

# Australian Capital Territory and Southern New South Wales Rugby Union Limited

ACN 080 281 483

## Constitution

Approved at SGM on 16 November 2016 and Amended at AGM on 13 December 2017

### 1. NAME AND INTERPRETATION

#### 1.1 About the Union

The Australian Capital Territory and Southern New South Wales Rugby Union Limited ("**Union**") is a company limited by guarantee. It is the governing body of the ACT Premier Division Competition and other rugby union football competitions in the ACT and southern New South Wales.

#### 1.2 Definitions

In the Constitution:

"**ACT**" means the Australian Capital Territory;

"**ACT Premier Division Competition**" means the premier rugby union football club competition based in Canberra and conducted by the Union;

"**ACT Premier Division Club**" means, for any given year, each rugby union football club that has been accepted by the Board to participate for that year in the ACT Premier Division Competition or such other replacement competition as may be decided by the Board from time to time;

"**ACTJRU**" means the Australian Capital Territory Junior Rugby Union;

"**ACTRRA**" means the Australian Capital Territory Rugby Referees Association;

"**ACTSRU**" means ACT Schools Rugby Union;

"**Affiliate Member**" means an organisation listed in clause 6.3 or any other organisation or entity, whether incorporated or unincorporated, other than an Ordinary Member, which is granted Affiliate Member status by the Board in accordance with clause 6.3.7;

"**AGM**" means Annual General Meeting;

"**Annual General Meeting**" has the meaning given to that expression in clause 8.1;

"**Appointed Director**" means a person appointed to be a Director of the Board in accordance with clause 10.5;

"**Area of Responsibility**" means the ACT and Southern NSW and surrounding areas;

"**ARU**" means Australian Rugby Union Limited;

"**Board**" means the Board of Directors of the Union;

“**Candidate**” means a person standing for election to the Board as an Elected Director or Appointed Director;

“**CEO**” means the chief executive officer of the Union appointed by the Board under clause 11.3;

“**Chair**” means the chairperson of the Board, elected under clause 10.8;

“**Constitution**” means this constitution (as amended from time to time) and any appendix annexed to this constitution;

“**Corporations Act**” means the *Corporations Act 2001* (Cth) including any amendment or re-enactment thereof for the time being in force;

“**Director**” means a member of the Board as elected or appointed under clause 10;

“**Directors’ Interests Register**” means the register containing individual Directors’ standing notice describing his or her material personal interests kept in accordance with clause 13.2(b);

“**Elected Director**” means a person elected to be a Director in accordance with clause 10.4;

“**Financial Year**” means the period from 1 October in any given year to 30 September in the following year;

“**General Meeting**” has the meaning given to that expression in clause 8 and includes the AGM;

“**Life Member**” means an honorary Life Member of the Union as elected pursuant to clause 5;

“**Life Members Group**” means collectively all of the Life Members of the Union referred to in clause 5.1.4;

“**Life Members Representative**” means the Life Member nominated by the Life Members Group under clause 5.1.4;

“**Member**” means an Ordinary Member or an Affiliate Member as the context requires.

“**Members**” means all Ordinary and Affiliate Members;

“**Nominations Committee**” means the committee described in clause 10.7;

“**NSW**” means New South Wales;

“**Objects**” means the objects of the Union as set out in clause 2.1;

“**Ordinary Member**” means an organisation referred to in clause 6.2;

“**Ordinary Resolution**” means a resolution passed by a simple majority of votes cast;

“**Monaro & Other Clubs**” means such rugby union football clubs as may be determined by the Board from time to time;

“**Patron**” means any person appointed pursuant to clause 26;

“**President**” means the President of the Union elected pursuant to clause 10.2;

“**Register of Members**” means the register of Members kept in accordance with the Corporations Act;

“**RUPA**” means The Rugby Union Players Association Incorporated;

“**Secretary**” means any person appointed under clause 17 to perform the duties of company secretary of the Union;

“**SIRU**” means Southern Inland Rugby Union Incorporated;

“**Special Resolution**” means a special resolution as defined in the Corporations Act;

“**Tax Act**” means the *Income Tax Assessment Act 1997* (Cth); and

“**Union**” means the Australian Capital Territory and Southern New South Wales Rugby Union Limited.

### 1.3 Interpretation

(a) Reference to:

(i) one gender includes the others;

(ii) the singular includes the plural and the plural includes the singular; and

(b) Expressions referring to writing must, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in the visible form;

(c) Headings are for convenience and will be disregarded for interpretation of the Constitution.

### 1.4 Replaceable Rules

The Replaceable Rules contained in the Corporations Act do not apply to the Union.

## 2. OBJECTS AND POWERS

### 2.1 Objects of the Union

The objects of the Union are:

2.1.1 to foster, promote and arrange the game of rugby union football throughout the Area of Responsibility;

2.1.2 to arrange and conduct rugby union football competitions and matches in the Area of Responsibility;

2.1.3 to undertake such other activities as the Board may determine from time to time in furthering the other Objects of the Union listed in this clause 2.1.

