

# **Constitution**

*Lesmurdie Tennis Club (Incorporated)*

**Under the Associations Incorporation Act 2015 (WA)**

**Adopted 15 June 2017**

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## PART 1 — PRELIMINARY

### 1. Terms used

In this Constitution, unless the contrary intention appears —

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

**Association** means the incorporated association to which this Constitution applies;

**books**, of the Association, includes the following —

- (a) a register;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

**chairperson** means the committee member holding the title of the chairperson of the Association;

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

**committee** means the management committee of the Association;

**committee meeting** means a meeting of the committee;

**committee member** means a member of the committee;

**financial records** includes —

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

**financial report**, of a tier 2 association or a tier 3 association, has the meaning given in section 63 of the Act;

**financial statements** means the financial statements in relation to the Association required under Part 5 Division 3 of the Act;

**financial year**, of the Association, has the meaning given in clause 2;

**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 is a member of the Association;

**ordinary committee member** means a committee member who is not an office holder of the Association under clause 27(2);

**ordinary member** means a member with the rights referred to in clause 8(5);

**register of members** means the register of members referred to in section 53 of the Act;

**secretary** means the committee member holding office as the secretary of the Association;

**special general meeting** means a general meeting of the Association other than the annual general meeting;

**special resolution** means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;

**subcommittee** means a subcommittee appointed by the committee under clause 48(1)(a);

**Tennis Australia** means Tennis Australia Limited;

**Tennis West** means Western Australia Tennis Association Inc. trading as Tennis West;

**tier 1 association** means an incorporated association to which section 64(1) of the Act applies;

**tier 2 association** means an incorporated association to which section 64(2) of the Act applies;

**tier 3 association** means an incorporated association to which section 64(3) of the Act applies;

**treasurer** means the committee member holding office as the treasurer of the Association.

## 2. Financial year

- (1) The first financial year of the Association is 1 July 2017 to 30 June 2018.
- (2) Each subsequent financial year of the Association is the period of 12 months commencing at the termination of the first financial year or the anniversary of that termination.

## **PART 2 – Objects of the Association**

### **3. Objects**

- (1) The objects of the Association are:
  - (a) to provide for, and promote, the playing and general advancement of the game of tennis;
  - (b) to encourage participation in the game of tennis, and particularly participation in the game of tennis in a sporting manner and in a spirit of friendship;
  - (c) to provide for the playing of other tennis related or athletic activities that the committee deems appropriate;
  - (d) to provide and maintain from the funds of the Association, facilities and amenities for members and their guests;
  - (e) to facilitate community engagement through tennis and promote inclusion to create a positive sense of community belonging;
  - (f) to build a strong relationship with Tennis West, including by affiliating with Tennis West;

## **PART 3 — ASSOCIATION TO BE NOT FOR PROFIT BODY**

### **4. Not-for-profit body**

- (1) 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.
- (2) A payment may be made to a member out of the funds of the Association only if it is authorised under sub-clause (3).
- (3) 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; or
  - (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; or
  - (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.



## **PART 4 — MEMBERS**

### **Division 1 — Membership**

#### **5. Eligibility for membership**

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

#### **6. Applying for membership**

- (1) A person who wants to become a member must apply in such form as the committee directs from time to time.
- (2) The applicant must specify in the application the class of membership, if there is more than one, to which the application relates.

#### **7. Dealing with membership applications**

- (1) The committee has the power to reject an application for membership.
- (2) All applications shall be posted on the noticeboard of the club 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.
- (3) An applicant whose application for membership of the Association is rejected under sub-clause (1) must, if he or she wishes to appeal against that decision, give notice to the secretary of his or her intention to do so within a period of 14 days from the date he or she is advised of the rejection.
- (4) When notice is given under sub-clause (2), the Association must refer the matter to Tennis West which must either confirm or set aside the decision of the committee to reject the application, after having afforded the applicant who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, Tennis West. As soon as practicable after Tennis West makes that determination, the secretary must notify the applicant, in writing, that Tennis West approved or rejected the application (whichever is applicable).

#### **8. Becoming a member**

- (1) An applicant for membership of the Association becomes a member when —
  - (a) the application for membership has been accepted; and
  - (b) the applicant pays any membership fees payable to the Association under clause 12.

