

**ASSOCIATIONS INCORPORATIONS ACT 1987- WESTERN AUSTRALIA**

**CANOEING WESTERN AUSTRALIA (INC.)**

# **Constitution**

**October 2013**

## Version Control

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## **PART I – OBJECTS, POWERS AND INTERPRETATION**

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### **1. NAME OF THE ASSOCIATION**

The name of the Association is Canoeing Western Australia (INC.) hereinafter referred to as “Canoeing WA”. Canoeing WA, with Board approval, may adopt a trading name as identified in the By-Laws, without effecting the powers or interpretation of this constitution. The head office of Canoeing WA is located in Perth, Western Australia.

### **2. OBJECTS OF CANOEING WA**

Canoeing WA is the recognised organisation by Australian Canoeing for the administration of the sport of canoeing and paddling activities in Western Australia, the objects for which Canoeing WA is established and maintained is to:

- (a) promote, encourage and develop participation in canoeing and recreation canoeing and paddling activities and related opportunities as a lifelong contribution to deliver healthy and safer communities;
- (b) enhance the sustainability of Canoeing WA and its membership;
- (c) align infrastructure development and access to facilities with growth of participation;
- (d) increase the profile of paddling activities in Western Australia;
- (e) progressively and inclusively lead canoeing and paddling activities in WA through good governance and management;
- (f) unite those organisations in Western Australia that have canoeing sport and recreation as part of their activities;
- (g) promote the most sustainable and effective use of the natural environment for all paddle sports; and
- (h) and as such strategic intentions that are adopted by the Board from time to time.

### **3. POWERS OF CANOEING WA**

Solely for furthering the objects set out above Canoeing WA has, in addition to the rights, powers and privileges conferred on it under the Act, the legal capacity and powers of a company as set out under section 124 of the Corporations Act.

To the extent provided under section 4 of the Act, Canoeing WA may undertake such activities as the Board determines appropriate in furthering the objects set out above.

## 4. INTERPRETATION

### 4.1 Definitions

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

**“Act”** means the Associations Incorporation Act 1987 Western Australia or any other act under which Canoeing WA may be incorporated from time to time.

**“Affiliated Club”** means an incorporated club which is a member of Canoeing WA.

**“Australian Canoeing”** means Australian Canoeing Incorporated, being the national peak body for the sport of canoeing in Australia.

**“Board”** means the body consisting of the Directors under Rule 23.

**“By-Law”** means any by-law, regulation or policy made by the Board under Rule 31.

**“Canoe sport and recreation”** means all paddling activities to do with all aspects of the sport and/or recreation of canoeing

**“Delegate”** means the person elected or appointed from time to time by an Affiliated Club to act for and on behalf of that Affiliated Club and represent the Affiliated Club at General Meetings or otherwise.

**“Director”** means a member of the Board elected or appointed in accordance with this Constitution and includes the Elected Directors and the Independent Directors.

**“Elected Director”** means a Director elected under Rule 24.

**“Executive Officer”** means the person who is appointed under this Constitution to carry out the duties set out in Rule 29, whether known as the Executive Officer or otherwise.

**“Financial Year”** means the year commencing 1 July and ending 30 June in any year.

**“General Meeting”** means the annual or any special general meeting of Canoeing WA.

**“Independent Director”** means a Director appointed under Rule 25.

**“Individual Member”** means a registered financial individual member of the Association and an Affiliated Club.

**“Intellectual Property”** means all rights or goodwill subsisting in copyright, business names, names, trade marks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to Canoeing WA or any event, competition or activity of or conducted, promoted or administered by Canoeing WA.

**“Life Member”** means an individual upon whom life membership of Canoeing WA has been conferred under Rule 6.1.

**“Member”** means a member for the time being of Canoeing WA under Rule 6 of this Constitution.

**“Registered Instructors and Guides”** means an individual with a current Australian Canoeing Instructional or Guiding Award or relevant industry award and a coach or official with National Coaching Accreditation Scheme or National Officiating Accreditation Scheme accreditation, who meets the updating policy as adopted by Australian Canoeing from time to time.

