



Karori Pirates
Swimming Club

KARORI PIRATES SWIMMING CLUB INCORPORATED

CONSTITUTION

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CONSTITUTION OF KARORI PIRATES SWIMMING CLUB INCORPORATED

Section One: Core Provisions

1. Name

- 1.1 The name of the organisation is Karori Pirates Swimming Club Incorporated (**KPSC**).

2. Definitions and Interpretation

- 2.1 In this constitution:

AGM means annual general meeting;

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

Board means the board of KPSC;

Chair means chairperson of the Board;

Competition Zone means a zone comprising Regional Associations participating in the formation and support of a team to compete in inter-zonal swimming competitions;

Database means Swimming NZ's database of Members;

FINA means the Federation Internationale de Natation, the world governing body of swimming;

Financial Year means the financial year of KPSC;

GM means a general meeting;

Member means a member of KPSC;

Member Club is a swimming club which is a member of a Regional Association and Swimming NZ;

Objects mean the objects of KPSC;

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

Region means a geographic area within New Zealand determined to be a Swimming NZ region by Regional Associations;

Regional Association is a regional swimming association which is a member of Swimming NZ;

SGM means a special general meeting;

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

Sport means the sport of swimming;

Swimming NZ means Swimming New Zealand Incorporated (215320);

Whole of Sport Plan means Swimming NZ's Whole of Sport Plan;

- 2.2 In this constitution:

- a. the singular includes the plural and vice versa;

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

3. Status

3.1 KPSC is:

- a. an incorporated society established under the Incorporated Societies Act 1908; and
- b. bound by, and must observe the rules and decisions of FINA, Swimming NZ and the Regional Association in which it is located.

4. Objects

4.1 The primary Object of KPSC is to promote, foster and encourage swimming, including both competitive and non-competitive sports, for the benefit of the whole community.

4.2 To support its primary Object, KPSC has the further Objects to:

- a. arrange for instruction and coaching in swimming, both at competitive and non-competitive levels;
- b. raise awareness of and interest in competitive and non-competitive swimming within the wider community;
- c. be a member of Swimming NZ;
- d. assist and support the operation of Swimming NZ in its Region;
- e. support and deliver the Whole of Sport Plan in its Region including:
 - i. working with Member Clubs within the Region to develop and implement Swimming NZ's facilities plan;
 - ii. facilitating the delivery of programmes to attract members and deliver competitive swimming;
 - iii. minimising as much as practical the administrative complexity of competitive swimming;
 - iv. enabling the Sport to build swimmer capability;
 - v. complying with the policies and standards set by Swimming NZ; and
- f. be financially viable and financially independent of Swimming NZ;
- g. fulfil its obligations to Drug Free Sport New Zealand in relation to doping controls and banned substances;
- h. foster and encourage Learn to Swim and swim safe educational activities; and

- i. work with Swimming NZ, its Regional Association, other Member Clubs within the Region and others to achieve the above Objects.

5. Powers and Obligations

- 5.1 KPSC has full powers, jurisdiction and authority and (except as restricted by this constitution), may do all and any things to carry out its Objects, including:
 - a. acquire or receive the benefit of any property and deal with property in any way (including borrow, invest, lend and give or obtain security);
 - b. determine, raise, levy and receive money by any method and from any source;
 - c. utilise the assets of KPSC for the purpose of achieving the Objects;
 - d. determine who are its Members and their entitlements, and withdraw, suspend, terminate or restrict membership and other benefits;
 - e. designate a Voting Representative to represent it at a Regional Association GM and to exercise KPSC's voting rights as provided in the Swimming NZ constitution;
 - f. award service and honours awards
 - g. make, alter, rescind and enforce rules, policies, plans, charters and procedures to effect the Objects, or for the governance and operation of KPSC;
 - h. engage and dismiss employees and contractors;
 - i. delegate powers of KPSC to any person, committee or sub-committees (the composition of which is not limited to Members) and for that purpose to establish, fund and set the terms of reference and structure;
 - j. contract, engage or make any arrangements with any person to fulfil the Objects;
 - k. be a member of or affiliate to and/or be associated in any way with any person which has objects which are similar in whole or in part to the Objects in New Zealand and/or internationally;
 - l. produce, publish and distribute any communications, newsletters or publications;
 - m. do any other acts or things which it determines are incidental to or conducive to the attainment of the Objects; and
 - n. merge with, consolidate and/or transfer assets and liabilities to another Member Club.
- 5.2 KPSC shall:
 - a. work with Swimming NZ, its Regional Association, and other Member Clubs for the benefit of the Sport and to achieve the Objects;
 - b. cooperate with Swimming NZ, its Regional Association and other Member Clubs in respect of inter-zonal competitions and the development of competition pathways to inter-zonal competitions;
 - c. work collectively with other Member Clubs in its Competition Zone, to support the development and running of inter-zonal competitions;
 - d. pay any Amount owed by it to Swimming NZ and its Regional Association;

