

**CORPORATIONS ACT 2001**

**COMPANY LIMITED BY GUARANTEE**

**CONSTITUTION**

**of**

**NEW SOUTH WALES WATER SKI FEDERATION LIMITED**

**A.C.N. 000 650 117**

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# CORPORATIONS ACT 2001

## CONSTITUTION

of

### NEW SOUTH WALES WATER SKI FEDERATION LIMITED

#### 1. NAME

The name of the company is New South Wales Water Ski Federation Limited ("**Federation**").

#### 2. OBJECTS OF THE FEDERATION

The Federation is the peak body for the administration of Water Skiing in New South Wales ("**NSW**") and is established solely to:

- (a) participate as a member of AWSF through and by which Water Skiing in Australia is conducted, encouraged, promoted and administered;
- (b) affiliate and otherwise liaise with AWSF in the pursuit of these Objects;
- (c) provide for the conduct, encouragement, promotion and administration of the sport of Water Skiing in and throughout NSW, for the mutual and collective benefit of the Federation, the Members and Water Skiing in NSW;
- (d) act in good faith and loyalty to ensure the maintenance and enhancement of the Federation and the sport of Water Skiing, its standards, quality and reputation for the collective and mutual benefit of the Members and Water Skiing in NSW;
- (e) at all times operate with and promote mutual trust and confidence between the Federation, AWSF and the Members in pursuit of these Objects;
- (f) at all times act on behalf of, in the interests of, and in conjunction, with the Members and Water Skiing in NSW;
- (g) promote the economic and sporting success, strength and stability of the Federation, AWSF and each other Member State and to act interdependently with each of these bodies in pursuit of these Objects;
- (h) ensure that a high standard of Water Skiing is maintained in NSW;
- (i) develop a sense of sportsmanship and a high degree of proficiency in competitors and participants in Water Skiing in NSW;
- (j) enable Members to achieve a high level of physical and mental fitness through the teaching and practice of Water Skiing;
- (k) apply the property and capacity of the Federation towards the fulfilment and achievement of these Objects;
- (l) use and protect the Intellectual Property;

- (m) collect, distribute and publish information in connection with Water Skiing in NSW and national and state Water Skiing tournaments and competitions;
- (n) promote and control Water Skiing tournaments, competitions and championships at a State level;
- (o) strive for governmental, commercial and public recognition of the Federation and Water Skiing in NSW;
- (p) promulgate and secure uniformity in such rules as may be necessary or appropriate for the management and control of Water Skiing and related activities in NSW;
- (q) further develop the Federation and Water Skiing into an organised institution in NSW having regard to these objects;
- (r) review and/or determine any matters relating to Water Skiing in NSW which may arise or be referred to it by any Member;
- (s) recognise any penalty imposed by AWSF or any other Member State;
- (t) through or in association with AWSF and/or the other Member States or other entities or of itself, promote the health and safety of players, coaches, umpires and officials registered with any Member State or other recognised Water Skiing organisation or other entity;
- (u) through or in association with AWSF and/or the other Member States or other entities or of itself, encourage players, coaches, umpires and officials registered with any Member State or other recognised Water Skiing organisation to realise their potential and athletic abilities by extending to them the opportunity of education and further participation in Water Skiing;
- (v) act as final arbiter on all matters pertaining to the conduct of Water Skiing in NSW, including disciplinary matters;
- (w) recognise and implement appropriate policies, including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and such other matters as they arise from time to time as issues to be addressed in Water Skiing;
- (x) select and control teams or sides to represent NSW or the Federation;
- (y) represent the interests of its Members and of Water Skiing generally in any appropriate forum;
- (z) have regard to the public interest in its operation;
- (aa) to purchase, take on lease or in exchange, hire or otherwise acquire any lands, buildings, easements or property, real and personal, and any rights or privileges which may be requisite for the purposes of, or capable of being conveniently used in connection with, any of the Objects provided that in case the Federation shall take or hold any property which may be subject to any trusts the Federation shall only deal with the same in such manner as is allowed by law having regard to such trusts.

- (bb) to manage, improve, farm, cultivate and maintain all or any part of the lands, buildings, tenements and premises of the Federation and to demise, underlet, exchange, sell or otherwise deal with and dispose of the same either together or in portions for such considerations as the Federation may think fit and in particular for shares, debentures or securities of any company purchasing the same.
- (cc) in furtherance of the objects of the Federation to buy, prepare, make, supply, sell and deal in all kinds of equipment and all apparatus used in connection with the sport of water skiing and other athletic sports and pastimes.
- (dd) to appoint, employ, remove or suspend such managers, clerks, secretaries, servants, workmen and other persons as may be necessary or convenient for the purposes of the Federation.
- (ee) to construct, improve, maintain, develop, work, manage, carry out, alter or control any houses, buildings, grounds, works or conveniences which may seem calculated directly or indirectly to advance the Federation's interests and to contribute to, or otherwise assist and take part in the construction, improvement, maintenance, development, working management, carrying out, alteration or control thereof
- (ff) to borrow or raise or secure the payment of money in such manner as the Federation may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Federation in any way and in particular by the issue of debentures perpetual or otherwise charged upon all or any of the Federation's property (both present and future), and to purchase redeem or pay off any such securities.
- (gg) do all that is reasonably necessary to enable these Objects to be achieved and to enable the Members to receive the benefits which these Objects are intended to achieve;
- (hh) encourage and promote performance-enhancing drug free competition; and
- (ii) undertake and or do all things or activities which are necessary, incidental or conducive to the advancement of these Objects.

