

# Constitution

Date: ~~14 November 2012~~[insert]

**SKI RACING AUSTRALIA ASSOCIATION INCORPORATED  
A03648**

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**ANNEXURE A**  
**ANNEXURE B**  
**ANNEXURE A**  
**ANNEXURE B**

DRAFT

# Constitution

Date: ~~14 November 2012~~

## STATEMENT OF PURPOSES

### 1. NAME OF ASSOCIATION

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The name of the association is Ski Racing Australia Association Incorporated (**the Association**).

### 2. OBJECTS OF ASSOCIATION

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The Association is the peak body for the administration of water ski racing in Australia. The objects for which the Association is established and maintained are to:

- (a) create a single uniform entity in Australia through and by which water ski racing can be encouraged, conducted, promoted and administered;
- (b) provide for the encouragement, conduct, promotion and administration of water skiing through such divisions as may be promulgated by the Association from time to time for the mutual benefit of Members and water ski racing;
- (c) act in good faith and loyalty to ensure the maintenance and enhancement of the Association and water skiing, its standards, quality and reputation for the collective and mutual benefit of the Members and water ski racing;
- (d) at all times operate with, and promote, mutual trust and confidence between, the Association and the Members in pursuit of these objects;
- (e) at all times act on behalf of and in the interests of the Members and water ski racing;
- (f) promote the economic and sporting success, strength and stability of the Association;
- (g) affiliate and otherwise liaise with the peak international body or bodies, or other strategically aligned bodies, in the pursuit of these objects;
- (h) arrange interstate, national and international water ski racing championships, competitions, events and displays and regulate the same under the appropriate rules and regulations;
- (i) conduct or commission research and development for improvements in the sport of **water** ski racing;
- (j) apply the property and capacity of the Association towards the fulfilment and achievement of these objects;

- (k) promote the importance of water skiing standards, techniques, awards and education to bodies involved in water ski racing;
- (l) strive for and maintain government, commercial and public recognition of the Association as the authority on water ski racing in Australia;
- (m) promulgate, and secure uniformity in such rules as may be necessary for the management and control of water ski racing and related activities;
- (n) pursue through itself or others such commercial arrangements, including sponsorship and marketing opportunities, as are appropriate to further the objects of the Association;
- (o) maintain and extend the operations and activities of the Association throughout Australia and elsewhere;
- (p) ensure that environmental considerations are taken into account in all water skiing and related activities conducted by the Association;
- (q) promote the health and safety of Members;
- (r) where empowered herein and in the Rules, act as final arbiter on all matters pertaining to the conduct of water ski racing in Australia, including disciplinary matters;
- (s) formulate or adopt and implement appropriate policies, including in relation to equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and such other matters as arise from time to time as issues to be addressed in water ski racing;
- (t) have regard to the public interest in its operations;
- (u) encourage and promote performance-enhancing drug free competition;
- (v) give, and where appropriate, seek recognition for Members to obtain awards or public recognition in fields of endeavour other than water ski racing;
- (w) seek and obtain improved facilities for the enjoyment of water ski racing;
- (x) do all that is reasonably necessary to enable these objects to be achieved and to enable the Members to receive the benefits which these objects are intended to achieve; and
- (y) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects.

### **3. POWERS OF THE ASSOCIATION**

---

Solely for furthering the objects set out above, and in addition to the rights, powers and privileges provided under the Principal Act, the Association has power to:

- (a) purchase, take on lease or in exchange or otherwise acquire any real or personal estate which may be deemed necessary or convenient for any of the objects of the Association and to sell, manage, lease, mortgage, give in exchange, dispose of or otherwise deal with any part of the rights or property of the Association, whether subject to any charges or encumbrances or not and to erect, replace, maintain, reconstruct, adapt and furnish any offices or

other buildings thereon and to sell, let, alienate, mortgage, charge or deal with all or any such lands, tenements or hereditaments or any part of them;

- (b) construct, maintain and alter any houses, buildings, grounds, courses, conveniences or works necessary or convenient for the purposes of, or which seem likely to advance, the Association;
- (c) borrow and raise money in such manner as the Association may think fit, including on bonds or mortgage or other security of any property held for or on behalf of the Association or without any such security;
- (d) take, or otherwise acquire and hold shares, debentures or other securities of any company or body corporate;
- (e) take or hold mortgages, liens or charges, to secure payment of the purchase price, or any unpaid balance of the purchase price of any part of the Association's property sold, or any money due to the Association from any purchasers or others;
- (f) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable and transferable instruments;
- (g) receive money on deposit with or without allowance of interest thereon;
- (h) invest and deal with any monies of the Association, not immediately required for the objects of the Association, in such manner as may from time to time be determined by the Board;
- (i) do all or any of the matters authorised either alone or in conjunction with any person, company or unincorporated body or by or through any factors, trustees or agents;
- (j) take any gift of property whether subject to any special trust or not for any one or more of the objects of the Association, provided the Association shall only deal with any such trusts in such manner as is allowed by law;
- (k) lend and advance money to, give credit to, or otherwise assist, any person or body corporate, including to guarantee or indemnify any person's or body corporate's performance;
- (l) take such steps by personal or written appeals, public meetings or otherwise as may from time to time be deemed expedient for the purposes of procuring contributions to the funds of the Association in the form of donations, annual subscriptions or otherwise;
- (m) subscribe to, become a member of or co-operate with any other organisation whether incorporated or not whose objects are similar, in whole or in part, to those of the Association, so long as that other organisation prohibits the distribution of its income and property amongst its members at least to the extent provided under the Association's Rules;
- (n) print and publish any newspapers, periodicals, books or leaflets and develop and implement any computer system or software package that the Association may think desirable for the promotion of its objects;

- (o) appoint, hire, employ, remove, replace or reinstate secretaries, managers, servants, employees and other persons in and for the carrying out of the objects of the Association and to pay them in return for services rendered to the Association, salaries, wages and gratuities, as appropriate;
- (p) buy, sell and deal in all kinds of articles, commodities and provisions both liquid and solid for Members or other persons frequenting the premises or facilities of or under the control of the Association;
- (q) subscribe to any charities and to grant donations for any public purpose;
- (r) produce, develop, create, licence and otherwise exploit, use and protect Intellectual Property;
- (s) establish and maintain corporate entities to carry on and conduct the business affairs and undertakings, or any aspect thereof, of the Association and for that purpose, to utilise any of the assets of or held on behalf of the Association;
- (t) promote any other person or company for any purpose calculated to benefit the Association;
- (u) amalgamate with any or more incorporated associations having objects altogether or in part similar to those of the Association and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as that imposed upon the Association under the Rules;
- (v) purchase or otherwise acquire and undertake all or any part of the property, assets and liabilities of any or more of the companies, institutions, societies or associations whose activities or purposes are similar to those of the Association, or with which the Association is authorised to amalgamate or generally for any purpose calculated to benefit the Association;
- (w) transfer all or any part of the property, assets, liabilities and undertaking of the Association to any or more of the incorporated associations with which the Association is authorised to amalgamate;
- (x) enter into arrangements with any government or authority that are conducive to the attainment of the objects and the exercise of the powers of the Association, and to obtain rights, privileges and concessions from such government or authority and carry out, exercise and comply with any such rights, privileges and concessions;
- (y) take and effect insurance or seek, obtain and in its discretion act on, any professional advice necessary or appropriate; ~~and~~
- (z) to enter into such guarantees or covenants in favour of third parties as may be required from time to time provided that such guarantees or covenants entered into are made with the full authorisation of the Board;
- (aa) to facilitate the issue of debentures secured over the assets both fixed and floating of the Association for the purposes of securing any loans made to the Association provided such fund thereby raised are utilised to further the Objects of the Association and that the debentures are issued with the imprimatur of the Board; ~~and~~

- (bb) do all such acts and things as are incidental, conducive or subsidiary to all or any of the objects of the Association.

