



## **Constitution of**

# **MT LAWLEY TENNIS CLUB INC.**

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# MT LAWLEY TENNIS CLUB INC. CONSTITUTION

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# **MOUNT LAWLEY TENNIS CLUB (INCORPORATED)**

## **CONSTITUTION**

### **PART 1 PRELIMINARIES**

#### **1.0 ASSOCIATION**

##### **1.1 Name of the Association**

- (1) The name of the Association is "MOUNT LAWLEY TENNIS CLUB (INC.)"

##### **1.2 Colours**

- (1) The colours of the Association are navy blue, light blue and white.

##### **1.3 Objects of the Association**

- (1) The objects and purposes for which the Association is established are:
  - (a) to promote and encourage participation in the game of tennis in a sporting manner and a spirit of friendship;
  - (b) to purchase, lease, or otherwise acquire, or obtain the use of, any real or personal property;
  - (c) to build, alter, and maintain on the Association's premises lawn and synthetic tennis courts, and other buildings and structures, and to equip and maintain them for the use of Members and provide all necessary equipment, appliances and conveniences for their use, or arrange for all or any of those things to be done;
  - (d) to promote, hold, or enter into tournaments and other competitions and matches, either alone or jointly with any other clubs or associations, and to provide or contribute towards trophies and other awards;
  - (e) to improve, manage, develop, sell, mortgage, lease, let on lease, grant rights or licences in respect of, or surrender, all or any of the property or rights of the Association;
  - (f) to provide and maintain from the funds of the Association, facilities and amenities for Members and their guests;
  - (g) to facilitate community engagement through tennis and promote inclusion to create a positive sense of community belonging; and
  - (h) to become affiliated with Tennis West and any tennis association or associations, and if thought fit, to terminate such an affiliation.

##### **1.4 Quorum for Board of Directors Meetings**

- (1) Any six Directors will constitute a quorum for the conduct of the business at a Board meeting.

##### **1.5 Quorum for General Meetings**

- (1) At a General Meeting 20 Ordinary Members personally present (being Members entitled to vote under this Constitution at a General Meeting) will constitute a quorum for the conduct of a General Meeting.

##### **1.6 Financial Year**

- (1) The Association's Financial Year will be the period of twelve months commencing on the 1<sup>st</sup> May and ending on the 30<sup>th</sup> April of each year.
- (2) Membership year of the Association operates from 1<sup>st</sup> October to 30<sup>th</sup> September of the following year.

## 2.0 DEFINITION OF TERMS USED

(1) In this Constitution, unless the contrary intention appears:

**“Act”** means the Associations Incorporation Act 2015;

**“Associate Member”** means a Member with partial rights and privileges and no voting rights.

**“Association”** means the incorporated association Mount Lawley Tennis Club (Inc.);

**“Books of the Association”** has the meaning given to it in section 3 of the Act and includes all of the registers, financial records and financial reports, as each of those terms is defined in section 62 of the Act, however compiled, stored or recorded, and minute books, documents, securities and any other record of information.

**“By-laws”** are additional arrangements or processes adopted by Board of Directors to supplement this Constitution in accordance with rule 35. They do not form part of the Constitution and are not required to be lodged with the Commissioner.

**“Board of Directors”** mean the persons who under the Constitution of the Association have the power to manage the affairs of the Association and constitute the management committee of the Association as required by section 38 of the Act and rule 15.0;

**“Board Meeting”** means a meeting referred to in rule 18.0;

**“Commissioner”** means the person designated for the time being as the Commissioner under section 153 of the Act;

**“Constitution”** means the rules of the Association as amended from time to time under rule 44.0;

**“Financial Records”** has the meaning given to it in section 62 of the Act and includes:

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers;
- (b) documents of prime entry;
- (c) working papers and other documents needed to explain:
  - (i) the methods by which financial reports are prepared; and
  - (ii) adjustments to be made in preparing financial reports;

**“Financial Report”** has the meaning given to it in section 63 of the Act;

**“Financial Year”** of the Association has the meaning given to it in Rule 1.6;

**“General Meeting”**, of the Association, means a meeting of the Association, that all Members are entitled to receive notice of and to attend;

**“Member”** means a person who becomes a Member of the Association under this Constitution;

**“Office Holders”** means a member of the Board of Directors or a person, including an employee of the Association, who makes, or participates in making, decisions that affect the whole, or a substantial part, of the operations of the Association;

**“Ordinary Member”** means a Member (including a Life Member and a Corporate Member) with the rights referred to in rule 6.1(5);

**“Ordinary Resolution”** means a resolution to decide a question, matter or resolution at a General Meeting that is not a Special Resolution;

**“Poll”** means voting conducted in written form, which may include, but is not limited to a secret ballot (as opposed to general agreement or a show of hands);

**“Register of Members”** means the register of Members referred to in section 53 of the Act;

**“Special General Meeting”** means a general meeting of the Association other than the Annual General Meeting;

**“Sub-committee”** means a subcommittee appointed by the Board of Directors under rule 19.1;

**“Surplus Property”** means the property remaining when the Association is wound up or cancelled after satisfying:

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

but does not include books pertaining to the management of the Association;

**“Special Resolution”** means a resolution passed by the members at a General Meeting in accordance with sections 51 of the Act and rule 29.0;

**“Tennis Australia”** means Tennis Australia Limited;

**“Tennis League”** means the Tennis West interclub tennis league competition;

**“Tennis West”** means Western Australia Tennis Association Inc. trading as Tennis West.

### **3.0 POWERS OF THE ASSOCIATION**

- (1) The powers of the Association are the same as those conferred by section 14 of the Act, so that subject to the Act the Association may do all things necessary or convenient for carrying out its objects and purposes in a lawful manner.

### **4.0 NOT FOR PROFIT**

- (1) The property and income of the Association must be applied solely towards promoting 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 promoting those objects or purposes.

## **PART 2 MEMBERSHIP**

### **5.0 MEMBERSHIP**

#### **5.1 Eligibility for Membership**

- (1) Any person who supports the objects of the Association is eligible to apply to become a member.

#### **5.2 Applying for Membership**

- (1) A person who wants to become a Member must apply in such form as the Board of Directors directs from time to time.
- (2) The applicant must specify in the application the category of membership to which the application relates.
- (3) The applicant must comply with any other conditions imposed by the By-laws from time to time.

#### **5.3 Deciding Membership Applications**

- (1) All applications shall be posted on the noticeboard of the Association for a period of not less than seven (7) days before election. Further to this, a period of not less than fourteen (14) days shall elapse between nomination and election.
- (2) The Board of Directors will consider and decide whether to approve or reject any membership application at the first Board meeting practicable after posting an application in accordance with rule 5.3(1).



- (3) Subject to sub rule (3) applications will be considered and decided in the order they are received by the Association.
- (4) When considering a membership application, the Board of Directors may seek clarification of any matter or further information in support of the application, and may delay its decision to allow for that material to be provided. In the meantime, the Board of Directors may proceed to consider and decide other applications.
- (5) As soon as is practicable after the Board of Directors has made a decision under this rule, the Board must notify the applicant of the outcome of their membership application.
- (6) Each new Member of the Association under Section 36 of the Act must be provided with their own copy of the Constitution when they are accepted as a Member.
- (7) If an application is unsuccessful and the applicant has paid any membership fees, such fees will be refunded in full.

#### **5.4 Admission to Membership**

- (1) An applicant becomes a Member if the Board of Directors approves the applicant's application for membership and the applicant pays any fees due under rules 9.0.
- (2) On admission to membership the Secretary or another person authorised by the Board of Directors must provide a copy of the Constitution to each new Member.
- (3) The applicant immediately becomes a Member and is entitled to exercise all the rights and privileges of membership, including the right to vote (if applicable), and must comply with all of the obligations of membership under this Constitution and By-laws, when sub-rule (1) has been fulfilled.

