



**WACA**  
WESTERN AUSTRALIAN  
CRICKET ASSOCIATION

# **PROPOSED NEW CONSTITUTION**

## **Western Australian Cricket Association Limited**

### **Constitution**

[March 2017]

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## **1 Key Organisational Information**

### **1.1 Definitions and Interpretation**

Schedule 1 applies and forms part of this Constitution to assist in its interpretation.

### **1.2 Name and nature of the Organisation**

- (a) The name of the Organisation is Western Australian Cricket Association Limited.
- (b) The Organisation is a public company limited by guarantee under the Act.
- (c) Each Member undertakes to contribute an amount not exceeding ONE dollar (AUD\$1.00) to the property of the Organisation if the Organisation is wound up:
  - (i) at a time when that person is a Member; or
  - (ii) within one year of the time that person ceased to be a Member,for or towards:
  - (iii) payment of the debts and liabilities of the Organisation contracted before that person ceased to be a Member;
  - (iv) payment of the costs, charges and expenses of winding up the Organisation; and
  - (v) adjustment of the rights of the contributories among Members.

### **1.3 Interaction with Act**

The replaceable rules in the Act do not apply to the Organisation.

### **1.4 Objects**

- (a) The objects of the Organisation are:
  - (i) to promote, develop, co-ordinate and administer, and to provide governance leadership for, cricket at all levels of the sport including elite, developmental and community based participation, both active and passive, and including through affiliation and co-operation with other organisations;
  - (ii) to promote, develop and manage, or otherwise deal with the WACA Ground as a strategic asset of the Organisation ancillary to and in furtherance of the object in (i) above;
  - (iii) to provide facilities, amenities and services for the benefit of Members consistent with the objects in (i) and (ii) above but subject nevertheless to Article 1.5(a).
- (b) The Organisation:
  - (i) will only apply the income and property of the Organisation in promoting the objects of the Organisation; and
  - (ii) must not transfer its assets and engagements to, or amalgamate with any corporation, association or organisation which does not, to the same extent as this Constitution:
    - (A) restrict the application of its income and property and prohibit the making of distributions to its Members; and

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(B) have objects similar to the objects of the Organisation under this Article.

### **1.5 No distribution to Members**

- (a) Subject to Article 1.5(b), the Organisation must not make any payment or distribution or apply any part of the income or property of the Organisation, to any Member, including by way of dividend, surplus on winding up or otherwise.
- (b) Article 1.5(a) does not prevent the Organisation, with the approval of the Board acting in good faith (including through delegation of power to the CEO and to management), paying:
- (i) reasonable remuneration to a Member who is an employee of the Organisation;
  - (ii) subject to Article 5.9, reasonable remuneration to a Member who is an officer of the Organisation;
  - (iii) reasonable remuneration in consideration for services rendered or goods supplied by a Member to the Organisation in the ordinary course of business;
  - (iv) interest, at a reasonable rate based on commercial “arm’s length” terms, on money borrowed by the Organisation from a Member;
  - (v) reasonable rent based on commercial “arm’s length” terms, for premises leased to the Organisation by a Member;
  - (vi) out-of-pocket expenses properly and reasonably incurred by a Member at the request of the Organisation and for, or on behalf of, the Organisation;
  - (vii) out of pocket expenses properly and reasonably incurred by a Member in his/her capacity as a Director, in connection with the affairs of the Organisation; or
  - (viii) any other reasonable amount of similar character to those described in this Article 1.5(b).

### **1.6 Recognition of heritage**

The instrumental role of premier cricket stakeholders in Western Australia in the foundation of the Organisation is acknowledged and respected.

## **2 Members**

### **2.1 Classes of membership**

The:

- (a) various Classes of Membership and status within a Class;
  - (b) restrictions (if any) in the number of Members or the number of Members within each Class or status within a Class;
  - (c) qualifications for admission to each Class or status within a Class; and
  - (d) rights attached to being a Member in each Class,
- are as prescribed in the By-laws from time to time.

### **2.2 Applications**

- (a) Subject to Article 2.1 and the By-laws, a person may apply for Membership in the manner prescribed in this Article.
- (b) An applicant for Membership must:
- (i) sign and deliver to the Organisation an application in the Applicable Form including specification as to the Class of Membership being applied for; and
  - (ii) pay any Fees with respect to that application,

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as specified in the By-laws.

- (c) The Board, including on recommendation of management or a committee of the Board constituted with terms of reference including such purpose, may determine whether an applicant may become a Member.
- (d) The Board is not required to give any reason for the approval or rejection of any application to become a Member.
- (e) If an application to become a Member is accepted, the Organisation must:
  - (i) give written notice of the acceptance to the applicant including details of the Class of Membership and the rights that are then attached to that Class;
  - (ii) request payment of any outstanding amount owing for any Fees incidental to such Membership; and
  - (iii) upon payment in full of Fees, enter the applicant's name in the Register as a Member of the relevant Class.
- (f) If an application to become a Member is rejected, the Organisation must:
  - (i) give written notice of the rejection to the applicant; and
  - (ii) refund in full any Fees, in addition to any Membership nomination fee (which shall not be refundable), paid to the Organisation by the applicant when applying for Membership.
- (g) The Board may, at its discretion, determine to close offering Membership, either generally or with respect to any particular Class or Classes, to new applicants, in which case the Organisation may keep the names and particulars of any new applicants on a waiting list, but without assurance of Membership becoming available within any timeframe or priority being given to those on such a waiting list.

### **2.3 No transfers**

Membership, and the rights of being a Member, are personal to the Member and are not transferable whether by operation of law or otherwise.

### **2.4 Ceasing to be a Member**

- (a) A person will cease to be a Member if:
  - (i) that person resigns in accordance with Article 2.5;
  - (ii) that person is expelled under Article 2.6; or
  - (iii) a Cessation Event occurs in respect of that person.
- (b) The estate of a deceased Member is not released from any accrued liability prior to their death in respect of that person being a Member.

### **2.5 Resignation**

- (a) A member may resign as a Member by giving the Organisation notice in writing.
- (b) Unless the notice provides otherwise, a resignation by a Member takes effect immediately on the giving of that notice to the Organisation.
- (c) A Member is not released from any accrued liability in respect of their Membership merely by giving notice of resignation.

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## 2.6 Expulsion or suspension

- (a) Subject to this Article 2.6, the Board may resolve to:
- (i) expel a Member; or
  - (ii) suspend a Member:
    - (A) for such period; and
    - (B) from enjoying such rights and privileges of Membership, as the Board may determine and give written notice of to the Member;
- (b) The Board may only act under Article 2.6(a)(i) if:
- (i) an Expulsion Event occurs in respect of the Member; and
  - (ii) other than in the case of non-payment by the Member of Fees or other moneys owing to the Organisation, the Organisation gives that Member at least 10 Business Days' notice in writing:
    - (A) stating the Expulsion Event and that the Member is liable to be expelled; and
    - (B) informing the Member of the Member's right under Article 2.6(c)(i).
- (c) Other than in the case of non-payment by the Member of Fees or other moneys owing to the Organisation, before passing any resolution under Article 2.6(a)(i), the Board:
- (i) must allow the Member to give to the Board, either orally or in writing, any explanation or defence of the Expulsion Event; and
  - (ii) may adopt other procedures to aid the resolution of any complaint against the Member, including the appointment of complaints committees, conciliators and mediators if and as the Board may determine is appropriate in all the circumstances of the matter.
- (d) Where a resolution is passed under Article 2.6(a), the Organisation must give the Member, notice ("Discipline Notice") in writing of the expulsion or suspension, within 10 Business Days of the resolution.
- (e) Other than in the case of non-payment by the Member of Fees or other moneys owing to the Organisation, a member may, by notice in writing to the Organisation within 10 Business Days of issue of a Discipline Notice, request that a resolution to negate that expulsion (but not suspension) of that Member under Article 2.6(a) be moved at the next AGM of the Organisation.
- (f) If a request under Article 2.6(e) is made, the Board must table at the AGM of the Organisation an invitation for that meeting to move a resolution to overturn the decision of the Board to expel the Member concerned.
- (g) A Board resolution for expulsion under Article 2.6(a) is deemed to take effect:
- (i) if the Member does not give a notice under Article 2.6(e), on the date of that Board resolution;
  - (ii) if the Member gives notice under Article 2.6(e), as an immediate suspension of Membership and Member rights, and as an expulsion of Membership effective from the conclusion of the next AGM, unless the resolve of that AGM is to overturn the resolution of the Board to expel the Member.
- (h) The Board may reinstate an expelled or suspended Member on any terms and at any time as the Board determines, including as a pre-condition, a requirement that all amounts due but unpaid by the expelled or suspended Member to the Organisation are paid.



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- (i) Nothing in this Article limits the effect of any By-law that may be passed to temporarily deny a Member access to any facilities under the control or management of the Organisation where that Member's behaviour has fallen short of acceptable standards as prescribed in the By-laws.

## **2.7 Variation of Classes and Class rights**

Subject to the Act, this Constitution and the By-laws the Organisation may:

- (a) vary or cancel rights attached to being a Member of a Class; or
- (b) convert all Members from an existing Class to another Class.

## **2.8 Certificates or Membership Cards**

- (a) The Organisation may issue to each Member, free of charge, a certificate or Membership Card evidencing that person as a Member or as a Member of a particular Class.
- (b) The Organisation may issue a replacement certificate or Membership Card of being a Member if:
  - (i) the Organisation receives and cancels the Member's existing certificate or Membership Card or the Organisation is satisfied that the Member's existing certificate or Membership Card is lost or destroyed and the Organisation has received a declaration from the Member in Applicable Form attesting to that loss of destruction and indemnifying the Organisation against any loss, liability or claim arising from such loss or destruction and the issue of a replacement certificate or Membership Card; and
  - (ii) the Member pays any applicable administrative Fee as the By-laws may prescribe.
- (c) The certificate or Membership Card at all times remains the property of the Organisation and a retiring, expelled or suspended Member must promptly return their certificate or Membership Card to the Organisation and must not display or use the Membership Card to gain entitlements that are only available to Members.

## **2.9 Suspension of Member rights for non-payment of fees**

Without limiting any other provision of this Constitution or the By-laws, and without limiting any right of recovery for unpaid Fees at law, if a Member has not paid any Fees which are past due and payable, all rights attaching to that Member's Membership are automatically suspended until payment of the outstanding Fee is paid.

# **3 Fees**

## **3.1 Fees**

- (a) The Organisation may require the payment of fees or levies by Members in the amounts and at the times as the By-laws prescribe.
- (b) The Organisation may make Fees payable for one or more Members, or Classes of Members, for different amounts and at different times.
- (c) Pursuant to Article 3.1(a), the Organisation may, from time to time, give notice to Members or to any particular Member or Class of Members:
  - (i) revoking or postponing Fees;
  - (ii) extending the time for payment of Fees;
  - (iii) allowing for payment of Fees by instalments or with discount; or
  - (iv) stipulating the amount, the time, the method and the place of payment of Fees.

## **3.2 Interest**

- (a) A Member must pay to the Organisation:

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- (i) interest at the rate prescribed in the By-laws on any Fees which are not paid on, or before, the time appointed for payment, from the time appointed for payment to the time of the actual payment; and
    - (ii) expenses incurred by the Organisation, including legal and internal administration expenses, because of the failure to pay, or late payment of, that amount.
  - (b) The Organisation may waive payment of all or any part of an amount payable under Article 3.2(a).

