

**WATER POLO AUSTRALIA LIMITED**

**ACN 159 573 403**

**CONSTITUTION**

**ADOPTED BY SPECIAL  
RESOLUTION ON 20 NOVEMBER  
2021**

Amended by **Game Legal**  
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A public company limited by guarantee registered in New South Wales

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**CONSTITUTION**  
**of**  
**WATER POLO AUSTRALIA LIMITED ACN 159 573 403**

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**GENERAL**

**1 DEFINITIONS**

The following definitions apply in this Constitution unless expressly stated otherwise or unless the context otherwise requires:

**Affiliate Member** means an organisation that is admitted to Membership of the Company in that category in accordance with the provisions of this Constitution and any relevant Policy.

**Annual General Meeting** means the annual general meeting of the Company held pursuant to the requirements of the *Corporations Act*.

**Appointed Director** means a Director who is appointed in that class of Directors in accordance with clause 31.

**Athletes Commission** means the water polo athletes commission established in accordance with clause 45 of this Constitution.

**Athletes Commission Director** means the Director who is appointed in that class of Directors in accordance with clause 31.

**AWL** means the national water polo competition known as the Australian Water Polo League, operating as Australia's premier domestic men's and women's water polo competition, or such other competition that may be owned or conducted by the Company in its place, or otherwise designated by the Company, as the successor to the Australian Water Polo League, by whatever name called.

**AWL Member** means an organisation that is a current financial member of a State Member and that: (1) at the relevant time holds a current licence from the Company to participate in the AWL; and (2) is admitted to and maintains Membership of the Company in that category in accordance with the provisions of this Constitution and any relevant Policy.

**AWL Voting Committee** means the committee so named, which is established in accordance with clause 46 of this Constitution. For avoidance of doubt, the AWL Voting Committee is neither a Joint Member nor a Member.

**Board** means the board of Directors of the Company.

**Chief Executive Officer** means the Chief Executive Officer of the Company appointed by the Directors in accordance with clause 34.

**Club** means an organisation that is a member of a State Member, where an objective of that organisation is to field teams in competitive water polo tournaments, competitions and matches, including those conducted under the auspices of the relevant State Member.

**Company** means Water Polo Australia Limited.

**Company Secretary** means a company secretary of the Company in accordance with the requirements of the *Corporations Act* and the provisions of this Constitution.

**Constitution** means this constitution of the Company as altered, amended or replaced from time to time.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**Corporations Regulations** means regulations promulgated pursuant to the *Corporations Act*.

**Director** means a director of the Company.

**Elected Director** means a Director who is elected in that class of Directors in accordance with clause 31.

**FINA** means Fédération Internationale de Natation, the international governing body for aquatic sports including the Sport.

**Finance, Risk and Audit Committee(s)** means one or more committee(s), however named, which is, are or may be established in accordance with clause 45(h) – (l) of this Constitution in relation to finance, risk and/or audit matters.

**FINA Rules** means the statutes and regulations of FINA applicable to the Sport and the Company.

**Individual Member** means a person that is admitted to Membership of the Company in that category in accordance with the provisions of this Constitution and any relevant Policy.

**Insolvency Event** means in relation to any person:

- (a) a receiver, receiver and manager, administrator, trustee or similar official is appointed over any of the assets or undertaking of that person;
- (b) the person suspends payments of their debts generally;
- (c) the person is or becomes unable to pay their debts when they are due or is unable to pay their debts within the meaning of the *Corporations Act*;
- (d) an application or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator to the person or a resolution is passed, or steps are taken to pass a resolution for the winding up or dissolution of the person otherwise than for the purpose of an amalgamation or reconstruction; or
- (e) where that person commits an act of bankruptcy or insolvency, enters into an assignment for the benefit of creditors, is unable to pay their debts when due, or any application has been made to declare that person

bankrupt or insolvent.

**Joint Member** has the meaning given to that term in clause 8. For avoidance of doubt, the AWL Voting Committee voting or acting as the collective and indirect representative of AWL Members does not itself constitute any AWL Member as a Joint Member.

**Law** means the *Corporations Act* and the Corporations Regulations.

**Life Member** means a person who is admitted to Membership of the Company in that category in accordance with the provisions of this Constitution.

**Member** means a Member of the Company in any category admitted in accordance with the provisions of this Constitution and **Membership** is membership of the Company in any category.

**Member Present** means, in connection with a meeting, the Member present in person, by appointment of a Member's Representative, by proxy or by attorney.

**Member's Representative** means the delegate of a Member appointed by that Member to attend meetings of the Company and exercise the powers of that Member at meetings of the Company.

**Mentally Incapacitated Person** means a person who is an involuntary patient or a forensic patient or a correctional patient within the meaning of the *Mental Health Act 2007* (NSW) or a protected person within the meaning of the *NSW Trustee and Guardian Act 2009* (NSW) or similar legislation in another Australian State or Territory.

**National Teams** means any team selected by, or with the approval of, the Company to represent Australia in the sport of water polo, including Olympic Squads and Representative Squads.

**Nominations Committee** means the committee so named, which is established in accordance with clause 45 of this Constitution.

**Official Position** means, in connection with any body corporate, organisation or entity, a person who:

- (a) holds a position, whether elected or appointed, as president, vice president, secretary, treasurer, director or equivalent of that body corporate, organisation or entity; or
- (b) has, directly or indirectly, a material ownership or financial interest in that body corporate, organisation or entity.

**Olympic Squad** means a representative water polo squad nominated by the Company and selected by the Australian Olympic Committee to represent Australia in the sport of water polo at an Olympic Games.

**Patron** means the person appointed to that position in accordance with clause 29.

**Policy** means any rules, regulations, by-laws and policies made by the Board in accordance with clause 35 of this Constitution.

**President** means the chair of the Board and president of the Company, who is appointed in accordance with clause 31.

**Regional Governing Body** means an organisation affiliated with or otherwise recognised by the Company or a State Member, as being responsible for the administration of the Sport within a particular part of a State or Territory, or within some other region of Australia.

**Register** means the register of Members of the Company maintained by the Company in accordance with the requirements of the *Corporations Act*.

**Related Body Corporate** has the meaning ascribed to that term in the *Corporations Act*.

**Representative Squad** means a representative water polo squad nominated or selected by the Company to represent Australia in the sport of water polo.

**Returning Officer** means a person appointed by the President to act as the returning officer at any election of Life Members or Elected Directors.

**SAL** means Swimming Australia Limited ABN 14 109 333 628.

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

**Special Resolution** means a resolution passed by at least seventy-five (75) percent of the total number of eligible votes cast in a vote on that question, motion or resolution put at the relevant general meeting in accordance with this Constitution and/or the *Corporations Act*.

**Sport** means the sport of water polo as recognised and regulated by FINA from time to time and includes:

- (a) the sport for athletes with disabilities; and
- (b) modified forms of the sport developed for junior development and other purposes.

**Sporting Power** means the power delegated to the Company by FINA (including, where relevant, by FINA through SAL, or another body as may be approved and recognised as such by the Board and FINA as the FINA Member Federation from time to time, providing representation and advocacy for the Company to FINA) for the exclusive control and management of the Sport in Australia.

**State Member** means an organisation that is admitted to Membership of the Company in that category in accordance with the provisions of this Constitution.

**Voting Member** means a Member who is a State Member, or a member of a State Member entitled by operation of this Constitution to vote on a resolution and the representative of the AWL Voting

Committee.

## **2 INTERPRETATION**

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) A gender includes all genders.
- (b) The singular includes the plural and conversely.
- (c) Where a word or phrase is defined, its other grammatical forms have corresponding meaning.
- (d) A reference to a paragraph or sub-paragraph is to a paragraph or

sub-paragraph, as the case may be, of the clause or paragraph, respectively, in which the reference appears.

- (e) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments promulgated under it.
- (f) Except in so far as a contrary intention appears in this Constitution, an expression has, in a provision of this Constitution which relates to a particular provision of the Law, the same meaning as in that provision of the Law.
- (g) A mention of anything after including, includes or include does not limit what else might be included.
- (h) A reference to a person includes a corporation, incorporated association, trust, partnership, unincorporated association or other entity, whether or not it comprises a separate legal entity.
- (i) Any reference to "\$" or "dollars" is a reference to the currency of the Commonwealth of Australia.
- (j) The Appendices identified in this Constitution are incorporated in this Constitution by reference and made a part of this Constitution.

### **3 REPLACEABLE RULES**

The rules of the Company specified in the provisions of this Constitution shall apply to the Company and the replaceable rules contained in the *Corporations Act* do not apply to the Company.

### **4 POWERS AND ACTIONS AUTHORISED UNDER THE LAW**

- (a) Solely for furthering the objects under clause 5, the Company, in addition to the Sporting Power and any other powers it has under the *Corporations Act*, has the legal capacity and powers of a company limited by guarantee as set out in section 124 of the *Corporations Act*.
- (b) The Company shall have power under this clause 4 to perform any action in any case where the Law confers that power on any company if that power is comprised in its constituent documents, despite any other provision of this Constitution.
- (c) The rules of the Company specified in this Constitution shall apply subject to and in compliance with any mandatory provision of the *Corporations Act*.
- (d) Any mandatory provision of the *Corporations Act* shall be incorporated into this Constitution and shall prevail over any provision contained in this Constitution but only to the extent of any inconsistency between the *Corporations Act* and this Constitution.
- (e) The Company may in any way the *Corporations Act* permits:
  - (i) exercise any power;
  - (ii) take any action; or



- (iii) engage in any conduct or procedure,  
  
which, under the Act, a company limited by guarantee may exercise, take or engage in.
- (f) Notwithstanding clause 4(e), the Company may do all other things that are incidental or conducive to carrying out the Company's objects.
- (g) Where this Constitution provides that a person may do a particular act or thing, the act or thing may be done at the person's discretion.
- (h) Where this Constitution confers a power to do a particular act or thing, the power is, unless the contrary intention appears, to be taken as including a power exercisable in the same manner and subject to the same conditions (if any) to repeal, rescind, revoke, amend or vary that act or thing.
- (i) Where this Constitution confers a power to do a particular thing in respect of particular matters, the power is, unless the contrary intention appears, to be taken to include a power to do that thing in respect of some only of those matters or in respect of a particular class or particular classes of those matters and to make different provision in respect of different matters or different classes of matters.
- (j) Where this Constitution confers a power to make appointments to any office or position, the power is, unless the contrary intention appears, to be taken to include a power:
  - (i) to appoint a person to act in the office or position until a person is appointed to the office or position; and
  - (ii) subject to any contract between the Company and the relevant person, to remove or suspend any person appointed, with or without cause.
- (k) Where this Constitution confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised, and the duty must be performed from time to time as the occasion requires.
- (l) Where this Constitution confers a power or imposes a duty on the holder of an office as such then, unless the contrary intention appears, the power may be exercised, and the duty must be performed by the holder for the time being of the office.
- (m) Where this Constitution confers power on a person or body to delegate a function or power:
  - (i) the delegation may be concurrent with, or (except in the case of a delegation by the Board of Directors) to the exclusion of, the performance or exercise of that function or power by the person or body;
  - (ii) the delegation may be either general or limited in any manner provided in the terms of delegation;
  - (iii) the delegation need not be to a specified person but may be to any person from time to time holding, occupying or performing the duties of a specified office or position;
  - (iv) the delegation may include the power to delegate;

- (v) where the performance or exercise of that function or power is dependent on the opinion, belief or state of mind of that person or body in relation to a matter, that function or power may be performed or exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to that matter; and
- (vi) the function or power so delegated, when performed or exercised by the delegate, is to be taken to have been performed or exercised by the person or body.