### **6.0 MEMBERSHIP CATEGORIES**

#### **6.1 Categories**

- (1) The membership of the Association consists of:
  - (a) Ordinary Members;
  - (b) Life Members;
  - (c) Corporate Members; and
  - (d) Associate Members.
- (2) The Association may have different categories of ordinary and associate memberships as determined by the Board of Directors from time to time.
- (3) A Member under the age of 16 years cannot be an Ordinary Member, but may be an Associate Member.
- (4) No Member can belong to more than one category of membership.
- (5) An Ordinary Member has all rights provided to Members under the Constitution, including the right to vote, and other benefits as determined by the Board of Directors or by resolution of Ordinary Members at General Meeting.
- (6) An Associate Member has no right to vote, but has all other rights provided to a Member under the Constitution and other rights and benefits as determined by the Board of Directors or by resolution of Ordinary Members at General Meeting.
- (7) The Board of Directors must define each category of ordinary and associate membership including playing, voting and other rights and include in the By-laws. Only membership categories defined in this Constitution and the By-laws may be admitted as Members.
- (8) The maximum number of Members in any category is not limited unless otherwise approved by resolution at a General Meeting.

## **6.2 Life Members**

- (1) The Board of Directors may recommend to the Members at an Annual General Meeting that, in recognition of services rendered to the Association, a member of the Association be made a Life Member. A resolution must be passed at an Annual General Meeting by a majority of at least three quarters of the Members present at the meeting and eligible to vote.
- (2) Before a Member can be nominated for life membership, they must have been an Association Member for at least 10 years, provided always that not more than one Life Member shall be elected in an Association year.
- (3) No annual subscription fee for membership of the Association is payable by a Life Member.
- (4) Life membership gives that Life Member the same entitlements as an Ordinary Member.

## **6.3 Corporate Members**

- (1) A Corporate Member means a commercial entity with an Australian Business Number and includes:
  - (a) a corporation as defined in the Corporations Act 2001 of the Commonwealth of Australia, or is incorporated under the Associations Incorporation Act 2015 of Western Australia;
  - (b) any entity, body or association of persons, whether or not incorporated;
  - (c) any person carrying on business as a sole trader; and
  - (d) any person carrying on a business in which employees are employed.
- (2) Nominations for acceptance as Corporate Members shall be considered in a manner similar to that undertaken for acceptance of Ordinary Members.
- (3) Fees for Corporate Members will be set individually by the Board of Directors for each application and will consider the number of nominees and level of sponsorship offered to the Association.
- (4) Corporate membership is conditional on any nominee of the Corporate Member, as well as the entity itself, complying with the Constitution of the Association.

## **6.4 Rights of Corporate Members**

- (1) Corporate Members are entitled to participate in all activities of the Association pursuant to their particular contractual arrangements with the Association, and the Board of Directors may fix different entitlements for different Corporate Members.
- (2) Two or more corporate membership cards may be issued in the names of natural persons (nominees) to a Corporate Member entitling two or more nominees to play tennis and use the Association's facilities without payment of membership or visitors fees and such other benefits and corporate arrangements as the Board of Directors may from time to time determine and as recorded in the Board's minutes, other than the right to vote.
- (3) Nominees can only be changed at six monthly intervals.

## **6.5 Contractual Agreement for Corporate Members**

- (1) The Board of Directors must prepare a written contractual agreement for each Corporate Member that defines the fees, number of nominees, benefits and corporate arrangements between the parties.

## **6.6 Transfer between Categories**

- (1) At the discretion of the Board of Directors a Member may transfer to another category where eligible.

## **7.0 ENTITLEMENTS OF MEMBERS**

### **7.1 Rights of Members**

- (1) Members have all rights provided to Members under the Constitution, By-laws and other rights and benefits as determined by the Board of Directors or by resolution of Members at a General Meeting. All Members have the right to attend General Meetings of the Association.
- (2) Only Ordinary Members, Life Members and Corporate Members voting nominee have voting rights.
- (3) Ordinary Members, Life Members and Corporate Members may play on days stated in the By-laws for their category of membership and participate in all tournaments and attend all functions.
- (4) Associate Members may only play on the days stated in the By-laws for their category of membership, but may attend all functions.

## **7.2 Payments to Members**

- (1) A payment may be made to a Member out of the funds of the Association only if it is authorised under sub-rule (2).
- (2) A payment to a Member out of the funds of the Association is authorised if it is
  - (a) 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;
  - (b) 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;
  - (c) the payment of reasonable rent to the member for premises leased by the member to the Association; or
  - (d) the reimbursement of reasonable expenses properly incurred by the Member on behalf of the Association.

## **8.0 CEASING TO BE A MEMBER**

### **8.1 Ceasing Membership**

- (1) A person ceases to be a Member when any of the following takes place:
  - (a) the person dies;
  - (b) the person resigns from the Association under rule 8.2;
  - (c) the person is expelled from the Association under rule 12.0; or
  - (d) the person ceases to be a member under rule 9.0(4).
- (2) The Secretary must keep a record, for at least one year after a person ceases to be a member, of:
  - (a) the date on which the person ceased to be a member; and
  - (b) the reason why the person ceased to be a member.

### **8.2 Resignation**

- (1) A Member may resign from membership of the Association by giving written notice of the resignation to the Secretary.
- (2) The resignation takes effect:
  - (a) when the Secretary receives the notice; or
  - (b) if a later time is stated in the notice, at that later time.
- (3) Such person remains liable to pay to the Association the amount of any subscription or any other amount of money due and payable by that person to the Association but unpaid at the date of resignation.
- (4) The owed amount may be recovered by the Association in the exclusive jurisdiction of the Courts of Western Australia as a debt due to the association.

### **8.3 Rights Not Transferable**

- (1) The rights of a Member are not transferable and end when the membership ceases.

## **9.0 MEMBERSHIP FEES**

- (1) The Board of Directors must determine the amount of the annual membership fee, if any, to be paid for membership of the Association from time to time.
- (2) The fees determined under sub-rule (1) may be different for different categories of membership.
- (3) Each Member must pay the Member's annual membership fee determined under rule 9.0(1) to the Finance Director, or a person authorised by the Board of Directors to receive payments, as and when decided by the Board of Directors.
- (4) Membership fees are payable in advance and if not paid within 30 days from 1<sup>st</sup> October each year or within 30 days of acceptance as a new member, the person ceases to be a Member.
- (5) Subscriptions and relevant Tennis League fees of all Members wishing to play in any interclub Tennis League Competition must be paid prior to the closing date for nomination to the competition. Those members whose subscriptions and fees have not been paid, and who have not been specifically exempted by the Board of Directors will not be eligible for selection.

## **10.0 MEMBERSHIP REGISTER**

### **10.1 Register of Members**

- (1) The Secretary or another person authorised by the Board of Directors from time to time is responsible for the requirements imposed on the Association under section 53 of the Act to maintain the Register of Members and to record in that register any change in the membership of the Association.
- (2) The Register must contain:
  - (a) the full name of each Member;
  - (b) a contact postal, residential or email address of each Member;
  - (c) the category of membership held by the Member;
  - (d) date of birth;
  - (e) the date on which the person became a Member; and
  - (f) The amount of annual fees, if any, that most recently became payable, and if the fee has been paid, the date when it was paid.
- (3) Any change in membership of the Association must be recorded in the Register within 28 days after the change occurs.
- (4) The Register must be kept and maintained at the Association's premises or at such other place as the Board of Directors decides.

### **10.2 Inspecting the Register**

- (1) Any Member is able to inspect the Register free of charge, at such time and place as is mutually convenient to the Secretary and the Member. A Member must contact the Secretary to request to inspect the Register.

### **10.3 Copy of the Register**

- (1) A Member inspecting the register of Members may make a request in writing for a copy of the Register.
- (2) The Board of Directors may require a Member who requests a copy or extract from the Register under section 54 of the Act to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of the Association. The Association may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Board of Directors from time to time.
- (3) If the Board of Directors denies a Member's request for a copy of the register a Member may appeal the decision under rule 13.1(1) (b).

#### **10.4 When Using the Information in the Register is Prohibited**

- (1) A Member must not use or disclose the information on the Register:
  - (a) to gain access to information that a Member has deliberately denied them (that is, personal matters unrelated to the Association);
  - (b) to contact, send material to the Association or a Member for the purpose of advertising for political, religious, charitable or commercial purposes unless the use of the information is approved by the Board of Directors, or
  - (c) for any other purpose unless the purpose:
    - (i) is directly connected with the affairs of the Association; or
    - (ii) relates to the provision of information to the Commissioner in accordance with a requirement of the Act.