### 3. POWERS OF THE FEDERATION

Solely for furthering the Objects set out above, the Federation has, in addition to the powers conferred on it under this Constitution, the legal capacity and powers of a company as set out under section 124 of the Act.

### 4. APPLICATION OF INCOME

- (a) The income and property of the Federation shall be applied solely towards the promotion of the Objects.
- (b) No portion of the income or property of the Federation shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member.
- (c) No remuneration or other benefit in money or money's worth shall be paid or given by the Federation to any member who holds any office of the Federation.
- (d) Nothing contained in **Rules 4 (b) or (c)** shall prevent payment in good faith of or to any Member:

- (i) for any services actually rendered to the Federation whether as an employee or otherwise;
- (ii) for goods supplied to the Federation in the ordinary and usual course of business;
- (iii) of interest on money borrowed from any Member;
- (iv) of rent for premises demised or let by any Member to the Federation;
- (v) for any out-of-pocket expenses incurred by the Member on behalf of the Federation;

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## **5. ADDITION, ALTERATION OR AMENDMENT**

No addition, alteration or amendment shall be made to this Constitution unless it has been approved by Special Resolution.

## **6. LIABILITY OF MEMBERS**

The liability of the Members of the Federation is limited.

## **7. MEMBER'S CONTRIBUTIONS**

Every Member undertakes to contribute to the assets of the Federation in the event of it being wound up while a Member, or within one year after ceasing to be a Member for payment of the debts and liabilities of the Federation contracted before the time at which he/she ceases to be a Member, and the costs, charges and expenses of winding up and for an adjustment of the rights of contributors among themselves, such amount as may be required not exceeding one dollar (\$1).

## **8. DISTRIBUTION OF PROPERTY ON WINDING UP**

If upon winding up or dissolution of the Federation there remains after satisfaction of all its debts and liabilities any assets or property, the same shall not be paid to or distributed amongst the Members of the Federation but shall be paid to or distributed to an organisation or organisations having objects similar to the Objects and which prohibits or prohibit 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 Federation by **Rule 4**. Such organisation to be determined by the Members of the Federation at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of NSW as may have or acquire jurisdiction in the matter.

## **9. ACCOUNTS**

True accounts shall be kept of the sums of money received and expended by the Federation and the manner in respect of which such receipt and expenditure takes place and of the property, assets and liabilities of the Federation and subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with this Constitution of the Federation for the time being, shall be open to the inspection of the Members. Once at least in every year the accounts of the Federation shall be examined by one or more properly qualified auditor or auditors who shall report to the Members in accordance with the provisions of the Act.

## **10. INTERPRETATION**

## 10.1 Definitions

In this Constitution unless the contrary intention appears:

**Act** means the Corporations Act 2001.

**AWSF** means the Australian Water Ski Federation Incorporated or such other association which is considered by the Federation to be the peak body for the administration of Water Skiing in Australia from time to time.

**AWSF Board** means the board of AWSF.

**AWSF Rules** means the rules and regulations of AWSF.

**Board** means the Board of the Federation constituted under this Constitution.

**Category A Members** has the meaning set out in **Rule 13.1(a)(i)**.

**Category B Members** has the meaning set out in **Rule 13.1(a)(ii)**.

**Constitution** means this Constitution and any supplementary, substituted or amended constitution of the Federation from time to time.

**Director** means a member of the Board and includes, without limitation, the President.

**Discipline** means a type/discipline of water skiing recognised by the Federation from time to time.

**Division** means a committee of the Federation exercising delegated authority for the control of a Discipline in NSW.

**Event** means and includes:

- (i) any championship, tournament or competition (state or otherwise) organised or conducted by or on behalf of the Federation;
- (ii) any national competition, tournament, or championship at which the Federation is represented.

**Financial Member** means a Member who, at the relevant time, has complied with all the obligations to pay monies to the Federation.

**Financial year** means the year ending 30 June each year.

**General Meeting** means the annual or any special general meeting of the Federation.

**Individual Member** means a registered financial individual member of the Federation;

**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 the Federation or any Event or Water Skiing activity of or conducted, promoted or administered by the Federation.