## **5 NAME AND OBJECTS**

- (a) The name of the Company is “Water Polo Australia Limited”.
- (b) The Company recognises FINA is the sole international sporting authority entitled to make and enforce regulations for the encouragement and control of the Sport. So that the above authority may be exercised in a fair and reasonable manner, FINA has drawn up the FINA Rules which govern the Sport.
- (c) Except where required to comply with the laws of the Commonwealth of Australia or of a relevant State or Territory, where any provision of this Constitution is in conflict with the FINA Rules, the Company acquiesces to and is bound by the FINA Rules. One single organisation is recognised by FINA as the sole organisation responsible for the control of aquatic sports, including the Sport, and the enforcement of the FINA Rules, within its own country. The Company in affiliation with SAL, for such purposes only (or another body as may be approved and recognised as such by the Board and FINA from time to time), as the recognised FINA Member Federation for Australia, is at all times responsible for the Sport and exercises the Sporting Power for Australia.
- (d) The primary objects of the Company are to:
  - (i) Adopt and exercise the Sporting Power as the national federation for the Sport in Australia, maintain recognition as the national sporting organisation by the Australian Sports Commission (Sport Australia), and be the single controlling body and administrator of the Sport in Australia.
  - (ii) Conduct, encourage, promote, advance, control, foster, develop and manage all levels of the Sport in Australia interdependently with Members and others.
  - (iii) Generally, act in the best interests of the Sport.
  - (iv) Facilitate participation by National Teams in international competitions, tournaments and matches.
  - (v) Foster, control, conduct and administer national, interstate and other championships, tournaments, competitions and matches and participation in those competitions.
  - (vi) Affiliate with FINA and, where required by FINA, affiliate with FINA through SAL (or another body as may be approved and recognised as such by the Board and FINA as the FINA Member Federation from time to time, providing representation and advocacy for the Company to FINA).

- (vii) Delegate appropriate functions and responsibilities to State Members or Regional Governing Bodies.
- (viii) Establish and maintain financial security by obtaining funds from all private, public, governmental, institutional sources and from Members.
- (ix) Negotiate, co-operate and work with international and domestic organisations as required in order to fulfil the objects of the Company.
- (x) Encourage the provision and development of appropriate facilities for participation in the Sport.
- (xi) Promote the Sport for commercial, government and public recognition and benefits.
- (xii) Control the use of the name of the Company and its intellectual property.
- (xiii) To make rules, regulations and by-laws and policies for the control and conduct of the Sport in Australia and for purposes consistent with the objects of the Company.
- (xiv) Have regard to the public interest in its operations.
- (e) The Company may undertake other activities not inconsistent with the primary objects set out in this clause 5 to enhance, promote or protect the interests of the Company and the Sport.

## **6 INCOME, PROPERTY AND LIABILITY**

- (a) The income and property of the Company shall be applied solely towards the promotion of the objects of the Company contained in this Constitution and no portion shall be paid or transferred directly or indirectly as a dividend bonus or any other method by way of profit to the Members of the Company provided that nothing shall prevent the payment in good faith of remuneration to any officers or servants of the Company nor to any Member or other person in return for any services actually rendered to the Company nor prevent the payment of interest on money lent nor reasonable and proper rent for premises demised or let by any Member to the Company.
- (b) Members have no liability in that capacity except as set out in clause 7 (a).

## **7 WINDING UP**

- (a) Every Member of the Company undertakes to contribute, to the assets of the Company in the event of the Company being wound up while the Member is a Member or within one year after the Member ceases to be a Member, for the payment of the debts and liabilities of the Company contracted before the Member ceases to be a Member and the costs charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst Members, such amount as may be required **HOWEVER** not exceeding one dollar (\$1.00).
- (b) If upon the winding up or dissolution of the Company there remains after

the satisfaction of all its debts and liabilities any property whatsoever the same shall not be paid to or distributed amongst the Members of the Company but shall be given or transferred to an institution having objects similar to the objects of the Company and whose constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under clause 6, such institution or institutions to be determined by the Members unanimously, and failing that determination by the Chief Judge in Equity of the Supreme Court of New South Wales or such other judge of that Court as may have or acquire jurisdiction in the matter.

**8**

**MEMBERSHIP**

- (a) Membership is limited as follows:
  - (i) Subject to clauses 8(a)(ii) and 8(a)(vi), the number of Members for which the Company can be registered is unlimited.
  - (ii) Subject to clause 8(a)(vi), Membership of the Company is divided into the categories specified in clause 8(d). Only those persons who satisfy the qualification and admission criteria for Membership in a particular category, and all other requirements set out in this Constitution concerning admission to Membership, shall be eligible to become a Member in that category.
  - (iii) Subject to the requirements of this Constitution regarding obligations upon applicants for Membership, a candidate for Membership in any category agrees to be bound by this Constitution, the Policies, the FINA Rules, including in particular the requirements set out in clause 10, by signing and forwarding an application to the Company to this effect in a form approved by the Directors and agreeing to their name being entered on the Register.
  - (iv) Nothing in this Constitution shall be interpreted to restrict or hinder or declare as invalid a resolution of the Board to suspend or otherwise decide to not accept any application for Membership.
  - (v) The Board may develop and implement Policies which set out the privileges and benefits of Membership in each category.
  - (vi) The Board may create other categories of Membership of the Company and, once any such category is created, make all such rules, policies and determinations in relation to that category that the Board is authorised to make in relation to other categories of Membership, PROVIDED THAT any such category of Membership created by the Board (and any Members admitted in that category) shall not be granted any voting rights.
- (b) No transfer of Membership shall be permitted.
- (c) Where a Member is comprised of more than one entity (together the Joint Members):
  - (i) The Joint Members shall collectively have the number of votes

applicable to that category of Membership.

- (ii) An obligation of the Joint Members under this Constitution shall be joint and several.
  - (iii) A right of the Joint Members is held by the Joint Members jointly.
  - (iv) A resignation received from a Joint Member will be treated as a resignation by all Joint Members comprised in that Joint Membership.
  - (v) A breach of this Constitution by any of one of the Joint Members is deemed to be a breach of this Constitution by all of the Joint Members of that Joint Membership.
  - (vi) The Joint Members must specify to the Company a single address for the service of any notice.
  - (vii) Any notice sent by the Company to the address specified under clause 8(c)(vi) or received by the Company from a Joint Member shall be treated as being sent or made to or received from all of the Joint Members of that Joint Membership.
  - (viii) The Company must send any notice to the address of the Joint Member first named in the Register in the absence of any specification by the Joint Members under this clause.
  - (ix) An action, omission or conduct of any of the Joint Members of the Joint Membership is for the purpose of this Constitution deemed to be an action, omission or conduct all of the Joint Members.
  - (x) The Joint Members shall be treated as one Member for all purposes under this Constitution.
- (d) The categories of Membership of the Company and the corresponding qualification and admission criteria for Membership in that category are as follows:
- (i) **State Members:**
    - (1) Those organisations whose names are recorded in the Register at the relevant time as being State Members; and
    - (2) the organisation recognised by the Company as the organisation responsible for the administration of the Sport within the whole of a particular Australian State or Territory.
  - (ii) **Affiliate Members:**

Organisations with objects and interests which align to and are not inconsistent with the objects and interests of the Company and which meet the criteria for Affiliate Membership determined by the Board and set out in any relevant Policy.
  - (iii) **Individual Members:**

A natural person who is a member of a State Member, AWL Member, Affiliate Member or other organisation which participates in water polo activities sanctioned or conducted under the auspices of the Company.

(iv) **Life Members:**

- (1) Those persons whose names have been recorded in the Register as having been admitted as Life Members prior to the date this Constitution is adopted; together with
- (2) such other persons who are subsequently admitted to Life Membership in accordance with the provisions of this Constitution and any relevant Policy.

For the avoidance of doubt, Life Membership may not be granted posthumously.

(v) **AWL Members:**

Those organisations whose names are recorded in the Register from time to time as being the current AWL Members.

## 9 FORM OF APPLICATION

An application for Membership in all categories other than Life Membership, and a nomination in the case of Life Membership, must:

- (a) Be in writing in a form approved by the Directors.
- (b) Be signed:
  - (i) by the applicant; and
  - (ii) completed in accordance with clauses 12(a) to 12(d) in respect of a nomination for Life Membership.
- (c) Specify the category of Membership in respect of which the application is made.
- (d) Be accompanied by such documents, information or evidence confirming compliance with relevant legislation to establish the qualification for Membership in the particular category as required by this Constitution.
- (e) Be accompanied by the requisite membership application fee, annual membership fee and/or any other amount determined by the Board.

## 10 REQUIREMENTS AND OBLIGATIONS OF MEMBERS

- (a) The following requirements apply in respect of State and AWL Members:

Further to any other provision of this Constitution, each State Member and AWL Member will be either a public company limited by guarantee incorporated under the *Corporations Act*, or an incorporated association

registered under the applicable legislation of the State or Territory in which the State Member or AWL Member (as appropriate) is located. In addition, each State Member and AWL Member will:

- (i) Fully comply with legislation applicable to that State Member or AWL Member including:
    - (1) Annual submission of financial statements to the relevant government authority.
    - (2) Ensure an initial legally compliant registration of relevant corporate objects and constitution satisfying government legal requirements.
    - (3) Ensure, upon variation, that the registered constitution is updated and registered satisfying government legal requirements.
  - (ii) At all times act for and on behalf of the interests of the Sport and Members.
  - (iii) At all times operate with and promote mutual trust and confidence between the Company and the Members, promoting the economic and sporting success, strength and stability of each other and work cooperatively with each other in the pursuit of the Company's objects.
  - (iv) Not do or permit to be done any act or thing which might adversely affect or derogate from the standards, quality and reputation of the Sport and its maintenance and development.
  - (v) Advise the Company as soon as practicable of any serious administrative, operational or financial difficulties.
  - (vi) Where any such Member is not incorporated as at the date this Constitution is adopted, that Member undertakes to and agrees to do all things necessary to become validly incorporated prior to expiration of the AWL license agreement that enables them to be eligible for WPA Membership. Failing which it will apply to the Company for an exemption from the requirement to be incorporated which may be granted, permanently or for a further period and with or without attaching conditions.
  - (vii) In full compliance with clause 10(b)(iv)(3), where any State Member experiences an actual or (in the Company's view) imminent Insolvency Event, that Member agrees to cooperate with the Company in addressing those issues in whatever manner, including by allowing the Company to appoint an administrator to conduct and manage the State Member's business and affairs, or to allow the Company itself to conduct all or part of the business or affairs of the State Member, on such conditions as the Company itself considers appropriate and with the full intent to return control of the State Member to its members and its Board.
- (b) Constitutions of State Members and AWL Members:
- (i) Each State Member and AWL Member shall without delay take all steps necessary to ensure its constituent documents are not inconsistent, and amendments are not inconsistent,

with this Constitution and the Policies, always subject to any inconsistent prohibition or requirement in any legislation applicable to that State Member or AWL Member (as appropriate).

