

# Cockburn Basketball Association Inc. (CBA)

## Constitution







## COCKBURN BASKETBALL ASSOCIATION

### CONSTITUTION

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## PART 1 — PRELIMINARY

### 1. Name

The name of the Association is the Cockburn Basketball Association Inc.

### 2. Objects

- (a) Promote, encourage, administer and advance basketball at the Association through participation, development and competition;
- (b) Formulate and/or adopt and implement appropriate policies in relation to such matters as arise from time to time as issues to be addressed in basketball, other sporting and recreational activities;
- (c) Promote and encourage other sporting and recreational activities where possible at the Association through participation, development and competition;
- (d) Adopt, formulate, issue, interpret, implement and amend from time to time such By-Laws and regulations as necessary for the administration and development of basketball and other sporting and recreational activities at the Association;
- (e) To promote social wellbeing, welfare and good fellowship amongst the members of the Association and within the wider community;
- (f) To provide and manage facilities and human resources to support the sporting and social activities of members of the Association and within the wider community;
- (g) Undertake and/or do all such things or activities as are necessary, incidental, or conducive to the advancement of the Objects.

### 3. Terms and Interpretations

#### 3.1 Terms

In this Constitution:

- (a) **Act** means the Association’s Incorporation Act 2015, (Western Australia) or any statutory modification, amendment or re-enactment thereof;
- (b) **Administrator** means any person appointed by the Association to manage the operations of the Association;
- (c) **Annual General Meeting** means the general meeting called pursuant to Rule 55;
- (d) **Associate Member** means a member with the rights referred to in Rule 10(b);
- (e) **Appointed Director** means a Director of the Cockburn Basketball Association Board indicated by Rule 31;
- (f) **Association** means the Cockburn Basketball Association Inc to which these Rules apply;
- (g) **Basketball WA** means the controlling body for the sport of basketball in Western Australia;
- (h) **Board** means the Board of the Cockburn Basketball Association as established and referred to in Part 5;
- (i) **Board meeting** means a meeting of the board of the Association;
- (j) **Books** of the Association, in hard copy or electronic format, includes the following –
  - (i) A register;

- (ii) Financial records, financial statements or financial reports, however compiled, recorded or stored;
  - (iii) A document;
- (A) Any other record of information;
- (k) By-laws** mean the by-laws made by the Association under Rule 70;
- (l) Chairperson** means the member holding office as the Chairperson of a duly formed Sub-committee of the Association;
- (m) Commissioner** means the person for the time being designated as the Commissioner under section 153 of the Act;
- (n) Committee** means a duly formed Sub-committee of the Association;
- (o) Committee meeting** means a meeting of a Sub-committee;
- (p) Committee member** means an appointed Member of a Sub-committee;
- (q) Director** means a member elected to the board who is not an Office Holder of the Association under Rule 30;
- (r) Domestic Club** means a solvent incorporated association which enters its teams in the Association’s junior or senior domestic competition.
- (s) Director of Finance** means the director holding office as the Director of Finance of the Association.
- (t) Executive Director** means a member elected to the board as an Office Holder of the Association under Rule 30;
- (u) Financial Records** includes —
- (i) Invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and
  - (ii) Documents of prime entry; and
  - (iii) Working papers and other documents needed to explain —
    - (A) The methods by which financial statements are prepared; and
    - (B) adjustments to be made in preparing financial statements;
- (v) Financial Report** has the meaning given in section 63 of the Act;
- (w) Financial Statements** means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;
- (x) Financial Year** of the Association, has the meaning given in Rule 67.4;
- (y) General Meeting** of the Association, means a meeting of the Association that all Members are entitled to receive notice of and to attend;
- (z) Licenced Premises** means the facility within the stadium licenced under the provisions of the Liquor Control Act 1988 or any statutory modification, amendment or re-enactment thereof;
- (aa) Member** means a person (including a body corporate) who is a member of the Association as classified in Rule 10;
- (bb) Month** means calendar month;
- (cc) Office Holder** means the person selected to hold office as per Rule 30;

**(dd) Ordinary Director** means a Director of the Cockburn Basketball Association Board indicated by Rule 30;

**(ee) President** means the Director holding office as the President of the Association;

**(ff) Register of members** means the Register of Members referred to in section 53 of the act;

**(gg) Regulations or Rules** means any advice, direction or instruction not being a By-Law issued by the Board under the provisions of this Constitution or by the By-Laws for the guidance of Members and others.

**(hh) Special General Meeting** means a General Meeting of the Association other than the Annual General Meeting;

**(ii) Special resolution** means a resolution passed by the Members at a General Meeting in accordance with section 51 of the Act;

**(jj) Sub-committee** means a Sub-committee appointed by the board under Rule 53

**(kk) Vice President** means the director holding office as the Vice President of the Association;

### 3.2 Interpretation

In this Constitution, unless the context otherwise requires:

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

### 3.3 Lack of Provision or Reasonable Doubt

- (a) If:
  - (i) Any circumstances arise for which no provision is made by this Constitution;
  - (ii) There arises any reasonable doubt as to the interpretation of the Rules in any circumstances; or
  - (iii) There is any reasonable doubt as to the correct procedure to be adopted on any occasion,

then the Board, having regard to this Constitution and the Act, may decide the matter and may direct what shall be done in each particular instance or may interpret this Constitution or direct what shall be done in a particular case

- (b) Such direction, interpretation or decision of the Board shall be set out in the agenda for the next General Meeting and, until rescinded or amended by the Board or disallowed by a resolution of a General Meeting, it shall have the same validity and effect as if specifically included in this Constitution.
- (c) Any such decision, interpretation or direction may be considered at a General Meeting without any notice being given of the intention to consider it.

## **PART 2 — POWERS, STATUS AND COMPLIANCE OF THE ASSOCIATION**

### **4. Powers of the Association**

#### **4.1 Powers of the Association**

In addition to the rights, powers and privileges provided under the Act, the Association has power to do all such acts and things as are incidental, conducive or subsidiary to all or any of the Objects of the Association.

#### **4.2 Not for Profit**

The property and income of the Association must be applied solely towards the promotion of the objects or purposes of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.

#### **4.3 Payment to a Member**

- (a) A payment may be made to a Member out of the funds of the Association only if it is authorised under Rule 4.3(b).
- (b) A payment to a Member out of the funds of the Association is authorised if it is —
  - (i) The payment in good faith to the Member as reasonable remuneration for any services provided to the Association, or for goods supplied to the Association, in the ordinary course of business; or
  - (ii) The payment of interest, on money borrowed by the Association from the Member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - (iii) The payment of reasonable rent to the Member for premises leased by the Member to the Association; or
  - (iv) The reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association

### **5. Status and Compliance of the Association**

#### **5.1 Recognition of Basketball WA**

- (a) Basketball WA is recognised by the Australian Government, Government of Western Australia, Basketball Australia and other sporting organisations as the controlling body for the sport of basketball in Western Australia.
- (b) Basketball WA is the only sporting body in Western Australia affiliated to Basketball Australia in respect to the sport of basketball.

#### **5.2 Compliance of the Association**

The Members acknowledge and agree that the Association will:

- (a) Be or remain incorporated in Western Australia;
- (b) Where deemed appropriate by the Board;
  - (i) Use its best endeavours to comply with and be bound by the standards and technical requirements of Basketball WA; and
  - (ii) To the best of its ability uphold and enforce the Rules/By-Laws, policies and procedures published from time to time by Basketball Australia and Basketball WA.

#### **5.3 Operation of Rules**

- (a) the Association and its Members acknowledge and agree that they are bound by this Constitution and that these Rules operate to create uniformity in the way in which the Objects of the Association are achieved.



