

THE INCORPORATED SOCIETIES ACT 2022 CONSTITUTION AND RULES OF TAWA SWIMMING CLUB INCORPORATED

Introductory rules

1. Name

The name of the Club is Tawa Swimming Club Inc.

2. Purposes

The primary purposes of the Club are to:

- (a) To promote, foster and encourage swimming and associated aquatic sports and disciplines.
- (b) To conduct and promote competitions, demonstrations and arrange for instruction and coaching in swimming and associated aquatic sports and disciplines.
- (c) To purchase, take on lease or otherwise acquire and to own any buildings or other premises, property or equipment which may be required for the purposes of or conveniently used in connection with the discharge of any of the duties of the Club pursuant to these objects, and to sell, lease, mortgage or otherwise dispose of the same.
- (d) To actively promote and encourage Club Spirit and companionship by arranging and conducting social events.
- (e) To raise funds to promote all or any of the objects of the club.
- (f) To affiliate with Swimming New Zealand and to do all such other acts as in the opinion of the Club shall further the objects of the Club, and of Swimming New Zealand.

The Club must not operate for the purpose of, or with the effect of:

- (a) distributing any gain, profit, surplus, dividend, or other similar financial benefit to any of its members (whether in money or in kind); or
- (b) having capital that is divided into shares or stock held by its members; or
- (c) holding property in which its members have a disposable interest (whether directly, or in the form of shares or stock in the capital of the club or otherwise).

3. Act and Regulations

Nothing in this Constitution authorises the Club to do anything which contravenes or is inconsistent with the Act, any regulations made under the Act, or any other legislation.

4. Powers

(a) Tawa Swimming Club has the power, subject to this Constitution to:

- Purchase, lease, hire or otherwise acquire, hold, manage, maintain, insure, sell or otherwise deal with property and other rights, privileges and licences.
- Control and raise money including borrow, invest, loan or advance monies and secure the payment of such money by way of mortgage or charge over all or part of any of its property and enter into guarantees.
- Sell, lease, mortgage, charge or otherwise dispose of any property of the club and grant such rights and privileges over such property as it considers appropriate.
- Determine, raise and receive money by subscriptions, donations, fees, levies, entry or usage charges, sponsorship, government funding, community funding or otherwise.
- Produce, develop, create, license and otherwise exploit, use and protect the intellectual property of Tawa Swimming Club.
- Make, alter, rescind, enforce this Constitution, and any rules, by-laws, regulations, policies and procedures for the governance, management and operation of Tawa Swimming Club.
- Determine, implement and enforce disciplinary, disputes and appeal procedures, including rules, regulations and policies for such and conduct hearings and impose sanctions and penalties including for anti-doping.
- Consider and settle disputes between Members.
- Determine who its members are and withdraw, suspend or terminate membership.
- Enter into, manage and terminate contracts or other arrangements with employees, sponsors, Members and other persons and organisations.
- Make, alter, rescind and enforce rules of competition.
- Organise and control competitions, events and programmes.
- Select representative teams and squads.
Assign functions to and/or enter into agreements with organisations such as Sport New Zealand, the Sports Tribunal of New Zealand and the Drug Free Sport New Zealand.
- Delegate powers of Tawa Swimming Club to any person, Management Committee, committee or sub-committee.
- Purchase or otherwise acquire all or any part of the property, assets and liabilities of any one or more companies, institutions, incorporated societies, or organisations whose activities or objects are similar to those of the Tawa

Swimming Club, or with which the Tawa Swimming Club is authorised to amalgamate or generally for any purpose designed to benefit the Tawa Swimming Club.

- Do any other acts or things which are incidental or conducive to the attainment of the objects of Tawa Swimming Club.
- All powers must be exercised to advance the Club's charitable purposes and in compliance with officer duties outlined under the 2022 Act.

5. Registered office

The registered office of the Club shall be at Tawa Swimming Pool Clubrooms, Davies Street, Tawa, Wellington or at such place in New Zealand as the committee from time to time determines.

Changes to the registered office shall be notified to the Registrar of Incorporated Societies:

- at least 5 working days before the change of address for the registered office is due to take effect, and
- in a form and as required by the Act.