## **4 Proceedings of Members**

### **4.1 Who can call meetings of Members**

- (a) Subject to the Act, the Board may call a meeting of Members at a time and place as the Board resolves in accordance with Part 2G.2 of the Act.
- (b) The Board must call and arrange to hold a general meeting on the request of Members made in accordance with the Act.
- (c) The Members may call and arrange to hold a general meeting in accordance with Part 2G.2 of the Act.
- (d) Division 4 of Part 2G.2 of the Act also applies to the Organisation.

### **4.2 Annual General Meeting**

- (a) The Organisation must hold an AGM as required by, and in accordance with, the Act.
- (b) The business of an AGM may include any of the following, even if not referred to in the notice of the meeting:
  - (i) the consideration of the annual financial report, the Directors' report and the auditor's report for the Organisation;
  - (ii) the appointment of the auditor of the Organisation upon terms recommended by the Board; and
  - (iii) the election of Directors.

### **4.3 How to call meetings of Members**

- (a) The Organisation must give not less than the Prescribed Notice of a meeting of Members.
- (b) Notice of a meeting of Members must be given to each Member, each Director, the Company Secretary and any auditor of the Organisation in the manner set out in Article 13.
- (c) Subject to Article 4.11(h), a notice of a meeting of Members must:
  - (i) set out the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this);
  - (ii) state the general nature of the business of the meeting; and
  - (iii) set out or include any other information or documents specified by the Act.
- (d) Subject to the Act, anything done (including the passing of a resolution) at a meeting of Members is not invalid merely because a person does not receive notice of the meeting or the Organisation inadvertently does not give notice of the meeting to a person or there may be a non-material irregularity in the calling of the meeting or the notice of the meeting.

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#### **4.4 Right to attend, speak and vote at Member meetings**

- (a) Subject to Article 4.8 and any limitation on the rights attaching to Membership of any Class of Member, each Member, the Directors, the Company Secretary and any auditor of the Organisation (on any part of the affairs of the Organisation that concerns the auditor in his/her capacity as auditor) is entitled to attend and speak at any meeting of Members.
- (b) Subject to Article 4.8 and any limitation on the rights attaching to Membership of any Class of Members, each Member, is entitled to vote at any meeting of Members.

#### **4.5 Meeting at more than one place**

- (a) A meeting of Members may be held in two or more places linked together by any technology that:
  - (i) gives the Members as a whole in those places a reasonable opportunity to participate in proceedings;
  - (ii) enables the chair of the meeting to be aware of proceedings in each place; and
  - (iii) enables the Members in each place to vote on a show of hands and on a poll.
- (b) If a meeting of Members is held in two or more places under Article 4.5(a):
  - (i) a Member present at one of the places is taken to be present at the meeting; and
  - (ii) the chair of that meeting may determine at which place the meeting is taken to have been held.

#### **4.6 Quorum**

- (a) Subject to Article 4.6(e), a quorum for a meeting of Members or any Class of Members is that number of Members entitled to vote at that meeting as specified in Item 1 of Schedule 2.
- (b) In determining whether a quorum for a meeting of Members is present:
  - (i) where a person is present as a Member entitled to vote at the Meeting and as a proxy or attorney of another Member entitled to vote at the Meeting, that person is counted separately for each appointment provided that there is at least four other Members entitled to vote at the meeting present; and
  - (ii) where a person is present as a proxy or attorney for more than one Member each of whom is entitled to vote at the meeting, that person is counted separately for each appointment provided that there is at least four other Members entitled to vote at the meeting present.
- (c) A quorum for a meeting of Members must be present at the commencement of the meeting. If a quorum is present at the commencement of a meeting of Members, it is taken to be present throughout the meeting unless the chair of the meeting otherwise determines.
- (d) If a quorum is not present within 30 minutes after the time appointed for a meeting of Members:
  - (i) if the meeting was called under Article 4.1(b) or Article 4.1(c), the meeting is dissolved; and
  - (ii) for any other meeting, the meeting is adjourned to the date, time and place as the meeting chair may appoint, or failing any such appointment, to the same day in the next week at the same time and place as the meeting adjourned.
- (e) If a quorum is not present within 30 minutes after the time appointed for an adjourned meeting of Members:
  - (i) if there are not less than 50% of the number of Members present as represent a quorum under Item 1 of Schedule 2, then they shall constitute a quorum; and
  - (ii) otherwise, the meeting is dissolved.

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#### **4.7 Chair**

- (a) The Chair must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of Members.
- (b) If at a meeting of Members:
- (i) there is no Chair;
  - (ii) the Chair is not present within 15 minutes after the time appointed for the holding of a meeting of Members; or
  - (iii) the Chair is present within that time but is not willing or able to chair all or part of that meeting,
- then the Deputy Chair, or in default of the Deputy Chair, another Board member, or a Member, elected by majority vote of Board members present will chair all or part of the meeting of Members.
- (c) Subject to Article 4.7(a), if at a meeting of Members:
- (i) a chair of that meeting has not been elected by the Board members under Article 4.7(b); or
  - (ii) the chair elected by the Board members is not willing or able to chair all or part of a meeting of Members,
- then the Members present must elect a Member, present and willing to act, to chair that meeting.

#### **4.8 General conduct of meetings**

- (a) Subject to the Act and any relevant provisions in the By-laws, the chair of a meeting of Members is responsible for the general conduct of that meeting and for the procedures to be adopted at that meeting and rulings by the chair on such matters made in good faith shall be prima facie binding on the meeting and its Members.
- (b) The chair of a meeting of Members must give those entitled to attend and speak at such meetings a reasonable opportunity to ask questions and make comments at the meeting (including the auditor (if any)).
- (c) The chair of a meeting of Members may delegate any power conferred by this Article 4.8 to any person.
- (d) The powers conferred on the chair of a meeting of Members under this Article 4.8 do not limit any powers conferred at law upon a chair of a meeting.

#### **4.9 Resolutions of Members**

- (a) Subject to the Act and other than for Special Resolutions, a resolution of Members is passed if more votes are cast in favour of the resolution by Members entitled to vote on the resolution than are cast against the resolution.
- (b) Unless a poll is requested in accordance with Article 4.10, a resolution put to the vote at a meeting of Members is to be decided on a show of hands.
- (c) A declaration by the chair of a meeting of Members that a resolution has been passed on a show of hands, passed by a particular majority, or not passed, and an entry to that effect in the minutes of the meeting, is sufficient evidence of that fact, unless proved incorrect.

#### **4.10 Polls**

- (a) A poll may be demanded on any resolution at a meeting of Members except:
- (i) the election of a chair of that meeting; or

- 
- (ii) the adjournment of that meeting.
  - (b) A poll on a resolution at a meeting of Members may be demanded by:
    - (i) at least five Members present and entitled to vote on that resolution; or
    - (ii) the chair of that meeting.
  - (c) A poll on a resolution at a meeting of Members may be demanded:
    - (i) before a vote on that resolution is taken; or
    - (ii) before, or immediately after, the result of the vote on that resolution on a show of hands is declared.
  - (d) A demand for a poll may be withdrawn.
  - (e) A poll demanded on a resolution at a meeting of Members must be taken in the manner and at the time and place the chair directs.
  - (f) The result of a poll demanded and taken on a resolution of a meeting of Members is a resolution of that meeting.
  - (g) A demand for a poll on a resolution of a meeting of Members does not prevent the continuance of that meeting or that meeting dealing with any other business pending the taking of the poll or the declaration of the result of the poll.

#### **4.11 Adjourned, cancelled and postponed meetings**

- (a) Subject to the Act, the chair of a meeting of Members:
  - (i) may; and
  - (ii) must, if the Members present with a majority of votes that may be cast at that meeting agree or direct the chair to do so,  
  
adjourn a meeting of Members to any day, time and place.
- (b) No person other than the chair of a meeting of Members may adjourn that meeting.
- (c) Notice of an adjourned meeting is only required if the period of adjournment exceeds the Prescribed Period.
- (d) Only business left unfinished is to be transacted at a meeting of Members resumed after an adjournment.
- (e) Subject to the Act and this Article 4.11, the Board may at any time postpone or cancel a meeting of Members by giving notice, not less than 3 Business Days before the time at which the meeting was to be held, to each person to whom the notice of the meeting was required to be given.
- (f) A general meeting called under Article 4.1(b) must not be cancelled by the Board without the consent of the Members who requested the meeting.
- (g) A general meeting called under Article 4.1(c) must not be cancelled or postponed by the Board without the consent of the Members who called the meeting.
- (h) A notice adjourning or postponing a meeting of Members must set out the place, date and time for the revised meeting (and if the revised meeting is to be held in two or more places, the technology that will be used to facilitate this).

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#### **4.12 Number of votes**

- (a) Subject to this Constitution and any rights or restrictions attached to a Class of Membership as prescribed in the By-laws, on a show of hands at a meeting of Members, every Member present has one vote, and on a poll at a meeting of Members, every Member present in person or by proxy has one vote.
- (b) In the case of an equality of votes on a resolution at a meeting of Members, the chair of that meeting has a casting vote on that resolution both on a show of hands and on a poll, in addition to any vote the chair of the meeting has in respect of that resolution.
- (c) A Member present at a meeting of Members is not entitled to vote on any resolution, whether in person or by proxy or attorney, while that Member is the subject of suspension under Article 2.6 or their Member rights are under suspension under Articles 2.9.
- (d) A Member is not entitled to vote, whether in person or by proxy or attorney, on a resolution at a meeting where that Member's vote is prohibited by the Act or an order of a court of competent jurisdiction.
- (e) The Organisation must disregard any vote on a resolution purported to be cast by a Member present at a meeting of Member where that person is not entitled to vote on that resolution, including by reason of Article 4.12(c) or (d).
- (f) The authority of a proxy or attorney for a Member to speak or vote at a meeting of Members is suspended while the Member who appointed the proxy or attorney is present in person at that meeting.

#### **4.13 Objections to qualification to vote**

- (a) An objection to the qualification of any person to vote at a meeting of Members may only be made:
  - (i) before that meeting, to the Board; or
  - (ii) at that meeting (or any resumed meeting if that meeting is adjourned), to the chair of that meeting.
- (b) Any objection under Article 4.13(a) must be decided by the Board or the chair of the meeting of Members (as the case may be), whose decision, made in good faith, is final and conclusive.