## **PART 3 — MEMBERS**

### **Division 1 — Membership**

#### **6. Eligibility for Membership**

Any person who supports the objects of the Association who is 18 years of age or over is eligible to apply to become a Member.

- (a) An individual who has not reached the age of 18 years is only eligible to be an Associate Junior Playing and Coaching Member.
- (b) An employee of the Association is eligible to apply for a class of Associate Membership.
- (c) A person can only belong to one category of membership, being one of;
  - (i) Ordinary Membership;
  - (ii) Life Membership; or
  - (iii) Associate Membership (single class only)

#### **7. Applying for Membership**

- (a) A person who wants to become a Member must apply to the Association using the method determined by the Board from time-to-time.
- (b) The application must include a Member's nomination of the applicant for membership if the application confers voting rights.

#### **8. Dealing with Membership Applications**

- (a) The Board must consider each membership application of the Association that confers voting rights and decide whether to accept or reject the application.
- (b) Subject to sub-rule (c), the Board must consider applications in sub-rule (a) in the order in which they are received by the Association.
- (c) The Board may delay its consideration of an application if the Board considers that any matter relating to the application needs to be clarified by the applicant or that the applicant needs to provide further information in support of the application.
- (d) The Board must not accept an application unless the applicant —
  - (i) is eligible under Rule 6; and
  - (ii) has applied under Rule 7.
- (e) The Board may reject an application even if the applicant —
  - (i) is eligible under Rule 6; and
  - (ii) has applied under rule 7.
- (f) The Board must notify the applicant of the board's decision to accept or reject the application as soon as practicable after making the decision.
- (g) If the Board rejects the application, the board is not required to give the applicant its reasons for doing so.
- (h) Associate Membership sub-classes of Playing, Non-Playing and Temporary member applicants do not need to be approved or rejected by the Board.

## 9. Becoming a Member

An applicant for membership of the Association becomes a member when —

- (i) The Board accepts the application for Memberships that confer voting rights, subject to Rule 8(h); and
- (ii) The applicant pays any membership fees payable to the Association under Rule 14

## 10. Classes of Membership

The Members of the Association consists of the following categories:

- (a) Ordinary Members: An Ordinary Member has full voting rights and any other rights conferred on Members by these Rules or approved by resolution at a General Meeting or determined by the Board. An Ordinary Member can play in a recognised Association competition while not being classed as a Playing and Coaching Member. Ordinary Memberships are valid until the next closest Annual General Meeting after the application was made.
- (b) Associate Members: Associate Members are able to enjoy the benefits of Ordinary Members with the exception of the power of voting. For the purposes of the *Liquor Control Act 1988*, an Associate Member shall be viewed as an Ordinary Member.

Classes of Associate Membership include:

- (i) Non-Playing and Coaching Members: Non-Playing and Coaching Members of the Association shall be any person who wishes to be a Non-Playing Member of the Association with interests in advancing the Objects. They shall have the same rights, privileges, and responsibilities as Playing and Coaching Members, on payment of a Non-Playing Members fee as determined by the Board, from time to time.

Any person whose contribution is recognized by the Association may be invited by the Board to seek waiver of the Non-Playing Members fee, which will be determined by the Board, from time to time.

- (ii) Playing and Coaching Member: Playing and Coaching Members of the Association shall be any person who is registered and playing or coaching in a recognised Association competition and is fully financial (if applicable) in the recognised Association competition.

An Association registered player or coach who has not reached the age of 18 years on or before the 1 July of the specific financial year is considered to be a Junior Playing and Coaching member. Furthermore, upon registration, all playing or coaching members who have not reached the age of 18 years, will automatically have their parents and/or guardians recognised as Non-Playing and Coaches members of the Association.

An Association registered player or coach who has attained the age of 18 years on or before the 1 July of the specific financial year is considered to be a Senior Playing and Coaching member.

Playing and Coaching Members acknowledge and agree that upon applying for Membership of the Association he/she agrees also to be bound by the Constitution of Basketball WA.

- (iii) Temporary Member: A person who is on any day, visiting the premises of the Association as a Member, an official or a person assisting a team that is to contest a pre-arranged basketball game, or at the invitation of a Member to participate in a game of basketball that day, or be a sponsor of the Association or the guest of a sponsor may for the purpose of the *Liquor Control Act 1988*, but for no other purpose, be given the status of an Associate Member for that day. A temporary member will not be charged a membership fee.
- (c) Life Member: The Board may approve any person for Life Membership in consideration of special services rendered to the Association. If successful, will be announced and minuted at the General Meeting of the Association. For the purposes of the *Liquor Control Act 1988*, a Life Member shall be viewed as an Ordinary Member.

- (i) Conditions, obligations and privileges of Life Membership shall be as prescribed from time to time by the Board and associated Life Member Policy;
- (ii) A Life Member can play in a recognised Association competition while not being classed as an Associate Playing and Coaching member;
- (iii) A Life Member may apply for full voting rights using the process outlined under Rule 9, which is detailed in Rule 7 and 8. Life Member voting rights are valid until the expiry of the financial year for which the application was made.

## 11. When Membership Ceases

- (a) A person ceases to be a Member when any of the following takes place —
  - (i) For a member who is an individual, the individual dies;
  - (ii) The person resigns from the Association under Rule 12;
  - (iii) The person is expelled from the Association under Rule 18;
  - (iv) The person ceases to be a Member under Rule 14(d)
  - (v) The conclusion of the next closest Annual General Meeting, subject to any renewal of Membership prior (which may include a continuation of registration in the CBA database for players, coaches, managers, and parents/guardians of under 18 players).
- (b) The Administrator must keep a record, for at least one year after a person ceases to be a Member, of —
  - (i) The date on which the person ceased to be a Member; and
  - (ii) The reason why the person ceased to be a Member
- (c) Life Membership does not expire under Rule 11 (a)(v), however, the voting rights of the Life Member will expire under Rule 11 (a)(v).

## 12. Resignation

- (a) A Member may resign from membership of the Association by giving written notice of the resignation to the Administrator, or if they are an Associate Playing and Coaching Member, by ceasing activity inside a recognised Association competition. Furthermore, all playing or coaching members who have not reached the age of 18 years, will automatically have their parents and/or guardians Non-Playing and Coaches membership cancelled if the Playing and Coaching member in their care ceases playing in an Association affiliated competition.
- (b) The resignation takes effect —
  - (i) When the administrator receives the notice; or
  - (ii) If a later time is stated in the notice, at that later time
- (c) A person who has resigned from membership of the Association remains liable for any fees that are owed to the Association (the **owed amount**) at the time of resignation.
- (d) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

## 13. Rights not Transferable

The rights of a Member are not transferable and end when membership ceases.

## Division 2 — Membership Fees

### 14. Membership Fees

- (a) The Board must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association.
- (b) The fees determined under sub-rule (a) may be different for different classes of membership.
- (c) A Member must pay the annual membership fee to the Administrator authorised by the Board to accept payments, by the time notice is provided for the Annual General Meeting each year unless determined otherwise by the Board.
- (d) If a Member has not paid the annual membership fee by the time indicated in 14(c) the Member ceases to be a Member on the expiry of that period.
- (e) If a person who has ceased to be a member under sub-rule (d) offers to pay the annual membership fee after the period referred to in that sub-rule has expired —
  - (i) the board may, at its discretion, accept that payment; and
  - (ii) if the payment is accepted, the person’s membership is reinstated from the date the payment is accepted.

## Division 3 — Register of Members

### 15. Register of members

#### 15.1 Administrator to keep Register

- (a) The Administrator, or another person authorised by the Board, is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the register of Members and record in that register any change in the membership of the Association.
- (b) In addition to the matters referred to in section 53(2) of the Act, the register of Members must include the class of membership (if applicable) to which each member belongs and the date on which each member becomes a Member.
- (c) The register of Members must be kept at the Association’s head office, or at another place determined by the Board.