6. Contact person

The Club shall have at least 1 but no more than 3 contact person(s) whom the Registrar can contact when needed.

The Club's contact person must be:

- At least 18 years of age, and
- Ordinarily resident in New Zealand.

A contact person can be appointed by the Committee or elected by the Members at a General Meeting.

Each contact person's name must be provided to the Registrar of Incorporated Societies, along with their contact details, including:

- a physical address or an electronic address, and
- a telephone number.

Any change in that contact person or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 Working Days of that change occurring, or the Club becoming aware of the change.

Members

Membership to the club will be open to all persons who meet with and accept the purposes of the club and have paid fees prescribed under Subscriptions and fees rules.

7. Types of members

The classes of membership and the method by which Members are admitted to different classes of membership are as follows:

- **Member**
A Member is an individual admitted to membership under this Constitution and who or which has not ceased to be a Member. A swimmer is a member, 17 years or younger, who has been accepted as a Member by the Club and is entitled to have one (1) vote that will be cast on their behalf by their parent or guardian.
 - **Official:** A member who is a regionally or higher qualified Inspector of Turns Official or higher official.
 - **Administrator:** A member who is appointed, elected or serves on the Management Committee of Tawa Swimming Club, or carries out any authorised club administration function.
- **Life Member**
A Life Member is a person honoured for highly valued services to the Club elected as a Life Member by resolution of a General Meeting passed by a simple majority of those Members present and voting. A Life Member shall have all the rights and privileges of a Member and shall be subject to all the same duties as a Member except those of paying subscriptions and levies.
 - Life membership may be granted in recognition and appreciation of outstanding service by a person for the benefit of Tawa Swimming Club. Any person may be nominated for life membership of the club. Such nomination must be made to the Management Committee in writing, setting out the grounds for the nomination 30 days before the AGM. The Management Committee must then determine, in its discretion whether the nomination should be forwarded to a General Meeting for determination by the Members.
- **Honorary Member**
An Honorary Member is a person honoured for services to the Club or in an associated field elected as an Honorary Member by resolution of a General Meeting passed by a simple majority of those present and voting. An Honorary Member has no membership rights, privileges or duties.

8. Register of Members

The Committee will keep a register of all Members recording names, addresses, phone numbers, email addresses and the date at which they became a member.

9. Membership Application, obligations and rights

- (a) Any person wishing to apply to be a Member of the Club must acknowledge and agree that:
 - (i) An application for membership must be in such format as may be required by the Management Committee from time to time. All applications for membership will be determined by the Management Committee or such other person(s) as designated by the Committee.
 - (ii) Members are bound by this Constitution and by the regulations, by laws, policies and procedures of Tawa Swimming Club.
 - (iii) In order to receive or continue to receive membership entitlements, Members must meet all requirements of membership set out in this Constitution or as otherwise set by the Management Committee, including payment of any membership or other fees within the required time period.
 - (iv) The failure by a Member to comply with rule 9 (a) (iii) may result in withdrawal of membership entitlement but shall not excuse such Member from being bound by this Constitution.
 - (v) They are entitled to all rights, entitlements, and privileges of membership conferred by this Constitution.
- (b) Membership of Tawa Swimming Club is annual and expires on 30 June each year. Membership of the club will be renewed annually upon completion of any process defined by the Club including payment of applicable membership fees.

10. Subscriptions and fees

- (a) The Committee shall annually determine:
 - Any membership or other fees payable by each Member.
 - The due date for such fees; and
 - The manner for payment of such fees.
- (b) The Management Committee may determine different levels of membership fees and other fees for different types of Members.

11. Cessation of Membership

- (a) Any member of the Club wishing to leave it shall forward his/her resignation to the Secretary in writing or by email before the Annual General Meeting of the Club. If

such a resignation is not received prior to the Annual Meeting, then the member concerned shall be liable for the ensuing season's subscription.