- e. abide by all rules, regulations, lawful requests or directions made by Swimming NZ including any Swimming NZ Member Protection Policy or Code of Conduct; and
- f. provide accurate data on a timely basis for it, its Regional Association as required by Swimming NZ for the Database or otherwise.

Section Two: Members and Database

6. Members and Database

- 6.1 A Member is a person who:
- a. is a member of Swimming NZ;
 - b. is approved by KPSC as a member of KPSC; and
 - c. is a:
 - i. swimmer who competes in a Swimming NZ Member Club or Region (or higher) event sanctioned by Swimming NZ or a Regional Association and which is on the annual national, inter-zonal or Regional competitive calendar; and/or
 - ii. coach of KPSC ; and/or
 - iii. Regionally or higher qualified inspectors of turns officials and nationally or higher qualified time keepers; and/or
 - iv. interested persons who do not come within any of Clauses 6.1c i, ii, iii or iv, including, but not limited to: non-competitive swimmers; learn to swim swimmers; and social members.
- 6.2 Members must pay all Amounts due to KPSC, KPSC's Regional Association and Swimming NZ before being eligible to participate in the events described in Clause 6.1c.i.
- 6.3 KPSC must collect and provide to Swimming NZ up to date details of its Members as required by the Swimming NZ constitution for the Database.

7. Rights and Obligations of Members

- 7.1 A Member is bound by this constitution and:
- a. by all rules, policies, charters, procedures and decisions of KPSC and where applicable those of Swimming NZ and FINA;
 - b. must pay all Amounts imposed on them by KPSC and Swimming NZ;
- 7.2 A Member ceases to be a member of KPSC:
- a. by written agreement with, or written resignation delivered to, KPSC;
 - b. upon expulsion from membership;
 - c. if no longer eligible to be a Member under Clause 6.
- 7.3 A Member disobeying any rule or failing to give effect to any decision of KPSC, Swimming NZ, FINA, or the Sports Tribunal of New Zealand, or having done anything else (for example, being convicted of a criminal offence which the Board considers is relevant to KPSC) which the Board considers brings or may bring the Sport or KPSC into disrepute and/or creates exposure to risk for

KPSC or if a Member fails to comply with any sanction imposed by Swimming NZ or KPSC, or the Sports Tribunal is liable to:

- a. suspension for a period; and/or
- b. expulsion,

or such other sanction as the Board may in its sole discretion impose.

- 7.4 A Member may only be a member of one Member Club at a time.
- 7.5 Any transfer of membership of a Member between Member Clubs shall be effective once approved in writing by the two Member Clubs involved.
- 7.6 Any Member under suspension, or awaiting a hearing for an offence capable of having a period of suspension imposed, is ineligible for transfer.

