



# Constitution

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Rowing South Australia Incorporated

Adopted 27 August 2018

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# ROWING SOUTH AUSTRALIA INCORPORATED

## Constitution

### 1. Name of Association

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The name of the Association is ROWING SOUTH AUSTRALIA INCORPORATED.

### 2. Definitions and interpretation

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#### 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 which is admitted as an affiliate member under clause 5.11.

**Annual General Meeting** means a general meeting of Members described in clause 18(a).

**Appointed Director** means a natural person appointed under clause 12.

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

**By-law** means a rule, by-law or policy made by the Board under this Constitution.

**Club** means an organisation (including a school) that enters teams in a competition in the Sport.

**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 5.11(d).

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

**Elected Director** means a natural person appointed under clause 11.4

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

**Fund** means the funds described in clauses 32 and 33.

**General Meeting** means a general meeting of 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.

**Life Member** means an individual appointed as a life member of the Association under clause 5.

**Member** means a member for the time being of the Association.

**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 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** means persons who participate in the Sport whether as Rowers, coaches, umpires or other officials.

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

**Rower** includes rowers who row competitively and rowers who row recreationally.

**Seal** means the common seal of the Association.

**Secretary** means a person elected as secretary under clause 11.

**Special General Meeting** means a general meeting of Members convened in accordance with clause 19.

**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 Members; and
  - (ii) it is passed at a duly convened meeting of the Members by a majority of not less than three quarters of 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.

## 2.2 Interpretation

In this Constitution, unless the context requires otherwise:

- (a) the singular includes its plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) headings are for convenience only and do not affect interpretation;

- (d) words such as **including** or **for example** do not limit the meaning of the words preceding them;
- (e) 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.

### 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

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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;
- (c) encourage social interaction between Members and Participants;

- (d) conduct socials, entertainments, and other functions associated with the promotion or advancement of the Sport;
- (e) affiliate with the NSO and act as its South Australian affiliate member;
- (f) operate and maintain the Funds, and

such other object or objects as the Members may decide in accordance with clause 27.

#### **4. Powers of the Association**

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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;
- (b) assist in the mediation of disputes between Affiliate Members;
- (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;
- (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**

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##### **5.1 Categories of Members**

The Members of the Association consist of:

- (a) Honorary Life Members; and
- (b) The Patron, Vice Patrons, President and Vice Presidents; and
- (c) Foundation Life Members; and
- (d) Financial Life Members; and
- (e) Honorary Members; and
- (f) Limited Members; and

- (g) Affiliate Members; and
- (h) Competitive Members.

## 5.2 Admission of Members

- (a) Except where otherwise provided by these Rules, a candidate for membership must apply to the Board in writing.
- (b) The application must:
  - (i) be in a form approved by the Board;
  - (ii) contain full particulars of the name and address and contact details of the applicant;
  - (iii) identify the category of membership for which the applicant is applying; and
  - (iv) contain any other information prescribed by Regulation for an application for membership in that category

## 5.3 Discretion to accept or reject application

- (a) The Board may accept or reject an application whether the applicant has complied with the requirements in clause 5.2 or not. The Board is not required, nor can they be compelled to provide, any reason for rejection.
- (b) 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.

## 5.4 Honorary Life Members

- (a) The Members present at an Annual General Meeting may elect to Honorary Life Membership any Member who has given prolonged and dedicated service in supporting and promoting the Sport under the auspices of the Association.
- (b) Notice in writing must be given to the Secretary 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 Affiliate Members will be advised forthwith of such notification, which will become an item on the agenda of the next Annual General Meeting.
- (c) A resolution of those Members present at the Annual General Meeting recommending such person for election as Honorary Life Member must be carried by at least two thirds of the Members present and voting in favour thereof. Such voting is to be conducted by ballot

## 5.5 The Patrons, Vice Patrons, President and Vice Presidents

The Members present at an Annual General Meeting may elect the Patron, Vice Patrons, President and Vice Presidents.