- (b) Membership may also be withdrawn, suspended or terminated by the Management Committee if a Member fails to comply with this Constitution including any codes of conduct or requirements set out in regulations, by-laws, policies or procedures of Tawa Swimming Club or if a member acts in a manner which is considered by the Management Committee to be harmful to Tawa Swimming Club or inconsistent with the standards of behaviours expected of a Member.
- (c) A Member whose membership is withdrawn, suspended or terminated by the Management Committee may apply for the matter to be reviewed by such process as may be specified in any regulations, by laws, policies or procedures of Tawa Swimming Club or in the absence of any relevant provisions then by a General Meeting of Tawa Swimming Club. If the issue goes to a General Meeting, then the decision of the General Meeting shall stand except to the extent it is varied by or overturned by a Special Resolution passed at such a General Meeting.
- (d) Termination for Default in Fees: A Member shall have his or her membership of the Club terminated if any fees are due and outstanding to the Club. Before such termination can occur, the Club must give the Member a written notice specifying the payment(s) due and demanding payment by a due date, being not less than seven (7) Days from the date of the demand. If payment is not made by the due date, membership shall be suspended pending payment. If such suspension continues for more than ninety (90) Days, the Member shall have their membership automatically terminated on the expiry of such period.
- (e) Any breach of Swimming New Zealand rules or Code of Conduct relating to any matter will amount to conduct bringing the Club into disrepute.

12. Obligations once membership has ceased

A Member who has ceased to be a Member under this Constitution:

- remains liable to pay all subscriptions and other fees to the Club's next balance date,
- shall cease to hold himself or herself out as a Member of the Club, and
- shall return to the Club all material provided to Members by the Club (including any membership certificate, badges, handbooks and manuals).
- shall cease to be entitled to any of the rights of a Club Member.

13. Readmission of Former Members

Any former Member may apply for re-admission in the manner prescribed for new applicants and may be re-admitted only by resolution of the Committee.

But, if a former membership was terminated following a disciplinary or dispute resolution process, the applicant may be re-admitted only by a resolution passed at a General Meeting on the recommendation of the Committee.

General meetings

A Club general meeting is either an Annual General Meeting or a Special General Meeting.

14. Procedures for all general meetings

The Committee shall give all Members at least 14 days' written Notice of any General Meeting and of the business to be conducted at that General Meeting.

That Notice will be addressed to the Member at the contact address notified to the Club and recorded on the Club's register of members. The General Meeting and its business will not be invalidated simply because one or more Members do not receive the Notice of the General Meeting.

Only financial Members may attend, speak and vote at General Meetings:

- in person, or
- by a signed original written proxy (an email or copy not being acceptable) in favour of some individual entitled to be present at the meeting and received by, or handed to, the Committee before the commencement of the General Meeting, or
- through the authorised representative of a body corporate as notified to the Committee, and
- no other proxy voting shall be permitted.

No General Meeting may be held unless at least 9 eligible financial Members attend the meeting, and this will constitute a quorum.

15. Annual General Meeting

(a) The Annual General Meeting of members of the Club shall be held no later than 31 August each year. Fourteen days' notice of the meeting shall be given by the Secretary. The notice must be given by post or email to each member.

(b) The business of the Annual General Meeting shall be:

1. To receive the Annual Report and Financial Statement

2. To elect Officers and Committee
 3. To consider motions of which notice has been given to the Secretary not less than seven days prior to the meeting
 4. To transact general business
- (c) The order in which the business is transacted shall be determined by the Chairperson.
- (d) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.

16. Special General Meeting

A Special General Meeting of members may be called at any time by the Committee or by requisition signed by not less than 15% of financial members. The requisition shall be addressed to the Secretary and shall set out specifically the business for which the Special General Meeting is required. Upon receipt of such a requisition the Secretary shall forthwith take the necessary steps to convene the meeting. The notice for members of a Special General Meeting shall be the same as that prescribed for the Annual General Meeting.

At a Special General Meeting only the business set out in the notice convening the meeting shall be considered, provided that the meeting, by unanimous vote, permits the consideration of additional business.

The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.

17. Meeting of Committee

Meetings of the Committee may be called by the Secretary at any time or on such dates as the Committee shall determine. At all meetings of the Committee the business shall be:

- (a) Apologies for absence
- (b) Confirmation of Minutes
- (c) Business arising out of minutes
- (d) Monthly Financial Report
- (e) Reports on sub-committees
- (f) General Business
- (g) Next meeting

The order in which the business is transacted shall be determined by the Chairperson.