#### 15.2 Inspection of Register

- (a) A Member who wishes to inspect the register of Members must contact the Administrator to make the necessary arrangements.
- (b) If —
  - (i) A Member inspecting the register of Members wishes to make a copy of, or take an extract from, the register under section 54(2) of the Act; or
  - (ii) A Member makes a written request under section 56(1) of the Act to be provided with a copy of the register of Members,

The Board may require the Member to provide a statutory declaration setting out the purpose for which the copy or extract is required and declaring that the purpose relates to the affairs of the Association.

## **16. Right of Basketball WA to Access Register**

- (a) Subject to the limitations contained in the *Privacy Act 1988* (Cth), the Association shall provide a copy of the register to Basketball WA at a time and in a form acceptable to Basketball WA and shall provide regular updates of the Register to Basketball WA. Basketball WA may use the information contained in the Register and the Register itself to further the Objects of Basketball WA, subject to reasonable confidentiality and privacy considerations.
- (b) The Association may enter into arrangements with Basketball WA to manage the whole or parts of the Register on its behalf, subject to the limitations contained in the *Privacy Act 1988* (Cth).

## PART 4 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

### Division 1 — Term Used

#### 17. Term Used: Member

In this Part —

**Member**, in relation to a member who is expelled from the Association, includes former member.

### Division 2 — Disciplinary Action

#### 18. Suspension or Expulsion

- (a) The Board may decide to suspend a Member's Membership or to expel a Member from the Association if —
  - (i) The Member contravenes any of these Rules or the By-Laws, policies or procedures of the Association; or
  - (ii) The Member acts detrimentally to the interests of the Association or the sport of basketball.
- (b) The Administrator may recommend to the Executive Directors to temporarily suspend a member for up to 28 days, and if approved, the temporary suspension will take place immediately.
- (c) If the Executive Directors believe a suspension greater than 28 days is warranted, the Administrator must give the Member written notice of the proposed suspension or expulsion at least 7 days before the Board Meeting at which the proposal is to be considered by the Board.
- (d) The notice given to the Member must state —
  - (i) When and where the Board Meeting is to be held; and
  - (ii) The grounds on which the proposed suspension or expulsion is based; and
  - (iii) That the Member, or the Member's representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion.
- (e) At the Board Meeting, the Board must —
  - (i) Give the Member, or the Member's representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the proposed suspension or expulsion; and
  - (ii) Give due consideration to any submissions so made; and
  - (iii) Decide —
    - (A) Whether or not to suspend the Member's Membership and, if the decision is to suspend the membership, the period of suspension; or
    - (B) Whether or not to expel the Member from the Association
- (f) A decision of the Board to suspend the Member's membership or to expel the Member from the Association takes immediate effect.
- (g) The Board must give the Member written notice of the Board's decision, and the reasons for the decision, within 7 days after the Board Meeting at which the decision is made.
- (h) A Member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the Board's decision under sub rule (f), give written notice to the administrator requesting the appointment of a mediator under Rule 26.

- (i) If notice is given under sub rule (g), the Member who gives the notice and the Board are the parties to the mediation.

## 19. Consequences of Suspension

- (a) During the period a Member's membership is suspended, the member —
  - (i) Loses any rights (including voting rights) arising as a result of membership; and
  - (ii) Is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Association
  - (iii) Is not entitled to any benefits of membership and may be banned from attending at any of the Association's premises.
- (b) When a Member's Membership is suspended, the Administrator must record in the register of Members —
  - (i) That the Member's Membership is suspended; and
  - (ii) The date on which the suspension takes effect; and
  - (iii) The period of the suspension
- (c) When the period of the suspension ends, the Administrator must record in the register of Members that the Member's membership is no longer suspended.

## Division 3 — Resolving Disputes

### 20. Terms Used

In this Division —

- (i) **Grievance Procedure** means the procedures set out in this Division;
- (ii) **Party to a dispute** includes a person —
  - (A) Who is a party to the dispute; and
  - (B) Who ceases to be a Member within 6 months before the dispute has come to the attention of each party to the dispute.

### 21. Application of Division

The procedure set out in this Division (the grievance procedure) applies to disputes —

- (i) Between Members; or
- (ii) Between one or more Members and the Association

### 22. Parties to Attempt to Resolve Dispute

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

### 23. How Grievance Procedure is Started

- (a) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Rule 22, any party to the dispute may start the grievance procedure by giving written notice to the Administrator of —
  - (i) The parties to the dispute; and
  - (ii) The matters that are the subject of the dispute
- (b) Within 28 days after the Administrator is given the notice, a Board Meeting must be convened to consider and determine the dispute.

- (c) The Administrator must give each party to the dispute written notice of the Board Meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (d) The notice given to each party to the dispute must state —
  - (i) When and where the Board Meeting is to be held; and
  - (ii) That the party, or the party’s representative, may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the Board about the dispute
- (e) If —
  - (i) The dispute is between one or more Members and the Association; and
  - (ii) Any party to the dispute gives written notice to the Administrator stating that the party —
    - (A) Does not agree to the dispute being determined by the Board; and
    - (B) Requests the appointment of a mediator under Rule 26,

The Board must not determine the dispute.

## 24. Determination of Dispute by Board

- (a) At the Board Meeting at which a dispute is to be considered and determined, the Board must —
  - (i) Give each party to the dispute, or the party’s representative, a reasonable opportunity to make written or oral (or both written and oral) submissions to the board about the dispute; and
  - (ii) Give due consideration to any submissions so made; and
  - (iii) Determine the dispute.
- (b) The Board must give each party to the dispute written notice of the Board’s determination, and the reasons for the determination, within 7 days after the Board Meeting at which the determination is made.
- (c) A party to the dispute may, within 14 days after receiving notice of the Board’s determination under Sub Rule (a) (iii), give written notice to the Administrator requesting the appointment of a mediator under Rule 26.
- (d) If notice is given under Sub Rule (c), each party to the dispute is a party to the mediation.

## Division 4 — Mediation

### 25. Application of Division

- (a) This Division applies if written notice has been given to the Administrator requesting the appointment of a mediator —
  - (i) by a Member under Rule 18(g); or
  - (ii) by a party to a dispute under Rule 24(c)
- (b) If this Division applies, a mediator must be chosen or appointed under Rule 26.

### 26. Appointment of Mediator

- (a) The mediator must be a person chosen —
  - (i) If the appointment of a mediator was requested by a member under Rule 18(g) — by agreement between the Member and the Board; or



- (ii) If the appointment of a mediator was requested by a party to a dispute under Rule 23(e)(ii)(B) or 24(c) — by agreement between the parties to the dispute
- (b) If there is no agreement for the purposes of Sub Rule (a) (i) or (ii), then, subject to Sub Rules (c) and (d), the Board must appoint the mediator.
- (c) The person appointed as mediator by the Board must be a person who acts as a mediator for another not-for-profit body, such as a community legal centre, if the appointment of a mediator was requested by —
  - (i) A Member under rule 18(g); or
  - (ii) A party to a dispute under Rule 23(e)(ii)(B); or
  - (iii) A party to a dispute under Rule 24(c) and the dispute is between one or more Members and the Association
- (d) The person appointed as mediator by the Board may be a Member or former Member of the Association but must not —
  - (i) Have a personal interest in the matter that is the subject of the mediation; or
  - (ii) Be biased in favour of or against any party to the mediation

## 27. Mediation Process

- (e) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (f) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation at least 5 days before the mediation takes place.
- (g) In conducting the mediation, the mediator must —
  - (i) Give each party to the mediation every opportunity to be heard; and
  - (ii) Allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (iii) Ensure that natural justice is given to the parties to the mediation throughout the mediation process
- (d) The mediator cannot determine the matter that is the subject of the mediation.
- (e) The mediation must be confidential, and any information given at the mediation cannot be used in any other proceedings that take place in relation to the matter that is the subject of the mediation.
- (f) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.

