AUSTRALIAN POWER BOAT ASSOCIATION

NATIONAL COMPETITON
DRIVERS LICENCE APPLICATION

Form23CL
Amended Sept '16

Tick one box	LICENCE RENEWAL		NEW LICENCE APPLICATION	

NAME:			
ADDRESS:			
SUBURB:		POST CODE:	
PHONE:	EMAIL		
APBA AFFILIATED CLUB:		CLUB MEMBERSHIP EXPIRES:	
STATE BOATING AUTHORITY LICENCE NUMBER:		STATE OF ISSUE:	
STATE BOATING AUTHORITY EXPIRY DATE:		APBA RACE No:	
ARE YOU REQUIRED TO WEAR CONTACTS OR GLASSES WHEN RACING:	YES	NO	

CLASS OF LICENCE (Multiple classes are permitted)		☑
INBOARD DISPLACEMENT	I	
INBOARD HYDROPLANE	IH	
OUTBOARD (excluding Hydroplane)	O	
OUTBOARD HYDROPLANE	OH	
DRAG	D	
FORMULA FUTURE	J	
OFFSHORE	OS	
DRAG	D	
INFLATABLE	P	
REINFORCED COCKPIT TEST A Reinforced cockpit test is required every 2 years		☑
I HAVE completed a test in the past 2 years		
Date of Last Test	Location:	
I HAVE NOT completed a test in the past 2 years		

LICENCE GRADE (one only)	☑
UNLIMITED	
LIMITED	
RESTRICTED	
FORMULA FUTURE	
DRAG	
CATEGORY OF LICENCE (one only)	☑
FULL YEAR	
PROBATIONARY	
HALF YEAR	
FORMULA FUTURE	
SINGLE EVENT	

To be eligible to compete in any APBA Sanctioned event, the Boat Owner is required to have current financial membership of the APBA and the driver must hold an appropriately endorsed APBA Competition Licence.

DECLARATION BY THE APPLICANT: *An applicant making a false declaration is liable to refusal or cancellation of membership.*

- I hereby apply for the issue / renewal of an APBA Competition Licence, endorsed for the type and class of boat that I am experienced in driving as indicated by myself on this application.
- I declare that I am in possession of, or will obtain the current Racing & Safety Rules Book and will abide by the Rules & Regulations contained therein. I will not do anything that will or may bring power boating into disrepute.
- I declare that I am in possession of a current State Boating Licence as required by my State Boating Authority and I acknowledge that this application is conditional on compliance with the applicable State Boating Authority requirements.
- I agree that if my membership of an APBA Affiliated Club lapses or is terminated that I will notify the Association. I understand that I will cease to be a member of the Australian Power Boat Association if my membership to an APBA Affiliated Club ceases.
- I have enclosed the prescribed fee and certify that the particulars given herein are true and correct and I will notify the Association if any change occurs.

SIGNATURE OF APPLICANT:	PRINT NAME:	DATE:
SIGNATURE OF WITNESS:	**PRINT NAME:**	**DATE:**

DECLARATION BY THE APPLICANTS CLUB: *(To be completed only by an authorised Club Official - strike out the sections that DO NOT apply)*

I certify that the above named is a Full Financial Member of the above-mentioned APBA Affiliated Club. Their declaration is to the best of my knowledge and belief is true and correct. **I HAVE / HAVE NOT sighted the documents referred to in this application.**

SIGNATURE of CLUB OFFICIAL	PRINT NAME	OFFICE HELD	DATE

LICENCE ISSUING OFFICER USE ONLY

Licence Number:	Date Issued	Issued by:

Return the completed form to your State Licence Issuing Officer. All **five pages <u>must</u>** be attached and signed/initialled

AUSTRALIAN POWER BOAT ASSOCIATION

COMPETITION LICENCE APPLICATION

Form23 CL

Amended Sept 2016

YOU MUST SIGN ON PAGE 4 AND INITIAL EACH PAGE

LICENCE AND/OR MEMBERSHIP APPLICATION AND DECLARATION

THIS IS AN IMPORTANT DOCUMENT AND YOU SHOULD READ IT CAREFULLY BEFORE SIGNING

You apply for a licence to participate in the PB Activities and/or for membership of the State Council in which you ordinarily reside. In consideration of your licence and/or membership application being accepted, you and/or the owner(s) of the PB agree to the terms and conditions below.