The Union is not carried on for the purpose of profit or gain to its individual Members.

### 2.2 Powers of the Union

The Union has the powers set out in section 124 of the Corporations Act.

## 3. INCOME AND PROPERTY

### 3.1 Application of income and property

The income and property of the Union must be applied solely to further any of the Union's Objects. No income or property may be paid or transferred directly or indirectly to Members or any persons or organisations except solely in furtherance of the Union's Objects.

### 3.2 Director's expenses

Clause 3.1 does not prohibit making a payment approved by the Board for:

- (a) out of pocket expenses incurred by a Director in performing a duty as a Director of the Union; or
- (b) a service rendered to the Union by a Director in a professional or technical capacity, other than in the capacity as a Director of the Union, where:
  - (i) the provision of the service has the prior approval of the Board; and
  - (ii) the amount payable is not more than an amount that commercially would be reasonable payment for the service,

nor does clause 3.1 prohibit payment:

- (c) in good faith to any Director for goods or services supplied in the ordinary and usual course of business;
- (d) of reasonable and proper interest on money borrowed from a Director;
- (e) of reasonable and proper rent for premises let by any Director to the Union; or
- (f) or indemnification of, or payment of premiums on contracts of insurance for, any Director to the extent permitted by law and the Constitution.

### 3.3 Remuneration of Directors

- (a) Directors shall not be paid any remuneration unless otherwise determined by a Special Resolution of Members at a General Meeting; and
- (b) the distribution of any remuneration determined in accordance with paragraph (a) shall be as determined by the Board.

## 4. MEMBERS' CONTRIBUTION AND LIABILITY

### 4.1 Liability

The liability of Members is limited to the contribution required under clause 4.2.

### 4.2 Contribution on winding up

In the event of the Union being wound up, every Member (except Life Members), while it is a Member, undertakes to contribute to the property of the Union for:

- (a) payment of the debts and liabilities of the Union contracted before that Member ceases to be a Member; and

(b) to the costs, charges, and expenses of winding up;

such amount as may be required not exceeding one dollar (\$1.00).

#### **4.3 Fees**

Every Member undertakes to pay an annual membership fee and such other fees as the Board may determine from time to time. The annual membership fee and any other fees will be payable as the Board determines.

### **5. LIFE MEMBERS**

5.1.1 Any person who has rendered distinguished service to rugby union football may be elected in accordance with this clause at any AGM as a Life Member.

5.1.2 The number of Life Members must not at any time exceed twenty (20).

5.1.3 No more than two (2) new Life Members may be elected in any one calendar year.

5.1.4 Life Members will not be entitled to vote individually at General Meetings but may appoint one (1) Life Member from the Life Members Group as its representative to vote on behalf of the Life Members Group at all General Meetings (the “**Life Members Representative**”).

5.1.5 Life Members will be entitled to such privileges as the Board may determine from time to time.

5.1.6 The procedure for nominating and electing Life Members will be determined by the Board from time to time.

5.1.7 Upon election, a Life Member’s name must be entered into the Register of Life Members.

5.1.8 The Life Members at the date of adoption of the Constitution are those persons who had previously been elected as Life Members of the Union.

### **6. THE MEMBERS OF THE UNION AND VOTING RIGHTS**

6.1 For the purposes of the Corporations Act, the Members of the Union will comprise Ordinary Members, Affiliate Members and the President.

#### **6.2 Ordinary Members**

(a) Only ACT Premier Division Clubs are entitled to be Ordinary Members.

(b) For each Financial Year, provided each has paid its annual membership fee, if any, pursuant to clause 4.3, the Ordinary Members of the Union will be each of the ACT Premier Division Clubs.

#### **6.3 Affiliate Members**

For each Financial Year, provided each has paid its annual membership fee, if any, pursuant to clause 4.3, the Affiliate Members of the Union will be:

- 6.3.1 SIRU;
- 6.3.2 ACTRRA;
- 6.3.3 Life Members Group;
- 6.3.4 ACTSRU;
- 6.3.5 ACTJRU;
- 6.3.6 South Coast Rugby Union; and
- 6.3.7 such other organisation or group as may be granted Affiliate Member status by the Board from time to time.

For the avoidance of doubt, the granting of Affiliate Member status under clause 6.3.7 does not grant the new Affiliate Member any rights to attend or vote at an AGM or General Meeting.

**6.4 Attendance and voting rights at AGMs and General Meetings**

In the following table, the natural persons holding the positions listed in Column 1 of the organisation in Column 2 will have the right to attend General Meetings on behalf of the organisation listed in Column 2 and will be entitled to cast the number of votes referred to in Column 3 on all matters on which a vote is or may be taken.