**Judiciary Committee** means a standing committee of the Federation constituted by delegation under **Rule 18**.

**Life Member** means an individual upon whom Life Membership of the Federation has been conferred under **Rule 13.3**.

**Member** means a member for the time being of the Federation under **Rule 13**.

**Member State** means an entity (including the Federation) recognised by AWSF as the body administering Water Skiing in its particular State.

**Objects** means the Objects of the Federation in **Rule 2**.

**President** means the president for the time being of the Federation.

**Regulations** means any Regulations made by the Board under **Rule 37**.

**Replaceable Rules** has the same meaning as in part 2B.4 of Chapter 2B of the Act.

**Secretary** means the secretary of the Federation from time to time.

**Special Resolution** means a resolution passed:

- (a) at a General Meeting of which no less than 21 days notice, accompanied by notice of intention to propose a resolution as a special resolution, has been given to the Members in accordance with this Constitution; and
- (b) by at least three quarters of those Members who, being entitled to vote, vote in person or by proxy at the meeting.

**State** means a State of Australia and includes the mainland Territories of Australia.

**State Delegate** means the persons appointed from time to time by the Federation to act for and on behalf of the Federation and to represent the Federation at general meetings of AWSF.

**Water Skiing** means the forms of the sport of water skiing.

## 10.2 Interpretation

Expressions referring 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.

## 10.3 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 or the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other gender;
- (e) references to persons include corporations and bodies politic;

- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactment's or replacements of any of them (whether of the same or any legislative authority having jurisdiction).

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

10.5 The Federation is established solely for the Objects.

10.6 The Replaceable Rules do not apply to the Federation.

## **11. STATUS AND COMPLIANCE OF THE FEDERATION**

### **11.1 Recognition of the Federation**

The Federation is recognised as the official representative of and controlling authority for the sport of Water Skiing in NSW and shall administer the sport of Water Skiing in NSW in accordance with the Objects, the objects of AWSF and the Act.

### **11.2 Compliance of the Federation**

The Federation shall:

- (a) be or remain incorporated in NSW;
- (b) appoint a State Delegate;
- (c) where required by AWSF, provide AWSF copies of audited accounts, annual reports and other associated documents immediately following the Federation's annual general meeting;
- (d) ensure that the Objects and the Constitution (either in whole or in such part as is applicable to the Federation and is considered acceptable to the AWSF Board) adopt the objects of AWSF;
- (e) to the extent permitted or required by the Act and AWSF, ensure any amendments to, or submissions of, this Constitution are generally in conformity with the AWSF Constitution.
- (f) apply its property and capacity solely in pursuit of the Objects and Water Skiing in NSW;
- (g) at all times act for the joint advantage of the Federation, AWSF, the Members and Water Skiing;
- (h) do all that is reasonably necessary to enable the Objects to be achieved;

- (i) act in good faith and loyalty to maintain and enhance the Federation and Water Skiing, its standards, quality and reputation for the collective and mutual benefit of the Members and Water Skiing in NSW;
- (j) at all times operate with and promote mutual trust and confidence between the Federation, AWSF and the Members in pursuit of the Objects;
- (k) at all times act on behalf of and in the interests of the Members and the sport of Water Skiing in NSW;
- (l) support AWSF in the encouragement and promotion of its objects; and
- (m) (either in whole or in such part as are applicable to the Federation and considered acceptable to the Board) abide by the AWSF Rules, to the extent required by those Rules

### 11.3 **Operation Of Constitution**

The Federation and the Members agree:

- (a) that they are bound by this Constitution and that this Constitution operates to create uniformity in the way in which the Objects and Water Skiing are to be conducted, encouraged, promoted and administered throughout NSW and Australia;
- (b) to act in good faith and loyalty to each other, to AWSF and to each Member State to ensure the maintenance and enhancement of Water Skiing, its standards, quality and reputation for the collective and mutual benefit of the Members and Water Skiing;
- (c) 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 Water Skiing and its maintenance and enhancement;
- (d) to make full and proper disclosure to each other of all matters of importance to the Federation, a Member and Water Skiing;
- (e) not to acquire a private advantage at the expense of any of the Federation, AWSF or any other Member States or Water Skiing.
- (f) to operate with mutual trust and confidence in pursuit of the Objects;
- (g) to promote the economic and sporting success, strength and stability of each other and to act interdependently with each other in pursuit of the Objects; and
- (h) to act for and on behalf of the interests of Water Skiing in NSW, the Federation, AWSF and the Members.

### 11.4 **Resignation of Member**

Each Member shall be entitled to resign as a Member upon giving at least six months written notice to the Federation. The resignation shall come into effect on the date nominated in the notice.

- 11.5 In the event that a Member resigns from the Federation, the Member must fulfil all its obligations to the Federation up to and including the date of resignation.

