



Notice of Special General Meeting

**6:30 PM, Monday 28 February 2022
(Registration from 6:00pm)**

**Eagles Function Centre, Woodville Oval, 33-39 Oval Avenue,
Woodville South SA 5011**

All Members of **ROWING SOUTH AUSTRALIA INCORPORATED (Rowing SA)** are hereby notified that a Special General Meeting of Rowing SA will be held at the Eagles Function Centre, Woodville Oval, 33-39 Oval Avenue, Woodville South SA 5011 on Monday 28 February 2022 at 6:30pm (with registration open from 6:00pm).

Voting at the Special General Meeting will be open to Honorary Life Members, Presidents, Vice Presidents, Foundation Life Members, Financial Life Member(s), Ordinary Members, Competitive Members who are 18 or over and Affiliate Members.

At the Special General Meeting, the Board will call a vote of the members eligible to vote to pass the following resolution:

"In accordance with clause 27(a) of the Constitution of Rowing South Australia Incorporated, the members eligible to vote resolve to replace the Constitution of Rowing South Australia Incorporated with the proposed replacement Constitution tabled by the chair and a copy of which is attached to and forms part of the notice of the Special General Meeting called to vote on this resolution."

In accordance with clause 27(a) of the current Constitution, the above-mentioned resolution shall be passed if voted in favour by a Special Resolution of three quarters or more majority of those members present and entitled to vote at a Special General Meeting.

The Board support the adoption of the updated Constitution in the form attached in Annexure A.

Enclosed with this notice of meeting at Annexure B is an Explanatory Statement prepared by O'Loughlins Lawyers which explains the key differences between the current Constitution and the proposed replacement Constitution.

For planning purposes, we request that you RSVP your attendance at this meeting to admin@rowingsa.asn.au

Mr. Philip Paterson

Chair



Agenda for Special General Meeting

6:30 PM, Monday 28 February 2022
(Registration from 6:00pm)

Eagles Function Centre, Woodville Oval, 33-39 Oval Avenue,
Woodville South SA 5011

1. **Meeting Open – Chair**
 - 1.1 Apologies
 - 1.2 Declaration of conflicts of interest
2. **Special Resolution**
 - 2.1 Introduction of Special Resolution and discussion of development of proposed replacement constitution - Chair
 - 2.2 Members' opportunity to speak for or against the Special Resolution – Members (under the direction of the Chair)
 - 2.3 Voting on Special Resolution
3. **Any other business (at the discretion of the Chair)**
4. **Meeting Close - Chair**



Annexure A - Proposed New Constitution



Constitution

Rowing South Australia Incorporated

[For approval at Special General Meeting 28 February 2022]

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ROWING SOUTH AUSTRALIA INCORPORATED

Constitution

1. Name of Association

The name of the Association is ROWING SOUTH AUSTRALIA INCORPORATED.

2. Definitions and interpretation

2.1 Definitions

The following definitions apply in this Constitution, unless the context requires otherwise.

Act means the *Associations Incorporation Act 1985* (SA).

Affiliate Member means a Club or School which is admitted as an affiliate member under clause 5.4.

Annual General Meeting means a general meeting of Voting Members described in clause 20.

Appointed Director means a natural person appointed as a Director by the Board under clause 14.

Associate has the meaning defined in clause 5.4(j).

Board means the committee of the Association for purposes of the Act, comprising the Elected Directors and the Appointed Directors.

By-law means a rule, By-law or policy made by the Board under this Constitution and includes any code of conduct or policy forming a part of the By-laws.

Club means an incorporated body (which is not a School) that enters teams in a competition in the Sport in South Australia.

Constitution means this constitution of the Association.

Delegate means, in respect of an Affiliate Member, the person for the time being appointed as the Affiliate Member's delegate under clause 5.4(f).

Director means a member of the Board and includes Elected Directors and Appointed Directors.

Elected Director means a natural person elected to be a Director by the Voting Members under clause 13 or appointed to fill a casual vacancy under clause 15.1.

Financial Year means the period of 12 months commencing on 1 July and ending on the next 30 June.

Foundation Life Member means a person that satisfies the criteria set out in clause 5.3.

Full Participant means a Participant that is registered with a Club or a School to compete as an athlete in competitions undertaken by the Association.

Fund means the funds described in clauses 34 and 35.

General Meeting means a general meeting of the Voting Members and includes the Annual General Meeting or any Special General Meeting.

Intellectual Property means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films), service marks, confidential information or know how relating to the Association or any activity of or conducted, promoted or administered by the Association in South Australia.

Member means a member for the time being of the Association holding any category of membership.

NSO means Rowing Australia Ltd.

Objects means the objects of the Association in clause 3.

Ordinary Resolution means:

- (a) a resolution passed at a General Meeting by a majority of votes of Voting Members present, entitled to vote and voting; or
- (b) a resolution passed at a meeting of the Board or a committee of the Board by a majority of those present, entitled to vote and voting.

Participants shall mean any athlete, coach, official, support or other personnel whether as an employee or contractor and whether on a competitive, social, full or part time basis who participates in any event or activity in connection with the Sport which requires an approval, consent or sanction from the Association or any Affiliate Member and includes any athlete registered to compete in any event.

Postal Vote means a vote to be cast by a Member entitled to cast a Postal Vote which:

- (a) may be accepted if submitted by hand delivery, post or email;
- (b) must be received by the Association at least 2 Business Days prior to the date of the relevant meeting (with delivery to be at the risk of the Member); and
- (c) where properly received by the Association prior to a relevant meeting will mean that the relevant Member will be deemed to be present at the meeting for the purposes of any required majority;
- (d) may be withdrawn at an actual meeting and replaced by a vote in person if the Member is present at that meeting and advises the chair prior to the counting of any vote; and
- (e) will otherwise be subject to any postal voting procedure to be directed and administered by the Board acting reasonably.

Public Officer means the public officer of the Association as prescribed in the Act.

Regulation means regulations for boat racing made by the Board under this Constitution.

School means a primary, middle or secondary school that enters individuals or teams, or is training individuals or teams to enter, in a competition in the Sport in South Australia.

Seal means the common seal of the Association.

Special General Meeting means a general meeting of Voting Members convened in accordance with clause 21.

Special Resolution means:

- (a) a resolution passed at a General Meeting if:
 - (i) at least 21 days written notice specifying the intention to propose the resolution as a special resolution has been given to all Voting Members entitled to vote on that resolution; and
 - (ii) it is passed at a duly convened meeting of the Voting Members by a majority of not less than three quarters of votes of Voting Members present, entitled to vote and voting.
- (b) a resolution passed at a meeting of the Board by a majority of not less than three quarters of Directors present, entitled to vote and voting.

Sport means the sport of rowing in all forms approved by the Board including flat water rowing, coastal rowing, para rowing and indoor rowing.

Voting Member means an Honorary Life Member, Foundation Life Member or an Affiliate Member that is entitled to vote at a particular meeting or on a particular resolution.

2.2 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) the singular includes its plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation;
- (c) words such as **including** or **for example** do not limit the meaning of the words preceding them;
- (d) a reference to:
 - (i) a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity;
 - (ii) a person includes that person's successors, permitted substitutes or permitted assigns;
 - (iii) a natural person means an individual;
 - (iv) any document (including this Constitution) is to the document as amended, supplemented, novated or replaced from time to time;
 - (v) a clause, paragraph, schedule or annexure is to a clause, paragraph, schedule or annexure in or to this Constitution;
 - (vi) this Constitution includes any schedules and annexures to this Constitution;
 - (vii) writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible or tangible form;

- (viii) **dollars** or **\$** is to Australian currency;
 - (ix) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it; and
 - (x) a provision within legislation (or subordinate legislation) is to that provision as amended or replaced.
- (e) The decision of the Board in the ordinary course or of the chair at any meeting as to the interpretation of this Constitution, the By-laws and the Regulations and as to any matter not provided for therein shall be final unless an Ordinary Resolution of the Board overturns that interpretation of the chair.

2.3 Resolutions

Where this Constitution requires or permits a decision to be made or a resolution to be passed by a General Meeting, the Board or a committee of the Board, the decision may be made or the resolution may be passed by Ordinary Resolution unless either this Constitution or the Act requires otherwise.

2.4 The Act

- (a) Words and phrases which are defined in the Act and which are not specifically defined in clause 2.1 have the same meanings in this Constitution as they do in the Act.
- (b) Model rules under the Act are expressly displaced by this Constitution.

3. Objects of the Association

The Objects of the Association are to:

- (a) promote the Sport in South Australia;
- (b) promote, control, regulate and conduct rowing regattas, boat races and other aquatic and athletic events in South Australia in connection with the Sport;
- (c) regulate the conduct and behaviour of Participants in connection with their conduct of the Sport;
- (d) regulate the selection, conduct and behaviour of athletes and officials representing the State of South Australia in respect of the Sport and to promote their performance;
- (e) encourage social interaction between Members and Participants;
- (f) conduct social event, entertainment and other functions associated with the promotion or advancement of the Sport;
- (g) affiliate with the NSO and act as its South Australian affiliate member;
- (h) operate and maintain the Funds, and

to do all acts, matters and things conducive to the above objects or any of them that are consistent with this Constitution and the Act.

4. Powers of the Association

For the purpose of carrying out its Objects, the powers of the Association will be as set out in section 25 of the Act, and to:

- (a) settle disputes and all other matters in connection with rowing regattas, boat races and other aquatic and athletic events conducted by the Association including in respect of the conduct of Participants;
- (b) assist in the mediation of disputes between Members and Participants;
- (c) acquire land and buildings by purchase, lease or otherwise, and build or otherwise provide rowing sheds and clubhouses, pavilions, dwelling houses and other conveniences, and to furnish, alter, enlarge, repair, uphold, and maintain them and to permit them to be used gratuitously or for payment;
- (d) purchase, rent, or otherwise acquire boats, cars, rowing and training apparatus and personal property, and to allow the Members to use them gratuitously or for payment;
- (e) sell, transfer, lease, licence or otherwise deal with and dispose of any property of the Association, real or personal;
- (f) apply for and hold such licence or licences, including any licence pursuant to the *Liquor Licensing Act 1997 (SA)* as may be necessary or expedient;
- (g) make, alter, or rescind By-laws and Regulations, and to impose fines and penalties for the infringement of any By-law or Regulation; and
- (h) do all such other lawful things as may be incidental to or be deemed conducive to the attainment of the Association's Objects.

5. Members and registration

5.1 Categories of Members

The Members of the Association consist of:

- (a) Honorary Life Members;
- (b) Foundation Life Members; and
- (c) Affiliate Members.

5.2 Honorary Life Members

- (a) The Voting Members present at an Annual General Meeting may elect to Honorary Life Membership any person who has given exceptional, prolonged or dedicated service in supporting and promoting the Sport under the auspices of the Association.
- (b) Notice in writing must be given to the Board by any Member wishing to propose such person for Honorary Life Membership, at least two calendar months prior to the Annual General Meeting, and all Voting Members will be advised of that nomination with next notice of Annual General Meeting and that nomination will become an item on the agenda of the next Annual General Meeting.