#### **11.0 VISITORS & GUESTS**

##### **11.1 Playing Visitors**

- (1) Visitors are welcome to participate in organised social play and to use the Association's facilities subject to the payment of the visitor fees as set from time to time by the Board of Directors. Any visitor using the playing facilities is restricted to no more than six visits in any one financial year unless otherwise determined by the Board of Directors.
- (2) Members bringing visitors to the Association are responsible for payment of the visitor's fee as decided by the Board of Directors from time to time.

##### **11.2 Social Guests**

- (1) A Member may invite up to five guests on any one day, to enjoy in the company of the Member, the amenities of the Association, subject to compliance with Liquor Control Act 1988 section 48(4)(b) and provided:
  - (a) a guest shall not be supplied with liquor in the Association's premises except on the invitation and in the company of that Member;
  - (b) a guest shall be supplied with liquor to be consumed on the Association's premises only;
  - (c) the Member introducing the guest shall be responsible for the proper conduct of that guest whilst on the Association's premises;
  - (d) any person who has been refused membership of the Association or who is under suspension or expulsion from the Association shall not be admitted as a guest of any Member of the Association; and
  - (e) a Member may, at their expense, and with the approval of the Board of Directors, supply liquor to guests, without limitation as to number, at a function held by or on behalf of that Member, at the Association's premises.

### **PART 3 DISCIPLINARY ACTION, DISPUTES AND MEDIATION**

#### **12.0 SUSPENDING OR EXPELLING MEMBERS**

##### **12.1 Suspension or Expelling**

- (1) The Board of Directors may decide to suspend a Member's membership or expel a Member from the Association if, in the opinion of the Board of Directors:
  - (a) the Member's conduct is detrimental to the interests of the Association;
  - (b) the Member has acted in a manner unbecoming of a member or contrary to the objects of the Association;
  - (c) the Member has brought the Association, another member or the sport of tennis into disrepute;
  - (d) the Member has breached a policy referred to in rule 45.0;
  - (e) the Member has breached a By-Law of the Association; or
  - (f) suspension or expulsion is appropriate in all circumstances.

- (2) The Secretary must give the Member written notice of the proposed expulsion or suspension at least 28 days before the Board of Director's meeting at which the proposal is to be considered by the Board of Directors.
- (3) The notice given to the Member must state:
  - (a) when and where the Board of Directors meeting is to be held;
  - (b) grounds on which the proposed suspension or expulsion is based: and
  - (c) 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, submissions to the Board of Directors about the proposed suspension or expulsion.
- (4) At the Board of Director's meeting the Board must:
  - (a) give the Member a reasonable opportunity to make submissions to the Board of Directors about the proposed suspension or expulsion;
  - (b) give due consideration to any submissions so made; and
  - (c) decide;
    - (i) whether or not to suspend the Member's membership and, if the decision is to suspend the membership the period of suspension; or
    - (ii) whether or not to expel the Member from the Association.
- (5) A decision of the Board of Directors to suspend the member's membership or to expel the Member from the Association takes immediate effect.
- (6) The Secretary must give the Member written notice of the Board of Director's decision within 7 days after the meeting at which the decision is made.
- (7) A Member who is suspended or expelled from the Association may, within 14 days after receiving notice of the Board of Director's decision under sub-rule (6), give written notice that he or she wishes to appeal against that suspension or expulsion.
- (8) If notice is given under sub-rule (7):
  - (a) the matter will be referred to Tennis West, which may either:
    - (i) consent to confirm or set aside the decision of the Board of Directors to suspend or expel the Member, after having afforded the Association and the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, Tennis West; or
    - (ii) refer the matter to mediation.

## **12.2 Reinstatement of a Member**

- (1) If the Board of Director's decision to suspend or expel a Member is revoked under this Constitution, any act performed by the Board of Directors or Members in General Meeting during the period that the Member was suspended or expelled from Membership under rule 12.0(4) (c), is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of Membership, including voting rights, during that period.

## **12.3 Consequences of Suspension**

- (1) During the period a Member's membership is suspended, the member;
  - (a) loses any rights or privileges of membership, including voting rights, during the period they are suspended from membership; and
  - (b) is not entitled to a refund, rebate, relief or credit for membership fees paid or payable, to the Association.
- (2) When a Member's membership is suspended the Secretary must record in the Register of Members:
  - (a) that the Member's membership is suspended;
  - (b) the date on which the suspension takes effect; and
  - (c) the period of the suspension.
- (3) When the period of the suspension ends, the Secretary must record in the Register of Members that the Member's membership is no longer suspended.

## **13.0 DISPUTES AND MEDIATION**

### **13.1 Disputes**

- (1) The grievance procedure set out in this rule applies to disputes that arise under the Constitution or relate to the Constitution of the Association between:
  - (a) a Member and one or more Members;
  - (b) a Member and the Association; or
  - (c) if the Association provides services to non-members, those non-members who receive services from the Association, and the Association.
- (2) A party to a dispute may include a Member who ceases to be a Member within 6 months before the dispute occurred;
- (3) The grievance procedure set out in rule 13 does not apply to disputes that relate to a Tennis Australia national policy and by-law referred to in rule 45.0 of this Constitution.

### **13.2 Resolving Disputes**

- (1) The parties to the dispute must meet together with the President or his/her delegate and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all parties.

### **13.3 How grievance procedure is started**

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by rule 13.1, any party to the dispute may start the grievance procedure by giving written notice to the Secretary of:
  - (a) the parties to the dispute; and
  - (b) the matters that are the subject of the dispute.
- (2) Within 28 days after the Secretary is given the notice, a Board of Director's meeting must be convened to consider and determine the dispute.
- (3) The Secretary must give each party to the dispute written notice of the Board of Director's meeting at which the dispute is to be considered and determined at least 7 days before the meeting is held.
- (4) The notice given to each party to the dispute must state:
  - (a) when and where the Board meeting is to be held; and
  - (b) that the party may attend the meeting and will be given a reasonable opportunity to make written or oral, or both, submissions to the Board about the dispute.
- (5) If:
  - (a) the dispute is between one or more Members and the Association; and
  - (b) any party to the dispute gives written notice to the Secretary stating that the party:
    - (i) does not agree to the dispute being determined by the Board of Directors; and
    - (ii) requests the appointment of a mediator under rule 14.2,

the Board must not determine the dispute.

### **13.4 Determination of Dispute by Board of Directors**

- (1) At the Board of Director's meeting at which a dispute is to be considered and determined, the Board of Directors must:
  - (a) give each party to the dispute a reasonable opportunity to make written or oral, or both, submissions to the Board of Directors about the dispute; and
  - (b) give due consideration to any submissions so made; and
  - (c) determine the dispute.
- (2) The Secretary must give each party to the dispute written notice of the Board of Director's determination, and the reasons for the determination, within 7 days after the Board of Director's meeting at which the determination is made.

- (3) A party to the dispute may, within 14 days after receiving notice of the Board of Director's determination under sub-rule (1) (c), give written notice to the Secretary requesting the appointment of a mediator under rule 14.1.
- (4) If notice is given under sub-rule (3), each party to the dispute is a party to the mediation.

## **14.0 MEDIATION**

### **14.1 Application of Mediation**

- (1) This rule applies if written notice has been given to the Secretary requesting the appointment of a mediator:
  - (a) by a Member under rule 12.1(8)(ii); or
  - (b) by a party to a dispute under rule 13.3(5(b)) (ii) or 13.4(3).
- (2) If this Part applies, a mediator must be chosen or appointed under rule 14.2.

### **14.2 Appointment of Mediator**

- (1) The mediator must be a person chosen by agreement between the parties to the dispute.
- (2) If there is no agreement, Tennis West must appoint the mediator.
- (3) if the dispute is between a Member and another Member, a person appointed by the Board of Directors; or
- (4) If the dispute is between a Member or relevant non-member (as defined by rule 13.0(1) (b) and (c) and the Association then Tennis West must appoint the mediator.
- (5) The person appointed as mediator may be a Member or former Member of the Association but must not:
  - (a) have a personal interest in the matter that is the subject of the mediation; or
  - (b) be biased in favour of or against any party to the mediation.