## 12. **CONSTITUTION AND RULES**

## 12.1 Constitution of the Federation

The constituent documents of the Federation shall clearly reflect the AWSF objects with such incidental variations as are necessary or appropriate, having regard to the Act applicable to the Federation.

## 12.2 Amendments to Federation Constitution

The Federation shall take all steps necessary to ensure its constituent documents and rules are in a form and remain not materially inconsistent with future amendments made to the AWSF, subject to any prohibition or inconsistency in the Act.

## 13. MEMBERS

### 13.1 Members

There must be at least one (1) member.

The Members of the Federation shall consist of:

- (a) Individual Members who, subject to this Constitution, have the right to be present, debate and vote at General Meetings and who will be categorised as:
  - (i) "Category A" members who are members of disciplines accepted from time to time for membership of AWSF under the AWSF constitution; and
  - (ii) "Category B" members who are not members of a discipline eligible for membership of AWSF;
- (b) Life Members, who subject to this Constitution, have the right to be present, debate and vote at General Meetings; and
- (c) Such new categories of Members, created in accordance with **Rule 13.2**.

### 13.2 Creation of new categories of Memberships

- (a) 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 and have no more than equal voting rights with other members entitled to vote even if the effect of creating a new class is to alter rights, privileges or obligations of an existing category of Members.
- (b) Only Financial Members who have attained the age of 18 years (and are financial) by the close of Nominations are eligible to vote or nominate for a position on the Board.

### 13.3 Life Members

- (a) The Board may recommend to an Annual General Meeting that one or more persons duly nominated and who has rendered distinguished service to Water Skiing in NSW, where such service is deemed to have assisted the advancement of Water Skiing in NSW, have life

membership conferred on them.

- (b) A resolution of the Annual General Meeting to confer life membership on the recommendation of the Board must be a Special Resolution.
- (c) A nominee for life membership must accept or reject the Federation's resolution to confer life membership upon him/her. Upon written acceptance, the person's details shall be entered upon the register. A person shall become a Life Member from the time his/her life membership is formally announced and shall not be liable to any further payment to the Federation, annual or otherwise.

#### 13.4 Application for Membership

- (a) An application for membership by an individual ("applicant") must:
  - (i) be in writing on the form prescribed from time to time by the Board, from the applicant or its nominated representative and lodged with the Federation;
  - (ii) meet the membership criteria established by the Board from time to time; and
  - (iii) be accompanied by the appropriate fee, if any, which shall be dealt with as follows:
    - (1) for Category A Members, the entire fee shall be forwarded to the AWSF together with details of the applicant Members; and
    - (2) for Category B Members and other Members who are not eligible for membership of the AWSF, the entire fee shall be retained by the Federation.
- (b) The Federation may accept or reject an application for membership whether the applicant has complied with the requirements in **Rule 13.4(a)** or not, and shall not be required or compelled to provide any reason for such acceptance or rejection. If the Federation rejects an application, it shall refund any fees forwarded with the application, and the application shall be deemed rejected by the Federation.
- (c) Where the Federation accepts an application the applicant shall, subject to notification to the AWSF for Category A Members, become an Individual Member. Membership of the Federation shall be deemed to commence upon notification of acceptance of the application by the Federation. The Secretary shall amend the Register accordingly as soon as practicable.
- (d) Individual Members must renew their membership of the Federation in accordance with the procedures set down by the Board from time to time.
- (e) Subject to this Constitution, all individual members who are, prior to the approval of this Constitution, members of the New South Wales Water Ski Association Limited, shall continue to be Individual Members (as Category A Members or Category B Members, as applicable) of the Federation from the time of approval of this Constitution.

#### 14. SUBSCRIPTIONS AND FEES

#### 14.1 **AWSF's Fees**

The annual membership fees payable by Category A Members to AWSF, the time for and manner of payment, shall be as determined by the AWSF Board from time to time.

#### 14.2 **Prescribed Fees**

The AWSF Board shall also be entitled to prescribe the fees to be levied upon all Category A Individual Members of the Federation, by the Federation on behalf of AWSF. The Federation shall collect such prescribed fees.

#### 14.3 **Federation Fees**

Other fees (if any) payable by Members to the Federation, the time for and manner of payment shall be as determined by the Board from time to time.

#### 14.4 **Unpaid Fees**

Any Member who has not paid all monies due and payable by that Member to AWSF and/or the Federation shall (subject to the AWSF Board or the Board's discretion as applicable) have all rights under this Constitution and the AWSF Rules suspended, including where applicable the right to vote at General Meetings and appoint a Delegate, until such time as the monies are fully paid. Whilst suspended under this **Rule 14.4** the Member shall have no automatic right to resign from the Federation, and shall be dealt with in the Board's discretion, which includes the right to expel, discipline or retain that Member as a Member, or to impose such other conditions or requirements as the Board considers appropriate

### 15. **REGISTER OF MEMBERS**

15.1 The Federation shall maintain, in a form and with such details as is determined by the Board, a register of all Members in its State. The Federation shall provide a copy of the register to the AWSF Board when requested by the AWSF Board.