- (c) A resolution of those Voting Members present at the Annual General Meeting recommending such person for election as Honorary Life Member must be carried by at least three quarters of the Voting Members present and voting in favour thereof.
- (d) An Honorary Life Membership may be terminated by a Special Resolution of the Board if the Board determines, at their discretion, that there is a valid reason for that termination.
- (e) An Honorary Life Membership may be appointed posthumously.
- (f) Honorary Life Members:
 - (i) will have the right to receive notice of General Meetings and to be present, debate and vote at General Meetings in accordance with this Constitution;
 - (ii) will be entitled, if they elect, to submit a Postal Vote in respect of the election of officers and any relevant resolutions at any General Meetings;
 - (iii) will be entitled to receive any notice required to be given to other Members; and
 - (iv) will not be liable to pay any subscriptions.

5.3 Foundation Life Members

- (a) Foundation Life Members are Foundation Life Members of the Association's West Lakes Aquatic Centre who, on or before 31st December 1978, agreed to pay the sum of \$200 towards the cost of erecting the Association's West Lakes Aquatic Centre and any person(s) previously admitted as a financial life members of the Association.
- (b) Foundation Life Members:
 - (i) will have the right to receive notice of General Meetings and to be present, debate and vote at General Meetings in accordance with this Constitution (but will not be entitled to vote if they also vote in capacity as an Honorary Life Member);
 - (ii) will be entitled, if they elect, to submit a Postal Vote in respect of the election of officers and any relevant resolutions at any General Meetings;
 - (iii) will be entitled to receive any notice required to be given to other Members;
 - (iv) will not be liable to pay any subscriptions.

5.4 Affiliate Members

- (a) A Club or a School may apply to the Board for admission to membership as an Affiliate Member in writing and in a form approved by the Board acting reasonably and which application will:
 - (i) contain full particulars of the name and address and contact details of the applicant;
 - (ii) identify whether the application is a School or a Club;
 - (iii) include the nomination an initial Delegate (including an address and contact details for the Delegate); and

- (iv) include any other information required by the By-laws, Regulations or the Board.
- (b) The Board may accept or reject an application whether the applicant has complied with the requirements in clause 5.4(a) or not. The Board is not required, nor can they be compelled to provide, any reason for rejection.
- (c) Subject to clause 5.4(m), membership begins on the later to occur of:
 - (i) acceptance of the application by the Board; or
 - (ii) payment of any fees payable by the new Member.
- (d) To be, or remain, eligible for Affiliate Membership an Affiliate Member must be an incorporated body or a recognised School that is not separately incorporated.
- (e) An Affiliate Member has the right to receive notice of General Meetings and to be present, debate and vote at General Meetings in accordance with this Constitution.
- (f) Each Affiliate Member, by notice to the Association, must appoint a natural person to act as its Delegate at General Meetings. An Affiliate Member may, by notice to the Association, revoke an appointment made under clause 5.4(f) and appoint a replacement. A notice signed by:
 - (i) in respect of a Club - the president or chairperson of that Club; or
 - (ii) in respect of a School – the principal or head of sport of that School,

shall be sufficient evidence of any appointment or revocation. The Association will be entitled to presume, in the absence of any direction to the contrary, that the individual holding the position of director of rowing at any School will be the Delegate of that Affiliated Member.
- (g) Affiliate Members will be permitted to appoint a temporary alternate Delegate (**Alternate Delegate**) for a particular period (not exceeding 1 month), meeting or purpose provided that they satisfy the notice requirements in this clause except that the nomination of an alternate may also be made by the then current Delegate.
- (h) A Delegate must not be a Director.
- (i) For all the purposes of the Constitution, an Affiliate Member represented at a General Meeting by a Delegate is to be taken to be present in person at the meeting.
- (j) Any Associate of an Affiliate Member will have the right to attend and be heard (as determined by the chair acting reasonably) at any General Meeting of the Association but only the Delegate may cast any vote(s) and for the purposes of this clause an '**Associate**' will mean:
 - (i) in respect of the Club – an officer, life member, employee or Participant of that Club; or
 - (ii) in respect of a School – an employee, governor or Participant of that School,

but the Association is not required to provide notice of that General Meeting to any such Associate.
- (k) Each Affiliate Member is taken, by virtue of that membership, to have agreed:

- (i) to be bound by the By-laws and Regulations;
 - (ii) that it recognises the Association as the authority for the Sport in South Australia and the NSO as the national authority for the Sport;
 - (iii) that it will pay annually to the funds of the Association a Membership Fee as determined by the Board in accordance with this Constitution or any By-law or Regulation;
 - (iv) that any violation by an Affiliate Member or Participant of this Constitution, By-laws or Regulations or any policy or orders made in conformity therewith, will render such Affiliate Member or Participant liable to suspension from the Association by the Board, until reviewed by the Board (or any committee) in accordance with this Constitution;
 - (v) that Affiliate Member will notify the Association of that Affiliate Member's office bearers by the 1st of September in each year or upon written request from the Board; and
 - (vi) that if an Affiliate Member wishes to cease its membership of the Association it will provide notice in writing to the Board at least seven (7) days prior to the first day of July, or be liable for the next year's Membership Fee.
- (l) Each Affiliate Member must have constituent documents which:
- (i) clearly reflect objects that are consistent with the Objects; and
 - (ii) conform with the Act, this Constitution, the Regulations and the constitution and policies of the NSO.
- (m) Any Affiliate Member that becomes an Affiliate Member after the date these rules are adopted:
- (i) will not have any rights to vote under this Constitution until the date that is 12 months after their admission as a Member; and
 - (ii) may have their membership suspended or terminated by written notice from the Board, if the Board determines, at its discretion, that the relevant Affiliated Association has not demonstrated that they will be an active participant in the Sport; and
 - (iii) will provide to the Board any information or evidence reasonably requested by the Board to make the determination under clause 5.4(m)(ii) .

5.5 Full Participants

- (a) Each Affiliate Member must register all members of such Affiliate Member wishing to compete in regattas by providing such information as required from time to time by the Association for its registration database.
- (b) Each Affiliate Member will be liable for the stipulated fee per Full Participant as determined from time to time by the Board and which fees may be different for different classes or categories of Participant. .

5.6 Register of Members

- (a) The Association must keep and maintain a register of Members in accordance with the Act.

- (b) In addition to the information required by the Act, the Register may contain such other information as the Board considers appropriate.
- (c) Members must provide the Association with the details required by the Association to keep the register complete and up to date.

5.7 Effect of Membership

- (a) This Constitution constitutes a contract between each of the Members and the Association and each Member is bound by;
 - (i) this Constitution;
 - (ii) the Regulations;
 - (iii) the By-laws;
 - (iv) to the extent applicable, the NSO constitution and regulations.
- (b) By accepting membership to the Association the Affiliate Members acknowledge and accept that, to the extent applicable this Constitution, the Regulations, the By-Laws and the NSO constitution and regulations will be applicable to all Participants associated with that Affiliate Member.

6. Patrons

- (a) From time to time the Board, may appoint one or more Patrons and one or more Vice-Patrons of the Association.
- (b) The appointment of any Patrons or Vice-Patrons shall be valid until such time as the Board, revoke such appointment or they resign the position.
- (c) A Patron or Vice Patron is not a Member or an officer of the Association and will have no voting rights or other obligations of a Member or officer (in their capacity as a Patron or Vice Patron but will retain any rights or obligations they may have any another capacity).
- (d) A Patron or Vice Patron or will be entitled to admission free of charge to all regattas conducted by the Association and will be entitled to use the licensed amenities of the Association

7. Presidents and Vice Presidents

- (a) The Voting Members may appoint a President and one or more Vice-Presidents in a General Meeting if the relevant person is nominated by the Members or the Board and ratified by the Board.
- (b) The appointment of a President or Vice-Presidents shall be valid until such time as the Voting Members (or the Board by Special Resolution of the Board, if in the reasonable opinion of the Board the person is no longer a fit and proper person to hold the position) revoke such appointment or the person resigns the position.
- (c) A President and a Vice President are not Members or officers of the Association and will have no voting rights or other obligations of a Member or officer (in their capacity as a President or Vice President but will retain any rights or obligations they may have any another capacity).

- (d) A President and a Vice President or will be entitled to admission free of charge to all regattas conducted by the Association and will be entitled to use the licensed amenities of the Association.

8. Cessation of membership

8.1 General

A Member ceases to be a Member if:

- (a) the Member dies;
- (b) the Member is dissolved, wound up or bankrupted;
- (c) the Member resigns from membership in accordance with clause 8.2; or
- (d) the Member is expelled from the Association under clause 8.3.

Notwithstanding that a Honorary Life Member or a Foundation Life Member may have died, the Association will still recognise them having attained this position for the purposes of the records and history of the Association but any rights or obligations will cease on death or expulsion.

8.2 Notice of resignation

A Member may resign from membership of the Association on one month's notice in writing to the Association. A resigning Member is liable for any outstanding fees or subscriptions which may be recovered as a debt due to the Association.

8.3 Expulsion or suspension for breach

- (a) Subject to clause 8.3(c), the Board may by Ordinary Resolution expel a Member from membership of the Association or suspend a Member from membership of the Association for a designated period if:
 - (i) in the opinion of the Board, the Member has materially breached any of its obligations under this Constitution, the By-laws or the Regulations; or
 - (ii) the Member owes any fee or other money to the Association which is more than one calendar month in arrears and has failed to pay despite a notice in writing requiring payment within a specified period (but a Member will not be expelled until such time as the fee of money has been in arrears for at least three months).
- (b) The Board may, in its discretion, convene a committee under clause 9(c) to hear and determine an allegation that a Member has materially breached one or more of its obligations under this Constitution, the By-laws or the Regulations and to make recommendations to the Board about the appropriate consequences of its findings. The Board may rely on the findings and recommendations of such committee.
- (c) A Member may not be expelled or suspended under clause 8.3(a) unless the Member has been afforded natural justice, including a right to be heard by the Board (or any relevant committee) in respect of the expulsion or suspension, but any expulsion or suspension may continue to apply until such time a Member exercises their right to be heard.

8.4 **Return of property**

A Member who ceases to be a Member must not thereafter use any property of the Association (including its Intellectual Property) and must immediately return to the Association all of the Association's documents, records or other property in the possession, custody or control of the former Member.

8.5 **Membership may be reinstated**

- (a) Nothing in this clause 8 prevents a former Member from applying for readmission to Membership but in considering the readmission application the Board is entitled to take into account the facts and circumstances in which the prior membership (or memberships) ceased.
- (b) Membership which has ceased under this clause 8 may be reinstated at the discretion of the Board without an application having been made, with such conditions as it deems appropriate.