The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.

18. Voting

- (a) At all meetings of the Committee and at all General Meetings of members, voting shall be on the voices, save where a vote is challenged, when a show of hands can be taken. In all contested offices at the Annual General Meeting the voting shall be held by secret ballot.
- (b) A parent or guardian of a financial member of the club under the age of sixteen years shall be entitled to vote at Annual General Meetings or any Special General Meeting. There is one vote per member. Financial members of sixteen years of age and over shall be entitled to vote.

19. Quorum

- (a) At all General and Special General Meetings of members of the Club the quorum shall be 9 members (or a parent or guardian acting in their stead) entitled to attend such meetings. If after the expiration of such time as the Chairperson shall decide from time to time appointed for the commencement of the meeting there is no quorum present, the Chairperson shall adjourn the meeting to a date and time to be determined by the meeting. Notice of the new date and time shall be given by the Secretary in the manner prescribed for notice of a General Meeting. If at the resumed meeting, there is still no quorum present then those present shall constitute a quorum and shall be entitled to transact the business of the meeting.
- (b) In the case of a Special General Meeting called by requisition of members, if there is no quorum present the Chairperson shall have discretion to adjourn the meeting in the manner prescribed in section (a) hereof or to declare such a meeting has lapsed.
- (c) At all meetings of the Committee the quorum shall be 50% of those entitled to vote.

Committee

20. Committee composition

The Committee will consist of at least 3 Officers and no more than 12 Officers.

Most of the Officers on the Committee must be members of the Club and no fees are payable to the Officers.

The management of the affairs of the Club shall be vested in a Committee comprising:

- all the Officers of the club, and
- The general committee members and the officers shall be elected at the Annual General Meeting of the Club.
- Any member of the Committee who shall fail to attend three consecutive meetings of the Committee without cause to the satisfaction of the Committee having been shown shall cease to be a member of the Committee.
- The Committee may appoint any person to fill any vacancy among its members or to fill any office of the Club that may become vacant, and such an appointment shall hold good until the next Annual General Meeting of Members.

21. Functions of the committee

From the end of each Annual General Meeting until the end of the next, the Club shall be managed by, or under the direction or supervision of, the Committee, in accordance with the Incorporated Societies Act 2022, any Regulations made under that Act, and this Constitution.

22. Sub-committees

- (a) The committee shall, when necessary, appoint and may at any time appoint such sub-committees as it may consider necessary and shall prescribe the duties of such sub-committees, and from time to time dissolve such sub-committees and appoint others in their stead or alter the personnel of such sub-committees as the Committee may determine.
- (b) In the appointment of any sub-committee the Committee shall not be restricted to choosing from its own members.
- (c) The Committee may delegate any or all of its powers to a subcommittee.
- (d) Sub-committees may be appointed by a General Meeting of members of the Club in the same manner as provided for the appointment of sub-committees by the Committee of the club.
- (e) A sub-committee shall carry out the duties assigned to it by its order of reference and shall, on the date mentioned in such order or in the absence of any date then as expeditiously as circumstances will permit, present its findings and recommendations to the Committee. Should the sub-committee fail to present its

report on the due date it may apply for further time, and the Committee may grant such further time or dissolve the sub-committee as the Committee shall determine.

- (f) Save as provided in Clause e hereof, no decision of a sub-committee shall be binding until it has been ratified by the Committee, nor save as provided in Clause c hereof, shall any sub-committee, unless its order of reference specifically authorises it in that behalf, have the right to transact any business in the name of the Club.

23. Committee meetings

The quorum for Committee meetings is at least 50% of members of the Committee.

A meeting of the Committee may be held either:

1. by a number of the members of the Committee who constitute a quorum, being assembled at the place, date and time appointed for the meeting; or
2. by means of audio, or audio and visual communication by which all members of the Committee participate and constituting a quorum can simultaneously hear each other throughout the meeting.

A resolution of the Committee is passed at any meeting of the Committee if a majority of the votes cast on it are in favour of the resolution. Every Officer on the Committee shall have one vote.

