

**The Constitution of  
Motorcycling Australia Ltd ACN 057 830 083**

**(a company limited by guarantee)**

**Adopted 29 May 2021**

## Table of contents

<b>1</b>	<b>Name of company and corporate status</b> .....	<b>1</b>
	Name.....	1
	Corporate status .....	1
<b>2</b>	<b>Patrons</b> .....	<b>1</b>
	Current patrons.....	1
	Changing a patron .....	1
<b>3</b>	<b>Relationships - FIM, MA &amp; SCBs</b> .....	<b>1</b>
	Relationship with FIM .....	1
	Relationship with MA and other SCBs .....	1
<b>4</b>	<b>MA objectives, principles and powers</b> .....	<b>1</b>
	Sole purpose of MA.....	1
	MA objectives .....	2
	MA principles .....	3
	Powers of MA.....	3
	Authority to trade .....	4
<b>5</b>	<b>Structure and governance of MA</b> .....	<b>4</b>
	MA board .....	4
	Management.....	4
	MA council .....	4
	MA commissions & subcommittees.....	4
	The MA Alliance .....	4
<b>6</b>	<b>Management of MA</b> .....	<b>4</b>
	MA CEO .....	4
	MA staff.....	5
<b>7</b>	<b>Membership of MA</b> .....	<b>5</b>
	Membership structure of MA .....	5
	MA members' voting rights.....	6
	Obligations of all MA members .....	6
	Termination of MA membership – MA Alliance Participants.....	6
	Termination of MA membership for a SCB who is not a MA Alliance participant .....	7
	Termination of MA membership – members who are not SCBs.....	7
<b>8</b>	<b>MA board</b> .....	<b>7</b>
	Composition of MA board.....	7
	Duties of directors.....	7
	MA director's commitment to the MA Alliance .....	8
	Prohibitions and limitations applying to directors.....	8
	Powers of the MA board .....	9
	MA board's power to delegate .....	9
	Rotation of elections of directors .....	9
	Election of directors.....	10
	Resignation of a director .....	10
	Grounds for the removal of directors .....	10
	Removal of directors.....	10

	Disciplinary action against removed director .....	11
	MA board must continue to act .....	11
	Vacancies on the MA board .....	11
	Complaints against former directors .....	11
<b>9</b>	<b>MA board meetings.....</b>	<b>12</b>
	MA board to meet regularly .....	12
	Business of the MA board .....	12
	Resolutions of the MA board .....	12
	Quorum for MA board meetings.....	13
	MA board resolutions out of meetings .....	13
	The MA board elects its own chair.....	13
<b>10</b>	<b>MA council .....</b>	<b>13</b>
	Composition and quorum of the MA council.....	13
	Annual general meeting.....	13
	Chair of AGM.....	14
	MA council meetings.....	14
<b>11</b>	<b>Nomination committee .....</b>	<b>14</b>
	Constitution of the nomination committee .....	14
	SCB's may enlist the nomination committee .....	15
	Role of the nomination committee.....	15
	Recommendations of the nomination committee - candidates .....	15
<b>12</b>	<b>Election and appointment of MA directors .....</b>	<b>16</b>
	Elected directors .....	16
	Appointed directors .....	16
<b>13</b>	<b>Resolutions generally .....</b>	<b>16</b>
	Ordinary resolutions .....	16
	Special resolutions .....	16
	No proxies .....	16
<b>14</b>	<b>MA commissions &amp; subcommittees.....</b>	<b>17</b>
	Continuing MA commissions & subcommittees .....	17
	Establishment or abolishing of MA commissions & subcommittees .....	17
	MA commissions & subcommittees.....	17
	Appointment of MA commission & subcommittee members .....	17
	Resignation of commission and subcommittee members .....	17
	Objectives & purposes of MA commissions & subcommittees .....	17
	Operation of MA commissions & subcommittees .....	18
	MA commissions & subcommittees are accountable to MA board.....	18
	Meetings of MA commissions & subcommittees .....	18
	Minutes to be promptly published to the MA CEO.....	19
	Dismissal of MA commission and subcommittee members .....	19
	Disciplinary proceedings against MA commission & subcommittee members .....	20
	Vacancies on MA panel & MA commissions & subcommittees.....	20
<b>15</b>	<b>MA policies .....</b>	<b>20</b>
	Power to make MA policies .....	20
	Publication of MA policies.....	20

<b>16</b>	<b>Property of MA</b> .....	<b>21</b>
	MA fees and charges.....	21
	MA fees and charges.....	21
	Application of income and property .....	21
	Borrowing .....	22
	Liability of MA members is limited .....	22
	Distribution of MA property on winding up.....	22
<b>17</b>	<b>Accounts and records</b> .....	<b>22</b>
	MA required to maintain records .....	22
	AGM to appoint auditor .....	22
	Accounts to be audited .....	22
	Availability of records to membership .....	23
<b>18</b>	<b>Execution of documents</b> .....	<b>23</b>
	Cheques and negotiable instruments .....	23
	Delegation for execution generally .....	23
<b>19</b>	<b>Conflicts of interest or duty</b> .....	<b>23</b>
	Directors must declare any conflict of interest or duty .....	23
	MA commission or subcommittee conflicts.....	24
<b>20</b>	<b>Discipline</b> .....	<b>24</b>
	Complaints that may be made to the MA board .....	24
	Complaints .....	24
	Grounds for disciplinary action on complaint.....	24
	MA board to consider the complaints from MA members (other than SCBs).....	25
	MA board response to a complaint about MA members .....	25
	Process for imposition of penalties.....	25
	Disciplinary penalties .....	26
	Rights of appeal .....	27
	Judiciary committee.....	27
	Penalties a judiciary committee may impose .....	28
	Appeal from judiciary committee determination .....	28
	Procedural fairness for all disciplinary processes .....	28
	Rules of evidence do not apply .....	28
<b>21</b>	<b>Changing this constitution</b> .....	<b>28</b>
	Regular review .....	28
	Amendments to be approved by special resolution .....	28
	Application of amendments to this MA constitution.....	28
<b>22</b>	<b>Indemnities</b> .....	<b>29</b>
	MA indemnity to directors.....	29
<b>23</b>	<b>Definitions and interpretation</b> .....	<b>30</b>
	Definitions.....	30
	Interpretation .....	32

## **1 Name of company and corporate status**

### **Name**

- 1.1 The name of the company is Motorcycling Australia Ltd ACN 057 830 083, referred to in this constitution as '**MA**'.

### **Corporate status**

- 1.2 MA is a company, limited by guarantee, incorporated under the *Corporations Act 2001*.
- 1.2.1 The extent of MA members' guarantee is stated in clause 16.5.

## **2 Patrons**

### **Current patrons**

- 2.1 The patrons of MA under the constitution that this MA constitution replaces will continue as patrons under this MA constitution.

### **Changing a patron**

- 2.2 The MA council, by ordinary resolution, may appoint, remove or change any patron.
- 2.2.1 The MA council may appoint more than one patron.

## **3 Relationships - FIM, MA & SCBs**

### **Relationship with FIM**

- 3.1 National bodies, affiliated with the Fédération Internationale de Motocyclisme (**FIM**), that control and manage motorcycle sport in their respective nations constitute the FIM.
- 3.1.1 MA is the only Australian affiliate of the FIM.
- 3.1.2 The FIM governs and controls FIM-sanctioned multi-national series, international series and world championship motorcycle sport.
- 3.1.3 MA acknowledges and agrees that the FIM is the only global governing body for motorcycle sport.

### **Relationship with MA and other SCBs**

- 3.2 MA is constituted by its voting members, the SCBs.
- 3.2.1 MA and each SCB have formed the MA Alliance as stated in the MA Alliance Agreement. MA commits to that Alliance as an equal and active participant with all the SCBs.

## **4 MA objectives, principles and powers**

### **Sole purpose of MA**

- 4.1 The purpose of MA is to discharge the MA objectives in accordance with the MA principles.