#### **9. Classes of membership**

- (1) Membership categories of the Association shall be determined by the committee from time to time.
- (2) Subject to sub-clause (3), a member has full voting rights and any other rights conferred on members by this constitution or approved by resolution at a general meeting or determined by the committee.
- (3) A member who has not reached the age of 16 years is ineligible to vote.

- (4) The number of members of any class is not limited unless otherwise approved by resolution at a general meeting.
- (5) In compliance with the *Liquor Control Act 1998 (the Act)* the club has created two special categories of membership:
- a) **Guests** (section 48(4)(b) of the Act)  
The maximum number of guests per member per day for the purposes of section 48(4)(b) of the Act is five (5).
  - b) **Temporary Members** (section 48(5) of the Act)  
A person who is on any day visiting the club as a member or an official of another club:
    - that is to engage in a pre-arranged event with the host club conducted for the purposes of one of the host clubs principal objects; or
    - that is to hold a pre-arranged function at the host club involving the use of the host club's sporting facilities.may be taken to be a person who is accorded temporary membership on that day.

These two categories of members are only for the day and do not have any voting rights.

## 10. When membership ceases

- (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 clause 10;
  - (c) the person is expelled from the Association under clause 15;
  - (d) the person ceases to be a member under clause 12(4) (fail to pay fees by due date).
- (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.

## 11. 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) 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.
- (4) The owed amount may be recovered by the Association in a court of competent jurisdiction as a debt due to the Association.

## 12. Rights not transferable

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

## Division 2 — Membership fees

### 13. Membership fees

- (1) The committee must determine the entrance fee (if any) and the annual membership fee (if any) to be paid for membership of the Association from time to time.
- (2) The fees determined under sub-clause (1) may be different for different classes of membership.
- (3) A member must pay the annual membership fee to the treasurer, or another person authorised by the committee to accept payments, by the date (the **due date**) determined by the committee.
- (4) If a member has not paid the annual membership fee by the due date, the member will cease to be a member.

## Division 3 — Register of members

### 14. Register of members

- (1) The secretary, or another person authorised by the committee, 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.
- (2) In addition to the matters referred to in section 53(2) of the Act (being the member's name and a residential, postal or email address), 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.
- (3) The register of members must be kept at the secretary's place of residence, or at another place determined by the committee.
- (4) A member who wishes to inspect the register of members must contact the secretary to make the necessary arrangements.
- (5) If —
  - (a) 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
  - (b) 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 committee 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 is connected with the affairs of the Association.
- (6) A member must not use information about a person obtained from the register to contact or send material to the person, other than for:
  - (a) the purposes of sending the person a notice in respect of a meeting or other event relating to the Association or other material relating to the Association, or
  - (b) any other purpose necessary to comply with a requirement of the Act or this Constitution.

## PART 5 — DISCIPLINARY ACTION, DISPUTES AND MEDIATION

### Division 1 — Term used

#### 15. Term used:

In this Part —

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

### Division 2 — Disciplinary action

#### 16. Suspension or expulsion

- (1) The committee may decide to suspend a member's membership or to expel a member from the Association if, in the opinion of the committee:
  - (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 clause 73;
  - (e) the member has breached a by-law of the Association; or
  - (f) suspension or expulsion is appropriate in all of the circumstances.
- (2) The secretary must give the member written notice of the proposed suspension or expulsion at least 28 days before the committee meeting at which the proposal is to be considered by the committee.
- (3) The notice given to the member must state —
  - (a) when and where the committee meeting is to be held; and
  - (b) the grounds on which the proposed suspension or expulsion is based; and
  - (c) that the member may attend the meeting and will be given a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion.
- (4) At the committee meeting, the committee must —
  - (a) give the member a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the proposed suspension or expulsion; and
  - (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 committee to suspend the member's membership or to expel the member from the Association takes immediate effect.
- (6) The committee must give the member written notice of the committee's decision, and the reasons for the decision, within 7 days after the committee meeting at which the decision is made.