**“Seal”** means the common seal of Canoeing WA and includes any official seal of Canoeing WA.

## **4.2 Interpretation**

In this Constitution:

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

### **4.3 Severance**

If any provision of this Constitution or any phrase contained in them is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the rule or phrase cannot be so read down it shall be severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

### **4.4 Expressions in the Act**

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

## **PART II – ASSOCIATION AND AFFILIATED CLUB CONSTITUTIONS**

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### **5. AFFILIATED CLUB COMPLIANCE**

The Affiliated Clubs acknowledge and agree that each of them shall:

- (a) be incorporated in Western Australia under the Act or similar legislation;
- (b) provide Canoeing WA with copies of its audited accounts, annual report and other associated documents within 30 days of such request by Canoeing WA, in a form as requested by Canoeing WA;
- (c) generally, have regard to the objects of Canoeing WA, and in particular the object to create a single uniform entity for the conduct, promotion, encouragement and administration of canoeing sport and recreation, in any matters of the Affiliated Club pertaining to canoeing sport and recreation;
- (d) ensure its documents are amended in conformity with future amendments made to this constitution;
- (e) have a transition period, as determined by the Board, from the time of approval of this Constitution under the Act in which to amend their constitution in accordance with this Constitution, as for such time as their Constitutions do not conform shall not be unduly penalized for such non-compliance, to the extent that such non-compliance is not willful or calculated to cause harm or prejudice to Canoeing WA.



## **PART III – MEMBERSHIP**

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### **6. MEMBERS**

#### **6.1 Category of members**

The Members of Canoeing WA shall consist of:

- (a) Affiliated Clubs- Incorporated associations, which have been approved by the Board- who subject to this Constitution, shall be represented by their Delegate who shall have the right to attend, debate and vote at General Meetings for and on behalf of the Affiliated Club;
- (b) Life Members- who are appointed in accordance with the criteria and procedure set out from time to time, by the Board, in the By-Laws- who subject to this Constitution, may attend, debate but shall not have the right to vote at General Meetings;
- (c) Individual Members, who subject to this Constitution, may attend, debate but shall not have the right to vote at General Meetings;
- (d) Registered Instructors and Guides who reside in Western Australia, who subject to this Constitution, may attend General Meetings but have no right to debate or vote at General Meetings;
- (e) Such new categories of Members, created in accordance with Rule 6.2 below.

#### **6.2 Creation of New Categories**

The Board has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of an existing category of Members. No new category of membership may be granted voting rights.

#### **6.3 Life Members**

- (a) The Board may nominate a person who has rendered distinguished or special service to the sport of canoeing at the state level, for life membership. The nomination must be on the prescribed form (if any) and must be submitted to the Executive Officer at least fourteen (14) days before the date set down for the Annual General Meeting.
- (b) The nomination for Life Member shall be considered at the Annual General Meeting. A resolution of the Annual General Meeting to confer life membership must be passed by Special Resolution. The vote on such resolution will be taken by secret ballot.

- (c) Conditions, obligations and privileges of life membership shall be as prescribed in the By-Laws.

## **7. AFFILIATED CLUBS AND MEMBERSHIP**

### **7.1 Affiliated Clubs**

To be eligible for membership, an Affiliated Club must be incorporated

### **7.2 Application for Membership**

An application for membership by an organisation or individual (if applicable) must be:

- (a) In writing on the form prescribed in the By-Laws and lodged with the Executive Officer for Board acceptance;
- (b) Accompanied by the appropriate fee, if any.

### **7.3 Discretion to Accept or Reject Application**

- (a) Canoeing WA may accept or reject an application. If the application is rejected, upon request from the applicant, the reason for the rejection of the application shall be provided.
- (b) Where Canoeing WA accepts an application, the applicant shall become a Member. Membership of Canoeing WA shall be deemed to commence upon acceptance of the application by Canoeing WA. The Executive Officer shall amend the register accordingly as soon as practicable.
- (c) Where Canoeing WA rejects an application, Canoeing WA shall refund any fees forwarded with the application and the application shall be deemed rejected by Canoeing WA.

### **7.4 Membership Renewal**

Affiliated clubs shall:

- (a) Renew their membership with Canoeing WA in accordance with the procedures applicable from time to time;
- (b) Otherwise remain financial members of Canoeing WA in accordance with the procedures applicable from time to time;
- (c) Pay the annual fees as prescribed by Canoeing WA from time to time.

## **8. SUBSCRIPTIONS AND FEES**

### **8.1 The annual membership subscription**

As required, fees and any levies payable by Members (or any category of members) to Canoeing WA, the basis of, the time for and manner of payment shall be as determined by the Board from time to time.

### **8.2 Monies due and payable**

Any Member which or who has not paid all monies due and payable by that Member to Canoeing WA shall (subject to the Board's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those monies. Such rights will be suspended until such time as the monies are fully paid or otherwise in the Board's discretion. In the meantime, the Member shall have no automatic right to resign from Canoeing WA, and shall be dealt with in the Board's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that Member as a Member, or impose such other conditions or requirements as the Board considers appropriate.

## **9. REGISTER OF MEMBERS**

### **9.1 Executive Officer to Keep Register**

The Executive Officer shall keep and maintain a register of Members in which shall be entered such information as is required under the Act from time to time.

### **9.2 Inspection of Register**

The Register shall be kept at the principal place of administration of Canoeing WA. An extract of the Register shall be available for Inspection by a member of Canoeing WA, upon reasonable request and in accordance with provisions of the Act. The Member may make a copy of or take an extract from the register but shall have no right to remove the register for that purpose.