## 28. If Mediation Results in Decision to Suspend or Expel Being Revoked

If —

- (i) Mediation takes place because a Member whose membership is suspended or who is expelled from the Association gives notice under Rule 18(g); and
- (ii) As the result of the mediation, the decision to suspend the Member's membership or expel the Member is revoked,

That revocation does not affect the validity of any decision made at a Board Meeting or General Meeting during the period of suspension or expulsion.

## **PART 5 — BOARD**

### **Division 1 — Powers of Board**

#### **29. Role of the Board**

Subject to the Act, this Constitution, the By-Laws and any resolution passed at a General Meeting, the Board has the power to do all things necessary or convenient to be done for the proper management of the Association. The Board:

- (a) Will manage the Association for the collective and mutual benefit of the Members, and the sport of basketball;
- (b) Will administer the Association in accordance with the Objects;
- (c) Will develop a strategic plan for the Association;
- (d) Will review the Association’s performance in achieving its strategic plan objectives;
- (e) Will appoint, manage and dismiss the administrator as necessary, with such administrator to report to the President.
- (f) Will ensure an appropriate risk management framework is in place;
- (g) Will take all reasonable steps to ensure that the Association complies with the Act, and this Constitution; and
- (h) Have a good working knowledge of this Constitution, the policies of the Association and the duties of all Office Holders and Sub-committees;
- (i) Will ensure the Association meets its financial obligations and remains solvent at all times;

### **Division 2 — Composition of Board and Duties of Members**

#### **30. Board Members**

##### **30.1 Board Composition**

- (a) The Board Members consist of up to 7 Elected Ordinary Directors and up to 2 Appointed Directors.
- (b) The Elected Ordinary Directors will be elected by the Members present at the Annual General Meeting in accordance with Rule 38.
- (c) The following are the Office Holders of the Association, composed of Ordinary Directors, otherwise known as the Executive Directors —
  - (i) The President;
  - (ii) The Vice President;
  - (iii) The Director of Finance
- (d) Subject to section 39 of the Act, a person may be an Elected Ordinary Director if the person is:
  - (i) An individual who has reached 18 years of age; and
  - (ii) A financial Ordinary Member or voting Life Member.
- (e) A person must not hold more than one position on the Board at the same time.

### **30.2 Office Holders (Executive Directors) of Board**

- (a) The position of President shall be appointed by the Board from amongst Ordinary Directors as soon as practicable at or after each Annual General Meeting. The appointee will hold the position until the conclusion of the next Annual General Meeting following his or her appointment. A Director may be re-appointed as President.
- (b) The position of Vice President shall be appointed by the Board from amongst Ordinary Directors as soon as practicable after each Annual General Meeting. The appointee will hold the position until the conclusion of the next Annual General Meeting following his or her appointment. A Director may be re-appointed as Vice President.
- (c) The position of Director of Finance shall be appointed by the Board from amongst Directors as soon as practicable after each Annual General Meeting. The appointee will hold the position until the conclusion of the next Annual General Meeting following his or her appointment. A Director may be re-appointed as Director of Finance.
- (d) The Office Holders of the Association are to work collaboratively together, and with the Administrator, ensuring they meet regularly alongside the Administrator to ensure matters are dealt with that couldn't ordinarily wait until the next scheduled Board Meeting.

## **31. Appointed Directors**

### **31.1 Term of Appointment**

The Board may appoint up to two Appointed Directors to serve on the Board for a term of one (1) year.

If the Board is to add Appointed Directors to the Board, this is to be done at the first available opportunity following an Annual General Meeting in accordance with these Rules.

### **31.2 Qualifications for an Appointed Director**

An Appointed Director must be a minimum of 18 years of age and may have specific skills in commerce, finance, marketing, law or business generally or such other skills which complement the Board composition but need not have experience in or exposure to basketball. Additionally, they need not be a member of the Association, however, they may be.

## **32. President**

The President shall:

- (a) Represent the Association and chair all General Meetings and Board Meetings and perform all duties as ordinarily pertain to the office of President;
- (b) Be well informed of all the Association's activities;
- (c) Be knowledgeable of the future directions and plans of the Association;
- (d) Foster a strong working relationship with local government, affiliated associations, Basketball WA and other sporting clubs;
- (e) Represent the Association at local, regional and state level;
- (f) Be a supportive leader for all Members;
- (g) Act as a facilitator for Association activities;
- (h) Ensure the planning for the future is carried out in accordance with the objects and the strategic plan, while also ensuring the strategic plan is reviewed annually; and
- (i) Work within the Board Charter and Board Code of Conduct as devised by the board.

### **33. Vice President**

The Vice President shall:

- (a) Attend Board meetings;
- (b) Assist the President in carrying out his or her duties;
- (c) Assume the duties of the President in his/her absence;
- (d) Devote time with each Board Member to maintain a sound understanding of the running of the Association and assist other Board Members with their duties as required;
- (e) Be aware of the future direction and plans of the Association and act as a planning coordinator;
- (f) Perform other duties as may be prescribed by the President or the Board for the role of Vice President; and
- (g) Work within the Board Charter and Board Code of Conduct as devised by the board.

### **34. Director of Finance**

The Director of Finance has the following duties:

- (a) The Director of Finance oversees all financial matters carried out as part of the financial duties assigned to the Administrator.
- (b) Ensuring the Association complies with the relevant requirements of Part 5 of the Act;
- (c) Ensuring the safe custody of the Association's Financial Records, Financial Statements and Financial Reports, as applicable to the Association;
- (d) Coordinating the preparation of the Association's Financial Statements before their submission to the Association's Annual General Meeting;
- (e) Providing any assistance required by an auditor or reviewer conducting an audit or review of the Association's Financial Statements or Financial Report under Part 5 Division 5 of the Act, and
- (f) Perform other duties as may be prescribed by the President or the Board for the role of Director of Finance; and
- (g) Work within the Board Charter and Board Code of Conduct as devised by the board, while also ensuring budgeting and reporting is carried out regarding the Objects and strategic plan of the Association.

### **35. Directors**

Each Director elected or appointed to the board shall carry out the duties assigned to them by the Board and work within the Board Charter and Board Code of Conduct as devised by the Board.

## **Division 3 — Election of Directors, Tenure of office and Conflicts**

### **36. How members become Directors**

A Member becomes a Director if the Member —

- (a) Is elected to the Board at the Annual General Meeting under Rule 38;
- (b) Is appointed to the Board by the board to fill a casual vacancy under Rule 42; or
- (c) Is appointed to the Board under Rule 31

### **37. Nomination of Directors**

- (a) At least 42 days before an Annual General Meeting, the Administrator must send written notice to all the Members —
  - (i) Calling for nominations for election to the Board; and
  - (ii) Stating the date by which nominations must be received by the Administrator to comply with Sub-rule (b)
- (b) A Member who wishes to be considered for election to the Board at the Annual General Meeting must nominate for election by sending written notice of the nomination to the Administrator at least 28 days before the Annual General Meeting.
- (c) The written notice must include a statement by another Member in support of the nomination.

### **38. Election of Ordinary Directors**

- (a) If the number of Members nominating for the position of Ordinary Director is not greater than the number to be elected, the chairperson of the meeting —
  - (i) Must declare each of those members to be elected to the position; and
  - (ii) Will declare that any vacant position will be considered a casual vacancy under Rule 46 and will be considered by the Board at its next Board Meeting.
- (b) If —
  - (iii) The number of Members nominating for the position of Ordinary Director is greater than the number to be elected, the Ordinary Members at the meeting must vote in accordance with procedures that have been determined by the Board to decide the Members who are to be elected to the position of Ordinary Director.
- (c) A Member who has nominated for the position of Ordinary Director may vote in accordance with that nomination, including voting for himself or herself.