Definitions

1) In this licence and/or membership application and declaration:

Affiliated Club means any power boat club hosting PB Activities.

APBA means the Australian Power Boat Association (ACN 000 991 775).

PB means power boat or power boating.

Claim means and includes any action, suit, proceeding, claim, demand, damage, penalty, cost or expense however arising from or in connection with any PB Activities, but does not include:

a. a claim against APBA by any person expressly entitled to make a claim under an APBA insurance policy; or
b. a claim against APBA under any right expressly conferred by its Constitution or regulations.

PB Activities mean performing or participating in any capacity in any authorised, sanctioned or recognised PB Organisation activity during the current APBA membership year.

PB Organisations mean and include APBA, the State Councils and the Affiliated Club and where the context so permits, their respective directors, officers, members, servants or agents, including scrutineers.

State Councils mean each of the NSW Australian Power Boat Association (ABN 20 741 105 932); Australian Powerboat Association Victorian Council Inc. (ABN 95 096 248 836); South Australian Council of the Australian Power Boat Association Incorporated (ABN 83 279 401 512); Australian Power Boat Association Queensland State Council Inc. (ABN 15 708 765 790); Australian Power Boat Association - Tasmanian Council (ABN 82 539 622 339); and WA Council of the Australian Power Boat Association (ABN 43 973 912 710).

You refers to one or all of the following as relevant:

a. the applicant for the licence to participate in the PB Activities; and/or
b. the owner or owners of the PB; and
c. where one or more of the above persons are under the age of 18 at the time of lodging this application, both the under 18 applicant(s) and their parent/guardian signatory at the execution clause.

Rules of participation

2) This application and declaration and any other terms and conditions for the PB Activities comprise a contract between you and the PB Organisations, which is necessary and reasonable for promoting and conducting the PB Activities.

3) You acknowledge this application will be accepted upon notification to you by the PB Organisations and you acknowledge that you will be bound by and agree to comply with such rules, terms and conditions as may be imposed by the PB Organisations with respect to the conduct and management of the PB Activities, including but not limited to competition rules and all relevant rules, regulations, policies and codes of conduct of the PB Organisations, as amended from time to time. You agree that you will be subject to, and submit unreservedly to, the jurisdiction, procedures, penalties and any appeal mechanisms of the PB Organisations. You agree that you will follow any rules and/or directions set by APBA or any relevant State Council or Affiliated Club in connection with the PB Activities and understand that if you fail to comply with any such rules or directions you will not be permitted to participate or to continue to participate in the PB Activities and no refund will be given.

4) You agree and certify that the specifications of the boat's hull and motor(s) conform with the rules and restrictions governing the class of event you are entering in the PB Activities.

Risk Warning

5) Participation in the recreational activities supplied by the PB Organisations is inherently dangerous and may involve risk. There are risks specifically associated with participation in the recreational activities and accidents can and often do happen which may result in personal injury, death or property damage. These risks include, but are not limited to, extreme weather and water conditions, loss of control of the boat, collisions with objects, mechanical failure and/or other boats and equipment on the boat causing injury. Prior to undertaking any such recreational activity, you should ensure you are aware of all of the risks involved, including those risks associated with any health condition you may have.

6) By agreeing to these terms and conditions, you acknowledge, agree, and understand that participation in the recreational services provided by the PB Organisations may involve risk. You agree and undertake any such risk voluntarily and at your own risk. You acknowledge that the assumption of risk and warning above constitutes a 'risk warning' in accordance with relevant legislation, including the *Civil Liability Act 2002* (NSW), *Civil Liability Act 2002* (Tas) and the *Civil Liability Act 2002* (WA).