The members of the Committee shall elect one of their number as chairperson of the Committee. If at a meeting of the Committee, the chairperson is not present, the members of the Committee present may choose one of their number to be chairperson of the meeting. The chairperson does have a casting vote in the event of a tied vote on any resolution of the Committee.

Except as otherwise provided in this Constitution, the Committee may regulate its own procedure.

The Committee shall meet at least monthly (but need only meet once in the December-January period) at such times and places and in such manner (including audio, audio and visual, or electronic communication) as it may determine and otherwise where and as convened by the Chairperson or Secretary.

The Secretary, or other Committee members nominated by the Committee, shall give to all Committee members not less than 5 Working Days' notice of Committee meetings, but in cases of urgency a shorter period of notice shall suffice.

Officers

24. Qualifications of officers

The officers of the Club shall be:

- President
- Secretary
- Treasurer
- Club Captain
- Race Secretary

In addition, the Annual Meeting of the Committee may appoint such other people as they shall determine and shall prescribe the duties of such officers.

The President, the Club Captain, the Secretary, the Treasurer and the Race Secretary shall be ex officio members of the Committee.

25. Officers' duties

At all times each Officer:

- (a) shall act in good faith and in what he or she believes to be the best interests of the Club,
- (b) must exercise all powers for a proper purpose,
- (c) must not act, or agree to the Club acting, in a manner that contravenes the Act or this Constitution,
- (d) when exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances considering, but without limitation:
 - a. the nature of the Club,
 - b. the nature of the decision, and
 - c. the position of the Officer and the nature of the responsibilities undertaken by him or her
- (e) must not agree to the activities of the Club being carried on in a manner likely to create a substantial risk of serious loss to the Club or to the Club's creditors, or cause or allow the activities of the Club to be carried on in a manner likely to create a substantial risk of serious loss to the Club or to the Club's creditors, and
- (f) must not agree to the Club incurring an obligation unless he or she believes at that time on reasonable grounds that the Club will be able to fulfil the obligation when it is required to do so.

26. Election or appointment of officers

No member whose subscription is in arrears or who is otherwise unfinancial may be elected to any office in the Club.

A candidate for office in the Club must be proposed by one Club member and seconded by another. If the candidate is not present at the meeting, then the person proposing him/her must produce evidence satisfactory to the Chairperson that such a candidate is willing to accept office.

Where the number of candidates is greater than the number of offices to be filled, a secret ballot shall be held. Scrutineers for the conduct of the ballot shall be appointed by the Chairperson.

Ineligibility

A person seeking election, or to remain in office as a Committee Member shall be eligible to do so whether they are a Member of Tawa Swimming Club, but the following persons shall not be eligible for appointment, election, or to remain in office as a Committee Member:

- A person who is an employee of, or contractor to Tawa Swimming Club.
- A person who is undischarged bankrupt or is subject to a condition not yet fulfilled or any order under the Insolvency Act 1967, or any equivalent provisions under any previous or replacement legislation.
- A person who has been convicted of any offence punishable by a term of imprisonment of two (2) or more years (whether or not a term of imprisonment is imposed) unless that person has obtained a pardon or has served the sentence imposed on them.
- A person who is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under the Companies Act 1993 or the Charities Act 2005.
- A person who is subject to a property order made that the person is lacking in competence to manage their own affairs under the Protection of Personal and Property Rights Act 1988.

27. Conflicts of interest

An Officer or member of a sub-committee who is an Interested Member in respect of any Matter being considered by the Club, must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):

1. to the Committee and / or sub-committee, and
2. in an Interests Register kept by the Committee.

Disclosure must be made as soon as practicable after the Officer or member of a sub-committee becomes aware that they are interested in the Matter.

An Officer or member of a sub-committee who is an Interested Member regarding a Matter:

1. must not vote or take part in the decision of the Committee and/or sub-committee relating to the Matter unless all members of the Committee who are not interested in the Matter consent; and
2. must not sign any document relating to the entry into a transaction or the initiation of the Matter unless all members of the Committee who are not interested in the Matter consent; but
3. may take part in any discussion of the Committee and/or sub-committee relating to the Matter and be present at the time of the decision of the Committee and/or sub-committee (unless the Committee and/or sub-committee decides otherwise).