### **14.3 Mediation Process**

- (1) The parties to the mediation must attempt in good faith to settle the matter that is the subject of the mediation.
- (2) Each party to the mediation must give the mediator a written statement of the issues that need to be considered at the mediation before the mediation takes place.
- (3) In conducting the mediation, the mediator must:
  - (a) give each party to the mediation every opportunity to be heard;
  - (b) allow each party to the mediation to give due consideration to any written statement given by another party; and
  - (c) ensure that natural justice is given to the parties to the mediation throughout the mediation process.
- (4) The mediator cannot determine the matter that is the subject of the mediation.
- (5) 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.
- (6) The costs of the mediation are to be paid by the party or parties to the mediation that requested the appointment of the mediator.
- (7) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **14.4 If mediation results in decision to suspend or expel being revoked**

- (1) If:



- (a) mediation takes place because a Member's membership was suspended or the member was expelled from the Association under rule 12.1(8)(a)(ii); and
- (b) 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 of Directors meeting or General Meeting during the period of suspension or expulsion.

## **PART 4 MANAGEMENT**

### **15.0 POWERS AND COMPOSITION OF THE BOARD OF DIRECTORS**

#### **15.1 Powers of the Board of Directors**

- (1) The governing body of the Association is the Board of Directors and are the persons who have the authority to control and manage the affairs of the Association.
- (2) Subject to the Act, this Constitution and any By-law or lawful resolution passed by the Association in General Meeting, the Board of Directors:
  - (a) may exercise all powers and functions as may be exercised by the Association, other than those powers and functions that are required by this Constitution to be exercised by General Meetings of the Members; and
  - (b) has power to perform all acts and do all things as appear to the Board to be necessary or desirable for the proper management of the business and affairs of the Association.
- (3) The Board of Directors must take all reasonable steps to ensure that the Association complies with the Act, this Constitution and the By-laws of the Association.

#### **15.2 Composition of Board of Directors**

- (1) The Board of Directors consist of the following office holders of the Association:
  - (a) President
  - (b) Vice President
  - (c) Secretary
  - (d) Finance Director
  - (e) Not less than 7 Other Directors to serve in portfolios as nominated by the Board of Directors...
- (2) A Director must be:
  - (a) a natural person;
  - (b) over 18 years in age; and
  - (c) a financial Ordinary Member of the Association.
- (3) The Vice President is elected by the Board of Directors in accordance with rule 16.6(2).

### **16.0 ROLE AND RESPONSIBILITIES OF DIRECTORS**

#### **16.1 Obligations of the Board of Directors**

- (1) Each member of the Board must:
  - (a) form and co-ordinate such Sub-committees as they deem necessary to fulfil their duties; and
  - (b) report in writing at each meeting of the Board of Directors on matters pertaining to their area of responsibility;
  - (c) prepare a report to the Board of Directors as soon as practicable after the conclusion of a social, tennis and other functions or events detailing receipts and expenditure and any recommendation or comments in respect of the event; and.
  - (d) present a report to each Annual General Meeting of the Association.

#### **16.2 Responsibilities of Board of Directors**

- (1) A Director must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.

- (2) As required under sections 42 and 43 of the Act, if a Director has a direct or indirect pecuniary or other interest in a contract, a proposed contract made by, or in the contemplation of the Board of Directors or any other matter being considered by the Board of Directors such that the Board member is deemed to have a real or perceived conflict of interest (except if the pecuniary interest exists only by virtue of the fact that the member of the Board is a member of a class of persons for whose benefit the Association is established), the Board member must:
  - (a) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board of Directors; and
  - (b) not take part in any deliberations or decision of the Board of Directors with respect to that contract. However the Board member may be present to listen to the deliberations and/or discussions.
- (3) Sub rule (2) does not apply in with respect to a pecuniary interest that exists only by virtue of the fact that the Board of Directors Member is an employee of the Association.
- (4) The Secretary must cause every disclosure made by a Board of Directors Member under rule (2) to be recorded in the minutes of the Board of Directors Meeting at which the disclosure is made.

### **16.3 President**

- (1) It is the duty of the President to consult with the Secretary regarding the business to be conducted at each Board of Directors Meeting and each General Meeting.
- (2) The President has the powers and duties relating to convening and presiding at Board of Directors meetings and presiding at General Meetings provided in this Constitution.
- (3) The President is responsible for co-ordination of the activities of the Board of Directors and the overall administration of the Association
- (4) Where immediate action is required in any matter affecting the policy or the interests of the Association, and it is impracticable to refer the matter to the Board of Directors, the President shall seek the advice of as many members of the Board of Directors as may be practicable and shall act in such manner as the majority of such members approve.

### **16.4 Secretary**

- (1) The Secretary has the following duties:
  - (a) dealing with the correspondence of the Association;
  - (b) consulting with the President about the business to be conducted at each Board of Directors meeting and General Meeting;
  - (c) preparing the notices required for meetings and for the business to be conducted at each meeting;
  - (d) unless another Member is authorised by the Board of Directors to do so, maintaining on behalf of the Association the Register of Members, and recording in the register any changes in the membership, as required under section 53(1) of the Act and rule 10.1;
  - (e) maintaining on behalf of the Association in an up to date condition the Constitution of the Association as required by section 35(1) of the Act and any By-laws of the Association; and
  - (f) keep posted on the Association notice board an up to date copy of any By-laws;
  - (g) unless another Member or employee is authorised by the Board of Directors to do so, maintaining on behalf of the Association a record of Board of Directors Members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;
  - (h) ensuring the safe custody of the books of the Association, other than the financial records and financial reports, as applicable to the Association;
  - (i) maintaining full and correct minutes of Board of Directors Meetings and General Meetings; and
  - (j) carrying out any other duty given to the Secretary under this Constitution or by the Board of Directors.

### **16.5 Finance Director**

- (1) The Finance Director has the following duties:

- (a) ensuring that all moneys payable to the Association are collected and that receipts are issued for those moneys in the name of the Association;
- (b) ensuring that any moneys paid to the Association are credited to the appropriate account or accounts of the Association as the Board of Directors may from time to time direct;
- (c) ensuring that any payments to be made by the Association that have been authorised by the Board of Directors or at a General Meeting are made on time;
- (d) ensuring that the Association complies with the account keeping requirements in Part 5 of the Act;
- (e) prepare and submit to each meeting of the Board of Directors appropriate financial accounts together with recommendation for payment of any accounts by the Association;
- (f) preparing an annual budget at the beginning of the financial year and report to the Board at regular meetings on the financial position of the Association against budget projections;
- (g) ensuring the safe custody of the Financial Records of the Association and any other relevant records of the Association;
- (h) coordinating the preparation of the Financial Report of the Association prior to its submission to the annual general meeting of the Association;
- (i) assisting the auditor in performing their functions; and
- (j) carrying out any other duty given to the Finance Director under this Constitution or by the Board of Directors.

#### **16.6 Vice President**

- (1) The Vice President is to assist the President and, in the absence of the President, has the same powers as the President.
- (2) The Vice President is elected by the Board of Directors at their first meeting following an Annual General Meeting from the Directors holding office after the Annual General Meeting.

#### **16.7 Other Directors**

- (1) The Other Directors are responsible for different areas of the Association's operations and their portfolios will be as defined by the Board of Directors and the Association's By-laws from time to time.

#### **16.8 Auditor**

- (1) An Auditor, who is not a member of the Board of Directors, is to be elected at each AGM to audit the Association's books in accordance with the Act. A person is qualified for appointment (section 88 of the Act) as an auditor if the person is:
  - (a) a member of a professional accounting body who has a designation in respect of that membership that is prescribed by the regulations for the purposes of this paragraph;
  - (b) a registered company auditor under the Corporations Act; or
  - (c) a person the Commissioner considers has appropriate qualifications or experience and approves for the purposes of the Act.

#### **16.9 Patron**

- (1) At the Annual General Meeting of the Association a Patron or Patrons may be appointed for the ensuing year. A Patron is not a member of the Board of Directors and does not have to be a member of the Association.