- (ii) Where any constituent document (or amendment) is inconsistent with this Constitution or the Policies, the Company and the Member must work together in a collaborative way and in good faith to draft and adopt documents which are not inconsistent with this Constitution and the Policies.
- (iii) For the avoidance of doubt, if any inconsistency remains between the constituent documents of a State Member or AWL Member and this Constitution or the Policies, this Constitution and the Policies shall prevail to the extent of the inconsistency, unless contrary to any inconsistent prohibition or requirement in any legislation applicable to that State Member or AWL Member (as appropriate).
- (iv) The constituent documents of a State Member must require the State Member to:
  - (1) advise the Company as soon as practicable after any serious administrative, operational or financial difficulties the State Member is having;
  - (2) assist the Company in investigating those issues; and
  - (3) cooperate with the Company in addressing those issues in whatever manner, including by allowing the Company to appoint an administrator to conduct and manage the State Member's business and affairs, or to allow the Company itself to conduct all or part of the business or affairs of the State Member, on such conditions as the Company itself considers appropriate and with the full intent to return control of the State Member to its members and its Board
- (c) The following requirements apply in respect of Affiliate Membership:
  - (i) Natural persons are not entitled to become Affiliate Members.
- (d) The Directors may develop and implement Policies which may set out the membership criteria to be met by applicants for Membership in addition to those set out in this Constitution.
- (e) All Members are required and obligated to be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and appeal mechanisms of the Company whether under any Policies or under this Constitution, including accepting and agreeing to the discipline provisions in **clause 15**.

## **ADMISSION TO MEMBERSHIP**

### **11 CATEGORIES OTHER THAN LIFE MEMBERSHIP**



In respect of all categories of Membership except for Life Membership the process for admission to Membership of the Company is as set out in clauses 11(a) to 11(e) below:

- (a) The Directors must consider an application for Membership at the next meeting of the Board after its receipt by the Secretary and determine, subject to this Constitution, the admission or rejection of the applicant.
- (b) The Directors may require any applicant for Membership to give such information as they require before admitting the applicant to Membership of the Company.
- (c) If an application for Membership is rejected the:
  - (i) Board must give the applicant feedback on the basis for the rejection of an application upon such request being made to the Secretary within 28 days of notice being given to the applicant pursuant to clause 11(c)(ii).
  - (ii) Secretary must notify the applicant in writing of the rejection of the application within a reasonable period of time.
  - (iii) Secretary must return within 28 days to the applicant any amount paid to the Company in accordance with clause 9(e).
- (d) If an application for Membership is accepted the Secretary must enter the name and details of the Member into the Register.
- (e) The Directors can require a Member to execute additional documents once that Member has been admitted to Membership and remains a Member to give effect to this Constitution, applicable Policies or conditions of admission as a Member.

## **12 LIFE MEMBERSHIP**

In addition to meeting the requirements of clause 9, the process for admission to Life Membership of the Company is as follows:

- (a) A person who is to be considered for admission to Life Membership must be nominated for Life Membership by a proposer and a seconder, each of whom must be a Member for a continuous period of not less than thirty-six (36) months up to the date of nomination.
- (b) The nomination for Life Membership must be signed by the nominee and by each of the proposer and the seconder.
- (c) The nomination form must be submitted to the Company accompanied by a statement which contains all relevant information and particulars necessary in order for the Board to consider whether the nominee qualifies to be appointed as a Life Member in accordance with this Constitution and any relevant Policies.
- (d) Nominations for Life Membership must be received by the Company by the last day of the financial year of the Company in any financial year if the nomination is to be considered by the Board before the next Annual General Meeting of the Company. Any nomination received after the deadline specified in this clause but before the next Annual General Meeting shall not be considered by the Board until after that Annual General Meeting. In that case the nomination (if approved by the Board) shall be considered by the Members at the second Annual General

Meeting after the date which the nomination is received by the Company.

- (e) The Board shall meet within 30 days after the end of each financial year to consider all nominations for Life Membership received by the last day of the financial year just ended.
- (f) At that meeting referred to in clause 12(e) the Board shall consider each nomination for Life Membership and determine, in respect of each nomination, whether or not the person nominated satisfies the qualification criteria set out in this Constitution and any relevant Policies.
- (g) In respect of each nominee who satisfies the qualification criteria the Board shall decide by ordinary resolution whether or not to recommend that the nominee be elected by the Annual General Meeting as a Life Member. In respect of each nominee approved by the Board, the Board shall recommend to the next Annual General Meeting that the person should have Life Membership conferred on them.
- (h) At the next Annual General Meeting following the Board meeting referred to in clause 12(e) a ballot of the Members Present and entitled to vote shall be conducted in respect of the appointment of Life Members.
- (i) Not more than three (3) candidates for Life Membership shall be appointed to Life Membership at each Annual General Meeting.
- (j) The following voting procedures shall apply in respect of the appointment of Life Members:

**Three (3) or Less Candidates for Life Membership:**

- (i) That ballot will be conducted on the basis that each Member Present and entitled to vote shall be asked to cast a vote in the affirmative or the negative on the question of whether each nominee recommended by the Board in accordance with clause 12(g) shall be admitted to Life Membership of the Company.
- (ii) A person shall be conferred with Life Membership of the Company provided that at least seventy-five (75) percent of the Members Present and entitled to vote at the Annual General Meeting vote in the affirmative on the question of whether a nominee for Life Membership shall be admitted to Membership of the Company in that category.

**In Excess of Three (3) Candidates for Life Membership:**

- (iii) That ballot will be conducted on the basis that each Member Present and entitled to vote shall be asked to cast a vote in the affirmative or the negative on the question of whether each nominee recommended by the Board in accordance with clause 12(g) shall be admitted to Life Membership of the Company.
- (iv) A person shall be conferred with Life Membership of the Company provided that:
  - (1) at least seventy-five (75) percent of the Members Present and entitled to vote at the Annual General Meeting vote in the affirmative on the question of whether that nominee for Life Membership shall be admitted to Membership of

the Company in that category; and

- (2) subject to clause 12(i)(iv)(3), that person receives the highest, second highest or third highest number of affirmative votes cast in the vote conducted at the Annual General Meeting; but
- (3) if more than one (1) candidate for Life Membership ties on a number of affirmative votes such that admitting all of those tying candidates would cause more than three (3) candidates to be admitted to Life Membership before considering candidates with less affirmative votes then none of those tying candidates (and no candidate with less affirmative votes) will be admitted to Life Membership by that ballot.

### **13 NOTIFICATION BY MEMBERS**

Each Member must promptly notify the Secretary in writing of any change in the Member's qualification to be a Member of the Company.

### **14 REGISTER OF MEMBERS AND PAYMENTS BY MEMBERS**

- (a) The Register must be kept in accordance with the *Corporations Act*.
- (b) The following must be entered in the Register in respect of each Member:
  - (i) the full name of the Member;
  - (ii) the address, facsimile number and electronic mail address, if any, of the Member;
  - (iii) the date of admission to and cessation of Membership; and
  - (iv) such other information as either the Board requires, or which is required by the Law to be kept.
- (c) Each Member must notify the Secretary in writing of any change in that Member's name, address, facsimile number or electronic mail address, or any other information supplied in accordance with clause 14(b), within one (1) month after the change.
- (d) Application, subscription and annual fees in respect of Membership in any category may be determined by the Board; however, the Board shall not determine that any such amount is payable by Life Members or, in the case of AWL Members, that any such amount exceeds ten dollars (\$10).
- (e) In the event that the Board determines to apply subscription fees or annual fees to Membership generally or Membership in a particular category then each Member who is affected by that determination shall pay that fee within thirty (30) days after the commencement of the financial year of the Company to which the imposition of fees applies.

### **15 DISCIPLINE OF MEMBERS AND CESSATION OF MEMBERSHIP RIGHTS**

- (a) A resignation of any Member shall be addressed to and forwarded to the Secretary.
- (b) The Board may make or adopt a Policy or Policies:
  - (i) for the hearing and determination of:
    - (1) complaints by a Member that feels aggrieved by a decision or action of the Company (or another Member); and
    - (2) disputes between Members relating to the conduct or administration of the Sport;
  - (ii) for the discipline of Members;
  - (iii) for the formation and administration of an appeals tribunal which must be independent of any party before it on the matter which is the subject of the appeal in question; and
  - (iv) for the termination of Members (except in respect of a State Member).
- (c) The Board may, in making or adopting a Policy under 15(b), incorporate provisions within the Policy to exclusively govern its subject matter, to the exclusion of clause 15(b) and/or other Policies.
- (d) The Board in their sole discretion may refer an allegation (which in the opinion of the Board is not vexatious, trifling or frivolous) by a complainant (including a Director or a Member) that a Member has:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Policies or any other resolution or determination of the Board or any duly authorised Committee; or
  - (ii) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of the Company or the Sport, or both; or
  - (iii) prejudiced the Company or the Sport or brought the Company or the Sport or themselves into disrepute,for investigation or determination either under the procedures set down in the Policies or by such other procedure and/or persons as the Board considers appropriate.
- (e) A Policy may, without limitation, include provision for the suspension of a Member's' rights or benefits under this Constitution or any Policy during investigatory or disciplinary proceedings under this clause 15 pending the determination of any proceedings (including any available appeal) as the Board considers reasonably appropriate having regard to the matter at hand.
- (f) **Sanctions for Discipline of State Members**

Without limiting matters that may be referred to in the Policies, any State Member that is determined by the Board to have acted in a manner set out in clause 15(d) shall be liable for the sanctions set out in that Policy, including termination of Membership (which shall only take place in accordance with the procedure set out in this clause).
- (g) **Termination of Membership of State Members**
  - (i) No recommendation can be made by the Board under this clause unless all avenues of appeal available to the relevant State Member under the Policies have been exhausted.

- (ii) Subject to compliance with clause 15(g)(i) (and the Policies), the Board may recommend to a general meeting to terminate the membership of a State Member.
  - (iii) Upon recommendation from the Board under clause 15(g)(ii), a general meeting may, by Special Resolution, terminate the membership of a State Member.
  - (iv) Where the membership of a State Member is terminated in accordance with this clause, the Board may admit another body, which meets the requirements in clause 8(d), as the State Member to represent the relevant State or Territory.
- (h) Membership shall cease and the Secretary may remove the Member's name from the Register as the case may be upon being satisfied that any one of the following has occurred:
  - (i) if the Member is convicted of an indictable offence that is punishable by imprisonment for twelve (12) months or more;
  - (ii) an Insolvency Event occurring in relation to a Member;
  - (iii) a written resignation from the Member has been received by the Secretary with one (1) months' notice;
  - (iv) if a resolution process results in the expulsion or termination of a Member from Membership of the Company in accordance with a Policy;
  - (v) in the case of an AWL Member, that Member has ceased to hold a current licence to participate in the AWL or has ceased to be a financial member of a State Member; or
  - (vi) if clause 15(f) applies.
- (i) In the event that a Member has not paid any subscription, fee or other amount owing by the Member to the Company within thirty (30) days after the due date for the payment of that sum, the Member's rights, including without limitation the right to attend and vote at general meetings of the Company, shall automatically be suspended.
- (j) In the event that Member has not paid any subscription, fee or other amount owing by the Member to the Company within sixty (60) days after the due date for the payment of that sum, the Secretary shall serve notice on the Member that if all outstanding amounts are not paid to the Company within a period of fourteen (14) days from the date of the notice, that Member's Membership shall cease, and that their name and all other details will thereafter be removed from the Register.
- (k) Nothing in this clause 15 is to be interpreted as preventing or restricting the Board in the making of further Policies concerning the conduct of Members and the disciplining of Members where such Policies are breached, or from making different Policies regarding the same or similar subject matter for different categories of Membership (including by dealing with any category of Membership differently to other categories), provided that any Policies do not conflict with the provisions of this Constitution.