#### **4.14 Proxies and attorneys**

- (a) A Member, who is entitled to attend and cast a vote at a meeting of Members, may vote on a show of hands and on a poll:
  - (i) in person;
  - (ii) by not more than one proxy; or
  - (iii) by not more than one attorney.
- (b) A proxy or attorney of a Member must be a Member.
- (c) A Member may appoint a proxy or attorney for:
  - (i) all meetings of Members; or
  - (ii) any one or more specified meetings of Members.
- (d) An instrument appointing a proxy is valid if it is signed by the Member making the appointment and contains:
  - (i) the name and address of that Member;
  - (ii) the name of the Organisation;
  - (iii) the name of the proxy or the name of the office held by the proxy; and

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- (iv) the meeting(s) of Members at which the proxy may be used.
- (e) The chair of a meeting of Members may determine that an instrument appointing a proxy is valid even if it contains only some of the information specified in Article 4.14(d).
- (f) An instrument appointing a proxy or an attorney must be substantially in a form as may be prescribed in the By-laws or such other form as the chair of the meeting may accept from time to time.
- (g) Subject to the Act, the decision of the chair of a meeting of Members made in good faith as to the validity of an instrument appointing a proxy or attorney is final and conclusive.
- (h) Unless otherwise provided in the Act or in the appointment, a proxy or attorney may:
- (i) agree to a meeting of Members being called by shorter notice than is required by the Act or this Constitution;
  - (ii) agree to a resolution being either or both proposed and passed at a meeting of Members of which notice of less than the Prescribed Period is given;
  - (iii) speak on any resolution at a meeting of Members on which the proxy or attorney may vote;
  - (iv) vote at a meeting of Members (but only to the extent allowed by the appointment) on any resolution with respect to which the appointing Member may vote;
  - (v) demand or join in demanding a poll on any resolution at a meeting of Members on which the proxy or attorney may vote; and
  - (vi) attend and vote at any meeting of Members (at which the appointing Member may attend and vote) which is rescheduled or adjourned.
- (i) Unless otherwise provided in the Act or in the appointment, a proxy or attorney may vote on:
- (i) any amendment to a resolution on which the proxy or attorney may vote;
  - (ii) any motion not to put that resolution or any similar motion; and
  - (iii) any procedural motion relating to that resolution, including a motion to elect the chair of a meeting of Members, vacate the chair or adjourn that meeting,
- to the extent to which the appointing Member would be entitled to vote, even if the appointment does or does not direct the proxy or attorney how to vote on that resolution.
- (j) A proxy or an attorney for a Member cannot vote on a show of hands if they hold two or more appointments of proxy or attorney that specify different ways of voting.
- (k) With a notice of meeting of Members, the Organisation must send a form of proxy to Members in respect of that meeting of Members. The form of proxy is to be compliant with that prescribed in the By-laws and it must only provide for the Member:
- (i) to appoint a proxy of the Member's choice, but may specify who is to be appointed as proxy if the Member does not choose; and
  - (ii) to vote for or against each resolution, and may also provide for the Member to abstain from voting on one or more resolutions.
- (l) If the name of the proxy or the name of the office of the proxy in a proxy form of a Member is not filled in, the proxy of that Member is:
- (i) the person specified by the Organisation in the form of proxy in the case that the Member does not specify another person; or
  - (ii) if no person is so specified, the chair of that meeting.

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- (m) A Member entitled to vote at a meeting of Members may specify the manner in which their proxy or attorney is to vote on a particular resolution at a meeting of Members but, unless specified, the proxy or attorney may vote as he or she thinks fit.
- (n) Subject to Article 4.14(j) and the provisions of this Article 4.14 generally, a proxy or attorney:
- (i) does not need to vote, unless the appointment specifies the way they must vote;
  - (ii) if the way they must vote is specified, they must vote in that way; and
  - (iii) if the proxy or attorney is also a Member, or holds proxy or attorney for more than one Member, may cast the votes held on a poll or ballot in different ways.
- (o) An appointment of proxy or attorney for a meeting of Members is effective only if the Organisation receives the appointment (and any authority under which the appointment was signed or a certified copy of the authority) not less than 48 hours before the time scheduled for commencement of that meeting (or any adjournment of that meeting).
- (p) Unless the Organisation has received notice in writing before the time scheduled for the commencement or resumption of a meeting of Members, a vote cast at that meeting by a person appointed by a Member as a proxy or attorney is, subject to this Constitution, valid even if, before the person votes, the appointment Member:
- (i) dies; or
  - (ii) is mentally incapacitated; or
  - (iii) revokes the appointment of that person; or
  - (iv) revokes the authority under which the person was appointed by a third party.



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## **5 Directors**

### **5.1 Number and Qualification of Directors**

- (a) The Organisation must have not less than nor more than the number of Directors specified in Item 2(a) of Schedule 2.
- (b) If the number of Directors is below the minimum fixed by this Constitution under items 2(b) or (d) of Schedule 2, the Board must not act except for appointing one or more additional Directors or to call, and arrange to hold, a meeting of Members for the purpose of electing a Director or Directors to ensure the Organisation has at least the minimum number of Directors required by this Article.
- (c) A Director must be a Member who is entitled to be director of a corporation registered under the Act and who is entitled to unrestricted voting rights of a Member at an AGM.

### **5.2 Board Composition**

- (a) The Board may comprise a combination of Member Elected Directors and Board Appointed Directors.
- (b) The Organisation must have not less than and not more than the number of Member Elected Directors as is specified in Items 2(c) and 2(d) of Schedule 2.
- (c) The Organisation must have not less than and not more than the number of Board Appointed Directors as is specified in Items 2(e) and (f) of Schedule 2.
- (d) Notwithstanding paragraphs (b) and (c), the majority of the Board must be comprised of Member Elected Directors and if for any reason at any time it does not, then the Board and the Organisation must promptly do all things reasonably within their powers in accordance with this Constitution to deliver that outcome.

### **5.3 Appointment of Member Elected Directors by Members**

- (a) Subject to Articles 5.2(b) and 5.5(c), Member Elected Directors may be elected at general meetings of Members and are usually elected at the AGM of the Organisation.
- (b) A Member entitled to vote at a general meeting of Members may nominate a Member who is eligible under Article 5.1(c) to be a Member Elected Director.
- (c) The By-laws may prescribe the form and procedure to be followed with respect to:
  - (i) the nomination of a Member Elected Director;
  - (ii) the manner of presentation to the Members in general meeting of any such nomination for consideration by that meeting; and
  - (iii) the manner in which voting for Member Elected Directors will occur at the general meeting of Members, subject nevertheless to the Act.
- (d) Subject to Article 5.5(c) a Member Elected Director will be appointed for a term commencing on the date of the general meeting at which they were elected and ending on the date determined in accordance with Article 5.5(a).

### **5.4 Appointment of Board Appointed Directors**

- (a) Subject to Articles 5.2(c) and 5.10(d), the Board of Directors may resolve to appoint Board Appointed Directors from time to time.
- (b) A Board Appointed Director will be appointed for a term commencing on the date of appointment in accordance with this Article 5.4 and ending on the date determined in accordance with Article 5.5(b).
- (c) A Board Appointed Director appointed at a meeting of the Board will be taken to have been appointed on the date of that meeting or such other date as shall be the resolve of that meeting of the Board.

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## **5.5 Retirement and re-appointment of Directors**

(a) Member Elected Director

Subject to this Article and to Schedule 3 (Transitional Provisions), a Member Elected Director must retire at the third AGM after the date of their election by the Members.

(b) Board Appointed Director

Subject to this Article and to Schedule 3 (Transitional Provisions), a Board Appointed Director must retire by at least the closure of the next meeting of the Board following the third anniversary of their appointment by the Board.

(c) Casual Appointments (Member Elected Directors)

Subject to this Article, if a Member Elected Director vacates or is removed from office for any reason, then the Board may resolve to appoint another person as a Member Elected Director in the place of that Member Elected Director who is no longer continuing in office PROVIDED THAT the term of that appointment will only be until the next AGM following the appointment, at which AGM the appointee must retire from office.

(d) Subject to Article 5.6, a Director (including a Member Elected Director appointed under Article 5.5(c)) will be eligible for re-appointment (as applicable) at the expiration of their term of office.

## **5.6 Maximum term for a Director**

(a) Subject only to Articles 5.6(b) and 6.3, no Director may serve as a Director for more than the number of years in total specified in Item 3 of Schedule 2.

(b) In the case of a person appointed to fill a casual vacancy on the Board as a Member Elected Director under Article 5.5(c) the period between the appointment of that person as a Director and the next AGM following that appointment, will not be counted as a Term or part of a Term and will not be included in determining whether a Director has served as a Director for the purposes of Article 5.6(a) or, in the case of the Chair for the purposes of Article 6.3(c).

(c) For the purposes of this Article, any prior period of office served by a Director will not be counted towards the Director's maximum term of office if at least a continuous period of 3 years has elapsed during which the person was not a Director.

## **5.7 Vacation of office of Director**

(a) A Director may resign from office by giving the Organisation notice in writing.

(b) Subject to the Act and Article 5.7(c), the Members in general meeting, by ordinary resolution, at any time may remove any Member Elected Director or Board Appointed Director from office.

(c) A Director automatically ceases to be a Director if the Act so provides or if that Director:

- (i) dies;
- (ii) becomes of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health;
- (iii) is absent without the consent of the Board from all meetings of the Board held during a period of 3 months and the other Directors resolve that his or her office be vacated;
- (iv) resigns or is removed from office under this Constitution;
- (v) becomes ineligible to be a Director either under this Constitution, the By-laws or at law;
- (vi) becomes an undischarged bankrupt;
- (vii) ceases to be a Member.

## **5.8 No Alternate Directors**

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A Director may not appoint a person as his or her alternate Director.

### **5.9 Payment to Directors prohibited**

- (a) Subject to Article 5.9(b) the Organisation must not pay any fees to a Director for performing his or her duties and responsibilities as a Director unless the Members in general meeting have approved the payment or the Members in general meeting have approved payment of fees to Directors, at the discretion of the Board, with a maximum annual pool or cap amount for all Directors in any one year, and the payment is within that annual pool or cap amount.
- (b) A payment of the kind referred to in Article 1.5(b) may be made to a Director if that payment has been approved by the Board.

### **5.10 Skills, experience and attributes of Directors**

- (a) General skills, experience and attributes

When Members are nominating Member Elected Directors, when the Members are electing Member Elected Directors and when the Board is making casual appointees under Article 5.5(c) or appointing Board Appointed Directors, they are encouraged to have regard to the skills, experience and attributes of the Board as a whole, and those skills, experience and attributes that are best likely to lead the Organisation in the pursuit of its strategies and objects and to assure the proper governance oversight of management. Without limitation or prescription, those skills, experience and attributes of the Board as a whole to which Members and the Board should have regard include:

- (i) relevant business, professional, financial and governance experience, skills and acumen;
  - (ii) an understanding of and empathy with relevant stakeholder interests of the Organisation including without limitation being currently active and engaged (whether in a playing, administration or other capacity) within country, premier and/or community cricket;
  - (iii) an understanding of the game and business of cricket;
  - (iv) experience in the governance and management of sporting or community based organisations; and
  - (v) diversity of experience and perspective.
- (b) Board Skills Matrix (or similar)
- From time to time the Board (including via a Board committee with delegated authority for this purpose) should determine, in its judgement, and communicate to the Members, at or around the time when nominations for Member Elected Directors are open:

- (i) the desired suite of skills, experience and attributes that the Board (as a whole) desirably should have to meet the Organisation's strategic objectives and needs (including by way of guidance only, to those listed in (a) above);
  - (ii) any "gap" in the desired skills, experience and attributes of the existing and continuing Directors so as to assist Members in identifying prospective nominees, and to assist Members in the exercise of their voting for Member Elected Directors.
- (c) Background Information on proposed Member Elected Directors and Board Appointed Directors
- Any proposed nominee for the election or appointment as a Director must provide background career and personal information as to their skills, experience and attributes to the Board (including via a Board committee with delegated authority for that purpose) as provided for in the By-laws. This information, or following consultation with the nominee, a succinct summary of it, is to be provided by the Board (or its committee) to the Members, including at or about the time of election of Member Elected Directors so as to assist Members in the exercise of their voting for Member Elected Directors.

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(d) Board Appointed Directors consultation

Prior to making an appointment of a Board Appointed Director and when considering candidates for such an appointment, to assist in assuring the presence on the Board of Directors with skills, experience and attributes that meet the criteria in Article 5.10(a)(ii), (iii) and (iv), the Board (including as appropriate through its relevant committee for such purpose) must consult with the Affiliated Organisations to gain the views and input of premier and community cricket (as represented by those Affiliated Organisations) as to the balance on the Board of persons with skills, experience and attributes that reasonably meet those criteria having regard to the Organisation's other strategic needs.