15.2 Having regard to privacy and confidentiality considerations, an extract of the register, excluding the address of any Individual Member, Life Member, Director or State Delegate, shall be available for inspection by Members, upon reasonable request.

### 16. **EFFECT OF MEMBERSHIP**

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and the Federation and that they are bound by this Constitution and the Regulations and in turn, for Category A Members, the AWSF Rules;
- (b) they shall comply with and observe this Constitution and the Regulations and any determination, resolution or policy which may be made or passed by the Federation, the Board or any duly authorised committee;
- (c) by submitting to this Constitution and the Regulations they are subject to the jurisdiction of the Federation and, for Category A Members, AWSF;
- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of the Federation, AWSF, the Members and Water Skiing in NSW;

- (e) this Constitution, the Regulations and the AWSF Rules are necessary and reasonable for promoting the Objects and particularly the advancement and protection of Water Skiing; and
- (f) they are entitled to all benefits, advantages, privileges and services of the Federation membership and, for Category A Members, AWSF membership.

## 17. DISCONTINUANCE OF MEMBERSHIP

17.1 Notwithstanding **Rule 18**, where a Member fails to comply with its financial or other obligations under this Constitution and Regulations, the Board may determine that Member to be not of good standing. On determination that a Member is not of good standing, the Board may give notice to the Member of the:

- (a) Board's determination; and
- (b) grounds for the Board's determination;

and request that the Member show cause within 21 days from the date of that notice as to why some action should not be taken against the Member. The Member's failure to respond or act to the Board's satisfaction (including assurances or compliance with its obligations) may result in the Board suspending or terminating the Member's membership of the Federation, or otherwise imposing such conditions on the Member's membership, as the Board sees fit. A penalty of termination imposed on a Member by the Board must be ratified by resolution of the Federation. Such penalty (other than termination) will take effect upon notification by the Board and therefore prior to the Federation considering such penalty. Nothing in this Rule effects the operation of **Rule 14.4**

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

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

## 18. DISCIPLINE OF MEMBERS

The Board may refer, for investigation or determination by a Judiciary Committee in its sole discretion, an allegation or grievance (not being vexatious, trifling or frivolous) by a complainant (who may be, but need not be, an Individual Member) that a Member has:

- (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the Regulations, the AWSF Rules or any other resolution or determination of the Federation, Board or duly authorised committee; or
- (ii) acted in a manner unbecoming of a Member or prejudicial to the Objects and interests of the Federation, AWSF and/or Water Skiing; or
- (iii) brought the Federation, AWSF or Water Skiing into disrepute;

and any such Member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms of the Federation set out in the Regulations.

**19. STATE DELEGATE**

- 19.1 The Board shall appoint 1 State Delegate. The Board shall appoint the State Delegate for such term as is deemed appropriate by the Board. The State Delegate shall:
- (a) be a Board member or Individual Member of the Federation;
  - (b) be appropriately empowered by the Federation to make decisions at AWSF General Meetings.
- 19.2 The State Delegates shall represent the Federation at general meetings of the AWSF and shall have full power to consider and vote on resolutions at those general meetings.
- 19.3 The Federation shall advise the AWSF office manager of the appointed State Delegate, at least 21 days prior to any general meeting of the AWSF.

**20. ANNUAL GENERAL MEETING**

- 20.1 An Annual General Meeting of the Federation shall be held in accordance with the Act and this Constitution and on a date and at a venue to be determined by the Board, having regard always to cost.
- 20.2 All General Meetings other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

**21. NOTICE OF GENERAL MEETINGS**

- 21.1 Notice of every General Meeting shall be given to every Member at the address appearing in the register kept by the Federation. No other person shall be entitled as of right to receive notices of General Meetings, except the Federation's auditor(s).
- 21.2 At least 30 days notice of the place and day and hour of the General Meeting shall be given.
- 21.3 At least 21 days notice of the business to be transacted at a General Meeting shall be given, together with:
- (a) Any notice of motion received from any Member, Director or the Board in accordance with this Constitution;
  - (b) relevant accounts and reports in accordance with this Constitution and the Act;
  - (c) a list of all nominations received for positions to be appointed and/or elected at the relevant General Meeting; and
  - (d) the agenda for the meeting.
- 21.4 Notwithstanding any other clause of this Constitution, no Member shall be represented at, or take part in a General Meeting, unless all monies then due and payable by that Member to the Federation are paid.

