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Athletics Auckland AGM 2018

Notice of motions proposed by the Board for the amendment of the AAI Constitution

5 May 2018

The Board of Athletics Auckland Incorporated (“AAI”) gives notice that it proposes to introduce the motions to amend to the Constitution of AAI at the AAI Annual General Meeting. Your feedback is sought on the proposals to amend the constitution of AAI to address 3 key areas, being:

1. Amendments to improve consistency between the constitutions of AAI and Athletics New Zealand (“ANZ”), where appropriate. A number of areas of the AAI constitution refer to rules or provisions of the ANZ constitution which has been subject to amendment between 2012 and 2015. These proposed amendments are largely administrative in nature to provide for a logical flow and consistency between ANZ and AAI constitutions;
2. Amendments to reflect practical realities, such as to provide for communication by electronic mail and other matters that better reflect the environment in which we operate; and
3. Amendments to prepare AAI for proposed changes to best practice governance guidelines anticipated through proposed amendments to the Incorporated Societies Act – which are currently expected to come into effect from 2019.

Please provide feedback

Clubs are invited to provide feedback on the proposed amendments to the AAI constitution by not later than **11 June 2018**. Feedback can be provided through your sections meetings and to the office at office@athleticsauckland.co.nz

The Board proposes amendments as follows:

1. Amendments to definitions

- a. “**District**” is a term that is currently defined with reference to the ANZ constitution, but the Auckland District is no longer defined in the ANZ constitution – it is only mentioned without any definition. The Auckland district can be defined as meaning the same as the “Auckland Region” which became a unitary authority controlled by the Auckland Council under the Local Government (Auckland Council) Act 2009. It extends from Rodney District in the north (Kumeu and surrounding areas) to Franklin District in the South (Waiuku, Pukekohe, Wairua and surrounding areas).

“**District** means the Auckland Region, extending from and including the Rodney District in the north to Franklin District in the South, which is referred to in the ANZ Constitution as the Auckland District.”



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- b. Create a defined term for “Athletics” to be consistent with ANZ, noting that the proposed amendment changes the word “means” to “includes” to avoid unnecessarily limiting the definition. For example, after amending the definition ANZ created a trail running championships which is not part of the defined term.

“Athletics includes track and field, road running, race walking, cross-country running and mountain running as defined by the IAAF”

It would also be possible to extend the definition of Athletics further with the addition of “and other athletics events “after the words “mountain running”.

We are interested in your feedback on whether you consider the definition should be extended further to expressly include other events or if the amendment already covers that sufficiently.

2. Amendments to provide for electronic communications such as email to be expressly recognised as meeting the requirements of writing

- a. Amend clause 1.2 Construction to provide for “writing” to expressly include email and other electronic means as follows:

“1.2(d) Unless expressly specified otherwise, a requirement in this Constitution to make application, notify, or to give notice to, a person (including the Society) or persons in this Constitution, means an application or notice (as the case may be) in writing delivered to that person or persons by any of the following means:

i. by hand, including courier;

ii. by email transmission;

iii. by facsimile;

iv. by post; or

v. for any notification or notice to be given by Athletics Auckland to Clubs or Members, then by posting the notice on the Athletics Auckland website or other electronic means used by Athletics Auckland for the purpose of giving notice to its Clubs or Members”

- b. Amend clause 6.11(f) to expressly provide for resolutions by email to reflect best practice and to be consistent with the provisions of Athletics NZ constitution.

“6.11 (f) A resolution in writing signed or consented to by email, facsimile or other forms of visible or other electronic communication by not less than 5 of the Directors will be as valid and effectual as if it had been passed at a meeting duly convened and held. Any such resolution may consist of several documents in like form each signed or consented to by one or more Directors.”

- c. Amend clause 12 to provide for updates to email addresses on the register of members. [Consider whether fax numbers are still relevant.]

“12.1 (a) The names, addresses, email addresses, and phone and facsimile numbers (where applicable) of all Clubs and Honorary Life Members;”

...

“12.2 Change of Details: each Club and Honorary Life Member must promptly notify the Society of any change to its, his or her name, address email address, and phone and facsimile number or registered office (where applicable).”

- d. **Notices** – Amendment of clauses 19.1, 19.2 and 19.3 by the amendment and addition of sub-clauses to provide for email notice.

“19.1 (d) “sent by electronic mail to the registered email address of the Club or Honorary Life Member”.”

19.2 **Notice to Society:** A notice required or authorised to be served, delivered, given or sent to the Society will be deemed to have been sufficiently served, delivered or sent if hand delivered or sent by ordinary post to the registered office of the Society or forwarded by facsimile number of the Society or sent by electronic mail to the registered email address of the Society”

19.3 to be amended to provide for time of receipt of email by the insertion of a new clause 19.3 (d):

“(d) in the case of email, when sent”

3. Amendments to Objects

- a. To align with the changes to ANZ in relation to clubs and the role of centres by the amendment of 3.2(a) by the insertion of the words “through clubs” as follows:

“3.2(a) Foster and coordinate the growth and development of Athletics through clubs within the District”

- b. To emphasise the regional nature of the Society’s role by the insertion of a new clause 3.2(e)(i)

3.2(e)(i) “Host and/or organise Athletics competitions, including local, centre, regional, inter-provincial and national or other competitions within the District, or as required”

3.2(e)(ii) Select Centre representative teams to attend competitions in Athletics.”

4. Amendments to Purpose and Objects of the Society

Feedback is sought on whether the purpose and objects of AAI are still appropriate and consistent with ANZ?

For example, clause 4.1(h) provides for AAI to publish, sell or distribute printed material to promote the society or its objects. It is proposed that we add the words “digital and other” following the word “printed”.