## MA objectives

4.2 The MA objectives are all of the following:

- 4.2.1 To promote, regulate and administer MA-permitted motorcycle sport and other motorcycling activities conducted in Australia.
- 4.2.2 To cooperate with the SCBs to maximise the success of MA sanctioned multi-state or Australian championship motorcycle events conducted in Australia.
- 4.2.3 To maintain and regularly update the rules under which all motorcycle sport and recreational activities are to be conducted by MA and the SCBs.
- 4.2.4 To conduct, encourage, promote, advance, control and administer motorcycle sport and other motorcycling activities throughout Australia in consultation with the SCBs for the mutual benefit of MA, the SCBs, and members of MA and the SCBs and motorcycling generally.
- 4.2.5 To constantly use best endeavours to regulate and administer all MA sanctioned motorcycle sport and other motorcycling activities in a manner that seeks to achieve the following:
  - Maximise the safety of participants, officials, spectators and the public.
  - Ensure, to the maximum extent practicable, that MA-permitted motorcycle sport is competitive, fair and fun.
  - Continual improvement of standards and quality of MA-permitted events.
- 4.2.6 To maintain and enhance the reputation of MA, the SCBs and motorcycle sport and motorcycling generally by continually improving the standards and quality of MA-permitted events for the benefit of MA and SCB members and motorcycling generally.
- 4.2.7 To promote mutual trust and confidence between MA the SCBs and members of MA and members of the SCBs.
- 4.2.8 To promote the economic and sporting success, strength and stability of MA, each SCB and each SCB-affiliated club and to act cooperatively and collaboratively with each of these bodies.
- 4.2.9 To develop, use, protect and improve MA intellectual property.
- 4.2.10 To collect, distribute and publish information in connection with motorcycling in Australia.
- 4.2.11 To seek government, commercial and public recognition and support of MA and MA-permitted events.
- 4.2.12 To assist with the development, management and regulation of MA-permitted motorcycle sport and other motorcycling activities in Australia consistently with the Manual of Motorcycle Sport.
- 4.2.13 To seek, pursue and develop commercial arrangements that promote these MA objectives.

- 4.2.14 To participate in the mediation or determination of disputes between SCBs in accordance with the MA Alliance Agreement.
- 4.2.15 To recognise and implement policies promulgated by the MA Alliance including those in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, junior and senior programs, infectious diseases and other matters as arise from time to time as issues to be addressed in relation to MA-permitted motorcycle events.
- 4.2.16 To select and support teams and squads to represent Australia in FIM-permitted international events.
- 4.2.17 To represent the interests of MA and SCB members and of motorcycle sport and recreation generally in any appropriate public forum in Australia.
- 4.2.18 To participate as an Alliance Participant in the MA Alliance in accordance with the terms of the MA Alliance Agreement to which MA and all SCBs are participants.

### **MA principles**

- 4.3 MA commits to each of the following principles:
  - 4.3.1 To always act lawfully in accordance with the laws applicable in each Australian state or territory.
  - 4.3.2 To always act on behalf of, and in the interests of MA and SCB members and motorcycling generally and refrain from any action or conduct that compromises the achievement of these MA objectives.
  - 4.3.3 To apply the property, capacity and resources of MA to achievement of the MA objectives.
  - 4.3.4 To recognise any penalty validly imposed by a SCB under its constitution or its rules and regulations and facilitate the proper imposition of any such penalty.
  - 4.3.5 To always act in good faith.
  - 4.3.6 To have regard to the public interest in any decision or action taken in respect of the MA objectives.
  - 4.3.7 To promote the interests of MA and all other SCBs that are consistent with the MA objectives and MA principles.

### **Powers of MA**

- 4.4 MA must do all that is reasonably necessary to realise the following and has the power under this MA constitution to do so:
  - The MA objectives in accordance with the MA principles.
  - Enabling MA and SCB members to benefit from the realisation of the MA objectives.
- 4.4.1 The development, regular review and update of MA policies consistently with the MA objectives and the MA principles and the policies and strategy developed by the ALT to govern the conduct of MA-permitted motorcycle events in Australia.

- 4.4.2 To participate in the MA Alliance to the develop, regularly review and update of a schedule of fees, charges, levies, fines or penalties and the like, to ensure the ongoing financial and economic viability of MA and each SCB.
- 4.4.3 Do all such acts and things, whether solely or in conjunction with any other person or persons, as may be considered incidental or conducive to the realisation of the MA objectives in accordance with the MA principles.

#### **Authority to trade**

- 4.5 MA is authorised to trade in accordance with the *Corporations Act 2001*, subject to compliance with the MA objectives and the MA principles.

## **5 Structure and governance of MA**

### **MA board**

- 5.1 The MA board has overall responsibility to ensure MA pursues MA objectives in accordance with this constitution.
  - 5.1.1 The MA board is constituted as stated in clause 8.1.

### **Management**

- 5.2 The MA board appoints the MA CEO and other MA employees are accountable to the MA CEO as stated in part 6.

### **MA council**

- 5.3 The MA council is constituted by a representative of each SCB appointed by each respective SCB.

### **MA commissions & subcommittees**

- 5.4 The MA board determines the scope of authority and the objectives of each MA commission or MA subcommittee.
  - 5.4.1 All MA commissions and MA subcommittees are accountable to the MA board.
  - 5.4.2 Each member of each MA commission or MA subcommittee is appointed by the MA board as stated in part 14.

### **The MA Alliance**

- 5.5 MA acknowledges and agrees that it is a committed participant in the MA Alliance.
  - 5.5.1 The MA board must appoint 2 suitable directors to represent MA on the ALT constituted under the MA Alliance Agreement.

## **6 Management of MA**

### **MA CEO**

- 6.1 The MA board must appoint a person to perform the functions of the MA CEO stated in this MA constitution and any other functions and duties of the MA CEO determined from time to time by the MA board.



- 6.1.1 The MA board must ensure that, at all times, a person competent to perform the functions and duties of the MA CEO is appointed to, or is acting in, the role of the MA CEO.
- 6.1.2 The MA CEO is a company secretary of MA for the purposes of the *Corporations Act 2001* and any associated purposes.
- 6.1.3 The MA CEO is also the secretary to the MA board and must attend, in person or by a delegate, all MA board meetings.
- 6.1.4 Decisions of the MA CEO are subject to ratification by the MA board. However, the MA board may decline to ratify a decision of the MA CEO only on the basis that the MA CEO's decision was not consistent with the MA objectives or the MA principles.

#### **MA staff**

- 6.2 The MA CEO will, in accordance with policies adopted by the MA board, determine, from time to time, the number of staff, and their respective duties, to be employed by MA having regard to the MA objectives and the MA principles.
  - 6.2.1 The MA CEO must employ staff to the positions determined by the MA CEO and must manage the performance of, and mentor, all MA employees.
  - 6.2.2 The MA CEO must keep the MA board promptly informed of all relevant staff performance issues.

## **7 Membership of MA**

### **Membership structure of MA**

- 7.1 MA's membership structure is as follows:
  - 7.1.1 The 7 SCBs are members of MA.
  - 7.1.2 Each club affiliated with a SCB is a member of MA.
  - 7.1.3 Each individual financial member or individual life member of each SCB is also a member of MA.
  - 7.1.4 Each individual financial member or individual life member of each club affiliated with a SCB is a member of MA.
  - 7.1.5 In respect of persons who are not already members as stated in clause 7.1.3 any person or entity to whom MA issues a licence or to whom MA issues a permit is a member for the following periods:
    - In respect of a licence, the period during which the licence entitles the holder to participate in MA-permitted events.
    - In respect of a permit, from the issue of the permit to the conclusion of all administration of the event for which the permit is issued.
  - 7.1.6 Any new class of membership, determined by the MA board under clause 8.5.5, to accommodate the following:

- Any person or organisation that conducts motorcycling events, or other motorcycling activities, in 2 or more states or territories, who will be affiliated directly with MA.
- Individuals who may become members of MA directly, whether or not any of those individuals are already members on another basis stated in this clause 7.1.

#### **MA members' voting rights**

7.2 Only the SCBs, as represented by their duly authorised delegates on the MA Council have any right to vote at MA general meetings.

#### **Obligations of all MA members**

7.3 Each MA member acknowledges and agrees that membership of MA constitutes a commitment to each of the following:

7.3.1 That this MA constitution expresses the terms and conditions of a contract between each MA member and MA.

7.3.2 That each MA member must comply with each of the following:

- He, she or it must conduct himself, herself or itself consistently with the MA objectives and MA principles and in accordance with all the provisions of this MA constitution and MA policies.
- He, she or it must refrain from any action or conduct that is prejudicial to the MA objectives and MA principles or is inconsistent with the provisions of this MA constitution.

7.3.3 That each MA member must comply with the MA constitution and with the Manual of Motorcycle Sport.

7.3.4 That each MA member must comply with determinations, resolutions and policies made by the MA board in accordance with this constitution.

7.3.5 Each MA member must use his, her or its best endeavours to contribute the realisation of the MA objectives in accordance with the MA principles.

7.3.6 Each MA member must promptly pay any membership fees, affiliation fees, application fees, permit fees, general levies, insurance levies, penalties and any other fees and charges determined or imposed by the MA board for services delivered by MA and disciplinary decisions for which that member is liable in accordance with this MA constitution.

7.3.7 Each MA member must promptly pay fees, charges and penalties, imposed by MA under the MA constitution or under the Manual of Motorcycle Sport, for which that member is liable.

#### **Termination of MA membership – MA Alliance Participants**

7.4 MA membership of a SCB that is a participant under the MA Alliance agreement may be terminated only under the MA Alliance Agreement.