- (7) A member whose membership is suspended or who is expelled from the Association may, within 14 days after receiving notice of the committee's decision under sub-clause (6), give written notice to the secretary that he or she wishes to appeal against that suspension or expulsion.
- (8) If notice is given under sub-clause (7):
- (a) the matter will be referred to Tennis West, which may either:
    - (i) confirm or set aside the decision of the committee to suspend or expel the member, after having afforded 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.

## 17. Consequences of suspension

- (1) During the period a member's membership is suspended, the member —
- (a) loses any rights (including voting rights) arising as a result of 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; and
  - (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.

## Division 3 — Resolving disputes

### 18. Terms used

In this Division —

***grievance procedure*** means the procedures set out in this Division;

***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.

### 19. Application of Division

- (1) Subject to sub-clause (2), this Division applies to disputes between-
- (a) a member and one or more members; or
  - (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) This Division does not apply to disputes that relate to a Tennis Australia national policy or by-law referred to in clause 73 of this Constitution.

## 20. Parties to attempt to resolve dispute

If this Division applies, the parties to a dispute must first attempt to resolve the dispute between themselves within 14 days after the dispute has come to the attention of each party.

## 21. 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 clause 19, 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 committee meeting must be convened to consider and determine the dispute.
- (3) The secretary must give each party to the dispute written notice of the committee 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 committee 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 written and oral) submissions to the committee 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 committee; and
    - (ii) requests the appointment of a mediator under clause 23,

the committee must not determine the dispute.

## 22. Determination of dispute by committee

- (1) At the committee meeting at which a dispute is to be considered and determined, the committee must —
  - (a) give each party to the dispute a reasonable opportunity to make written or oral (or both written and oral) submissions to the committee about the dispute; and
  - (b) give due consideration to any submissions so made; and
  - (c) determine the dispute.
- (2) The committee must give each party to the dispute written notice of the committee's determination, and the reasons for the determination, within 7 days after the committee meeting at which the determination is made.
- (3) A party to the dispute may, within 14 days after receiving notice of the committee's determination under sub-clause (1)(c), give written notice to the secretary requesting the appointment of a mediator under clause 23.
- (4) If notice is given under sub-clause (3), each party to the dispute is a party to the mediation.

## Division 4 — Mediation

### 23. Application of Division

- (1) This Division applies if written notice has been given to the secretary requesting the appointment of a mediator —
  - (a) by a member under clause 15(8)(a)(ii); or
  - (b) by a party to a dispute under clause 20(5)(b)(ii) or 21(3).
- (2) If this Division applies, a mediator must be chosen or appointed under clause 23.

### 24. 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) The person appointed as mediator by Tennis West 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.

### 25. 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; and
  - (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.

### 26. If mediation results in decision to suspend or expel being revoked

If —

- (a) mediation takes place because a member's membership was suspended or the member was expelled from the Association under clause 15(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 committee meeting or general meeting during the period of suspension or expulsion.

## **PART 6 — COMMITTEE**

### **Division 1 — Powers of committee**

#### **27. Committee**

- (1) The committee members are the persons who, as the management committee of the Association, have the power to manage the affairs of the Association.
- (2) Subject to the Act, this Constitution, the by-laws of the Association (if any) and any resolution passed at a general meeting, the committee has power to do all things necessary or convenient to be done for the proper management of the affairs of the Association.
- (3) The committee must take all reasonable steps to ensure that the Association complies with the Act, this Constitution and the by-laws of the Association (if any).

### **Division 2 — Composition of committee and duties of members**

#### **28. Committee members**

- (1) The committee members consist of —
  - (a) the office holders of the Association; and
  - (b) up to three ordinary committee members.
- (2) The following are the office holders of the Association —
  - (a) the president;
  - (b) the vice president;
  - (c) the secretary;
  - (d) the treasurer.
- (3) A person may be an office holder of the Association if the person is —
  - (a) an individual who has reached 18 years of age; and
  - (b) a member of the Association.
- (4) A person may be an ordinary committee member of the Association if the person is an individual who has reached 18 years of age. An ordinary committee member is not required to be a member of the Association.
- (5) A person must not hold 2 or more of the offices mentioned in sub-clause (2) at the same time.