### **9.3 Use of the Register**

The Register may be used by Canoeing WA to further the purposes of Canoeing WA, as the Board considers appropriate.

## **10. EFFECT OF MEMBERSHIP**

### **10.1 Binding on Members**

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and Canoeing WA and that they are bound by this Constitution and the By-Laws as amended;

- (b) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of Canoeing WA;
- (c) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of Canoeing WA, the Members and the sport of canoeing and its related disciplines;
- (d) they are entitled to all benefits, advantages, privileges and services of Canoeing WA membership.

### **10.2 Obligations of Affiliated Clubs**

It is a condition that each Affiliated Club shall agree:

- (a) to act in good faith and loyalty to each other to ensure the maintenance and enhancement of the sport of Canoeing or its related disciplines, standards, quality and reputation for the collective and mutual benefit of the Members and the sport of Canoeing;
- (b) not to do or permit to be done, any act or thing which might adversely affect or derogate from the standards, quality and reputation of Canoeing or its related disciplines;
- (c) to make full and proper disclosure to each other of all matters of importance to Canoeing WA and the sport of Canoeing or its related disciplines;
- (d) not to acquire a private advantage at the expense of Canoeing WA or any other Association or the sport of canoeing or its related disciplines;
- (e) to register all individuals of the club, as defined as members under the Clubs constitution, with Canoeing WA;
- (f) to act for and on behalf of the interests of the sport of canoeing or its related disciplines, Canoeing WA and the Members.

### **10.3 Membership Entitlements Not Transferable**

A right, privilege or obligation, which a Member has by reason of being a Member of Canoeing WA:

- (a) is not capable of being transferred or transmitted; and
- (b) ceases upon termination of membership.

## **11. DISCONTINUANCE OF MEMBERSHIP**

### **11.1 Notice of Resignation**

Subject to this Constitution any Member which has paid all monies due and payable to Canoeing WA and has no other liability (contingent or otherwise) to Canoeing WA may resign from Canoeing WA by giving one (1) months notice in writing to Canoeing WA of such intention to withdraw or resign and upon the expiration of that period of notice, the Member shall cease to be a Member. A Life Member who has paid all monies due and payable to Canoeing WA may resign by notice in writing with immediate effect.

### **11.2 Expiration of Notice Period**

Subject to Rule 11.5 upon the expiration of any notice period applicable under Rule 11.1 an entry, recording the date on which the Member who or which gave notice ceased to be a Member shall be recorded in the register.

### **11.3 Forfeiture of Rights**

A Member who or which ceases to be a Member, for whatever reason, shall forfeit all right in and claim upon Canoeing WA and its property including Intellectual Property. Any Canoeing WA documents, records or other property in the possession, custody or control of that Member shall be returned to Canoeing WA immediately.

### **11.4 Membership may be Reinstated**

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Board, on application in accordance with this Constitution and otherwise on such conditions as it sees fit.

### **11.5 Cessation of Membership**

Where an Affiliated Club ceases to be a Member in accordance with this Constitution or the Act, the Individual Members of that Affiliated Club may cease or remain Members to the extent (if any) and for such time (if any) as is determined in the sole discretion of the Board.

## **12. DISCIPLINE OF MEMBERS**

### **12.1 Disciplinary Action**

Where the Board is advised or considers that a Member has allegedly:

- (i) Breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the Board or any duly authorised committee; or
- (ii) acted in a manner unbecoming of a Member or prejudicial to the objects and interests of Canoeing WA and/or canoeing sport and recreation; or

- (iii) brought Canoeing WA or canoeing sport and recreation or related disciplines into disrepute;

the Board may commence or cause to be commenced disciplinary proceedings against that Member, and that Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of Canoeing WA set out in the By-Laws.

## **13. DELEGATES**

### **13.1 Appointment of Delegates**

Each Affiliated Club may be represented by one (1) Delegate, who may vote on behalf of the Affiliated Club.

A Delegate must:

- (a) Be a member over the age of 18 years of the Affiliated Club and the Affiliated Club must be a current financial member of Canoeing WA;
- (b) Be appropriately empowered by the appointing Affiliated Club, as per the Clubs Constitution, to consider, make decisions and vote in proceedings so provided by the Canoeing WA Constitution;
- (c) Not be a Director of Canoeing WA;
- (d) Not be an employee of Canoeing WA;
- (e) Not be a Delegate for more than one Affiliated Club.

### **13.2 Notification of Delegate**

An Affiliated Club shall advise Canoeing WA at least seven (7) days prior to a nominated meeting at, which Delegate shall represent the Affiliated Club. Nominations may include an alternate Delegate where the nominated delegate is unable to fulfill the role. Notification should be in the approved form including the name, address and contact details of the Delegate.