## 5.6 **Foundation Life Members**

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.

## 5.7 **Financial Life Members**

All persons wishing to become Financial Life Members must apply in writing to the Secretary. Each such application must be accompanied by a sum of money which will be determined from time to time by the Board.

## 5.8 **Ordinary Members**

All persons wishing to become Ordinary Members must apply in writing to the Secretary. Each such application must be accompanied by a sum of money which will be determined from time to time by the Board. Ordinary Members will also pay an annual fee that will be determined by the Board.

## 5.9 **Honorary Members**

- (a) Any person who has given special service to the Association or to the community or for any similar special reason at the discretion of the Board may be appointed an Honorary Member by the Board. Such appointment will be reviewed annually. Such members will not hold any other membership.
- (b) The names of Honorary Members and the name of the rowing Club of which they are a member (if appropriate) must be recorded in a book known as "The Honorary Members Book".
- (c) Honorary Members will enjoy all the privileges of ordinary Members except as follows:
  - (i) Honorary Members will not be eligible to be elected as members of the Board.
  - (ii) Honorary Members will not be entitled to vote on any issue.
  - (iii) Honorary Members will not be entitled to receive any notice required to be given to other Members.
  - (iv) Honorary Members will not be liable to pay any entrance fee or subscription.
  - (v) The Board may at any time determine a person's Honorary Membership without assigning any reason.

## 5.10 **Limited Members**

The Board may appoint as Limited Members persons who participate in the development rowing programmes of the Association or associated organisations for a specific or limited time and are not a member of any Affiliate Member. Such members do not have rights to compete in any regattas and have no voting rights.

## 5.11 **Affiliate Members**

- (a) A Club may apply to the Board for admission to membership as an Affiliate Member.
- (b) To be, or remain, eligible for Affiliate Membership, a Club must be incorporated or be in the process of incorporation.

- (c) An Affiliate Member has the right to receive notice of General Meetings and to be present, debate and vote at General Meetings.
- (d) Each Affiliate Member, by notice to the Association, may appoint a natural person to act as its Delegate at General Meetings
- (e) An Affiliate Member may, by notice to the Association, revoke an appointment made under clause 5.11(d).
- (f) 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.
- (g) 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 an Affiliation Fee as specified in the By-Laws. The Board may remove from the list of Affiliate Members or Competitive Members, the name of any Affiliate Member or Competitive Member owing any monies whatsoever to the Association which will be one (1) calendar month in arrears and thereupon the members of such Affiliate Member or the Competitive Member will be deprived of all privileges of membership.
  - (iv) that any violation by an Affiliate Member or Competitive Member of these Rules, By-Laws or Regulations for boat racing or any orders made in conformity therewith, will render such Affiliate Member or Competitive Member liable to suspension from the Association by the Board, until reviewed by a committee as outlined in clause 6.3(b).
  - (v) that Affiliate Member will notify the Association of that Affiliate Member's Office Bearers by the 1st of September in each year.
  - (vi) that if it is desirous of withdrawing from the Association it will give notice in writing thereof to the Secretary at least seven (7) days prior to the first day of July, or be liable for the ensuing year's Affiliation Fee.
- (h) If an Affiliate Member is not incorporated at the time of applying for membership, the process of incorporation must be completed within one year of applying for membership. If it is not, its membership will lapse but it may reapply on becoming incorporated.
- (i) Each Affiliate Member must have constituent documents which:
  - (i) clearly reflect the Objects; and
  - (ii) conform with this Constitution, the Regulations and the Constitution and policies of the NSO.

## 5.12 Competitive Members

- (a) The secretary of every Affiliate Member in the Association 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 Competitive Member as determined from time to time by the Board.

#### 5.13 **Membership Privileges**

- (a) The Patron, Vice Patrons, President and Vice Presidents will be accorded the rights and privileges of Honorary Life Members.
- (b) Honorary Life Members, Foundation Life Members, Financial Life Members and Vice Presidents 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.