#### **29. President**

- (1) It is the duty of the president to consult with the secretary regarding the business to be conducted at each committee meeting and general meeting.
- (2) The president has the powers and duties relating to convening and presiding at committee meetings and presiding at general meetings provided for in this Constitution.

#### **30. Secretary**

The Secretary has the following duties —

- (a) dealing with the Association's correspondence;
- (b) consulting with the president regarding the business to be conducted at each committee meeting and general meeting;
- (c) preparing the notices required for meetings and for the business to be conducted at meetings;
- (d) unless another member is authorised by the committee 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;
- (e) maintaining on behalf of the Association an up-to-date copy of this Constitution, as required under section 35(1) of the Act;
- (f) unless another member is authorised by the committee to do so, maintaining on behalf of the Association a record of committee members and other persons authorised to act on behalf of the Association, as required under section 58(2) of the Act;
- (g) ensuring the safe custody of the books of the Association, other than the financial records, financial statements and financial reports, as applicable to the Association;
- (h) maintaining full and accurate minutes of committee meetings and general meetings;
- (i) carrying out any other duty given to the secretary under this Constitution or by the committee.

### **31. Treasurer**

The treasurer has the following duties —

- (a) ensuring that any amounts payable to the Association are collected and issuing receipts for those amounts in the Association's name;
- (b) ensuring that any amounts paid to the Association are credited to the appropriate account of the Association, as directed by the committee;
- (c) ensuring that any payments to be made by the Association that have been authorised by the committee or at a general meeting are made on time;
- (d) ensuring that the Association complies with the relevant requirements of Part 5 of the Act;
- (e) ensuring the safe custody of the Association's financial records, financial statements and financial reports, as applicable to the Association;
- (f) if the Association is a tier 1 association, coordinating the preparation of the Association's financial statements before their submission to the Association's annual general meeting;
- (g) if the Association is a tier 2 association or tier 3 association, coordinating the preparation of the Association's financial report before its submission to the Association's annual general meeting;
- (h) 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;
- (i) carrying out any other duty given to the treasurer under this Constitution or by the committee.

## **Division 3 — Election of committee members and tenure of office**

### **32. How members become committee members**

A person becomes a committee member if the person —

- (b) is elected to the committee at a general meeting; or
- (c) is appointed to the committee by the committee to fill a casual vacancy under clause 38.

### **33. Nomination of committee members**

- (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 committee; and
  - (b) stating the date by which nominations must be received by the secretary to comply with subclause (2).
- (2) A person who wishes to be considered for election to the committee at the annual general meeting must nominate for election by sending written notice of the nomination to the secretary at least 28 days before the annual general meeting.
- (3) The written notice must include a statement by another member in support of the nomination.
- (4) A member may nominate for one specified position of office holder of the Association or to be an ordinary committee member.
- (5) A member whose nomination does not comply with this clause is not eligible for election to the committee unless the member is nominated under clause 33(2) or 34(2)(b).

### **34. Election of office holders**

- (1) At the annual general meeting, a separate election must be held for each position of office holder 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.
- (3) If only one member has nominated for a position, the president must declare the Member elected to the position.
- (4) If more than one member has nominated for a position, the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide who is to be elected to the position.
- (5) Each ordinary member present at the meeting may vote for one member who has nominated for the position.
- (6) A member who has nominated for the position may vote for himself or herself.
- (7) On the member's election, the new president of the Association may take over as the chairperson of the meeting.

### **35. Election of ordinary committee members**

- (1) If the number of persons nominating for the position of ordinary committee member is not greater than the number to be elected, the chairperson of the meeting —
  - (a) must declare each of those persons to be elected to the position; and
  - (b) may call for further nominations from the ordinary members at the meeting to fill any positions remaining unfilled after the elections under paragraph (a).
- (2) If —
  - (a) the number of persons nominating for the position of ordinary committee member is greater than the number to be elected; or
  - (b) the number of members nominating under sub-clause (1)(b) is greater than the number of positions remaining unfilled,

the ordinary members at the meeting must vote in accordance with procedures that have been determined by the committee to decide the members who are to be elected to the position of ordinary committee member.