### **Termination of MA membership for a SCB who is not a MA Alliance participant**

- 7.5 In respect of a SCB that is not a MA Alliance participant, that SCB's membership of MA may be terminated only as follows:
- 7.5.1 If that relevant SCB is in breach of this constitution, the MA board may give the board of the relevant SCB a notice to show why that SCB's membership of MA should not be terminated.
  - 7.5.2 Within the time set by the MA board for the relevant SCB to show cause (which must not be less than 14 calendar days) the relevant SCB must deliver its reasons why its membership should not be terminated.
  - 7.5.3 Within 2 days after the relevant SCB delivers its reasons to the MA board, the MA board must deliver a copy of those reasons to each member of the MA Council.
  - 7.5.4 Within 14 days after the relevant SCB has delivered its reasons to the MA board (or within a longer period agreed by the majority of MA Council members) the MA Council must meet to determine, by ordinary resolution, whether or not the relevant SCB's membership is terminated. The MA Council must promptly give the relevant SCB written notice of its resolution.
  - 7.5.5 If the MA Council determines, by ordinary resolution, to terminate the membership of the relevant SCB, that SCB immediately ceases to be a member of MA.

### **Termination of MA membership – members who are not SCBs**

- 7.6 In respect of members who are not SCBs, termination of membership may only occur under part 20 after the initiation of a complaint.

## **8 MA board**

### **Composition of MA board**

- 8.1 The MA board is constituted by the following directors:
- 4 elected directors, elected by the MA council.
  - Up to 3 appointed directors who may be directly appointed by the elected directors, but in consultation with the MA council and having regard to any recommendations of the nomination committee to consider suitable candidates.
- 8.1.1 Each elected director must be a member of MA at the time of his or her nomination for election and must maintain that membership throughout the director's term on the MA board.
  - 8.1.2 Appointed directors do not have to be members of MA.

### **Duties of directors**

- 8.2 MA directors owe MA and its members the following duties:
- 8.2.1 To comply with the *Corporations Act 2001*.
  - 8.2.2 To act in the interests of the whole of MA in the context of the MA Alliance Agreement.

- 8.2.3 To enhance the reputation of MA with the Australian community and government.
- 8.2.4 To comply with this MA constitution and the Manual of Motorcycle Sport.
- 8.2.5 To support, and not compromise, the integrity of all MA board resolutions.
- 8.2.6 To promptly declare any conflict of interest.
- 8.2.7 To act in accordance with the commitments required of MA directors under clause 8.3.

#### **MA director's commitment to the MA Alliance**

- 8.3 Each MA director must formally acknowledge and agree, subject to clause 8.3.1, the following:
- He or she represents the interests of all MA members, but in accordance with this constitution and the MA Alliance Agreement.
  - The interests of MA members are concurrent with Best-for-Motorcycling as defined in the MA Alliance Agreement and that MA board decisions must be made on a Best-for Motorcycling basis.
  - The MA Alliance requires that MA must conduct its operations consistently with the resolution of the ALT under the MA Alliance Agreement.
  - In respect of MA projects, each MA director must act on a Best-for-Motorcycling basis and must take into account the interests of all SCBs.
  - He or she must refrain from any action that puts MA in breach of the MA Alliance Agreement.
- 8.3.1 These commitments are subject to the requirement that at all times a MA director is bound to act in accordance with the law.

#### **Prohibitions and limitations applying to directors**

- 8.4 Subject to clause 8.4.2, MA directors are subject to the following prohibitions in the interests of independent decision-making and avoiding conflicts of interests:
- Being a committee member of any club affiliated with a SCB.
  - Accepting any appointment as a key official for any event that is not a closed-to-club event.
  - Accepting any appointment as a track licensing inspector or engage in any role related to the issue of a track licence.
  - Hold any position in management of, or in any way control or direct, any private promoter.
- 8.4.1 Subject to clause 8.4.2, no person may be a director for more than 3 consecutive 2-year terms. However, after a period of 2 years (measured as a 2-year term) after resigning or retiring as a director, that person will again be eligible to be nominated for a directorship by the nomination committee and, if elected or appointed, that director is again subject to the '3 consecutive 2-year term' limitation.

- 8.4.2 The prohibitions stated in clause 8.4 apply from the 2021 MA AGM.
- 8.4.3 The limitations stated in clause 8.4.1 apply as follows:
- To elected directors elected at the 2020 and 2021 MA AGMs, ignoring any time served as a director before the 2020 MA AGM and then to every director elected after the 2021 MA AGM.
  - To appointed directors appointed on or after the 2020 AGM, ignoring any time served as a director before that and then to every director appointed after the 2021 MA AGM.

#### **Powers of the MA board**

- 8.5 The MA board has power to make a resolution about any of the following:
- 8.5.1 Any matter expressly stated in this MA constitution as being the responsibility of the MA board.
- 8.5.2 Any matter related to, or arising out of, this MA constitution that is not expressly stated to be the responsibility of the ALT under the MA Alliance Agreement or the MA council.
- 8.5.3 Any matter in relation to motorcycle sport or motorcycle activities in Australia stated to be the responsibility of MA under the Manual of Motorcycle Sport.
- 8.5.4 Any matter, whether in respect of policy, finances, management or operations necessary to pursue the MA objectives in accordance with the MA principles except those matters expressly stated in this MA constitution to be the responsibility of the ALT under the MA Alliance Agreement or the MA council.
- 8.5.5 The definition of, and the terms upon which, any new class of member may be granted affiliation as stated in clause 7.1.6.

#### **MA board's power to delegate**

- 8.6 Subject to part 18, the MA board may delegate to an individual or to a subcommittee, the investigation or management of any matter for which the MA board is responsible.
- 8.6.1 The MA board must prescribe, by resolution properly minuted, the ambit of authority and the task to be performed by any delegate of the MA board.
- 8.6.2 The MA board may, by resolution properly minuted, and by promptly notifying the delegate of the revocation, revoke any delegation at any time.
- 8.6.3 The MA board must not delegate the power to delegate granted by this clause 8.6.
- 8.6.4 The individual or subcommittee to which any power is delegated must not further delegate that power.

#### **Rotation of elections of directors**

- 8.7 Subject to clause 8.4.1, each elected director will be elected for a 2-year term and each of the following apply:
- 8.7.1 An elected director whose term has expired, may be re-nominated by the nomination committee as a candidate for a position as an elected director.

- 8.7.2 At the 2018 AGM, the positions of elected directors elected at the 2016 AGM will be subject to election and then again at the 2020 AGM and so on.
- 8.7.3 At the 2019 AGM, the positions of elected directors not subject to election under clause 8.7.2 will be subject to election and then again at the 2021 AGM and so on.

#### **Election of directors**

- 8.8 MA directors must be nominated and elected or appointed in accordance with parts 11 and 12.

#### **Resignation of a director**

- 8.9 A MA director may resign his or her position by giving written notice of the resignation, stating the future date on which the resignation is to take effect, to the chair of the MA board and the MA CEO.

#### **Grounds for the removal of directors**

- 8.10 The grounds for the removal of a MA director include the following:
- 8.10.1 The director dies or loses legal capacity.
  - 8.10.2 The director is declared bankrupt.
  - 8.10.3 The director breaches any duty stated in clause 8.2.
  - 8.10.4 The director breaches the duties stated in clause 8.3
  - 8.10.5 The director contravenes the prohibitions stated in clause 8.4.
  - 8.10.6 The director resigns under clause 8.9.
  - 8.10.7 The director does something that damages the reputation of MA or a SCB within the community or within government.
  - 8.10.8 The director fails to declare a material conflict of interest.
  - 8.10.9 The director's membership of MA is suspended or terminated.
  - 8.10.10 The director commits a substantial breach of the Manual of Motorcycle Sport.
  - 8.10.11 The director is prohibited under the *Corporations Act 2001* from directorship.

#### **Removal of directors**

- 8.11 If any MA member makes a written complaint to the MA board that a current director has acted in a way that constitutes a ground for removal stated in clause 8.10, the MA board, excluding the director about whom the complaint was made, must act as follows:
- 8.11.1 It may seek evidence from any source in respect of the complaint.
  - 8.11.2 It must promptly inform the director about whom the complaint was made, of the complaint and any evidence obtained ancillary to the complaint.
  - 8.11.3 It may, by special resolution of the other directors, suspend the director about whom the complaint was made.
  - 8.11.4 It must require the MA CEO to, within 14 days of receiving the complaint mentioned in clause 8.11, give notice to the MA council and to the director about whom the complaint was made that a MA council meeting will be convened, no

earlier than 2 calendar months after giving the notice, to determine a motion to dismiss the director.

- 8.11.5 After the director about whom the complaint was made has presented his or her submission to the MA council at the meeting convened by notice as stated in clause 8.11.4, the MA council may remove the director by ordinary resolution.