#### **16.10 Club Manager**

- (1) The Board of Directors may at its discretion employ a full time or part time Club Manager under such terms and conditions as the Board from time to time directs.
- (2) The duties of the Club Manager will be as determined by the Board of Directors and set out in the contract of employment and:
  - (a) will be responsible to the President, but accountable to the Finance Director for all Association funds;

- (b) may attend Board of Directors meetings to report on the Association administration, but has no voting rights; and
  - (c) is not permitted to hold the position of President or Finance Director but may hold other Board positions provided the person is a financial Ordinary Member of the Association.
- (3) If a Club Manager is appointed under this Rule by the Board of Directors, some of the duties and responsibilities of the Directors may be delegated to the Club Manager by the Board of Directors as set out in the contract of employment.

## **17.0 APPOINTING BOARD OF DIRECTORS**

### **17.1 Appointment to the Board of Directors**

- (1) A person becomes a member of the Board of Directors if the person:
- (a) is elected to the Board at an Annual General Meeting; or
  - (b) is appointed to the Board by the Board of Directors to fill a casual vacancy under rule 17.7(1).

### **17.2 Nomination to the Board of Directors**

- (1) At least 42 days before an Annual General Meeting, the Secretary must send written notice to all the Members:
- (a) calling for nominations for election to the Board of Directors; and
  - (b) stating the date by which nominations must be received by the Secretary to comply with sub rule (2).
- (2) A person who wishes to be considered for election to the Board of Directors at the Annual General Meeting must be nominated for election by sending written notice of the nomination to the Secretary at least 28 days before the annual general meeting, signed by:
- (a) the nominator; and
  - (b) the nominee to signify his or her willingness to stand for election.
- (3) A person may only be nominated for one position on the Board of Directors prior to the Annual General Meeting.
- (4) A member whose nomination does not comply with this rule is not eligible for election to the Board unless the member is nominated under rule 17.3 (2).

### **17.3 Election to Board of Directors**

- (1) At the Annual General Meeting, a separate election must be held for each position of director of the Association.
- (2) If there is no nomination for a position, the President may call for nominations from the Ordinary Members at the meeting, but the nomination of any absent member must be accompanied by their consent in writing.
- (3) If only one Ordinary Member has nominated for a position, the President must declare the Ordinary Member elected to the position.
- (4) If more than one Ordinary Member has nominated for a position, the voting Ordinary Members at the meeting must vote by ballot to decide who is to be elected to the position.
- (5) Each eligible voting Ordinary Member present at the meeting may vote for one candidate for each vacant position who has nominated for the position.
- (6) A member who has nominated for the position may vote for himself or herself.
- (7) A list of candidates, names in alphabetical order, with the names of the Members who nominated each candidate, must accompany the notice of the Annual General Meeting.

### **17.4 Term of Office**

- (1) Newly elected Directors take office immediately after the close of the Annual General Meeting at which they are elected.
- (2) At each Annual General Meeting of the Association, the election of the Board of Directors will be for a term of two years on the following basis:
  - (a) odd years: President and 4 Other Directors; and
  - (b) even years: Finance Director, Secretary and 3 Other Directors.
- (3) A Board of Director's term will commence on the date of his or her:
  - (a) election at an Annual General Meeting; or
  - (b) appointment to fill a casual vacancy that arises under rule 17.7(1).
- (4) All retiring Board of Directors are eligible, on nomination under rule 17.2 or 17.3(2), for re-election.

#### **17.5 Resignation and Removal from the Board**

- (1) A Director may resign from the Board by written notice given to the Secretary or, if the resigning Director is the Secretary, given to the President.
- (2) The resignation takes effect:
  - (a) when the notice is received by the Secretary or President; or
  - (b) if a later time is stated in the notice, at the later time.
- (3) At a General Meeting, the Association may by resolution:
  - (a) remove a Director from office; and
  - (b) elect a Member who is eligible under rule 15.2(2) to fill the vacant position.
- (4) A Director who is the subject of a proposed resolution under sub-rule (3) (a) may make written representations (of a reasonable length) to the Secretary or President and may ask that the representations be provided to the Members.
- (5) The Secretary or 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.

#### **17.6 When a Director's position ceases**

- (1) A person ceases to be a Director if the person:
  - (a) dies or, in the case of an Director of the Association, ceases to be a member;
  - (b) resigns from the Board or is removed from office under rule 17.5;
  - (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; or
  - (e) fails to attend 3 consecutive Board meetings, of which the person has been given notice, without having notified the Board that the person will be unable to attend.

#### **17.7 Casual Vacancy**

- (1) The Board of Directors may appoint a person who is eligible under rule 15.2(2) to fill a position on the Board that:
  - (a) has become vacant under rule 17.5; or
  - (b) was not filled by election at the most recent Annual General Meeting.
- (2) If the position of Secretary becomes vacant, the Board of Directors must appoint a member who is eligible under rule 15.2(2) to fill the position within 14 days after the vacancy arises.
- (3) A Member appointed under sub-rule (2) will hold office until completion of the term of office for that position under rule 17.4(3)(b); and
- (4) Subject to the requirement for a quorum under rule 1.4, the Board of Directors may continue to act despite any vacancy in its membership.

- (5) If there are fewer Directors than required for a quorum under rule 1.4, the Board may act only for the purpose of:
  - (a) appointing Directors under this rule; or
  - (b) convening a General Meeting.

#### **17.8 Validity of acts**

- (1) The acts of the Board of Directors or a Subcommittee, or of a Director or a Member of a Subcommittee, are valid despite any defect that may afterwards be discovered in the election, appointment or qualification of a Director or Member of a Subcommittee.

#### **17.9 Payments to Directors**

- (1) A Director or Subcommittee Member is entitled to be paid out of the funds of the Association for any reasonable out-of-pocket expenses for travel and accommodation properly incurred:
  - (a) in attending a Board of Directors meeting or Subcommittee meeting;
  - (b) in attending a General Meeting; or
  - (c) otherwise in connection with the Association's business.

#### **18.0 BOARD OF DIRECTORS MEETINGS**

##### **18.1 Meetings of the Board of Directors**

- (1) The Board of Directors must meet at least six times in each year.
- (2) The Board of Directors is to determine the place, date and time of all Board of Directors Meetings.
- (3) 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.
- (4) Special Board of Directors meetings may be convened by the President or any three Directors.

##### **18.2 Notice of Board of Directors Meeting**

- (1) Notice of each Board meeting must be given to each Director at least 48 hours before the time of the meeting.
- (2) The notice must state the date, time and place of the meeting and must describe the order of business in accordance with rule 18.6 and the general nature of the business to be conducted at the meeting.
- (3) Unless sub-rule (4) applies, the only business that may be conducted at the meeting is the business described in the notice.
- (4) Urgent business that has not been described in the notice may be conducted at the meeting if the Board Members at the meeting unanimously agree to treat that business as urgent.

##### **18.3 Chairing at Board Meetings**

- (1) The President or, in the Presidents absence, the Vice President is to preside as chairperson of each Board of Directors Meeting.
- (2) If the President and the Vice President are absent or unwilling to act, the remaining Directors must choose one of their numbers to preside as chairperson at the Board of Directors Meeting.

##### **18.4 Procedure at the Board Meeting**

- (1) The quorum for a Board of Directors Meeting is specified at rule 1.4. The Board of Directors cannot conduct business unless a quorum is present.
- (2) If, within half an hour of the time appointed for the meeting, a quorum is not present the meeting is to stand adjourned to the same time, day and place in the following week.

- (3) If at a meeting adjourned under rule 18.4(2), a quorum is not present within half an hour of the time appointed for the meeting, the Directors personally present will constitute a quorum.
- (4) All Directors have the right to attend and have a deliberate vote at Board of Directors Meetings.
- (5) A question arising at a Board of Directors Meeting is to be decided by a majority of votes, but if there is an equality of votes, the Chairperson of the Meeting is entitled to exercise a second or casting vote. Decisions may be made by general agreement or a show of hands.
- (6) A poll by secret ballot may be used if the Board of Directors prefers to determine a matter in this way and the person presiding over the Board of Directors Meeting is to oversee the ballot.
- (7) A Member, or other person who is not a Director, may attend Board of Directors Meetings if invited by the Board of Directors but the person shall not have any right to comment without invitation, or any right to vote, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
- (8) Where, in the opinion of 25% of the Members present at a meeting of the Board of Directors, any act, matter or thing proposed to be done by the Board is likely to affect prejudicially the interests of the Association, such act, matter or thing shall not proceed unless approved at a General Meeting of the Association.