## **MEETINGS OF THE COMPANY**

**16 POWER TO CONVENE**

- (a) An Annual General Meeting of the Company shall be held after the end of each financial year of the Company within the time limit prescribed by the Law. Any reference in this Constitution to a general meeting includes a reference to any Annual General Meeting.
- (b) The Board:
  - (i) may, whenever they think fit, convene a general meeting; and
  - (ii) must, on the requisition in writing of a State Member or at least two AWL Members, immediately convene a general meeting to be held as soon as practicable but, in any case, not later than one (1) month after the date of the submission of the requisition.
- (c) If the Directors do not, within twenty-one (21) days after the date of the submission of a requisition pursuant to clause 16(b)(ii), proceed to convene a general meeting, the requisitioning party may convene a general meeting to be held not later than two (2) months after the date of submission of the requisition.
- (d) The Board may postpone or cancel by notice, in writing to all parties entitled to receive notices of meetings of the Company, a general meeting convened by the Board, except that a meeting convened on requisition under clause 16(b)(ii) shall not be postponed or cancelled without the consent of the requisitioning party.

**17 NOTICE OF GENERAL MEETINGS AND ATTENDANCE AT GENERAL MEETINGS**

- (a) State Members, AWL Members, and Life Members shall be entitled to receive written notice of meetings of the Company. Further, written notice of meetings of the Company shall be given to:
  - (i) the AWL Voting Committee;
  - (ii) each Director;
  - (iii) each Secretary; and
  - (iv) the Company's appointed auditor.
- (b) Members in all categories other than State Members, AWL Members, and Life Members shall have no right to receive notices of meetings of the Company, nor any right to attend meetings of the Company.
- (c) Subject to provisions of the *Corporations Act* relating to special and other resolutions, at least twenty-one (21) days written notice must be given, to any Member or other person entitled to receive notice under this Constitution, of any general meeting, provided that, subject to the *Corporations Act*, a general meeting may be called by shorter notice.
- (d) Each notice convening a general meeting shall contain the information required by the Law.
- (e) The non-receipt of a notice convening a general meeting by or the accidental omission to give notice to any person entitled to receive notice shall not invalidate the proceedings at or any resolution passed at the general meeting.

- (f) A general meeting may be validly attended by a party eligible to attend via telephone, video or any other technology (or any combination of these technologies), that permits each eligible Member to communicate with any other participant (where entitled) and permits each Voting Member to vote, subject to the following requirements where technology is used:
- (i) each of the persons taking part in the meeting must be able to hear and be heard by each of the other persons taking part at the commencement of the meeting (each person so taking part is deemed for the purposes of this Constitution to be present at the meeting);
  - (ii) at the commencement of the meeting, each person must be distinguishable to the chair, and
  - (iii) a person may not leave a meeting attended via technology by disconnecting their telephone, audio-visual or other communication equipment unless that person has previously notified the chair.

## **18 QUORUM FOR GENERAL MEETING**

No business shall be transacted at any general meeting unless a quorum of parties eligible to vote is present in person and/or via technology at the time when the meeting proceeds to business. A quorum for a general meeting shall be the number of parties (by their delegate or by proxy) representing more than 50% of votes eligible to be cast.

## **19 PRESIDENT OF MEETINGS**

- (a) Subject to clause 19(b), the President shall preside as chair at every general meeting.
- (b) Where a general meeting is held and:
- (i) there is no President; or
  - (ii) the President is not present within fifteen (15) minutes after the time appointed for the meeting or does not wish to act as chair of the meeting,

the Members Present shall elect as chair of the meeting another Director other than the Athletes Commission Director who is present and willing to act, or if no other Director willing to act is present at the meeting, a Member's Representative who is present and willing to act.

- (c) Any question arising at a general meeting relating to the order of business, procedure or conduct of the meeting must be referred to the chair of the meeting, whose decision is final.

## **20 ADJOURNMENTS**

- (a) The chair of the meeting may adjourn the general meeting from time to time and from place to place where eligible Members may attend in person and/or via technology.
- (b) No business shall be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the

adjournment took place.

- (c) When a general meeting is adjourned for twenty-one (21) days or more, notice of the adjourned general meeting shall be given as in the case of an original general meeting.
- (d) Except as provided by clause 20(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.

## **21 VOTING AT GENERAL MEETINGS**

- (a) Any resolution to be considered at a general meeting shall be decided on a show of hands and (in the case of the AWL Voting Committee) verbal communication unless a poll is demanded.
- (b) A declaration by the chair of the meeting that a resolution has on a show of hands and/or by verbal communication been carried or lost and an entry to that effect in the minutes of the general meeting shall be taken as conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.
- (c) A poll for a resolution may be requested by the chair of the meeting, the AWL Voting Committee, or by at least two (2) Members Present and entitled to vote on the resolution. A request for a poll may be withdrawn.
- (d) An objection to the qualification of a person to vote at a general meeting:
  - (i) must be raised before or at the general meeting of which the vote objected to is given or tendered; and
  - (ii) must be referred to the chair of the meeting, whose decision is final.
- (e) A vote not disallowed by the chair of a meeting under clause 21(d) is valid for all purposes.

## **22 PROCEDURE FOR POLLS**

- (a) Subject to this clause, a poll when requested shall be taken in the manner and at the time the chair of the meeting directs.
- (b) The result of the poll shall be a resolution of the general meeting at which the poll was requested.
- (c) The request for a poll shall not prevent a general meeting from continuing with the transaction of any business other than that on which a poll has been requested.

## **23 NO CASTING VOTE FOR CHAIR**

In the event of an equality of votes on a show of hands or on a poll the chair of the meeting shall not have a casting vote.

## **24 REPRESENTATION AND VOTING OF MEMBERS**



- (a) Subject to this Constitution and subject to clause 26 in relation to the appointment of proxies:
  - (i) State Members, AWL Members, and Life Members shall have the right to attend general meetings of the Company provided that, where the Member is not a natural person, the Member shall appoint one (1) Member's Representative who is entitled to attend the meeting as the representative of that Member and exercise all of the powers of that Member which are exercisable at that meeting.
  - (ii) A Member shall be entitled to appoint a Member's Representative by a written instrument executed by the Member.
  - (iii) The Member's Representative of a Member must be the president/chair, a governing body member or director or the chief executive officer of that Member unless the President otherwise provides a Member with written authority for the Member to appoint some other person as its Member's Representative on whatever terms as are determined by the President.
  - (iv) State Members, through their Member's Representative, have the right to attend, speak and vote at general meetings.
  - (v) Life Members have the right to attend and speak, but not vote, at general meetings.
  - (vi) AWL Members, through their Member's Representative, have the right to attend and speak at general meetings but not vote other than indirectly and collectively through the AWL Voting Committee.
- (b) Subject to this Constitution:
  - (i) at meetings of the Company each Member entitled to attend and vote may attend and vote in person or by proxy;
  - (ii) on a show of hands, every Member Present having the right to vote at a general meeting has one vote; and
  - (iii) on a poll, every Member Present having the right to vote at a general meeting has one vote.

**25**

**REPRESENTATION AND VOTING OF AWL VOTING COMMITTEE**

- (a) Subject to this Constitution, the AWL Voting Committee (established and properly functioning in accordance with clause 46 and **Appendix D**) shall have the right to attend general meetings of the Company provided that, the AWL Voting Committee shall appoint one (1) representative from the committee members (which may be its chair) who shall be deemed able to attend and exercise all of the powers of the AWL Voting Committee which are exercisable at that meeting.
- (b) The AWL Voting Committee, through its representative, has the right to attend, speak and vote at general meetings, exercising these rights in accordance with Appendix D on behalf of AWL Members indirectly and collectively.
- (c) Other AWL Voting Committee members have the right to attend and speak at general meetings but not vote at general meetings.

- (d) Subject to this Constitution:
  - (i) at meetings of the Company the AWL Voting Committee representative may attend, speak and vote on behalf of the AWL Voting Committee in person;
  - (ii) by verbal communication from its representative, the AWL Voting Committee has three (3) votes; and
  - (iii) on a poll, the AWL Voting Committee, via its representative, has three (3) votes.

## **26 PROXIES**

- (a) **Members entitled to vote:** A Member entitled to vote at a meeting of the Company may appoint a proxy. A proxy must be another Member who is by reference to this Constitution entitled to attend and vote at that general meeting either in person or through the appointment of a Member's Representative.

**AWL Voting Committee:** The AWL Voting Committee may NOT appoint a proxy but may be represented as permitted under clause 25.

- (b) An instrument appointing a proxy must be in writing under the hand of a duly authorised officer of the appointor personally.
- (c) An instrument appointing a proxy shall be in the form which appears at **Appendix A**.
- (d) A proxy may vote as the proxy thinks fit on any motion or resolution in respect of which no manner of voting is indicated; however, if the instrument appointing a proxy specifies the way in which a proxy is to vote on any particular matter put to a vote at a general meeting, then the proxy must vote in the manner indicated in the instrument appointing the proxy.
- (e) The documents to be received under the Law and this Constitution for an appointment of a proxy to be effective must be received by the Company not less than twenty-four (24) hours before the meeting commences or resumes (as the case may be).

## **27 RIGHT OF OFFICERS AND ADVISERS TO ATTEND GENERAL MEETING**

- (a) A Secretary and any other officer of the Company who is not a Member shall be entitled to be present and, at the request of the chair of the meeting, to speak at any general meeting.
- (b) Any other person requested by the Board to attend any general meeting shall be entitled to be present and, at the request of the chair of the meeting, to speak at that general meeting.

## **28 CIRCULATING RESOLUTIONS**

Nothing in this Constitution limits the Company's power under the Law to pass a resolution as a circulating resolution.

## **29 PATRON**

- (a) The Board may from time to time appoint a Patron, who shall hold office for so long as, and on such terms and conditions as determined by the Board.
- (b) A person appointed as Patron must be a highly respected and prominent person in their particular field of achievement or endeavour and/or a person who has made an outstanding contribution to the Sport or the Company.
- (c) The Board may revoke any appointment to the position of Patron.
- (d) The Patron shall not be appointed as a Director for so long as the person remains the Patron.
- (e) The Patron shall not have any official role, responsibility or duty by virtue of being appointed to that role. The Board shall be responsible for determining the functions, powers and duties of the Patron.

## DIRECTORS

### 30 THE BOARD

- (a) The Board shall consist of not less than five (5) and a maximum of nine (9) Directors.
- (b) A person can only be appointed as a Director in accordance with the procedures set out in this Constitution.
- (c) **Ineligible Person:** A person shall not be eligible for appointment as a Director:
  - (i) Unless that person has already attained the age of eighteen (18) years.
  - (ii) If that person has been:
    - (1) appointed to, or acted as, Chief Executive Officer of the Company; or
    - (2) removed as a Director of the Company,at any time during the three (3) year period ending on the day before that person is nominated or takes office as a Director, unless otherwise resolved at a general meeting.
- (d) **Disqualifying Position:** A person who:
  - (i) is an employee of the Company, a State Member, AWL Member, or Affiliate Member; or
  - (ii) holds an Official Position with a State Member, AWL Member, Affiliate Member, Regional Governing Body or a Club;(each of the positions described in clauses 30(d)(i) to (iii) a “**Disqualifying Position**”) may not hold office as a Director unless the person complies with clause 30(f).
- (e) If a Director subsequently accepts or is later appointed to a Disqualifying Position, that Director must immediately notify the Directors of that fact,

where thereafter clause 33(a)(vii) applies, unless that Director elects to comply with clause 30(f).