8.6 **Refund of Membership Fees**

Membership fees or subscriptions paid by the former Member may, at the Board's discretion, be refunded on a pro-rata basis to the Member on cessation of the membership.

9. Discipline

- (a) The Board may make By-laws and Regulations governing the hearing and determination of disputes, protests or complaints by or against Members or Participants and any other matter involving the enforcement of this Constitution or the By-laws or Regulations against Members or Participants.
- (b) A By-law or Regulation made under clause 9(a) may:
 - (i) provide for one or more committees or tribunals to hear and resolve cases falling under clause 9(a);
 - (ii) prescribe penalties for breaches of this Constitution, the By-laws or the Regulations;
 - (iii) invest a committee or tribunal with power to impose penalties; and
 - (iv) otherwise prescribe the procedures for dealing with cases falling under clause 9(a).
- (c) Despite any By-law or Regulation made under clause 9(a), the Board may itself deal with any disciplinary matter referred to it or appoint a committee to do so.
- (d) All proceedings relating to cases falling under clause 9(a) must be conducted according to the rules of natural justice.
- (e) All By-laws and Regulations:
 - (i) are subject to this Constitution;
 - (ii) must be consistent with this Constitution; and
 - (iii) when in force, are binding on all Members and Participants and have the same effect as a provision in this Constitution.

10. Subscriptions and fees

- (a) The Board will:
 - (i) fix annual membership subscriptions for Affiliate Members;
 - (ii) fix any fees payable by Full Participants (payable by Affiliate Members) in accordance with clause 5.5;
 - (iii) fix such other fees or levies as the Board considers prudent for the effective and sustainable management of the affairs of the Association; and
 - (iv) determine the time for and manner of payment of the subscriptions, fees and levies by Affiliate Members to the Association.
- (b) The Board may fix subscriptions, fees or levies at different rates for different categories of Membership and may determine that no subscriptions, fees or levies are payable by one or more of the categories for any year.
- (c) The Board may also authorise payment of subscriptions, fees or levies by instalments for some or all of the categories of membership and it may prescribe different terms of instalments for different categories of membership or Full Participant.
- (d) The Board may waive all or part of a Member's or Full Participant's subscriptions, fees or levies and may agree terms of payment for a Member different from those applicable to other Members of the same category if the Board is satisfied that there are special reasons to do so.

11. Powers of the Board

11.1 Board

The Board constitutes the committee for the purposes of the Act.

11.2 General powers of Board

- (a) Subject to the Act and this Constitution, the business and affairs of the Association must be managed by the Board which may exercise the powers of the Association for that purpose.
- (b) The Board must perform its functions in the pursuit of the Objects and in the interests of the Association as a whole, having regard to the Association's position as the governing body for the Sport in South Australia and therefore as a custodian of the Sport's reputation in South Australia.

11.3 Limitation

The Board may not cause the Association to disaffiliate from the NSO without a Special Resolution of Voting Members.

12. Composition of the Board

12.1 Composition of the Board

The Board will comprise:

- (a) up to seven Elected Directors elected under clause 13; and
- (b) up to two Appointed Directors appointed under clause 14.

The Board will endeavour to, without mandating any strict obligation, maintain a diversity of skills and personal attributes amongst the Directors to ensure effective governance and appropriate representation.

12.2 Public Officer

The Board must nominate one of its members or the Chief Executive Officer of the Association to be the Public Officer (as prescribed in the Act) of the Association.

12.3 Portfolios

The Board may allocate portfolios to Directors.

13. Election of Officers

13.1 Officers

- (a) The officers of the Association will consist of the Elected Directors and Appointed Directors.
- (b) The Elected Directors will be elected at the Annual General Meeting.

13.2 Nominations

- (a) Any candidate, unless recommended by the Board as an Elected Director, must be nominated in writing in accordance with clause 13.3.
- (b) The Board must call for nominations for the Elected Directors at least forty-nine (49) days prior to the Annual General Meeting.
- (c) The Board may, when it calls for nominations, indicate which portfolios on the Board it wishes to fill (if any), the job descriptions for those portfolios and the qualifications or experience it considers desirable for those portfolios. The Association will aspire to achieve gender balance when calling for nominations.

13.3 Form of Nomination

Nominations must:

- (a) be in writing;
- (b) be in the prescribed form (if any) provided for that purpose;
- (c) be signed by the nominee;
- (d) be lodged with the Association;

- (e) disclose any position the nominee holds in an Affiliate Member, including as an officer, a Participant, a Delegate or an employee; and
- (f) be delivered to the Association not less than thirty-five (35) days before the date fixed for the Annual General Meeting.

13.4 Eligibility

No person will be eligible to nominate or be elected as a Director if that person is in breach of any of the requirements of clause 15.2.

13.5 Elections

- (a) If the number of nominations received for the Board does not exceed the number of vacancies to be filled, then, subject to clause 13.5(a), those nominated will be declared elected at the Annual General Meeting.
- (b) If at any stage the number of nominations for the Board exceeds the number of vacancies then to be filled, an election must be conducted at the Annual General Meeting.
- (c) Elections must be conducted by secret ballot or in such manner and by such method as may be determined by the Board from time to time or if the Board has not made a determination, by the method determined by the chair of the Annual General Meeting.
- (d) At the end of the procedures described in clauses 13.5(a) to 13.5(c) above, any Voting Member present and entitled to vote may demand a confirmatory vote in which case each Board Member appointed or elected under the preceding clauses at that meeting (**Prospective Director**) must have his or her appointment or election approved by Ordinary Resolution of the meeting. If the appointment or election of a Prospective Director is not approved by the meeting, he or she will not be entitled to take office.
- (e) If at the close of the Annual General Meeting, vacancies on the Board remain unfilled, the vacant positions will be casual vacancies under clause 15.1.

13.6 Term of Appointment for Elected Directors

- (a) Subject to clause 13.6(b), the term of office for each Elected Director begins at the conclusion of the Annual General Meeting at which their election occurs.
- (b) If the law requires any Elected Director to have a particular qualification or clearance (for example, police clearance), the Elected Director's term will not begin until the qualification or clearance has been established.
- (c) Subject to clause 13.6(d), the term of office of each Elected Director ends at the conclusion of the second Annual General Meeting following their election, but the Elected Director is, subject to clause 13.6(f), eligible for re-election.
- (d) At least half of the Elected Directors must retire every year. If the number of Elected Directors whose term ends in any one year (**Retiring Directors**) is less than one half of the number of Elected Directors, then an additional number of the Elected Directors who are not due to retire (**Non-Retiring Directors**) must retire to make up one half.
- (e) If the Non-Retiring Directors cannot agree on which of the Non-Retiring Directors will retire, it will be determined by ballot.
- (f) Following the adoption of this Constitution:

- (i) no person who has served as an Elected Director for a period of four (4) consecutive full terms (including any term prior to the adoption of this constitution) is eligible for election as an Elected Director until the next Annual General Meeting following the date of conclusion of their last term as an Elected Director; and
 - (ii) any period of service as an Appointed Director will not count towards any term limit as an Elected Director (and vice versa);
 - (iii) but no Director, in their capacity as an Elected Director or an Appointed Director in combination, will be permitted to have a consecutive term of service beyond the AGM immediately following the 10 year anniversary of their appointment, but they would be eligible for election or appointment at the next Annual General Meeting thereafter.
- (g) A former Chief Executive Officer of the Association is ineligible to nominate or be appointed to the Board for a period of three (3) years after leaving their role.

14. Appointed Directors

14.1 Appointment of Appointed Directors

The Elected Directors may appoint up to two Appointed Directors at any time and from time to time by an ordinary resolution of the Board.

14.2 Qualifications for Appointed Directors

In appointing Appointed Directors, the Elected Directors should have regard to which personal skills and experience the Board thinks will complement the Board composition.

14.3 Term of Appointment

- (a) The term of office of each Appointed Director must be fixed by the Elected Directors at the time of the Appointed Director's appointment but it cannot exceed two (2) years.
- (b) An Appointed Director whose term of office ends is eligible for re-appointment.
- (c) An Appointed Director's term of office must expire no later than at the Annual General Meeting next following the 8 year anniversary of their appointment and will not be eligible to be appointed again as an Appointed Director until 12 months has passed since the end of that term.
- (d) An Appointed Director may become an Elected Director at any time. If so elected they:
 - (i) will cease to be an Appointed Director upon that election; and
 - (ii) any period of service as an Appointed Director will not count towards any term limit as an Elected Director (and vice versa),

but subject always to the overall 10 year term limit as set out in clause 13.6(f)(iii).

15. Vacancies on the Board and Termination

15.1 Casual Vacancies

Any casual vacancy occurring in the position of Elected Director may be filled by the remaining Elected Directors. A person appointed to fill a casual vacancy holds office only until the end of the next Annual General Meeting irrespective of the term of office of the person whom he or she replaces.

15.2 Grounds for Termination of Director

The office of a Director becomes vacant if the Director:

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with creditors generally;
- (c) suffers from mental or physical incapacity;
- (d) is disqualified from office under section 30 of the Act;
- (e) resigns his or her office by notice in writing to the Association;
- (f) is absent without the consent of the Board from meetings of the Board held during a period of six (6) months;
- (g) holds any office of employment with the Association;
- (h) is directly or indirectly interested in any contract or proposed contract with the Association and fails to declare the nature of his or her interest;
- (i) in the case of an Appointed Director, is removed from office by the Elected Directors;
- (j) is removed by the Voting Members by Ordinary Resolution; or
- (k) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001* (Cth). If a Director is removed by Ordinary Resolution of the Voting Members, the Director cannot be reappointed to the Board as an Appointed Director without a further Ordinary Resolution of Voting Members authorising the appointment.

15.3 Board May Act

If there are any vacancies on the Board, the remaining Directors may act but, if the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the Board, they may act only for the purpose of increasing the number of Director to a number sufficient to constitute a quorum.

16. Meetings of the Board

16.1 Board to Meet

- (a) The Board must meet as often as it considers necessary, and at least five (5) times, in every calendar year, for the dispatch of business (and must meet at least

as often as is required under the Act). Subject to this Constitution, the Board may adjourn and otherwise regulate its meetings as it thinks fit.

- (b) Any Director may at any time convene a meeting of the Board on reasonable notice to the other Directors.

16.2 **Attendance by Telephone**

A Director may attend a meeting by telephone or other electronic means by which he or she can hear and be heard.

16.3 **Decisions of Board**

Subject to this Constitution, questions arising at any meeting of the Board may be decided by Ordinary Resolution. Each Director has one (1) vote on any question. The chair does not have a casting vote.

16.4 **Resolutions not in Meeting**

- (a) Subject to clause 16.4(d), the Board may pass a resolution without a Board meeting being held if all the Directors entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document. The resolution is passed when the last Director signs.
- (b) For the purposes of clause 16.4(a), separate copies of a document may be used for signing by those entitled to vote if the wording of the resolution and statement is identical in each copy.
- (c) Any document referred to in this clause may be in the form of a facsimile or electronic transmission.
- (d) A resolution may not be passed under clause 16.4(a) if, before it is circulated for voting under clause 16.4(a), the Board resolves that it can only be put at a meeting of the Board.
- (e) A resolution passed under this clause must be recorded in the minute book.