<b>Column 1 – Position</b>	<b>Column 2 – Organisation</b>	<b>Column 3 – Number of votes entitled to be cast</b>	<b>Total votes that may be cast at a General Meeting as at August 2016</b>
President or their delegate and a second nominated delegate	Each ACT Premier Division Club	2 per club	14
President or their delegate and a second nominated delegate	SIRU	2	2
President or delegate	ACTSRU	1	1
President or delegate	ACTJRU	1	1
President or delegate	South Coast Rugby Union	1	1
Nominated Representative of the Monaro and Other Clubs	Monaro and Other Clubs	1	1
President or delegate	ACTRRA	1	1
Life Members Representative	Life Members Group	1	1
<b>Total</b>	<b>14</b>		<b>22</b>

All

organisations listed in Column 2 must notify the Union prior to each General Meeting of the natural persons entitled to cast the number of votes referred to in Column 3.

The Board, or a committee delegated with this power, after requesting nominations from all relevant clubs will appoint the Nominated Representative for the Monaro and Other Clubs.

The President has a right to attend General Meetings and to be heard, but may not vote unless entitled to provide a casting vote under clause 9.9.

Every Director has a right to attend General Meetings and to be heard, but may not vote.

**7. MEMBERSHIP OF THE UNION**

**7.1 Existing Members**

Each Ordinary Member and each Affiliate Member will remain an Ordinary Member or Affiliate Member unless the Member resigns in accordance with clause 7.2 or is expelled in accordance with clause 7.3.

**7.2 Resignation from membership**

A Member may at any time by giving notice in writing to the Secretary resign from membership of the Union.

**7.3 Member Sanctions**

Subject to clause 7.4, if any Ordinary Member or Affiliate Member ("**Relevant Member**"):

- (a) wilfully refuses or neglects to comply with the provisions of the Constitution or the Corporations Act; or
- (b) is guilty of any conduct which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Union,

the Board may censure, fine, suspend or expel the Relevant Member from the Union and erase the Relevant Member's name from the Register of Members, provided that, where the proposed sanction is expulsion:

- (c) at least two (2) months before the meeting of the Board at which a resolution for the Relevant Member's expulsion is proposed to be passed, the Relevant Member must be given notice of such meeting and the allegations against the Relevant Member and of the intended resolution for the Relevant Member's expulsion, and the Relevant Member must at such meeting and before the passing of such resolution have an opportunity to give any explanation (whether orally or in writing) or defence that the Relevant Member may think fit;
- (d) any such Relevant Member may by notice in writing lodged with the Secretary at least twenty-four (24) hours before the time for holding the meeting at which the resolution for the Relevant Member's expulsion is to be considered by the Board, elect to have the question of the Relevant Member's expulsion dealt with by the Union in General Meeting; and
- (e) in that event a General Meeting is called for the purpose of clause 7.3(d), and if, at the meeting, a resolution for the expulsion of the Relevant Member is passed by a majority of two thirds of the votes of those present and entitled to be cast pursuant to clause 6.4 excluding the Relevant Member (such vote to be taken by poll), the Relevant Member will be expelled and the Relevant Member's name removed from the Register of Members.

**7.4 (a) In the case of a proposed censure, fine or suspension of a Relevant Member by the Board, the Board must give the Relevant Member at least twenty eight (28) days notice of the proposed sanction and permit the Relevant Member**



within that period to provide any written explanation or evidence to the Board that the Relevant Member thinks fit.

**(b) If the Relevant Member provides a written explanation or evidence to the Board within the twenty eight (28) day period, the Board must take that explanation or evidence into account when deciding whether or not to sanction the Relevant Member.**

**7.5 Effect of cessation of membership**

If any Member ceases to be a Member under the Constitution, the Member remains liable to pay to the Union any money which, at the time of the Member ceasing to be a Member, the Member owes to the Union on any account; and in addition for any sum for which the Member may be liable under clause 4.2.

**8. GENERAL MEETINGS**

**8.1 Annual General Meeting**

- (a) An Annual General Meeting (“AGM”) of Members must be held in accordance with the provisions of the Corporations Act at least once in every calendar year and within five months after the end of the Financial Year..
- (b) All meetings of the Union other than the AGM will be called “General Meetings”.

**8.2 Ordinary Business**

- 8.2.1 The ordinary business at an AGM and which may be disposed of by Ordinary Resolution, is as follows:
- (a) to confirm the minutes of the last preceding AGM and of any General Meeting held since that AGM;
  - (b) to receive and consider reports from the Board, auditor and staff of the Union relating to activities of the Union during the last preceding Financial Year; and
  - (c) to hold elections in accordance with the Constitution.
- 8.2.2 Unless described in the Constitution as ordinary business, all other business is special and must be passed by Special Resolution.

**8.3 Requisition by Director and Members**

- 8.3.1 The Board may, in its absolute discretion, call a General Meeting.
- 8.3.2 Upon the written request of at least four (4) Members entitled to cast one or more votes under clause 6.4, the Board must call a General Meeting.
- 8.3.3 A request for a General Meeting pursuant to clause 8.3.2:
- (i) must state the purpose or purposes of the meeting;

- (ii) must be signed, in respect of each Member making the request, by the person holding the position referred to in Column 1 of the Table in clause 6.4;
- (iii) must be lodged with the Secretary; and
- (iv) may consist of several documents in a similar form, each signed by one or more of the persons referred to in clause 8.3.3(ii).