### **39. Term of Office**

- (a) The term of office of a Director begins when the member —
  - (a) Is elected at an Annual General Meeting or under Rule 38; or
  - (b) Is appointed as a Director under Rule 31; or
  - (c) Is appointed to fill a casual vacancy under Rule 42
- (b) Subject to Rule 42, an Ordinary Director holds office for three years from the date of election on the basis that at least two, but no more than three, of the Ordinary Directors' positions will be declared vacant at each Annual General Meeting.

- (c) A Director elected to fill a vacancy holds office for the unexpired period of the vacancy.
- (d) An Ordinary Director may be re-elected.

#### **40. Resignation and removal from office**

- (a) A Director may resign from the board by written notice given to the President or Vice President.
- (b) The resignation takes effect —
  - (a) When the notice is received by the President or Vice President; or
  - (b) If a later time is stated in the notice, at the later time
- (c) At a General Meeting, the Association may by resolution remove an Ordinary Director from office. If a Director is so removed, the office of the Director becomes vacant and shall be filled in accordance with the procedure set out in Rule 42.
- (d) A Director who is the subject of a proposed resolution under Sub-Rule (c) may make written representations (of a reasonable length) to the President and may ask that the representations be provided to the Members.
- (e) The President may give a copy of the representations to each Member or, if they are not so given, the Director may require them to be read out at the General Meeting at which the resolution is to be considered.

#### **41. When Directorship Ceases**

A person ceases to be a Director if the person —

- (a) Dies or otherwise ceases to be a Member; or
- (b) Resigns from the board or is removed from office under Rule 40;
- (c) Becomes ineligible to accept an appointment or act as a Director under section 39 of the Act;
- (d) Becomes permanently unable to act as a Director because of a mental or physical disability;
- (e) Fails to attend four consecutive Board meetings, of which the person has been given notice, or fails to attend at least 50% of Board Meetings in a 12-month period;
- (f) Holds any office of employment of the Association;
- (g) Becomes bankrupt or makes any arrangement or composition with his or her creditors generally.

Note for this Rule 41 – Section 41 of the Act imposes requirements, arising when a person ceases to be a Member of the management Board of an incorporated association, that relate to returning documents and records.

#### **42. Filling casual vacancies**

- (a) The Board may appoint a member who is eligible under Rule 30 to fill a position on the board that —
  - (i) Has become vacant under Rule 40; or
  - (ii) Was not filled by election at the most recent Annual General Meeting or under Rule 40(c)
- (b) If the position of Administrator becomes vacant, the Executive of the Board will make an appropriate plan to ensure the responsibilities of the Administrator are fulfilled until the role is filled.

- (c) Subject to the requirement for a quorum under Rule 49, the Board may continue to act despite any vacancy in its membership.
- (d) If there are fewer Board Members than required for a quorum under Rule 49, the Board may act only for the purpose of —
  - (i) Appointing Board Members under this Rule; or
  - (ii) Convening a General Meeting
- (e) The term of a person appointed to fill a casual vacancy shall expire at the conclusion of the Annual General Meeting next following the appointment.

### 43. Validity of acts

The acts of a Board or Sub-committee, or of a Director or member of a Sub-committee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Board Member or Member of a Sub-committee.

### 44. Payments to Directors

- (a) In this Rule —
  - (i) **Director** includes a Member of a Sub-committee;
  - (ii) **Board meeting** includes a meeting of a Sub-committee.
- (b) A Director is entitled to be paid out of the funds of the Association for any out of pocket expenses for travel and accommodation not occurring at the normal place of business properly incurred —
  - (i) In attending a Board Meeting or
  - (ii) In attending a General Meeting
  - (iii) Otherwise in connection with the Association’s business

## Division 4 — Board Meetings

### 45. Board Meetings

- (a) The Board must meet at least eight times in each year on the dates and at the times and places determined by the Board.
- (b) The date, time and place of the first Board Meeting must be determined by the Directors as soon as practicable after the Annual General Meeting at which the Directors are elected.
- (c) Special Board Meetings may be convened by the President or any two Directors, with the meeting to be held in accordance with the rules of a general Board Meeting outlined in Rule 47.

### 46. Notice of Board Meetings

- (a) Unless all Directors agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence), notice of each Board Meeting must be given to each Director at least 48 hours before the time of the meeting.
- (b) The notice must state the date, time and place of the meeting and must describe the general nature of the business to be conducted at the meeting.
- (c) Unless Sub-rule (d) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (d) Urgent business that has not been described in the notice may be conducted at the meeting if the Directors at the meeting unanimously agree to treat that business as urgent.

## 47. Procedure and order of business

- (a) The President or, in the President’s absence, the Vice President must preside as Chairperson of each Board Meeting.
- (b) If the President and Vice President are absent or are unwilling to act as Chairperson of a meeting, the Directors at the meeting must choose one of them to act as Chairperson of the meeting.
- (c) The procedure to be followed at a Board Meeting must be determined from time to time by the Board.
- (d) The order of business at a Board Meeting may be determined by the Board Members at the meeting.
- (e) A Member or other person who is not a Board Member may attend a Board Meeting if invited to do so by the Board.
- (f) A person invited under Sub-rule (e) to attend a Board Meeting —
  - (i) Has no right to any agenda, minutes or other document circulated at the meeting;
  - (ii) Must not comment about any matter discussed at the meeting unless invited by the Board to do so; and
  - (iii) Cannot vote on any matter that is to be decided at the meeting

## 48. Use of Technology to be Present at Board Meetings

- (a) The presence of a Director at a Board Meeting need not be by attendance in person but may be by that Director and each other Director at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (b) A Director who participates in a Board Meeting as allowed under sub-rule (a) is taken to be present at the meeting and, if the Director votes at the meeting, the Director is taken to have voted in person.

## 49. Quorum for Board Meetings

- (a) The attendance of at least five (5) Directors shall constitute a Quorum at any meeting of the Board;
- (b) Subject to Rule 42(d), no business is to be conducted at a Board Meeting unless a Quorum is present.
- (c) If a Quorum is not present within 30 minutes after the notified commencement time of a board meeting —
  - (i) In the case of a special meeting — the meeting lapses; or
  - (ii) Otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (d) If —
  - (i) A Quorum is not present within 30 minutes after the commencement time of a Board Meeting held under Sub-rule (c)(ii); and
  - (ii) At least 2 Board Members are present at the meeting, those Members present are taken to constitute a Quorum.



## 50. Voting at Board Meetings

- (a) Each Director present at a Board Meeting has one vote on any question arising at the meeting.
- (b) A motion is carried if a majority of the Directors present at the Board Meeting vote in favour of the motion.
- (c) If the votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (d) A vote may take place by the Directors present indicating their agreement or disagreement or by a show of hands, unless the Board decides that a secret ballot is needed to determine a particular question.
- (e) If a secret ballot is needed, the Chairperson of the meeting must decide how the ballot is to be conducted.