## **22. BUSINESS OF GENERAL MEETINGS**

- 22.1 The business to be transacted at the Annual General Meeting includes the consideration of the accounts and the reports of the Board and the auditor(s), the election of Directors (if relevant), the appointment of auditors and (if required) the appointment of patrons.
- 22.2 All business that is transacted at a General Meeting, with the exception of those matters set out in **Rule 22.1** shall be special business. "Special business" is business of which a notice of motion has been submitted in accordance with **Rule 23**.
- 22.3 No business other than that stated on the notice for a meeting shall be transacted at the General Meeting.

## **23. NOTICES OF MOTION**

- 23.1 All notices of motion from Members for inclusion as special business at a General Meeting must be submitted in writing (in the prescribed form) to the Secretary not less than 28 days (excluding receiving date and meeting date) prior to the General Meeting.
- 23.2 All notices of motion from the Board for inclusion as special business at a General Meeting must be submitted in writing (in the prescribed form) to the Secretary not less than 28 days (excluding receiving date and meeting date) prior to the General Meeting.

## **24. SPECIAL GENERAL MEETINGS**

- 24.1 The Board may, whenever it thinks fit, convene a Special General Meeting and, where but for this Rule more than 15 months would elapse between Annual General Meetings, the Board shall convene a Special General Meeting before the expiration of that period.
- 24.2 (a) The Board shall on the requisition in writing of 5% of Members convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall be sent to the Federation and must state the object(s) of the meeting and must be signed by the Members making the requisition. The requisition may consist of several documents in a like form, each signed by 1 or more of the Members making the requisition.
- (c) If the Board does not cause a Special General Meeting to be held within 1 month after the date on which the requisition is sent to the Federation, the Members 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 the Member 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.

## **25. PROCEEDINGS AT GENERAL MEETINGS**

- 25.1 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 shall be 10 Members entitled to be present in person or by proxy.

- 25.2 The President shall, subject to this Constitution, preside at every General Meeting. If the President is not present, or is unwilling or unable to preside, the Members present shall choose one of the remaining Directors who shall, subject to this Constitution, preside as chairman for that meeting only.
- 25.3 (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 chairman 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 chairman may, 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 25.3(c)** it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.
- 25.4 At any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded:
- (a) by the chairman; or
- (b) by 10 Members present in person or by proxy
- 25.5 Unless a poll is demanded under **Rule 25.4**, a declaration by the chairman 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 General Meetings shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.
- 25.6 If a poll is duly demanded under **Rule 25.4** it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairman directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

## **26. ENTITLEMENT TO ATTEND AND VOTE AT A GENERAL MEETING**

Each Individual Member and Life Member and any other category of Member to whom voting rights have been granted shall have voting rights at General Meetings. Each voting Member and Life Member shall have one vote. No other person shall have a vote.

## **27. PROXY VOTING PERMITTED**

- 27.1 Each Member shall be entitled to appoint another Member as his or her proxy by notice given to the Secretary no later than 48 hours before the time of the meeting in respect of which the proxy is appointed.
- 27.2 The notice appointing the proxy shall be in the form set out in Appendix 1.
- 27.3 Where in this Constitution it provides for a Member to be present at a meeting, the Member may be present in person or by his or her proxy.

## **28. POWERS OF THE BOARD**

Subject to the Act and this Constitution the business of the Federation shall be managed and the powers of the Federation shall be exercised by the Board. The Board shall be responsible for acting on all state issues in accordance with the Objects and shall operate for the collective and mutual benefit of the Federation, AWSF, the Members, Water Skiing and the general community throughout NSW.

## **29. COMPOSITION OF THE BOARD**

29.1 The Board shall comprise up to 17 Directors being:

- (a) President;
- (b) Vice President (Sydney Metropolitan Area) who shall be resident within the Sydney Metropolitan Area;
- (c) Vice President (Country) who shall be resident outside the Sydney Metropolitan Area;
- (d) Financial Director/Treasurer;
- (e) Secretary
- (f) 1 Divisional Director representing each Division;
- (g) 6 General Board Members.
- (h) A further 2 Directors who may be co-opted by the Board from time to time.

29.2 The Board may determine necessary requirements, qualifications and job descriptions for eligibility as Directors from time to time.

29.3 The Board may determine that the interests of the Federation are best served by the allocation of portfolios to Directors. The Board shall be entitled to vary the titles and portfolios of each of the Directors in accordance with the needs of the Federation from time to time.

29.4 Only Financial Members are entitled to be elected and remain as Directors.

## **30. APPOINTMENT AND/OR ELECTION OF DIRECTORS**

### **30.1 Election of Directors (other than Divisional Directors)**

Directors will be elected at a General Meeting in accordance with this Constitution. Nominations must be received from Members for persons to be considered for election 30 days prior to the relevant General Meeting. When calling for nominations the details of the necessary qualifications and job description (if any) applicable to the position shall also be provided.