Waiver

7) A supplier of recreational services or recreational activities can ask you to agree that statutory guarantees under the *Australian Consumer Law* (which is Schedule 2 to the *Competition and Consumer Act 2010* (Cth)) do not apply to you (or a person for whom or on whose behalf you are acquiring the services or activities).

8) By agreeing to these terms and conditions, you will be agreeing that your rights (or the rights of a person for whom or on whose behalf you are acquiring the services) to sue the supplier in relation to recreational services or recreational activities undertaken because the services or recreational activities provided were not in accordance with the guarantees are excluded, restricted or modified as set out below and in Schedule 1 to this application.

Initial (Owner(s) + Driver(s)

For recreational services or recreational activities to which the Australian Consumer Law (Commonwealth) applies:

9) By agreeing to these terms and conditions, you agree that the liability of the PB Organisations in relation to recreational services (as that term is defined in the *Competition and Consumer Act 2010* (Cth) and the *Australian Consumer Law*) for any:

   d. death;

   e. physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);

   f. the contraction, aggravation or acceleration of a disease;

   g. the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:

      (i) that is or may be harmful or disadvantageous to you or the community; or

      (ii) that may result in harm or disadvantage to you or the community, that may be suffered by you resulting from the supply of recreational services or recreational activities,

   is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

Release and indemnity

10) In consideration of the PB Organisations accepting this application, to the extent permitted by law, you:

   a. release and will release the PB Organisations from all Claims that you may have or may have had but for this release arising from or in connection with you participation in the PB Activities;

   b. release and indemnify any scrutineer utilised by a PB Organisation prior to your participation in the PB Activities from all Claims that you may have or may have had but for this release arising from or in connection with your participation in the PB Activities, or the relevant scrutineer scrutineering your boat;

   c. release and indemnify the PB Organisations against any Claim which may be made by you or on the your behalf, for or in respect of or arising out of your death whether caused by the negligence or breach of contract by any PB Organisation or in any other manner whatsoever; and

   d. indemnify and will keep indemnified the PB Organisations to the extent permitted by law in respect of any Claim by any person:

      (i) arising as a result of or in connection with your participation in any PB Activities; or

      (ii) against any PB Organisation in respect of any injury, loss or damage arising out of or in connection with your failure to comply with PB Organisation rules and/or directions,

   save that the above releases and indemnities shall not apply to the extent that the loss, damage or injury that is the subject of the Claim is caused or contributed to by the grossly negligent act or omission of a PB Organisation.

Bar to Proceedings

11) You acknowledge that the PB Organisations may plead this contract as a bar to proceedings now or in the future commenced by or on behalf of you or by any person claiming through you. Where you commence proceedings against any PB Organisation, you:

   a. will commence those proceedings in the courts of the jurisdiction in which any incident occurs;

   b. waive any right to object to the exercise of such jurisdiction;

   c. will, where you seek to commence proceedings in another jurisdiction from where any incident occurs, consent (if required by any PB Organisation) to move those proceedings to the jurisdiction in which any incident occurs including consenting to any application made by any PB Organisation to remove the proceedings to the jurisdiction in which any incident occurs;

   d. will pay the costs of any application made by any PB Organisation under paragraph 11(c) and will consent to any application for security of costs made at any time by any PB Organisation; and

   e. consent to paying any PB Organisation's legal defence costs of the proceedings (on a solicitor client basis) where any PB Organisation successfully defends the proceedings.

Insurance

12) You understand that any insurance held by the PB Organisations may not cover you for all injury, loss or damage sustained and you acknowledge that the PB Organisations do not make any representations about the suitability of any insurance. You also understand you can, in your own interests and at your own expense, seek and obtain personal insurances over and above any cover that may be provided by the PB Organisations. For the avoidance of doubt, the PB Organisations do not hold personal accident insurance.