**8.4 General Meeting by Request**

If the Board fails to call a General Meeting within one (1) month after the date when a request under clause 8.3.2 for the meeting is lodged with the Secretary, any one or more of the Members who made the request may call a General Meeting to be held not later than three (3) months after that date.

**8.5 Notice of General Meetings**

Subject to clause 8.6, at least twenty-one (21) days' notice (exclusive of both the day on which the notice is served or deemed to be served and the day for which notice is given) specifying the place the day and the hour of the meeting and in the case of special business the general nature of that business must be given to those organisations listed in Column 2 of the Table in clause 6.4.

**8.6 Short Notice**

The Board may call, on shorter notice:

- (i) an Annual General Meeting, if all the Members agree in writing beforehand; and
- (ii) any other General Meeting, if at least 95% of the votes listed in Column 3 of the Table in clause 6.4 agree in writing beforehand.

**8.7 Special Resolutions**

If a Special Resolution is to be proposed at a AGM or General Meeting, the notice must set out an intention to propose resolutions as a Special Resolution and state the resolution.

**9. PROCEEDINGS AT GENERAL MEETINGS**

**9.1 Quorum Required**

No business will be transacted at any General Meeting unless a quorum of Members is present during the General Meeting. Six (6) of the organisations listed in Column 2 of the Table in clause 6.4 present constitutes a quorum.

**9.2 Effect on Meeting if Quorum not Present**

If within half an hour from the time appointed for the General Meeting a quorum is not present, the meeting, if convened under clause 8.3.2, must be dissolved. In any

other case the meeting will stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine, and if at the adjourned General Meeting a quorum is not present within half an hour from the time appointed for the General Meeting, the Members present (being not less than four (4)) will constitute a quorum.

### 9.3 **Chairperson at General Meetings**

The President will preside as chairperson at every General Meeting. If the President is not present within 15 minutes after the time appointed for the holding of the General Meeting, or is unwilling to act, then the Chair will be the chairperson of the General Meeting. If neither the President or the Chair of the Board is present, or are unwilling to act, then the Members present shall elect one of their number to preside.

### 9.4 **Adjournment of meeting**

- (a) The chairperson of the General Meeting may, with the consent of the Members at any General Meeting at which a quorum is present (and must, if so directed by the General Meeting), adjourn the General Meeting from time to time and from place to place, but no business will be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting from which the adjournment took place.
- (b) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned General Meeting must be given as in the case of an original General Meeting. It will not be necessary to give any notice of an adjournment for the business to be transacted at an adjourned meeting.

### 9.5 **Resolutions to be decided by show of hands unless poll demanded**

At any General Meeting, a resolution put to the vote of the meeting will be decided on a show of hands (taking into account the entitlements to numbers of votes as set out in clause 6.4) unless a poll is demanded:

- (a) by the chairperson of the General Meeting; or
- (b) by at least three (3) Members present.

### 9.6 **When a poll may be demanded**

A poll may be demanded:

- (a) before a vote is taken;
- (b) before the voting result on a show of hands is declared; or
- (c) immediately after the voting results on a show of hands are declared.

### 9.7 **Declaration of resolution on show of hands**

Unless a poll is demanded under clause 9.6, a declaration by the chairperson of the General Meeting that a resolution has, on a show of hands, been:

- (a) carried;
- (b) carried unanimously;
- (c) carried by a particular majority; or

(d) lost,

and an entry to that effect in the book containing the minutes of the proceedings of the Union will be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

**9.8 Poll**

If a poll is demanded under clause 9.6, that poll will be taken in such manner as the chairperson of the General Meeting directs and the result of the poll will be the resolution of the General Meeting at which the poll was demanded.

**9.9 Chairperson of the General Meeting to have casting vote**

- (a) The chairperson of the General Meeting is **not** entitled to a deliberate vote at General Meetings.
- (b) In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the General Meeting will be entitled to a casting vote..
- (c) The chairperson of the General Meeting has a discretion both as to whether to use the casting vote and as to the way in which it is used. If a casting vote is not exercised then the resolution is deemed to be lost.

**9.10 Entitlement to Vote**

Voting rights and the number of votes to be cast at General Meetings are as set out in the table contained in clauses 6.4 and 9.9.

**9.11 Members' representatives**

The person referred to in Column 1 of the Table in clause 6.4 may attend a General Meeting. Any delegate of a Member must be notified in writing, with such notice to be received by the Secretary not less than 24 hours before the time fixed for the General Meeting.

**10. BOARD**

**10.1 Composition of the Board**

The Board will consist of a maximum of nine (9) Directors composed of:

- (a) a maximum of five (5) Directors who will be elected as Elected Directors in accordance with clause 10.4;
- (b) a maximum of one (1) Director nominated by RUPA ("**RUPA Director**");  
and
- (c) a maximum of three (3) Directors who will be appointed as Appointed Directors in accordance with clause 10.5.