Section Three: Governance

8. Board Composition

- 8.1 The Board comprises no less than three persons and no more than eight persons, one of whom is the Coach Representative.
- 8.2 The following persons are not eligible to be a Board member:
 - a. an employee of a Member Club, a Regional Association or Swimming NZ; and
 - b. a person who is a member of the board of Swimming NZ, or a Regional Association.
- 8.3 All Board members are elected by Members at an AGM, except the Coach Representative. The person for the time being appointed as the head coach of KPSC may, by notice to the Board, nominate a person to be the Coach Representative. That head coach may, by notice to the Board, replace that person from time to time.
- 8.4 Notwithstanding anything else in this Constitution, each Member is entitled to one vote for the election of each elected Board member.
- 8.5 At least 14 days prior to the AGM, the Board shall give written notice to Members calling for nominations from Members for Board members.
- 8.6 Each Member:
 - a. may nominate in writing one or more candidates for election to the Board for each vacant position on the Board.; and
 - b. must provide to the Board the written consent of any candidate to their nomination; and
 - c. may provide to the Board such further information as it thinks fit in support of its candidate(s).
- 8.7 In relation to the term of office of a Board member:
 - a. a term of office is for a maximum of three years;
 - b. the two Board members with the longest service since they were last elected must retire at the end of each AGM. If there are two or more Board members with equal long service since last elected the two to retire may be decided by agreement among the Board

members with equal long service since last elected, and, failing agreement, will be determined by lot among such members;

- c. a Board member may stand again for the Board but is subject to this Clause 8.7;
 - d. except where a term of office otherwise ends it expires at the conclusion of the next AGM.
- 8.8 At the first Board meeting after the AGM, the Board shall elect a Chair and a deputy Chair of the Board. The Chair shall chair all Board meetings at which he or she is present and in the Chair's absence the deputy Chair shall take that role.
- 8.9 A Board member is deemed to have vacated the Board upon any one or more of the following occurring:
- a. being adjudicated bankrupt;
 - b. being declared of unsound mind or being the subject of a property order under the Protection of Personal and Property Rights Act 1988;
 - c. resigning or retiring or their term of appointment expiring;
 - d. being convicted of a criminal offence or being sentenced to imprisonment; and
 - e. dying.
- 8.10 Casual vacancies are dealt with as follows:
- a. the Board may fill casual vacancies on the Board;
 - b. the term of any appointments due to casual vacancies is until the conclusion of the next AGM;
 - c. appointments due to casual vacancies will not count as a term served as a Board member for the purpose of Clause 8.7b;
 - d. any person appointed to fill a casual vacancy may later stand for election to the Board.

9. Board Procedure

- 9.1 The governance of KPSC and the exercise of all powers of KPSC (except where restricted by this constitution) are delegated without further restriction, to be undertaken by the Board. Such powers may also be delegated by the Board to persons as it determines.
- 9.2 The role and responsibility of the Board is to act in the best interests of KPSC and to provide good governance to KPSC including through the following:
- a. monitoring and reviewing performance against the annual business plan and budget;
 - b. addressing the ongoing viability and sustainability of KPSC;
 - c. monitoring regulatory compliance for KPSC;
 - d. establishing, reviewing, and monitoring policies to guide and govern KPSC;
 - e. fostering interaction and communication across and within KPSC, Regional Associations and Member Clubs;
 - f. adopting and communicating a continual best practice performance culture; and
 - g. preparing an annual report and procuring an annual statement of accounts.

- 9.3 The quorum for a Board meeting is three Board members.
- 9.4 The Board determines its own rules for any matters not specified in this constitution, including for conduct, operation and meetings of the Board, which shall include:
- a. there must be at least five Board meetings each year;
 - b. Board meetings may be held in person or by teleconference or by other means by which those participating may hear each other simultaneously;
 - c. a resolution signed by all Board members is as effective as if passed at a meeting;
 - d. a Board meeting may be called by the Chair or by written request of three Board members;
 - e. decisions are by Ordinary Resolution (unless otherwise required by this constitution) by voice, or if requested by the Chair by show of hands, and, if requested by any Board member, by secret ballot;
 - f. each Board member has one vote and in a tie the Chair has an additional casting vote;
 - g. the Board must ensure minutes are kept of all Board meetings;
 - h. any additional roles and expectations that KPSC has of a Board member; and
 - i. the Board shall endeavour, at periods of not more than three years, to review all KPSC policies.
- 9.5 The Board is required to establish, maintain and implement a Member Protection Policy in accordance with best practice and which is binding on all Members.
- 9.6 The Board may establish an awards committee with functions, processes and protocols as determined by the Board.