16.5 **Quorum**

At meetings of the Board the number of Directors whose presence is required to constitute a quorum is:

- (a) if the number of Directors then in office is an even number, half of the number of Directors plus one; or
- (b) if the number of Directors then in office is an odd number, half of the number of Directors rounded up to the next whole number.

16.6 **Chair**

The Board must appoint one of the Directors as its chair. The chair will act as chair of any Board meeting or General Meeting at which he or she is present and unless the Board decides otherwise is the nominal head of the Association. If the chair is not present, or is unwilling or unable to preside at a Board meeting the remaining Directors must appoint another Director to preside as chair for that meeting only.

16.7 Proxy

Any Director who is unable to attend a Board meeting will, by written notice to the chair or the Board, be permitted to appoint another Director to act as their proxy for that meeting and exercise any vote of the nominating Director.

16.8 Directors' Interests

If a Director has a material personal interest in a matter being considered by the Board a contract or proposed contract with the Association:

- (a) the Director must as soon as they become aware of their interest, disclose the nature and extent of their interest to the Board;
- (b) the Director must disclose the nature and extent of their interest at the next General Meeting;
- (c) the Director must not:
 - (i) vote on; or
 - (ii) subject to the Act, be present for the consideration at a Meeting on; matters that relate to the interest (but may, subject to the Act take part in any deliberations with respect to that contract) and, if that Director does vote, that Director's vote must not be counted;
- (d) the Association cannot avoid any contract merely because of the existence of the interest;
- (e) the interest must be recorded in the minutes of the Board meeting at which the disclosure is made and also in the register of declared material personal interests of members the Directors; and
- (f) comply with any other requirements under the Act.

16.9 Exceptions

Rule 16.8 does not apply to a material personal interest of a Director:

- (a) that exists only because:
 - (i) that person is an employee of the Association;
 - (ii) that person belongs to a class of persons for whose benefit the Association is established; or
- (b) that the Director has in common with all, or a substantial proportion of, the Members.

16.10 Return of materials

Within 14 days of vacating office, a former Director must ensure that all documents in their possession that belong to the Association are delivered to the Public Officer of the Association.

17. Chief Executive Officer

The Board may, from time to time, employ a Chief Executive Officer and other personnel it considers necessary or appropriate, in each case for such period and on such conditions as the Board determines.

18. Delegations

The Board:

- (a) will, in writing, establish an Audit and Risk Management Committee which must ensure that there are adequate controls and systems in place (including internal and external processes) to alert the Board and the Chief Executive Officer to potential risks associated with the Association's operation and the members of which should have basic financial literacy that enables them to understand and actively challenge information presented and should include at least one (1) external and independent Certified Public Accountant or Chartered Accountant;
- (b) may, in writing, establish other committees;
- (c) may appoint any person chair of any committee. Persons so appointed will be accountable to the Board in the performance of their specific duties;
- (d) may delegate to each committee the exercise of the functions of the Board that are specified in the instrument of delegation, other than:
 - (i) this power of delegation; and
 - (ii) a function that is a function imposed on the Board by the Act, by any other law, or by Ordinary Resolution of the Voting Members.

19. Seal

- (a) The Association will have a Seal on which its corporate name appears in legible characters where required to do so by the Act.
- (b) The Seal will only be used with the authority of the Board, previously given, and in the presence of at least two (2) of the Directors, who will sign every instrument to which the Seal is affixed.
- (c) If permitted by the Act, the Association:
 - (i) will discard the requirement to maintain a Seal; and
 - (ii) authorises that any document, deed or instrument may, with the authority of the Board previously given, be executed by two Directors.

20. Annual General Meeting

- (a) An Annual General Meeting of the Association must be held in accordance with the Act and this Constitution and will be not earlier than 15 August in any year and not later than five months after the end of the Financial Year.
- (b) The business of the Annual General Meeting will be to:

- (i) receive the report of the Board on the past Financial Year;
 - (ii) receive the report of any committees of the Board as appropriate;
 - (iii) present the accounts for the past Financial Year together with the auditor's report, the Board's statement and the Board's report;
 - (iv) elect the President or Vice Presidents (if any);
 - (v) elect the officers in accordance with clause 13;
 - (vi) elect a new auditor for the following Financial Year if required under clause 25;
 - (vii) elect Honorary Life Members in accordance with clause 5.2;
 - (viii) confirm the minutes of the previous Annual General Meeting; and
 - (ix) deal with any other business set out in the notice of the Annual General Meeting by the Board.
- (c) Any business proposed by a Member must be submitted to the Board for consideration (together with any relevant proposed resolution) by 15 July preceding that Annual General Meeting.
 - (d) The Annual General Meeting will be convened by notice in writing to all Voting Members entitled to attend or vote at the meeting, at least fourteen (14) days prior to the date fixed for such Annual General Meeting, stating briefly the business to be transacted thereat.
 - (e) All General Meetings other than the Annual General Meeting will be Special General Meetings.

21. Special General Meetings

21.1 Special General Meetings may be held

The Board may, whenever it thinks fit, convene a Special General Meeting.

21.2 Requisition of Special General Meetings

- (a) A Special General Meeting will be called by the Board in the manner set out in clause 20(d) within five Business Days of receiving a requisition in writing to that effect signed by the Delegates of not less than five (5) Affiliate Members, or not less than twenty (20) Foundation Life Members stating the business to be brought forward. The meeting will be held not less than 14 days or more than one calendar month after receiving the requisition.
- (b) Every requisition for a Special General Meeting:
 - (i) must be signed by requisitioning Voting Members;
 - (ii) must state the purpose of the meeting;
 - (iii) must include any proposed Special Resolution; and
 - (iv) be sent to the Association and any proposed Special Resolution.

The requisition may consist of several documents in a like form, each signed by one or more of the Voting Members making the requisitions.

- (c) If the Board does not cause a Special General Meeting to be held within one calendar month after the receipt of the requisition, the Voting Members making the requisition may convene a Special General Meeting to be held not later than three calendar months after the receipt of the requisition.
- (d) A Special General Meeting convened by Voting Members under this Constitution must be convened in the same manner, or as nearly as practical to the same manner, as a meeting convened by the Board and for this purpose the Board must ensure that the Voting Members making the requisition are supplied free of charge with particulars of the Voting Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting must be borne by the Association.

22. Proceedings at General Meetings

22.1 Quorum

Subject to clause 22.3, a quorum will be formed by:

- (a) not less than 50% of Affiliate Members that are Schools;
- (b) not less than 50% of Affiliate Members that are Clubs; and
- (c) any number of Foundation Life Members.

22.2 Chair to preside

The chair of the Board will, subject to this Constitution, preside as chair at every General Meeting except:

- (a) in relation to any election for which the chair of the Board is a nominee; or
- (b) where the chair of the Board has a conflict of interest.

If the chair of the Board is not present or is unwilling or unable to preside, the Voting Members present must appoint another Director to preside as chair for:

- (c) the portion of the meeting that the chair is unwilling or unable to preside only; or
- (d) if the chair is unwilling or unable to preside for the whole of that meeting, for the whole of that meeting.

22.3 Adjournment of meeting

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting must be adjourned until the same day in the next week at the same time and place or to such other day, time and place as the chair determines. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the adjourned meeting
 - (i) if the meeting was convened on the requisition of Voting Members under clause 21.2, the meeting will lapse; and
 - (ii) in any other case, those Voting Members present will constitute a quorum.

- (b) The chair may, with the consent of any meeting at which a quorum is present, and must, if directed by the meeting, adjourn the meeting from time to time and from place to place but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting must be given as in the case of an original meeting.
- (d) Except as provided in clause 22.3(c), it is not necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

22.4 Voting Procedure

At any General Meeting a resolution put to the vote will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by:

- (a) the chair; or
- (b) a simple majority of Voting Members present at the meeting.

Any poll will be conducted in accordance with:

- (c) any relevant policy adopted by the Board prior to that General Meeting; or
- (d) if no policy exists, as determined by the chair acting reasonably.

22.5 Recording of Determinations

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 is conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

23. Voting at General Meetings

23.1 Members entitled to vote

- (a) Subject to clause 23.1(b), on any Ordinary Resolution or Special Resolution at a General Meeting each Voting Member may cast the number of votes set out in Schedule 1, provided that:
 - (i) any Postal Vote must be exercised in accordance with the requirements of this Constitution;
 - (ii) all votes of an Affiliate Member will be cast by the Delegate of that Affiliate Member; and
 - (iii) all votes of an Affiliate Member must be cast either for or against a resolution and may not be split.
- (b) In respect of any election of officers at a General Meeting:
 - (i) all votes of an Affiliate Member will be cast by the Delegate of that Affiliate Member; and

- (ii) an Affiliate Member will be permitted to cast their full allotment of votes in respect of each position that is available.

23.2 **Chairperson may not exercise casting vote**

The chair of a General Meeting does not have a casting vote.

24. **Records and accounts**

The Association must comply with its obligations under of the Act in respect of accounts, records and minutes.

25. **Auditor**

- (a) A qualified auditor must be appointed for the Association during each Financial Year
- (b) The Auditor will be appointed at an Annual General Meeting.
- (c) An Auditor appointed at an Annual General Meeting is not required to be re-elected annually and will continue in that position unless or until:
 - (i) the Auditor resigns; or
 - (ii) a new Auditor is appointed by a resolution of Voting Members at a General Meeting.
- (d) Any vacancy occurring during the year in the office of auditor must be filled by the Board.
- (e) The auditor has power at any time to call for the production of all books, accounts and other documents relating to the affairs of the Association.

26. **Application of income**

- (a) The income and property of the Association must be applied solely for and used in payments of the expenses of management of the Association and generally in furtherance of the Objects.
- (b) Except as prescribed in this Constitution or the Act, no portion of the income or property of the Association may be paid or transferred, directly or indirectly or whether by way of dividend, bonus or otherwise, to any Member or any associate of a Member.
- (c) Subject to clause 26(d), nothing in clauses 26(a) or 26(b) prevents a payment in good faith to any Member:
 - (i) in accordance with clauses 3 and 26(a) where that Member is a not-for-profit entity with a similar purpose to the Association;
 - (ii) for any services actually rendered to the Association whether as an employee, Director or otherwise;
 - (iii) for goods supplied to the Association in the ordinary and usual course of operation;

- (iv) for interest on money borrowed from any Member;
 - (v) for rent for premises demised or let by any Member to the Association;
 - (vi) for any reasonable out-of-pocket expenses incurred by the Member on behalf of the Association.
- (d) No payment made under clause 26(c) may exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

27. Winding up

Subject to this Constitution, the Association may be wound up or deregistered in accordance with the Act.