- (3) A person who has nominated for the position of ordinary committee member may vote in accordance with that nomination only if the person is a member of the Association.

### **36. Term of office**

- (1) The term of office of a committee member begins when the member —
  - (a) is elected at an annual general meeting or under sub-clause 36(3)(b); or
  - (b) is appointed to fill a casual vacancy under clause 38.
- (2) Subject to clause 37, a committee member holds office until the positions on the committee are declared vacant at the next annual general meeting.
- (3) A committee member may be re-elected.

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

- (1) A committee member may resign from the committee by written notice given to the secretary or, if the resigning member 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 committee member from office; and
  - (b) elect a member who is eligible under clause 27 to fill the vacant position.
- (4) A committee member who is the subject of a proposed resolution under sub-clause (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 committee member may require them to be read out at the general meeting at which the resolution is to be considered.

### **38. When membership of committee ceases**

A person ceases to be a committee member if the person —

- (a) dies or, in the case of an office holder of the Association, ceases to be a member; or
- (b) resigns from the committee or is removed from office under clause 36; or
- (c) becomes ineligible to accept an appointment or act as a committee member under section 39 of the Act;
- (d) becomes permanently unable to act as a committee member because of a mental or physical disability; or
- (e) fails to attend 3 consecutive committee meetings, of which the person has been given notice, without having notified the committee that the person will be unable to attend.

### **39. Filling casual vacancies**

- (1) The committee may appoint a person who is eligible under clause 27(3) or 27(4) to fill a position on the committee that —
  - (a) has become vacant under clause 37; or
  - (b) was not filled by election at the most recent annual general meeting or under clause 36(3)(b).

- (2) If the position of secretary becomes vacant, the committee must appoint a member who is eligible under clause 27(4) to fill the position within 14 days after the vacancy arises.
- (3) Subject to the requirement for a quorum under clause 45, the committee may continue to act despite any vacancy in its membership.
- (4) If there are fewer committee members than required for a quorum under clause 45, the committee may act only for the purpose of —
  - (a) appointing committee members under this clause; or
  - (b) convening a general meeting.

#### 40. Validity of acts

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

#### 41. Payments to committee members

- (1) In this clause —
  - committee member** includes a member of a subcommittee;
  - committee meeting** includes a meeting of a subcommittee.
- (2) A committee member is entitled to be paid out of the funds of the Association for any out-of-pocket expenses for travel and accommodation properly incurred —
  - (a) in attending a committee meeting; or
  - (b) in attending a general meeting; or
  - (c) otherwise in connection with the Association's business.

### Division 4 — committee meetings

#### 42. Committee meetings

- (1) The committee must meet at least 4 times in each year on the dates and at the times and places determined by the committee.
- (2) The date, time and place of the first committee meeting must be determined by the committee members as soon as practicable after the annual general meeting at which the committee members are elected.
- (3) Special committee meetings may be convened by the president or at least 50% of committee members.

#### 43. Notice of committee meetings

- (1) Notice of each committee meeting must be given to each committee member 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 general nature of the business to be conducted at the meeting.
- (3) Unless sub-clause (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 committee members at the meeting unanimously agree to treat that business as urgent.

#### **44. Procedure and order of business**

- (1) The president or, in the president's absence, the vice-president must preside as chairperson of each committee meeting.
- (2) If the president and vice-president are absent or are unwilling to act as chairperson of a meeting, the committee members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) The procedure to be followed at a committee meeting must be determined from time to time by the committee.
- (4) The order of business at a committee meeting may be determined by the committee members at the meeting.
- (5) A member or other person who is not a committee member may attend a committee meeting if invited to do so by the committee.
- (6) A person invited under sub-clause (5) to attend a committee meeting —
  - (a) has no right to any agenda, minutes or other document circulated at the meeting; and
  - (b) cannot vote on any matter that is to be decided at the meeting.
- (7) If a committee member has a material pecuniary interest or other interest, whether direct or indirect, in a matter being considered at a committee meeting, the committee 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 committee; and
  - (b) not take part in any deliberations or decision of the committee with respect to that matter.
- (8) The secretary must cause every disclosure made under sub-clause (7) by a committee member to be recorded in the minutes of the meeting of the committee at which it is made.