### **5.11 Consents and Undertakings**

Each Director must sign, complete and deliver to the Organisation such forms of consent, contact information and undertakings to observe and comply with the Act, the Constitution and the By-laws, as may be prescribed in the By-laws, as a precondition to their taking office as a Director.

## **6 Officers and Officeholders**

### **6.1 Patron**

- (a) On recommendation of a resolution of the Board and by resolution of the Members in general meeting, the Organisation may from time to time invite a suitably credentialed dignitary to accept the position of "Patron" of the Organisation.
- (b) Upon the issue of such an invitation and its acceptance, the dignitary shall become the "Patron" of the Organisation.
- (c) The Patron shall hold office until the earlier of:
  - (i) the Patron giving written notice to the Organisation resigning from the office of Patron;
  - (ii) the Board resolving by Absolute Special Majority to remove the Patron from office.
- (d) The role and responsibilities of the Patron will be of a ceremonial nature as may be prescribed in the By-laws.

### **6.2 Vice Patron(s)**

- (a) On recommendation of a resolution of the Board and by resolution of the Members in general meeting, the Organisation may from time to time invite up to 3 eminent leaders of the game of cricket in Western Australia to accept a position of "Vice Patron" of the Organisation.
- (b) Upon issue of such invitation and its acceptance, the relevant person shall become a "Vice Patron" of the Organisation.
- (c) A Vice Patron shall hold office until the earlier of:
  - (i) the next AGM of the Organisation following the 5th anniversary of their appointment as a Vice Patron;
  - (ii) a Vice Patron giving written notice to the Organisation resigning from the office of a Vice-Patron; and
  - (iii) the Board resolving by Absolute Special Majority to remove that Vice Patron from office.
- (d) A Vice Patron retiring from office under Article 6.2(c)(i) is eligible for re-appointment to office as a Vice Patron.
- (e) The role and responsibilities of a Vice Patron will be of a ceremonial and promotional nature as may be prescribed in the By-laws.

### **6.3 Chair and Deputy Chair**

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- (a) Subject to this Article 6.3, the Board shall:
- (i) elect a Director as Chair of the Board for a term of three years (or such shorter period determined by the Board), or until the relevant person ceases to be a Director; and
  - (ii) elect a Director as Deputy Chair, for a term of three years (or such shorter period determined by the Board) or until the relevant person ceases to be Director.
- (b) The Board may remove:
- (i) the Chair as chair of the Board, and/or
  - (ii) the Deputy Chair as deputy chair of the Board,
- by Board resolution at any time.
- (c) A Director must not be elected as the Chair for more than the number of years in total specified in Item 4(a) of Schedule 2 and must not be elected as the Chair if the term of appointment as Chair would result in the Director serving on the Board (whether as a Director or the Chair) for more than the number of years in total specified in Item 4(b) of Schedule 2 (or such longer period where Article 5.6(b) applies).
- (d) The Chair must (if present within 15 minutes after the time appointed for the holding of the meeting and willing to act) chair each meeting of the Board.
- (e) If:
- (i) there is no Chair; or
  - (ii) the Chair is not present within 15 minutes after the time appointed for the holding of a meeting of the Board; or
  - (iii) the Chair is present within that time but is not willing or able to chair all or part of that meeting,
- then the Deputy Chair, or in default of the Deputy Chair, one of the Directors present elected by those present, will chair the meeting.

#### **6.4 Chief Executive Officer**

- (a) The Board may appoint a person as the CEO.
- (b) Subject to any agreement between the Organisation and the CEO, the Board may remove or dismiss or suspend the CEO at any time, with or without cause.
- (c) The Directors may delegate such of their powers (including the power to delegate) to the CEO as provided in Article 7.3.
- (d) Subject to any agreement between the Organisation and the CEO the Board may:
- (i) revoke or vary the appointment of the CEO;
  - (ii) revoke or vary any power delegated to the CEO; and/or
  - (iii) suspend the appointment of the CEO or suspend the delegation of powers to the CEO for such period and on such terms as the Board may determine in good faith.
- (e) The CEO must exercise the powers delegated to him or her in accordance with any lawful directions of the Board.
- (f) The exercise of a delegated power by the CEO is as effective as if the Board exercised the power.
- (g) The CEO is not a Director and has no inherent power or right to attend, speak or vote at meetings of the Board, however by standing or other invitation of the Chair, the CEO may and is expected to attend and speak at meetings of the Board, other than when the Board may be meeting in "closed session" without executives and/or management present.

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- (h) The CEO is not entitled to hold office as a Director.

## **6.5 Secretary**

- (a) The Organisation must have at least one Secretary as required by the Act.
- (b) A Secretary or Secretaries for the Organisation may be appointed by the Board for any period and on any terms (including as to remuneration) as the Board resolve.
- (c) Subject to any agreement between the Organisation and the Secretary, the Board may remove or dismiss a Secretary at any time, with or without cause, and may revoke or vary the appointment of a Secretary.
- (d) The Board will determine the role, duties and responsibilities of the Secretary and to whom the Secretary will account, including as may be provided for in the By-laws.

## **6.6 Indemnity and insurance**

- (a) To the extent permitted by law, the Organisation must indemnify each Relevant Officer against:
- (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (b) To the extent permitted by the law, the Organisation may make a payment (whether by way of advance, loan or otherwise) to a Relevant Officer in respect of Legal Costs of that person.
- (c) To the extent permitted by the law, the Organisation may pay, or agree to pay, a premium for a contract insuring a Relevant Officer against:
- (i) a Liability of that person; and
  - (ii) Legal Costs of that person.
- (d) To the extent permitted by law, the Organisation may enter into an agreement or deed with:
- (i) a Relevant Officer; or
  - (ii) a person who is, or has been, an officer of the Organisation or a related body corporate of the Organisation,
- under which the Organisation must do all or any of the following:
- (iii) keep books of the Organisation and allow that officer, and his or her advisers, access to those books on the terms agreed;
  - (iv) indemnify that officer against any Liability of that officer;
  - (v) make a payment (whether by way of advance, loan or otherwise) to that officer in respect of Legal Costs of that officer; and
  - (vi) keep that officer insured in respect of any act or omission by that officer, while a Relevant Officer or an officer of the Organisation or a related body corporate of the Organisation, on the terms agreed (including as to payment of all or part of the premium for a contract of insurance).

## **7 Powers of the Organisation and Board**

### **7.1 General powers**

- (a) Subject to this Constitution, the Organisation may exercise, in any manner permitted by the Act, any power which a public company limited by guarantee may exercise under the Act in order to achieve the objects and strategic focus of the Organisation.
- (b) The Board is responsible for the sound governance of the Organisation.

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- (c) Subject to this Constitution, the business of the Organisation is to be managed by, or under the direction of, the Board, and the Board may exercise all the powers of the Organisation except any powers that the Act or this Constitution requires the Organisation to exercise in General Meeting or only with the approval of Members in General Meeting.
- (d) Other than with the approval of Members in General Meeting, the Board shall not:
- (i) sell or dispose of any land of the Organisation;
  - (ii) purchase or acquire any land for the Organisation;
  - (iii) mortgage, charge, pledge or encumber by way of security by any means whatsoever or howsoever any land or other assets or income of the Organisation; or
  - (iv) “deal with the WACA Ground”, within the meaning and context of Article 1.4(a)(ii) of this Constitution, if to do so would prejudice the WACA Ground as a premier venue for hosting games of cricket;

PROVIDED FURTHER THAT should the Board propose to do any matter or thing requiring the approval of Members in General Meeting in the terms of this Article 7.1(d) then the Board must provide to the Members sufficient relevant information concerning the proposed matter to enable the Members to make a reasonably informed decision as to the proposed matter.

## **7.2 Execution of Documents**

- (a) If the Organisation has a common seal:
- (i) the Organisation may execute a document if that seal is fixed to the document and the fixing of that seal is countersigned by:
    - (A) two Directors; or
    - (B) a Director and a Secretary; or
    - (C) a Director and another person appointed by the Board for that purpose.
  - (ii) particulars of the use of the common seal (including the reasons for its use, its counter-signatories and the date of its use) will be promptly recorded in the Organisation’s corporate secretarial records.
- (b) The Organisation may execute a document without a common seal if the document is signed by:
- (i) two Directors; or
  - (ii) a Director and a Secretary; or
  - (iii) a Director and another person appointed by the Board for that purpose.
- (c) The Board may resolve, generally or in a particular case:
- (i) that any signature on certificates or cards for Membership, or other common use documents approved of by the Board, may be affixed by mechanical, electronic or other means;
  - (ii) to delegate the power to execute documents on behalf of the Organisation to officers of the Organisation;
  - (iii) to grant and execute power(s) of attorney to execute documents and to do such things on behalf of and in the name of the Organisation to such person or persons, as the Board may determine.
- (d) Negotiable instruments may be signed, drawn, accepted, endorsed or otherwise executed by or on behalf of the Organisation in the manner, and by the persons, as the Board determines resolves.

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### **7.3 Committees and delegates**

- (a) The Board may delegate any of its powers (including this power to delegate) to a committee of the Board, the CEO, an employee of the Organisation or a Member.
- (b) The Board may revoke or vary any power delegated under Article 7.3(a).
- (c) A committee or delegate must exercise the powers delegated in accordance with any directions of the Board.
- (d) The proper exercise of a delegated power by the committee or delegate is as effective as if the Board exercised the power itself.
- (e) Any delegation of the Board of any of its powers must be recorded in the Board's minute book.

### **7.4 Attorney or agent**

- (a) The Board may appoint any person to be attorney or agent of the Organisation for any purpose, for any period and on any terms (including as to remuneration) as the Board resolves.
- (b) The Board may delegate any of their powers (including the power to delegate) to an attorney or agent.
- (c) The Board may revoke or vary:
  - (i) an appointment under Article 7.4(a); or
  - (ii) any power delegated to an attorney or agent.

### **7.5 Affiliated Organisations**

- (a) The Board may by Absolute Special Majority resolve to declare organisations relevant to the game of cricket to be afforded the status of Affiliated Organisations;
- (b) The Members by resolution in General Meeting and on the recommendation of the Board passed by an Absolute Special Majority determine that an Affiliated Organisation no longer holds status as an Affiliated Organisation;
- (c) An Affiliated Organisation may at any time by notice in writing to the Organisation declare that it no longer holds status as an Affiliated Organisation.
- (d) The Organisation may enter into agreements from time to time with Affiliated Organisations including, and without limitation, with respect to support concerning:
  - (i) funding;
  - (ii) logistics, support;
  - (iii) training;
  - (iv) equipment and facilities;
  - (v) services;
  - (vi) co-operative arrangements;
  - (vii) governance and policies;
  - (viii) otherwise.
- (e) Any termination of status of an Affiliated Organisation under this article is without prejudice to any contractually accrued or accruing rights under an agreement entered into in the terms of (d) above.

### **7.6 Duties of Directors**

The Directors must comply with their duties as directors under the law, including the duties imposed on directors and officers under the Act.