#### **4. APPLICATION OF INCOME**

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- (a) The income and property of the Association shall be applied solely towards the promotion of the objects of the Association as set out in this Statement of Objects.
- (b) Except as prescribed in this Statement of Objects:
  - (i) no portion of the income or property of the Association shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member; and
  - (ii) no remuneration or other benefit in money or money' s worth shall be paid or given by the Association to any Member who holds any office of the Association.
- (c) Nothing contained in Clauses 4(a) or 4(b) shall prevent payment in good faith of or to any Member for:
  - (i) any services actually rendered to the Association whether as an employee or otherwise;
  - (ii) goods supplied to the Association in the ordinary and usual course of operation;
  - (iii) interest on money borrowed from any Member;
  - (iv) rent for premises demised or let by any Member to the Association;
  - (v) any out-of-pocket expenses incurred by the Member on behalf of the Association; or
  - (vi) any other reason,provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

#### **5. LIABILITY OF MEMBERS**

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The liability of the Members of the Association is limited.

#### **6. MEMBERS' CONTRIBUTIONS**

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Every Member of the Association undertakes to contribute to the assets of the Association in the event of it being wound up (other than for the purposes of reconstruction or amalgamation) while a Member, or within one year after ceasing to be a Member for payment of the debts and liabilities of the Association contracted before the time at which he ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding One Dollar (\$1.00).

## 7. DISTRIBUTION OF PROPERTY ON WINDING UP

---

If upon winding up or dissolution of the Association (other than for the purposes of reconstruction or amalgamation) there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Association but shall be given or transferred to some body or bodies having purposes similar to the purposes of the Association and which prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Association by this Statement of Objects and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the Members of the Association at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of Australian Capital Territory as may have or acquire jurisdiction in the matter.

### RULES

#### PART I - INTERPRETATION

##### 1. NAME

---

The name of the association is Ski Racing Australia Association Incorporated (**Association**).

##### 2. INTERPRETATION

---

###### 2.1 Definitions

In these Rules unless the contrary intention appears, these words shall have the following meanings:

~~**AWSA** means the Australian Water Ski Association.~~

**Board** means the body constituted under these Rules consisting of the Directors.

**Chair** means the person elected as the Chairperson of the Association under Rule 18.1 ~~Board of Directors for the time being of a general meeting.~~

~~**Chairman** means the Chairperson of the Board of Directors for the time being of the Association.~~

**Chief Executive Officer (CEO)** means the person appointed as CEO of the Association ~~under these Rules or, where there is no such appointment, such other person as determined by the Board from time to time for the time being appointed under these Rules.~~

**Director** means a member of the Board, including the Chairman, Vice Chairman, the Finance Director, whether that Director was appointed as a State Director or an ~~Elected Independent~~ Director.

**Discipline** means a type of water skiing recognised by the Association from time to time and governed by its own technical rules, as determined by the Association from time to time.

**Disciplinary Committee** shall be that committee appointed by the Board pursuant to the provisions of Rule 8.4 of the Constitution for the purpose of hearing and

investing any breach of the Code of Conduct as determined by the Association from time to time.

**“Division”** means a committee of the Association exercising delegated authority for the control of a Discipline.

**“Elected Director”** means a member who has been elected to the Board by a voting process conducted pursuant to these Rules.

**“Event”** means a ski racing competition held by a participating State Recognised Body at an approved venue and sanctioned by the Association.

**“Financial Year”** means the year ending 30<sup>th</sup> June in each year.

**“General Meeting”** means the annual, special or general meeting of the Association.

**Independent Director** means a person who has been appointed to the Board in accordance with Rule 18.7 who, for the avoidance of doubt, is not required to be a Member

**“Intellectual Property”** means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, trade secrets, knowhow, equipment, images (including photographs, videos or films) or service marks (whether registered or registrable) relating to the Association or any event, competition or water ski racing activity of or conducted, promoted or administered by the Association, whether present or future.

**“Life Member”** means an individual appointed as a Life Member of the Association under Rule 3.3.

**“Member”** means a member for the time being of the Association under Part III of these Rules.

**Principal Act** means the *Associations Incorporation Act 1991* (ACT), or such other governing legislation as applies from time to time.

**Regulations** means any Regulations made by the Board under Rule 24.

**Rules** mean the rules in this Constitution as amended from time to time, and a reference to a particular rule is a reference to a rule of this Constitution.

**Seal** means the Common Seal of the Association and includes any official seal of the Association.

**Special Resolution** means a resolution requiring 75% of the voting rights exercised by those persons present in person or by proxy and entitled to vote and voting or such other percentage required for a special resolution under the Principal Act.

**SRA Rule Book** shall mean the Ski Racing Australia Rule Book, as published by the Association, at the commencement of each Ski Racing season.

**SRA Rules** means those rules prescribed from time to time by the Board and published by the Association at the commencement of each Ski Racing season.

**State** means an Australian State and includes an Australian Territory.

**State Director** means a **member person** nominated by a State Recognised Body who has been elected **by members of that State Recognised Body** as the nominated Director by a democratic voting process.

**State Recognised Body** means a **State or Territory ski racing association recognised as a member the Association club, organization or incorporated association (including a company limited by guarantee) which which** has adopted aims and objects similar to the aims and objects of the Association and which has throughout the preceding twelve (12) months prior to each Annual General Meeting held not less than two (2) Events and/or a State Title Event.

## 2.2 Interpretation

In these Rules:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, a reference to the exercise of the power or authority of the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other genders;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactment's or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (h) a reference to "writing" shall unless the contrary intention appear, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

## 2.3 Severance

If any provision of these Rules or any phrase contained in them is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of these Rules or affecting the validity or enforceability of that provision in any other jurisdiction.

## 2.4 Principal Act

Except where the contrary intention appears, in these Rules, an expression that deals with a matter dealt with by a particular provision of the Principal Act, has the same meaning as that provision of the Principal Act.