#### **Disciplinary action against removed director**

- 8.12 If the MA council makes a resolution to remove a director under clause 8.11.5 and the MA board further determines that the conduct of the director that caused his or her removal from the MA board is serious enough to potentially warrant a further penalty, the MA board may appoint a judiciary committee under clause 20.9 to hear evidence about the removed director's conduct and to determine whether any further penalty is to be imposed.

#### **MA board must continue to act**

- 8.13 If a director resigns under clause 8.9 or is removed under clause 8.11, the remainder of the MA board must continue to act as the MA board until the vacancy is filled in accordance with clause 8.14.

#### **Vacancies on the MA board**

- 8.14 Vacancies on the MA board will be filled as follows:

- The MA council will, having regard to the recommendations of the nomination committee delivered under clause 11.3.5, appoint a suitable and eligible MA member to the board to fill any vacancy created by the resignation or removal of an elected director.
- The MA board, in consultation with the MA council, may, having regard to the recommendations of the nomination committee delivered under clause 11.3.5, appoint a suitable and eligible person, who does not have to be a member of MA, to fill any vacancy created by the resignation or removal of an appointed director.
- If the vacancy has been created by the resignation or removal of the chair or vice-chair, the remaining directors must choose, by ordinary resolution, a new chair or vice chair as required.

- 8.14.1 A MA member appointed to fill a vacancy on the board created by the resignation or removal of an elected director will complete the term of the elected director that appointee replaces and then that position will be subject to nomination and election as stated in parts 11 and 12.

- 8.14.2 If an elected director, already on the MA board, is appointed by the board to fill a vacancy on the board created by the resignation or removal of another elected director, he or she will be appointed to complete the term of the elected director who resigned or was removed, not the term for which he or she was first elected.

#### **Complaints against former directors**

- 8.15 If any MA member makes a written complaint to the MA board that a former director has, after the adoption of this MA constitution, acted in a way that would constitute a ground for removal stated in clause 8.10, the MA board may seek evidence from any source in respect of the complaint.

- 8.15.1 If the MA board determines that the former director engaged in conduct after the adoption of this MA constitution that potentially warrants the imposition of penalties under this MA constitution, the MA board may appoint a judiciary committee under clause 20.9 to hear evidence about that former director's conduct and to determine whether any penalties are to be imposed under this MA constitution.

## **9 MA board meetings**

### **MA board to meet regularly**

- 9.1 The MA board must meet regularly and, in any case, not less than 11 times per calendar year, for formal MA board meetings.
- 9.1.1 Each director must attend all MA board meetings unless the director has a valid excuse for not attending, having regard to the place and time at which the MA board meeting is held and the director's work, family and other commitments.
- 9.1.2 Board meetings may be conducted in person or by suitable instant electronic means, or a mixture of both.

### **Business of the MA board**

- 9.2 The business of the MA board includes the following:
- 9.2.1 To make any resolution necessary to achieve the MA objectives in accordance with the MA principles, except in respect of those matters for which this MA constitution prescribes another process for resolving those matters.
- 9.2.2 To employ the MA CEO and oversee the MA CEO's performance.
- 9.2.3 To determine any delegations in respect of signing cheques, other negotiable instruments and contract documents committing MA to obligations.
- 9.2.4 To receive, consider or request any further information and make any necessary resolutions in respect of financial and operational reports from the MA CEO.
- 9.2.5 To consider and make any necessary resolutions in respect of the resolutions made by the ALT under the MA Alliance Agreement.
- 9.2.6 To consider and make any necessary resolutions in respect of the minutes of MA commissions and subcommittees.
- 9.2.7 To make any necessary resolutions in respect of contracts with any external party or government.
- 9.2.8 To conduct or establish processes for conducting disciplinary proceedings, and appeal from disciplinary proceedings under part 20.

### **Resolutions of the MA board**

- 9.3 Subject to the requirements for a quorum stated in clauses 9.4 and 9.5, the MA board may make a resolution about any matter for which the MA board is responsible under this MA constitution by ordinary resolution.



### **Quorum for MA board meetings**

- 9.4 4 MA directors present at a MA board meeting, in person or by instant electronic means, constitutes a quorum.
- 9.4.1 A MA board meeting must be quorate to make valid resolutions.
- 9.4.2 At least 4 directors must vote, or expressly abstain from voting, on any motion for resolution at a formal MA board meeting for the MA board resolution to be valid.

### **MA board resolutions out of meetings**

- 9.5 The MA board may, outside formal MA board meetings, carry a resolution by flying minute circulated by email or other online system.
- 9.5.1 At least 4 directors must vote, or expressly abstain from voting, on any MA board resolution proposed by flying minute for the resolution to be valid.

### **The MA board elects its own chair**

- 9.6 At the MA board meeting immediately following any AGM, the elected and appointed directors must elect its chair and the president of MA.
- 9.6.1 The person elected as chair of the MA board and the person elected by the MA board as the MA president may be different MA board members.

## **10 MA council**

### **Composition and quorum of the MA council**

- 10.1 The MA council is constituted as stated in clause 5.3.
- 10.1.1 For MA council meetings to vote on matters that are the responsibility of the MA council at least 6 MA council members must be present, in person or by instant electronic means, to constitute a quorum.
- 10.1.2 At least 6 MA council members must vote, or expressly abstain from voting, on any motion for resolution at a formal MA council meeting for the MA council resolution to be valid.
- 10.1.3 The MA council must appoint one of their members to chair MA council meetings.
- 10.1.4 MA council members must participate in the ALT under the MA Alliance Agreement in accordance with the MA Alliance Agreement.

### **Annual general meeting**

- 10.2 The AGM, a formal meeting of the MA council, must be convened by the MA CEO annually on a date not later than 30 June.
- 10.2.1 The MA CEO must give each MA council member notice of the following by the times stated:
- At least 2 calendar months before the time appointed, the time and place at which the AGM will be convened.
  - At least 5 days before the AGM is convened, the minutes of the previous AGM and the MA annual report and the MAIL annual report.

- At least 5 days before the AGM is convened, the recommendations of the nomination committee delivered under clause 11.3.5.
- 10.2.2 The business that must be transacted at the AGM is the following:
- To receive the minutes of the previous AGM.
  - To receive the MA annual report.
  - To receive the MAIL annual report.
  - To appoint an auditor for the next MA financial year.
  - To elect candidates to vacant elected directorships.
  - To elect new life members from properly nominated candidates.
- 10.2.3 An AGM must not transact any business not noted on the agenda for that AGM.
- 10.2.4 However, a meeting of the MA council may be convened either immediately before or after the AGM to consider motions other than those stated in clause 10.2.2.

#### **Chair of AGM**

- 10.3 Each AGM will be chaired as follows:
- 10.3.1 If the position of the chair of the MA board is subject to election at that AGM, an elected director not subject to election at that AGM will chair the meeting until the election for the elected director who is then the chair is declared. If that person is re-elected, he or she will chair the balance of the meeting. If the chair of the MA board is not re-elected, the person who commences chairing the meeting will chair the meeting to its close.
- 10.3.2 If the current chair of the MA board is not subject to election at that AGM, the chair of the MA board, or his or her nominee from the directors who are not subject to election at that AGM will chair the meeting.

#### **MA council meetings**

- 10.4 The MA council must meet regularly and not less than 6 times per year.
- 10.4.1 The chair of the MA council must give the MA CEO as much notice as is possible in the circumstances of any MA council meeting.

## **11 Nomination committee**

#### **Constitution of the nomination committee**

- 11.1 The chair of the MA council must, in consultation with the MA board and the MA council, constitute a nomination committee.
- 11.1.1 The nomination committee must include at least one MA director, and no more than 2, and at least one representative of the MA council and no more than 2.
- 11.1.2 Where the nomination committee is identifying candidates for a SCB board, a director of that SCB must be appointed to the nomination committee.

- 11.1.3 The nomination committee must be constituted by no fewer than 5 members and no more than 10.
- 11.1.4 Subject to clause 11.1.1, the nomination committee may include any suitable member who does not have to be a member of MA.
- 11.1.5 The nomination committee is a standing committee to discharge the role stated in clause 11.3.

#### **SCB's may enlist the nomination committee**

- 11.2 Any SCB board may notify the chair of the MA council and the chair of the nomination committee that it requires the nomination committee to attract, assess and rate candidates for directorships on that SCB board and make recommendations under clause 11.4.
  - 11.2.1 Any notification under clause 11.2 must be made at a time to allow the nomination committee to comply with clauses 11.3 and 11.4.

#### **Role of the nomination committee**

- 11.3 The nomination committee must do each of the following:
  - 11.3.1 Determine the intentions of continuing directors in respect of the time each of them anticipates resigning or retiring as a director.
  - 11.3.2 In consultation with the relevant board, determine desirable characteristics, expertise and experience that is required on the relevant board, having regard to the characteristics, expertise and experience of continuing directors.
  - 11.3.3 Seek applications from as many suitable eligible candidates as possible for the then available positions on the relevant board.
  - 11.3.4 Seek written acknowledgement and agreement from each apparently suitable and eligible candidate to the commitments required from MA directors under clause 8.3.
  - 11.3.5 Make recommendations, as stated in clause 11.4, on the most suitable of the candidates for the relevant vacant directorships.
  - 11.3.6 Conduct regular board performance reviews, at least every 2 years, and provide a written report of the outcome of the review to the relevant board and to the ALT.