However, an Officer or member of a sub-committee who is prevented from voting on a Matter may still be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.

Where 50 per cent or more of Officers are prevented from voting on a Matter because they are interested in that Matter, a Special General Meeting must be called to consider and determine the Matter, unless all non-interested Officers agree otherwise.

Where 50 per cent or more of the members of a sub-committee are prevented from voting on a Matter because they are interested in that Matter, the Committee shall consider and determine the Matter.

Finances

28. Control and management

The funds and property of the Club shall be:

- controlled, invested and disposed of by the Committee, subject to this Constitution, and
- devoted solely to the promotion of the purposes of the Club.

The Committee shall maintain bank accounts in the name of the Club. All money received on account of the Club shall be banked within 3 Working Days of receipt.

All accounts paid or for payment shall be submitted to the Committee for approval of payment.

The Committee must ensure that there are, kept at all times, accounting records that:

1. correctly record the transactions of the Club, and
2. allow the Club to produce financial statements that comply with the requirements of the Act, and
3. would enable the financial statements to be readily and properly audited (if required under any legislation or the Club's Constitution).

The Committee must establish and maintain a satisfactory system of control of the Club's accounting records.

The accounting records must be kept in written form or in a form or manner that is easily accessible and convertible into written form. And the accounting records must be kept for the current accounting period and for the last 7 completed accounting periods of the Club.

29. Financial Year

Unless the Centre shall otherwise direct the financial year of the Club shall conclude on the last day of June and commence on the first day of July of each year.

30. Accounts

- (a) The Committee will be responsible for the control and investment of all funds of the Club and the proper administration of all other properties of the Club and will, where appropriate, take external advice on matters relating to financial management and the administration of the other assets and liabilities of the Club.
- (b) All payments must be authorised by at least two persons authorised by the Committee to do so, provided that the payment does not involve a payment to the authorising person.
- (c) The Annual Balance date for the Club shall be 30 June each year.
- (d) Each year, the Club will appoint a Chartered Accountant, preferably a member of the New Zealand Institute of Chartered Accountants, who must not be a Member of the Club or an employee of the Club.
- (e) The Chartered Accountant will compile the end-of-year financial accounts and a report on their findings on specific verification checks of processes and documents as determined by the Club. The Club must provide the Chartered Accountant with:

- access to all information of which the Club is aware that is relevant to the preparation of the financial statements, such as policies, records, documentation and other matters; and
 - additional information that the Chartered Accountant may request from the Club for the purpose of the verification process; and
 - reasonable access to persons within the Club from whom the Chartered Accountant determines it necessary to obtain evidence.
- (f) Each year the Club, at its discretion, or by way of motion, by the majority of members present at an AGM entitled to vote, may appoint a reviewer to review the Clubs financial position and processes and systems.

Complaint resolution

31. How complaints are made

1. A Member or an Officer may make a complaint by giving to the Committee (or a complaints sub-committee) a notice in writing that:
 - a. states that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Club's Constitution; and
 - b. sets out the allegation or allegations to which the dispute relates and whom the allegation is against; and
 - c. sets out any other reasonably required information by the Club.
2. The Club may make a complaint involving an allegation or allegations against a Member or an Officer by giving to the Member or Officer a notice in writing that:
 - a. states that the Club is starting a procedure for resolving a dispute in accordance with the Club's Constitution; and
 - b. sets out the allegation to which the dispute relates.
3. The information given under subclause (1b.) or (2b.) must be sufficient to ensure that a person against whom an allegation is made is fairly advised of the allegation or allegations concerning them, with sufficient details given to enable that person to prepare a response.
4. A complaint may be made in any other reasonable manner permitted by the Club's Constitution.

32. Person who makes complaint has a right to be heard

1. A Member or an Officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.

2. If the Club makes a complaint:
 - the Club has a right to be heard before the complaint is resolved or any outcome is determined; and
 - an Officer may exercise that right on behalf of the Club.
3. Without limiting the way the Member, Officer, or Club may be given the right to be heard, they must be taken to have been given the right if:
 - they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure adequate hearing; and
 - an oral hearing (if any) is held before the decision maker; and
 - the Member's, Officer's, or Club's written or verbal statement or submissions (if any) are considered by the decision maker.