## 2.5 Operation of Rules

The Members agree:

- (a) that they are bound by these Rules and that these Rules operate to create uniformity in the way in which the objects of the Association and the sport of water ski racing is to be conducted, promoted and administered in Australia;
- (b) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of water ski racing, its standards, quality and reputation for the collective and mutual benefit of the Members and water ski racing;
- (c) not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of water ski racing, and its maintenance and enhancement;
- (d) to make full and proper disclosure to each other of all matters of importance to the Association and water ski racing;
- (e) not to acquire a private advantage at the expense of any of the other Members or water ski racing;
- (f) to operate with mutual trust and confidence in pursuit of the objects of the Association;
- (g) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the objects of the Association;
- (h) to act for and on behalf of the interests of water ski racing, the Association and its Members;
- (i) at no time to act to the detriment of the Association or the members of the Association; **and**
- (j) do all that is reasonably necessary within their power to enable the objects of the Association to be advanced.

## PART III - MEMBERSHIP

### 3. MEMBERS

---

#### 3.1 Classes of Members

The Members of the Association shall consist of:

- (a) Life Members, **who, subject to this Constitution, shall have the right to receive notice of, attend and vote at General Meetings;**
- ~~(b)~~ Ordinary Members, **which, subject to this Constitution, shall have the right to receive notice of, attend and vote at General Meetings;**
- ~~(b)~~(c) **State Recognised Body, which, subject to this Constitution, shall have the right to receive notice and attend but not vote at General Meetings;** and
- ~~(e)~~(d) such new classes of Members, created in accordance with Rule 3.2 below.

### 3.2 Creation of New Classes

The Board has the right and power from time to time to create new classes of membership with such rights, privileges and obligations as are determined applicable, even if the effect of creating a new class is to alter rights, privileges or obligations of an existing class of Members.

### 3.3 Life Members

- (a) The Board may recommend to the Annual General Meeting and the Annual General Meeting may, by Special Resolution, resolve that any person who has rendered distinguished service to the sport of water ski racing, where such service is deemed to have assisted the advancement of water ski racing in Australia, as a participant or administrator or otherwise, be appointed as a Life Member.
- (b) A person must accept or reject the Association's resolution to confer life membership in writing. Upon written acceptance, the person's details shall be entered upon the register forthwith, and from the time of entry on the Register the person shall be a Life Member.

## 4. SUBSCRIPTIONS AND FEES

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- (a) The annual membership subscription (if any) and fees payable by Ordinary Members to the Association, in respect of which, the time for and the manner of payment shall be determined by the Board from time to time.
- (b) Any Member who has not paid all monies due and payable by that Member to the Association shall (subject to the Board's discretion) have all rights under these Rules suspended, including where applicable the right to vote at General Meetings, until such time as the monies are fully paid. In the meantime, the Member shall have no automatic right to resign from the Association, and shall be dealt with at the Board's discretion, which includes the right to expel, discipline or retain that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.
- (c) Subject to ratification by the Board, membership of the Association shall be deemed to have commenced upon entrance of the details of the Member into the Register.
- (d) An application by a person to become a Member may be made in writing in the form as prescribed by the Board from time to time, accompanied by the appropriate fee and lodged with the Association.
- (e) The Board has the discretion to accept or reject an application for membership under this rule. Where the Board accepts an application the details of the person shall be entered into the Register, from which time the person becomes a Member and shall be notified accordingly. If the Board rejects an application, the Association shall refund any fees forwarded with the application, and the person shall be notified accordingly.

## 5. REGISTER OF MEMBERS

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### 5.1 Chief Executive Officer (CEO) to Keep Register

The CEO shall keep and maintain a Register in which shall be entered:

- (a) the full name, address, class of membership, date of entry of the name and cessation of membership of each Member; and
- (b) the full name, address and date of entry of the name and cessation of holding office of each Director.

## **5.2 Inspection of Register**

Having regard to confidentiality considerations, an extract of the Register, excluding the address and any contact details of any Member, Life Member or Director, shall be available for inspection (but not copying) by Members, upon reasonable request.

## **6. EFFECT OF MEMBERSHIP**

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Members acknowledge and agree that:

- (a) these Rules constitute a contract between each of them and the Association and that they are bound by the Rules and the Regulations;
- (b) they shall comply with and observe these Rules and the Regulations and any determination, resolution or policy which may be made or passed by the Board or any duly authorised Committee or other entity with delegated authority;
- (c) by submitting to these Rules and the Regulations they are subject to the jurisdiction of the Association;
- (d) these Rules are made in the pursuit of a common object, namely the mutual and collective benefit of the Association, the Members and water ski racing;
- (e) the Rules and Regulations are necessary and reasonable for promoting the objects of the Association and particularly the advancement and protection of water ski racing as a sport; and
- (f) they are entitled to all benefits, advantages, privileges and services of Association membership.

## **7. DISCONTINUANCE OF MEMBERSHIP**

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### **7.1 Notice of Resignation**

Any Member who has paid all monies due and payable to the Association may resign from the Association by giving one month's notice in writing to the Association of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member.

### **7.2 Expiration of Notice Period**

Upon the expiration of a notice given under Rule 7, an entry recording the date on which the Member who gave notice ceased to be a Member shall be made in the Register.

### **7.3 Forfeiture of Rights**

An Ordinary Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Association and its property including Intellectual

Property. Any Association documents, records or other property in the possession, custody or control of that Member shall be returned to the Association forthwith.

#### **7.4 Membership may be Reinstated**

Membership which has been discontinued under this Rule may be reinstated at the discretion of the Board.

### **8. DISCIPLINE OF MEMBERS**

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#### **8.1 Matters which may be referred to a Disciplinary Committee**

- (a) Where the Board is advised or considers that a Member has allegedly:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations or any resolution or determination of the Board or any duly authorised committee; or
  - (ii) acted in a manner unbecoming of a Member, or prejudicial to the purposes and interests of the Association and/or Ski Racing; or
  - (iii) brought the Association, any other Member or Ski Racing into disrepute;
- (b) the Board may commence or cause to be commenced disciplinary proceedings ("proceedings") against that Member by notifying the Chair of the Disciplinary Tribunal, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Association set out in this Rule 8.

#### **8.2 Non Application of Rule 8**

This Rule 8 does not apply to any incident or matter to which the member protection by-law of the Association applies. Any member protection related matter must be dealt with in accordance with the procedure set out in the member protection by-law of the Association.

#### **8.3 Establishment of Disciplinary Tribunal**

The Board shall establish a Disciplinary Tribunal to deal with all disciplinary actions and matters under Rule 8.1 of this Constitution.

#### **8.4 Composition of the Disciplinary Tribunal**

- (a) A Disciplinary Tribunal of three (3) persons shall be appointed by the Board for the purpose of hearing disciplinary actions and matters under Rule 8.1 of this Constitution. The Board shall also appoint a member of the Disciplinary Tribunal as Chair.
- (b) The Board may call for nominations to the Disciplinary Tribunal.
- (c) No member of the Disciplinary Tribunal shall be permitted to hold any office on the Board.
- (d) Three (3) members of the Disciplinary Tribunal shall constitute a quorum.
- (e) A vacancy on the Disciplinary Tribunal shall be filled by the Board.