#### **Recommendations of the nomination committee - candidates**

- 11.4 In respect of vacant directorships, the nomination committee must make the recommendations required under clause 11.3.5 as follows:
  - 11.4.1 For vacant directorships subject to election at the relevant AGM, at least 2 calendar weeks before the time appointed for the MA AGM.
  - 11.4.2 For appointments to fill vacancies in either elected or appointed directorships, within 6 weeks after the vacancy takes effect.
  - 11.4.3 Recommendations for MA directorships must be delivered to the MA board and the MA council.
  - 11.4.4 Recommendations for SCB directorships must be delivered to the relevant SCB board and to the general manager or CEO of that SCB.

## **12 Election and appointment of MA directors**

### **Elected directors**

12.1 Subject to clauses 8.4 and 12.1.1, the MA council must, by ordinary resolution, having regard to the recommendations of the nomination committee delivered under clause 11.3.5, determine the candidates the MA council elects to the available elected directorships, either at the AGM or at any time a vacancy occurs in elected directorship.

12.1.1 The MA council is not bound by the recommendations of the nomination committee and may elect, by ordinary resolution, any suitable and eligible person. However, the MA council must properly consider the recommendations of the nomination committee before doing so.

### **Appointed directors**

12.2 Subject to clauses 8.1, 8.4 and the following sub-clauses of this clause, the MA board may appoint any suitable and eligible person as an appointed director, having regard to the recommendations of the nomination committee delivered under clause 11.3.5.

12.2.1 The elected directors are not bound by the recommendations of the nomination committee or the view of the MA council and may appoint, by ordinary resolution, any suitable and eligible person. However, the elected directors must properly consider both the recommendations of the nomination committee and the views of the MA council before doing so.

## **13 Resolutions generally**

### **Ordinary resolutions**

13.1 Any resolution not required by this MA constitution to be a special resolution, will be determined by ordinary resolution as follows:

13.1.1 In respect of meetings of the MA board or the MA council, each of the following apply:

- An ordinary resolution will be made by simple majority of the people eligible to vote at the meeting and who attend the relevant meeting.
- If exactly 50% of the eligible voters attending the meeting vote for a motion at that meeting and exactly 50% vote against the motion, the motion is defeated.

### **Special resolutions**

13.2 Any resolution required by this MA constitution to be a special resolution must be carried by a majority of 75% or more of those eligible to vote, and attending the relevant meeting, voting in favour of the relevant motion.

### **No proxies**

13.3 No proxies from any person entitled to vote at any meeting of the MA board or the MA council will be accepted.

## **14 MA commissions & subcommittees**

### **Continuing MA commissions & subcommittees**

- 14.1 All MA commissions and subcommittees, existing at the time this constitution is adopted by the MA council, continue, but in accordance with this constitution.

### **Establishment or abolishing of MA commissions & subcommittees**

- 14.2 The MA board may, at any time by ordinary resolution, do the following:
- 14.2.1 Abolish any MA commission or subcommittee.
  - 14.2.2 Establish a MA commission or subcommittee for any purpose consistent with the MA objectives or to comply with the MA principles.
  - 14.2.3 Prescribe the ambit of authority for MA commissions and subcommittees including any matter about which a MA commission or subcommittee may make a resolution that does not require ratification by the MA board.

### **MA commissions & subcommittees**

- 14.3 MA commissions and subcommittees may be established, or continued, to regularly and collectively consider and make recommendations to the MA board on specific aspects of MA operations including, but not limited to, the following:
- 14.3.1 The conduct of various disciplines of motorcycle sport and recreation.
  - 14.3.2 The establishment, enforcement and amendment of rules for the conduct of motorcycle sport.
  - 14.3.3 The eligibility of machines and competitors who may enter specified events.
  - 14.3.4 Whole of MA considerations including officials and coaching.
  - 14.3.5 Any other purpose consistent with the MA objectives and MA principles.

### **Appointment of MA commission & subcommittee members**

- 14.4 The MA board will directly appoint individual MA commissions & subcommittee members having regard to the following:
- 14.4.1 The involvement of women, young members and current competitors.
  - 14.4.2 Experience and expertise.
  - 14.4.3 The ability of members to work as a team.
  - 14.4.4 Appropriate representation of differing or competing interests.

### **Resignation of commission and subcommittee members**

- 14.5 A member of any MA commission or subcommittee may resign at any time by giving the MA CEO written notice of his or her resignation.

### **Objectives & purposes of MA commissions & subcommittees**

- 14.6 The MA board must prescribe the objectives and purposes of every MA commission and subcommittee.

### **Operation of MA commissions & subcommittees**

- 14.7 The MA board may prescribe any of the following in respect of any MA commission or subcommittee:
- 14.7.1 The topics of business with which it must deal.
  - 14.7.2 The frequency at which it must meet.
  - 14.7.3 The maximum or minimum number of persons required on the commission or subcommittee.
  - 14.7.4 The places on the commission or subcommittee must be reserved for representatives of, respectively, special interests or regions.
  - 14.7.5 A quorum that must be present, personally or by telephone or internet connection, for meetings of the MA commission or subcommittee.
  - 14.7.6 That the particular MA commission or subcommittee must produce a budget to the MA CEO for expenditure the commission or subcommittee may incur and revenue the subcommittee may receive from MA.
  - 14.7.7 The format, content and detail of minutes of meeting it must produce to the MA CEO following each of its meetings.

### **MA commissions & subcommittees are accountable to MA board**

- 14.8 All members of all MA commissions and subcommittees are accountable to the MA board to at all times act consistently with this MA constitution and the purposes and objectives for which the commission or subcommittee been established.
- 14.8.1 All decisions and resolutions of a MA commission or subcommittee will be by ordinary resolution.
  - 14.8.2 All resolutions of MA commission or subcommittee, except resolutions in respect of matters that MA board resolves under clause 14.2.3 are not subject to subsequent ratification by the MA board, and all decisions by any MA commission or subcommittee may be over-ruled by the MA board.
  - 14.8.3 If a resolution of a commission or subcommittee is over-ruled by the MA board, the MA CEO must promptly inform the chair of the relevant MA commission or subcommittee that MA commission or subcommittee resolution has been over-ruled and invite submissions on why the resolution should not have been over-ruled and the MA board must promptly consider those submissions.
  - 14.8.4 If a decision of a MA commission or subcommittee is over-ruled by the MA board, the MA CEO must promptly inform the relevant MA commission or subcommittee of that MA board resolution and the reasons for the MA board resolution.

### **Meetings of MA commissions & subcommittees**

- 14.9 Each MA commission or subcommittee must meet as follows:
- 14.9.1 If the MA board has prescribed rules for the frequency of the MA commission or subcommittee meetings, the MA commission or subcommittee must comply with those rules.

- 14.9.2 If the MA board has **not** prescribed rules for the frequency of the MA commission or subcommittee meetings, the MA commission or subcommittee must meet as frequently as is reasonably necessary to discharge the objectives and purposes for which the commission or subcommittee was established.

**Minutes to be promptly published to the MA CEO**

- 14.10 Each MA commission and subcommittee must, within 5 business days after each of its meetings, publish to the MA CEO minutes of that meeting.
- 14.10.1 The form, content and detail contained in MA commission or subcommittee minutes must allow the MA board to ascertain the essential points of discussion of each agenda item and any resolution made by the commission or subcommittee in respect of each agenda item.

**Dismissal of MA commission and subcommittee members**

- 14.11 If the MA board forms the reasonable opinion that a MA commission or subcommittee member is acting contrary to the purposes and objectives for which the relevant MA commission or subcommittee was established or is not complying with this MA constitution or the rules prescribed by the MA board under clause 14.6, then the following apply:
- 14.11.1 The MA board may request that person or persons to show cause why he, she or they should not be dismissed.
- 14.11.2 If the MA board gives a person a notice to show cause, that person may deliver to the MA CEO a written submission of the reasons why the MA board should not dismiss the person. The MA CEO must receive a 'show cause' submission in response to a notice to show cause within 3 calendar weeks of the date of the notice to show cause for that submission to be valid.
- 14.11.3 At the next MA board meeting following the expiry of the time to show cause stated in clause 14.11.2, the MA board will consider any submission or submissions received by the MA CEO and determine either of the following:
- To dismiss the person.
  - To allow any person who received a notice to show cause under clause 14.11.2 to make oral representations to the MA board in person.
- 14.11.4 If the MA board determines to allow any person who receives a notice to show cause under clause 14.11.2 to make oral representations to the MA board in person, the MA CEO must notify that person when and where he or she is to make those submissions.
- 14.11.5 If the MA board resolves to dismiss any person, either under clause 14.11.3 or resolves to dismiss that person after hearing that person's oral submissions under clause 14.11.4, each of the following apply:
- The MA CEO must promptly notify that person after the MA board makes the resolution.
  - That person ceases to be a member of that subcommittee on the MA board making the relevant resolution.