Section Four: Meetings, Elections and Voting

10. General Meetings

- 10.1 A GM of KPSC is either an AGM or a SGM. Subject to Clauses 10.4 f and g all Members may be present at a GM which shall be held at such location, date, and time, or in the case of Clauses 10.4 f and g by such process, as determined by the Board.
- 10.2 The AGM must be held once every year, no later than six months after the end of the Financial Year to:
- a. consider the Board's annual report;
 - b. consider the annual financial report;
 - c. consider the statement of accounts;
 - d. elect Board members in accordance with Clause 8;
 - e. consider any other business that is notified as an item of business under Clause 10.3.
- 10.3 An item of business must be considered at an AGM if notified to KPSC by the Board or by not less than one third of Members within seven days of notice of an AGM being given.
- 10.4 A SGM:
- a. may be called by the Board at any time;

- b. must be called by the Board within 21 days of KPSC receiving a written request setting out the reasons for the SGM from not less than one third of the total number of Members of KPSC;
 - c. can only consider the items of business for which the SGM has been called;
 - d. can only pass a resolution by Special Resolution;
 - e. Special Resolutions bind the Board to comply with such resolution;
 - f. if determined to be appropriate by the Board, may be held electronically or by teleconference with post, email or electronic voting; and
 - g. if the Board determines that a SGM is undesirable because of content, time and/or expense, the Board may conduct the business of the SGM entirely by post, email or electronic voting but this Clause does not apply to a SGM requisitioned by not less than half of the Members of KPSC.
- 10.5 A quorum for a GM is formed if there are at least 20 Members present who are eligible to vote or, if post, email or electronic voting applies, at least 20 valid votes are cast. If a quorum is not achieved within half an hour, or where post, email or electronic voting applies, less than 20 votes are cast, the GM fails for lack of quorum but the GM is adjourned to another day, time and place to be notified to all persons who are to be given notice under Clause 11. The Members present at a re-convened GM are deemed to constitute a valid quorum.
- 10.6 GMs are chaired by the Chair of the Board and in his or her absence by a Board Member elected by Members present at the GM. Matters not provided for that occur at or in relation to a GM are decided by such chairperson.
- 10.7 All Members at a GM must comply with any Board policy relating to speaking at a GM.
- 10.8 Minutes must be kept of each GM.
- 10.9 Any irregularity, error or omission in notices, agendas and papers for the GM or omission to give notices within a timeframe or omission to give notice to all persons entitled to receive notice, and any other error in the organisation of the GM does not invalidate nor prevent the GM from proceeding provided that:
- a. the chairperson in his or her discretion determines that it is still appropriate for the GM to proceed despite the irregularity, error or omission; and
 - b. a motion to proceed is put to the GM and such motion is passed by Special Resolution.

11. Notices for General Meetings

- 11.1 Notices and other documents referred to in this Clause in relation to a GM must be given by KPSC to all Members and may be given to any other persons as determined by the Board.
- 11.2 Notice of the date, time and place (or process in the case of Clause 10.4 g and h) of a GM must be given by KPSC not less than 14 days prior to the date of the GM.
- 11.3 Notice of the agenda and the documents relating to items of business for the GM must be given by KPSC not less than 7 days prior to the date of the GM.
- 11.4 Any notice to be given by KPSC in relation to a GM may be given by any method (for example but not limited to post, email, or notification on a website) as determined by the Board.

12. Elections and Voting

- 12.1 Members entitled to vote at a GM recorded on the Database for KPSC on the last day of the Financial Year immediately preceding the date on which the vote is to be exercised, provided that:
- a. a Member is ineligible to vote if any Amount due by them to KPSC, KPSC's Regional Association or Swimming NZ for the Financial Year referred to above is not paid fourteen or more days before the date on which the vote is to be exercised;
 - b. voting rights are suspended if so determined by the Board under Clause 7.3; and
 - c. a parent or guardian of a Member of the Club under the age of sixteen years shall be entitled to vote at a GM on behalf of that Member.
- 12.2 At GMs:
- a. a Member who is present is entitled to vote;
 - b. proxy votes are not permitted;
 - c. voting is by voices or by show of hands as determined by the chairperson of the GM, except the Board may determine that a GM may be held electronically or by teleconference with post, email or electronic voting. Any matter may be by a secret ballot if it is called for by a Member Club or by the chairperson of the GM;
 - d. motions are passed by Ordinary Resolution unless required by this constitution to be passed by Special Resolution.