## 8.5 Notice of Alleged Breach

- (a) The Chair of the Disciplinary Tribunal shall, as soon as practicable upon receipt of notice in accordance with Rule 8.1, serve on the Member a notice in writing:
  - (i) setting out the alleged breach of the Member and the grounds on which it is based;
  - (ii) stating that the Member may address the Disciplinary Tribunal at a hearing to be held not earlier than 14 and not later than 28 days after service of the notice;
  - (iii) stating the date, place and time of that hearing;
  - (iv) informing the Member that he or she may do one or more of the following:
    - (A) attend that hearing; **and**
    - (B) give the Disciplinary Tribunal, before the date of that hearing a written statement regarding the alleged breach.

## 8.6 Disciplinary Tribunal Procedure

- (a) At a hearing of the Disciplinary Tribunal held in accordance with Rule 8.5, the Disciplinary Tribunal shall:
  - (i) give the Member every opportunity to be heard;
  - (ii) give due consideration to any written statement submitted by the Member; and
  - (iii) by resolution determine whether the alleged breach occurred.
- (b) The Association and the Member shall not be entitled to legal representation at the hearing of the Disciplinary Tribunal.
- (c) The Disciplinary Tribunal shall hear and determine the alleged breach in whatever manner it considers appropriate in the circumstances (including by way of teleconference, video conference or otherwise) provided that it does so in accordance with the principles of natural justice. The purpose of the hearing shall be to determine whether the alleged breach occurred.
- (d) If the Disciplinary Tribunal considers that the alleged breach occurred, it may impose any one or more of the penalties set out in Rule 8.7.
- (e) If the Disciplinary Tribunal considers that the alleged breach did not occur, the matter shall be dismissed.
- (f) Each party shall be responsible for their own costs associated with the Disciplinary Tribunal hearing. The Disciplinary Tribunal has no power to award costs to a party.

## 8.7 Penalties

- (a) If the Disciplinary Tribunal considers that the alleged breach occurred, the Disciplinary Tribunal may impose any one or more of the following penalties:
  - (i) impose a warning;
  - (ii) fine the Member;
  - (iii) where there has been damage to property, direct that the Member pay compensation to the relevant organisation which controls or has possession of the property;
  - (iv) cease funding granted or given to it by the Association from a specified date;
  - (v) suspend for a specified period and/or terminate any rights, privileges and benefits provided to that Member by the Association;
  - (vi) cease to sanction events held by or under the auspices of that Member;
  - (vii) reprimand the Member;
  - (viii) suspend the Member from membership of the Association for a specified period;
  - (ix) expel the Member from the Association; **and**
  - (x) any other such penalty as the Disciplinary Tribunal considers appropriate.

## 8.8 Appeal from Decision of Disciplinary Tribunal

- (a) The following matters notified to the CEO or nominee shall be referred to the Board for consideration and if the Board in its absolute discretion considers fit for determination:
  - (i) an appeal lodged, in writing within fourteen (14) days of the determination of the Disciplinary Committee and specifying the grounds of appeal, by a **an Individual Ordinary** Member who has received a penalty or is the subject of an adverse finding by the Disciplinary Committee; or
  - (ii) an appeal lodged, in writing within fourteen (14) days of the determination of the Disciplinary Committee and specifying the grounds of appeal, by a Member who is a recipient of a scholarship or other assistance from the Association and who has received a penalty or is the subject of an adverse finding by the Disciplinary Committee.
- (b) The decision of the Board (excluding any Director who was a member of the Disciplinary Committee which determined the matter at first instance or being otherwise interested) shall be final and not subject to further appeal.
- (c) The proceedings of the Board in determining the matter or appeal shall be similar to or the same as those in respect of the Disciplinary Committee set out in Rule 8 above, with such incidental variations as are appropriate or

necessary. Any dispute as to the application of this Rule shall be determined by the Board in its sole discretion.

- (d) In the matter of an appeal under Rule 8.8(a), the Board may in its discretion confirm the penalty or adverse finding of the Disciplinary Committee, or may decide not to confirm such penalty but instead impose an alternate penalty available under Rule 8.7, or may revoke the penalty or adverse finding of the ~~Judiciary-Disciplinary~~ Committee.
- (e) The effect of the penalty imposed by the Board shall be the same as set down in Rule 8.7 above.

## **PART IV - GENERAL MEETINGS**

### **9. ANNUAL GENERAL MEETING**

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- (a) An Annual General Meeting of the Association shall be held in accordance with the provisions of the Principal Act and on a date and at a venue to be determined by the Board.
- (b) All General Meetings other than the Annual General Meeting shall be General Meetings and shall be held in accordance with these Rules.

### **10. NOTICE OF GENERAL MEETING**

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#### **10.1 Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to every Member at the address appearing in the Register kept by the Association. The auditor, CEO and Directors shall also be entitled to notice of every General Meeting, at their last notified address. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) A notice of a General Meeting shall specify the place and day and hour of meeting and shall state the business to be transacted at the meeting.
- (c) At least 21 days' notice of a General Meeting shall be given to those entitled to receive notice, together with:
  - (i) any notice of motion received from any Member or the Board;
  - (ii) the agenda for the meeting; and
  - (iii) forms of authority in blank for proxy votes.

### **11. BUSINESS**

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#### **11.1 Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts and auditor report, ~~the election of elected Directors in place of the retiring Directors~~, and the appointment, removal and fixing of the remuneration of the auditors.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at an Annual General Meeting, with the exception of those matters set down in Rule 12 shall be special business.

## 11.2 Business Transacted

No business other than that stated on the notice shall be transacted at that meeting.

## 12. NOTICES OF MOTION

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### 12.1 Notices of Motion to be Submitted

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing by the Board to the CEO not less than 14 days (excluding receiving date and meeting date) prior to the General Meeting.

### 12.2 Unsuccessful Notice of Motion

A motion of which due notice has been given, if unsuccessful, cannot be resubmitted, nor may any other motion having a similar effect be moved at a subsequent General Meeting for a period of one (1) year.

## 13. SPECIAL GENERAL MEETINGS

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### 13.1 Special General Meetings May be Held

The Board may, whenever it thinks fit convene a Special General Meeting of the Association and, where, but for this Rule more than fifteen (15) months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

### 13.2 Requisition of Special General Meetings

- (a) The CEO shall on the requisition in writing of a majority of the directors if the Board convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the Directors making the requisition and be sent to the Association and may consist of several documents in a like form, each signed by one or more of the Directors making the requisition.
- (c) A Special General Meeting convened under these Rules shall be convened in the same manner, or as nearly as possible as that manner, in which General Meetings are convened by the Board.

## 14. PROCEEDINGS AT GENERAL MEETINGS

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### 14.1 Quorum

- (a) No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business.
- (b) A quorum for General Meetings of the Association shall be ten (10) members which shall include not less than four (4) directors.