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## **7.7 Conflicts of Interest**

- (a) A Director must disclose the nature and extent of any actual or perceived material conflict or interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution):
  - (i) to the other Directors;
  - (ii) if all of the Directors have the same conflict of interest, to the Members at the next meeting of Members, or at an earlier time if reasonable to do so.
- (b) The disclosure of a conflict of interest by a Director must be recorded in the minutes of the meeting.
- (c) Each Director who has a material personal interest in a matter that is being considered at a meeting of the Board (or that is proposed in a circular resolution) must not, except as provided under Article 7.7(d):
  - (i) be present at the meeting while the matter is being deliberated; or
  - (ii) vote on the matter.
- (d) A Director may still be present and vote if:
  - (i) their interest arises because they are a Member of the Organisation, and the other Members have the same interest;
  - (ii) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as a Director of the Organisation;
  - (iii) their interest relates to a payment by the Organisation under an indemnity provided in accordance with Article 6.6 or any contract relating to an indemnity that is allowed under the Act;
  - (iv) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
  - (v) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Organisation; and
    - (B) says that those Directors are satisfied that the interest should not stop the Director from voting or being present.

## **8 Proceedings of Board**

### **8.1 Written resolutions of the Directors**

- (a) The Directors may pass a resolution, without a meeting of the Board being held, if a copy of the proposed resolution is sent to all Directors and not less than an Absolute Special Majority of Directors, entitled to vote on the resolution, assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Separate copies of documents referred to in Article 8.1(a) may be used for assenting to by Directors if the wording of the resolution and the statement is the same in each copy.
- (c) A Director may signify assent to a document under Article 8.1(a) by signing the document or by notifying the Organisation of that assent in a manner permitted by Article 13.3.
- (d) Where a Director signifies assent to a document under Article 8.1(c) other than by signing the document, the Director must, by way of confirmation, sign the document before, or at, the next Board meeting attended by that Director.

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- (e) The resolution the subject of a document under this Article is not invalid if a Director does not comply with Article 8.1(d).

## **8.2 Meetings of the Board**

- (a) The Directors may meet, adjourn and otherwise regulate their Board meetings as they think fit.
- (b) A meeting of the Board may be held, including remotely at more than one venue, using any technology consented to by all Directors.
- (c) The consent of the Directors under Article 8.2(b) may be for all meetings of the Board or for any one or more specified meetings and a Director may within a reasonable period before a meeting by written notice to the Organisation, withdraw a consent previously given.
- (d) If a meeting of the Directors is held in two or more places linked together by any technology:
- (i) a Director present at one of the places is taken to be present at the meeting unless and until that Director states to the chair of the meeting that he or she is discontinuing participation in the meeting; and
  - (ii) the chair of that meeting may determine at which place the meeting will be taken to have been held.

## **8.3 Who can call meetings of the Board**

- (a) The Chair, the Deputy Chair or any 2 other Directors jointly may call a meeting of the Board at any time.
- (b) On a request under Article 8.3(a), a Secretary (or another acting in the role of the Secretary) must call a meeting of the Board.

## **8.4 How to call meetings of the Board**

- (a) Subject to Article 8.4(e)), notice of a meeting of the Board must be given to each Director.
- (b) A notice of meeting of the Directors must:
- (i) set out the place, date and time for the meeting (and, if the meeting is to be held in two or more places, the technology that will be used to facilitate this); and
  - (ii) state the general nature of the business of the meeting.
- (c) Subject to Article 8.4(e), not less than 24 hours' notice of a meeting of the Board must be given, unless an Absolute Special Majority of Directors agree otherwise.
- (d) A Director may waive notice of a meeting of the Board by notice in writing to the Organisation to that effect.
- (e) In the case of an emergency or other corporate urgency, a meeting may be called on short notice, without formal notice of meeting, at the behest of the Chair, the Deputy Chair or the CEO.

## **8.5 Quorum**

- (a) Subject to the Act, a quorum for a meeting of the Board is a majority of the total number of Directors and must comprise at least 2 Member Elected Directors and at least 1 Board Appointed Director.
- (b) A quorum for a meeting of the Board must be present at all times during the meeting PROVIDED THAT a person who has declared a conflict of interest and has absented themselves (or abstained from deliberating and voting) on a matter before the meeting will still be counted as being present for the purposes of a quorum.

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## **8.6 Resolutions of the Board**

- (a) A resolution of the Board, other than a resolution requiring an Absolute Special Majority or a Special Resolution, is passed if more votes are cast in favour of the resolution than against it.
- (b) Subject to the Act and this Article 8.6, each Director has one vote on a matter arising at a meeting of the Board.
- (c) Subject to the Act, in case of an equality of votes on a resolution at a meeting of the Board, the chair of that meeting has a casting vote on that resolution in addition to any vote the chair of the meeting has in his or her capacity as a Director, except where there are only 2 Directors entitled to vote on the resolution.

## **9 Board Committees**

### **9.1 Board may establish Committees**

The Board may on its own resolution constitute committees of the Board to assist it in the performance of its responsibilities.

### **9.2 Terms of Reference and Governance**

The terms of reference, governance arrangements, and meeting processes and accountability requirements of Board committees will be determined by the By-laws or by the Board at the time of establishment of the relevant committee.

### **9.3 Review**

The Board may from time to time:

- (a) review and vary the matters referred to in Article 9.2; and
- (b) resolve to terminate the ongoing constitution of a Board committee.

## **10 By-laws**

### **10.1 By-laws**

In addition to the provisions of this Constitution including Article 10.6 and Schedule 4, and subject to Article 10.3, By-laws may from time to time be prescribed to govern and/or regulate By-law Matters.

### **10.2 By-law Matters**

By-law matters include:

- (a) any matter of a nature authorised by this Constitution to be capable of being the subject of a By-law;
- (b) any matter pertinent to:

- 
- (i) Membership;
  - (ii) Fees;
  - (iii) meetings of Members;
  - (iv) rights, responsibilities and conduct of Members;
  - (v) procedures concerning nomination, voting on and election of Member Elected Directors
  - (vi) governance and management of the Organisation;
  - (vii) policies, procedures, protocols and practices of the Organisation.

### **10.3 No conflict with Constitution**

No By-law may conflict with a provision of this Constitution and if it does:

- (a) the By-law is either void or will be read down to the extent of such conflict; and
- (b) the provisions of this Constitution will prevail.

### **10.4 Making of By-laws**

- (a) Other than as provided in Article 10.6, By-laws may be made, varied or revoked by resolution of the Board passed with not less than an Absolute Special Majority of the Board.
- (b) Other than as provided in Article 10.6, By-Laws, and any variation to or revocation of them, will become effective on the date so determined by the Board at the time of their making or in the absence of such a determination, 30 days after the Board resolution.
- (c) Within 7 days of the Board making, varying or revoking a By-Law, a copy of the By-Law (or its variation or revocation, as applicable) must be published on the Organisation's website in a reasonably prominent location to inform Members thereof with notice being given to all Members of the change that has been made.

### **10.5 Force and Effect of By-Laws**

By-Laws will have contractual force and effect between Members inter se, between the Organisation and the Members, and between the Organisation and its officers, in the same manner as if the By-laws had constitutional force and effect in their own right.

### **10.6 Current By-Laws upon adoption of Constitution**

The By-laws to apply from the Effective Date of adoption of this Constitution are set out or described in Schedule 4.

## **11 Records**

### **11.1 Financial Year**

The financial year of the Organisation ends on 30 June in each year.

### **11.2 Accounts**

The Board, through the Secretary and the CEO, shall cause proper accounts, books and records to be kept, in accordance with accepted Australian accounting standards consistently applied for like bodies corporate to the Organisation and otherwise as may be required under the Act with respect to:

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- (a) all sums of money received or expended by the Organisation and the matter in respect of which the receipt or expenditure takes place;
  - (b) all financial transactions of the Organisation;
  - (c) the assets and liabilities of the Organisation; and
  - (d) the Organisation's operations.

### **11.3 Books, accounts and records**

The accounts, books and records shall be kept at the office of the Organisation or such other place from time to time determined by the Board and are open to inspection by the Directors and must be retained in accordance with the Act.

### **11.4 Audit**

The Board shall cause the accounts to be audited annually by the Auditor.

### **11.5 Minutes**

- (a) The Organisation must, within one month, make and keep the following records:
  - (i) minutes of proceedings and resolutions of meetings of Members or Directors' meetings (including meetings of any committees);
  - (ii) minutes of circular resolutions of Directors;
  - (iii) a copy of a notice of each meeting of Members of Directors' meetings; and
  - (iv) a copy of any members' statement distributed to members in accordance with Article 4.1(d).
- (b) The Directors must ensure that minutes of a meeting of Members or a Directors' meeting are signed within a reasonable time after the meeting by:
  - (i) the chair of the meeting; or
  - (ii) the chair of the next meeting.
- (c) Records of minutes of meetings of Members are open for inspection by Members.

## **12 Alterations to Constitution**

No new Article or provision shall be added to this Constitution nor shall any of the Articles or provisions contained herein be amended, altered or rescinded unless:

- (a) a Special Resolution of Members in general meeting so to do is passed; and
- (b) the provisions of the Act and this Constitution are complied with.

## **13 Notices**

### **13.1 Notice to Members**

- (a) Subject to Article 13.1(b), the Organisation may give notice to a Member:
  - (i) by hand delivery;
  - (ii) by sending it by prepaid post to the address of the Member in the Register or the alternative address (if any) nominated by that Member;
  - (iii) by sending it to the fax number or electronic or digital address (if any) nominated by that Member; or
  - (iv) with an Absolute Special Majority of the Board, by advertisement in accordance with Article 13.1(c).

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- (b) If the address of any Member in the Register is not within Australia (and its Territories) and that Member does not nominate an alternative address within Australia (and its Territories), unless otherwise specified by the Act, the Organisation may (in addition to any method of service specified in Article 13.1(a)) give a notice to that Member by:
- (i) posting it on the Organisation's internet website (if any); or
  - (ii) advertisement in accordance with Article 13.1(c).
- (c) Any notice allowed to be given by the Organisation to Members by advertisement is sufficiently advertised if advertised:
- (i) in a newspaper published on most days and generally circulating in Western Australia; or
  - (ii) in electronic form on an online media portal reasonably approved of by the Board and which is generally available and accessible to members of the public in Western Australia (even if a subscription fee is payable).

### **13.2 Notice to Directors**

The Organisation may give notice to a Director:

- (a) by hand delivery;
- (b) by sending it by prepaid post to the usual residential address of that person or the alternative address (if any), including a post office box address, nominated by that person;
- (c) by sending it to the fax number or electronic or digital address (if any) nominated by that person; or
- (d) by any other means agreed between the Organisation and that person.

### **13.3 Notice to the Organisation**

A person may give notice to the Organisation:

- (a) by leaving it at the registered office of the Organisation;
- (b) by sending it by prepaid post to the registered office of the Organisation;
- (c) by sending it to the fax number at the registered office of the Organisation;
- (d) by sending it to the electronic or digital address (if any) nominated by the Organisation for that purpose; or
- (e) by any other means permitted by the Act.

### **13.4 Time of service**

- (a) A notice sent by prepaid post to an address within Australia is taken to be given:
  - (i) in the case of a notice of meeting, two Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (b) A notice sent by prepaid post to an address outside Australia is taken to be given:
  - (i) in the case of a notice of meeting, four Business Days after it is posted; or
  - (ii) in any other case, at the time at which the notice would be delivered in the ordinary course of post.
- (c) A notice sent by fax or electronic or digital means is taken to be given on the Business Day it is sent, provided that the sender's transmission report shows that the whole notice was sent to the correct fax number or electronic or digital address.

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- (d) A notice posted on the Organisation's internet website or advertised in accordance with Article 13.1(c) is taken to be given on the date the notice is first published on the Organisation's website or the date on which it is first advertised in terms of Article 13.1(c) (as applicable).
  - (e) The giving of a notice by prepaid post is sufficiently proved by evidence that the postage was paid and the notice:
    - (i) was addressed to the correct address of the recipient; and
    - (ii) was placed in the post.