Fitness to Participate

13) You declare that you are medically and physically fit and able to participate in the PB Activities. You are not and must not be a danger to yourself or to the health and safety of others. You will immediately notify the PB Organisations in writing of any change to your medical condition, fitness and ability to participate. You understand and accept that the PB Organisations will continue to rely upon this declaration as evidence of your fitness and ability to participate in the PB Activities. You will report to the relevant PB Organisations any accidents, injuries, loss or damage suffered by you during the PB Activities before you leave any relevant venue.

Medical Treatment

14) You consent to receiving any medical treatment that a PB Organisation reasonably considers necessary or desirable for you during participation in the PB Activities. You also agree to reimburse the relevant PB Organisation for any costs or expenses incurred in providing you with medical treatment.

Exclusion of Applicant

15) You warrant that you are not currently excluded from PB Activities by a medical practitioner or any person or entity including but not limited to APBA and its constituent State Councils and Affiliated Clubs. You acknowledge and agree that the PB Organisations may demand a medical certificate or opinion as to your fitness from a qualified medical practitioner PRIOR to you undertaking the PB Activities.

Safety

16) You understand and acknowledge the dangers associated with the consumption of alcohol or any mind-altering substance before or during the PB Activities, and that the presence of alcohol or any mind-altering substance is strictly prohibited whilst participating in the PB Activities. You accept full responsibility for any injury, loss or damage associated with the consumption of alcohol or any other mind-altering substance.

Prevailing conditions

17) The PB Activities and the conduct of, and participation in it may be affected by weather and associated conditions. Given there is often an element of "luck of the prevailing conditions" in participating in PB Activities you acknowledge and agree organisers cannot control the weather and associated conditions. You accept that in the event of extreme weather conditions the PB Organisation reserves the right to alter the format of, shorten, or cancel the PB Activities in the interest of competitor safety. You acknowledge that the PB Organisation will use all reasonable efforts to conduct the PB Activities in the planned format if safe to do so. Should prevailing weather conditions force any change you accept that the PB Organisation is not obliged to provide you with any refund, or provide a credit or transfer you to another PB Activity, or to restage the PB Activities, as weather and associated conditions are beyond the control of the PB Organisations.

Right to Use Image

18) You acknowledge and consent to photographs and electronic images being taken of you during your participation in the PB Activities. You acknowledge and agree that such photographs and electronic images are owned by the PB Organisations and that the PB Organisations may use the photographs for promotional or other purposes without your further consent being necessary. Further, you consent to the PB Organisations using your name, image, likeness and performance in the PB Activities, at any time, by any form of media, to promote PB Activities or PB Organisations.

Non transferable

19) A right to participate in the PB Activities is non-transferable to other activities or people. Any attempt to transfer to another person without the knowledge of the PB Organisation may result in the cancellation of any rights granted by the PB Organisation without refund and you may not be permitted to participate in further PB Activities. You accept that fees paid for participation in the PB Activities are non-refundable.

Entire Agreement

20) This application and declaration (and the documents to which it refers, including any scrutineering forms) constitutes the entire agreement between the parties in respect of the

PB Activities and supersedes all other agreements, understandings, representations and negotiations in relation to the PB Activities and membership.

Severance

21) If any provision of this application and declaration is invalid or unenforceable in any jurisdiction, the phrase or clause is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the phrase or clause cannot be so read down it will be severed to the extent of the invalidity or unenforceability. Such severance does not affect the remaining provisions of this application and declaration or affect the validity or enforceability of it in any other jurisdiction.

Governing Law

22) The governing law of this application and declaration is the law of the state of Victoria. You irrevocably and unconditionally consent and submit to the jurisdiction of the courts of Victoria and waive any right to object to the exercise of such jurisdiction.