### 14.2 Chair~~man~~ to Preside

The Chair~~man~~ shall, subject to these Rules, preside at every General Meeting of the Association except in relation to:

- (a) — any election for which the Chairman is a nominee or

~~(b)~~(a) anywhere a conflict of interest exists; or

~~(e)~~(b) if the Chair~~man~~ is not present, or is unwilling or unable to preside,

then one of the Directors shall be appointed to preside as Chair~~man~~ in his stead for that meeting or part of that meeting (as the case may be).

### 14.3 Adjournment of Meeting

- (a) If within half an hour from the time appointed for the meeting a quorum is not present, or the meeting has not commenced to business, the meeting shall be adjourned until the same day in the next week at the same time and place or to such other day and at such other time and place as the Chair may determine and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The quorum for such adjourned Special General Meeting shall be eight (8) members, four (4) of whom must comprise Directors.
- (c) The Chair may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (d) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (e) Except as provided in this Rule it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

### 14.4 Voting Procedure

At any meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded:

- (a) by the Chair; or
- (b) by four (4) Directors;

prior to any determination to vote on a show of hands

### 14.5 Recording of Determinations

Unless a poll is demanded under Rule 14.4, a declaration by the Chair that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of the Association shall be conclusive evidence of the fact without proof of the number of votes recorded in favour of or against the resolution.

### 14.6 Where Poll Demanded

If a poll is duly demanded under Rule 14.4 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

## 15. VOTING AT GENERAL MEETINGS

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### 15.1 aVotes of Members

At a General Meeting, on a show of hands and on a poll, each Ordinary Member and Life Member shall have one vote.

### 15.115.2 Chairperson may Exercise Casting Vote

Where voting at a General Meetings is equal the Chairman may exercise a casting vote, but may have no deliberative vote.

### 15.215.3 Proxy Voting Permitted

Proxy voting shall be permitted at all General Meetings provided:

- (a) a proxy is submitted in the form prescribed by the Board from time to time a copy of which may be forwarded to other with the notice of the General Meeting;
- (b) the form is duly completed in full and executed; and
- (c) lodged with Chair at or before the commencement of the meeting.

### 15.315.4 Proxy

- (a) Proxies shall only be exercised by Members entitled to vote.
- (b) A member shall be entitled to instruct their proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as the proxy thinks fit.
- (c) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

## PART V - THE BOARD

### 16. POWERS OF THE BOARD

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Subject to the Principal Act and the provisions of these Rules the day to day business of the Association shall be managed, and the powers of the Association shall be exercised, by the Board. In particular, the Board as the governing body for water skiing racing in Australia shall be responsible for acting on all national issues in accordance with the objects of the Association and shall operate for the benefit of the Members and the community throughout Australia and shall:

- (a) govern water ski racing in Australia in accordance with its missions and objects;
- (b) recommend major strategic directions and policies;
- (c) implement the directions and policies of the Association;
- (d) review the Association's performance in achieving its pre-determined aims, objectives and policies;
- (e) manage international responsibilities; and

- (f) recognition of a "State Recognised Body".

## 17. COMPOSITION OF THE BOARD

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- (a) Subject to each State Recognised Body ~~(SRB)~~ being qualified as such in accordance with the definitions stated in this Constitution, the Board shall comprise the following Directors:
- (i) The following State Directors who are elected to the Board in accordance with Rule 18.6:
- (A) ~~two-one~~ State Director ~~■~~ from the State of New South Wales;
  - (B) ~~two-one~~ State Director ~~■~~ from the State of Victoria;
  - (C) one State Director from the State of Queensland;
  - (D) one State Director from the Australian Capital Territory;
  - (E) one State Director from the State of South Australia; and
- ~~(ii) up to two-four Elected Independent Directors who shall be elected appointed by the Board.~~
- ~~(b) in accordance with the provisions of Rule (so far as it relates to the election of Directors) and Rule.~~
- ~~(e)(b)~~ The CEO shall be entitled to notice of and may attend, participate in and debate at, all meetings of the Board, but shall not have no entitlement to vote.

## 18. DIRECTORS

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### 18.1 Chairperson

- ~~(a)~~ The Chairperson shall be the nominal head of the Association and will Chair any Board meeting at which they are present.
- ~~(b)~~ If the Chairperson is not present, or is unwilling or unable to preside, the Vice Chairperson shall act as Chair.
- ~~(a)(c)~~ If the Vice Chairperson is also absent then the remaining Directors shall appoint one of their number to preside as Chair in their place for that meeting only.
- ~~(d)~~ The Chair at a meeting of the Board shall have a casting vote in accordance with Rule 8.1.

### 18.2 Chair transitional arrangements

- ~~(a) The Chair in office immediately before the adoption of this Constitution shall continue in office as Chair and an Independent Director until a new Chair is elected in accordance with Rule 18.2(b).~~
- ~~(b) The Board shall appoint a new Chair to replace the existing Chair within 30 days of the earlier of~~

(i) the date the last of the five (5) new State Directors is elected in accordance with Rule 33.1(a)(i), or

(A) 90 days from the conclusion of the 2019 AGM.

(ii)

(c) The Board shall appoint a Vice Chair and Finance Director at the same time as electing a new Chair in accordance with Rule 18.2(b).

### 18.218.3 Term of Appointment

(a) State Directors and Elected Directors shall be elected hold office for a term determined by the respective State Recognised Body not to exceed of two (2) years and the appointment will be on such other terms as the State Recognised Body determines.

Subject to provisions in this Constitution relating to earlier retirement or removal of Directors, State Directors and Elected Directors shall remain in office from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.

(a)(b) Three (3) State Directors and two (2) Elected Independent Directors shall retire in each odd year and four (4) State Directors and two (2) Independent Directors shall retire in each even year until, after two (2) years the seven (7) State Directors and four (4) Elected Independent Directors have retired after which those Directors (or their replacements) who first retired, shall retire and so on.

(c) Should any adjustment to the term of Elected Independent Directors or Nominated State Directors elected under this Constitution be necessary to ensure rotational terms in accordance with Rule 18.3(b), this shall be determined by the Board. If the Board cannot agree it will be determined by lot. Elections to subsequent Boards shall then proceed in accordance with the rotational terms in accordance with Rule 18.3(b).

### 18.4 Maximum consecutive years in office for Directors

(a) A Director must not serve more than three (3) two-year terms as a Director including where one or more of the years is as an Independent Director.

(b) For the purpose of this Rule 18.4, where service

(i) by a person as a Director under this Constitution is for a period less than two years

(A) if the service is less than one year, it will be treated as one full year and

(B) if the service is between one year and two years, it will be treated as two full years.

(b)(c) A Director who has served the maximum number of years in accordance with Rule 18.4(a) shall not be eligible to be a Director for two years following the completion of their maximum term.

### **18-318.5 Election of Chairperson, Vice Chairperson and Finance Director**

(a) The Board shall at its first meeting held at the conclusion of the AGM elect by secret ballot the Chair, Vice Chair and Finance Director.