28. Distribution of assets on winding up

- (a) If, on winding up, dissolution or deregistration of the Association and after satisfaction of all the Association's debts and liabilities, there remain surplus assets (as defined in the Act) those surplus assets must not be paid to or distributed amongst the Members but must be distributed to another organisation or organisations which has objects similar to the Objects and a constitution which prohibits the distribution of income and property to Members.
- (b) The organisation or organisations to whom the distribution is to be made under clause 28(a) may be determined by the Voting Members in General Meeting at or before the time of winding up, dissolution or deregistration, and in default a determination by the Voting Members, by a judge of the Supreme Court of South Australia or any other Court that has jurisdiction in the matter.

29. Constitution

- (a) Subject to clause 29(b) and the Act, this Constitution may be repealed or altered or a new provision may be added by a Special Resolution passed at a duly convened General Meeting.
- (b) If, in the opinion of the Board, it is necessary to amend this Constitution:
 - (i) to achieve or maintain affiliation of the Association with the NSO;
 - (ii) to comply with the NSO constitution and regulations; or
 - (iii) to achieve or maintain a particular tax status,the Board may, by Ordinary Resolution, make the amendments that it considers necessary for the purpose.
- (c) To the extent the Association is able to do so by this Constitution, this Constitution will exclude any replaceable or recommended rules prescribed by the Act.

30. By-laws and Regulations

30.1 Board to formulate By-laws and Regulations

The Board may make and amend By-laws and Regulations for the proper advancement, management and administration of the Association, the advancement of the Objects and the Sport in South Australia as it thinks necessary or desirable, including regulations governing:

- (a) the conduct of competitions (including the rules of competition and codes of conduct);
- (b) the conduct of meetings;
- (c) the resolution of disputes;
- (d) discipline of Members and Participants for breaches of this Constitution or the By-laws or Regulations; and
- (e) any other matter in respect of which this Constitution authorises the Board to make By-laws or Regulations or which the Board considers is necessary or appropriate for the good governance of the Association and its affairs.

The By-laws and Regulations must be consistent with the Constitution, the NSO constitution and any regulations made by the NSO.

30.2 By-laws and Regulations Binding

All By-laws and Regulations are binding on the Association and all Members.

30.3 Publication of By-laws and Regulations

By-laws and Regulations and any amendments, alterations or other changes to or interpretations of the By-laws and Regulations may be communicated to Members by a notice on the Association's website or in any journal or publication which is published by or on behalf of the Association and which is circulated by the Association to Voting Members.

30.4 Dispute resolutions

- (a) The By-laws or the Regulations must prescribed rules for the resolution of disputes between any combination of a Member, a Participant or the Association and to the extent they do not, clauses 30.4(b) and 30.4(c) will apply.
- (b) The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties or failing Agreement, nominated by the NSO.

31. Notice

- (a) Any notice required or authorised by this Constitution to be given to a Member may be served on the Member personally or by sending it through the post in a prepaid envelope addressed to the Member at the Member's last known place of business or by facsimile, email or other electronic means or by its insertion on the

Association's website or in any journal or publication which is published by or on behalf of the Association and which is circulated by the Association to Members.

- (b) Any notice required or authorised by this Constitution to be given to the Association may be served by delivering it personally to the Association at its registered office or by sending it through the post in a prepaid envelope addressed to the Association at the registered office.
- (c) A notice served by post will be taken to have been received by the recipient on the fourth working day after it was posted.
- (d) A notice served by facsimile, email or other electronic means will be taken to have been received by the recipient two hours after it was sent.

32. Indemnity

- (a) To the extent permitted by the Act, every Director and employee of the Association is entitled to be indemnified out of the property and assets of the Association against any liability incurred by them in their capacity as Director or employee in defending any proceedings, whether civil or criminal, in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any proceedings in which relief is granted by the Court.
- (b) The Association must indemnify its Directors and employees against all damages and losses (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission:
 - (i) in the case of a Director, performed or made in good faith whilst acting on behalf of and with the authority, express or implied of the Association; and
 - (ii) in the case of an employee, performed or made in good faith in the course of, and within the scope of their employment by the Association.

33. Interstate crews

The Board will each year determine which crew or crews will be entered for the Australian Interstate Rowing Championships, and other State representative regattas, and to what extent the Association will finance such crew or crews.

34. Kings Cup Capital Fund

The Association has established the Kings Cup Capital Fund (**KGC Fund**) and the KGC Fund will be held by the Association for the following purposes and upon the conditions set out in this clause.

- (a) The KGC Fund will be invested:
 - (i) in such investments as are authorised by law for the investments of trust funds, or
 - (ii) in such investments as may from time to time be approved by Special Resolution of the Board.

- (b) All monies donated to or otherwise placed in the KGC Fund and all income of the KGC Fund subject to clause 34(c) will be capitalised and invested in accordance with clause 34(a).
- (c) The income upon an investment made by KGC Fund will be applied firstly to making good all capital losses, if any, and secondly may be applied for the purposes described in clause 34(d).
- (d) Income not required for the purposes set out in clause 34(c) will be available, on the Ordinary Resolution of the Board, for equipping, financing or otherwise assisting South Australian crews to compete in all State representative teams and/or for temporary advances for the purchase of land, facilities, and the development of an International Rowing Course at West Lakes.
- (e) A separate bank account will be kept by the Association in the name of KGC Fund. That account will be operated on by the persons for the time being authorised to operate on the Association's general bank account.
- (f) This clause will not be altered, added to, or rescinded except upon and in the precise terms of:
 - (i) a recommendation of the Board; and
 - (ii) a Special Resolution of the Voting Members.

35. West Lakes Fund

The Association has established the West Lakes Fund (**WL Fund**) and the WL Fund will be held by the Association for the purpose of the development of facilities at the West Lakes Rowing Course. All the money in this WL Fund will be held in a separate account on the conditions set out in this clause.

- (a) The WL Fund will be invested:
 - (i) in such investments as are authorised by law for the investments of trust funds, or
 - (ii) in such investments as may from time to time be approved by Special Resolution of the Board.
- (b) The money will only be expended on developing facilities at the West Lakes Rowing Course.
- (c) Money may only be expended from the WL Fund as approved by Ordinary Resolution of the Board.
- (d) This clause will not be altered, added to, or rescinded except upon and in the precise terms of:
 - (i) a recommendation of the Board; and
 - (ii) a Special Resolution of Voting Members.

36. Transitional provisions

- (a) Each Club or School that is an Affiliate Member of the Association on the day on which this Constitution is adopted will automatically be admitted to membership as an Affiliate Member and it is recognised that for the purposes of this clause the following are Affiliate Members in the category noted:
- (i) Affiliate Members that are Schools: Adelaide High School, Christian Brothers College, Loreto College, Norwood Morialta High School, Pembroke School, Prince Alfred College, Pulteney Grammar School, Saint Ignatius' College, Scotch College - Adelaide, Seymour College, St Peter's College, St Peter's Girl's School, Unley High School, Walford Anglican School for Girls and Wilderness School.
 - (ii) Affiliate Members that are Clubs: Adelaide Rowing Club, Adelaide University Boat Club, Goolwa Rowing Club, Limestone Coast Rowing Club, Loreto Old Scholars and Community Rowing Club, Mannum Rowing Club, Mawson Club, Murray Bridge Rowing Club, Pembroke Masters, Phoenix Rowing Club, Port Adelaide Rowing Club, Port Pirie Rowing Club, Renmark Rowing Club, Riverside Rowing Club, Scotch College Old Collegians and Community Rowing Club, Tailem Bend Rowing Club, Torrens Rowing Club and Waikerie Rowing Club
- (b) Each person who is a:
- (i) Honorary Life Member; or
 - (ii) Foundation Life Member of the Association,
- on the day on which this Constitution is adopted, will automatically be admitted to that same category.
- (c) Each person who was a financial life member on the day on which this Constitution is adopted, will be recognised as a Foundation Life Member.
- (d) Each person who is an officer of the Association on the day on which this Constitution is adopted will automatically be admitted to office in the category that, in the reasonable opinion of the Board, is the category most appropriate if that category exists. For the purpose of determining when the term ends for each person in office on the day on which this Constitution is adopted, time served in that person's current term will be counted as if this Constitution had been in place at the commencement of that term.
- (e) All By-laws, policies and Regulations of the Association in force at the date of the approval of this Constitution are to be deemed to be either By-laws or Regulations and continue to apply unless they are inconsistent with, or have been replaced by this Constitution.

Schedule 1 - Voting Matrix

Category of Member	Number of Full Participants*	Number of Votes
Affiliate Member - Club	0	10 per Club
	1-25	30 per Club
	26-50	60 per Club
	50-75	120 per Club
	75-100	120 per Club
	100+	120 per Club
Affiliate Member – School	Number of Full Participants	Number of Votes
	1-50	20 per School
	51-100	30 per School
	100+	40 per School
Foundation Life Members and Honorary Life Members		1 for each Foundation Life Member or Honorary Life Member

*The number of Full Participants in respect of any Affiliate Member will be determined:

- based on the number of Full Participants registered to compete for the relevant Club or School at any time in the 12 months prior to 30 June in the year most recently preceding the date on which the notice of any relevant meeting is called; and
- In the event that any Participant is registered to compete for a Club and a School then they will be counted as a Full Participant of the School and not of the Club.



Annexure B - Explanatory Statement

Explanatory Statement – Adoption of Replacement Constitution for Rowing South Australia Incorporated

At a general meeting to be held 28 February 2022, it is proposed that the Members entitled to vote pass a Special Resolution to adopt the Proposed Replacement Constitution (as attached to the Notice of Special General Meeting and tabled by the Chairperson at the general meeting) in replacement of the Current Constitution of Rowing SA.

The Board recommends the Members entitled to vote pass the resolution to adopt the Proposed Replacement Constitution for the following reasons:

- The Proposed Replacement Constitution fixes the numerous and significant errors, ambiguities and inconsistencies contained in the Current Constitution.
- The Proposed Replacement Constitution is written in clearer language and does not contain out-dated provisions or provisions that are unlikely to have application.
- The Proposed Replacement Constitution alters the membership and voting structure of Rowing SA to better reflect active participation with the sport of Rowing – it is democratic.
- To deal with proposed amendments to legislation governing Rowing SA.
- For the other reasons as explained in more detail in this Explanatory Statement.

Annexure A to this Explanatory Statement sets out the key differences between the Current Constitution and the Proposed Replacement Constitution.

It is noted that a prior version of this Explanatory Statement and Proposed Replacement Constitution was distributed for consultation. Since that consultation draft further amendments have been made to the Proposed Replacement Constitution and to Annexure A. Those further changes are noted in green in Annexure A for ease of reference.

Annexure A is not a complete list of all differences between the Current Constitution and the Proposed Replacement Constitution as there are numerous differences that reflect provisions of the *Incorporations Associations Act 1985 (SA) (Associations Act)* (which is the main governing legislation in respect of the operations of Rowing SA) or are minor or stylistic in nature.