### **Disciplinary proceedings against MA commission & subcommittee members**

- 14.12 The MA board may appoint a judiciary committee under clause 20.9 to hear evidence about the conduct of a MA commission or subcommittee member, or former MA commission or subcommittee member and to determine whether any penalties should be imposed under this MA constitution in either of the following cases:
- 14.12.1 If the MA board has dismissed the person under clause 14.11 and the MA board further determines that the conduct of that person that was the basis for his or her dismissal may warrant the imposition of further penalties under this MA constitution.
  - 14.12.2 If the person has resigned under clause 14.5 after being required to 'show cause' under clause 14.11.1 and the MA board reasonably determines that the conduct of that person may warrant the imposition of penalties under this MA constitution.

### **Vacancies on MA panel & MA commissions & subcommittees**

- 14.13 If a vacancy arises on any MA commission or subcommittee for any reason the MA board will, after publishing an invitation for individual MA members to express interest, appoint an individual MA member to the relevant MA commission or subcommittee having regard to the matters stated in clause 14.4.

## **15 MA policies**

### **Power to make MA policies**

- 15.1 The MA board has the power, subject to the provisions of this part 15, to adopt by ordinary resolution any MA policy that is consistent with the MA objectives, the MA principles, resolutions of the ALT under the MA Alliance Agreement and the requirements of clause 15.2.
- 15.1.1 If a MA policy is made under this part 15, that MA policy becomes part of this MA constitution.
  - 15.1.2 MA policies may be repealed, but only in accordance with this part 15.
  - 15.1.3 A MA policy may be amended by the MA board at any time and the MA CEO must give notice of the amendment on the MA website.
  - 15.1.4 All MA policies must be internally consistent and consistent with one another.

### **Publication of MA policies**

- 15.2 The MA CEO must, from the time this MA constitution is adopted, post on the MA website all MA policies noting the following:
- 15.2.1 The date on which the policy was adopted by the MA board.
  - 15.2.2 The date of all amendments to MA policies.



## **16 Property of MA**

### **MA fees and charges**

16.1 MA must at all times comply with an obligation validly imposed by MA under the MA constitution on MA members to pay membership fees, capitation fees, insurance levies and any other fees and charges for services delivered by MA.

16.1.1 Fees and charges payable to MA is the property of MA including whilst those funds are held by MA.

### **MA fees and charges**

16.2 The MA board may, consistently with any relevant resolution of the ALT under the MA Alliance Agreement, determine at any time, and amend at any time, the fees and charges payable by any MA member for membership fees, affiliation fees, application fees, permit fees, insurance levies and any other fees and charges for services delivered by MA.

16.2.1 Fees and charges imposed by MA under this MA constitution are property of MA.

### **Application of income and property**

16.3 MA must apply all income and property to the achievement of the MA objectives in accordance with the MA principles.

16.3.1 Subject to clause 16.3.2, MA must not do either of the following:

- Pay money or give any other form of reward or compensation to directors or MA commission or subcommittee members.
- Make any distribution of income or property to any member of MA.

16.3.2 Clause 16.3.1 does not apply in the following circumstances:

- The MA board resolves to award a trophy, gift or other reward for a MA member's contribution to the MA objectives or MA principles or to any competitor for achievement in MA sanctioned events.
- Prize money paid for MA-permitted events.
- For services rendered to MA as an employee or otherwise on ordinary commercial terms.
- For goods supplied to MA on ordinary commercial terms.
- For interest on borrowings from an MA member.
- For rent of premises owned by a MA member, or in which the MA member has a legal or equitable interest, on ordinary commercial terms.
- For out-of-pocket expenses incurred by a MA member on behalf of MA.
- Payments to companies and other entities owned by MA for activities of that company or other entity authorised by the MA board.

### **Borrowing**

- 16.4 The MA board may resolve to borrow money and give any security for the borrowing from the property of MA if each of the following apply:
- 16.4.1 The purpose of the borrowing is consistent with the MA objectives and the MA principles and with this MA constitution generally.
  - 16.4.2 The MA board is reasonably satisfied that MA has, or will have, the capacity to repay the loan.

### **Liability of MA members is limited**

- 16.5 Subject to clauses 16.5.1 and 16.5.2, in the event that MA is wound up and MA's liabilities to external parties plus liabilities payable under this MA constitution exceeds the value of all assets owned by MA at the time of the winding up, each SCB must each contribute an equal amount sufficient to make up the deficit in MA's liabilities.
- 16.5.1 The liability of each SCB club under clause 16.5 is limited to \$1.00.
  - 16.5.2 The liability of MA members under clause 16.5 other than SCBs is nil.

### **Distribution of MA property on winding up**

- 16.6 Any assets of MA remaining after the discharge of all MA liabilities on any winding up of MA must be distributed to an organisation or organisations having similar or comparable objectives and principles to the MA objectives and principles.
- 16.6.1 No MA member is entitled to any distribution of assets on winding up referred to in clause 16.6.

## **17 Accounts and records**

### **MA required to maintain records**

- 17.1 The MA CEO must ensure that MA maintains accurate records and minutes of all financial transactions, MA meetings, business conducted by MA and activities conducted by MA.
- 17.1.1 Financial and company records must be established and maintained in accordance with the *Corporations Act 2000*.
  - 17.1.2 MA must maintain and keep safe the records of accounts and other matters mentioned in clause 17.1 for a period of not less than 7 years after the conclusion of a transaction or an event which the records note.

### **AGM to appoint auditor**

- 17.2 The MA council, at the AGM, must appoint a suitably qualified auditor or auditors by ordinary resolution for the MA financial year in which relevant AGM is convened.

### **Accounts to be audited**

- 17.3 The MA board must ensure that the MA CEO makes suitable arrangements with the auditor or auditors appointed under clause 17.2 for the conduct of an annual audit and facilitates the conduct of an audit of the MA records promptly after the conclusion of each MA financial year and that the auditor or auditors deliver to the MA board an audit report in accordance

with the requirements of the *Corporations Act 2001* at least 10 business days before the date appointed for the AGM each year.

- 17.3.1 The audit report delivered under clause 17.3 must be presented to the AGM as part of the MA annual report.
- 17.3.2 The MA CEO must also ensure that the audit report delivered under clause 17.3 is included in the MA annual report as required under the *Corporations Act 2001* and is presented at the AGM and is also sent to each SCB with a request to make those documents available to any member of the SCB.

#### **Availability of records to membership**

- 17.4 The MA CEO must make available to any MA member, subject to any reasonable restrictions, all of the records mentioned in clause 17.3.2.

### **18 Execution of documents**

#### **Cheques and negotiable instruments**

- 18.1 Cheques and negotiable instruments may be signed or authorised by both the MA CEO and another employee recommended to the MA board by the MA CEO.

#### **Delegation for execution generally**

- 18.2 The MA board may, at any time, authorise the MA CEO, other MA employee, a director, or directors, to sign any document on behalf of MA. That authority may be for the execution of a particular document, any class of document or any documents associated with specified classes of transactions.
  - 18.2.1 Any authority granted by the MA board under clause 18.2 may be revoked by the MA board at any time.
  - 18.2.2 A delegation made under clause 18.2 must not be further delegated by the delegate.

### **19 Conflicts of interest or duty**

#### **Directors must declare any conflict of interest or duty**

- 19.1 A director must declare to the MA board any interest or duty that director may have that conflicts with, or appears to conflict with, that director's duties under this MA constitution or in respect of any matter being considered by the MA board.
  - 19.1.1 On the declaration of a conflict under clause 19.1, the director declaring the conflict must absent himself or herself from any MA board discussion about the matter or matters that create the conflict or the appearance of a conflict and that director may not vote on any resolution of the MA board in respect of that matter.
  - 19.1.2 If a director is unsure of whether he or she is subject to a conflict of interest or duty, that director must declare the possible conflict to the MA board. The other directors must determine whether the director declaring the conflict should be excluded as stated in clause 19.1.1.

### **MA commission or subcommittee conflicts**

19.2 A member of any MA commission or subcommittee must declare to the other members of the relevant commission or subcommittee the following:

- Any interest or duty that person may have conflicts with, or appears to conflict with that person's duties as a MA commission or subcommittee member under this MA constitution.
- Any conflict with the purposes and objectives for which the MA commission or subcommittee was established or with any matter being considered by the MA commission or subcommittee.