#### 5.14 **Voting Rights**

All Members of the Association except the Patron, Vice Patrons, Honorary Members, Limited Members and Competitive Members under the age of 18 years will be entitled to attend General Meetings of the Association and to vote thereat.

#### 5.15 **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.

#### 5.16 **Effect of Membership**

- (a) This Constitution constitutes a contract between each of the Members and the Association and each Member is bound by this Constitution and the Regulations.
- (b) Each Member is bound by the NSO constitution and regulations.
- (c) Each Member is bound by this Constitution and the Rowing SA Code of Conduct.

### **6. Cessation of membership**

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#### 6.1 **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 6.2; or
- (d) in the case of a Competitive Member admitted to membership under clause 5.12:
  - (i) the Member ceases to be a member of an Affiliate Member or ceases to be a Participant who represents an Affiliate Member in competition; or
  - (ii) the Affiliate Member who applied for that Member to be registered with the Association ceases to be an Affiliate Member; or

- (e) the Member is expelled from the Association under clause 6.3.

## 6.2 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.

## 6.3 Expulsion or suspension for breach

- (a) Subject to clause 6.3(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 (1) calendar month in arrears and has failed to pay despite a notice in writing requiring payment within a specified period.
- (b) The Board may, in its discretion, convene a committee under clause 7(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 6.3(a) unless the Member has been afforded natural justice.

## 6.4 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.

## 6.5 Membership may be reinstated

- (a) Nothing in this clause 5.16(c) 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 5.16(c) may be reinstated at the discretion of the Board without an application having been made under clause 6.5(a), with such conditions as it deems appropriate.

## 6.6 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.

## 7. Discipline

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- (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 7(a) may:
  - (i) provide for one or more committees or tribunals to hear and resolve cases falling under clause 7(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 7(a).
- (c) Despite any By-Law or Regulation made under clause 7(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 7(a) must be conducted according to the rules of natural justice.

## **8. Subscriptions and fees**

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- (a) The Board will:
  - (i) fix annual membership subscriptions;
  - (ii) fix such other fees or levies as the Board considers prudent for the effective and sustainable management of the affairs of the Association; and
  - (iii) determine the time for and manner of payment of the subscriptions, fees and levies by 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.
- (d) On admission to membership a new Member must pay the current full year's subscription unless the Board agrees to accept payment in instalments.
- (e) The Board may waive all or part of a Member'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.

## **9. Powers of the Board**

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### **9.1 Board**

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

## 9.2 **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.

## 9.3 **Limitation**

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

# 10. **Composition of the Board**

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## 10.1 **Composition of the Board**

The Board will comprise:

- (a) the Secretary elected under clause 11; and
- (b) up to six (6) Elected Directors elected under clause 11; and
- (c) up to two (2) Appointed Directors appointed under clause 12.

## 10.2 **Portfolios**

The Board may allocate portfolios to Directors.

# 11. **Election of Officers**

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## 11.1 **Officers**

- (a) The officers of the Association will consist of a Patron, Vice Patrons, President, Vice Presidents, Chairman, Secretary, Elected Directors and Appointed Directors.
- (b) The Patron, Vice Patrons, President, Vice Presidents, Secretary, Elected Directors and Auditor will be elected at the Annual General Meeting.

## 11.2 **Nominations**

- (a) A retiring President or Vice President will be eligible for re-election without prior nomination. Any other candidate, unless recommended by the Board, must be nominated in writing. Such nomination must be lodged with the Secretary at least fourteen (14) days prior to the Annual General Meeting and must be signed by the candidate and the proposer.
- (b) The Board must call for nominations for the Secretary and 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.