Unless otherwise stated, capitalised terms used in Annexure A have the same meaning as given in the Current Constitution and Proposed Replacement Constitution (as applicable).

Annexure A – Key differences between the Current Constitution and Proposed Replacement Constitution

1. Key Differences

The table below sets out the key differences between the Current Constitution and the Proposed Replacement Constitution.

Current Constitution	Proposed Replacement Constitution
<p>Clause 2.1 – Definitions and interpretation</p> <p>This clause provides definitions for how certain words are to be interpreted in the Constitution.</p>	<p>Clause 2.1 – Definitions and interpretation</p> <p>Definitions have been inserted, updated or deleted to reflect the changes in the Proposed Replacement Constitution, particularly the proposed amendments to the membership and voting structures.</p> <p>The proposed changes to the Definitions are as follows:</p> <ul style="list-style-type: none"> • Updated definition of "Affiliate Member, "Club" and "School" to clearly set out the difference. • Updated definition of "By-law" to also cover any code of conduct or policy forming the By-laws for consistency of use in the Proposed Replacement Constitution. • Updated definition of "Elected Director" to make clear that they are a Director elected by Voting Members and identifies the sections they are elected under. • Definition of "Foundation Life Member" inserted to define the Membership category. • Definition of "Full Participant" inserted and definition of "Participant" updated to cover those that are registered with a Club or School to compete as an athlete in competitions undertaken by Rowing SA and also anyone connected with Rowing SA competitions or events.

	<ul style="list-style-type: none">• Updated definition of "Member" to specify that a Member is one who holds a category of membership.• Updated definitions of "General Meeting", "Ordinary Resolution", "Special General Meeting", "Special Resolution" and "Ordinary Resolution" to clarify that they comprise of Voting Members entitled to vote.• Definition of "Voting Members" is also inserted to mean a Foundation Life Member or an Affiliate Member.• Definition of "Postal Vote" is added as it is used in multiple locations where Honorary Life Members and Foundation Life Members are entitled to vote.• Definition of "Public Offer" inserted as the role is required by the Associations Act.• Deletion of "Secretary" definition as there is no longer a Secretary role.• Updated definition of "Sport" to cover all rowing forms approved by the Board. <p>The proposed changes to the interpretation:</p> <ul style="list-style-type: none">• Clause 2.2(b) is removed as the Proposed Replacement Constitution utilises gender neutral language.• Insertion of clause 2.2(e) that a decision of the Board as to interpreting the Constitution, By-laws and the Regulations or to any matter not in those documents will be final unless an Ordinary Resolution of the Board overturns that interpretation.
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<p>Clause 3 – Objects of the Association</p> <p>This clause sets out in the objects of the Rowing SA.</p>	<p>Clause 3 – Objects of the Association</p> <p>The Proposed Replacement Constitution retains all the original objects and adds in new objects regarding the regulation of conduct and behaviour of Participants and regulation of the selection, conduct and behaviour of athletes and officials.</p> <p>This will ensure overall fairness for the selection of athletes as well as the appropriate conduct and behaviour of Participants representing Rowing SA which is already in line with the current operations of Rowing SA.</p>
<p>Clause 4 – Powers of the Association</p> <p>This clause sets out the powers of Rowing SA.</p>	<p>Clause 4 – Powers of the Association</p> <p>The Proposed Replacement Constitution retains all the original powers except simply amends clause 4(b) to clarify Rowing SA has power to assist in the mediation of disputes between Members and Participants (not just between Members).</p>
<p>Clause 5.1 – Members and registration</p> <p>This clause outlines the membership types which include:</p> <ul style="list-style-type: none"> • Honorary Life Members; • The Patron, Vice Patrons, President and Vice Presidents; • Foundation Life Members; • Financial Life Members; • Honorary Members; • Limited Members; 	<p>Clause 5.1 – Members and registration</p> <p>The Proposed Replacement Constitution refines and simplifies the membership structure to include three types of members:</p> <ul style="list-style-type: none"> • Honorary Life Members, • Foundation Life Members, and • Affiliate Members. <p>A number of the existing membership categories are either not utilised, repetitive or not reflective of the current participation in the sport of Rowing. More specifically:</p> <ul style="list-style-type: none"> • The original Foundation Life Member category is retained in recognition of their contribution to Rowing SA and their rights remain

<ul style="list-style-type: none"> • Affiliate Members; and • Competitive Members. 	<p>unaffected by the changes.</p> <ul style="list-style-type: none"> • There is only one Financial Life Member and so this category has been combined with the category of Foundation Life Member. • Competitive Members ceased to be members of Rowing SA as they will be represented via the affiliate Members.
<p>Clause 5.2 – Admission of Members</p> <p>This clause outlines how an application to the Board is to be made to become a Member.</p>	<p>The Proposed Replacement Constitution does not contain this clause.</p> <p>Rather the specific application process or eligibility for each membership category is outlined under the particular membership clause.</p>
<p>Clause 5.3 – Discretion to accept or reject application</p> <p>This clause sets out that the Board can accept or reject an application to become a Member and is not required or be compelled to provide reasons for rejections.</p> <p>The clause also sets out that Membership begins the later of acceptance of the application by the Board or payment of payable fees by the new Member.</p>	<p>The Proposed Replacement Constitution does not contain this clause.</p> <p>As an application to the Board is only required for Affiliate Members in the Proposed Replacement Constitution, the Board accepting or rejecting an application and when a membership begins for Affiliate Members is instead outlined in the Affiliate Members clause (see below clause 5.4).</p>
<p>Clause 5.4 - Honorary Life Members</p> <p>Under this clause certain people can be Honorary Life Members of Rowing SA.</p>	<p>Clause 5.2 - Honorary Life Members</p> <p>The Proposed Replacement Constitution retains Honorary Life Members and further clarifies that:</p> <ul style="list-style-type: none"> • An Honorary Life Member may be terminated by a Special Majority vote of the Board if there is a valid reason for termination. • An Honorary Life Membership may be appointed posthumously.

	<ul style="list-style-type: none"> • Honorary Life Members will not be entitled to vote on any issue, will be entitled to receive any notice required to be given to Foundation Life Members and will not be liable to pay any subscriptions. • The Proposed Constitution has been amended to confirm that Honorary Life Members have the same rights a Foundation Life Members (including the right to vote).
<p>Clause 5.5 - Patrons, Vice Patrons, President and Vice Presidents</p> <p>Under this clause Patrons, Vice Patrons, Presidents and Vice Presidents can be elected by the Members.</p>	<p>While Patrons, Vice Patrons, Presidents and Vice Presidents are no longer considered a membership category in the Proposed Replacement Constitution, these positions are still retained and people can still be elected to these positions.</p> <p>To clarify that Patrons, Vice Patrons, President and Vice Presidents are no longer a membership category the clause has been placed after clause 5. Further, Patrons (including Vice Patrons) and Presents and Vice Presidents have been separated into different clauses to provide a clearer framework as to how these positions are to be appointed.</p> <p>Clause 6 – Patrons</p> <p>This proposed clause includes:</p> <ul style="list-style-type: none"> • The Board and not the Members may appoint one or more Patrons or Vice-Patrons. • The appointment is valid until such time the Board, revoke such appointment or they resign their position. <p>Clause 7 – Presidents and Vice Presidents</p> <p>This proposed clause includes:</p> <ul style="list-style-type: none"> • The Voting Members may appoint a President and one or more Vice-Presidents in a General meeting if the relevant person nomination is

	<p>made by the Board;</p> <ul style="list-style-type: none"> • The Proposed Constitution has been amended to clarify that Presidents and Vice Presidents can be nominated by Members not just the Board. • Appointment of a President or Vice-Presidents shall be valid until such time as the Voting Members (or the Board, if in the reasonable opinion of the Board the person is no longer a fit and proper person to hold the position) revoke such appointment or the person resigns the position. <p>Under the Proposed Replacement Constitution, both Patrons, Vice Patrons and Presidents and Vice Presidents will not be considered a Member or an officer of Rowing SA and will not have no rights or other obligations of a Member or officer.</p> <p>This approach is more consistent with the manner in which Rowing SA actually operates in addition to be more consistent with modern governance structures and provide protection for those individuals from any obligations or legal duties of the offices of Rowing SA.</p>
<p>Clause 5.6 - Foundation Life Members</p> <p>Under this clause certain people are Foundation Life Members.</p>	<p>Clause 5.3 - Foundation Life Members</p> <p>The Proposed Replacement Constitution retains Foundation Life Members and notes that it includes any person(s) previously admitted as a financial life member of Rowing SA.</p> <p>This clause further clarifies that:</p> <ul style="list-style-type: none"> • they have right to receive notice and be present, debate and vote at General Meetings;

	<ul style="list-style-type: none"> entitled to submit postal vote in respect to election officers and any relevant resolutions at any General Meeting and sets out the process of the postal vote; and they are entitled to receive any notice required to be given to other Members and will not be liable to pay any subscriptions.
<p>Clause 5.7 – Financial Life Members</p> <p>Under this clause certain people can be Financial Life Members.</p>	Proposed Replacement Constitution does not contain this membership category to simplify membership structure. As mentioned above, those previously admitted as financial life members are now considered Foundation Life Members.
<p>Clause 5.8 – Ordinary Members</p> <p>Under this clause certain people can be Ordinary Members.</p>	Proposed Replacement Constitution does not contain this membership category to simplify membership structure and as it is not currently utilised.
<p>Clause 5.9 – Honorary Members</p> <p>Under this clause certain people can be Honorary Members</p>	Proposed Replacement Constitution does not contain this membership category to simplify membership structure and as it is not currently utilised. There are other appropriate categories of membership for such worth individuals.
<p>Clause 5.10 – Limited Members</p> <p>Under this clause certain people can be Limited Members.</p>	Proposed Replacement Constitution does not contain this membership category to simplify membership structure and as it is not currently utilised. .
<p>Clause 5.11 – Affiliate Members</p> <p>Under this clause certain people can be Affiliate Members.</p>	<p>Clause 5.4 – Affiliate Members</p> <p>The Proposed Replacement Constitution provides a clearer and more detailed description of the application process, expectations and requirements for Clubs and Schools to be Affiliate Members.</p> <p>Key additions to the Affiliate Members clause include:</p> <ul style="list-style-type: none"> The Board may accept or reject an application and is not required to or be compelled to provide any reason for rejection and the