Warranty

23) You warrant that all information provided is true and correct. You acknowledge this application and declaration cannot be amended. If you do amend it this application and declaration may be null and void and cannot be accepted by the PB Organisation.

SCHEDULE 1

For recreational services or activities provided in NSW or WA:

For recreational services or recreational activities to which the Australian Consumer Law (New South Wales) and Australian Consumer Law (Western Australia) applies:
By agreeing to these terms and conditions, you agree that the liability of the PB Organisations in relation to recreational services (as that term is defined in the *Competition and Consumer Act 2010* (Cth) and the *Australian Consumer Law*) and recreational activities (as that term is defined in the *Civil Liability Act 2002* (NSW)) or *Civil Liability Act 2002* (WA), as applicable) for any:

(a) death;
(b) physical or mental injury (including the aggravation, acceleration or recurrence of such an injury);
(c) the contraction, aggravation or acceleration of a disease;
(d) the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs:
    i. that is or may be harmful or disadvantageous to you or the community;
    ii. that may result in harm or disadvantage to you or the community, that may be suffered by you (or a person for whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services or recreational activities,

is excluded and the application of any express or implied term that any services will be provided with due care and skill is hereby excluded.

For recreational services or activities provided in Victoria:

For recreational services to which the Australian Consumer Law (Victoria) applies:
Warning under the Australian Consumer Law and Fair Trading Act 2012: Under the *Australian Consumer Law (Victoria),* several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the suppliers named on this form, the PB Organisations, are required to ensure that the recreational services supplied to you: are rendered with due care and skill; and

(a) are reasonably fit for any purpose which you either expressly or by implication, make known to the supplier; and
(b) might reasonably be expected to achieve any result you have made known to the supplier.

Under section 22 of the *Australian Consumer Law and Fair Trading Act 2012* (Vic), the supplier is entitled to ask you to agree that these conditions do not apply to you. If you agree to this application and declaration, you will be agreeing that your rights to sue the supplier under the *Australian Consumer Law and Fair Trading Act 2012* (Vic) if you are killed or injured because the services were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this application and declaration.
Note: The change to your rights, as set out in this application and declaration, does not apply if your death or injury is due to gross negligence on the supplier's part. "**Gross negligence**" in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the *Australian Consumer Law and Fair Trading Regulations 2012* (Vic) and section 22(3)(b) of the *Australian Consumer Law and Fair Trading Act 2012* (Vic).
Exclusion of rights under the Australian Consumer Law (Victoria): By agreeing to this application and declaration, you agree that the liability of the relevant PB Organisations for any death or personal injury (as defined in the *Australian Consumer Law and Fair Trading Act 2012* (Vic)) that may be suffered by you (or a person from whom or on whose behalf you are acquiring the services) resulting from the supply of recreational services is excluded.

For recreational services or activities provided in the ACT, Queensland or Tasmania:

For recreational services to which the Australian Consumer Law (Australian Capital Territory), Australian Consumer Law (Queensland) or Australian Consumer Law (Tasmania) applies:

By signing this application and declaration, you acknowledge that where you are a consumer of recreational services, as defined by any relevant law, certain terms and rights usually implied into a contract for the supply of goods or services may be excluded. You acknowledge that these implied terms and rights and any liability of the PB Organisations flowing from them, are expressly excluded to the extent possible by law, by this application and declaration. To the extent of any liability arising, the liability of the relevant PB Organisations will, at the discretion of APBA, be limited in the case of goods, to the replacement, repair or payment of the cost of replacing the goods and in the case of services, the resupply of the services or payment of the cost of having the services supplied again. For the avoidance of doubt, this exclusion does not exclude liability for recklessness as defined by any relevant law.