#### **45. Use of technology to be present at committee meetings**

- (1) The presence of a committee member at a committee meeting need not be by attendance in person but may be by that committee member and each other committee member at the meeting being simultaneously in contact by telephone or other means of instantaneous communication.
- (2) A member who participates in a committee meeting as allowed under subclause (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.

#### **46. Quorum for committee meetings**

- (1) At a committee meeting, more than 50% of the committee members elected to the committee at any point in time form a quorum.
- (2) Subject to clause 38(4), no business is to be conducted at a committee meeting unless a quorum is present.

- (3) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting —
  - (a) in the case of a special meeting — the meeting lapses; or
  - (b) otherwise, the meeting is adjourned to the same time, day and place in the following week.
- (4) If —
  - (a) a quorum is not present within 30 minutes after the commencement time of a committee meeting held under subclause (3)(b); and
  - (b) at least 2 committee members are present at the meeting,those members present are taken to constitute a quorum.

#### **47. Voting at committee meetings**

- (1) Each committee member present at a committee meeting has one vote on any question arising at the meeting.
- (2) A motion is carried if a majority of the committee members present at the committee meeting vote in favour of the motion.
- (3) If the votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (4) A vote may take place by the committee members present indicating their agreement or disagreement or by a show of hands, unless the committee decides that a secret ballot is needed to determine a particular question.
- (5) If a secret ballot is needed, the chairperson of the meeting must decide how the ballot is to be conducted.

#### **48. Minutes of committee meetings**

- (1) The committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following —
  - a. the names of the committee members present at the meeting;
  - b. the name of any person attending the meeting under clause 43(5);
  - c. the business considered at the meeting;
  - d. any interest of a committee member notified under clause 43(7);
  - e. any motion on which a vote is taken at the meeting and the result of the vote.
- (3) The minutes of a committee 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 committee meeting are reviewed and signed as correct by —
  - (a) the chairperson of the meeting; or
  - (b) the chairperson of the next committee meeting.
- (5) When the minutes of a committee 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; and
  - (b) the matters recorded as having taken place at the meeting took place as recorded; and
  - (c) any appointment purportedly made at the meeting was validly made.

## Division 5 — Subcommittees and subsidiary offices

### 49. Subcommittees and subsidiary offices

- (1) To help the committee in the conduct of the Association's business, the committee may, in writing, do either or both of the following —
  - (a) appoint one or more subcommittees;
  - (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 committee 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 committee —
  - (a) a subcommittee may meet and conduct business as it considers appropriate; and
  - (b) the holder of a subsidiary office may carry out the functions given to the holder as the holder considers appropriate.

### 50. Delegation to subcommittees and holders of subsidiary offices

- (1) In this clause —

**non-delegable duty** means a duty imposed on the committee by the Act or another written law.
- (2) The committee 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 committee 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 clause, 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 committee specifies in the document by which the delegation is made.
- (5) The delegation does not prevent the committee 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 committee.
- (7) The committee may, in writing, amend or revoke the delegation.



## PART 7 — GENERAL MEETINGS OF ASSOCIATION

### 51. Annual general meeting

- (1) The committee must determine the date, time and place of the annual general meeting.
- (2) If it is proposed to hold the annual general meeting more than 6 months after the end of the Association's financial year, the secretary 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.
- (3) The ordinary business of the annual general meeting is as follows —
  - (a) 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;
  - (b) to receive and consider —
    - (i) the committee's annual report on the Association's activities during the preceding financial year; and
    - (ii) if the Association is a tier 1 association, the financial statements of the Association for the preceding financial year presented under Part 5 of the Act; and
    - (iii) if the Association is a tier 2 association or a tier 3 association, the financial report of the Association for the preceding financial year presented under Part 5 of the Act;
    - (iv) if required to be presented for consideration under Part 5 of the Act, a copy of the report of the review or auditor's report on the financial statements or financial report;
  - (c) to elect the office holders of the Association and other ordinary committee members;
  - (d) if applicable, to appoint or remove a reviewer or auditor of the Association in accordance with the Act.
- (4) Any other business of which notice has been given in accordance with this Constitution may be conducted at the annual general meeting.