### **30.2 Form of Nomination**

Nominations must be:

- (a) in writing and state the position nominated for;
- (b) on the prescribed form (if any) provided for that purpose;

- (c) signed by a nominator and a seconder, who shall be Individual Members (and Financial Members) or Life Members; and
- (d) certified by the nominee (who must be a Financial Member) expressing his willingness to accept the position for which he is nominated.

### 30.3 **Elections**

The elections for Directors under **Rule 30.1** shall be by secret preferential ballot at the relevant General Meeting on papers prepared by the Secretary.

### 30.4 **Appointment of Divisional Directors**

Each Division shall appoint a Divisional Director. Each Division shall notify the President of its appointment in writing.

### 30.5 **Term of Appointment**

Each Director shall hold office for one year but is eligible for re-election or re-appointment (as the case may be) subject to having the required qualifications and complying with the job description (if any). The Director's term shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the Annual General Meeting next following.

## 31. **CHAIRMAN**

The President shall chair any Board meeting at which he is present. If the President is not present, or is unwilling or unable to preside the remaining Directors shall appoint one of their number to preside as chairman for that meeting only.

## 32. **VACANCIES OF DIRECTORS**

32.1 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/her 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 his/her office by providing notice in writing to the Federation;
- (e) is absent without the consent of the Board from meetings of the Board held during a period of 6 months;
- (f) holds any office of profit under the Federation and the Members in General Meeting resolve that it is inappropriate for that person to be a Director;
- (g) is directly or indirectly interested in any contract or proposed contract with the Federation and fails to declare the nature of his/her interest;
- (h) ceases to be a Financial Member;

- (i) is removed from office by Special Resolution; or
- (j) would otherwise be prohibited from being a director of a corporation under the Act.

32.2 Any casual vacancy occurring in the office of a Director may be filled by the Board. Any casual vacancy occurring in the office of Divisional Director may be filled by the Division which is no longer represented on the Board. Any such vacancy may only be filled for the remainder of the Director's term under this Constitution.

32.3 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 Board meeting, they may act only for the purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

### 33. MEETINGS OF THE BOARD

33.1 The Board shall meet as often as is deemed necessary for the dispatch of business but no less than 9 times per year and may adjourn and, subject to this Constitution, otherwise regulate, its meetings as it thinks fit. The President or any 4 other Directors may at any time convene a meeting of the Board within a reasonable time.

33.2 Subject to this Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination of a majority of Directors present and entitled to vote shall for all purposes be deemed a determination of the Executive. Each Director shall have 1 vote on any question. The Chairman shall also have a casting vote where voting is equal.

33.3 (a) A resolution in writing, signed or assented to by facsimile 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 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 1 or more of the Directors is not physically present at the meeting, provided that:

- (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
- (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Board;
- (iii) in the event of a failure in communications prevents **Rule 33.3(b)(i)** from being satisfied by a quorum of Directors then the meeting shall be suspended until **Rule 33.3(b)(i)** is satisfied again. If such is not satisfied within 15 minutes from the interruption the meeting shall be deemed to have terminated; and
- (iv) no meeting shall be invalidated merely because no Director is physically present at the place for the meeting specified in the notice of meeting.

33.4 At meetings of the Board the number of Directors whose presence (or participation under **Rule 33.3**) is required to constitute a quorum is 5 Directors.

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

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

#### **34. CONFLICTS**

A Director shall declare his/her interest in any:

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

in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent himself/herself from discussions of such matter and shall not be entitled to vote in respect of such matter. In the event of any uncertainty as to whether it is necessary for a Director to absent himself/herself 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.

#### **35. CHIEF EXECUTIVE OFFICER**

35.1 A Chief Executive Officer may be appointed by the Board for such term and on such conditions as it thinks fit.

35.2 If appointed, the Chief Executive Officer shall:

- (a) as far as practicable attend all Board meetings and General Meetings;
- (b) prepare the notice of and agenda for all Board meetings and all General Meetings;
- (c) ensure that minutes of the proceedings of all Board and General Meetings are recorded and prepared; and
- (d) regularly report to the Board (and if required, to the Federation) on activities of, and issues relating to, the Federation.

35.3 Subject to the Act, this Constitution, the Regulations and any directive of the Board, the Chief Executive Officer has power to perform all such things as appear necessary or desirable for the proper management and administration of the Federation. No resolution passed in General Meeting shall invalidate any prior act of the Executive Director or the Board which would have been valid if that resolution had not been passed.

35.4 The Chief Executive Officer, in consultation with the Board, may employ such office personnel as are deemed necessary from time to time. Such appointments shall be for such period and on such conditions as the Chief Executive Officer and the Board determine.