## **PART IV - GENERAL MEETINGS**

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### **14. GENERAL MEETINGS**

#### **14.1 Annual General Meeting**

An Annual General Meeting of Canoeing WA shall be held in accordance with the provisions of the Act and this Constitution and on a date and at a venue to be determined by the Board.

## **14.2 General Meetings**

All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

## **15. NOTICE OF GENERAL MEETING**

### **15.1 Notice of General Meetings**

- (a) Notice of every General Meeting shall be given to the Board Members, Affiliated Clubs and other Members of Canoeing WA in writing at the address appearing in the register kept by Canoeing WA. No other person shall be entitled as of right to receive notices of General Meetings.
- (b) Notice of General Meeting shall be given at least twenty-one (21) days prior to the General Meeting and shall specify the place and day and hour of the General Meeting.
- (c) The agenda for the General Meeting stating the business to be transacted at the General Meeting shall be given at least fourteen (14) days prior to the General Meeting, together with any notice of motion received from the Affiliated Clubs.

### **15.2 Entitlement to Attend General Meeting**

Notwithstanding any other Rule, no Member shall be represented at, or take part in a General Meeting, unless all monies (set in accordance with Rule 9) then due and payable to Canoeing WA are paid.

## **16. BUSINESS**

### **16.1 Business of General Meetings**

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Board (including in relation to the activities of Canoeing WA during the last preceding Financial Year) and auditors and the election of Directors and Life Members.
- (b) All business that is transacted at a General Meeting, and also all that is transacted at the Annual General Meeting, with the exception of those matters set out in Rule 16.1(a) shall be special business. "Special business" is business of which a notice of motion has been submitted in accordance with Rule 17.

### **16.2 Business Transacted**

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

## **17. NOTICES OF MOTION**

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

## **18. SPECIAL GENERAL MEETINGS**

### **18.1 Special General Meetings May be Held**

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

### **18.2 Requisition of Special General Meetings**

- (a) The Board shall on the requisition in writing of the majority of the Affiliated Clubs convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting shall be signed by the Affiliated Clubs making the requisition and be sent to Canoeing WA. The requisition may consist of several documents in a like form, each signed by one (1) or more of the Affiliated Clubs making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within three (3) months after the date on which the requisition is sent to Canoeing WA, the Affiliated Clubs making the requisition, or any of them, may convene a Special General Meeting to be held not later than 3 months after that date.
- (d) A Special General Meeting convened by Affiliated Clubs under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Board.

## **19. PROCEEDINGS AT GENERAL MEETINGS**

### **19.1 Quorum**

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of Canoeing WA shall be a minimum of half plus one (1) of the authorised voters.

### **19.2 Chair of Board Preside**

The Chair of the Board shall, subject to this Constitution, preside as Chair at every General Meeting of Canoeing WA. If the Chair is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present who shall, subject to this Constitution, preside as Chair for that meeting only.



### **19.3 Adjournment of Meeting**

- (a) If within half an hour from the time appointed for the General Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the Chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the meeting will lapse.
- (b) The Chair may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in Rule 19.3(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

### **19.4 Voting Procedure**

At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a secret ballot is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the Chair; or
- (b) by the majority of authorised voters present.

### **19.5 Recording of Determinations**

Unless a poll is demanded under Rule 19.4, a declaration by the Chair that a resolution has, on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings of Canoeing WA shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

### **19.6 Where Poll Demanded**

If a poll is duly demanded under Rule 19.4 it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

### **19.7 Resolutions at General Meetings**

Except where a Special Resolution is required, all resolutions at General Meetings shall be determined by the majority of votes (as set out in Rule 20).

### **19.8 Special Resolution**

Special Resolutions means a Resolution passed:

- (a) at a General Meeting of Canoeing WA of which 21 days notice, accompanied by notice of intention to propose a resolution as a special resolution, has been given to the Member in accordance with this Constitution; and
- (b) by at least three quarters of votes of those Members who, being entitled to vote, vote in person at the meeting.

### **19.9 Minutes**

- (a) The Executive Officer shall keep minutes of the resolutions and proceedings of each General Meeting in books provided for that purpose, together with a record of the names of persons present at all meetings;
- (b) Any member of Canoeing WA, on giving reasonable notice to the Executive Officer, may inspect the minutes of any General Meeting;
- (c) Within one (1) calendar month after each General Meeting the Executive Officer shall supply to the Secretary of each Affiliated Club a copy of the minutes of the General Meeting.