## 51. Minutes of board meetings

- (a) The Board must ensure that minutes are taken and kept of each Board Meeting.
- (b) The minutes must record the following —
  - (i) the names of the Directors present at the meeting;
  - (ii) the name of any person attending the meeting by invitation;
  - (iii) the business considered at the meeting;
  - (iv) any motion on which a vote is taken at the meeting and the result of the vote.
- (c) The minutes of a Board Meeting must be entered in the Association's records within 30 days after the meeting is held.
- (d) The President must ensure that the minutes of a Board Meeting are reviewed and signed as correct by —
  - (i) The Chairperson of the meeting; or
  - (ii) The Chairperson of the next Board Meeting
- (e) When the minutes of a Board Meeting have been signed as correct, they are, until the contrary is proved, evidence that —
  - (i) The meeting to which the minutes relate was duly convened and held; and
  - (ii) The matters recorded as having taken place at the meeting took place as recorded; and
  - (iii) Any appointment purportedly made at the meeting was validly made

## 52. Conflicts

### 52.1 Directors' Interests

A Director is disqualified from:

- (a) Holding any place of profit or position of employment in the Association or in any company or incorporated association in which the Association is a shareholder; and
- (b) Any contract or arrangement entered into by or on behalf of the Association in which any Director has a material personal interest they have not declared, may disqualify the director and they agree to indemnify the Association against any losses or costs of terminating that contract.

### 52.2 Conflict of Interest

A Director must declare any material personal interest he or she has in any:

- (a) Contractual or other financial matter
- (b) Selection matter; or
- (c) Disciplinary matter;

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

### **52.3 Disclosure of Interests**

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

### **52.4 General Disclosure**

A general notice that Director is a member of any specified firm or company and is regarded as interested in all transactions with that firm or company is sufficient declaration under Rule 16.3 as regards such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.

### **52.5 Recording Disclosures**

It is the duty of the Administrator, or authorised person, to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with Rule 52.3 and 52.4.

## **Division 5 — Sub-committees and subsidiary offices**

### **53. Sub-committees and Subsidiary Offices**

- (a) To help the Board in the conduct of the Association's business, the Board may, in writing, do either or both of the following —
  - (i) Appoint one or more Sub-committees;
  - (ii) Create one or more subsidiary offices and appoint people to those offices
- (b) A Sub-committee may consist of the number of people, whether or not Members, that the Board considers appropriate.
- (c) A person may be appointed to a subsidiary office whether or not the person is a Member.
- (d) Subject to any directions given by the Board —
  - (i) A Sub-committee may meet and conduct business as it considers appropriate; and
  - (ii) The holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

## 54. Delegation to Sub-committees and Holders of Subsidiary Offices

(a) In this Rule 54 —

***Non-delegable duty*** means a duty imposed on the Board by the Act or another written law.

(b) The Board may, in writing, delegate to a Sub-committee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the board other than —

- i. the power to delegate; and
- ii. a non-delegable duty

(c) A power or duty, the exercise or performance of which has been delegated to a sub-committee or the holder of a subsidiary office under this rule, may be exercised or performed by the sub-committee or holder in accordance with the terms of the delegation.

(d) The delegation may be made subject to any conditions, qualifications, limitations or exceptions that the Board specifies in the document by which the delegation is made.

(e) The delegation does not prevent the Board from exercising or performing at any time the power or duty delegated.

(f) Any act or thing done by a Sub-committee or by the holder of a subsidiary office, under the delegation has the same force and effect as if it had been done by the board.

(g) The Board may, in writing, amend or revoke the delegation.

## PART 6 — GENERAL MEETINGS OF ASSOCIATION

### 55. Annual General Meeting

- (a) The Board must determine the date, time and place of the Annual General Meeting.
- (b) If it is proposed to hold the Annual General Meeting more than 6 months after the end of the Association's Financial Year, the Administrator must apply to the Commissioner for permission under section 50(3)(b) of the Act within 4 months after the end of the financial year.
- (c) The ordinary business of the Annual General Meeting is as follows —
  - (i) To confirm the minutes of the previous Annual General Meeting and of any Special General Meeting held since then if the minutes of that meeting have not yet been confirmed;
  - (ii) To receive and consider —
    - (A) The Board's annual report on the Association's activities during the preceding Financial Year; and
    - (B) The Financial Statements or Financial Report of the Association for the preceding Financial Year presented under Part 5 of the Act; and
    - (C) A copy of auditor's report on the Financial Statements or Financial Report presented for consideration under Part 5 of the Act;
  - (iii) To elect the Ordinary Directors of the Association;
  - (iv) If applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act;
  - (v) To confirm or vary the entrance fees, subscriptions and other amounts (if any) to be paid by Members
  - (vi) To confer life membership on any Member as recommended by the Board
- (d) Any other business of which notice has been given in accordance with these rules may be conducted at the Annual General Meeting.

### 56. Special General Meetings

- (a) The Board may convene a Special General Meeting.
- (b) The Board must convene a Special General Meeting if at least 20% of the Members require a Special General Meeting to be convened.
- (c) The Members requiring a Special General Meeting to be convened must —
  - (i) Make the requirement by written notice given to the Administrator; and
  - (ii) State in the notice the business to be considered at the Meeting; and
  - (iii) Each sign the notice
- (d) The Special General Meeting must be convened within 28 days after notice is given under Sub-rule (c) (i).
- (e) If the Board does not convene a Special General Meeting within that 28-day period, the Members making the requirement (or any of them) may convene the Special General Meeting.
- (f) A Special General Meeting convened by members under Sub-rule (e) —
  - (i) Must be held within three months after the date the original requirement was made; and
  - (ii) May only consider the business stated in the notice by which the requirement was made
- (g) The Association must reimburse any reasonable expenses incurred by the Members convening a Special General Meeting under Sub-rule (e).

## 57. Notice of General Meetings

- (a) The Administrator or, in the case of a Special General Meeting convened under Rule 56(e), the Members convening the meeting, must give to each Member —
  - (i) At least 21 days' notice of a General Meeting if a Special Resolution is to be proposed at the meeting; or
  - (ii) At least 14 days' notice of a General Meeting in any other case
- (b) The notice must —
  - (i) Specify the date, time and place of the meeting; and
  - (ii) Indicate the general nature of each item of business to be considered at the meeting; and
  - (iii) If the meeting is the Annual General Meeting, include the names of the Members who have nominated for election to the board under Rule 37(b); and
  - (iv) If a Special Resolution is proposed —
    - (A) Set out the wording of the proposed resolution as required by section 51(4) of the Act; and
    - (B) State that the resolution is intended to be proposed as a Special Resolution; and
    - (C) Comply with Rule 60(g)

## 58. Proxies

- (a) Subject to Sub-rule (b), a Member may appoint an individual who is an Ordinary Member, or a voting Life Member, as his or her proxy to vote and speak on his or her behalf at a General Meeting.
- (b) An Ordinary Member or voting Life Member may be appointed the proxy for not more than 3 other Members.
- (c) The appointment of a proxy must be in writing and signed by the Member making the appointment.
- (d) The Member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (e) If no instructions are given to the proxy, the proxy may vote on behalf of the Member in any matter as the proxy sees fit.
- (f) If the Board has approved a form for the appointment of a proxy, the Member may use that form or any other form —
  - (i) That clearly identifies the person appointed as the Member's proxy; and
  - (ii) That has been signed by the Member
- (g) Notice of a General Meeting given to a member under Rule 57 must —
  - (i) State that the Member may appoint an individual who is an Ordinary Member or voting Life Member as a proxy for the meeting; and
  - (ii) Include a copy of any form that the Board has approved for the appointment of a proxy
- (h) A form appointing a proxy must be given to the Administrator before the commencement of the General Meeting for which the proxy is appointed.
- (i) A form appointing a proxy sent by post or electronically is of no effect unless it is received by the Association not later than 24 hours before the commencement of the meeting.

## 59. Use of Technology to be Present at General Meetings

- (a) The presence of a Member at a General Meeting need not be by attendance in person but may be by that Member and each other Member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (b) A Member who participates in a General Meeting as allowed under Sub-rule (a) is taken to be present at the meeting and, if the Member votes at the meeting, the Member is taken to have voted in person.