	<p>Membership begins the later of acceptance of the application by the Board or payment of fees by the new Member.</p> <ul style="list-style-type: none">• The clause also specifies that the Affiliate Member must (not may as in the Current Constitution) appoint a natural person to act as a Delegate at General Meetings. Affiliate Members will be able to revoke a Delegate appointment and appoint a replacement by notice signed by the president or chairperson of a Club or principal or head or sport of a School. A temporary alternate delegate will also be permitted to be appointed for a period not exceeding 1 month. The Delegate must not be a Director.• Any Associate of an Affiliate Member (i.e. officer, life member, employee or Participant of a Club or employee, governor or Participant of a School) will have the right to attend and be heard at any General Meeting but only the Delegate may cast any votes. Rowing SA will not be required to provide notice of that General Meeting to any such Associate.• Affiliate Members will not have any rights to vote under this Proposed Replacement Constitution until the date that is 12 months after their admission as a Member.• Affiliate Members may have their membership suspended or terminated by written notice from the Board within 12 months of its date of admission (or if a notice of suspension is issued by this date a notice of termination may be issued at any time thereafter whilst the suspension remains in the effect), if the Board determines that the Affiliated Association has not demonstrated that they will be an active participant in the Sport. Further, the Affiliate Member will provide the Board with any information or evidence reasonably requested by the Board to make the determination for suspension or termination.
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	It is the Board's view that these amendments better reflect the composition of the rowing community and will lead to more efficient governance.
<p>Clause 5.12 – Competitive Members</p> <p>Under this clause every Affiliate Member must register all members of such Affiliate Member wishing to compete in regattas for Rowing SA's registration database. Further, each Affiliate Member will be liable for the stipulated fee per Competitive Member as determined by the Board.</p>	<p>Clause 5.5 – Full Participants</p> <p>These requirements are retained in the Proposed Replacement Constitution, except for that "Competitive Member" is changed to "Full Participant" and that the stipulated fee may be different for different classes or categories of Participants.</p>
<p>Clause 5.13 – Membership Privileges</p> <p>This clause outlines that Patrons, Vice Patrons, Presidents and Vice Presidents will be accorded the rights and privileges of Honorary Life Members. Further, Honorary Life Members, Foundation Life Members, Financial Life Members and Vice Presidents will be entitled to free admission to all regattas and entitled to use the licensed amenities.</p>	<p>The Proposed Replacement Constitution does not contain this clause as Patrons, Vice Patrons, Presidents and Vice Presidents is not considered a membership category.</p> <p>Presidents, Vice Presidents, Patrons and Vice Patrons remain entitled to admission free of charge to all regattas conducted by the Association and will be entitled to use the licensed amenities of the Association.</p>
<p>Clause 5.14 – Voting Rights</p> <p>This clause specifies that all Members of Rowing SA except the Patrons, Vice Patrons, Honorary Members, Limited Members and Competitive Members under 18 years old are entitled to attend General Meetings and vote.</p>	<p>The Proposed Replacement Constitution does not contain this clause as the General Meeting information and rights of voting for each membership category are outlined in the specific membership clause (as explained above).</p>
<p>Clause 5.16 – Effect of Membership</p> <p>This clause outlines that the Members are bound by:</p> <ul style="list-style-type: none"> • The Current Constitution and the Regulations. • The NSO constitution and regulations. • Rowing SA Code of Conduct. 	<p>Clause 5.7 – Effect of Membership</p> <p>The Proposed Replacement Constitution retains the Effect of Membership clause and adds that Members are also bound by the By-laws. Reference to Members being bound by the Rowing SA Code of Conduct is also deleted. The Proposed Replacement Constitution also specifies that by accepting membership to Rowing SA the Affiliate Members acknowledge and accept the Proposed Replacement Constitution, the Regulations, the By-Laws and the NSO constitution and regulations will be applicable to all Participants associated with that Affiliate Member.</p>

<p>Clause 6.1 - Cessation of membership</p> <p>This clause outlines when a Member ceases to be a Member.</p> <p>This includes for Competitive Members when they cease to be a member of an Affiliate Member or cease to be a Participant representing an Affiliate Member or if the Affiliate Member ceases to be an Affiliate Member.</p>	<p>Clause 8.1 - Cessation of membership</p> <p>The Proposed Replacement Constitution retains the same clauses for Cessation of Membership except to remove when a Competitive Member (i.e. Full Participant in the Proposed Replacement Constitution) ceases to be a Member.</p> <p>This clause further adds that if an Honorary Life Member or a Foundation Member has died, Rowing SA will still recognise them having attained this position for the purposes of the records and history of Rowing SA but any rights or obligations will cease on death or expulsion.</p>
<p>Clause 6.3 - Expulsion or suspension for breach</p> <p>Under this clause a Member can be expelled or suspended from membership for a designated period if the Member owes any fee or other money to Rowing SA Membership which is more than one calendar month in arrears and has failed to pay despite a notice in writing requiring payment within a specified period.</p>	<p>Clause 8.3 - Expulsion or suspension for breach</p> <p>Under the Proposed Replacement Constitution a Member can still be expelled or suspended if they owe any fees which is more than one calendar month in arrears and has failed to pay despite the written notice however the Member will not be expelled until the money has been in arrears for at least three months.</p> <p>Moreover, a Member cannot be expelled or suspended unless the Member has been afforded natural justice which includes the right to be heard by the Board, but any expulsion or suspension may continue to apply until such time a Member exercises their right to be heard.</p> <p>Under section 40 of the Associations Act, Rowing SA must observe the rules of natural justice in respect of any dispute between Rowing SA and a Member. While there is already reference to natural justice in the Current Constitution, by explicitly providing a right to be heard by the Board adds another layer of fairness which will mitigate the risk of any expelled or suspended Member claiming Rowing SA did not comply with its statutory requirement to observe the rules of natural justice.</p>

<p>Clause 7 - Discipline</p> <p>Under this clause, the Board has power to make By-laws and Regulations which govern the hearing and determinations of disputes, protests or complaints by or against Members or Participants and any other matter involving the enforcement of the Current Constitution or the By-Laws or Regulations against Members or Participants.</p>	<p>Clause 9 - Discipline</p> <p>The Proposed Replacement Constitution retains the same Discipline clause but further specifies that all By-laws and Regulations made by the Board are:</p> <ul style="list-style-type: none"> • subjected to the Proposed Replacement Constitution; • must be consistent with the Proposed Replacement Constitution; and • are binding on all Members and Participants.
<p>Clause 8 – Subscription and fees</p> <p>Under this clause the Board will fix annual membership subscriptions.</p> <p>Further, this clause requires a new Member on admission to membership to pay the current full year’s subscription unless the Board agrees to accept payment in instalments.</p>	<p>Clause 10 - Subscription and fees</p> <p>The Proposed Replacement Constitution clarifies that the Board will fix annual membership subscriptions for Affiliate Members and fix any fees payable by Full Participants (payable by Affiliate Members).</p> <p>Requirement for a new Member to pay the current full year's subscription unless instalments are agreed by the Board is deleted as this is essentially covered by clause 10(c) of the Proposed Replacement Constitution which states the Board may also authorise payment of subscriptions, fees or levies by instalments for some or all of the categories of membership and it may prescribe different terms of instalments for different categories of membership or Full Participant.</p>
<p>Clause 10.1 - Composition of the Board</p> <p>Under this clause the Board will comprise of:</p> <ul style="list-style-type: none"> • the Secretary; • up to six Elected Directors; and • up to two Appointed Directors. 	<p>Clause 12.1 - Composition of the Board</p> <p>Under the Proposed Replacement Constitution the composition of the Board will comprise of:</p> <ul style="list-style-type: none"> • up to seven Elected Directors; and • up to two Appointed Directors. <p>Further added in this clause is that the Board will endeavour to and without mandating any strict obligation, maintain a diversity of skills and personal</p>

	<p>attributes amongst the Directors to ensure effective governance and appropriate representation. This intends to promote equality and gender diversity and therefore beneficial to Rowing SA in the future.</p> <p>The role of the Secretary is removed as it has become redundant,</p>
<p>Clause 11.1 – Officers</p> <p>Under this clause the officers of Rowing SA will consist of a Patron, Vice Patrons, President, Vice Presidents, Chairman, Secretary, Elected Directors and Appointed Directors.</p> <p>Under this clause the Patron, Vice Patrons, President, Vice Presidents, Secretary, Elected Directors and Auditor will be elected at the Annual General Meeting.</p>	<p>Clause 13.1 – Officers</p> <p>In the Proposed Replacement Constitution, the officers of Rowing SA will consist of the Elected Directors and Appointed Directors and the Elected Directors will be elected at the Annual General Meeting.</p> <p>Election of Patron, Vice Patrons, President and Vice Presidents are covered under clause 6 and 7 of the Proposed Replacement Constitution (as explained above).</p>
<p>Clause 13.5(a) – Elections</p> <p>Under this clause, if there are insufficient nominations received to fill all vacancies on the Board, nominations for the remaining Elected Director positions may be made from the floor of the Annual General Meeting.</p>	<p>Not included in Proposed Replacement Constitution. Nominees for Directors need to be properly vetted for eligibility in advance and as such nominations from the floor are impractical. In addition nominations for the floor would not allow such nominations to be included in postal ballots for Foundation Life Members.</p>
<p>Clause 11.5 – Term of Appointment of Elected Directors</p> <p>Under this clause no person who has served as a Secretary or an Elected Director for a period of four consecutive full terms is eligible for election as an Elected Director until the next Annual General Meeting following the date of conclusion of their last term as an Elected Director.</p> <p>Currently this clause does not specify whether the appointment term for an Elected Director will count towards any term limit for an Appointed Director, therefore is unclear whether an Elected Director could go for an Appointed Director position at the immediate Annual General Meeting following the four year term limit.</p>	<p>Clause 13.6 - Term of Appointment of Elected Directors</p> <p>The Proposed Replacement Constitution retains the four consecutive term limit for Elected Directors and further specifies that any period of service as an Appointed Director will not count towards any term limit as an Elected Director (and vice versa).</p> <p>This clause however states that no Director, in capacity as an Elected Director or an Appointed Director in combination, will be permitted to have a consecutive term of service beyond the Annual General Meeting immediately following the 10 year anniversary of their appointment, but would be eligible for election or appointment at the next Annual General Meeting.</p>

<p>Clause 12.1 – Appointment of Appointed Directors</p> <p>Under this clause, the Elected Directors may appoint up to two Appointed Directors.</p>	<p>Clause 14.1 – Appointment of Appointed Directors</p> <p>The Proposed Replacement Constitution retains that the Elected Directors may appoint up to two Appointed Directors but clarifies that they can be appointed at any time and from time to time by an ordinary resolution of the Board.</p>
<p>Clause 12.3 – Term of Appointment (for Appointed Directors)</p> <p>Under this clause the term of office of each Appointed Director must be fixed by the Elected Directors at the time of the Appointed Director's appointment but it cannot exceed two years.</p> <p>Under this clause an Appointed Director whose term of office ends is eligible for re-appointment.</p>	<p>Clause 14.3 – Term of Appointment (for Appointed Directors)</p> <p>The Proposed Replacement Constitution retains the same term and re-appointment eligibility for Appointed Director but further clarifies that:</p> <ul style="list-style-type: none"> • An Appointed Director's role must expire no later than at the Annual General Meeting following the 8th anniversary of their appointment and will not be eligible to be appointed as Appointed Director until 12 months has passed since the end of that term. • An Appointed Director may become an Elected Director at any time but if they are elected they will cease to be an Appointed Director and any term as Appointed Director will not count towards any term limit as Elected Director. But an overall 10 year consecutive service limit will always apply.
<p>Clause 16(a) – Delegations</p> <p>Under this clause the Board will establish a Nominations Committee.</p>	<p>Not included in Proposed Replacement Constitution as this falls within the general powers of the Board.</p>
<p>Clause 17 – Seal</p> <p>Under this clause Rowing SA will have a Seal.</p>	<p>Clause 19 – Seal</p> <p>The Proposed Replacement Constitution will still require Rowing SA to have a Seal but if permitted by the Associations Act will discard the requirement to maintain a Seal for any document, deed or instrument.</p>