## **20. VOTING AT GENERAL MEETINGS**

- (a) Subject to this Constitution, Affiliated Clubs, through the nominated Delegate, shall be entitled to one (1) vote at General Meetings.
- (b) Subject to this Constitution, Affiliated Club votes shall be exercised by the Delegate. No other Member shall be entitled to vote, but shall subject to this Constitution have, and be entitled to exercise, those rights set out in Rule 6.1.
- (c) All votes shall be given personally or by Mail as provided in Rule 21.2.

## **21. PROXY AND POSTAL VOTING**

### **21.1 Proxy Voting Not Permitted**

Proxy voting shall not be permitted at General Meetings.

## 21.2 Postal Ballot

- (a) Should an issue arise between General Meetings which requires a decision or ratification by Affiliated Clubs the Board may call a postal vote in such manner as it considers necessary.
- (b) Any such Mail vote shall be in accordance with the following procedure:
  - (i) The Executive Officer shall, upon receipt of the directive as aforesaid, as soon as practicable, dispatch a copy of the proposed resolution to each Voting Member.
  - (ii) Such dispatch shall be, at the discretion of the Chair, either by post or by Electronic Mail and shall be accompanied by a notice stating the date on which the voting shall close and indicating whether voting is by post or Electronic Mail.
  - (iii) The dispatch of the proposed resolution and notice shall be deemed to have been received by each Voting Member;
    - 1) in the case of dispatch by Post two (2) working days after posting;
    - 2) in the case of dispatch by Electronic Mail – on successful delivery to the entities nominated electronic mail address.
  - (iv) All votes shall be received by the Executive Officer in the case of:
    - 1) Mail Votes - within fourteen (14) days of dispatch of the proposed motion and notice, unless otherwise advised;
    - 2) Electronic Mail- (including facsimile and e-mail) no later than midday on the normal working day preceding the meeting.
- (c) Upon the close and counting of voting, the Chair shall examine the votes as tallied and advise each Authorised Voter the result of the voting so received.
- (d) A vote on any proposed motion captured by authenticated electronic voting system/s via an independent registered organisation, convening an authorised election on behalf of Canoeing WA, shall be valid and binding in all respects.

## PART V - THE BOARD

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### 22. POWERS OF THE BOARD

The Board, subject to the Act of this Constitution, shall have full power, jurisdiction and authority to do all things necessary to carry out the business, the affairs and the objects of Canoeing WA.

## **23. COMPOSITION OF THE BOARD**

### **23.1 Board Composition**

The Board shall comprise:

- (a) the President elected in accordance with Rule 23.2;
- (b) Five (5) Elected Directors elected in accordance with Rule 24;
- (c) Two (2) Independent Directors that shall be appointed in accordance with Rule 25.

### **23.2 Election of the President**

- (a) The President shall be elected by Board.
- (b) The President shall be one of the five (5) Elected Directors of the Board.
- (c) The President shall hold a three year term in accordance with Rule 24.3.

### **23.3 Chair of Board**

The President shall preside at every meeting of the Board. If the President is not present, or is unwilling or unable to preside, the Directors shall choose one of their number present to preside as Chair for that meeting only. Where the President is granted a leave of absence by the Board a single Chair may be appointed for the duration of the absence.

## **24. ELECTION OF ELECTED DIRECTORS**

### **24.1 Qualifications for Elected Directors**

- (a) Nominees for Elected Director positions on the Board must meet the qualifications as prescribed from time to time by the Board and set out in the By-Laws.
- (b) Elected Directors should have knowledge of canoeing or related disciplines, its strategic direction, its stakeholders and a commitment to the development of the sport of canoeing;
- (c) Nominees for Elected Director positions on the Board must declare any position they hold in an Affiliated Club, including as an office bearer, director or a paid appointee. If the nominee is elected they must resign from their position in the Affiliated Club, including but not limited to a position as officer, director or a paid appointee.
- (d) Nominees for Elected Director positions on the Board may not be employees of Canoeing WA.

## **24.2 Elections of Elected Directors**

- (a) The Executive Officer shall call for nominations twenty-one (21) days before the date of the Annual General Meeting. All Affiliated Clubs shall be notified of the call for nominations.
- (b) A nominee shall be a Member of Canoeing WA over the age of 18 years;
- (c) Nominations for Elected Directors must be:
  - (i) in writing;
  - (ii) on the prescribed form (if any) provided for that purpose;
  - (iii) signed by a witness, who shall be a member of Canoeing WA over the age of 18 years; and
  - (iv) certified by the nominee (who must be a Member) expressing a willingness to accept the position for which they have applied.
- (d) Nominations must be received by the Executive Officer at least fourteen (14) days prior to the Annual General Meeting.
- (e) If the number of nominations received for the Board is equal to the number of vacancies to be filled or if there are insufficient nominations received to fill all vacancies on the Board, then those nominated shall be duly elected
- (f) If the number of nominations exceeds the number of vacancies to be filled, a secret ballot shall be taken in such usual and proper manner as the Chair directs.
- (g) The voting shall be conducted by ballot, the procedure for which will be detailed in By-Laws.
- (h) Ballot results will be determined by a majority of votes.
- (i) If there are insufficient nominations received to fill all vacancies on the Board, any remaining vacant positions are to be taken as casual vacancies, to be dealt with in accordance with Rule 26.3.

