual Members at the time of nomination and during their term in office.</p> <p>(b) All Directors must hold a NSW Working with Children Clearance at the time of nomination and during their term in office.</p> <p>(c) An employee of the Association cannot retain that position if elected to the Board.</p> <p>(d) Subject always to the law, the Board will determine necessary requirements and qualifications for eligibility as Directors from time to time and the Board shall advise the Clubs of any requirements, qualifications and modifications when determined.</p> <p><b>13.3 Portfolios</b></p> <p>The Board may allocate portfolios and/or titles to Directors. Subject to this Constitution and any properly passed resolution of the Board, the allocation of portfolios or titles does not affect the powers and duties of Directors.</p>	<p>Whilst the new model constitution makes provision for appointed Directors, it is proposed that all Directors to the SMNE board be continued through a democratic election process.</p> <p>Board positions previously described in the Constitution are now set out in the By-Laws.</p> <p>Board composition provides a minimum number of six (6) and maximum number of ten (10).</p>
14.4	<p>Amendment to the clause relating to term of Directors as below.</p> <p><b>14.4 Term of Appointment of Directors</b></p> <p>(a) Directors elected under this clause 14 shall be elected for a term of one (1) year but are eligible for re-election subject to 14.4(b). Subject to provisions in this Constitution relating to earlier retirement or removal of Directors, Directors shall remain in office from the conclusion of the AGM at which the election occurred until the conclusion of the AGM following.</p> <p>(b) A Director may not serve more than 15 consecutive terms as a Director. However, the effect of this clause shall commence on the date this Constitution is adopted and any term served prior to the adoption of this Constitution shall not be counted for the purposes of this clause 14.4.</p>	Directors will continue to be elected for one year however are eligible for re-election. After due consideration by the current Committee, it is proposed that a maximum term of 15 consecutive years is prescribed.
21.2	<p>Amend clause relating to requisition of SGMs as below.</p> <p><b>21.2 Requisition of Special General Meetings</b></p> <p>(a) The Board shall on the requisition in writing made by not less than <del>ten percent (10%)</del> <b>twenty percent (20%)</b> of the Club or <del>three (3) five (5)</del> Clubs (which ever is the lowest) convene a SGM.</p> <p>(c) If the Board does not cause a SGM to be held within <del>one (1)</del> <b>three (3)</b> months after the date on which the requisition is sent to the Association, the Clubs making the requisition, or any of them, may convene a SGM to be held not later than three (3) months after that date</p>	<p>Requisition of a Special General Meeting is to be made by 20% of Clubs or 5 Clubs whichever is the lowest. Currently SMNE hosts 20 Clubs.</p> <p>SGMs to be held within 3 months to allow reasonable time for the Board to consider the nature of the requisition.</p>