### **13.5 Signatures**

The Board may decide, generally or in a particular case, that a notice given by the Organisation be signed by mechanical, electronic or other means.

## **14 Winding up**

### **14.1 Transfer of surplus**

Subject to the Act and any other applicable laws or court orders, on a winding up of the Organisation, the Members must determine one or more companies, associations or institutions whose constitutions:

- (a) require them to pursue only objects similar to those in Article 1.4 and to apply their income in promoting those objects; and
- (b) prohibit them from making payments or distributions to their members to at least the same extent as in Article 1.5,

to whom the liquidator must give or transfer any surplus assets or property on winding up in accordance with a distribution plan also determined by Members.

### **14.2 Application to Supreme Court**

If the Members fail to make a determination under Article 14.1 within 20 Business Days of the winding up of the Organisation, the liquidator must make an application to the Supreme Court of Western Australia to make that determination.

## **15 Transitional Provisions**

### **15.1 Transitional Arrangements**

The Transitional Provisions shall apply in accordance with their terms as if set out in this Constitution in full.

### **15.2 Transitional Provisions Paramount**

In the case of any inconsistency between the Transitional Provisions and any other provision of this Constitution or the By-laws, the Transitional Provisions will prevail.

### **15.3 Continuance of Transitional Provisions**

The Transitional Provisions shall have continuing force and effect in accordance with their terms.

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## Schedule 1

### Definitions and interpretation

#### 1. Definitions

In this Constitution:

“**Absolute Special Majority**” in the context of a Board resolution means a resolution passed by not less than 75% of the total number of Directors holding office at the time of the resolution.

“**Act**” means the Corporations Act 2001 (Commonwealth).

“**AGM**” means the Annual General Meeting of Members.

“**Affiliated Organisation**” means an organisation (incorporated or unincorporated) involved in or associated with the administration, co-ordination and/or playing of cricket and which is determined by to be an Affiliated Organisation in the terms of Article 7.5 or is listed in Item 5 of Schedule 3 (Transitional Provisions) and which has not been determined to no longer have status as an Affiliated Organisation.

“**Applicable Form**” has the meaning ascribed to it in the By-laws.

“**Board**” means the Directors meeting from time to time as a board of directors of the Organisation.

“**Board Appointed Director**” means a Director appointed pursuant to Article 5.4.

“**Business Day**” means a day except a Saturday, Sunday or public holiday in Western Australia.

“**By-Laws**” means by-laws of the Organisation in the terms of Article 10.

“**By-Law Matters**” means matters of the nature mentioned in Article 10.2 which may be the subject of a By-Law.

“**Cessation Event**” means, in respect of a Member:

- (a) the death or bankruptcy of that Member; or
- (b) that Member becoming of unsound mind or a person whose property is liable to be dealt with under a law relating to mental health.

“**Chair**” means a person elected as chair of the Board under Article 6.3.

“**CEO**” means the person appointed for the time being under Article 6.4, being an employee (whether full-time or part-time) of the Organisation or a related body corporate of the Organisation.

“**Class**” means a class of Membership as prescribed in the By-Laws.

“**Director**” means a director of the Organisation for the time being.

“**Effective Date**” has the meaning given in Schedule 3.

“**Expulsion Event**” means, in respect of a Member:

- (a) that Member has been convicted within the preceding 5 years in criminal proceedings brought in connection with a contravention of the law where the penalty for the offence may be incarceration for a period in excess of 12 months, but excluding any “spent conviction”;
- (b) that Member has failed to pay any Fees or other money owing to the Organisation and those Fees or other moneys remain outstanding for at least 40 Business Days after written notice of demand for payment has been issued to the Member; or
- (c) the Board determines that in its opinion exercised in good faith:



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- (i) the conduct of that Member is unbecoming of a Member; or
  - (ii) that the continued Membership of the Member may be prejudicial to the objects, interests or reputation of the Organisation; or
  - (iii) the Member is in material or persistent breach of the By-laws or this Constitution.

“**Fees**” means a fee or levy payable by Members under Article 3.1.

“**Financial Year**” means 1 July in one year to 30 June (inclusive) in the next succeeding year, or such other period as may be prescribed in the By-Laws.

“**General Meeting**” means a general meeting of Members duly called and held in the terms of Article 4.1 and includes an AGM and an extraordinary general meeting;

“**Legal Costs**” for a person, means legal costs incurred by that person in defending an action for a Liability of that person.

“**Liability**” of a person, means a liability incurred by that person as an officer of the Organisation or a related body corporate of the Organisation.

“**Member**” means a natural person whose name is entered in the Register as a member of the Organisation and “**Membership**” has a corresponding meaning.

“**Membership Card**” means a card issued to a Member under Article 2.8.

“**Member Elected Director**” means a Director appointed pursuant to Article 5.3.

“**Organisation**” has the meaning in Article 1.2(a);

“**Prescribed Notice**” means the Prescribed Period of notice or any shorter period of notice for a meeting allowed under the Act.

“**Prescribed Period**” means 21 days.

“**Register**” means the register of Members kept under the Act.

“**Relevant Officer**” means a person who is, or has been, a Secretary, a Chief Executive Officer, a Director or another person who has held office in the Organisation and would be defined as an “officer” in the terms of the Act.

“**Secretary**” means the company secretary of the Organisation for the time being.

“**Special Resolution**” has the meaning ascribed to it in the Act.

“**Term**” means the term of office of each Director in accordance with these Articles.

“**Transitional Provisions**” means those provisions of this Constitution appearing in Schedule 3.

“**WACA Ground**” means the sporting complex and associated buildings at Nelson Crescent, East Perth, Western Australia being Lot 508 on Deposited Plan 76192 and being the whole of the land in Certificate of Title Volume 2848 Folio 917.

## 2. Interpretation

(a) In this Constitution:

- (i) a reference to a meeting of Members includes a meeting of any class of Members;
- (ii) a Member is taken to be present at a meeting of Members if the Member is present in person or by proxy, attorney or body corporate representative; and
- (iii) a reference to a notice or document in writing includes a notice or document given by fax or other form of written communication.

(b) In this Constitution, headings are for convenience only and do not affect interpretation.

(c) Unless the context indicates a contrary intention, in this Constitution:

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- (i) words importing the singular include the plural (and vice versa);
  - (ii) words indicating a gender include any other gender and any non-specific gender affiliations;
  - (iii) the word “person” includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
  - (iv) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning; and
  - (v) the word “includes” in any form is not a word of limitation.
  - (vi) a reference to an Article or a Schedule, is to an article or a schedule of this Constitution;
  - (vii) a reference in a Schedule to a paragraph is to a paragraph of that Schedule;
  - (viii) a Schedule is part of this Constitution; and
  - (ix) a reference to this Constitution, is to this Constitution (and where applicable any of its provisions) as modified or repealed from time to time.
- (d) Unless the context indicates a contrary intention, in this Constitution, a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it.
- (e) Unless the context indicates a contrary intention, in this Constitution:
- (i) an expression that deals with a matter dealt with by a provision of the Act has the same meaning as in that provision;
  - (ii) an expression that is defined in Section 9 of the Act has the same meaning as in that Section.

### **3. Exercise of powers**

Where this Constitution confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty must be performed, from time to time, as the occasion requires.

### **4. Severing invalid provisions**

If at any time any provision of this Constitution is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that does not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this Constitution; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Constitution.

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## Schedule 2

### Key Information

#### 1. Quorum of Members for Meetings (refer Article 4.6)

(a) General meetings of Members

The lesser of 40 Members with unrestricted voting rights and 5% of the total number of Members with unrestricted voting rights at the time the relevant meeting is held.

(b) Class meeting of designated Membership Classes

The lesser of 20 Class Members with unrestricted Class voting rights, and 5% of the total number of Members in that Class with unrestricted voting rights at the time the relevant meeting is held.

#### 2. Number of Directors (refer Article 5)

(a) Maximum number of Directors

Nine (9)

(b) Minimum number of Directors

Six (6)

(c) Maximum number of Member Elected Directors

Six (6)

(d) Minimum number of Member Elected Directors

Four (4)

(e) Maximum number of Board Appointed Directors

Three (3)

(f) Minimum number of Board Appointed Directors

Two (2)

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**3. Maximum term as a Director (refer Article 5.6)**

9 years

**4. Maximum periods for service as Chair (refer Article 6.3(c))**

(a) Maximum term as Chair – 6 years(\*)

(b) Maximum total combined years of appointment as a Director and as the Chair – 12 years(\*)

(\*) PROVIDED THAT on recommendation of the Board (passed by an Absolute Special Majority) and by resolution of Members in General Meeting, these maxima may be extended for a further period of 12 months in circumstances where it is considered to be in the best interests of the Organisation and its succession planning to do so.

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## Schedule 3

### Transitional Provisions

1. For the purposes of these Transitional Provisions:
  - (a) "Effective Date" means the later of the date of registration of the Organisation under the Act and the date of adoption of this Constitution by the Members.
  - (b) Terms uniquely defined in the constitution of Western Australia Cricket Association (Inc) and used in these Transitional Provisions will have those defined meanings.
2. Subject to paragraph 1(b) preceding, from the Effective Date the existing constitution, by-laws and standing orders that previously applied to the Organisation are of no further force or effect.
3. With respect to those holding constitutionally recognised office as at the Effective Date, the following provisions shall apply:
  - (a) Subject to paragraph 3(f) below, the Directors listed in column 1 of Table A:
    - (i) shall be deemed to be either a Member Elected Director or a Board Appointed Director on and from the Effective Date as indicated in column 2 of Table A against each of their names;
    - (ii) shall be deemed to retire or their appointment to office terminated as at the time listed in column 3 of Table A against each of their names (without prejudice to their opportunity to be re-elected or re-appointed to office, subject to the provisions of the Constitution).
  - (b) Any person holding office as a Director or President immediately prior to the Effective Date and whose name does not appear in Table A shall be deemed to have retired from such office as at the Effective Date.

<b>Table A</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Name of Director</b>	<b>Member Elected Director (ED) or Board Appointed Director (AD)</b>	<b>Deemed date of scheduled retirement from office</b>
Darren Wates	ED	AGM 2017
Michael Veletta	ED	AGM 2017
Dr Ken Michael AC	ED	AGM 2018
Brendan Reid	ED	AGM 2018
Tom Percy QC	ED	AGM 2019
Kade Harvey	ED	AGM 2019
David Bailey	AD	AGM 2017
Avril Fahey	AD	AGM 2018
Dr Vanessa Guthrie	AD	AGM 2019

- (c) The persons holding office as Chair and Deputy Chair respectively immediately before the Effective Date will continue to hold such offices on and from the Effective Date until the first Board meeting following the next AGM held after the Effective Date, subject to the provisions of Article 6.3.
- (d) The person holding office as Patron immediately before the Effective Date will continue to hold such office on and from the Effective Date, subject to the provisions of Article 6.1.
- (e) The persons holding office as Chief Executive Officer and Secretary, subject to paragraph 3(f) below, immediately before the Effective Date will continue to hold such offices on and from the Effective Date, subject to the respective provisions of Articles 6.4 and 6.5.
- (f) It is a condition precedent to each Director and the Secretary holding office as such on and from the Effective Date that they respectively have executed a consent or approval to act in such role in accordance with any regulatory requirements of the Act.
- (g) Subject to Article 5.6, a Director listed in Table A may hold office as such until at least the date mentioned in column 3 of Table A against their name notwithstanding Article 5.6.