**10.2 Election of President**

Each person wishing to stand for election as President must be nominated by at least two Members.

### 10.3 The President

- a. The President will be elected for a period of two (2) years at a time and, unless he or she dies, resigns or is removed from office by Members at a General Meeting, may seek re-election from time to time but the maximum period that any President may serve is six (6) years.
- b. For the avoidance of doubt, any person standing for election as President does not need the approval of the Nominations Committee.
- c. The President will be entitled to attend Board meetings and receive all notices and papers. For the avoidance of doubt, the President will not be a Director of the Union and will not be entitled to vote at Board meetings.
- d. If more than one person is nominated for election as President, a ballot will be held and the person with a majority of votes will be declared President. In the event of an equality of votes, the Presidency will be determined by lot.

### 10.4 Elected Directors

- 10.4.1 Before a person is eligible to stand for election as an Elected Director, he or she must receive the recommendation of the Nominations Committee.
- 10.4.2 A person wishing to become an Elected Director MUST, if recommended by the Nominations Committee, be put forward by the Board for approval (in this clause 10 referred to as 'election' or 'elected') by the Members at a General Meeting.
- 10.4.3 If elected, an Elected Director holds office from the end of the General Meeting at which he or she is elected.
- 10.4.4 An Elected Director wishing to offer themselves for re-election must:
  - (a) be recommended by the Nominations Committee before being eligible for re-election or appointment; and
  - (b) offer him or herself for re-election at the General Meeting closest to the second anniversary of the General Meeting at which he or she was last elected or re-elected.
- 10.4.5 An Elected Director may hold office as a Director for no more than six (6) years in total. An Elected Director's tenure ceases, if continuous, on the day after the sixth anniversary of his or her initial election or, if not continuous, the day after the cumulative total number of six (6) years as a Director is reached.
- 10.4.6 For the avoidance of doubt, the process to be followed for election of an Elected Director is as follows:
  - 10.4.6.1 A person wishing to nominate a person or a person wishing to be elected as an Elected Director (in this clause 10.4, the "**Nominee**") must notify the Secretary at least two (2) months before the due date for the General Meeting at which the election will be held.

For the first General Meeting held immediately after the date of adoption of this Constitution notification required under this clause 10.4.6.1 may be made up to one month before the due date for the General Meeting.
  - 10.4.6.2 The Secretary will notify the Nominations Committee within seven (7) days of receipt of the notification.

- 10.4.6.3 The Nominations Committee will scrutinise the Nominee's application in accordance with the requirements of clause 10.7. The Nominee will make him or herself available at a mutually convenient time or times to be interviewed by the Nominations Committee, and will answer such questions and provide such documentation and information as the Nominations Committee may require of him or her.
  - 10.4.6.4 No later than thirty (30) days before the date of the General Meeting, the Nominations Committee will notify the Board of its recommendation (under clause 10.7.4) with respect to each Nominee.
  - 10.4.6.5 If the Nominations Committee recommends the Nominee, the Nominee's name MUST be put forward by the Board for election or rejection by Ordinary Resolution at a General Meeting.
  - 10.4.6.6 If the Nominations Committee does not recommend the Nominee, the Nominee's name will not be put forward for election at the General Meeting.
- 10.4.7 A Director who has served a maximum term in accordance with clause 10.4.5 shall not be eligible to be a Director or President for six (6) years following the completion of their maximum term.

### 10.5 Appointed Directors

- 10.5.1 Before a person is eligible to become an Appointed Director, he or she must receive the recommendation of the Nominations Committee. The process to be followed for appointment of an Appointed Director is as follows:
- 10.5.1.1 If the Board wishes to appoint a person as an Appointed Director (in this clause 10.5, the "**Nominee**"), the Chair will notify the Nominations Committee.
  - 10.5.1.2 The Nominations Committee will scrutinise the Nominee's application in accordance with the requirements of clause 10.7. The Nominee will make him or herself available at a mutually convenient time or times to be interviewed by the Nominations Committee, and will answer such questions and provide such documentation and information as the Nominations Committee may require of him or her.
  - 10.5.1.3 Once it has made its decision, the Nominations Committee must notify the Board of its recommendation or otherwise (under clause 10.7.4) with respect to such Nominee.
  - 10.5.1.4 If the Nominations Committee recommends the Nominee, the Board may by Special Resolution appoint that person as an Appointed Director in accordance with the terms of this clause 10.5.
  - 10.5.1.5 If the Nominations Committee does not recommend the Nominee, the Nominee may not be appointed.
- 10.5.2 An Appointed Director will hold office for no more than two (2) years in the first instance. At the end of his or her first term, should he or she wish to continue, the Board may, by Special Resolution, re-appoint him or her under the terms of this clause 10.5 for two (2) further terms of two (2) years each. An Appointed Director must be recommended by the Nominations Committee before being eligible for re-appointment.