## **36. DELEGATIONS**

- 36.1 The Board may by instrument in writing create or establish or appoint from among the Directors or otherwise, committees, individual officers or consultants to carry out such duties and functions and with such powers, as the Board determines.
- 36.2 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, or by resolution in General Meeting.
- 36.3 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.
- 36.4 The procedures for any delegated entity shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Board under **Rule 33**. The quorum shall be determined by the committee, but shall be no less than one half of the total number of committee members.
- 36.5 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.
- 36.6 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 body or person under this Rule.
- 36.7 Subject to any Special Resolution of the Federation in General Meeting to the contrary, each Division will constitute a standing committee. Each Division will advise the Secretary, or Chief Executive Officer if appointed, of its membership and its appointed Divisional Director each year. The Divisions will function as committees of the Board in accordance with this **Rule 36**. For the avoidance of doubt the Divisions and their members are responsible to the Board and are subject to the direction of, and delegation prepared by, the Board in accordance with this **Rule 36**.

## **37. REGULATIONS**

- 37.1 The Board may (by itself or by delegation to a committee) formulate, approve, issue, adopt, interpret and amend such Regulations for the proper advancement, management and administration of the Federation, the advancement of the Objects and the sport of Water Skiing as it thinks necessary or desirable. Such Regulations must be consistent with this Constitution.
- 37.2 All Regulations made under this Rule shall be binding on the Federation and Members.
- 37.3 All rules and regulations of the Federation in force at the date of the approval of this Constitution under the Act insofar as such rules and regulations are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be Regulations of the Federation under this Rule.
- 37.4 Amendments, alterations, interpretations or other changes to Regulations shall be advised to Members by means of notices approved by the Board and prepared and issued by the Secretary or Executive Director. Notices are binding upon all Members.

### **38. RECORDS AND ACCOUNTS**

- 38.1 The Secretary shall establish and maintain proper records and minutes concerning all transactions, business, meetings and dealings of the Federation and the Board and shall produce these as appropriate at each Board meeting or General Meeting.
- 38.2 Proper accounting and other records shall be kept in accordance 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 Finance Director/Treasurer.
- 38.3 The Federation shall retain such records for not less than 7 years after the completion of the transactions or operations to which they relate.
- 38.4 The Board shall submit to the Annual General Meeting the accounts of the Federation in accordance with this Constitution and the Act.
- 38.5 The accounts when approved or adopted by an Annual General Meeting shall be conclusive except as regards any error discovered in them within 3 months after such approval or adoption.
- 38.6 Subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with this Constitution, the accounts shall be open to inspection (but not copying) by the Members.
- 38.7 All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments and all receipts for money paid to the Federation, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, by any 2 authorised Directors or in such other manner and by such persons the Directors determine.

### **39. AUDITOR**

- 39.1 A properly qualified auditor or auditors shall be appointed and the remuneration of such auditor or auditors approved by the Board. The auditor's duties shall be regulated in accordance with the Act.
- 39.2 The accounts of the Federation including the profit and loss accounts and balance sheet shall be examined by the auditor or auditors at least once in every year.

### **40. NOTICES**

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

40.2 Notice of every General Meeting shall be given in the manner authorised and to the persons entitled to receive notice under this Constitution.

#### **41. SEAL AND EXECUTION OF DOCUMENTS**

41.1 The Secretary shall provide for safe custody of the seal (if any).

41.2 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.

41.3 The Federation may execute a document without using a seal if the document is signed by at least 2 Directors.

#### **42. PATRONS AND VICE PATRONS**

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

#### **43. ALTERATION OF CONSTITUTION**

This Constitution shall not be altered except by Special Resolution.

#### **44. INDEMNITY**

44.1 Every Director, auditor, manager, employee or agent of the Federation shall be indemnified out of the property or assets of the Federation 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 judgement is given in his/her favour 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.

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

(a) in the case of a Director, performed or made whilst acting on behalf of and with the authority, express or implied of the Federation; and

(b) in the case of a manager or employee, performed or made in the course of, and within the scope of their employment by the Federation.

#### **45. DISSOLUTION**

45.1 Subject to **Rule 45.2** the Federation may be wound up in accordance with the provisions of the Act.

45.2 The provisions of **Rules 7 and 8** relating to the winding up and dissolution of the Federation shall take effect and be observed as if the same were repeated in this Rule.

**APPENDIX 1**

**NEW SOUTH WALES WATER SKI FEDERATION LIMITED (“NSWWSF”)**

**PROXY FORM**

I, (name of Member ), of

(name of Member, where applicable), being a Member of NSWWSF, hereby appoint

(name of proxy and Membership Number ) of

being a Member of NSWWSF, as my proxy to vote for me on my behalf at the \*annual general / \*  
general meeting of NSWWSF to be held on the day of

and at any adjournment of that meeting.

Signed this day of 20

(Signature of Member)

\*Strike out whichever is not desired.