19.2.1 On the declaration of a conflict under clause 19.1, the person declaring the conflict, or apparent conflict, must absent himself or herself from any commission or subcommittee discussion about the matter or matters that create the conflict or the appearance of a conflict and that person may not vote on any resolution of the commission or subcommittee in respect of that matter.

19.2.2 If a MA commission or subcommittee member is unsure whether he or she is subject to a conflict of interest or duty, that person must declare the possible conflict the MA commission or subcommittee and the other MA commission or subcommittee members must determine whether the MA commission or subcommittee member declaring the conflict should be excluded as stated in clause 19.1.1.

## **20 Discipline**

### **Complaints that may be made to the MA board**

20.1 Any MA member, who is not a SCB, (**complainant**) may make a complaint to the MA board.

20.1.1 Any complaint regarding a SCB must be made to the relevant SCB and that SCB must deal with that complaint under its constitution.

### **Complaints**

20.2 A complainant may make a complaint, on the grounds stated in clause 20.3, in writing to the chair of the MA board.

20.2.1 The MA board may also initiate a complaint on its own motion in respect of the conduct of a SCB.

20.2.2 Complaints about any SCB that is a MA Alliance participant may only be dealt with under the MA Alliance Agreement.

### **Grounds for disciplinary action on complaint**

20.3 The grounds upon which a complainant, or the MA board, may make a complaint under clause 20.2 are limited to the following:

20.3.1 A MA member (other than a SCB) has breached its, his or her obligations under this MA constitution.

20.3.2 A MA member (other than a SCB) has seriously breached the Manual of Motorcycle Sport.

20.3.3 A MA member (other than a SCB) has brought MA or motorcycle sport or recreation into disrepute.

20.3.4 In respect of a MA director, the matters mentioned in clause 8.10.

**MA board to consider the complaints from MA members (other than SCBs)**

20.4 The MA board must consider all complaints made under clause 20.2 against any MA members (other than SCBs) and determine the following:

20.4.1 Whether the complaint is frivolous or vexatious.

20.4.2 Whether the complaint is more properly made to a SCB and, if so, the MA board must refer the complaint to the relevant SCB board.

20.4.3 Whether the subject of the complaint is subject to disciplinary action taken by the SCB of which that person or club is a member.

20.4.4 Whether the relevant MA member (other than a SCB) has been sufficiently disciplined by the SCB, of which the subject of the complaint is a member.

**MA board response to a complaint about MA members**

20.5 If the MA board resolves under clause 20.4.1 that the complaint is frivolous or vexatious, the MA board must dismiss the complaint and notify the complainant that no further action will be taken and the reasons the MA board has resolved to take no further action.

20.5.1 If the MA board determines under clause 20.4.3 that a complaint made by a MA member under 20.2 or a complaint made by the MA board under 20.2.1 is the subject to disciplinary action being taken by a SCB of which the person or club, the subject of the complaint, is a member, the MA board must suspend any action until the disciplinary proceedings being conducted by the relevant SCB have concluded and the person or club who is the subject of the complaint has exhausted all avenues of appeal available to it, him or her under the constitution of the relevant SCB. When that has happened, the MA board must make a determination under clause 20.4.4.

20.5.2 If the MA board determines under clause 20.4.4 that any penalty imposed by the relevant SCB is sufficient, having regard to the conduct about which the complaint was made, the MA board must notify the complainant that the MA board will take no further action.

20.5.3 Alternatively to clause 20.5.2, if the MA board determines under clause 20.4.4 that any penalty imposed by the relevant SCB is **not** sufficient, having regard to the conduct about which the complaint was made, the MA board must notify the person who is subject to the complaint the process the MA board will establish to determine if any further penalty is justified.

**Process for imposition of penalties**

20.6 Subject to clause 8.11 and clause 14.12, the MA board will determine which of the following processes is most suitable for determining whether any penalty is justified in relation to any complaint made under clause 20.2 or a complaint initiated by the MA board under clause 20.2.1:

- Disciplinary proceedings under the Manual of Motorcycle Sport.
  - Appoint an inspector under the Manual of Motorcycle Sport to investigate the complaint and make recommendations to the MA board about any penalty to be imposed.
  - Refer the complaint to a hearing by a tribunal appointed by the MA board to make recommendations to the MA board about any penalty to be imposed.
  - Both appoint an inspector and, after receipt of the inspector's report, appoint a tribunal to hear evidence and make recommendations to the MA board about any penalty to be imposed.
- 20.6.1 The MA board may impose a penalty in accordance with clause 20.7 on any MA member who is the subject of a complaint made under clause 20.2 or initiated by the MA board under clause 20.2.1 in any of the following circumstances:
- After receiving a report from an inspector appointed by the MA board after giving the MA member a chance to respond to the inspector's report.
  - After receiving the recommendations from a tribunal appointed by the MA board.
  - After receiving both a report from an inspector and the recommendations of a tribunal appointed by the MA board,

### **Disciplinary penalties**

- 20.7 The penalties that may be imposed under this MA constitution include the following:
- In the case of a club, giving a direction to a SCB to terminate the affiliation of the club, a direction with which the relevant SCB must comply.
  - In the case of a club, suspension of the club's entitlement to conduct any MA-permitted events for a specified period or permanently.
  - Monetary penalties.
  - Restrictions or prohibitions on a person holding any elected position within MA, whether for all time or for a specified time.
  - Suspension or revocation of any MA licence.
  - Restrictions or prohibitions on a person participating in or attending MA-permitted events or SCB-permitted events.
  - Termination of membership of MA.
- 20.7.1 Any penalty must be proportionate to the conduct on which the complaint is based having regard to all of the following:
- The degree of seriousness of the conduct having regard to the MA objectives and MA principles.
  - Any admissions, apologies and undertakings, or refusal to admit, apologise or give undertakings by the club or person subject to the penalty.

- The degree of cooperation or refusal to cooperate by the club or person subject to the penalty.
- The past conduct of the club or person.
- The likelihood that the relevant conduct will recur.
- Any statements made by the club, its representatives or the person subject to the penalty outside the disciplinary proceedings that prejudice or compromise the disciplinary proceedings.

#### **Rights of appeal**

20.8 If the MA board imposes a penalty on a person or club under this part 20, that person or club may appeal that penalty by giving the president a written notice within 28 days after being notified of the penalty stating at least the following:

- 20.8.1 That the person or club, as relevant, wishes to appeal the penalty.
- 20.8.2 The reason or reasons why the club or person, as relevant, considers the penalty is not consistent with the MA constitution.
- 20.8.3 Any other reason why the club or person considers the penalty is not fair or reasonable in the relevant circumstances.

#### **Judiciary committee**

20.9 The MA board must promptly appoint a judiciary committee to hear and determine the following:

- Disciplinary proceedings, commenced by the MA board under clause 8.12, against a director or former director.
- Disciplinary proceedings, commenced by the MA board under clause 14.12, against a current or former MA panel member or a current or former MA subcommittee member.
- An appeal from a penalty received by the chair of the MA board under clause 20.8.

- 20.9.1 The MA board may require the payment of an appeal fee from an appellant for an appeal submitted under clause 20.8.
- 20.9.2 The MA board must appoint only suitably qualified or suitably experienced people, who have no conflict of interest or conflict of duty, to any judiciary committee.
- 20.9.3 A solicitor or barrister alone may constitute a judiciary committee.
- 20.9.4 A judiciary committee appointed under this clause 20.9 must establish a process, consistent with this MA constitution, having regard to the nature of the proceedings and must notify the complainant and the respondent to those proceedings of that process.
- 20.9.5 The judiciary committee must not depart, in any material way, from the process notified under clause 20.9.4.

### **Penalties a judiciary committee may impose**

- 20.10 The judiciary committee may impose a penalty under clause 20.7 in disciplinary proceedings against a director or former director commenced by the MA board under clause 8.12 or against a current or former MA commission or subcommittee commenced by the MA board under clause 14.12.
- 20.10.1 The judiciary committee may, in any appeal in respect of a penalty imposed by the MA board, rescind any penalty imposed by the MA board and may impose a different penalty under clause 20.7.
- 20.10.2 A judiciary committee hearing an appeal submitted under clause 20.8, may, if it dismisses the appeal, order that the appeal fee be forfeited and that the appellant pay the costs incurred by MA in hearing the appeal.

### **Appeal from judiciary committee determination**

- 20.11 Any club or person subject to a determination of a judiciary committee in respect of an appeal may appeal that determination to the National Sports Tribunal.

### **Procedural fairness for all disciplinary processes**

- 20.12 Any disciplinary process or proceeding conducted by the MA board, any delegate of the MA board or by a judiciary committee must afford procedural fairness to the club or person subject to the process or proceeding.

### **Rules of evidence do not apply**

- 20.13 The formal rules of evidence at law do not apply to any disciplinary proceedings conducted in accordance with this MA constitution.

## **21 Changing this constitution**

### **Regular review**

- 21.1 The MA board must regularly review this MA constitution and, if necessary or desirable, propose amendments to this MA constitution that will enhance the achievement of the MA objectives in accordance with the MA principles.