### 52. Special general meetings

- (1) The committee may convene a special general meeting.
- (2) The committee must convene a special general meeting if at least 15% of the members require a special general meeting to be convened.
- (3) The members requiring a special general meeting to be convened must —
  - (a) make the requirement by written notice given to the secretary; and
  - (b) state in the notice the business to be considered at the meeting; and
  - (c) each sign the notice.
- (4) The special general meeting must be convened within 28 days after notice is given under subclause (3)(a).
- (5) If the committee 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 subclause (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 subclause (5).

### **53. Notice of general meetings**

- (1) The secretary or, in the case of a special general meeting convened under clause 51(5), the 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 —
  - (a) specify the date, time and place of the meeting; and
  - (b) indicate the general nature of each item of business to be considered at the meeting; and
  - (c) if the meeting is the annual general meeting, include the names of the members who have nominated for election to the committee under clause 32(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; and
    - (ii) state that the resolution is intended to be proposed as a special resolution; and
    - (iii) comply with clause 53(7).

### **54. Proxies**

No proxy voting is allowed.

### **55. 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-clause (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.

### **56. Presiding member and quorum for general meetings**

- (1) The president or, in the president's absence, the vice president must preside as chairperson of each general meeting.
- (2) If the president and vice president are absent or are unwilling to act as chairperson of a general meeting, the committee members at the meeting must choose one of them to act as chairperson of the meeting.
- (3) No business is to be conducted at a general meeting unless a quorum is present. At a general meeting, 15% of the members present constitutes a quorum
- (4) 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 —
    - (i) the same time and day in the following week; and

- (ii) 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.
- (5) If —
  - (a) a quorum is not present within 30 minutes after the commencement time of an annual general meeting held under subclause (4)(b); and
  - (b) at least 5 ordinary members are present at the meeting,those members present are taken to constitute a quorum.

## **57. Adjournment of general meeting**

- (1) The chairperson of a general meeting at which a quorum is present may, with the consent of a majority of the members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting subclause (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 clause 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 clause 52.

## **58. Voting at general meeting**

- (1) On any question arising at a general meeting —
  - (a) subject to subclause (3), each member eligible to vote has one vote; and
  - (b) members eligible to vote may only vote personally.
- (2) Except in the case of a special resolution, a motion is carried if a majority of the members eligible to vote that are present at a general meeting vote in favour of the motion.
- (3) If votes are divided equally on a question, the chairperson of the meeting has a second or casting vote.
- (4) 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.
- (5) 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 clause 52;
  - (b) must have paid any fee or other money payable to the Association by the member; and
  - (c) must be over 16 years of age.

## **59. When special resolutions are required**

- (1) A special resolution is required if it is proposed at a general meeting —
  - (a) to affiliate the Association with another body;
  - (b) to request the Commissioner to apply to the State Administrative Tribunal under section 109 of the Act for the appointment of a statutory manager; or

- (c) to do any other thing requiring a special resolution under the Act.
- (2) Subclause (1) does not limit the matters in relation to which a special resolution may be proposed.

## 60. Determining whether resolution carried

- (1) In this clause —

**poll** means the process of voting in relation to a matter that is conducted in writing.

- (2) Subject to subclause (4), 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; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost.
- (3) If the resolution is a special resolution, the declaration under sub-clause (2) must identify the resolution as a special resolution.
- (4) If a poll is demanded on any question by the chairperson of the meeting or by at least 3 other members present in person —
  - (a) the poll must be taken at the meeting in the manner determined by the chairperson;
  - (b) the chairperson must declare the determination of the resolution on the basis of the poll.
- (5) If a poll is demanded on the election of the president or on a question of an adjournment, the poll must be taken immediately.
- (6) 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.
- (7) A declaration under subclause (2) or (4) 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.

## 61. Minutes of general meeting

- (1) The secretary, or a person authorised by the committee 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; and
  - (b) the annual report presented at the meeting, as referred to in clause 50(3)(b)(i);
  - (c) the financial statements or financial report presented at the meeting, as referred to in clause 50(3)(b)(ii) or (iii); and
  - (d) any report of the review or auditor's report on the financial statements or financial report presented at the meeting, as referred to in clause 50(3)(b)(iv).
- (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; and
  - (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 8 — FINANCIAL MATTERS

### 62. Source of funds

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 committee.