### **18.5 Use of Technology at Board Meetings**

- (1) 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.
- (2) A Member who participates in a Board meeting as allowed under sub rule (1) 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.

### **18.6 Order of Business**

- (1) At the Board of Directors meetings, the order of business unless otherwise determined by the Board shall be as follows:
  - (a) Apologies
  - (b) Minutes and confirmation thereof
  - (c) Questions and business arising out of Minutes
  - (d) Correspondence
  - (e) Conflict of Interest
  - (f) Directors and Club Manager Reports
  - (g) Finance Report
  - (h) Budget Report
  - (i) Motions
  - (j) Election of Members
  - (k) Election of Office Holders to vacant positions
  - (l) Notices of Motion
  - (m) General Business

### **18.7 Minutes of Board Meetings**

- (1) The Secretary or a person authorised by the Board of Directors from time to time must ensure that minutes are taken and kept of each Board meeting.
- (2) The minutes must record the following:
  - (a) the names of the Directors present at the meeting;
  - (b) the name of any person attending the meeting under rule 18.4(7);
  - (c) the business considered at the meeting;
  - (d) any interest of a Director notified under rule 16.2(2)(a); and
  - (e) any resolution on which a vote is taken at the meeting and the result of the vote.

- (3) The minutes of a Board meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (4) The President must ensure that the minutes of a Board meeting are reviewed and signed as correct by:
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next Board meeting.
- (5) When the minutes of a Board meeting have been signed as correct they are, until the contrary is proved, evidence that:
  - (a) the meeting to which the minutes relate was duly convened and held;
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any appointment or resolution purportedly made at the meeting was validly made.

## **19.0 SUB-COMMITTEES AND DELEGATION**

### **19.1 Appointment of Sub-Committees**

- (1) To help the Board in the conduct of the Association's business, the Board may, in writing, do either or both of the following:
  - (a) appoint one or more Subcommittees; or
  - (b) create one or more subsidiary offices and appoint people to those offices.
- (2) A Subcommittee may consist of the number of people, whether or not Members, that the Board considers appropriate.
- (3) A person may be appointed to a subsidiary office whether or not the person is a Member.
- (4) Subject to any directions given by the Board:
  - (a) a Subcommittee may meet and conduct business as it considers appropriate;
  - (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate; and
  - (c) Sub-committees and holders of subsidiary office must report to the Board as directed by the Board of Directors.

### **19.2 Delegation to subcommittees and holders of subsidiary offices**

- (1) In this rule:
  - (a) ***non-delegable duty*** means a duty imposed on the Board by the Act or another written law.
- (2) The Board may, in writing, delegate to a Subcommittee or the holder of a subsidiary office the exercise of any power or the performance of any duty of the Board other than:
  - (a) the power to delegate; and
  - (b) a non-delegable duty.
- (3) A power or duty, the exercise or performance of which has been delegated to a Subcommittee or the holder of a subsidiary office under this rule, may be exercised or performed by the Subcommittee or holder in accordance with the terms of the delegation.
- (4) 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.
- (5) The delegation does not prevent the Board from exercising or performing at any time the power or duty delegated.
- (6) Any act or thing done by a Subcommittee 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 of Directors.
- (7) The Board of Directors may, in writing, amend or revoke the delegation.

## **PART 5 GENERAL MEETINGS**



## **20.0 ANNUAL GENERAL MEETINGS**

- (1) The Board of Directors must convene an Annual General Meeting of the Members of the Association within 4 months after the end of each Financial Year and determine the date, time and place of the Annual General Meeting.
- (2) The ordinary business of the Annual General Meeting, unless otherwise determined by the Board of Directors, is as follows:
  - (a) to receive apologies;
  - (b) 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;
  - (c) to receive any questions and business arising from the minutes;
  - (d) to receive any correspondence regarding the meeting;
  - (e) to receive and consider:
    - (i) the annual reports of the President and Directors on the Association's activities during the preceding financial year; and
    - (ii) the financial report of the Association for the preceding financial year presented under Part 5 of the Act by the Finance Director; and
    - (iii) a copy of the auditor's report on the financial report;
  - (f) to elect or appoint the Directors of the Association required to be elected in that year and to fill any vacancies;
  - (g) if applicable, to appoint or remove an auditor of the Association in accordance with the Act;
  - (h) any other business of which notice has been given in accordance with this Constitution may be conducted; and
  - (i) any general business.

## **21.0 SPECIAL GENERAL MEETINGS**

- (1) The Board of Directors may at any time convene a Special General Meeting for a specific purpose.
- (2) The Board of Directors must convene a Special General Meeting if at least 10% of the Ordinary Members require a Special General meeting to be convened.
- (3) The Ordinary Members requiring a Special General Meeting to be convened must:
  - (a) make the requirement by written notice given to the Secretary;
  - (b) state in the notice the business to be considered at the meeting; and
  - (c) each signs the notice.
- (4) The Special General Meeting must be convened within 28 days after notice is given under sub rule (3) (a).
- (5) If the Board of Directors 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.
- (6) A Special General Meeting convened by Members under sub rule (5):
  - (a) must be held within 3 months after the date the original requirement was made; and
  - (b) may only consider the business stated in the notice by which the requirement was made.
- (7) The Association must reimburse any reasonable expenses incurred by the Members convening a Special General Meeting under sub rule (5).

## **22.0 NOTICE OF GENERAL MEETINGS**

- (1) The Secretary or, in the case of a Special General Meeting convened under rule 21(2), the Ordinary Members convening the meeting, must give to each Member:
  - (a) at least 21 days' notice of a General Meeting if a Special Resolution is to be proposed at the meeting; or
  - (b) at least 14 days' notice of a General Meeting in any other case.
- (2) The notice must be in accordance with rule 37.0 and must:
  - (a) specify the date, time and place of the meeting;

- (b) specify the particulars of each item of business and the order it will be considered at the meeting;
- (c) if the meeting is the Annual General Meeting, include the names of the Members who have nominated for election to the Board under rule 17.2(2); and
- (d) if a Special Resolution is proposed:
  - (i) set out the wording of the proposed resolution as required by section 51(4) of the Act;
  - (ii) state that the resolution is intended to be proposed as a Special Resolution; and
  - (iii) comply with rule 23.0(7).

### **23.0 PROXIES**

- (1) Subject to sub-rule (2), an ordinary member may appoint a natural person who is a voting member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) A voting member may be appointed the proxy for not more than 5 other Members.
- (3) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (4) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf.
- (5) 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.
- (6) If the Board of Directors has approved a form for the appointment of a proxy, the member must use that form.
- (7) Notice of a general meeting given to a Member under rule 22.0 must:
  - (a) state that an Ordinary Member may appoint a natural person who is an Ordinary Member as a proxy for the meeting; and
  - (b) include a copy of any form that the Board has approved for the appointment of a proxy.
- (8) A form appointing a proxy must be given to the Secretary before the commencement of the General Meeting for which the proxy is appointed.
- (9) 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.

### **24.0 USE OF TECHNOLOGY TO BE PRESENT AT GENERAL MEETINGS**

- (1) The presence of a Member at a General Meeting may be arranged at the discretion of the Association by being simultaneously in contact by a means of instantaneous communication (both audio and visual).
- (2) A Member who participates in a General Meeting as allowed under sub-rule (1) 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.

### **25.0 PRESIDING MEMBER**

- (1) The President or, in the President's absence, the Vice President is to preside as chairperson of each General Meeting.
- (2) If the President and the Vice President are absent or unwilling to act, the remaining Directors must choose one of their numbers to preside as chairperson at the General Meeting.

### **26.0 QUORUM FOR GENERAL MEETINGS**

- (1) The Quorum for General Meetings is specified in rule 1.5.
- (2) Subject to sub rules (3) and (4), no business is to be conducted at a General Meeting unless a quorum of Members entitled to vote under this Constitution is present at the time when the meeting is considering that item.