33. Person who is subject of complaint has right to be heard

1. This clause applies if a complaint involves an allegation that a Member, an Officer, or the Club (the 'respondent'):
 1. has engaged in misconduct; or
 2. has breached, or is likely to breach, a duty under the Club's Constitution or bylaws or this Act; or
 3. has damaged the rights or interests of a Member or the rights or interests of Members generally.
2. The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
3. If the respondent is the Club, an Officer may exercise the right on behalf of the Club.
4. Without limiting the way a respondent may be given a right to be heard, a respondent must be taken to have been given the right if:
 1. the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
 2. the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 3. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure adequate hearing; and
 4. an oral hearing (if any) is held before the decision maker; and
 5. the respondent's written statement or submissions (if any) are considered by the decision maker.

34. Investigating and determining dispute

1. The Club must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its Constitution, ensure that the dispute is investigated and determined.
2. Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner and in accordance with the provisions of the Act.

Despite the 'Investigating and determining dispute' rule above, the Club may decide not to proceed further with a complaint if:

1. the complaint is considered to be trivial; or
2. the complaint does not appear to disclose or involve any allegation of the following kind:
 1. that a Member or an Officer has engaged in material misconduct;
 2. that a Member, an Officer, or the Club has materially breached, or is likely to materially breach, a duty under the Club's Constitution or bylaws or the Act;
 3. that a Member's rights or interests or Members' rights or interests generally have been materially damaged;
3. the complaint appears to be without foundation or there is no apparent evidence to support it; or
4. the person who makes the complaint has an insignificant interest in the matter; or
5. the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the Constitution; or
6. there has been an undue delay in making the complaint.

The Club may refer a complaint to:

1. a subcommittee or an external person to investigate and report; or
2. a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.

A person may not act as a decision maker in relation to a complaint if 2 or more members of the **Committee** or a complaints sub-committee consider that there are reasonable grounds to believe that the person may not be:

1. impartial; or
2. able to consider the matter without a predetermined view.

Liquidation and removal from the register

35. Resolving to put club into liquidation

The Club may be liquidated in accordance with the provisions of Part 5 of the Act.

The Committee shall give 30 Working Days written Notice to all Members of the proposed resolution to put the Club into liquidation.

The Committee shall also give written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice shall include all information as required by section 228(4) of the Act.

Any resolution to put the Club into liquidation must be passed by a two-thirds majority of all Members present and voting.

If upon the liquidation, winding up or dissolution of the Club there remains after the satisfaction of all its debts and liabilities any property whatsoever, that property shall not be paid to or distributed among the Members of the Club but shall be given or transferred to some other charitable organisation, or charitable body having objects similar to the objects of the Club or Swim Wellington.

36. Resolving to apply for removal from the register

The Club may be removed from the Register of Incorporated Societies in accordance with the provisions of Part 5 of the Act.

The Committee shall give 30 Working Days written Notice to all Members of the proposed resolution to remove the Club from the Register of Incorporated Societies.

The Committee shall also give written Notice to all Members of the General Meeting at which any such proposed resolution is to be considered. The Notice shall include all information as required by section 228(4) of the Act.

Any resolution to remove the Club from the Register of Incorporated Societies must be passed by a two-thirds majority of all Members present and voting.

Alterations to the constitution

37. Amending this constitution

All amendments must be made in accordance with this Constitution. Any minor or technical amendments shall be notified to Members as required by section 31 of the Act.

The Club may amend or replace this Constitution at a General Meeting by a resolution passed by two-thirds of majority of those Members present and voting.

That amendment may be approved by a resolution passed in lieu of a meeting but only if authorised by this Constitution.

Any proposed resolution to amend or replace this Constitution shall be signed by at least 5 per cent of eligible Members and given in writing to the Committee at least 10 Working Days before the General Meeting at which the resolution is to be considered and accompanied by a written explanation of the reasons for the proposal.