### **Amendments to be approved by special resolution**

- 21.2 This MA constitution may only be amended by special resolution of the MA council.

### **Application of amendments to this MA constitution**

- 21.3 An amendment to this MA constitution effected in accordance with clause 21.2 will take effect either when the special resolution is carried at a meeting of the MA council or, if the resolution prescribes another time for the amendment to take effect, that other time
- 21.3.1 An amendment to this MA constitution must not operate retrospectively before the time at which the MA council carries a special resolution for the amendment.



## **22 Indemnities**

### **MA indemnity to directors**

22.1 Subject to clause 22.1.1, MA indemnifies, and will continue to indemnify, all directors, officers of MA, employees and agents against all liability incurred by any of them as follows:

- In respect of directors and officers, where the relevant director or officer acts in accordance with this MA constitution, in good faith and within the person's respective express or implied authority.
- In respect of employees and agents, where the relevant employee or agent acts within its, his or her express or implied authority.

22.1.1 Clause 22.1 does not apply in the following circumstances:

- To the extent that the liability of the director, officer, employee or agent has been caused by that person's criminal conduct, fraud, gross negligence or wilful misconduct.
- To the extent that MA has insufficient assets to fund MA's liability under the indemnity.

22.1.2 MA must insure all directors, officers of MA, employees and agents against this indemnity.

## 23 Definitions and interpretation

### Definitions

23.1 In this constitution, the following definitions apply:

**AGM** means the annual general meeting of the MA council.

**ALT** means that alliance leadership team constituted under the MA Alliance Agreement.

**appointed director** means a director appointed by the elected directors in consultation with the MA council as stated in clause 12.2.

**Best-for-Motorcycling** means a determination, decision, outcome, solution or resolution to which each of the following apply:

- (a) It is consistent with MA Alliance Principles and values.
- (b) It facilitates Outstanding Performance in MA Alliance Objectives.
- (c) It is value for money for each Participant.
- (d) It is arrived at or taken for the ultimate purpose of pursuing MA Alliance Mission and Vision.
- (e) It is more likely than not to do the following:
  - Make our sport safer.
  - Enhance the viability and capabilities of our clubs.
  - Enhance the efficiency and expertise of our officials.
  - Reduce the workload borne by our volunteers.
  - Attract more participants to our sport.
  - Enhance the prestige of motorcycle sport and recreation.

**business day** means any weekday excluding a public holiday in Melbourne, Victoria and excluding 27-31 December of any year.

**CEO or GM of a SCB** means the employed administrator managing the relevant SCB operations and other employed staff.

**elected director** means a MA director elected by the MA council as stated in clause 12.1.

**GCRs** means the **General Competition Rules** updated and published each year in the Manual of Motorcycle Sport by MA and which states the general rules for all disciplines of motorcycle sport and competition.

**government** means the parliament and administration of each of the Commonwealth of Australia and of each state or territory and any local government and local government administration in Australia and includes any authority or business owned by any of them or wholly controlled by any of them.

**judiciary committee** is a committee appointed by the MA board under clause 20.9 to hear and determine disciplinary proceedings against a director removed under clause 8.11, a MA panel member or MA subcommittee member dismissed under clause 14.11 or appeals against penalties imposed by the MA board under this MA constitution.

**life member** means, in respect of MA, an individual member of MA granted membership for life by a special resolution of the MA council.

**MA** means Motorcycling Australia Ltd ACN 057 830 083.

**MA board** means the MA board of directors of MA constituted under part 8.

**MA Alliance Agreement** means the agreement that creates the MA Alliance constituted by MA and all SCBs as participants.

**MA annual report** means the report to members prepared by the MA CEO and endorsed by the MA board that must be presented to each AGM and mailed to each MA affiliated club that must contain the following in respect of the concluded MA financial year preceding the AGM:

- The MA CEO's report in respect of the operations.
- The chairman's report on the governance of MA.
- The chairman's report on significant issues, achievements and failures of MA.
- Reports from MA commissions and subcommittees.
- The audited financial accounts of MA.
- A report on the operations and financial standing of MAIL.
- The auditor's report.
- Any other matter determined by the MA board.

**MA constitution** means the constitution of MA applying at the relevant time.

**MA director** means an elected director or an appointed director.

**MA financial year** means a calendar year determined by the MA board in accordance with the *Corporations Act 2001* that must be concluded before each AGM.

**MAIL** means MA Insurance Limited, a company incorporated in the Isle of Man.

**MA intellectual property** means the following:

- Copyright owned by MA in all of the following:
  - Documents, forms and templates produced or issued by MA.
  - Designs, formats and content of all web sites operated by MA or by any MA subcommittee.
  - Designs, graphics etc on all MA signage.
  - Logos of MA.
- Trademarks owned by MA.

**MA member** means a member mentioned in clause 7.1.

**MA-permitted event** means any event for which MA issues a permit or for which a SCB issues a permit as the agent of MA.

**Manual of Motorcycle Sport** means the manual updated and published annually by MA containing information, rules, codes etc and includes the GCRs.

**MA objectives** means the objectives stated in clause 4.2.

**MA principles** means the principles stated in clause 4.3.

**MA regulation** means a regulation made under part 15.

**MA subcommittee** means a subcommittee established by the MA board under part 14.

**National Sports Tribunal** means the National Sports Tribunal established under the *National Sports Tribunal Act 2019 (Cth)*.

**nomination committee** means the standing committee constituted under part 11 to attract, assess and rate candidates for directorships on the MA board and, subject to clause ###, on a SCB board and to make recommendations as required by clause ##.

**ordinary resolution** means a resolution carried as stated in clause 13.1 in respect of, relevantly, meetings and ballots.

**president** means the MA board member appointed by the MA board to be president of MA.

**SCB** means a state controlling body, who is a member of MA, namely the following:

- Motorcycling Australia Northern Territory Inc (NT 02016C) (**MANT**).
- Motorcycling News South Wales Ltd ACN 096 875 526 (**MNSW**).
- Motorcycling Queensland Ltd ACN 009 666 424 (**MQ**).
- Motorcycling South Australia Inc (SA 0333878R) (**MSA**).
- Motorcycling Tasmania Inc (TAS 01237C) (**MTAS**).
- Motorcycling Victoria Ltd ACN 004 255 494 (**MV**).
- Motorcycling Western Australia Inc (WA A0300006F) (**MWA**)

**special resolution** means a resolution carried as stated in clause 13.2 in respect of, relevantly, meetings and ballots.

**2-year term** means the following:

- In relation to an elected MA director, the period between the MA AGM at which he or she was elected and the 2<sup>nd</sup> MA AGM after that.
- In relation to an appointed MA director, the following:
  - For the first term of the appointment, the period between the most recent MA AGM before the appointment and the 2<sup>nd</sup> MA AGM after that.
  - In relation to any subsequent term, the period between the MA AGM at which the previous term expired and the 2<sup>nd</sup> AGM after that.

## Interpretation

23.2 In the interpretation of this constitution, the following provisions apply unless the context otherwise requires:

23.2.1 Definitions used in the Manual of Motorcycle Sport apply in this MA constitution as follows:

- To the extent only that the definitions used in the Manual of Motorsport are consistent with this MA constitution.
  - To the extent any definitions in the Manual of Motorsport conflict with this MA constitution, this MA constitution prevails.
- 23.2.2 Headings are inserted for convenience only and do not affect the interpretation of this constitution.
- 23.2.3 A reference in this constitution to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Brisbane, Queensland.
- 23.2.4 If the day on which any act, matter or thing is to be done under this constitution is not a business day, the act, matter or thing must be done on the next business day.
- 23.2.5 A reference in this constitution to 'dollars' or '\$' means Australian dollars and all amounts payable under this constitution are payable in Australian dollars.
- 23.2.6 A reference in this constitution to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- 23.2.7 A reference in this constitution to any document or constitution is to that document or constitution as amended, novated, supplemented or replaced.
- 23.2.8 A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this constitution.
- 23.2.9 An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- 23.2.10 Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- 23.2.11 A word that indicates the singular also indicates the plural, a word that indicates the plural also indicates the singular, and a reference to any gender also indicates the other genders.
- 23.2.12 A reference to the word 'include' or 'including' is to be interpreted without limitation.
- 23.2.13 A reference to a clause [eg 1.1 or 5.1 etc] in another clause in this constitution is a reference to all of the parts of that clause [eg 1.1, 1.1.1 etc] unless the reference is specifically to a subclause].
- 23.2.14 A reference to a part of a clause within that same clause is a reference only to the part stated to the clause [eg 1.1], unless the reference is specifically to the whole clause.
- 23.2.15 A reference to a part is a reference to all the provisions in the part identified by a whole number [eg 1, 2, 3 etc]

23.2.16 Any schedules and attachments form part of this constitution.