5. Amendments to membership

- a. We propose to soften the requirement on clubs in clause 5.6(e)(ii) to require members to wear registration numbers “as appropriate” to reflect the fact that registration numbers are not always required to be worn.
- b. “Child” member is no longer defined in the ANZ Constitution. We propose to either change it to refer to ANZ membership category (6 years and under) or create our own definition of “child member”.
- c. We propose changing voting rights from club size to one vote per club, which changes sections 5.5 and 9.5 to be amended as follows;

5.5 Club Delegates: Each Club will be entitled to appoint a Delegate according to the following rules: (a) each Club may appoint 1 Delegate as of right; (b) the method of appointment of Delegates in Rule 9.5 must be followed.

9.5 Appointment of Delegates: (a) Authority: A Club may authorise a person to be its

Delegate to attend and vote at any General Meeting of the Society: A Delegate must be a member of the appointing Club. (b) Appointment: The authority of a Delegate must be authenticated by the appointing Club by producing to the Board such evidence of appointment as the Board from time to time prescribes. Evidence of appointment of a Delegate must be lodged with the Society no later than 10 days prior to the date on which the appointment is to take effect. A Delegate will retain Delegate status until his or her appointment is revoked by his or her appointing Club.

6. Matters relating to the CEO

- a. Amend clause 7.1 Appointment of Chief Executive Officer, to clarify that the power of the board to appoint a CEO is optional and make necessary consequential changes. Although the power not to make an appointment is implied and has been part of the practice for a number of years it is helpful to clarify that the appointment is not required and is in fact optional. This change is to be effected by the replacement of the word “will” with “may” in the first line of 7.1 and update clause 18.1 accordingly:

“7.1 The board may, in its discretion, appoint a Chief Executive Officer of the Society for such term and upon such terms and conditions as it thinks fit and any Chief Executive Officer so appointed may be suspended or removed by the Board from time to time (subject to the rights the Chief Executive Officer may have under his or her employment contract with the Society). “

18.1 – Common seal must be kept by the CEO – add the words “(or other person designated by the Board)”.

7. Matters relating to the Board

- a. Update the Constitution by incorporating the by-law amendments made in 2002 into the Constitution itself. The 2002 amendments increased the Board composition to 10 Directors by including the 3 Convenors of the sections for juniors, cross country and road, and track and field as Directors. Make consequential amendments accordingly, such as to provide for the Convenors of the sections to be Appointed Directors and subject to the provisions relating to Appointed Directors.
- b. Update the role of the Appointed Directors to provide that Appointed Directors receive notice of the AGM and are entitled to vote at the AGM as the current provisions are inconsistently framed.
- c. Update the powers of the board to align more closely with the ANZ Constitution, good practice and to provide consistency with expectations of the board. Remove the distinction between Elected Directors and Appointed Directors in relation to attendance at, and the power to vote at, the AGM. The distinction is probably not appropriate given that Appointed Directors are appointed for their expertise and will have had the benefit of deliberative consideration of the matter at hand. Note that the distinction is also inconsistent with clause 9.7(c) and clause 9.3 saying different things. Clause 9.7(c) provides that every Director present is entitled to vote but 9.3 limits voting to Elected Directors.

The following amendments relating to the board are proposed

Amend clause 6.2 **Management and Powers** by the addition of a clause 6.2 A to align with ANZ clause 20.2 –

“6.2A The Board has the power to develop and implement strategies, policies and procedures for the administration, promotion and development of Athletics in the District.”

Amend clause 9.3 (a) to give notice to all directors by the deletion of the word [“Elected”]

Amend clause 9.4 (a) by the deletion of the word “Elected” before Directors; and

Amend clause 9.4(b)(i) by the deletion of [“The Appointed Directors”].

8. Things which we should consider prior to the Incorporated Societies Amendment Act coming into effect:

Your feedback is sought on a number of matters that will affect AAI and clubs if current proposals for amendments to the Incorporated Societies Act come into effect.

Resolution of Disputes – The current provisions relating to the resolution of disputes should be considered to take account of amendments to Incorporated Societies Act.

We could also consider making amendments to provide clarity around dispute resolution on matters such as which party pays the fees for the adjudication? Is such adjudication part of the formal dispute resolution procedures described below? Better to link them.

Dissolution – The proposed amendments to the Incorporated Societies Act provide that, on dissolution, no part of the income of the Society may be transferred to members. This may affect a number of Clubs and their constitutions.

Accounts and audit – The rules relating to Audits will change and not all societies will be required to have audits conducted. The requirements relating to audit should be considered.

Conflict of interests of directors – New rules governing conflicts of interest among directors, including penalties.

Members – is the way we define members still appropriate? – we want to encourage clubs to have more registered members – not fewer but we also don’t want to create a bureaucracy. One proposal above is to make every child member the equivalent of a full member. The other option is to give every Club one vote at the AGM, instead of a weighting based on the number of members it has. Feedback on the approach to membership and voting is requested.

9. Other amendments

Amend clause 13.2(a)(ii) to replace “Solicitor” with “Legal Adviser” to fit in with recommendations of the New Zealand Law Society.

The Law Society has advised that since certain amendments to the Law Practitioners Act only a “practising lawyer” may be referred to by the designation solicitor, including the designation “Honorary Solicitor”. A practicing lawyer is an enrolled barrister and solicitor with a current practising certificate which is subject to renewal and payment each year. The rules of the law society mean that in future it will not be possible to appoint a retired solicitor or a lawyer who is qualified and practiced overseas as the honorary solicitor. The NZ Law Society has therefore recommended that incorporated societies amend their constitutions to provide for the ability to appoint legally qualified people without practising certificate using the designation “Honorary Legal Adviser”.