## **24.3 Term of Appointment**

- (a) Elected Directors shall be elected in accordance with this Constitution for a term of three (3) years, which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the third Annual General Meeting following.
- (b) No person who has served as an Elected Director for a period of six (6) consecutive years shall be eligible for election as an Elected Director until after the expiration of twelve months following the date of conclusion of the most recent term as an Elected Director.

- (c) For each three year interval, two Elected Directors shall be elected in the first year; two Elected Directors shall be elected in the second year and one Elected Director in the third year.
- (d) Should any adjustment to the term of Elected Directors elected under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. Elections to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately one third of the Elected Directors positions being declared vacant each year.

## **25. APPOINTMENT OF INDEPENDENT DIRECTORS**

### **25.1 Appointment of Independent Directors**

- (a) The Elected Directors will appoint two (2) Independent Directors.
- (b) Independent Directors may be appointed by the Elected Directors in accordance with this Constitution for a term of 2 years, which shall commence six weeks after the Annual General Meeting until six weeks after the conclusion of the second Annual General Meeting following.

### **25.2 Qualifications for Independent Directors**

The Independent Directors may have specific skills in commerce, finance, marketing, law or business generally or such other skills, which compliment the Board composition, but need not have experience in or exposure to the sport of canoeing. Independent Directors must become a member of Canoeing WA.

### **25.3 Term of Appointment**

- (a) No person who has served as an Independent Director for a period of four (4) consecutive years shall be eligible for election as an Independent Director until after the expiration of twelve months following the date of conclusion of the most recent term as an Elected Director.
- (b) One (1) or two (2) Independent Directors may be appointed in each year of odd number and one (1) or two (2) Independent Director may be appointed, in each year of even number in accordance with Rule 25.1.
- (c) Should any adjustment to the term of Independent Directors appointed under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the Board. Appointments to subsequent Boards shall then proceed in accordance with the procedures in this Constitution with approximately half the Board retiring each year.

## **26. VACANCIES OF BOARD MEMBERS**

### **26.1 Grounds for Termination of Director**

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

- (a) dies;
- (b) becomes bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (d) resigns their office in writing to Canoeing WA;
- (e) is absent without the consent of the Board from three (3) consecutive meetings of the Board;
- (f) holds any office of employment of Canoeing WA;
- (g) without the prior consent or later ratification of the Members in General Meeting holds any office of profit under Canoeing WA;
- (h) is directly or indirectly interested in any contract or proposed contract with Canoeing WA and fails to declare the nature of his interest;
- (i) is removed from office by Special Resolution under Rule 26.2;
- (j) would otherwise be prohibited from being a director of a corporation under the Corporations Act or is disqualified from office under the Act;
- (k) breaches Board confidentiality such that the breach poses serious and indefensible circumstances with regards to the Directors fiduciary duty to Canoeing WA or the Board's good governance of Canoeing WA.

### **26.2 Removal of a Director**

- (a) Canoeing WA in a General Meeting may by Special Resolution remove any Director, before the expiration of their term of office. If a Director is removed in accordance with this Rule the office of the Director becomes vacant and shall be filled in accordance with the procedure set out in Rule 26.3.
- (b) Where the Director to whom a proposed resolution referred to in Rule 26.2(a) makes representations in writing to the Executive Officer and requests that such representations be notified to the Members, the Executive Officer may send a copy of the representations to each Affiliated Club or, if they are not so sent, the Director

may require that they be read out at the meeting, and the representations shall be so read.

- (c) Any written communication must be of reasonable length and must not contain any illegal, offensive or defamatory material.
- (d) At the Special General Meeting, the person whose removal is proposed; shall have the right to address the Meeting.
- (e) Removal of any Director shall be without prejudice to any legal claim against Canoeing WA or that Canoeing WA may have against the Director in respect to matters arising from such removal.

### **26.3 Casual Vacancies**

- (a) In the event of a casual vacancy of an Elected Director the Board shall identify a successor, within the parameters of Rule 24.1, and appoint a suitable person for the remainder of the vacating Directors natural term.
- (b) In the event of a casual vacancy of an Appointed Director the Board shall identify a successor from among appropriately qualifies persons, with due consideration to Rule 25.2 and appoint a suitable person for the remainder of the vacating Directors natural term.