~~(a)(b) The Chair must be elected in accordance with Rule 18.5(c) and must be an Independent Director.~~

(c) The ~~internal~~ election of the Chair, Vice-Chair and Finance Director shall be conducted by the CEO who shall act as the returning officer.

~~(b)~~

### **18.4—Nomination of Elected Directors**

~~Nominations must be:~~

~~(a) in the form of nomination prescribed by the CEO with the authority of the Board first had and obtained but shall in any event, be:~~

~~(i) in writing;~~

~~(ii) signed by a nominator and a seconder, who shall be Members; and~~

~~(iii) certified by the nominee expressing their willingness to accept the position for which they are nominated.~~

~~(b) nominations must be received by the CEO on such a date as may be prescribed the Board and shall be contained in a notice calling for nominations forwarded to each member at least thirty (30) days prior to the notice calling for an Annual General Meeting in an election year.~~

### **18-518.6 Nomination of State Directors**

~~(a) Subject to Rule 18.6(b), for the purpose of ensuring that each active State and Territory of Australia is fairly represented on the Board, each State Recognised Body shall be entitled to nominate at least one State Director to the Board (and with the composition otherwise in accordance with Rule 24(a), provided that Director meets the following conditions:~~

~~(i) The member so nominated by the State Recognised Body has previously been a member of the AWSA for an aggregate period of two (2) years; or~~

~~(ii) Such Member has previously been a member of either of AWSA or the Association for a continuous period of two (2) years; or~~

~~(a) Such member has been duly elected by a democratic voting process to the position of State Director by the members of a State Recognised Body.~~

~~(b) A State Director may not be nominated to the Board unless elected by members of the State Recognised Body by a democratic voting process.~~

## 18.7 Appointment of Independent Directors

(a) In addition to the State Directors, the Board may appoint up to four (4) Independent Directors because of their special business acumen and/or technical skills.

## 18.6 Election of Directors

(a) There shall be two (2) positions on the Board for Elected Directors by the members of the Association.

(b) Any member-Independent Director appointed/nominated to the Board is not required to stand for election unless that member at the time of the nomination:

(b) has previously been a member of either AWSA or the Association for a continuous period of two (2) years be a member of the Association.

(c) An Independent Director holds office for a term determined by the Board not to exceed two (2) years and the appointment will be on such other terms as the Board determine.

(d) Subject to this Constitution, the Board may at any time appoint a person to fill a casual vacancy (as defined in Rule 19.2 in the rank of the Independent Directors on whatever terms the Board decides.

## 18.8 Eligibility of Independent Directors

From the date that is 90 days after the conclusion of the 2019 AGM a person who holds a

(a) position on the board of a State Recognised Body; or

(b) skier, driver or observer membership of the Association,

must not hold office as an Independent Director.

(d) The election of Elected Directors shall be carried out by secret ballot with each member having entitlement to one (1) vote.

(e) Elections shall be conducted under the preferential voting system.

(f) Elections shall be conducted every two (2) years.

(g) At the conclusion of the preferential secret ballot, the two (2) nominees who received the highest proportion of votes shall be deemed to be the Directors appointed to the Board.

(h) The secret preferential ballot shall be conducted by the CEO.

(i) The voting form together with the "Curriculum Vitae" of each nominee shall be forwarded together with any Notice of the Annual General Meeting, to each member of the Association, but in any event not less than twenty one (21) days prior to the date fixed for an Annual General Meeting in an election year.

(j) All voting forms shall be in a format prescribed by the CEO with approval of the Board first had and obtained.

## 19. VACANCIES OF DIRECTORS

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### 19.1 Grounds for Termination of Office of Director

In addition to the circumstances in which the office of a Director becomes vacant by virtue of the Principal Act, the office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) resigns their office in writing to the Association;
- (e) is absent without the consent of the Board from meetings of the Board held during a period of six (6) months;
- (f) without the prior consent or later ratification of the Members of the Association in General Meeting holds any office of profit under the Association;
- (g) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his interest;
- (h) is suspended or expelled from membership of the Association without further recourse under these Rules in the opinion of the Board in its discretion, subject always to application of the principles of natural justice:
  - (i) has acted in a manner unbecoming or prejudicial to the objects and interests of the Association and/or water skiing; or
  - (ii) has brought the Association or water skiing into disrepute; or
- (i) would otherwise be prohibited from being a director of a corporation under the Corporations Law.

### 19.2 Casual Vacancies

Any casual vacancy occurring in the position of Chair **person** may be filled by the remaining Directors from among their number only and the position of Director consequently vacated shall be treated as a further casual vacancy.

### 19.3 Remaining Directors May Act

In the event of a casual vacancy or vacancies in the office of a Director or Directors, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of Directors, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

## **20. ALTERNATE DIRECTORS**

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### **20.1 Appointment of an Alternate Director**

A Director may appoint a member to be an Alternate Director in his stead during such period as he thinks fit. Where an Alternate Director is appointed, the CEO shall be notified of the appointment, the period of appointment and of the name and address of the Alternate Director at least seven (7) days prior to the calling of the next consecutive Board meeting.

### **20.2 Entitlement of Alternate Director**

During the period in which an Alternate Director is appointed, the Alternate Director is entitled to notice of meetings of the Board and, if the appointor cannot be present (or otherwise available in accordance with these Rules) at such a meeting, is entitled to attend and vote in the appointor's stead.

### **20.3 Deemed Exercise of Power by Appointor**

An Alternate Director may exercise any powers that the appointor may exercise in the absence of the appointor and the exercise of any such power by the Alternate Director shall be deemed to be the exercise of the power by the appointor.

### **20.4 Termination of Alternate Director's Appointment**

- (a) The appointment of an Alternate Director may be terminated at any time by the appointor notwithstanding that the period of the appointment of the Alternate Director has not expired, and terminates in any event if the appointor vacates office as a Director.
- (b) An appointment, or the termination of an appointment, of an Alternate Director shall be effected by a notice in writing signed by the Director who makes or made the appointment, and served on the CEO.

## **21. MEETINGS OF THE BOARD**

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### **21.1 Board to Meet**

- (a) The Board shall meet as often as is deemed necessary in every calendar year for the dispatch of business, with a minimum of four (4) meetings, and subject to these Rules may adjourn and otherwise regulate, its meetings as it thinks fit.
- (b) A meeting of the Board may be convened at any time at the nomination of two (2) Directors and the CEO shall be responsible for the calling of such a meeting upon receiving a requisition in writing to do so from those of two (2) Directors.

### **21.2 Decisions of the Board**

- (a) Subject to these Rules, matters arising at any meeting which requires resolution of the Board shall be decided by a majority of votes and a determination of a majority of Directors present and entitled to vote, shall for all purposes be deemed a determination of the Board.
- (b) On any matter for resolution, all Directors shall have one (1) vote.

- (c) The Chairperson shall have a casting vote where voting is equal. If any other Director is appointed to the Chair in lieu of the presiding Chairperson, that Director shall be entitled to his deliberative vote, but in the case of equality of votes, there shall be no casting vote, and the status quo shall prevail.