Section Five: Other

13. Finance

- 13.1 The Board must ensure that proper financial records are kept and it has appropriate policies for management of KPSC finances.
- 13.2 KPSC's funds may be invested in such manner as determined by the Board.

14. Common Seal

- 14.1 KPSC must have a common seal. The Board determines when and by whom the common seal may be used and where it is to be kept.

15. Alteration to Clauses

- 15.1 Subject to Clause 15.2, this constitution may be changed by Special Resolution at a GM for which such change has been notified in accordance with Clause 10.
- 15.2 No change to the prohibition of personal benefit or the liquidation clause can be approved if it would have the effect of causing KPSC to cease to retain its preferential tax status as a society for the promotion of amateur sport or as a charity under the Charities Act 2005 (if applicable).

16. Liquidation and Merger

- 16.1 KPSC may be voluntarily liquidated if, at a GM a Special Resolution is passed requiring KPSC to be liquidated and the resolution is confirmed by a further Special Resolution passed at a subsequent GM called for that purpose and held not earlier than 30 days and not later than 60 days after the date on which the original resolution was passed.
- 16.2 If, upon the liquidation of KPSC, there remains after the satisfaction of all KPSC debts and liabilities any property whatsoever, the property shall be given to an organisation or organisations (selected by the Members exercising the voting entitlement set out in Clause 12.1) for a similar charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005.
- 16.3 Subject to the written approval of Swimming NZ and satisfaction of all KPSC debts and liabilities, KPSC may in accordance with a Special Resolution at a GM called for that purpose merge with another Member Club having a similar charitable purpose or purposes as defined in section 5(1) of the Charities Act 2005.

17. Prohibition of Personal Benefit

- 17.1 All income, benefit or advantage must be applied to the Objects.
- 17.2 No Member or Board member or any person associated with a Member or Board member shall participate in or materially influence any decision made by KPSC in respect of the payment to or on behalf of that Member or Board member or associated person of any income, benefit or advantage whatsoever.
- 17.3 Any payments made must be for goods or services that advance the Objects and must be reasonable and relative to payments that would be made between unrelated parties.
- 17.4 The provision and effect of this Clause 17 must not be removed from this constitution and must be included and implied into any document replacing this constitution.

18. Limitation of Liability and Indemnity

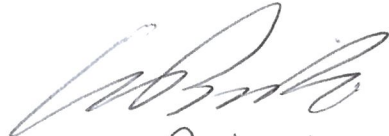
- 18.1 No current or former member of the Board has any liability to KPSC or the Members for any act or omission in their capacity as a member of the Board except in the case of their own fraud, dishonesty, breach of fiduciary duty or the commission of any act known by them to be a breach of duties owed by them at law.
- 18.2 Each current or former member of the Board is indemnified by and out of the assets of KPSC against:
- a. any liability arising out of any act or omission in their capacity as a member of the Board excluding criminal liability arising out of their fraud, dishonesty, breach of fiduciary duty or the commission of any act known by them to be a breach of duties owed by them at law; and
 - b. costs incurred by them in any proceeding relating to such liability.
- 18.3 This Clause is intended to be enforceable by each current or former member of the Board.


19. Savings


- 19.1 If any matter arises in relation to KPSC that is not provided for in this constitution, the matter shall be dealt with as required by the Board.

20. Transition

- 20.1 This Clause 20 enables transition of KPSC from the requirements of its previous constitution to this constitution. If any part of this Clause 20 is inconsistent with any other Clause then this Clause 20 applies and to the extent of the inconsistency the other Clause in this constitution does not.
- 20.2 All Board Members, under the previous constitution shall hold office under this constitution until the end of the next AGM unless the Board Member retires or vacates his or her position earlier. At the next AGM after the adoption of the Constitution the number of Board to retire shall be the number necessary to reduce the size of the Board to between three and eight persons. The Board Members retiring may be determined by agreement among all the Board members and, failing agreement, shall be determined by lot.


Chris Birkinshaw
Secretary


Nicola Homenwood
Vice-President


Jeremy Lang
President