- (f) If a person holding a Disqualifying Position is appointed as a Director, then that person must resign from the Disqualifying Position within seven (7) days, otherwise the appointment of the person as a Director is void ab initio.
- (g) The composition of the Board shall be as follows:
  - (i) Up to a maximum of six (6) Elected Directors.
  - (ii) Up to a maximum of two (2) Appointed Directors.
  - (iii) A maximum of one (1) Athletes Commission Director.
- (h) All Directors shall be elected or appointed (as the case may be for the Athletes Commission Director and any Appointed Directors) for a term of three (3) years expiring at the conclusion of the third Annual General Meeting following their most recent election or appointment, subject to this Constitution.
- (i) A person cannot serve continuously as a Director for more than a nine (9) year maximum aggregate period, with all time in service as a Director of any kind counting (cumulatively) towards the total time, subject to the relevant provisions of this Constitution being followed for the purposes of the appointment of Elected Directors, the Athletes Commission Director, and the Appointed Directors.
- (j) For the purposes of calculating the maximum period of nine (9) continuous years, gaps in service as a Director of any kind of less than 15 months will be disregarded in any such calculation. For avoidance of doubt, service either side of a gap in service as a Director of less than 15 months will be deemed to be continuous service and a gap of at least 15 months resets the start of the period of continuous service from the ending of that gap.
- (k) In full compliance with clause 43 and the *Corporations Act*, all Directors shall act and perform their functions and duties independently of any other role or interest, including within the Sport, acting at all times and doing all things necessary under this Constitution in the interests of the Company.

## 31 THE APPOINTMENT OF DIRECTORS AND THE PRESIDENT

All Directors appointed to office shall be appointed pursuant to the provisions of this clause 31 set out below.

### **Elected Directors**

- (a) Candidates for election as Elected Directors can be nominated by any Member or by the Nominations Committee.
- (b) Elected Directors are appointed by the Voting Members in an election conducted in accordance with the voting rules set out in **Appendix B**.
- (c) Nominations by Members of candidates for election to the office of an Elected Director shall be requested by the Secretary at least forty-five (45) days prior to the proposed date of the Annual General Meeting at which the election shall take place.
- (d) A Member nominating a candidate for election as an Elected Director

must make that nomination in writing in the form of a document approved by the Board. That document must be signed by the nominated candidate and the Member making the nomination.

- (e) Nominations made by Members pursuant to clause 31(d) must be received by the Secretary no later than 5:00pm on the day which is thirty-five (35) days prior to the Annual General Meeting at which the election shall take place. After that deadline passes the Secretary shall provide all nomination documents to the Nominations Committee.
- (f) The Secretary shall, not less than seven (7) days prior to the Annual General Meeting at which the election shall take place, give notice to all Voting Members and the AWL Voting Committee of the names of:
  - (i) the Member nominated candidates, indicating those approved by the Nominations Committee and the Board;
  - (ii) current Directors; and
  - (iii) any candidates nominated by the Nominations Committee;who are standing for election as an Elected Director at the Annual General Meeting.
- (g) Elections of Elected Directors shall take place at the times specified in this Constitution.
- (h) Subject to clause 32, Elected Directors are elected for a period of three (3) years ending at the time stated in clause 30(h).
- (i) Elected Directors hold office until the conclusion of the Annual General Meeting at which they are scheduled to retire by operation of clauses 30(h) or 32 and if eligible to be re-appointed, may nominate themselves for re-election.

#### **Athletes Commission Director**

- (j) The Athletes Commission Director is appointed by the Athletes Commission in accordance with the procedure for making that appointment which is specified in the Athletes Commission charter.
- (k) The person appointed by the Athletes Commission as the Athletes Commission Director must be a member of the Athletes Commission and must remain a member of the Athletes Commission for the duration of the appointment to the office of Athletes Commission Director, otherwise clause 33(a)(viii) applies.

#### **Appointed Directors**

- (l) Appointed Directors are appointed at a meeting of the Elected Directors and the Athletes Commission Director (together the “**Appointing Directors**”).
- (m) The Appointing Directors may themselves appoint up to two (2) persons to be Appointed Directors because such persons have special qualifications, business acumen or technical skills which would be of material benefit to the Company if that person were a Director.

#### **President**

- (n) The President shall be appointed as follows:
  - (i) Subject to clause 31(n)(ii) below, the Directors shall, in accordance with this Constitution and by a resolution passed at a meeting convened for the purposes as soon as is practicable after each Annual General Meeting, elect from amongst their number a Director to act as President.
  - (ii) The Athletes Commission Director is ineligible to stand for appointment as President; appointment to the office of President; or act as chair of any meeting of the Company or its Directors.
- (o) Subject to this Constitution, the person elected as President in accordance with clause 31(n) shall remain in that office until the conclusion of the next Annual General Meeting.

#### **Directors generally**

- (p) Prior to their appointment as a Director a prospective appointee shall provide to the Company as part of the nomination process, a schedule of potential conflicting interests with the interests of the Company. If a person has a material conflicting interest with the Company, then that person must not be appointed as a Director.
- (q) The Company may at any time remove any Director from office by resolution passed in accordance with the *Corporations Act* and this Constitution provided that the minimum number of Directors required by the *Corporations Act* is maintained.
- (r) A Director removed from office under clause 31(q) may not be nominated or re-elected to the office of Director for a period of three (3) years commencing from the date of removal from office, unless otherwise resolved at a general meeting.
- (s) Where a Director serves continuously as a Director for a total aggregate time of nine (9) years (as calculated in accordance with clause 30) that person must resign with immediate effect as a Director. Thereafter that person shall not be eligible for nomination, election or appointment as a Director in any capacity for a period of at least 15 months commencing from the vacation of office.

## **32 TRANSITIONAL PROVISIONS; INTERIM PROVISIONS, AND APPOINTMENT AND ELECTION AND ROTATION OF DIRECTORS**

### **Existing Board at 2020 Annual General Meeting**

- (a) All Elected and Appointed Director positions were declared vacant under clause 33(a)(iv) with effect from the conclusion of the 2020 Annual General Meeting other than those positions filled by election or re-election at that Annual General Meeting. For avoidance of doubt, despite any other provision of this Constitution or of their terms of appointment, all Elected Directors then in office stood for re-election at the 2020 Annual General Meeting if they wished to continue in office afterwards and Appointed Directors then in office ceased to be Directors at the conclusion of that meeting.

### **Appointed Directors after 2020 Annual General Meeting**

- (b) As soon as is practicable after the 2020 Annual General Meeting the

Appointing Directors met for the purpose of considering and determining to appoint up to two (2) persons as Appointed Directors in accordance with clauses 31(l) to (m) and clause 32(c).

- (c) Appointed Directors under clause 32(b) were appointed as follows:
  - (i) one (1) Appointed Director to serve until the conclusion of the 2021 Annual General Meeting; and
  - (ii) one (1) Appointed Director to serve until the conclusion of the 2022 Annual General Meeting; with
  - (iii) each, subject to the requirements of this Constitution, being eligible to then be reappointed.

**Terms of Office of Elected Directors elected at 2020 Annual General Meeting**

- (d) Persons elected as Directors at the 2020 Annual General Meeting were ranked by the Returning Officer according to the number of Primary Votes (as that term was previously defined in the rules governing elections) received and:
  - (i) the two (2) Directors elected with the most and second most Primary Votes each will initially serve for three (3) year terms and retire at the 2023 Annual General Meeting and will, subject to the requirements of this Constitution, then be eligible for re-election;
  - (ii) the two (2) Directors elected with the third and fourth most Primary Votes each will initially serve for two (2) year terms and retire at the 2022 Annual General Meeting and will, subject to the requirements of this Constitution, then be eligible for re-election; and
  - (iii) the two (2) Directors elected with the fifth and sixth most Primary Votes each will initially serve for one (1) year terms and retire at the 2021 Annual General Meeting and will, subject to the requirements of this Constitution, then be eligible for re-election.
- (e) For the purposes of determining the ranking by Primary Votes above, in the event of any ties the ranking order was determined by lot taken among the relevant tied Directors by the Returning Officer at the conclusion of the vote counting and the ranking order advised to the chair of the meeting at the time of advising the result of the elections.
- (f) For clarity:
  - (i) a person elected or re-elected as an Elected Director took or continued in office immediately upon the conclusion of the Annual General Meeting at which they were elected or re-elected; and
  - (ii) service as a Director of any kind, whether before or after the 2020 Annual General Meeting, is relevant for the purposes of any calculation under clause 30(i).

**33 VACATION OF OFFICE**

- (a) The office of a Director becomes vacant, and a casual vacancy in that

office is created, in any of the following circumstances:

- (i) in the circumstances prescribed by the Law;
  - (ii) if an Insolvency Event occurs in relation to a Director;
  - (iii) if the Director becomes a Mentally Incapacitated Person;
  - (iv) if the Director is removed from office pursuant to this Constitution;
  - (v) if the Director is removed from office by the Members under the procedure prescribed in the Law and this Constitution;
  - (vi) if the Director resigns by notice in writing to the Secretary or refuses to act;
  - (vii) if the Director accepts or is appointed to a Disqualifying Position;
  - (viii) if, in the case of the Athletes Commission Director, the person ceases to be a member of the Athletes Commission;
  - (ix) is absent without the consent of the Board from three (3) consecutive meetings of the Board;
  - (x) dies; or
  - (xi) clause 31(s) applies in relation to the total continuous period in respect of which the person has held the office of Director.
- (b) In circumstances of a casual vacancy in the office of any Director except the Athletes Commission Director:
- (i) the remaining Directors may appoint a person as a Director;
  - (ii) a person can be appointed as a Director under this clause in order to make up a quorum for a Directors' meeting even if the total number of Directors is not enough to make up that quorum; and
  - (iii) except where an appointment is made under paragraph (ii), the remaining Directors will obtain the views of the Nominations Committee in relation to the filling of the vacancy and the proposed appointee.
- (c) If a person is appointed to fill a casual vacancy in the position of an Elected Director:
- (i) the person is appointed to the position until the conclusion of the next Annual General Meeting; and
  - (ii) provided a resolution is passed at the next Annual General Meeting confirming the appointment, the person shall remain in the position for the remainder of the term of appointment that the person who vacated the office would have remained in office under this Constitution before having to stand for re-election.
- (d) Any appointment made pursuant to clause 33(b) shall be on terms



determined by the remaining Directors subject to the requirements of this Constitution.

- (e) In the circumstances of a casual vacancy in the office of the Athletes Commission Director the Athletes Commission may appoint a qualifying person to fill the casual vacancy.

#### **34 CHIEF EXECUTIVE OFFICER**

- (a) The Directors may from time to time appoint a Chief Executive Officer of the Company for such period and on such terms as they think fit and, subject to the terms of any agreement entered into in a particular case, may revoke any such appointment.
- (b) The Chief Executive Officer is not a Director and is not a member of the Board.
- (c) Further to clause 30(c)(ii), at any time while the Chief Executive Officer remains appointed in that position he or she may not be appointed as a Director.
- (d) The Chief Executive Officer must report to the Board on a regular basis and as and when required by the Board.
- (e) The Chief Executive Officer must attend meetings of Directors if required by the Board to do so; however, the Chief Executive Officer is not entitled to vote on any resolution which is considered by the Board at any such meeting.

### **POWERS AND DUTIES OF DIRECTORS**

#### **35 POWERS OF DIRECTORS**

- (a) Subject to the Law and this Constitution, the business of the Company shall be managed by the Directors who may exercise all powers of the Company, including but not limited to the making of Policies and decisions consistent with fulfilling the objects of the Company, which are not, by the Law or this Constitution, required to be exercised by the Company in general meeting.
- (b) No clauses, regulations or other decisions so made shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.
- (c) The Directors shall not sell or otherwise dispose of the main undertaking of the Company or any land holdings of the Company without the prior approval of the Company in general meeting.
- (d) Without limiting the generality of clause 35 the Directors may exercise all the powers of the Company to borrow money and to charge any property or business of the Company.
- (e) A Policy:
  - (i) is in force and takes effect on and from a date no earlier than fourteen (14) days after it is made by the Board and shall be notified to Members on or prior to it taking effect;

- (ii) is subject to this Constitution;
  - (iii) must be consistent with this Constitution;
  - (iv) when in force is binding on all Members; and
  - (v) may be overruled, wholly or partially, if a resolution to that effect is passed by the Members at any general meeting convened for this purpose, but only with prospective (not retrospective) effect so as not to invalidate any prior action, omission or conduct pursuant to the Policy.
- (f) Any Policy already properly put into effect as at the date of adoption of this Constitution is taken to be a Policy made in accordance with this clause but may be overruled, wholly or partially, in the manner prescribed by paragraph (e)(v) above.