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

### 11.4 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 11.4(e), those nominated will be declared elected at the Annual General Meeting.
- (b) 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. If the number of nominations received from the floor does not exceed the number of vacancies to be filled, then, subject to clause 11.4(e), those nominated will be declared elected at the Annual General Meeting.
- (c) 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.
- (d) 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.
- (e) At the end of the procedures described in clauses 11.4(a) to 11.4(d) above, any 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.
- (f) If at the close of the Annual General Meeting, vacancies on the Board remain unfilled, the vacant positions will be casual vacancies under clause 13.1.

### 11.5 Term of Appointment for Elected Directors

- (a) Subject to clause 11.5(b), the term of office of the Secretary and each Elected Director begins at the conclusion of the Annual General Meeting at which their election occurs.
- (b) If the law requires the Secretary or any Elected Director to have a particular qualification or clearance (for example, police clearance), the Secretary's or Elected Director's term will not begin until the qualification or clearance has been established.

- (c) Subject to clause 11.5(d), the term of office of the Secretary and each Elected Director ends at the conclusion of the second Annual General Meeting following their election, but the Secretary and the Elected Director is, subject to clause 11.5(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, no person who has served as a Secretary or an Elected Director for a period of four (4) 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. 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 his or her role.

## **12. Appointed Directors**

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### **12.1 Appointment of Appointed Directors**

The Elected Directors may appoint up to two (2) Appointed Directors.

### **12.2 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.

### **12.3 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.

## **13. Vacancies on the Board**

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### **13.1 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.

### **13.2 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 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 Members, the Director cannot be reappointed to the Board as an Appointed Director without a further Ordinary Resolution of Members authorising the appointment.

### 13.3 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.

## 14. Meetings of the Board

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### 14.1 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.

### 14.2 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.

### 14.3 Decisions of Board

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

#### 14.4 Resolutions not in Meeting

- (a) Subject to clause 14.4(d), the Board may pass a resolution without a Board meeting being held if all the Directors and the Secretary 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 Secretary and the last Director signs.
- (b) For the purposes of clause 14.4(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 14.4(a) if, before it is circulated for voting under clause 14.4(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.

#### 14.5 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.

#### 14.6 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.

#### 14.7 Directors' Interests

- (a) The Directors and the Secretary must comply with sections 31 and 32 of the Act regarding disclosure of interests and voting on contracts in which a Director or a Secretary has an interest.
- (b) Without limiting the generality of clause 14.7(a), the Association will maintain and enforce a register of conflict of interest of the Directors and the Secretary.

### 15. Chief Executive Officer

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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.

## 16. Delegations

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The Board:

- (a) will, in writing, establish a Nominations Committee which will be composed of at least three (3) members, each of whom will not be directly involved with management of the Association but who may be a Director or an external appointee (but any external appointee should be independent and have significant business and governance expertise);
- (b) 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;
- (c) may, in writing, establish other committees;
- (d) may appoint any person chair of any committee. Persons so appointed will be accountable to the Board in the performance of their specific duties;
- (e) 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 Members.

## 17. Seal

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- (a) The Association will have a Seal on which its corporate name appears in legible characters.
- (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.

## 18. Annual General Meeting

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- (a) An Annual General Meeting of the Association must be held in accordance with the Act and this Constitution and will be in the last eight (8) days of August in each 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 officers in accordance with clause 11;

- (v) elect an auditor for the following Financial Year;
- (vi) elect Honorary Life Members in accordance with clause 5.4(a); and
- (vii) confirm the minutes of the previous Annual General Meeting.

No other business will be transacted at the Annual General Meeting, unless notice in writing of such business will have been given to the Secretary of the Association by 15 July in that year.

- (c) The Annual General Meeting will be convened by notice in writing to all Members entitled to attend and 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.
- (d) All General Meetings other than the Annual General Meeting will be Special General Meetings.