10.5.3 An Appointed Director may hold office as a Director for no more than six (6) years in total. An Appointed Director's tenure ceases, if continuous, on the day after the sixth anniversary of his or her initial appointment or, if not continuous, the day after the cumulative total of six (6) years is reached.

10.5.4 A Director who has served a maximum term in accordance with clause 10.5.3 shall not be eligible to be a Director or President for six (6) years following the completion of their maximum term.

**10.6 Casual Vacancy**

The Board may, from time to time, appoint any person as a Director to fill a casual vacancy of an Elected Director. Any such appointment shall hold office until the end of the General Meeting following the date of appointment.

### 10.7 Nominations Committee

10.7.1 It is important that the Board is comprised of Directors with a variety of skills and experience, and who act in the best interests of the Union as a whole. With a view to implementing best practice governance and for the purpose of establishing and maintaining a best practice, independent and skills-based Board, the Board will establish a Nominations Committee. The Nominations Committee will comprise:

10.7.1.1 one Director nominated by the Board;

10.7.1.2 one person who will be independent of the Board and of Members and who may be nominated by any Director or any Member but who must be agreed to by three quarters of all Directors;

10.7.1.3 two persons who will be independent of the Board and the Members and will be appointed by the Members in a manner to be determined by the Board in consultation with the Members.

10.7.2 The Nominations Committee will scrutinise the qualifications and qualities of every person who is being considered as either an Elected Director or an Appointed Director (“**Candidate**”) before they are offered for election or are appointed.

10.7.3 In its deliberations upon each Candidate, the Nominations Committee must take into account the Union’s strategic, operational and other needs and its desire to have an experienced and broadly-skilled Board, and must consider each Candidate’s skills, experience and competencies as it considers relevant. In addition, the Nominations Committee must operate in accordance with its Charter approved by the Board.

10.7.4 The Nominations Committee will determine in respect of each Candidate whether it considers the Candidate would be a suitable Director or not, and it must advise the Board whether it recommends the Candidate in accordance with clauses 10.4.1 and 10.5.1. The Board will not appoint a person as an Appointed Director unless recommended in accordance with clause 10.5.1 and it will not offer a person for election as an Elected Director unless recommended in accordance with clause 10.4.1.

10.7.5 The Nominations Committee charter will be as drafted and directed by the Board and must comply with this clause 10.7.

### 10.8 Chair

(a) The Board may appoint a Director to be the Chair.

(b) The Chair will preside at all meetings of the Board.

### 10.9 Number of Directors may be Increased or Reduced

The Union may from time to time by Special Resolution passed at a General Meeting increase or decrease the number of Directors.

### 10.10 Removal of Director by Resolution

(a) The Union may by Ordinary Resolution passed at a General Meeting remove any Director before the expiration of his or her period of office if that Director is guilty of any conduct, which, in the opinion of the Board, is unbecoming of a Director or prejudicial to the interests of the Union.



- (b) The Union may by Resolution passed at a General Meeting remove any Director (in accordance with the Corporations Act.

### 10.11 Vacancy

The office of a Director will become vacant if the Director:

- (a) ceases to be a Director by virtue of the Corporations Act;
- (b) becomes bankrupt or makes any arrangement or composition with his or her creditors generally;
- (c) becomes prohibited from being a director of a company by reason of any order made under the Corporations Act;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (e) resigns their office by notice in writing to the Union;
- (f) is absent without permission of the Board from three (3) consecutive Board meetings;
- (g) is removed from office pursuant to clause 10.10;
- (h) is directly or indirectly interested in any contract or proposed contract with the Union and fails to declare the nature of the interest in the manner required by the Corporations Act.
- (i) during the tenure of his or her appointment, holds, takes up or accepts any position as an officer of a Member or as an employee, or coach of the Union or a Member.

PROVIDED ALWAYS THAT nothing in this clause will affect the operation of clause 3 of the Constitution.

### 10.12 Application to office bearers holding office at date of adoption of the Constitution

- (a) The President holding office at the date of adoption of the Constitution will be required to stand for re-election, should he or she wish to do so, at the first AGM after the adoption of the Constitution, and thereafter is subject to the provisions of the Constitution as if he or she had first been elected under the Constitution.
- (b) Directors holding office at the date of adoption of the Constitution will be required to stand for re-election in accordance with the provisions of the Articles of Association or other governing document under which they were elected or appointed prior to the date of adoption of the Constitution.
- (c) Clauses 10.4.5 and 10.5.3 apply retrospectively to these Directors. For the avoidance of doubt, this means that each Director holding office at the date of adoption of the Constitution, regardless of whether he or she was first elected or appointed before the adoption of the Constitution, will be limited to a maximum tenure of six (6) years as a Director, to be calculated in accordance with the provisions of clauses 10.4.5 or 10.5.3 as the case may be.
- (d) Clauses 10.4.1, 10.5.1 and 10.7.2 do not apply to Directors holding office at the date of adoption of the Constitution.