At least 8 Working Days before the General Meeting at which any amendment is to be considered the Committee shall give to all Members notice of the proposed resolution, the reasons for the proposal, and any recommendations the Committee has.

When an amendment is approved by a General Meeting it shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the Act for registration and shall take effect from the date of registration.

Other

38. SERVICE AWARDS

- (a) Service to the Club and the sport of swimming of an outstanding nature for a period of not less than five years may be recognised by the award of a “Tawa Swimming Club Service Award”. A Club Service Award may also be awarded to an Honorary or Associate Member of the Club.
- (b) Nominations for the award may be proposed by any member of the Club with the final decision made by the Committee.
- (c) The Annual General Meeting shall consider the recommendations for the award of a Service Award and grant or refuse such an award.
- (d) The names of Members, Honorary Members or Associate Members granted a “Tawa Swimming Club Service Award” shall be listed on a “Service Award” Board together with the date of the Award.

39. INDEMNITY

No action at law or otherwise shall lie in favour of members or their executors or administrators against any member of the Club or its Committee or any Officer of the Club for in respect to any act, matter or thing done, omitted or suffered in pursuance of

these rules and that notwithstanding any irregularity or informality occurring in or about the doing, omitting or suffering thereof.

40. REGULATIONS

The members of the Club at General Meetings or the Committee of the Club at any time may make such regulations for the conduct on the Club as they shall determine but such regulations may not conflict with these rules of the Club. Any regulation made by the Committee shall hold good until the ensuing Annual General Meeting of members, when it must be confirmed or lapse. Pending the confirmation by a general Meeting of a Regulation made by the Committee, a Regulation so made be repealed by the Committee notwithstanding the provisions of Rule 41.

41. ALTERATION OF RULES

- (a) The Constitution may only be altered, added to or rescinded by Special Resolution passed at a General Meeting.
- (b) No alteration, addition to or revision of this Constitution shall be approved if it affects the not-for-profit objects, personal benefit prohibition or the winding-up rules of Tawa Swimming Club. Rule (35) must not be removed from the Constitution and must be included in any alteration of, addition to or revision of the Constitution.

42. PECUNIARY GAIN

No member of the club shall derive any pecuniary gain (except as a salaried officer, or by way of honorarium for services rendered voted by a General Meeting of members) from any property or operation of the club.

43. COLOURS

The colours of the club shall be Red, Blue and Gold.

Definitions

In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

‘Act’ means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

‘Annual General Meeting’ means a meeting of the Members of the Club held once per year which, among other things, will receive and consider reports on the Club’s activities and finances.

‘Chairperson’ means the Officer responsible for chairing General Meetings and committee meetings, and who provides leadership for the Club.

‘Committee’ means the Club’s governing body.

‘Constitution’ means the rules in this document.

‘Deputy Chairperson’ means the Officer elected or appointed to deputise in the absence of the Chairperson.

‘General Meeting’ means either an Annual General Meeting or a Special General Meeting of the Members of the Club.

‘Interested Member’ means a Member who is interested in a matter for any of the reasons set out in section 62 of the Act.

‘Interests Register’ means the register of interests of Officers, kept under this Constitution and as required by section 73 of the Act.

‘Matter’ means:

1. the Club’s performance of its activities or exercise of its powers; or
2. an arrangement, agreement, or contract (a transaction) made or entered into, or proposed to be entered into, by the Club.

‘Member’ means a person who has consented to become a Member of the Club and has been properly admitted to the Club who has not ceased to be a Member of the Club.

‘Notice’ to Members includes any notice given by email, post, or courier.

‘Officer’ means a natural person who is:

- a member of the Committee, or
- occupying a position in the Club that allows them to exercise significant influence over the management or administration of the Club, including any Chief Executive or Treasurer.

‘Register of Members’ means the register of Members kept under this Constitution as required by section 79 of the Act.

‘Secretary’ means the Officer responsible for the matters specifically noted in this Constitution.

‘Special General Meeting’ means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes.

‘Working Days’ mean as defined in the Legislation Act 2019. Examples of days that are not Working Days include, but are not limited to, the following — a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, ANZAC Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day, and Labour Day.