### **36 APPOINTMENT OF ATTORNEYS AND RETURNING OFFICERS**

- (a) The Company may, by power of attorney, appoint any person to be the attorney of the Company for the purposes, with the powers, authorities and discretions vested in or exercisable by the Board as may be specified by them and for such period and subject to such conditions as they think fit.
- (b) The President shall appoint a Returning Officer to act in respect of any election conducted by operation of this Constitution.

### **37 NEGOTIABLE INSTRUMENTS**

All negotiable instruments of the Company shall be executed by the persons and in the manner that the Board decides from time to time.

## **MEETINGS OF DIRECTORS**

### **38 MEETINGS**

- (a) The Directors shall meet together not less than five (5) times per year but in any event as often as is necessary for the despatch of business of the Company. The Board may adjourn and otherwise regulate their meetings as they think fit.
- (b) Any one (1) Director may, at any time, by written notice to the Secretary request that a meeting of the Directors be convened. The Secretary shall forthwith convene a meeting in accordance with such a request.
- (c) A notice of a meeting of Directors:
  - (i) must specify the time and place of the meeting;
  - (ii) need not state the nature of the business to be transacted at the meeting; and
  - (iii) may be given in person or by post or by telephone, facsimile or other electronic means.
- (d) A Director may waive notice of any meeting of Directors by notifying the Company to that effect in person or by post, telephone, facsimile or other

electronic means.

- (e) The non-receipt of notice of a meeting of Directors by, or a failure to give notice of a meeting of Directors to, a Director does not invalidate anything done or resolution passed at the meeting if:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) before or after the meeting, the Director waived or waives notice of that meeting or has notified or notifies the Company of their agreement to that thing or resolution personally or by post, telephone, facsimile or other electronic means; or
  - (iii) the Director attended the meeting.
- (f) A person who attends a meeting of Directors waives any objection that person may have to a failure to give notice of the meeting.

### **39 MEETINGS BY TECHNOLOGY**

- (a) For the purposes of the Law, each Director, on becoming a Director (or on the adoption of this Constitution), consents to the use of the following technology for calling a Board meeting:
  - (i) telephone; and
  - (ii) electronic mail.
  - (iii) video;
  - (iv) telephone;
  - (v) any other technology which permits each Director to communicate with every other Director; and
  - (vi) any combination of the technologies described in clauses 39(a)(iii) to (v).
- (b) A Director may withdraw the consent given under this clause in accordance with the Law.
- (c) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
  - (i) the participating Directors shall, for the purpose of every provision of this Constitution concerning meetings of the Directors, be taken to be assembled together at a meeting and to be present at that meeting; and
  - (ii) all proceedings of those directors conducted in that manner shall be as valid and effective as if conducted at a meeting at which all of them were present.

### **40 QUORUM AT BOARD MEETINGS**

A quorum for a meeting of Directors is the presence or, subject to clause 39, participation as permitted by the Law of at least 50% of the number of Directors in office.

**41 PRESIDENT**

- (a) The chair of all meetings of the Board shall be the President appointed in accordance with clause 31(n).
- (b) Where a meeting of Directors is held and:
  - (i) a President has not been appointed as provided by clause 31(n); or
  - (ii) the President is not present at the time appointed for the holding of the meeting or does not wish to chair the meeting,the Directors present shall elect a Director other than the Athletes Commission Director as the chair of that meeting.
- (c) The chair of the meeting does not have a casting vote in addition to any vote to which the chair may be entitled as a Director.

**42 PROCEEDINGS AT MEETINGS**

Subject to this Constitution, questions arising at a meeting of Directors shall be decided by a majority vote of Directors present and voting and any such decision shall for all purposes be taken to be a decision of the Board.

**DIRECTORS' OWN INTERESTS**

**43 DISCLOSURE & MANAGEMENT OF DIRECTORS' INTERESTS**

- (a) A Director shall declare to the Directors any material personal interest or related party transaction, as defined by the *Corporations Act*, as soon as practicable after that Director becomes aware of their interest in the matter.
- (b) The Company shall maintain register of those interests of Directors notified to the Company from time to time.
- (c) A Director is not disqualified by the Director's office from contracting with the Company in any capacity.
- (d) If the provisions of clause 43 and the Law have been observed by any Director with regard to any contract or arrangement in which the Director is in any way interested, a contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested shall not be avoided merely because the Director is a party to or interested in it.
- (e) A Director is not liable to account to the Company for any profit derived in respect of a matter in which the Director has a material personal interest, merely because of the Director's office or the fiduciary relationship it entails, if the Director has:
  - (i) declared the Director's interest in the matter as soon as practicable after the relevant facts have come to the Director's knowledge; and

- (ii) not contravened this Constitution or the Law in relation to the matter.

A general notice that the Director is an officer or member of a specified entity or organisation stating the nature and extent of the Director's interest in the entity or organisation shall, in relation to a matter involving the Company and that entity or organisation, be a sufficient declaration of the Director's interest, provided the extent of that interest is not materially greater than was stated in the notice from the time of first consideration of the relevant matter by the Directors until any relevant decision has been made.

- (f) Subject to the Law, a Director may not:
  - (i) receive board papers;
  - (ii) vote in respect of a matter; or
  - (iii) be present when a vote is conducted in respect of a matter, in which that Director has a material personal interest.

In the event of any uncertainty in this regard, the issue shall immediately be determined by a vote of the Directors or, if this is not possible, the matter shall be adjourned or deferred to the next meeting.

- (g) Directors must complete an annual statement of interest which must be updated from time to time to satisfy the requirements in clause 43(a).
- (h) Nothing in this clause 43 shall operate to limit the operation of the *Corporations Act* as it applies to the interests of company directors.

#### **44 REMUNERATION**

- (a) The Directors shall be entitled to payment of fees for their service as Directors of the Company in any maximum aggregate amount specified at any time by a resolution passed as a Special Resolution of Voting Members in general meeting.
- (b) The maximum aggregate amount approved by the Voting Members at the date of adoption of this Constitution is nil dollars (\$Nil). Any proposal for a resolution to increase the maximum aggregate fee amount referred to in clause 44(a), and the proposed increased amount, shall be specified in the notice calling any general meeting to pass that resolution.
- (c) Fees payable to Directors under this clause 44 shall accrue from day to day and be allocated among the Directors in any proportions agreed by the Directors or, in the absence of agreement, equally, unless otherwise specified in the Special Resolution of Voting Members approving the maximum aggregate amount.
- (d) Any Director shall be entitled to payment or reimbursement of any travelling and other cost properly incurred by that Director in attending and returning from any meeting of Directors, or committee of Directors, or general meeting or otherwise in connection with the business of the Company.
- (e) The Company may pay to any Director, who performs any extra service, travels or makes any special effort for the benefit of the Company, any

special remuneration as a fixed amount, as decided by the Board, whether in addition to or in substitution for the share of fees payable to that Director under this clause 44.

- (f) Any fees or special or additional remuneration payable to Directors under this provision shall not comprise or be calculated by reference to any commission on or percentage of profits, operating revenue or turnover.

## **45 BOARD COMMITTEES**

- (a) The Directors may delegate any of their powers to a committee or committees consisting of such number of them and/or other persons as the Directors may determine. A committee may consist of one or more persons.
- (b) A committee to which any powers have been so delegated shall exercise the powers delegated in accordance with any directions of the Directors. A power so exercised shall be taken to have been exercised by the Directors, with any committee so established being and functioning as a committee of the Directors regardless of whether there is a Director member or not.
- (c) The number of members whose presence at a meeting of a committee is necessary to constitute a quorum is the number determined by the Board and, if not so determined, is two (2). Unless the Board determines otherwise, the quorum need only be present at the time when the meeting proceeds to business.
- (d) Minutes of all the proceedings and decisions of every committee shall be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Law to be made, entered and signed.
- (e) Directors who are not members of a committee may attend and speak at any committee meeting (except meetings of the Athletes Commission and the Nominations Committee other than by invitation of the committee chair) but are not thereby members of the committee or counted in relation to a quorum.
- (f) Without limiting the Board's power to establish additional committees, the following committees are established:
  - (i) the Finance, Risk and Audit Committee.
  - (ii) the Nominations Committee.
  - (iii) the Athletes Commission.
- (g) The terms of a committee's charter (or similar), including those appended to this Constitution, may only be established or varied in a manner permitted by or consistent with this Constitution. In the case of the Nominations Committee:
  - (i) in relation to the functions of the committee, the Board may use and apply its discretion to add to, but not to derogate from, said functions; and
  - (ii) in all other matters relating to the charter, where any change to the terms has been approved by the Board and consented

to by a majority of the Voting Members which may be obtained by resolution at a general meeting or by one or more signed written document(s).

#### **Finance, Risk and Audit Committees**

- (h) The Finance, Risk and Audit Committee shall be comprised of three (3) Directors as nominated by the Board or otherwise determined by the Board from time to time, at least one (1) external and independent certified practising accountant or chartered accountant and, if no separate Risk Committee is established, at least one (1) external and independent lawyer, risk management professional or integrity expert.
- (i) The powers and functions delegated by the Board to the Finance, Risk and Audit Committee, or to a Finance and Audit Committee if a separate Risk Committee is established, and the terms upon which those powers are delegated, shall be determined by the Board.
- (j) A separate Risk Committee may be established as and when the Board sees fit and shall be comprised of three (3) Directors as nominated by the Board or otherwise determined by the Board from time to time and at least one external and independent lawyer, risk management professional or integrity expert.
- (k) The powers and functions delegated by the Board to any separately established Risk Committee, and the terms upon which those powers are delegated, shall be determined by the Board.
- (l) The Board may re-combine the Finance and Audit and Risk Committees into a single committee.

#### **Nominations Committee**

- (m) The composition of the Nominations Committee shall be as follows:
  - (i) One (1) person appointed by the Board;
  - (ii) One (1) person appointed by the Voting Members; and
  - (iii) One (1) person independent of the Company, the Sport, and of the Members, who shall act as chair of the Nominations Committee, subject to the following:
    - (1) the chair of the Nominations Committee will be appointed by the two (2) nominees appointed as per sub-clauses (i) and (ii), having a relevant background, qualifications, and/or experience; and
    - (2) where the two nominees are not able to agree on the independent person to be appointed as chair, the current Company auditor will be approached promptly and will have the power to appoint an independent person having a relevant background, qualifications and/or experience to act as chair.
- (n) Set out in **Appendix C** is the charter of the Nominations Committee, which includes:
  - (i) the terms of reference of the Nominations Committee;
  - (ii) the functions of the Nominations Committee; and
  - (iii) the terms of appointment of members of the Nominations

Committee.

### **Athletes Commission**

- (o) The composition of the Athletes Commission shall be as follows:
  - (i) three (3) people who are party to a current athlete agreement with the Company;
  - (ii) two (2) people who were a member of an Olympic Squad for the most recent or second-to-last Olympic Games; and
  - (iii) as an ex-officio member any person who is a member of the Australian Olympic Committee Athlete's Commission who is or has been a member of a Representative Squad or Olympic Squad.
- (p) The powers and functions delegated by the Board to the Athlete's Commission, and the terms upon which those powers are delegated, shall be determined by the Board.