**11. POWERS AND DUTIES OF THE BOARD**

**11.1 General Business Management**

- (a) The business of the Union is to be managed by or under the direction and control of the Board. The Board is to meet at least five (5) times per year.
- (b) The Board may exercise all the powers of the Union except any powers that the Corporations Act or the Constitution requires the Union to exercise in a General Meeting.
- (c) The Board may not delegate the following powers and functions:
  - (i) receipt and consideration of reports of the auditor and any audit committee;
  - (ii) establishment and membership of committees of the Board;
  - (iii) appointment of the CEO; and
  - (iv) acquisition, sale, mortgaging or otherwise disposing of or dealing with property.
- (d) Subject to clauses 10.7 and 11.1(c) the Board may delegate any of its powers to committees (not being duties imposed on the Board or Directors at law) and:
  - (i) any committee so formed must comply with any direction that may be given by the Board;
  - (ii) the members of each committee established by the Board must include at least one Director;
  - (iii) each Committee will have the power to co-opt any person to advise and assist the committee in the discharge of its functions; and
  - (iv) each member of such committees will have one vote on the committee.
- (e) A committee must exercise the power delegated to it in accordance with any directions of the Board. The exercise of the power by the committee is as effective as if the Board had exercised that power.
- (f) A rule made or resolution passed by the Union in a General Meeting does not invalidate any prior act of the Directors that would have been valid if that rule or resolution had not been made or passed.
- (g) The Directors may pay out of the property of the Union all expenses incurred in promoting the Union.
- (h) All cheques, promissory notes, draft bills of exchange and other negotiable instruments, other than those approved under an annual budget or otherwise, must be drawn, accepted, endorsed or otherwise executed as the case may be by any two Directors or in such manner as the Board from time to time determines.

- (i) The Board must ensure that appropriate registers are kept including, but not limited to, a Register of Members, a Register of Life Members and a Directors' Interests Register.

### 11.2 Borrowing Powers

Without limiting the generality of clause 11.1, but subject to clause 3.1, the Board may exercise all the powers of the Union to borrow money and to mortgage or charge its property, or any part its property, and to issue debentures or give any other security for any debt, liability, or obligation of the Union.

### 11.3 Appointment of CEO

- 11.3.1 From time to time the Board may appoint a CEO on terms agreed by it, including the remuneration to be paid to the CEO.
- 11.3.2 The CEO is not a member of the Board, but will have a standing invitation to attend meetings of the Board unless excused from doing so by the Chair or where the Board otherwise requests.
- 11.3.3 A CEO may not be appointed to the Board within three (3) years after he or she ceases to be CEO. This restriction does not apply to a person who has acted from time to time in the position of CEO due to the absence of the CEO on leave or while the CEO is away on Union business or during a period when the position of CEO is vacant.
- 11.3.4 The CEO will be responsible for the day-to-day management of the Union subject always to the Corporations Act and direction of the Board.
- 11.3.5 The Board may:
  - (a) subject to clause 11.1, confer on the CEO any of the powers that the Board may exercise, and vary or revoke a conferral of any power on the CEO; and
  - (b) terminate the appointment of the CEO.

### 11.4 Minutes to be Kept

The Board must cause minutes to be made of:

- (a) the names of Members present at all General Meetings and the names of all Directors present at all meetings of the Board; and
- (b) all proceedings at all General Meetings and all meetings of the Board.

### 11.5 Minutes to be Signed by Chair

All minutes of each General Meeting and meeting of the Board must be signed within a reasonable time by the Chair of the meeting at which the proceedings were held or by the Chair of the next succeeding meeting, or if the minutes are unavailable at the next meeting, then at the earliest opportunity afforded by a subsequent meeting.

## 12. PROCEEDINGS OF THE BOARD

### 12.1 Board Meetings

The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it thinks fit. A Director may at any time, and the Secretary must on the request of a Director, summon a meeting of the Board. The Board may meet personally or through any available means of electronic audio or audio/visual means as the Board may determine.

### 12.2 Board to Decide by Majority

Subject to the Constitution, questions arising at any meeting of the Board must be decided by a majority of votes and a determination by a majority of the Directors will for all purposes be a valid determination of the Board. In case of an equality of votes the Chair of the meeting will have a second or casting vote.

### 12.3 Quorum for Board Meetings

The quorum necessary for the transaction of the business of the Board is five (5) Directors or such greater number as may be fixed by the Board and the quorum must be present at all times during the meeting.

### 12.4 Board may continue to act notwithstanding a vacancy

The Directors may act notwithstanding any vacancy in the Board, but if and so long as their number is reduced below the number fixed by or pursuant to the Constitution as the necessary quorum of the Board, the Directors at that time may act only in an emergency or for the purpose of increasing the number of Directors to that number or summoning a General Meeting of the Union but for no other purpose.

### 12.5 Chair of Meetings

The Chair will preside at every meeting of the Board, or if at any meeting the Chair is not present within fifteen (15) minutes after the time appointed for holding the meeting, the Directors may choose a Director to chair the meeting.