### **26.4 Remaining Directors May Act**

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

## **27. MEETINGS OF THE BOARD**

### **27.1 Board to Meet**

The Board shall meet at least nine (9) times every calendar year for the dispatch of business and may adjourn and, subject to this Constitution otherwise regulate, its meetings as it thinks fit. The Executive Officer shall, on the requisition of two (2) Directors, convene a meeting of the Board within a reasonable time.

### **27.2 Decisions of Board**

Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Board.

All Directors in attendance shall have one (1) vote on any question. The Chair shall also have a casting vote where voting is equal.



### **27.3 Resolutions not in Meeting**

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

### **27.4 Quorum**

At meetings of the Board the number of Directors whose presence (or participation under Rule 27.3) is required to constitute a quorum is the majority of the Directors but shall be a minimum of four (4) Directors.

### **27.5 Notice of Board Meetings**

Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than 7 days' oral or written notice of the meeting of the Board shall be given to each Director by the Executive Officer. The agenda shall be forwarded to each Director not less than 3 days prior to such meeting.

### **27.6 Validity of Board Decisions**

A procedural defect in decisions taken by the Board shall not result in such decision being invalidated.

## **28. CONFLICTS**

### **28.1 Directors' Interests**

A Director is disqualified by holding any place of profit or position of employment in Canoeing WA, any Affiliated Club or in any company or incorporated association in which Canoeing WA is a shareholder or otherwise interested or from contracting with Canoeing WA either as vendor, purchaser or otherwise except with express resolution of approval of the Board. Any such contract or any contract or arrangement entered into by or on behalf of Canoeing WA in which any Director is in any way interested will be voided for such reason.

### **28.2 Conflict of Interest**

A Director shall declare his or her interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) judicial or disciplinary matter;
- (d) sponsorship matter; or
- (e) other financial matter;

in which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Board, absent himself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Director votes, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Director to absent himself from discussions and refrain from voting, the issue should be immediately determined by vote of the Board, or if this is not possible, the matter shall be adjourned or deferred.

### **28.3 Disclosure of Interests**

The nature of the interest of such Director must be declared by the Director at the meeting of the Board at which the contract or other matter is first taken into consideration if the interest then exists or in any other case at the first meeting of the Board after the acquisition of the interest. If a Director becomes interested in a contract or other matter after it is made or entered into the declaration of the interest must be made at the first meeting of the Board held after the Director becomes so interested.

### **28.4 Recording Disclosures**

Conflicts of interest shall be a standing agenda item at meetings of the Board and it is the duty of the Executive Officer to ensure that any declaration made or any general notice given by a Director in accordance with Rule 28.2 is recorded in the minutes.

## **29. EXECUTIVE OFFICER**

### **29.1 Appointment of Executive Officer**

- (a) The Executive Officer shall be appointed by the Board for such term and on such conditions as it thinks fit. The Executive Officer, shall be entitled to notice of, attend and participate in debate at, all meetings of the Board, but shall have no entitlement to vote.
- (b) If an Executive Officer is not appointed by the Board, the Board shall appoint a member of the Board to fulfill the obligations of the Executive Officer under this Constitution.

### **29.2 Executive Officer to Act as Secretary**

The Executive Officer shall act as and carry out the duties of secretary (and unless prohibited by law), public officer of Canoeing WA and shall administer and manage Canoeing WA in accordance with this Constitution.

### **29.3 Specific Duties**

The Executive Officer shall:

- (a) as far as practicable attend all Board meetings and General Meetings;
- (b) prepare the agenda for all Board meetings and all General Meetings;
- (c) record and prepare minutes of the proceedings of all meetings of the Board and Canoeing WA; and
- (d) regularly report on the activities of, and issues relating to, Canoeing WA.

### **29.4 Broad Power to Manage**

Subject to the Act, this Constitution, the By-Laws and any directive of the Board, the Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of Canoeing WA.

### **29.5 Executive Officer may employ**

The powers of the Executive Officer to employ are outlined in the By-Laws.

## **PART VI - MISCELLANEOUS**

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### **30. DELEGATIONS**

#### **30.1 Board may Delegate Functions to Committees**

The Board may by instrument in writing create or establish or appoint from among its own members, the Members, or otherwise, committees to carry out such duties and functions, and with such powers, as the Board determines.

### **30.2 Delegation by Instrument**

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

- (a) this power of delegation; and
- (b) a function imposed on the Board by the Act or any other law, or this Constitution.

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

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

### **30.4 Procedure of Delegated Entity**

- (a) The procedures for any committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under Rule 27. The quorum shall be determined by the committee, but shall be no less than the majority of the total number of committee members.
- (b) Notwithstanding the specific construct of a committee, a Director or the Executive Officer shall be ex-officio members of any committee so appointed.
- (c) Within 7 days of any meeting of any committee, the committee shall send a copy of the minutes and any supporting documents to the Executive Officer.