For recreational services or activities provided in South Australia:

For recreational services to which the Australian Consumer Law (South Australia) applies:

Your rights: Under sections 60 and 61 of the *Australian Consumer Law (SA)*, if a person in trade or commerce supplies you with services (including recreational services), there is:

(a) a statutory guarantee that those services will be rendered with due care and skill; and
(b) a statutory guarantee that those services, and any product resulting from those services, will be reasonably fit for the purpose for which the services are being acquired (as long as that purpose is made known to the supplier); and
(c) a statutory guarantee that those services, and any product resulting from those services, will be of such a nature, and quality, state or condition, that they might reasonably be expected to achieve the result that the consumer wishes to achieve (as long as that wish is made known to the supplier or a person with whom negotiations have been conducted in relation to the acquisition of the services).

Excluding, restricting or modifying your rights: Under section 42 of the *Fair Trading Act 1987* (SA), the supplier of recreational services is entitled to ask you to agree to exclude, restrict or modify his or her liability for any personal injury suffered by you or another person for whom or on whose behalf you are acquiring the services (a third party consumer). If you agree to this application and declaration, you will be agreeing to exclude, restrict or modify the supplier's liability with the result that compensation may not be payable if you or the third party consumer suffer personal injury.
Important: You do not have to agree to exclude, restrict or modify your rights by agreeing to this application and declaration. The supplier may refuse to provide you with the services if you do not agree to exclude, restrict or modify your rights by agreeing to this application and declaration. Even if you agree to this application and declaration, you may still have further legal rights against the supplier. A child under the age of 18 cannot legally agree to exclude, restrict or modify his or her rights. A parent or guardian of a child who acquires recreational services for the child cannot legally agree to exclude, restrict or modify the child's rights.
Agreement to exclude, restrict or modify your rights: You agree that the liability of the PB Organisations for any personal injury that may result from the supply of the recreational services that may be suffered by you (or a person for whom or on whose behalf you are acquiring the services) is excluded.
Definitions:

"Recreational services" are services that consist of participation in sporting activity or similar leisure-time pursuit; or any other activity that involves a significant degree of physical exertion or risk and is undertaken for the purposes of recreation, enjoyment or leisure.
"Personal injury" is bodily injury and includes mental and nervous shock and death.
Further information: Further information about your rights can be found at www.ocba.sa.gov.au

For recreational services or activities provided in the Northern Territory:

For recreational services to which the Australian Consumer Law (Northern Territory) applies:

By agreeing to this application and declaration, you agree that the provisions of Part 3.2, Division 1, sub-division B of the *Australian Consumer Law (NT)* do not apply to the services provided to you, and the PB Organisations incur no liability with respect to death or personal injury for a failure to comply with a guarantee under that sub-division in relation to supply of these recreational services. By agreeing to this application and declaration, you acknowledge that you have been made aware of the general effect of this exclusion, restriction or modification, have had a reasonable opportunity to consider whether or not to enter into this contract on that basis and have decided to enter into the contract.

SIGNATURE CLAUSE

By signing below, you declare that you have read, understood, acknowledge and agree to the terms and conditions of this licence and/or membership application and declaration including the exclusion of implied terms, warning, assumption of risk, release and indemnity. By signing below, you agree that if your entry for the PB Activities is accepted, you will be bound by these terms and conditions.

Name (Owner): _____ **Signature:** _____***** Date:** _____

Name (Owner): _____ **Signature:** _____***** Date:** _____

Name (Driver): _____ **Signature:** _____***** Date:** _____

Name (Driver): _____ **Signature:** _____***** Date:** _____

*****Where a driver or owner is under 18 years this application and declaration must also be signed by the applicant's parent or legal guardian.**

I _____ **[insert name]** of _____

_____ **[insert address]** am the parent or guardian of the applicant. I authorise and consent to the applicant participating in the PB Activities. In consideration of the applicant's application for the PB Activities being accepted, I expressly agree to accept in my capacity as parent or guardian, the terms set out in this application and declaration. In addition, I agree to be bound by and to comply with any regulations or policies in relation to the PB Activities.

Initial (Owner(s) + Driver(s)