- (3) If a quorum is not present within 30 minutes after the appointed time for the commencement of a General Meeting:
  - (a) in the case of a Special General Meeting, the meeting lapses; or
  - (b) in the case of an Annual General Meeting, the meeting is to stand adjourned to:
    - (i) the same time and day in the following week; and
    - (ii) the same place unless another place is specified by the President at the time of the adjournment or by written notice to the Members given before the day to which the meeting is adjourned.
- (4) If at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the commencement of the meeting, and at least 5 voting Members are present at the meeting, those Members are taken to constitute a quorum.

## **27.0 ADJOURNMENT OF GENERAL MEETINGS**

- (1) The chairperson presiding over a General Meeting, at which a quorum is present, may with the consent of a majority of Members present at the meeting, adjourn the meeting to another time at the same or another place.
- (2) Without limiting sub rule (1), 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.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) 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 22.0.

## **28.0 VOTING AT MEETINGS**

- (1) Voting at any General Meeting is limited to Ordinary Members as defined in the Constitution as having voting rights.
- (2) Each Ordinary Member of the Association has one vote at a General Meeting of the Association.
- (3) A Corporate Member must appoint in writing one natural person as its voting nominee, whether or not he or she is a Member, to represent it at a particular General Meeting or at all General Meetings:
  - (a) a Corporate Member nominee is entitled to attend, speak and vote at all General Meetings;
  - (b) a copy of the written appointment must be lodged with the Secretary; and
  - (c) a person appointed under this By-law has the authority to represent the Corporate Member as a Member:
    - (i) in the case of an appointment in respect of a particular General Meeting, until the conclusion of that General Meeting; or
    - (ii) until the appointment is revoked by the Corporate Member and notice of the revocation is given to the Secretary.
- (4) On any question arising at a General Meeting:
  - (a) subject to sub rule (3), each Ordinary Member eligible to vote has one vote; and
  - (b) Members eligible to vote may vote personally, or through use of technology under rule 24 or by proxy under rule 23.
- (5) An Ordinary Resolution is carried if a majority of the Ordinary Members eligible to vote that are present at a General Meeting vote in favour of the motion.
- (6) A Special Resolution is carried if not less than three fourths of the Members eligible to vote that are present at a General Meeting vote in favour of the motion.
- (7) If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.

- (8) 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.
- (9) For a person to be eligible to vote at a General Meeting as an Ordinary Member, the Member:
  - (a) must have their name recorded in the membership register at the time notice of the meeting was given under rule 22.0;
  - (b) must be in a category of membership with voting rights;
  - (c) must have paid any fee or other money payable to the Association by the Member; and
  - (d) must be over 16 years of age.

## **29.0 SPECIAL RESOLUTIONS**

- (1) A Special Resolution must be moved at a General Meeting where notice of the Special Resolution has been given under rule 22.0(1)(a).
- (2) A Special Resolution is required to:
  - (a) amend the name of the Association;
  - (b) amend the Constitution, under rule 44.0;
  - (c) elect a Life Member under rule 6.1;
  - (d) affiliate the Association with another body;
  - (e) transfer the incorporation of the Association;
  - (f) amalgamate the Association with one or more other incorporated associations;
  - (g) voluntarily wind up the Association; and
  - (h) cancel incorporation;
  - (i) request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager; or
  - (j) to do any other thing requiring a Special Resolution under the Act.
- (3) Sub rule 2 does not limit the matters in relation to which a Special Resolution may be proposed.
- (4) Notice of a Special Resolution must:
  - (a) be in writing;
  - (b) include the place, date and time of the meeting;
  - (c) include the intention to propose a Special Resolution;
  - (d) set out the wording of the proposed Special Resolution; and
  - (e) be given in accordance with rule 22.0(2) (d).
- (5) If notice is not given in accordance with rule 29(4), the Special Resolution will have no effect.

## **29.1 Determining Whether Resolution Carried**

- (1) Unless a Poll is demanded under sub rule (3), 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:
  - (a) carried;
  - (b) carried unanimously;
  - (c) carried by a particular majority; or
  - (d) lost.
- (2) If the resolution is a Special Resolution, the declaration under sub-rule (1) must identify the resolution as a Special Resolution.
- (3) If a Poll is demanded on any question by the chairperson of the meeting or by at least 3 other Ordinary Members present in person or by proxy:
  - (a) the Poll must be taken at the meeting in the manner determined by the chairperson; and
  - (b) the chairperson must declare the determination of the resolution on the basis of the Poll.
- (4) If a Poll is demanded on the election of a person to preside over the meeting or on a question of an adjournment, the Poll must be taken immediately.
- (5) If a Poll is demanded on any other question, the Poll must be taken after debate on the question is concluded and before the close of the meeting at a time determined by the chairperson.

- (6) A declaration under sub rule (1) or (3) 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.

### **30.0 MINUTES OF GENERAL MEETINGS**

- (1) The Secretary, or a person authorised by the Board from time to time, must take and keep minutes of each General Meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each Annual General Meeting must record:
  - (a) the names of the Members attending the meeting;
  - (b) any proxy forms given to the chairperson of the meeting under rule 23.0(8);
  - (c) the annual report presented at the meeting, as referred to in rule 20.0(2)(e)(i);
  - (d) the financial report presented at the meeting, as referred to in rule 20.0(2)(e)(ii); and
  - (e) any report of the auditor's report on the financial report presented at the meeting, as referred to in rule 20.0(2) (e)(iii).
- (4) The minutes of a General Meeting must be entered in the Association's minute book within 30 days after the meeting is held.
- (5) The President must ensure that the minutes of a General Meeting are reviewed and signed as correct by:
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next General Meeting.
- (6) 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:
  - (a) the meeting to which the minutes relate was duly convened and held;
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any election or appointment purportedly made at the meeting was validly made.

## **PART 6 FINANCIAL**

### **31.0 SOURCE OF FUNDS**

- (1) The funds of the Association may be derived from entrance fees, annual subscriptions, donations, fundraising activities, grants, interest and any other sources approved by the Board.

### **31.1 Control of funds**

- (1) The Association must open an account in the name of the Association with a financial institution determined by the Board from which all expenditure of the Association is made and into which all funds received by the Association are deposited.
- (2) Subject to any restrictions imposed at a General Meeting, the Board may approve expenditure on behalf of the Association.
- (3) The Board may authorise at a Board of Directors meeting that the Finance Director may 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.
- (4) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association must be signed by:
  - (a) 2 Directors; or
  - (b) one Director and a person authorised by the Board.

- (5) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.
- (6) All expenditure above the amount set by the Board of Directors from time to time under sub rule 3 must be approved or ratified at a Board of Directors Meeting.
- (7) Where immediate expenditure above the limit set by the Board of Directors is required the Finance Director and President or Vice President may sanction the expenditure.

### **32.0 FINANCIAL REPORTS**

- (1) For each Financial Year, the Board must ensure that the requirements imposed on the Association under Part 5 of the Act relating to the Financial Report of the Association are met.
- (2) Without limiting sub rule (1), those requirements include:
  - (a) the preparation of the Financial Report;
  - (b) the auditing of the Financial Report, as applicable;
  - (c) the presentation to the Annual General Meeting of the Financial Report, as applicable;
  - (d) the presentation to the Annual General Meeting of the copy of the report of the auditor's report, as applicable, on the Financial Report; and
  - (e) if required by the regulations made under the Act, the lodgement of the annual return with the Commissioner.

### **32.1 Financial Records**

- (1) The Association must keep Financial Records that:
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable true and fair Financial Reports to be prepared in accordance with Part 5 of the Act.
- (2) The Association must retain its Financial Records for at least 7 years after the transactions covered by the records are completed.

### **33.0 AUDIT OF FINANCIAL REPORT**

- (1) The Association must ensure that an audit is undertaken of the Financial Report of the Association and if:
  - (a) the Members require an audit by resolution at a General Meeting of the Association's financial; or
  - (b) an audit is directed by the Commissioner.

### **34.0 FINANCIAL YEAR OF THE ASSOCIATION**

- (1) The financial year of the association is at rule 1.6.