### 21.3 Resolutions not in Meeting

- (a) A resolution in writing, signed or assented to by facsimile or email or other form of visible or other electronic communication by all the Directors shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents in like form each signed by one (1) or more of the Directors.
- (b) Without limiting the power of the Board to regulate their meetings as they think fit, a meeting of the Board may be held where one (1) or more of the Directors is not physically present at the meeting, provided that:
  - (i) all persons participating in the meeting are able to communicate with each other effectively simultaneously and instantaneously whether by means of telephone or other form of communication;
  - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board;
  - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors, are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until condition (i) is subsequently satisfied. If such condition is not satisfied within fifteen (15) minutes from the interruption, the meeting shall be deemed to have terminated;
  - (iv) any meeting held where one (1) or more of the Board is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is at the present place and if no Director is present at that place the meeting shall be deemed to be held at the place where the Chairperson of the meeting is located.

### 21.4 Quorum

At meetings of the Board, four (4) Directors present in accordance with these Rules shall constitute a quorum.

### 21.5 Notice of Board Meetings

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence or participation) not less than fourteen (14) days written notice of the meeting of the Board shall be given to each Director. The agenda shall be forwarded to each Director not less than seven (7) days prior to such meeting.

### 21.6 Conflict of Interest

- (a) A Director shall declare his interest in any:

- (i) contractual matter;
- (ii) selection matter;
- (iii) disciplinary matter; or
- (iv) other financial matter,

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent himself from debate on such matter and shall not be entitled to vote in respect of such matter.

- (b) In the event of any uncertainty as to whether it is necessary for a Director to absent himself from debate and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred to the next meeting for further consideration.
- (c) Any issue not resolved pursuant to the preceding rule relating to the conflict of interest of a Director shall be referred to a legal practitioner of not less than five (5) years standing nominated by the CEO for determination in writing.
- (d) The opinion relating to the conflict of interest shall be tabled at the next meeting and its determination shall be final and binding on the Board.

#### **21.7 Adjournment of Meeting**

- (a) The Chair may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (c) Except as provided in Rule 21.7(b) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

#### **21.8 Notices of Motion to be Submitted**

All notices of motion for inclusion on the agenda at a **Meeting** must be submitted in writing to the **Chair or CEO Executive Director** not less than seven (7) days (excluding receiving date and meeting date) prior to the Board Meeting.

#### **21.9 Unsuccessful Notice of Motion**

A motion of which due notice has been given, if unsuccessful, cannot be resubmitted, nor may any other motion having a similar effect be moved at a subsequent Board Meeting for a period of 12 months.

## PART VII - MISCELLANEOUS

### 22. CHIEF EXECUTIVE OFFICER (CEO)

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#### 22.1 Appointment of CEO

(a) The CEO ~~shall may~~ be appointed by the Board for such term and on such conditions as it thinks fit.

~~(a)(b) For the avoidance of doubt, where the Board has not appointed a CEO, the duties of the CEO may be carried out by such other person(s) as determined by the Board from time to time.~~

#### 22.2 ~~CEO to Act as Board to appoint~~ Public Officer

The ~~CEO shall act as and carry out the duties of Board may appoint a~~ Public Officer of the Association ~~and who~~ shall administer and manage the Association in accordance with the Act and these Rules.

#### 22.3 Specific Duties

The CEO shall:

- (a) attend to the day to day administration of the national office;
- (b) as far as is practicable attend all Board meetings and all General Meetings;
- (c) prepare the agenda for all Board meetings and General Meetings;
- (d) record and prepare minutes of the proceedings of all meetings of the Board, and the Association, and shall display such minutes upon any web site established by the association immediately after its incorporation; and
- (e) regularly report on the activities of, and issues relating to, the Association in such format as is approved by the Board from time to time.

#### 22.4 Broad Power to Manage

Subject to the Principal Act, these Rules, the Regulations and any policy directive of the Board, the CEO has power to perform all such things as appear necessary or desirable for the proper management and administration of the Association. No resolution passed by the Association in General Meeting shall invalidate any prior act of the CEO or the Board which would have been valid if that resolution had not been passed.

#### 22.5 CEO may Employ

The CEO may in consultation with the Board, engage such personnel as are deemed necessary from time to time and such appointments shall be for such period and on such conditions as the CEO determines.

### 23. DELEGATION

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The Board may Delegate Functions

- (a) The Board may by instrument in writing create or establish or appoint from amongst its own Members, Divisions, Committees, working parties, individual

officers or consultants to carry out such duties and functions, and with such powers, as the Board determines.

- (b) It is expressly acknowledged that any entity exercising delegated powers shall have the right to co-opt persons with appropriate experience or expertise to that entity, subject to the Board's right of veto in respect of that person.

### **23.2 Delegation By Instrument**

The Board may in the establishing instrument delegate such functions as are specified in the instrument, other than:

- (a) this power of delegation; and
- (b) a function imposed on the Board or the CEO by the Principal Act or any other law, or these Rules or by resolution of the Association in General Meeting.

### **23.3 Delegated Function Exercised in Accordance With Terms**

A function, the exercise of which has been delegated under this Rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

### **23.4 Procedure of Entity Exercising Delegated Power**

- (a) The procedures for any entity exercising delegated power shall, subject to these Rules and with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under Rule 21 above.
- (b) The entity exercising delegated powers shall make decisions in accordance with the objects and purposes of the Association, and shall promptly provide the Association with details of all material decisions and shall provide any other reports, minutes and information as the Association may require from time to time.

### **23.5 Delegation may be Conditional**

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

### **23.6 Revocation of Delegation**

The Board may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend or repeal any decision made by such body or person under this Rule.

## **24. REGULATIONS**

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### **24.1 Board to Formulate Regulations**

- (a) The Board may formulate, issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Association, the advancement of the objects of the Association and water ski racing as it thinks necessary or desirable.

- (b) Such Regulations must be consistent with the Statement of Purposes and Rules of Association and any policy directives of the Board.

#### **24.2 Regulations Binding**

All Regulations made under this Rule shall be binding on the Association, and Members of the Association.

#### **24.3 Regulations Deemed Applicable**

All rules, by-laws and Regulations of the Association in force at the date of the approval of these Rules under the Principal Act insofar as such rules and regulations are not inconsistent with, or have been replaced by these Rules, shall be deemed to be Regulations under this Rule.

#### **24.4 Bulletins Binding on Members**

- (a) Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of bulletins approved by the Board and prepared and issued by the CEO.
- (b) The Members bulletins once published are binding upon all Members.

### **25. RECORDS AND ACCOUNTS**

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#### **25.1 CEO to Keep Records**

The CEO shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Association and the Board and shall produce these as appropriate at each Board or General Meeting when required to do so.