**46**

### **AWL VOTING COMMITTEE**

- (a) Without being established or operating as a Board Committee, rather being established under this Constitution for the purposes of collectively and indirectly casting votes exercisable by AWL Members, the composition of the AWL Voting Committee shall be four (4) persons appointed by the AWL Members, being no more than two (2) persons from AWL clubs which are members of the same State Member.
- (b) Set out in **Appendix D** is the charter of the AWL Voting Committee, which includes:
  - (i) the terms of reference of the AWL Voting Committee;
  - (ii) the functions of the AWL Voting Committee;
  - (iii) the eligibility for appointment as members of the AWL Voting Committee, including the terms of appointment; and
  - (iv) the policy and process for the consideration of and casting of its votes under this Constitution.

**47**

### **WRITTEN RESOLUTIONS**

- (a) If a document:
  - (i) is sent to all those entitled to receive notice of a meeting of Directors at which a resolution could be put;
  - (ii) contains a statement that the signatories to it are in favour of that resolution;
  - (iii) sets out or identifies the terms of the resolution in the document; and
  - (iv) has been signed by at least a simple majority of the Directors entitled to vote on that resolution,



a resolution in those terms is passed on the day on which the last of the simple majority of Directors signs the document in favour of the resolution, and the document has effect as a minute of the resolution.

- (b) For the purposes of clause 47(a):
  - (i) two (2) or more separate documents containing statements in identical terms each of which is signed by one (1) or more Directors shall together be taken to constitute a document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director; and
  - (ii) a facsimile or electronic mail which is received by the Company or an agent of the Company and is sent for or on behalf of a Director shall be taken to be signed by that Director not later than the time of receipt of the facsimile or electronic mail by the Company or its agent in legible form.

## **48 DEFECTS IN APPOINTMENTS**

- (a) All acts done by any meeting of the Directors, committees of Directors or any person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of the committee.
- (b) Clause 48(a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of a committee or to act as a Director or that a person so appointed was disqualified.

## **MINUTES OF MEETINGS**

### **49 MINUTES**

The Directors shall cause minutes to be duly entered in the records of the Company provided for the purpose:

- (a) of all appointments of officers;
- (b) of the names of the Directors present at each meeting of the Directors and those present at meetings of any committee of the Directors established under clause 45;
- (c) of all orders made by the Directors and of any committee of the Directors established under clause 45;
- (d) all resolutions of the Company; and
- (e) of all resolutions and proceedings of meetings of the Company, of all meetings of the Directors of the Company, and of all meetings of any committee of the Directors established under clause 45,

and such minutes, if purporting to be signed by the chair of such meeting or by the chair of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minutes.

### **50 COPIES**

Copies of all minutes shall be forwarded to the Secretary as soon as possible.

## **SECRETARIES AND OTHER OFFICERS**

### **51 SECRETARIES**

- (a) Subject to this clause, a Secretary of the Company holds office on the terms and conditions, as to remuneration and otherwise, as the Directors decide. A Secretary shall be appointed at the first meeting of Directors after a vacancy in that office occurs.
- (b) The Directors may at any time terminate the appointment of a Secretary.

### **52 COMPANY SECRETARY AND OTHER OFFICERS**

- (a) The Directors shall appoint a Company Secretary in accordance with the requirements of the *Corporations Act*.
- (b) The Directors may from time to time:
  - (i) create any other position or positions in the Company with such powers and responsibilities as the Directors from time to time confer; and
  - (ii) appoint any person, whether or not a Director to a position or positions created under clause 52(b)(i).
- (c) The Directors may at any time terminate the appointment of a person holding a position created under clause 52(b)(i) and may abolish the position.

## **SEAL AND EXECUTING DOCUMENTS**

### **53 SEAL AND ITS USE**

- (a) The Company may but need not have a Seal.
- (b) If the Company has a common seal, the Seal shall be used only by the authority of the Directors, or of a committee of the Directors authorised by the Directors to authorise the use of the Seal. Every document to which the Seal is affixed shall be signed by:
  - (i) two (2) Directors; or
  - (ii) a Director and a Secretary (or another person appointed by the Directors to countersign that document or a class of documents in which that document is included).
- (c) This clause 53 does not limit the other ways in which the Company may execute a document.

## **INSPECTION OF RECORDS, ACCOUNTS AND AUDIT**

### **54 INSPECTION OF RECORDS**

- (a) The Directors have the power to authorise a Member to inspect books of the Company (to the extent, at the time and places and under the

conditions the Directors consider appropriate).

- (b) A Member does not have the right to inspect any document of the Company in their capacity as a Member except as provided by the Law or authorised by the Directors.

## **55 ACCOUNTS AND REPORTING TO MEMBERS**

The Directors shall:

- (a) cause proper accounts and other records to be kept and audited;
- (b) send copies of the financial report, directors' reports and auditor's report to the Members in accordance with the requirements set out in the *Corporations Act*; and
- (c) cause to be laid before each Annual General Meeting the financial report, the Directors' report and the auditor's report for the last financial year that ended before the Annual General Meeting.

## **56 AUDIT AND FINANCIAL YEAR**

- (a) A properly qualified auditor or auditors shall be appointed to the Company to review the financial statements, the notes thereto and the Directors' declaration about the financial statements and the notes thereto and report to the Members on whether the auditor is of the opinion that the financial report is in accordance with the Law, complies with accounting standards and presents a true and fair view.
- (b) The financial year of the Company shall be determined by the Directors in accordance with the requirements of the *Corporations Act*.

## **NOTICES**

### **57 NOTICES GENERALLY**

- (a) Any Member who has not left at or sent to the registered office a place of address, facsimile number or an electronic mail address (for registration in the Register) at or to which all notices and documents of the Company may be served or sent shall not be entitled to receive any notice.
- (b) A notice may be given by the Company to any Member by:
  - (i) serving it on the Member personally;
  - (ii) sending it by post to the Member or leaving it at the Member's address as shown in the Register or the address supplied by the Member to the Company for the giving of notices;
  - (iii) facsimile to the facsimile number supplied by the Member to the Company for the giving of notices; or
  - (iv) transmitting it electronically to the electronic mail address given by the Member to the Company for the giving of notices.

- (c) Notice to a Member whose address for notices is outside Australia shall be sent by airmail, facsimile or electronic mail.
- (d) Where a notice is sent by post, service of the notice shall be taken to be affected by properly addressing, prepaying and posting a letter containing the notice and to have been affected:
  - (i) in the case of a notice of a meeting, on the day next after the date of its posting; and
  - (ii) in any other case, at the time at which the letter would be delivered in the ordinary course of post.
- (e) Where a notice is sent by facsimile or electronic transmission, service of the notice shall be taken to be affected by properly addressing and sending or transmitting the notice and to have been affected on the business day after it is sent.
- (f) The AWL Voting Committee may advise the Secretary of one or more addresses for the service of notices on the committee under this Constitution from time to time. Any notice given to the committee at a nominated address by a method authorised by this Constitution for the giving of notices to Members will be valid. However, in any case, any notice given to the AWL Members under this Constitution will be taken to have also been given to the committee under this Constitution for all purposes.
- (g) Where any Director is for the relevant time outside of Australia, notice need only be given to that Director if updated contact details have been given to the Secretary.

## **58 NOTICES OF GENERAL MEETING**

- (a) Notice of every general meeting shall be given in the manner authorised by clause 57:
  - (i) to every State Member, AWL Member, the AWL Voting Committee and Life Member, and to each Director;
  - (ii) to the auditor of the Company; and
  - (iii) any other person entitled to receive such notice under this Constitution or by operation of the Law.
- (b) Except as required by the Law, no other person is entitled to receive notice of general meetings.

## **INDEMNITY**

### **59 INDEMNITY AND INSURANCE**

- (a) This clause 59 applies to every person who is or has been:
  - (i) a Director, Chief Executive Officer or Company Secretary; and
  - (ii) to any other officers, employees, former officers or former employees of the Company or of its related bodies corporate as the Directors in each case determine.

Each person referred to in this paragraph (a) is referred to as an **"Indemnified Officer"** for the purposes of the rest of clause 59.

- (b) The Company will indemnify each Indemnified Officer out of the property of the Company against:
  - (i) every liability (except a liability for legal costs) that the Indemnified Officer incurs as an Officer of the Company or of a related body corporate of the Company; and
  - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Company or of a related body corporate of the Company,unless:
  - (iii) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
  - (iv) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.
- (c) The Company may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Company or of a related body corporate of the Company including a liability for legal costs, unless:
  - (i) the Company is forbidden by statute to pay or agree to pay the premium; or
  - (ii) the contract would, if the Company paid the premium, be made void by statute.
- (d) The Company may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by clause **Error! Reference source not found.** on the terms the Directors think fit (as long as they are consistent with clause 59).

**APPENDIX A**

**Notice of Proxy.**

To: **The Secretary**  
Water Polo Australia Limited  
Level 2 Building B  
6 Figtree Drive  
SYDNEY OLYMPIC PARK NSW 2127

**[NAME OF APPOINTER]** hereby appoints **[NAME OF PROXY]** of **[ADDRESS OF PROXY]** as proxy to vote on **[NAME OF MEMBER]**'s behalf at the meeting of Water Polo Australia Limited to be held on **[DATE OF MEETING]** and any adjournment thereof.

**WPA Constitution – Clause 26**

	RESOLUTION IN NOTICE OF MEETING	HOW PROXY IS TO VOTE
1		
2		
3		
4		
5		

Signed:

Dated:

## APPENDIX B

### Rules Governing Elections

**Note:** The capitalised terms used in this Appendix B are ascribed the same meanings as given to those terms in clause 1 of the Constitution of Water Polo Australia Limited unless expressly stated to the contrary.

#### Part A

#### BALLOT PAPERS IN WPA ELECTIONS

##### Informal Ballot Papers

- 1 The following rules shall apply in the conduct of any election provided for pursuant to the Constitution of the Company or otherwise conducted by the Company:
  - (a) Subject to the provisions of Rule 2 below, a ballot paper shall be informal if:
    - (i) It is not authenticated by the initials of the presiding Returning Officer.
    - (ii) It is not an original ballot paper. For clarification, any ballot paper issued and/or returned via technology is not deemed to be informal solely for the reason it may not be considered to be an original ballot paper.

##### Returning Officer Amendment to Ballot Paper Not to Render Ballot Paper Informal

- 2 Any mark or obliteration on the face of a ballot paper, which is made and appropriately initialled by the Returning Officer for the purpose of denoting which candidates, whose names are listed on the ballot paper, are properly entitled to stand for election to the office that the named person is listed as a candidate for, shall be deemed to be a valid amendment to the ballot paper which shall not render the ballot paper informal for the purposes of Rule 1 above.