### 63. Control of funds

- (1) The Association must open an account in the name of the Association with a financial institution 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 committee may approve expenditure on behalf of the Association.
- (3) The committee may authorise the treasurer to expend funds on behalf of the Association up to a specified limit without requiring approval from the committee 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 committee members; or
  - (b) one committee member and a person authorised by the committee.
- (5) All funds of the Association must be deposited into the Association's account within 5 working days after their receipt.

### 64. Financial statements and financial reports

- (1) 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 or financial report of the Association are met.
- (2) Without limiting subclause (1), those requirements include —
  - (a) if the Association is a tier 1 association, the preparation of the financial statements; and
  - (b) if the Association is a tier 2 association or tier 3 association, the preparation of the financial report; and
  - (c) if required, the review or auditing of the financial statements or financial report, as applicable; and
  - (d) the presentation to the annual general meeting of the financial statements or financial report, as applicable; and
  - (e) if required, the presentation to the annual general meeting of the copy of the report of the review or auditor's report, as applicable, on the financial statements or financial report.

## PART 9 — GENERAL MATTERS

### 65. By-laws

- (1) The committee may make, amend or revoke by-laws for the proper advancement, management and administration of the Association from time to time.
- (2) A by-law is of no effect to the extent that it is inconsistent with the Act, the regulations or this Constitution.
- (3) 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.
- (4) At the request of a member, the Association must make a copy of the by-laws available for inspection by the member.

### 66. 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 committee members; or
  - (b) one committee member and a person authorised by the committee.
- (2) If the Association has a common seal —
  - (a) the name of the Association must appear in legible characters on the common seal; and
  - (b) a document may only be sealed with the common seal by the authority of the committee and in the presence of —
    - (i) 2 committee members; or
    - (ii) one committee member and a person authorised by the committee,and each of them is to sign the document to attest that the document was sealed in their presence.
- (3) The secretary must make a written record of each use of the common seal.
- (4) The common seal must be kept in the custody of the secretary or another committee member authorised by the committee.

### 67. Giving notices to members

- (1) In this clause —

**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; or
  - (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.

### 68. Custody of books and securities

- (1) Subject to subclause (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 statements or financial reports of the Association must be kept in the treasurer's custody or under the treasurer's control.
- (3) Subclauses (1) and (2) have effect except as otherwise decided by the committee.
- (4) The books of the Association must be retained for at least 7 years.

## 69. Record of office holders

- (1) The record of committee 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 secretary's custody or under the secretary's control. Under section 58 of the Act an association must maintain a record of —
  - (a) the names and addresses of the persons who are members of its management committee; or hold other offices of the association provided for by its rules;
  - (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.
- (2) Under section 58 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.

## 70. Inspection of records and documents

- (1) Sub-clauses (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 committee members, 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 committee meeting, the right to inspect that document is subject to any decision the committee has made about minutes of committee meetings generally, or the minutes of a specific committee 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-clause (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-clause (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.



## 71. Publication by committee members of statements about Association business prohibited

A committee member must not publish, or cause to be published, any statement about the business conducted by the Association at a general meeting or committee meeting unless —

- (a) the committee member has been authorised to do so at a committee meeting; and
- (b) the authority given to the committee member has been recorded in the minutes of the committee meeting at which it was given.

## 72. Distribution of surplus property on cancellation of incorporation or winding up

(1) In this clause —

**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,

but does not include books relating to the management of the Association.

(2) 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.

## 73. Alteration of rules

- (1) If the Association wants to alter or rescind any of this Constitution, 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.
- (2) As soon as is practicable after the making of any proposal for a change to the Constitution or Rules of the Club, the Secretary shall provide to the Director of Liquor Licensing, certified particulars of the change proposed. No effect will be given to the change without the prior approval of the Director. This is a requirement of section 48(4)(d) of the *Liquor Control Act 1988*.

## 74. National policies

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 officers will be bound by each of these policies.