### **30.5 Delegation may be Conditional**

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

### **30.6 Revocation of Delegation**

The Board may by instrument in writing, revoke wholly or in part any delegation made under this Rule, and may amend, repeal or veto any decision made by such committee under this Rule where such decision is contrary to this Constitution, the By-Laws, the Act, the objects of Canoeing WA or the committee's delegation.

### **30.7 Right to Co-opt**

It is expressly acknowledged that Board of Directors shall have the right to co-opt any person with appropriate experience or expertise to assist a Board Committee or the Board, in respect to such matters and on such terms as the Board of Directors thinks fit. Any person so co-opted shall not exercise the rights of a Committee member or Director but shall act in an advisory role only.

## **31. BY-LAWS**

### **31.1 Board to Formulate By-Laws**

The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such by-laws, regulations and policies (“By- Laws”) for the proper advancement, management and administration of Canoeing WA, the advancement of the objects of Canoeing WA as it thinks necessary or desirable. Such By-Laws must be consistent with this Constitution.

### **31.2 By-Laws Binding**

All By-Laws made under this Rule shall be binding on Canoeing WA and Members.

### **31.3 By-Laws Deemed Applicable**

All By-Laws, regulations and policies of Canoeing WA in force at the date of the approval of this Constitution under the Act in so far as such By-Laws, regulations and policies are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-Laws under this Rule.

### **31.4 Notices Binding on Members**

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Affiliated Clubs by means of notices approved by the Board and prepared and issued by the Executive Officer. Affiliated Clubs shall be obliged to draw such notices to the attention of their respective Members. Notices are binding upon all Members.

## **32. RECORDS AND ACCOUNTS**

### **32.1 Executive Officer to Keep Records**

The Executive Officer shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of Canoeing WA and the Board and shall produce these as appropriate at each Board meeting or General Meeting.

### **32.2 Records Kept in Accordance with Act**

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable code of conduct. The books of account shall be kept in the care and control of the Executive Officer.

### **32.3 Inspection of Records**

Subject to privacy and commercial considerations and clause 9 of this Constitution, the Board may in its discretion make the records, books and other documents of Canoeing WA available for inspection (but not copying) by a Member at any reasonable hour.

### **32.4 Negotiable Instruments**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments, and all receipts for money paid to Canoeing WA, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by two (2) persons appointed in writing by the Board.

### **33. AUDITOR**

A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors fixed by the Board. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with generally accepted accounting principles and/or any applicable codes of conduct.

### **34. NOTICE**

#### **34.1 Manner of Notice**

- (a) Notices may be given by the Executive Officer to any Member by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address, facsimile number or electronic mail address.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected 2 days after posting.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to/or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

### **35. SEAL**

#### **35.1 Safe Custody of Seal**

The Executive Officer shall provide for safe custody of the Seal.

#### **34.2 Affixing Seal**

The Seal shall only be used by authority of the Board and every document to which the seal is affixed shall be signed by 2 Directors or a Director and the Executive Officer.

### **35.3 Director's Interest**

A Director may not sign a document to which the seal of Canoeing WA is fixed where the Director is interested in the contract or arrangement to which the document relates.

## **36. INDEMNITY**

### **36.1 Directors to be Indemnified**

Every Director, auditor, manager, employee or agent of Canoeing WA shall be indemnified to the extent provided under the directors and officers insurance policy of Canoeing WA (if any) against any liability incurred by him/her in his/her capacity as Director, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal, in which judgment is given in his/her favor or in which he/she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him/her by the Court.

### **36.2 Association to Indemnify**

Canoeing WA shall indemnify its Directors and employees to the extent provided under the directors and officers insurance policy of Canoeing WA (if any) against all damages and costs (including legal costs) for which any such Director or employee may be or become liable to any third party in consequence of any act or omission except willful misconduct:

- (a) in the case of a Director performed or made whilst acting on behalf of and with the authority, express or implied of Canoeing WA; and
- (b) in the case of an employee, performed or made in the course of, and within the scope of his/her employment by Canoeing WA.

## **37. WINDING UP**

### **37.1 Winding Up of Canoeing WA**

Subject to this Rule, Canoeing WA may be wound up in accordance with the provisions of the Act.

### **37.2 Distribution of Property on Winding Up**

If upon winding up or dissolution of Canoeing WA, there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of Canoeing WA but shall be given or transferred to another association incorporated under the Act and which prohibits the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on Canoeing WA by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the Members of Canoeing WA at or before the time

of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

### **38. GRIEVANCE PROCEDURE**

Where a Member of Canoeing WA has a grievance with another Member or with Canoeing WA and that Member considers the grievance warrants investigation and action by Canoeing WA, the Member shall follow the procedure set out in the By-Laws.