#### Part B

##### Voting Rules

- 1 In the conduct of any election provided for under the provision of this Constitution a Returning Officer shall act in accordance with the following procedures:
  - (a) Elections for Elected Directors shall be by ballot in accordance with these Rules at the relevant general meeting on papers prepared by the Returning Officer with each eligible Voting Member casting their votes for or against, or abstaining from voting, in relation to each nominee for election.
  - (b) The ballot for an election to fill one or more Elected Director positions will be conducted in accordance with the following procedure:
    - (i) the ballot will be conducted as a poll and each of the eligible nominee/s who receives a simple majority of votes cast in favour of their election will be ranked in order from the highest to the lowest number of votes in favour and taken to be elected to fill an Elected Director position in descending order until all

available Elected Director positions are filled;

- (ii) where two or more nominees with a simple majority are tied with the same number of votes in favour of their election and at the relevant time there are less Elected Director positions remaining unfilled than there are tied nominees then the Returning Officer is to draw the name(s) of such number of those tied nominees by lot equal to the number of Elected Director positions remaining to be filled. Those drawn by lot are each elected as an Elected Director; and
- (iii) where the number of nominees receiving a simple majority of votes cast in favour of their election is less than the number of Elected Director positions available to be filled then such nominees are each elected as an Elected Director with any remaining positions remaining vacant, but able to be filled subsequently as casual vacancies in accordance with the Constitution.

**Affirmative / Negative Voting for Life Members**

- 2 Elections shall be conducted in accordance with the procedure set out in clause 12 of the Constitution.



## **APPENDIX C**

### **Nominations Committee Charter**

Set out in this Appendix C is the Charter of the Nominations Committee established by operation of clause 45(f) of the Constitution of the Company (note that, unless otherwise stated, references to clauses are references to clauses of this Appendix C):

#### **1 Composition**

- (a) The composition of the Nominations Committee is set out in clause 45(m) of the Constitution.
- (b) In respect of any external person appointed to the Nominations Committee pursuant to clause 45(m)(iii) of the Constitution the appointee:
  - (i) must, in the opinion of the persons appointed pursuant to sub-clauses clauses 45(m)(i) and (ii) of the Constitution, have significant business and/or governance expertise; but
  - (ii) must not have any formal association or connection to organised water polo in Australia.
- (c) If an external person appointed to the Nominations Committee holds a “Disqualifying Position” as defined in clause 30(d) of the Constitution, the person must resign from that Disqualifying Position within seven (7) days of appointment to the Nominations Committee or subsequently taking up that Disqualifying Position, failing which the appointment of the person to the Nominations Committee shall be determined void from appointment to the Committee or taking up subsequently the Disqualifying Position, as applicable.

#### **2 Nominations Committee Chair**

The chair of the Nominations Committee shall be the independent person, as per sub-clause 45(m)(iii) of the Constitution.

#### **3 Term of Office**

The term of office of each member of the Nominations Committee shall be a maximum time period of two (2) years. A person is eligible for re-appointment when 15 months have elapsed since expiry of their previous term.

#### **4 Purpose, Functions and Responsibilities**

- (a) The primary purpose of the Nominations Committee is to assist the Board as the Board fulfils its responsibility to Members, by ensuring that the Board comprises individuals best able to discharge the responsibilities of Directors.
- (b) The Nominations Committee will meet as frequently as is necessary.
- (c) A quorum for a meeting of the Nominations Committee is provided for in clause 45(c) of the Constitution.
- (d) The functions of the Nomination Committee shall include:
  - (i) Reviewing and assessing the skills required to discharge competently the Board’s duties having regard to the Company’s objects and strategic direction, including specific qualities or skills that the Nominations Committee believes are necessary for one or more of the Directors to possess, and the mix of skills, experience expertise and

diversity that the Board desires to achieve in membership of the Board.

- (ii) Develop policy, review, assess from time to time and recommend to the Board as appropriate on:
    - (1) Director tenure and Board composition;
    - (2) the process of orientation and education of new Directors; and
    - (3) continuing professional education for Directors.
  - (iii) Develop and review policy for the purposes of assessing nominees for election or appointment as Directors, such policy which ensures that each nominee is assessed by the Nominations Committee against criteria including:
    - (1) the commitment of the nominee to a strong governance regime for water polo in Australia;
    - (2) the commitment of the nominee to the Company developing strong policies and strategies for the development of water polo in Australia;
    - (3) whether the nominee is involved in activities which could, or be reasonably perceived to, materially interfere with the nominee's capacity to act in the best interests of the Company;
    - (4) whether the nominee is free from any interest or relationship which could, or could reasonably be perceived to, materially interfere with the nominee's ability to act in the best interests of the Company;
    - (5) whether the election or appointment of the nominee as a Director will enhance the balance and diversity of skills amongst Directors; and
    - (6) whether the nominee satisfies any core competencies or other requirements established by the Board.
  - (iv) Identification and nomination of appropriate potential future Directors.
  - (v) Assessing any nominees for election or appointment as Directors against the policy developed by the Nominations Committee pursuant to clause 4(d)(iii) of this Appendix C.
  - (vi) Making recommendations to the Board on whether Elected Directors should stand for re-election or Appointed Directors re-appointed.
  - (vii) Determining and advising regarding eligibility of persons for election, re-election or appointment or continuing to serve as a Director as provided for in the Constitution.
- (e) The Nominations Committee shall discharge its functions outlined in clause 4(d)(v) of this Appendix C so that the Nominations Committee is in a position to report back to the Board within 21 days (or such shorter period required under the Constitution, or such longer period as determined and notified by the Board) after the date on which the Nominations Committee is requested to assess a nominee

for appointment or election as a Director.

- (f) The Nominations Committee may, but is not required to, give reasons to the Board as to why a nominee has been assessed by the Nominations Committee as a person suitable or unsuitable (as the case may be) for appointment or election as a Director.
- (g) The Nominations Committee may, by whatever means it so chooses, inform itself as to any matter relevant to the question of whether a nominee is a person suitable or unsuitable (as the case may be) for appointment or election as a Director.

## **5 Varying these terms**

The terms of this Charter may only be varied in the manners specified in the Constitution.

## Appendix D

### AWL Voting Committee Charter

Set out in this Appendix D is the Charter of the AWL Voting Committee established by operation of clause 46 of the Constitution of the Company (note that, unless otherwise stated, references to clauses are references to clauses of this Appendix D):

#### 1 Committee Composition and Role

- (a) The composition of the AWL Voting Committee is set out in clause 46 of the Constitution.
- (b) The AWL Voting Committee is established solely to facilitate the determination of how the Committee's votes and powers to act or give or withhold consents or approvals under this Constitution will be cast or exercised and the casting or exercise of those votes or powers from time to time.
- (c) The AWL Voting Committee's acts and decisions are its own and the Committee and its members owe no fiduciary or other legal or equitable duty to the AWL Members. However, it is acknowledged by all Members, Directors, the Company and the Committee members that the AWL Voting Committee's role is intended to be discharged indirectly on behalf of the AWL Members collectively and in their collective interests after appropriate consultations to ascertain the views of each of the AWL Members on relevant matters.
- (d) The AWL Committee may also have regard to the interests of AWL stakeholders beyond the AWL Members in determining the collective interests of the AWL Members.

#### 2 AWL Voting Committee Chair

The chair of the AWL Voting Committee shall be one (1) of, and appointed by, the AWL Voting Committee members.

#### 3 Term of Office

- (a) The term of office of each member of the AWL Voting Committee shall be a maximum time period of two (2) years.
- (b) Any person who has served on the AWL Voting Committee shall be eligible for a further appointment to the Committee when 15 months has elapsed since the expiry of their previous term.
- (c) A person is not eligible for appointment where another person from the same AWL Member (or a predecessor entity) has previously been a Committee member until at least 15 months has elapsed since the expiry of the previous person's term as a Committee member.
- (d) AWL Members by simple majority shall have the right to remove and replace with other eligible persons any or all Committee members at any time as they may see fit.
- (e) A person ceases immediately to be a member of the AWL Voting Committee and, if previously appointed, it's chair, upon:
  - (i) ceasing to hold an Official Position with an AWL Member; or
  - (ii) the AWL club they represent is no longer a current member of the Company (e.g., the club has been suspended as an AWL Member); or

- (iii) the AWL club they represent is no longer a member of a State Member (e.g., the club has been suspended as a member of a State Member); or
- (iv) the AWL Member they represent has been found to have breached the Constitution or Policies.

#### **4 Purpose, Functions and Responsibilities**

- (a) The sole purpose of the AWL Voting Committee is to consider the issues being voted on at Company meetings or upon which its approval or consent is sought under the Constitution and to cast its votes and indicate its approval or consent or otherwise, as set out under the Constitution.
- (b) For this purpose, the AWL Voting Committee may from time to time appoint from amongst its members (and remove and replace) a representative in accordance with clause 25 of the Constitution and shall notify the Company Secretary of any such appointment (or removal and replacement) immediately. Any such representative shall cease to hold their appointment on ceasing to be a Committee member.
- (c) The AWL Voting Committee shall regularly engage and consult with the AWL Members, and from time to time may engage and consult with other AWL stakeholders, so as to understand their positions and views in relation to matters relevant to considering and determining how to discharge the Committee's purpose by such means and methods considered appropriate by the Committee. At the very least, each AWL Member will be consulted prior to any vote or the giving or withholding of any approval or consent being considered and determined upon by the AWL Voting Committee.
- (d) The AWL Voting Committee will meet as frequently as is necessary to conduct its business in furtherance of its purpose, functions and responsibilities.
- (e) The AWL Voting Committee shall from time to time notify the Company Secretary of one (1) or more addresses (including an email address) for the receipt of notices to the Committee under the Constitution.

#### **5 Meetings of the AWL Voting Committee:**

- (a) Meetings:
  - (i) are to be called by the chair giving each Committee member reasonable notice;
  - (ii) are to be held via any means and method conducive to the effective communication, discussion, and consideration of the issues being considered from time to time;
  - (iii) must consider the feedback and views of all AWL Members and any AWL stakeholders consulted and engaged with;
  - (iv) must collectively agree as a Committee how the three (3) votes will be cast or whether its consent or approval will be given or withheld to best reflect the collective views and interests of the AWL Members; and
  - (v) the Committee is not obliged to cast any or all three (3) votes, or to cast all votes the same way, but rather to vote or express its approval or consent (or not) however the Committee determines best represents the collective views and interests of the AWL Members.
- (b) A quorum for a meeting of the AWL Voting Committee is two (2) members being from AWL clubs which are members of different State Members.

- (c) The AWL Voting Committee shall keep appropriate minutes of their deliberations and decisions documenting the considerations they have taken into account in arriving at their decisions and promptly provide a copy to the Company Secretary.
- (d) All minutes shall be published to AWL Members and the Board of Directors as soon as practicable after any relevant meeting by the chair of the AWL Voting Committee and prior to casting any vote or giving or withholding its consent or approval.
- (e) The AWL Voting Committee and its proceedings may be subject to an annual independent review within two (2) months of each Annual General Meeting, including a review of all records kept.
- (f) An annual independent review shall:
  - (i) Report as to whether the Committee is fully compliant with this charter and is operating to meet its purpose.
  - (ii) State whether the independent reviewer is free from any bias or conflict (potential or actual) and if not, identifying the bias or conflict.
  - (iii) Be conducted by a reviewer, and with a scope of engagement appointed and approved, by the Company.
  - (iv) Be paid for by the Company.
  - (v) Be provided to the AWL Committee, the AWL Members and the Company on a timely basis.

## **6 Allocation of Votes**

All Members, Directors, the Company, and the Committee members:

- (a) recognise that it is inherently unlikely that the Committee's three (3) votes and the expression of its consents or approvals will be able to be allocated so as to always precisely align proportionally with all differing views and positions held or supported across the AWL Members and that some approximation is generally likely to result; and
- (b) acknowledge that a closer alignment is more likely to result where views and positions which are clear minority views may be disregarded; and
- (c) so, the Committee may (but need not) disregard views and positions which are not held or supported by at least 25% of the number of AWL Members in determining whether and how the Committee's votes will be cast, or consents or approvals given in relation to any matter.

## **7 Varying these terms**

The terms of this Charter may only be varied by the passing of a Special Resolution.