4. With respect to Membership

- (a) Subject to the person applying for Membership in the relevant Membership class in accordance with this Constitution, Members holding the class of membership noted in column 1 of Table B immediately prior to the Effective Date shall be deemed to hold the class of membership noted in column 2 of Table B on and from the Effective Date until 30 June next following the Effective Date without any additional Fee or Fee adjustment on account of that change of class of Membership.

<b>Table B</b>	
<b>Column 1</b>	<b>Column 2</b>
<b>Pre-Effective Date Class of Membership</b>	<b>Membership Class on and from Effective Date</b>
Ordinary Member	Full Member (Metro Status)
Concessional Member	Full Member (Concessional Status)
Club Playing Member	Full Member (Player/Administrator Status)
Country Member	Full Member (Country Status)
Junior Member	Junior Member
Club Member	Full Member (Metro Status)

- (b) Honorary Life Members, Lifetime Members and Perpetual Members will continue to retain their status as such on and from the Effective Date with all rights and entitlements as if they were Honorary Members on terms determined by the Board as shall be consistent with their original appointment as Honorary Life Members, Lifetime Members or Perpetual Members (as applicable).

5. With respect to Affiliated Organisations

- (a) On the Effective Date the organisations listed in Table C are each deemed to be an Affiliated Organisation.

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- (b) Nothing by reason of this Constitution varies or affects any agreement between the Organisation that was in force and effect immediately before the Effective Date.

<b>Table C</b>
<b>Details of Affiliated Organisations as at the Effective Date</b>
WA District Cricket Council (Inc.)
WA Female Cricket Council (Inc.)
Community Junior Cricket Council (Inc.)
Indoor Sports W.A. (Incorporated)
WA Country Cricket Board (Inc.)
CricketWest (Inc.)
Western Australia Aboriginal Cricket Council (Inc.)
Western Australia Schools Cricket Council (Inc.)

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## Schedule 4

### Western Australian Cricket Association Limited

#### By-Laws

##### 1. Introduction

- 1.1 These By-laws have been adopted by the Board pursuant to Article 10.4 of the Constitution.
- 1.2 These By-laws have effect from the Effective Date.
- 1.3 Should any By-law conflict with a provision of the Constitution, then in the terms of Article 10.4 of the Constitution, that By-law will be either void or read down to the extent of such conflict, and the provisions of the Constitution will prevail.
- 1.4 Words and phrases defined in the Constitution and used in these By-laws have the meanings accorded to them in the Constitution.
- 1.5 Where a power is conferred on the Board under these By-laws, the Board may resolve to delegate that power to the CEO.
- 1.6 In these By-laws the following words have the meanings set opposite them:
  - “Applicable Form” means a form referred to in these By-laws which has been approved by the Board for the relevant functional purpose in these By-laws.
  - “Concessional Status” means a Full Member who qualifies for and has been conferred that status under By-laws 3.3(f) and 3.6(a);
  - “Country Status” means a Full Member who qualifies for and has been conferred that status under By-Laws 3.3(d) and 3.6(a).
  - “Cricket Club” means an organisation (incorporated or unincorporated) which organises, co-ordinates and administers games of cricket for the benefit of its members.
  - “Facilities” means premises, grounds, rooms, areas and related facilities at grounds or areas under the control or licence of the Organisation.
  - “Metro Status” has the meaning ascribed to it in By-Law 3.3(g).
  - “Player/Administrator Status” means a Full Member who qualifies for and has been conferred that status under By-laws 3.3(e) and 3.6(a).
  - “Guest Pass” means a pass referred to in By-law 7.3(a).
  - “Tier Package” means an opportunity that may be offered by the Organisation in accordance with By-law 8.
  - “Visitor Pass” means a pass referred to in By-law 7.3(b).

##### 2. Governance Charter

- 2.1 The terms of the Governance Charter adopted by the Board and prevailing as at the Effective Date apply on and from the Effective Date as having the force and effect of By-laws duly adopted by the Board.
- 2.2 A copy of the Constitution, these By Laws and the Governance Charter are to be available for inspection and reference by Members and others including on the Organisation’s web-site.



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### 3. Membership

3.1 (a) Membership of the Organisation is available in the following classes:

- Full Member
  - (i) Metro Status
  - (ii) Country Status
  - (iii) Concession Status
  - (iv) Player/Administrator Status
- Junior Member
- Honorary Member

without prejudice to the continuing recognition of Honorary Life Members, Lifetime Members and Perpetual Members under Schedule 3 of the Constitution (Transitional Arrangements).

(b) For the purposes of Article 2.1(b) of the Constitution, the Board by Absolute Special Resolution may determine any limits on the number of Members in a Class of Membership or limits on the number of Members within a status category of Full Membership.

3.2 The rights, privileges and obligations attaching to each Class of Membership are as follows:

(a) Full Member

Subject to payment of all applicable Fees (including any discounted Fees applicable to Full Members qualifying for Country Status, Concession Status or Player/Administrator Status) from time to time levied with respect to that Membership, a Full Member is entitled:

- (i) to vote, and to participate and speak (in accordance with rulings of the meeting chair) at meetings of Members and meeting of that Class of Member;
- (ii) to nominate a person as a new Member to the Organisation and to nominate a qualifying Member for consideration for election as a Member Elected Director;
- (iii) to stand for office as a Director;
- (iv) to admission, in common with other Members, to designated "Member Reserved" areas at Facilities subject nevertheless to:
  - (A) prudential crowd control limitations set by the Organisation or those in charge of the Facilities;
  - (B) payment of any applicable supplementary Fee (if any) determined from time to time by the Organisation as applicable to those Facilities;
  - (C) observance by the Member of all rules and codes of conduct prescribed by the Organisation or by those in charge of the Facilities, applicable to attendees at the Facilities;
  - (D) specifically no entitlement to admission arises with respect to games of cricket or events staged or held under the authority of the International Cricket Council ("ICC");
- (v) to receive all information required by the Constitution, these By-laws or the Act to be forwarded to Members of that Class of Membership;
- (vi) to receive such publications and communications as the Organisation may from time to time determine is appropriate or desirable to forward to Members of that Class of Membership;
- (vii) to receive offers for Tier Packages that may be offered from time to time;

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(viii) to exercise such other rights and privileges determined from time to time by the Board to be accorded to Members of that Class of Membership.

(b) Junior Members

Subject to payment of all applicable Fees from time to time levied with respect to that Membership, and subject to the reservations and exclusions below, a Junior Member is entitled to all the same rights and privileges set out in By-law 3.2(a)(i)-(viii) above for a Full Member OTHER THAN:

- (i) voting rights under By-law 3.2(a)(i), but without prejudice to any "Class" voting rights applicable for meetings of Members of that Class of Membership only;
- (ii) nomination rights under By-law 3.2(a)(ii);
- (iii) unless the Junior Member shall have attained 18 years of age, access to certain Facilities which are available only to persons over 18 years of age under any applicable regulatory requirement including to do with liquor licensing and gaming;
- (iv) entitlement to stand for office as a Director under By-law 3.2(a)(iii);
- (v) being obliged to allow Full and Honorary Members priority admission and seating at any "Member Reserved" areas at Facilities as referred to in By-law 3.2(a) above.

(c) Honorary Members

Subject to any conditions of Membership as are determined from time to time by the Board to apply to the Honorary Member, an Honorary Member is entitled to all the same rights and privileges set out in By-law 3.2(a)(i)-(viii) above for a Full Member.

3.3 Membership of the respective Classes of Membership is available to the following persons who have completed all administrative requirements as set out in the By-laws for their application and approval of Membership subject to the following:

- (a) All Classes of Membership (other than Junior Membership) are only available to persons 18 years of age or over;
- (b) Junior Membership is only available to persons under 18 years of age as at the start of the relevant membership period;
- (c) Honorary Membership is only available to persons nominated by the Board for such Membership and who in the opinion of the Board have provided outstanding and special service to the Organisation or in the promotion, development and/or advancement of cricket;
- (d) Country Status for a Full Member is only available to persons whose principal place of residence is more than 100 kilometres from the regulatory designated place in Perth from which distances from Perth are customarily measured for official purposes;
- (e) Player/Administrator Status for a Full Member is only available to persons who are current members of an Affiliated Organisation or a Cricket Club and who are:
  - (i) active cricket playing members; or
  - (ii) active in the management or administration (including voluntary) of that Affiliated Organisation or Cricket Club.
- (f) Concessional Status for a Full Member is only available to persons over 65 years of age;
- (g) Metro Status for a Full Member applies to a Full Member who has not been afforded Country Status, Player/Administrator Status or Concessional Status;
- (h) Junior Members, who in due course qualify for admission as a Full Member, may transfer to becoming a Full Member by complying with By-law 3.7.

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- 3.4 All applications for Membership must be:
- (a) completed substantially in the Applicable Form relevant to the Class of Membership being applied for;
  - (b) accompanied by such information as is required by the Organisation to reasonably verify that the applicant meets the requirements for Membership of the relevant Class set out in By-law 3.3;
  - (c) accompanied by payment of any Fees applicable to that application and Membership;
  - (d) signed by the applicant; and
  - (e) signed by an existing qualifying Member as the nominator of the applicant for Membership to verify the applicant's good character and suitability for Membership,

PROVIDED THAT the Board may at its discretion:

- (f) waive strict compliance with any aspect or aspects of the foregoing;
  - (g) require the provision of such further information from the applicant, which it considers it is appropriate so to do in the interests of the Organisation and the integrity of its Membership.
- 3.5 Without limiting By-law 3.4, the Applicable Form to be signed by an applicant under By-law 3.4 must include an undertaking by the applicant, conditional upon the applicant becoming a Member:
- (a) in the terms of Article 1.2(c) of the Constitution; and
  - (b) to observe and comply with the provisions of the Constitution and the By-laws to the extent to which they have application to a person who is a Member of the Class of Membership applied for.
- 3.6
- (a) A Full Member who believes they qualify for Country Status, Concessional Status or Player/Administrator Status may apply for recognition of that status by completing and signing the Applicable Form which may then be approved of by the CEO (acting under deemed delegate authority of the Board).
  - (b) A Full Member who has been conferred Country Status, Concessional Status or Player/Administration Status but no longer qualifies for such status must promptly inform the Organisation in writing by completing and signing the Applicable Form which may then be approved of by the CEO (acting under deemed delegated authority of the Board).
- 3.7 A Junior Member (upon attaining 18 years of age) may apply for transfer of Membership to a Full Member by completing and signing the Applicable Form which may then be approved of by the CEO (acting under deemed delegated authority of the Board).

## **4. Fees and Interest**

- 4.1 Fees may be for all or any of the following and in such amounts as determined from time to time by the Board, including any discount in Fees applicable to Full Members holding Concessional Status, Country Status or Player/Administrator Status in accordance with these By-laws:
- (a) initial Membership waitlist fee
  - (b) initial Membership nomination fee
  - (c) Membership annual subscription fee
  - (d) Member Guest Pass fee
  - (e) Member Visitor Pass fees
  - (f) other (as determined by the Board)
- 4.2 All Fees must be paid by the date notified in the Organisation's invoice for the same, or if no date is notified, within a reasonable time of the Organisation's invoice for the same.