<p>Clause 18 – Annual General Meeting</p> <p>This clause outlines when an Annual General Meeting must be held and what business will be conducted at the Annual General Meeting.</p> <p>Under this clause the AGM will be held in the last eight days of August in each year.</p>	<p>Clause 20 – Annual General Meeting</p> <p>Under the Proposed Replacement Constitution the AGM must be held no earlier than 15 August in any year and no later than 30 November. This allows some flexibility which is not presently allowed.</p> <p>This clause further clarifies that any business proposed by a Member must be submitted to the Board for consideration (together with any relevant proposed resolution) by 15 July preceding the AGM. This allows this to be distributed appropriately with notices of meeting.</p>
<p>Clause 19.2 – Requisition of Special General Meetings</p> <p>Under this clause a Special General Meeting will be convened by the Board immediately upon receiving a requisition signed by the Delegates of not less than five Affiliate Members, or not less than twenty Ordinary or Life Members stating the business to be brought forward.</p> <p>The meeting will be held not less than seven days or more than one calendar month after receiving the requisition.</p> <p>Every requisition for a Special General Meeting must be signed by requisitioning Members, state the purpose of the meeting and be sent to Rowing SA.</p>	<p>Clause 21.2 - Requisition of Special General Meetings</p> <p>The Proposed Replacement Constitution retains the clause except as to specify that the SGM will be called within five Business Days of the Board receiving a requisition and that the meeting will be held not less than 14 days (as opposed to 7 days) or more than one calendar month after receiving the requisition.</p> <p>Reference to Ordinary Members is also deleted as no longer a membership category.</p> <p>The requisition will also need to state any proposed Special Resolution</p>
<p>Clause 22.1 – Quorum</p> <p>This clause states that 12 Members will form a quorum for a General Meeting.</p>	<p>Clause 22.1 – Quorum</p> <p>Under the Proposed Replacement Constitution the required quorum will be:</p> <ul style="list-style-type: none"> • not less than 50% of Affiliate Members that are Schools; • not less than 50% of Affiliate Members that are Clubs; and • any number of Foundation Life Members.

<p>Clause 20.2 – Chair to preside</p> <p>Under this Clause if the chair of the Board is not present or is unwilling or unable to preside, the Members present must appoint another Director to preside as chair for that meeting only.</p>	<p>Clause 22.2 – Chair to preside</p> <p>The Proposed Replacement Constitution also permits the Members to appoint another Director if the chair is not present or unable to preside but specifies the Director will preside only for the portion of the meeting that the chair is unwilling or unable to preside or if it is for the whole of that meeting, then they will preside for the whole of that meeting.</p>
<p>Clause 20.4 – Voting Procedure</p> <p>This clause states that at any General Meeting a resolution put to the vote will be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chair or a simple majority of Members present at the meeting.</p>	<p>Clause 22.4 – Voting Procedure</p> <p>The Proposed Replacement Constitution keeps the same clause but also states that any poll will be conducted in accordance with any policy adopted by the Board prior to the General Meeting or as determined by the chair if there is no policy.</p>
<p>Clause 21.1 – Voting at General Meetings</p> <p>Under this clause, subject to clause 5.14 each Member is entitled to one vote at General Meetings.</p>	<p>Clause 23.1 – Voting at General Meetings</p> <p>This clause refers to the voting matrix in Schedule 1 of the Proposed Replacement Constitution which amends the number of votes for Associations, Schools and Foundation Life Members.</p> <p>The clause also describes how the votes will be cast by the Members including:</p> <ul style="list-style-type: none"> • a valid postal vote for Foundation Life Member; • votes of Affiliate Members will be cast by their Delegate; and • votes of Affiliate Members must be cast for or against a resolution and may not split.

	<p>Moreover, the clause also specifies the votes for the election of officers at a General Meeting, including:</p> <ul style="list-style-type: none"> • votes of Affiliate Members to be cast by their Delegate; and • Affiliate Members will be permitted to cast their full allotment of votes in respect of each position that is available <p>Schedule 1 of the Proposed Replacement Constitution sets out the number of votes that may be exercised by each category of members and is prepared to ensure that voting proportions better reflect the active participation in the sport of Rowing.</p>
<p>Clause 23 – Auditor</p> <p>Under this clause a qualified auditor must be appointed at each General Meeting.</p>	<p>Clause 25 – Auditor</p> <p>The Proposed Replacement Constitution retains the clause but further specifies that an Auditor appointed at an Annual General Meeting is not required to be re-elected annually and will continue in that position unless or until the Auditor resigns or a new Auditor is appointed by a resolution of Voting Members at a General Meeting. This avoids the need to reappoint each year unless required.</p>
<p>Clause 27 – Constitution</p> <p>Under this clause, the Constitution may be repealed or altered or a new provision may be added by a Special Resolution passed at a duly convened General Meeting.</p>	<p>Clause 29 – Constitution</p> <p>The Proposed Replacement Constitution retains the clause but also states that the Constitution will exclude any replaceable or recommended rules prescribed by the Act to the extent it is able to do so. This is intended to deal with potential amendments to the Associations Act.</p>
<p>Clause 30 – Indemnity</p> <p>Under this clause every Director, Secretary and employee of Rowing SA is entitled to be indemnified against any liability incurred by them in their capacity as Director or Secretary or employee.</p>	<p>Clause 32 – Indemnity</p> <p>The Proposed Replacement Constitution limits the indemnity to the extent permitted by the Associations Act.</p>

<p>Clause 32 – Kings Cup Capital Fund</p> <p>This clause states that it will not be altered, added to, or rescinded except upon and in the precise terms of a resolution at a General Meeting in the notice and passed by the votes of not less than two-thirds of the Members present and entitled to vote.</p>	<p>Clause 34 – Kings Capital Fund</p> <p>The Proposed Replacement Constitution states that the clause will not be altered, added to, or rescinded except by a Special Resolution of the Voting Members (i.e. not less than three quarters of votes as opposed to not less than two-thirds of votes). The other amendments are not substantive and are drafted to avoid any potential resettlement of this Trust.</p>
<p>Clause 33 – West Lakes Fund</p> <p>This clause states that it will not be altered, added to, or rescinded except upon and in the precise terms of a resolution at a General Meeting in the notice and passed by the votes of not less than two-thirds of the Members present and entitled to vote.</p>	<p>Clause 35 – West Lakes Fund</p> <p>The Proposed Replacement Constitution states that the clause will not be altered, added to, or rescinded except by a Special Resolution of the Voting Members (i.e. not less than three quarters of votes as opposed to not less than two-thirds of votes). The other amendments are not substantive and are drafted to avoid any potential resettlement of this Trust.</p>
<p>Clause 34 – Transitional provisions</p> <p>Under this clause each Association and Affiliate Member on the day on which this Constitution is adopted will automatically be admitted to membership as an Affiliate Member.</p>	<p>Clause 36 – Transitional provisions</p> <p>This clause also states that each Association or School that is an Affiliate Member will be admitted to membership as an Affiliate Member on the day the Proposed Replacement Constitution is adopted.</p> <p>As the Proposed Replacement Constitution amends the membership structure, this clause also specifies that each person who is an Honorary Life Member or Foundation Life Member will be automatically admitted to that same category on the day the Proposed Replacement Constitution is adopted.</p> <p>The Proposed Constitution has been amended to specifically list the Clubs and Schools that will be admitted as Affiliate Members on adoption of the Rules.</p>

2. **Additional items**

In addition to the above, the Proposed Replacement Constitution includes clauses that cover the key items identified below, which are not dealt with in the Current Constitution:

Clause 12.2 - Public Officer

The Board must nominate one of its members or the Chief Executive Officer of Rowing SA to be the Public Officer. Please note that under section 56(1) of the Associations Act, Rowing SA must have a public officer.

Clause 13.4 – Eligibility

No person will be eligible to nominate or be elected as a Director if that person is in breach of any of the requirements of clause 15.2 (including the basic requirements under the Associations Act).

Clause 16.7

This clause will allow for a Proxy Vote if any Director is unable to attend a Board meeting.

Clause 16.8 – Directors' Interests

Under this clause the Director must as soon as they become aware of their interest, disclose the nature and extent of to the Board and must not vote on or subject to the Associations Act be present at a Meeting which will include discussion of that particular interest. Disclosure of interest is required under s 31 of the Associations Act.

Under clause 16.9 of the Proposed Replacement Constitution, interest does not apply to a material person interest of a Director that exists because the person is an employee of Rowing SA, or they belong to a class whose benefit to Rowing SA is established, or something that the Director has in common with all, or a substantial proportion of, the Members.

The amendments reflect the proposed amendments the Associations Act and also reflect good governance practices.

Clause 16.10 – Return of materials

Under this clause, within 14 days of vacating office, a former Director must ensure all documents in their possession that belong to Rowing SA are delivered to the Public Officer of Rowing SA this amendment also reflects proposed amendments the Associations Act.

Clause 30.4 – Dispute resolution

Under this clause, the By-laws or the Regulations must prescribed rules for the resolutions of disputes between a Member and another Member; or a Member and Rowing SA, and to the extent they do not, clauses 30.4(b) and 30.4(c) will apply.

This clause also provides that the parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.

Further, if the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties or failing Agreement, nominated by the NSO.

This amendment also reflects proposed amendments the Associations Act.

Schedule 1 - Voting Matrix

Schedule 1 of the Proposed Replacement Constitution outlines the number of votes allocated to the Voting Members.

The Board believes that the new voting structure will foster increased co-operation between the Clubs and Schools given that Associations will have a simple majority, therefore a 75% Special Resolution vote will require some level of agreement between the Clubs, the Schools and or the Foundation Life Members. The Board sees this as a democratic and appropriate outcome.

The rights of Foundation Life Members will also be protected and built upon, in particularly as they will retain an individual vote and still be entitled to attend the General Meeting. The proportion of their voting rights is also more in line with their proportion of interested rowing community members.

Schedule 1 has been amended to confirm that where a Full Participant is registered with a Club and School then they will only be counted as a Full Participant for their School.