#### **25.2 Records Kept in Accordance With Act**

- (a) Proper accounting and other records shall be kept in accordance with the Principal Act and so as to comply with all State and Federal Acts relating to taxation or otherwise which may be the responsibility of the Association under the Principal Act.
- (b) The books of account shall be kept in the care and control of the CEO.

#### **25.3 Association to Retain Records**

The Association shall retain such records for seven (7) years or any longer period if required by law after the completion of the transactions or operations to which they relate.

#### **25.4 Inspection of Books**

- (a) Subject to the Act, the Board may determine whether and to what extent, and at what times and places and under what conditions, the accounting records and other documents of the Association or any of them will be open for inspection by the Members.
- (b) A Member does not have the right to inspect any document of the Association except as provided by law or authorised by the Board or by the Association in general meeting.

## 25.5 Board to Submit Accounts

The Board shall submit to the Members at the Annual General Meeting the Statements of Account of the Association in accordance with these Rules.

## 25.6 Accounts Conclusive

The Statements of Account when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within three (3) months after such approval or adoption.

## 25.7 Accounts to be Sent to Members

The CEO shall cause to be sent to all members entitled to receive notice of General Meetings of the Association in accordance with these Rules, a copy of the Statements of Account, the Board's report, the Auditor's Report and every other document required under the Principal Act (if any).

## 25.8 Negotiable Instruments

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to the Association, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by the CEO and any one duly authorised Director, or in the alternative any two (2) duly authorised Directors.

## 26. AUDITOR

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- (a) A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors fixed. The auditor's duties shall be regulated in accordance with the Principal Act, or if no relevant provisions exist under the Principal Act, in accordance with generally accepted principles, or any applicable code of conduct.
- (b) The accounts of the Association shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

## 27. NOTICE

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### 27.1 Manner of Notice

- (a) Notices may be given by the CEO to any Member by sending the notice by pre-paid post or ~~facsimile transmission or where available,~~ by electronic mail, to the Member's registered address ~~or facsimile number~~ or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting the notice. Service of the notice is deemed to have been effected two (2) days after posting.

~~(c) — Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.~~

~~(d)~~(c) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the

electronic mail message was received at the electronic mail address to which it was sent.

## **28. SEAL**

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### **28.1 Safe Custody of Seal**

The CEO shall provide for safe custody of the Seal.

### **28.2 Affixing Seal**

The Seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by two (2) Directors or 1 Director and the CEO (where duly authorised).

## **29. PATRONS, VICE PATRONS AND GOVERNORS**

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The Association at its Annual General Meeting may appoint annually on the recommendation of the Board a Chief Patron and such number of Patrons, Vice-Patrons and Governors as it considers necessary.

## **30. ALTERATION OF STATEMENT OF PURPOSES AND RULES**

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These Rules and the Statement of Purposes of the Association shall not be altered except by Special Resolution.

## **31. INDEMNITY**

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### **31.1 Directors and Others to be Indemnified**

Every Director, officer, manager, employee or agent of the Association shall be indemnified out of the property or assets of the Association against any liability incurred by any of them in their capacity as Director, officer, or agent in defending any proceedings, whether civil or criminal, in which judgement is given in favour of that person or in which that person is acquitted or in connection with any applications in relation to any such proceedings, in which relief is, under the Principal Act, granted to that person by the Court.

### **31.2 Association to Indemnify Directors**

The Association shall indemnify its Directors, officers, managers and employees against all damages and costs (including legal costs) for which any such officer, manager or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) in the case of a Director, or officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Association; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of that person's employment by the Association.

## **32. DISSOLUTION**

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- (a) Subject to paragraph (b) below, the Association may be wound up in accordance with the provisions of the Principal Act.

- (b) The provisions of clauses 6 and 7 of the Statement of Purposes relating to the winding up and dissolution of the Association shall take effect and be observed as if the same were repeated in these Rules.

### **33. TRANSITIONAL PROVISIONS**

#### **33.1 Directors**

- (a) Notwithstanding any other Rule in this Constitution, the following transitional arrangements will apply in relation to the Board:
- (i) The Chair of each State Recognised Body shall replace those State Directors in office immediately before the adoption of this Constitution (and shall be known as interim State Directors). The interim State Directors shall remain as Directors until such time as the relevant State Recognised Body elects a new State Director in accordance with Rule 18.6. The new State Directors shall replace the interim State Directors;
  - (ii) each State Recognised Body shall nominate a new State Director within 90 days of the conclusion of the AGM of the Association held in 2019 (2019 AGM);
  - (iii) following the conclusion of the 2019 AGM, the Board shall commence the process of seeking and considering the appointment of four (4) Independent Directors who, subject to Rule 33.1(a)(iv), shall be appointed in accordance with Rule 18.7;
  - (iv) the Independent Directors referred to in Rule 33.1(a)(iii) shall not be appointed until the earlier of:
    - (A) the date the last of the 5 new State Directors is elected in accordance with Rule 33.1(a)(i); or
    - (B) 90 Days after 2019 AGM; and
  - (v) the Chair shall hold office in accordance with Rule 18.2.
- (b) For the avoidance of doubt:
- (i) after the conclusion of the 2019 AGM (in accordance with Rule 33.1), the Board shall be comprised of:
    - (A) one interim State Director from the State of New South Wales;
    - (B) one interim State Director from the State of Victoria;
    - (C) one interim State Director from the State of Queensland;
    - (D) one interim State Director from the Australian Capital Territory;
    - (E) one interim State Director from the State of South Australia; and
    - (F) one Independent Director (who shall serve as Chair); and

(ii) after 120 days after the 2019 AGM (or earlier under Rule 18.2, 33.1(a)(ii) and 33.1(a)(iv)), the Board shall be comprised of:

(A) one State Director from the State of New South Wales;

(B) one State Director from the State of Victoria;

(C) one State Director from the State of Queensland;

(D) one State Director from the Australian Capital Territory;

(E) one State Director from the State of South Australia; and

(F) up to four Independent Directors appointed by the Board in accordance with Rule 18.7; and

the Chair shall be elected by the Board from the Independent Directors under Rule 18.5.

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**Annexure A**

**APPLICATION FOR MEMBERSHIP**

~~I hereby apply for acceptance of my application for membership of the Association. In the event of admission as a Member, I agree to be bound by the Purposes, Rules, Regulations, policies and directives of the Association for the time being in force.~~

~~(Signed by the applicant)~~

~~(Date)~~

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**Annexure B**

**APPOINTMENT OF PROXY**

I, \_\_\_\_\_ of \_\_\_\_\_ being a duly authorised Divisional Delegate of the Association hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as my proxy to vote for me on behalf of my Division at the General Meeting of the Association (annual general meeting or special general meeting, as the case may be) to be held on the \_\_\_\_\_ day of \_\_\_\_\_ and at any adjournment of that meeting.

My proxy is authorised to vote in favour of/against (delete as appropriate) the resolution (insert details).

I confirm that my Division has authorised me (as Divisional Delegate) to vote in the manner in which I have authorised my proxy to vote.

(signed) \_\_\_\_\_ (date)

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