26.2	<p>Addition of clause as below.</p> <p><b>26.2 Postal or Electronic Voting</b></p> <p>No motion shall be determined by a postal or electronic ballot unless determined by the Board. If the Board so determines, the postal or electronic ballot shall be conducted under procedures determined by the Board from time to time.</p>	<p>It is a requirement under legislative changes that the Constitution deals with postal and electronic voting. Current SMNE constitution is silent.</p> <p>At this time, SMNE shall not determine any motions by postal or electronic ballot.</p>
27	<p>Addition of clause as below.</p> <p><b>27. PROXY VOTING</b></p> <p>Proxy voting is not permitted at any General Meeting.</p>	<p>It is a requirement under legislative changes that the Constitution deals with proxy voting. Current SMNE constitution is silent.</p> <p>At this time, SMNE shall continue to not permit proxy voting. This is in line with the new model constitution.</p>
28	<p>Addition of clause as below.</p> <p><b>28.1 Strategic Forums</b></p> <p>The Association shall hold a strategic forum as the Board determines from time to time and generally no more than once per year. The object of the strategic forum is to:</p> <ul style="list-style-type: none"> <li>(a) inform the Board of significant membership issues;</li> <li>(b) assist the Board to design or review the Association's strategic plan and direction;</li> <li>(c) discuss Area wide issues; and</li> <li>(d) provide feedback to the Board on the results of its governance decisions in practice at Member level.</li> </ul> <p><b>28.2 Attendees at Strategic Forums</b></p> <p>The following persons may attend strategic fora of the Association:</p> <ul style="list-style-type: none"> <li>(a) up to two (2) representatives from each Club; and</li> <li>(b) the Directors; and</li> <li>(c) such other persons the Board considers should be invited.</li> </ul>	<p>The Strategic Forum has been included as an additional forum for key stakeholders to meet as and when required to discuss and review the strategic direction of SMNE. It is not a formal General Meeting of the Association.</p>
29	<p>Amend clause relating to disputes as below.</p> <p><b>29 RESOLUTION OF INTERNAL DISPUTES</b></p> <ul style="list-style-type: none"> <li>(a) The grievance procedure set out in this clause rule applies to disputes arising under this Constitution between a Member and: <ul style="list-style-type: none"> <li>(i) another Member; or</li> <li>(ii) the Association.</li> </ul> </li> <li>(b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within fourteen (14) days after the dispute comes to the attention of all parties.</li> <li>(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 may refer the dispute to a community justice centre for mediation under the Community Justice Centres Act 1983 (NSW).</li> <li>(d) The Board may prescribe additional grievance procedures in the By-Laws consistent with this clause 29.</li> <li>(e) If the dispute is not resolved the Board may take whatever steps it considers appropriate in regard to the dispute in the best interests of the Association and the Members concerned.</li> </ul>	<p>Internal disputes procedure to include an additional step where the parties attempt to resolve the dispute (clause (b)) prior to dispute resolution via community justice centre.</p> <p>This clause is in line with the new model constitution.</p>



	<p>(a) Disputes between Members (in their capacity as Members) of the Association, and disputes between Members and the Association, are to be referred to a community justice centre for mediation in accordance with the Community Justice Centres Act 1983.</p> <p>(b) At least seven (7) days before a mediation session is to commence, the parties are to exchange statements of the issues that are in dispute between them and supply copies to the mediator.</p>	
30.1 (b)	<p>Addition of clause relating to storage of records as below.</p> <p>30.1(b) Records and minutes may be kept in written or electronic form. If kept in electronic form, the records and minutes must be able to be converted into hard copy.</p>	Amendment to allow records and minutes be kept in electronic form.
36.5	<p>Additional clause as below.</p> <p><b>36.5 Safe Sport Framework</b></p> <p>(a) SAL has adopted the Safe Sport Framework (Safe Sport Framework) which:</p> <ul style="list-style-type: none"> <li>(i) specifically commits to keeping children and young people safe in swimming;</li> <li>(ii) clarifies and raises the standards of behaviour for dealing with Children and Young People through a “Code of Conduct for dealing with Children and Young People”</li> <li>(iii) includes a General Code of Conduct;</li> <li>(iv) provides processes and procedures when safe sport concerns or incidents arise;</li> <li>(v) requires rigorous recruitment and screening procedures, as well as reporting by all organisations in swimming; and</li> <li>(vi) provides guidance, advice, tips and tools to assist us to keep each other and our sport safe.</li> </ul> <p>(b) The Board has adopted the Safe Sport Framework, as amended from time to time, as a By-Law which is binding on the Association and all Members.</p>	<p>Proposed in line with new model constitution.</p> <p>Clubs are recommended to adopt in their constitution, if not already adopted.</p>

It is noted that the new Constitution also reflects changes in terminology as proposed by the model constitutions. For example, the Constitution refers to “Board” and “Directors” instead of committee and committee members. The primary reason for this change is that an incorporated association is still a corporation and its governors whatever their title owe duties to the members and the Association. The new Constitution seeks to use true corporate governance terminology. These amendments however do not alter the essence of the definitions or its context in the Constitution.

The SMNE By-Laws have been updated to complement the new constitution.