## 60. Presiding Member and Quorum for General Meetings

- (a) The President or, in the President's absence, the Vice President must act as Chairperson of each General Meeting.
- (b) If the President and Vice President are absent or are unwilling to act as Chairperson of a General Meeting, the Directors at the meeting must choose one of them to act as Chairperson of the meeting.
- (c) Subject to rule 59(b) the Quorum for General Meetings is 10 members.
- (d) No business is to be conducted at a General Meeting unless a Quorum is present.
- (e) If a Quorum is not present within 30 minutes after the notified commencement time of a General Meeting —
  - (A) In the case of a Special General Meeting — the meeting lapses; or
  - (B) In the case of the Annual General Meeting — the meeting is adjourned to —
    - (A) The same time and day in the following week; and
    - (B) The same place, unless the Chairperson specifies another place at the time of the adjournment or written notice of another place is given to the Members before the day to which the meeting is adjourned
- (f) If —
  - (i) A Quorum is not present within 30 minutes after the commencement time of an Annual General Meeting held under Sub-rule (e)(ii); and
  - (ii) At least 2 Ordinary Members or voting Life members are present at the meeting, those Members present are taken to constitute a Quorum.

## 61. Adjournment of General Meeting

- (a) The Chairperson of a General Meeting at which a Quorum is present may, with the consent of a majority of the Ordinary Members and voting Life Members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (b) Without limiting sub-rule (a), a meeting may be adjourned —
  - (A) If there is insufficient time to deal with the business at hand; or
  - (B) To give the Members more time to consider an item of business
- (c) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (d) Notice of the adjournment of a meeting under this rule is not required unless the meeting is adjourned for 14 days or more, in which case notice of the meeting must be given in accordance with rule 60.

## 62. Voting at General Meeting

- (a) On any question arising at a General Meeting —
  - (A) subject to sub-rule (f), each Ordinary Member and voting Life Member has one vote
  - (B) Voting Members may vote personally or by proxy
- (b) An Ordinary Member that is a body corporate may, in writing, appoint an individual, whether or not the individual is a Member, to vote on behalf of the body corporate on any question at a particular General Meeting or at any General Meeting, as specified in the document by which the appointment is made.
  - (i) A copy of the document by which the appointment is made must be given to the Administrator before any General Meeting to which the appointment applies.
  - (ii) The appointment has effect until —
    - (A) The end of any General Meeting to which the appointment applies; or
    - (B) The appointment is revoked by the body corporate and written notice of the revocation is given to the Administrator
- (c) Except in the case of a Special resolution, a motion is carried if a majority of the Members present at a General Meeting vote in favour of the motion.
- (d) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (e) If the question is whether or not to confirm the minutes of a previous General Meeting, only members who were present at that meeting may vote.
- (f) For a person to be eligible to vote at a General Meeting as a Member, the Member —
  - (A) Must have been a Member at the time notice of the meeting was given under Rule 60; and
  - (B) Must have paid any fee or other money payable to the Association by the Member.

## 63. When Special Resolutions are Required

- (a) A Special Resolution is required if it is proposed at a General Meeting —
  - (i) To affiliate the Association with another body; or
  - (ii) To request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager
- (b) Sub-rule (a) does not limit the matters in relation to which a Special Resolution may be proposed.

## 64. Determining whether resolution carried

- (a) In this Rule —

**Poll** means the process of voting in relation to a matter that is conducted in writing.
- (b) Subject to Sub-rule (d), the Chairperson of a General Meeting may, on the basis of general agreement or disagreement or by a show of hands, declare that a resolution has been —
  - (i) Carried; or
  - (ii) Carried unanimously; or
  - (iii) Carried by a particular majority; or
  - (iv) Lost

- (c) If the resolution is a Special Resolution, the declaration under Sub-rule (b) must identify the resolution as a Special Resolution.
- (d) If a poll is demanded on any question by the Chairperson of the meeting or by at least 3 other Ordinary Members or voting Life Members present in person or by proxy —
  - (i) The poll must be taken at the meeting in the manner determined by the Chairperson;
  - (ii) The Chairperson must declare the determination of the resolution on the basis of the poll.
- (e) If a poll is demanded on a question of an adjournment, the poll must be taken immediately.
- (f) If a poll is demanded on any other question, the poll must be taken before the close of the meeting at a time determined by the Chairperson.
- (g) A declaration under sub-rule (b) or (d) must be entered in the minutes of the meeting, and the entry is, without proof of the voting in relation to the resolution, evidence of how the resolution was determined.

## 65. Minutes of General Meeting

- (a) The Administrator, or a person authorised by the Board from time to time, must take and keep minutes of each General Meeting.
- (b) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (c) In addition, the minutes of each Annual General Meeting must record —
  - (i) The names of the Members attending the meeting; and
  - (ii) Any proxy forms given to the Administrator of the meeting under Rule 658(h); and
  - (iii) The Financial Statements or Financial Report presented at the meeting, as referred to in Rule 55(c)(ii)(B); and
  - (iv) The auditor's report on the Financial Statements or Financial Report presented at the meeting, as referred to in rule 55(c)(ii)(C).
- (d) The minutes of a General Meeting must be entered in the Association's records within 30 days after the meeting is held.
- (e) The Chairperson must ensure that the minutes of a General Meeting are reviewed and signed as correct by —
  - (i) The Chairperson of the meeting; or
  - (ii) The Chairperson of the next General Meeting
- (f) When the minutes of a General Meeting have been signed as correct, they are, in the absence of evidence to the contrary, taken to be proof that —
  - (i) The meeting to which the minutes relate was duly convened and held; and
  - (ii) The matters recorded as having taken place at the meeting took place as recorded; and
  - (iii) Any election or appointment purportedly made at the meeting was validly made.

## 66. Notice of Motion

Notices in writing of all motions for consideration at a General Meeting (not being a Special General Meeting) must be received by the Administrator at least 28 days prior to the date of the meeting. Notices received within this time shall be placed on the agenda for the relevant meeting. A copy of all notices of motion received by the Administrator will be communicated to each voting Member and Board Member at least 14 days prior to the General Meeting concerned, using any technology that gives the Members as a whole a reasonable opportunity to consider the motion in advance of the meeting.



## PART 7 — FINANCIAL MATTERS

### 67. Source of Funds and Application of Income

#### 67.1 Source of Funds

The funds of the Association may be derived from fees and levies payable by Members, spectator fees, competition fees, facility hire, , donations, grants, sponsorships, fund-raising activities, grants, interest and any other sources approved by the Board.

#### 67.2 Control of Funds

- (a) The Association must open an account(s) in the name of the Association with a financial institution from which all expenditure of the Association is paid and into which all funds received by the Association are deposited.
- (b) The income and property of the Association must be applied solely towards the maintenance and promotion of the Objects.
- (c) The President, Vice-President, Director of Finance and Administrator, any two of which, are authorised to sign cheques and approve electronic payments.
- (d) Subject to any restrictions imposed at a General Meeting, the Board may approve expenditure on behalf of the Association.
- (e) The Board may authorise the Administrator to expend funds on behalf of the Association up to a specified limit without requiring approval from the Board for each item on which the funds are expended.
- (f) Majority of payments should be made by electronic transfer approved by-
  - (i) Two office holders; or
  - (ii) One office holder and a person authorised by the board
- (g) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by —
  - (i) Two office holders; or
  - (ii) One office holder and a person authorised by the Board
- (h) All funds of the Association must be deposited into the Association’s accounts within five working days after their receipt.

#### 67.3 Financial Statements and Financial Reports

- (a) For each Financial Year, the Committee must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the Financial Statements and Financial Report of the Association are met.
- (b) Without limiting Sub-rule 67.3(a), those requirements include —
  - (i) The preparation of the Financial Statements; and
  - (ii) The auditing of the Financial Statements or Financial Report, as applicable; and
  - (iii) The presentation to the Annual General Meeting of the Financial Statements or Financial Report, as applicable; and

- (iv) the presentation to the Annual General Meeting of the auditor’s report on the Financial Statements or Financial Report.