## **19. Special General Meetings**

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### **19.1 Special General Meetings may be held**

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

### **19.2 Requisition of Special General Meetings**

- (a) A Special General Meeting will be convened by the Board in the manner set out in clause 18(c) immediately upon 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) Ordinary or Life Members stating the business to be brought forward. The meeting will be held not less than seven (7) days or more than one (1) calendar month after receiving the requisition.
- (b) Every requisition for a Special General Meeting must be signed by requisitioning Members, state the purpose of the meeting and be sent to the Association. The requisition may consist of several documents in a like form, each signed by one or more of the Members making the requisitions.
- (c) If the Board does not cause a Special General Meeting to be held within one (1) calendar month after the receipt of the requisition, the Members making the requisition may convene a Special General Meeting to be held not later than three (3) calendar months after the receipt of the requisition.
- (d) A Special General Meeting convened by 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 Members making the requisition are supplied free of charge with particulars of the Members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting must be borne by the Association.

## **20. Proceedings at General Meetings**

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### **20.1 Quorum**

Subject to clause 20.3, 12 Members will form a quorum for a General Meeting.

## 20.2 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 Members present must appoint another Director to preside as chair for that meeting only.

## 20.3 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 Members under clause 19.2, the meeting will lapse; and
  - (ii) in any other case, those 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 20.3(c), it is not necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

## 20.4 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 Members present at the meeting.

## 20.5 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.

## **21. Voting at General Meetings**

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### **21.1 Members entitled to vote**

Subject to clause 5.14, each Member is entitled to one (1) vote at General Meetings.

### **21.2 Chairperson may not exercise casting vote**

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

## **22. Records and accounts**

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

## **23. Auditor**

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- (a) A qualified auditor must be appointed at each Annual General Meeting as the Association's auditor for the then current Financial Year.
- (b) Any vacancy occurring during the year in the office of auditor must be filled by the Board.
- (c) 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.

## **24. Application of income**

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- (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 24(d), nothing in clauses 24(a) or 24(b) prevents a payment in good faith to any Member:
  - (i) in accordance with clauses 3 and 24(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 24(c) may exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## **25. Winding up**

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

## **26. Distribution of assets on winding up**

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- (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 26(a) may be determined by the Members in General Meeting at or before the time of winding up, dissolution or deregistration, and in default a determination by the Members, by a judge of the Supreme Court of South Australia or any other Court that has jurisdiction in the matter.

## **27. Constitution**

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- (a) Subject to clause 27(b), 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.

## **28. By-Laws and Regulations**

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### **28.1 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.

## 28.2 By-Laws and Regulations Binding

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

## 28.3 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 Members.

## 29. Notice

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- (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 second 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.

## 30. Indemnity

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- (a) Every Director, Secretary 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 Secretary 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, Secretary and employees against all damages and losses (including legal costs) for which any such Director, Secretary



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 or Secretary, 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.

### **31. Interstate crews**

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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.

### **32. Kings Cup Capital Fund**

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This Fund will be held by the Association for the following purposes and upon the following conditions, namely:-

- (a) This 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 this Fund and all income of this Fund subject to paragraph (c) will be capitalised and invested in accordance with paragraph (a).
- (c) The income upon an investment made by the Fund will be applied firstly to making good all capital losses, if any, and secondly may be applied for the purposes described in paragraph (d).
- (d) Income not required for the purposes set out in paragraph (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 the 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, together with,
  - (ii) A resolution of the association at a General Meeting in the notice convening which the proposed resolution will have been set out and passed by the votes of not less than two-thirds of the Members present and entitled to vote.

### **33. West Lakes Fund**

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This 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 Fund will be held in a separate account upon the following conditions:-

- (a) This 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 this 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, together with
  - (ii) A resolution of the Association at a General Meeting in the notice convening which the proposed resolution will have been set out and passed by the votes of not less than two-thirds of the Members present and entitled to vote.

### **34. Transitional provisions**

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- (a) Each Club 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.
- (b) Each person who is a Life Member of the Association on the day on which this Constitution is adopted, will automatically be admitted to life membership in the category that, in the reasonable opinion of the Board, is the category most appropriate for that Life Member.
- (c) 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. 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.
- (d) All rules, 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.