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- 4.3 As at and from the Effective Date, the Fees are the same as those applying immediately prior to the Effective Date.
- 4.4 Subject to By-law 4.5, around the commencement of each Financial Year after the Effective Date, the Board by resolution duly passed, after consultation with management as part of the Organisation's budgetary process, will set the Fees then applicable for the forthcoming Financial Year and will communicate the same to the Members by notice under Article 11 of the Constitution.
- 4.5 Other than with the approval of the Members in general meeting, no Fee for annual Membership subscription may be increased under these By-laws by more than 20% of the amount of the Fee that applied in the Financial Year immediately prior to the proposed increase.
- 4.6 Unless payment is waived under Article 3.2(b) of the Constitution, the prescribed rate of interest in the terms of Article 3.2 of the Constitution is 10% per annum simple interest.
- 4.7 With respect to replacing a lost Membership Card (refer Article 2.8 of the Constitution) the prescribed Fee is such amount reasonably determined by the Organisation.
- 4.8 Should a Member anticipate being unable to enjoy their Membership, through absence outside Western Australia or significant ill health, for a period exceeding one (1) year and not exceeding three (3) years, then that Member may make application to the Organisation in the Applicable Form for exemption from Fee payment and voluntary suspension of Membership rights during that period, whereupon the Organisation may at its discretion, and subject to any terms it may decide to impose, allow such interim Fee exemption and voluntary suspension.
- 4.9 No nomination fee is payable by a Junior Member applying to transfer to Full Membership under By-law 3.7.
- 4.10 If any GST is chargeable in connection with a Fee, then unless stated to the contrary at the time of determination of that Fee, the amount of that GST is to be included in the Fee and is to be payable by the Member or person to whom the Organisation's tax invoice for the Fee is rendered.

## 5. Applicable Forms

- 5.1 The management of the Organisation may from time to time propose to the Board Applicable Forms in order to best manage and administer functions to be undertaken in the terms of these By-laws.
- 5.2 The Board may by resolution approve, with or without amendment, any such proposed Applicable Forms.
- 5.3 Upon such approval by the Board, the relevant form will then be the prescribed Applicable Form for the purposes of these By-laws and the Constitution (as applicable).
- 5.4 Without limitation, Applicable Forms may relate to any or all of the following functions and requirements:
- (a) Constitution
    - (i) Article 2.2 – Application
    - (ii) Article 2.6 – Expulsion or Suspension
    - (iii) Article 2.8(b) – Declaration of Lost Membership Card
    - (iv) Article 4.14(f) & (j) – Proxy form
    - (v) Article 5.3(b) & (c) – Nomination of Member Elected Director
    - (vi) Article 5.11 – Director's consent and undertakings
  - (b) By-laws
    - (i) By-law 3.4 – Application for Membership

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(ii)	By-law 3.6(a)	–	Country Status, Concessional or Player/Administrator Status
(iii)	By-law 3.6(b)	–	Cessation of designated status
(iv)	By-law 3.7	–	Transfer from Junior Membership
(v)	By-law 4.8	–	Temporary Absentee Member Fee waiver and voluntary suspension

## **6. Miscellaneous**

### 6.1 General conduct of meetings of Members (Article 4.8)

No special By-laws apply.

### 6.2 Nomination of Member Elected Directors (Article 5.3(c)(i))

- (a) Refer By-law 5.4(a)(v) and (vi) for the Applicable Form
- (b) Refer By-law 2 Governance Charter

### 6.3 Presentation of nominations for Member Elected Directors to Membership (Article 5.3(c)(ii))

- (a) The Board will approve at its discretion the manner in which it is proposed for nominations for Member Elected Directors to be presented to Members.

The Board will act impartially and in good faith in exercising its discretion with a view to the Members being presented with adequate, timely but succinct information to enable them to make a reasonably informed judgement when exercising their vote.

- (b) Nominees for Member Elected Directors may provide a brief statement to the Organisation concerning their candidature for office at least 21 days before the scheduled date of the issue of the notice of meeting and election/voting papers to Members provided the Board is satisfied that the statement is not offensive to, or likely to offend, the Organisation or any Member of it. If the Board is not so satisfied the Board reserves the right to censor any portion of the statement that the Board (in good faith) considers to be offensive to, or likely to offend, the Organisation or any Member of it.

### 6.4 Manner in which voting for Member Elected Directors is to occur (Article 5.3(c)(iii))

- (a) Subject to the Act, the Board will approve at its discretion the manner in which voting for Member Elected Directors is to occur.
- (b) The Board will act impartially and in good faith in exercising its discretion to ensure integrity and probity of process.

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- (c) In exercising its discretion the Board may place due reliance on advice and recommendations from its legal representatives and/or its Member registry provider as to what is good governance practice for such processes for a membership organisation with a membership base of the size of the Organisation.
- 6.5 Directors Consents and Undertakings (Article 5.11)  
Refer By-law 5.4(a)(vi) for the Applicable Form
- 6.6 Role of Patron (Article 6.1(d))
- (a) The role of the Patron will largely be ceremonial under the guidance of the Chair.
- (b) Subject to the Patron's availability and to other commitments that the Patron may have, the Patron may be invited by the Chair or the CEO on behalf of the Organisation to attend, and as appropriate to officiate and speak as Patron, at important cricket matches, general meetings of Members and significant occasions and events promoted by the Organisation.
- 6.7 Role of Vice Patrons (Article 6.2(e))
- (a) The role of the Vice Patron(s) will largely be ceremonial and promotional under the invitation and guidance of the Chair and/or the CEO.
- (b) Subject to their availability and other commitments they may have, it is expected that between them, the Vice Patron(s) will be available at the invitation of the Chair and/or the CEO on behalf of the Organisation to co-host and perhaps speak at promotional events organised by the Organisation incidental to the game of cricket and cricket matches, and to attend meetings of Members, as ambassadors of the game of cricket.
- 6.8 Secretary (Article 6.5(c))  
Refer to By-law 2 Governance Charter.
- 6.9 Board Committees Terms of Reference and Governance  
Refer to By-law 2 Governance Charter.
- 7. Membership Cards, Facilities Entry and Behaviour**
- 7.1 Members may be issued by the Organisation a Member Card to identify that Member as a Member of the Organisation. Members must display their Member Cards at all times when exercising their Membership right to access Facilities.
- 7.2 No assurance is given by the Organisation with respect to the Facilities as to:
- (a) the availability or suitability of seating;
- (b) the suitability of viewing;
- (c) the suitability of premises;
- (d) the availability or suitability of services and amenities.
- 7.3 (a) A Member, on payment of an annual Guest Pass Fee as determined from time to time by the Board, is entitled to receive a Guest Pass which that Member may pass to any person, and which entitles the holder thereof for the time being whilst wearing or displaying the Guest Pass, the right to be admitted to those Facilities (or designated parts thereof) allocated for the use of Members. The Organisation is under no obligation to check whether the holder of a Guest Pass is the person whom the Member intended to be the user thereof. A Guest Pass is personal to the Member to whom it has been issued and such a Member must not transfer, assign or on-sell that Guest Pass to another person. A guest to whom a Guest Pass has been passed by a Member may not sub-delegate the use of that Guest Pass to another person, other than with the express authority of the Member as to the identity of that other person.

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- (b) A Member, on payment of a Visitor Pass Fee applicable to the designated duration, games or events the subject of a relevant Visitor Pass offered from time to time by the Organisation may receive a Visitor Pass which that Member may pass to any person, and which entitles the holder thereof for the time being whilst wearing or displaying the pass, the right to be admitted to those Facilities (or designated parts thereof) allocated for the use of Members which are within the scope of the terms of issue and use of the Visitor Pass. The Organisation is under no obligation to check whether the holder of a Visitor Pass is the person the Member intended to be the user thereof. A Member must not transfer, assign or on-sell a Visitor Pass. The Organisation may allow a Member to acquire more than one Visitor Pass.
- (b) A Member to whom a Guest Pass or a Visitor Pass is issued is responsible for ensuring that the holder of the Guest Pass or a Visitor Pass (as applicable) observes the requirements of By-law 7.8 while the holder is on any part of the Facilities.
- 7.4 A Member shall not transfer, intentionally or otherwise, a Member Card or allow any person, including family members or friends or associates to use the Member Card. The Member is responsible to ensure that their Member Card is not used by any other person.
- 7.5 A Member shall notify the Organisation of the loss or theft of a Member's Member Card, Guest Card and/or Visitor Pass as soon as reasonably practicable after becoming aware of its loss or theft.
- 7.6 A Member Card, Guest or Visitor Pass which is used by any person not entitled to use it to gain or attempt to gain access to any Facilities, may be retained on behalf of the Organisation by a person duly authorised by the Organisation who comes into possession of that Member Card.
- 7.7 Upon demand by a duly authorised person on behalf of the Organisation:
- (a) a Member seeking entry to Facilities shall produce their Member Card and supporting photographic identification;
- (b) a holder of a Guest Pass or Visitor Pass seeking entry to Facilities shall produce their Guest Pass or Visitor Pass and inform the duly authorised person the name of the Member who gave them the Guest Pass or Visitor Pass. The relevant Member must verify (or otherwise) that the person is their guest or visitor on request by the duly authorised person;
- (c) for the purposes of By-law 7.7(a), "supporting photographic identification" means a valid driver's licence, passport or other identification to the reasonable satisfaction of the duly authorised person.
- 7.8 Each Member, Guest Pass holder, Visitor Pass holder and any other visitor of the Member using Facilities must at all times:
- (a) comply with any lawful direction or request of the Organisation or any agent, employee, contractor or authorised officer of the Organisation or member of the police force while at, or using, the Facilities including a direction or request to vacate and leave the Facilities;
- (b) not engage in conduct that:
- (i) is unbecoming or prejudicial to the interests of the Organisation; or
- (ii) may bring the Organisation into disrepute; or
- (iii) may be such that impairs or is likely to adversely or affect the reasonable enjoyment of the benefits of Membership by other Members or their guests or visitors; and
- (c) be subject to the applicable dress requirements set down for the relevant Facilities as determined from time to time and advised in Member communications or signage in or around the Facilities.

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7.9 The Member is responsible for ensuring that their Guest Pass holder and Visitor Pass holders comply with By-laws 7.3(a), 7.7 and 7.8. The Member shall be held accountable for any breach of these By-laws by their Guest Pass holder or Visitor Pass holder.

## **8. Tier Packages**

- 8.1 The Organisation may offer to Members upon terms and conditions determined from time to time by the Organisation, including as to Fees payable, the opportunity to have access to and/or seating in designated reserved areas of Facilities which are not otherwise generally available to Members as an ordinary entitlement of Membership.
- 8.2 Members to whom an offer for a Tier Package is made may accept the offer by paying the applicable Fee and satisfying any other terms of the offer, which will constitute an agreement by the Member to observe the terms and conditions upon which the relevant Tier Package is offered.
- 8.3 A Tier Package may include rights for the Member to be accompanied in the designated reserved area of Facilities by one or more guests.
- 8.4 The Organisation may issue to any Members taking up a Tier Package, and to each of their authorised guests (if provided for in the terms of the Tier Package), Tier Package passes ("**TP Passes**") which must be worn by the Member and such guests (if applicable) at all times while accessing and exercising their rights and privileges in the terms of the relevant Tier Package.
- 8.5 Any Member or other person purporting to be entitled to exercise rights or privileges under a Tier Package must:
- (a) produce to a duly authorised person on behalf of the Organisation their TP Pass for verification;
  - (b) comply with By-law 7.8.
- 8.6 The Member shall be held accountable for any breach of this By-law 8 by any guest of the Member to whom a TP Pass may have issued or been given.