**67.4 Financial Year**

The financial year of the Association is the period of 12 months commencing on the 1<sup>st</sup> July to the 30<sup>th</sup> June the following year.

## PART 8 — LICENCED PREMISES

### 68. Liquor licence

- (i) The Association shall apply for a liquor licence in compliance with the provisions of the *Liquor Control Act 1988*
- (ii) The board shall appoint an approved trustee to hold the licence on behalf of the Association.

### 69. Additional rules

The following rules from part of this constitution regarding the use of the licensed premises;

- (a) No liquor shall be sold or supplied for consumption elsewhere than on the club premises unless such liquor is removed from the licensed premises by or on the instructions of the Member purchasing the liquor.
- (b) No payment or part payment to any secretary, treasurer, manager or other officer or servant of the club shall be made by way of commission or allowance from or upon the receipts of the club for liquor.
- (c) No liquor shall be sold or supplied to any juvenile (i.e. any person under the age of 18).
- (d) No stranger shall be permitted to use the club premises and no Member or other person shall admit any stranger to use the club premises.
- (e) Members may introduce guests to the club at any time provided that:
  - (i) No member may introduce more than five (5) guests to the club at any one time.
  - (ii) A guest shall not be supplied with liquor in the club premises except on the invitation and in the company of that Member.
  - (iii) A guest shall be supplied with liquor to be consumed on the club premises only.
  - (iv) The Member introducing the guest shall be responsible for the proper conduct of that guest whilst on the club premises.
  - (v) A Member may, at their expense, and with the approval of the club committee, supply liquor to guests, without limitation as to number, at a function held by or on behalf of that Member, at the club premises.
- (f) Any person who has been refused membership of the club or who is under suspension or expulsion from the club, shall not be admitted as a guest of any Member of the club.

## PART 9 — GENERAL MATTERS

### 70. By-laws

- (a) The Board may from time to time as circumstances dictate, formulate, interpret, adopt, make, alter and amend by-laws for the Association’s proper advancement, management and administration of the objects and basketball as it thinks necessary or desirable.
- (b) Any By-Laws so made will be valid unless disallowed or amended by a Special Resolution of the Members.
- (c) A By-Law is of no effect to the extent that it is inconsistent with the Act, the regulations or these rules.
- (d) The President must bring to the notice of the Board, voting Members and Domestic Clubs all By-Laws and any formulation, amendment, alteration and repeal of them. Affiliated Domestic Clubs must draw such notices to the attention of their own members.
- (e) All rules and regulations of the Association in force at the date of the approval of this Constitution (including existing By-Laws) insofar as such rules and regulations are not inconsistent with, or have been replaced by this Constitution, shall continue in force under this constitution.

### 71. Executing Documents and Common Seal

- (a) The Association may execute a document without using a common seal if the document is signed by —
  - (i) Two office holders; or
  - (ii) One office holder and a person authorised by the Board
- (b) If the Association has a common seal —
  - (i) The name of the Association must appear in legible characters on the common seal; and
  - (ii) A document may only be sealed with the common seal by the authority of the Board and in the presence of —
    - (A) Two office holders; or
    - (B) One office holder and a person authorised by the board,and each of them is to sign the document to attest that the document was sealed in their presence.
- (c) The Administrator must make a written record of each use of the common seal or execution of a document as in Sub-rule (a).
- (d) The common seal must be kept in the custody of the Administrator or a Director authorised by the Board.

### 72. Notice

#### 72.1 Giving of Notices

- (a) In this rule —

Recorded means recorded in the register of members.
- (b) A notice or other document that is to be given to a Member under these rules is taken not to have been given to the member unless it is in writing and —
  - (i) Delivered by hand to the recorded address of the Member; or

- (ii) Sent by prepaid post to the recorded postal address of the Member; or
- (iii) Sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the Member

## **72.2 Entitlement of Notices**

Notice of every General Meeting will be given in any manner authorised by this Constitution to:

- (a) Every voting Member, except those who have not supplied to the Administrator an address for the giving of notices to them;
- (b) The Board Members
- (c) The auditor for the time being of the Association; and
- (d) Life Members whose contact information is known to the Administrator.

No other person is entitled to receive notices of General Meetings.

## **73. Custody of books and securities.**

Includes the secure retention of electronic records.

- (a) Subject to sub-rule (b), the books and any securities of the Association must be kept in the Administrator's custody or under the Administrator's control.
- (b) The Financial Records and, as applicable, the Financial Statements or Financial Reports of the Association must be kept in the Administrator's custody or under the Administrator's control.
- (c) Sub-rules (a) and (b) have effect except as otherwise decided by the Board.
- (d) The books of the Association must be retained for at least 7 years.

## **74. Record of office holders**

The record of Board Members and other persons authorised to act on behalf of the Association that is required to be maintained under section 58(2) of the Act must be kept in the Administrator's custody or under the Administrator's control.

## **75. Inspection of records and documents**

- (a) Sub-rule (b) applies to a member who wants to inspect —
  - (i) The register of Members under section 54(1) of the Act; or
  - (ii) The record of the names and addresses of Directors, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
  - (iii) Any other record or document of the Association
- (b) The Member must contact the Administrator to make the necessary arrangements for the inspection.
- (c) The inspection must be free of charge.
- (d) If the Member wants to inspect a document that records the minutes of a Board Meeting, the right to inspect that document is subject to any decision the Board has made about minutes of Board Meetings generally, or the minutes of a specific Board Meeting, being available for inspection by Members.
- (e) The Member may make a copy of or take an extract from a record or document referred to in sub-Rule (a) (iii) but does not have a right to remove the record or document for that purpose.

- (f) The Member must not use or disclose information in a record or document referred to in sub-rule (a)(iii) except for a purpose —
  - (i) That is directly connected with the affairs of the Association; or
  - (ii) That is related to complying with a requirement of the Act

## **76. Publication by Directors of Statements about Association Business Prohibited**

A Director must not publish, or cause to be published, any statement about the business conducted by the Association at a General Meeting or Board Meeting unless —

- (a) the Director has been authorised to do so at a Board Meeting; and
- (b) the authority given to the Director has been recorded in the minutes of the Board Meeting at which it was given

## **77. Distribution of Surplus Property on Cancellation of Incorporation or Winding up**

- (a) In this Rule —

Surplus property, in relation to the Association, means property remaining after satisfaction of —

- (i) The debts and liabilities of the Association; and
- (ii) The costs, charges and expenses of winding up or cancelling the incorporation of the Association,

But does not include books relating to the management of the Association

- (b) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution by reference to the persons mentioned in section 24(1) of the Act.

## **78. Amendments to this Constitution**

- (a) If the Association wants to alter or rescind any of these Rules, or to make additional Rules, the Association may do so only by Special resolution and by otherwise complying with Part 3 Division 2 of the Act.

## **79. Indemnity**

The Association will indemnify (either directly or through one or more interposed entities) any person who is or has been a Board Member, and if so resolved by the Board, the Association's auditor, out of the Association's funds against the following:

- (i) Any liability to another person (other than the Association or a related body corporate) unless the liability arises out of conduct involving a lack of good faith;
- (ii) Any liability for costs and expenses incurred by that person strictly in their capacity as a Board Member;
- (iii) In defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (iv) In connection with an application, in relation to such proceedings, in which the court grants relief to the person under the Act or the Corporations Act.

## 80. Effect of these Rules

These Rules come into effect and will supersede and replace any previously existing constitutions, rules and orders of the Association, unless otherwise provided for in this Constitution and will remain in force until amended.

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