## **PART 7 GENERAL RULES**

### **35.0 BY-LAWS**

- (1) The Board of Directors may make, adopt, interpret, repeal and amend By-laws for the proper advancement, general management and administration of the Association, the advancement of its objects and tennis as it thinks necessary or desirable from time to time. A By-law comes into effect upon being signed by the President or Vice President and posted on the Association's notice board.
- (2) A By-law made under sub rule (1) does not form part of the Constitution.
- (3) The By-laws made under sub rule (1) may make provision for:
  - (a) categories of membership and the rights and obligations that apply to each category of membership;
  - (b) requirements for financial reporting, financial accountability or audit of accounts in addition to those prescribed by the Act and the Constitution;
  - (c) a requirement for Members to meet a specified level of tennis playing ability; and
  - (d) any other matter that the Association considers necessary or appropriate.

- (4) A By-law is of no effect to the extent that it is inconsistent with the Act, the regulations or this Constitution.
- (5) A By-law may only impose requirements on the Association that are additional to and do not restrict a requirement imposed on the Association under the Act.
- (6) A By-law may be revoked or amended by a vote of Members at a General Meeting of the Association.
- (7) All By-laws made under sub rule (1) are binding on the Members of the Association.
- (8) At the request of a Member, the Association must make a copy of the By-laws available for inspection by the Member.

### **36.0 EXECUTING DOCUMENTS AND COMMON SEAL**

- (1) The Association may execute a document without using a common seal if the document is signed by:
  - (a) 2 Directors; or
  - (b) one Director and a person authorised by the Board of Directors.
- (2) The Association has a common seal on which its corporate name appears in legible characters.
- (3) A document may only be sealed with the common seal by the authority of the Board of Directors and in the presence of:
  - (a) 2 Directors; or
  - (b) one Director and a person authorised by the Board of Directors,and each of them is to sign the document to attest that the document was sealed in their presence.
- (4) The common seal of the Association may only be used under a resolution by the Board of Directors
- (5) The Secretary must make a written record of each use of the common seal.
- (6) The common seal must be kept in the safe custody of the Secretary or another person authorised by the Board of Directors from time to time.

### **37.0 GIVING NOTICES TO MEMBERS**

- (1) In this rule *recorded means* recorded in the Register of Members.
- (2) A notice or other document that is to be given to a Member under this Constitution is taken not to have been given to the Member unless it is in writing and:
  - (a) delivered by hand to the recorded address of the Member;
  - (b) sent by prepaid post to the recorded postal address of the Member; or
  - (c) sent by facsimile or electronic transmission to an appropriate recorded number or recorded electronic address of the Member.

### **38.0 CUSTODY OF THE BOOKS AND SECURITIES**

- (1) Subject to sub rule (2), the books and any securities of the Association must be kept in the Secretary's custody or under the Secretary's control.
- (2) The financial records and, as applicable, the financial reports of the Association must be kept in the Finance Director's custody or under the Finance Director's control.
- (3) Sub rules (1) and (2) have effect except as otherwise decided by the Board of Directors.
- (4) The books of the Association must be retained for at least 7 years.

### **39.0 RECORD OF OFFICE HOLDERS**

- (1) The Secretary or a person authorised by the Board of Directors from time to time must maintain a record of Directors on the Board and other persons authorised to act on behalf of the Association.
- (2) The record must be maintained under section 58(2) of the Act and must be kept in the Secretary's custody or under the Secretary's control. Under section 58(2) of the Act an association must maintain a record of:
  - (a) the names, addresses and offices held by the members of its Board of Directors and other Office Holders of the Association provided for in the Constitution;
  - (b) the name and address of any person who is authorised to use the common seal of the Association (if it has a common seal); and
  - (c) the name and address of any person who is appointed or acts as trustee on behalf of the association.
- (3) Under section 58(3) of the Act the Association must, upon the request of a Member of the Association, make available the record for the inspection of the Member. The Member may make a copy of or take an extract from the record but does not have a right to remove the record for that purpose.

#### **40.0 INSPECTING THE RECORDS AND BOOKS**

- (1) Sub-rules (2)-(6) apply to a Member who wants to inspect —
  - (a) the Register of Members under section 54(1) of the Act; or
  - (b) the record of the names and addresses of the Board of Directors, and other persons authorised to act on behalf of the Association, under section 58(3) of the Act; or
  - (c) any other record or document of the Association.
- (2) The Member must contact the Secretary to make the necessary arrangements for the inspection.
- (3) The inspection must be free of charge.
- (4) If the Member wants to inspect a document that records the minutes of a Board or Subcommittee 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 Subcommittee meeting, being available for inspection by Members.
- (5) The Member, at the Member's own cost, may make a copy of or take an extract from a record or document referred to in sub-rule (1)(c) but does not have a right to remove the record or document for that purpose.
- (6) The Member must not use or disclose information in a record or document referred to in sub-rule (1)(c) except for a purpose:
  - (a) that is directly connected with the affairs of the Association; or
  - (b) that is related to complying with a requirement of the Act.

#### **41.0 RETURNING THE BOOKS OF THE ASSOCIATION**

- (1) Outgoing Directors are responsible for transferring all relevant assets and Books of the Association to the new Board of Directors within 14 days of ceasing to be a Director.

#### **42.0 PUBLICATION BY DIRECTORS OF STATEMENTS ABOUT ASSOCIATION BUSINESS**

- (1) A Director of the Association 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.

#### **43.0 DISTRIBUTION OF SURPLUS PROPERTY**

- (1) The Association may cease its activities and have its incorporation cancelled in accordance with the Act if the Members resolve by Special Resolution that the association will:



- (a) apply to the Commissioner for cancellation of its incorporation; or
  - (b) appoint a liquidator to wind up its affairs.
- (2) The association must be wound up under sub rule (1) (b) and Part 9 of the Act before cancellation can take place if it has outstanding debts unlikely to be paid within 12 months, or any other outstanding legal obligations, or is a party to any current legal proceedings.
- (3) In this rule **surplus property**, in relation to the Association, means property remaining after satisfaction of:
- (a) the debts and liabilities of the Association; and
  - (b) the costs, charges and expenses of winding up or cancelling the incorporation of the Association,
  - (c) but does not include books relating to the management of the Association.
- (4) On the cancellation of the incorporation or the winding up of the Association, its surplus property must be distributed as determined by special resolution at a General Meeting and in accordance with section 24(1) of the Act.

#### **44.0 ALTERATION OF CONSTITUTION**

- (1) If the Association wants to alter, rescind, add or replace any of the rules of this Constitution it may do so by a Special Resolution passed at a General Meeting in accordance with rule 29.1 but not otherwise.
- (2) The wording of any proposed alteration, rescinding or addition shall be stated in the notice calling the General Meeting or otherwise circulated with the notice.
- (3) Any alteration, rescinding or addition to this Constitution duly passed may not take effect until:
- (a) any approval required under section 48(4)(d) of the Liquor Control Act 1988 has been obtained; and
  - (b) the Commissioner has approved the change in accordance with section 30(4) of the Act.

#### **45.0 NATIONAL POLICIES**

- (1) The Association agrees to adopt and abide by the national by-laws and policies of Tennis Australia, as implemented and amended from time to time, including, but not limited to, the Member Protection Policy, the Anti-Doping Policy, the Disciplinary Policy and the Code of Behaviour Tournaments and Weekly Competitions. The Association agrees that it, its Members and its Office Holders will be bound by each of these policies.

#### **46.0 RESTRICTED LIQUOR LICENCE**

- (1) The Association has a restricted liquor licence that allows liquor to be sold on the Association's premises only.
- (2) No liquor shall be sold or supplied to any juvenile (i.e. any person under the age of 18).
- (3) No liquor shall be sold or supplied for consumption elsewhere than on the Association's premises unless such liquor is removed from the premises of the Association by or on the instructions from the Member purchasing the same.
- (4) No payment or part payment to any Office Holders or servant of the Association must be made by way of commission or allowance from or upon the receipts of the Association for liquor.
- (5) No stranger shall be permitted to use the Association's premises and no Member or other person shall admit any stranger to use the Association's premises.
- (6) The Association shall only be open for the sale of liquor during such hours (within the hours permitted under the Liquor Control Act 1988 as the committee shall from time to time determine.
- (7) No liquor shall be sold or disposed of on Christmas Day, Good Friday or before noon on ANZAC Day except as permitted under the provisions of the Liquor Control Act 1988.