### 12.6 Technology meetings of directors

12.6.1 A Board meeting may be held using telephone or other technology (“**technology meeting**”).

12.6.2 The following provisions apply to a technology meeting:

12.6.2.1 each of the Directors taking part in the meeting must be able to hear and be heard by each of the other Directors taking part in the meeting; and

12.6.2.2 at the commencement of the meeting each Director must announce his or her presence to all the other Directors taking part in the meeting.

12.6.3 If the Secretary is not present at a technology meeting, one (1) of the Directors present or another person nominated by the Directors present at the meeting must take minutes of the meeting.

12.6.4 A Director may not leave a technology meeting by disconnecting his or her link to the meeting unless that Director has previously notified the Chair.

12.6.5 A Director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that Director has previously obtained the express consent of the Chair to leave the meeting.

**13. DIRECTORS' INTERESTS**

**13.1 Directors' Interests**

- 13.1.1 A Director shall declare to the Directors any material personal interest or related party transaction, as defined by the Corporations Act, as soon as practicable after that Director becomes aware of their interest in the matter.
- 13.1.2 Where a Director declares a material personal interest or in the event of a related party transaction, that Director must absent himself or herself from discussion of such matter and shall not be entitled to vote in respect of such matter unless otherwise determined by the Directors.
- 13.1.3 In the event of any uncertainty in this regard, the issue shall immediately be determined by a vote of the Directors or, if this is not possible, the matter shall be adjourned or deferred to the next meeting.

**13.2 Notice of interest**

- (a) A Director who has an interest in a matter must give the other Directors notice of the nature and extent of the interest in the matter. The notice may be given at any time whether or not the matter relates to the affairs of the Union at the time the notice is given.
- (b) To this end, the Board must maintain a Directors' Interests Register, which will contain Directors' standing notices of material personal interests. Each Director must provide the Secretary with a document describing all such interests as soon as possible after election or appointment. The Directors' Interests Register must be accessible by all Directors. Each Director must update his or her standing notice of interest as soon as his or her material personal interests change.
- (c) A notice under clause 13.2(a) may be given:
- (i) at a Directors' meeting (either orally or in writing); or
  - (ii) to the other Directors individually in writing.
- (d) The Director must ensure that the nature and extent of the interest is recorded in the minutes of the meeting at which the standing notice is given or tabled.

**14. PROCEEDINGS OF COMMITTEES**

- 14.1 Except as provided in a direction of the Board, the meetings and proceedings of committees must be governed by a committee charter approved by the Board.

**14.2 Composition of Committees**

Subject to clauses 10.7 and 14.3, a committee may consist of Directors and other persons determined by the Board.

**14.3 Chair of Committees**

Subject to clause 10.7, the Board will appoint a chair of each committee. If at any meeting the committee chair is not present within fifteen (15) minutes after the time appointed for holding

the meeting, the members present may choose one committee member to be chair of the meeting.

### 14.4 Meetings of Committees

- (a) A committee may meet and adjourn as it thinks fit. A resolution on a matter before a committee arising at any meeting of the committee must be determined by a majority of votes of the committee members present, and in the case of an equality of votes the committee chair will have a second or casting vote.
- (b) The committee chair has discretion both as to whether or not to use the casting vote and as to the way in which it is used.
- (c) The quorum necessary for the transaction of business by a committee will be a majority of the members of the committee.

14.5 This clause 14 applies to meetings of Board committees as if all members of the committee were Directors.

## 15. VALIDITY OF ACTS

15.1 If it is discovered that:

- (a) there was a defect in the appointment of a person as a Director or member of a committee; or
- (b) a person appointed to one of those positions was disqualified from the office of Director,

all acts of the Directors or of the Board and its committees before the discovery was made are as valid as if the person had been duly appointed and was not disqualified.

## 16. CIRCULATING RESOLUTIONS

16.1 The Directors may pass a resolution in respect of a matter without a Board meeting being held if at least six (6) Directors entitled to vote on the resolution, or such greater number as may be fixed from time to time by the Board, consent to the resolution in accordance with the manner described in clause 16.5.

16.2 Separate copies of a document may be used for signing by Directors if the wording of the resolution and statement is identical in each copy.

16.3 The outcome of a resolution that is passed in accordance with clause 16.1, will be included for noting in the minutes of the next meeting of the Directors.

16.4 Any document referred to in this clause may be in the form of a facsimile transmission, electronic notification, or produced by other electronic or mechanical means.

16.5 A Director may consent to a resolution by:

- (a) signing a document containing the resolution (or a copy of the document), either physically or electronically and delivering it to the Secretary or the Chair, either physically or electronically;
- (b) sending the consent in any document produced under the name of the Director with the Director's authority;

- (c) delivering to the Union's registered office a written document addressed to the Secretary or the Chair, signifying assent to the resolution and either setting out its terms or otherwise clearly identifying the resolution; or
  - (d) telephoning the Secretary or the Chair and signifying assent to the resolution and clearly identifying its terms.
- 16.6 The resolution is passed when the last of the required number of Directors, as set out in clause 16.1, consents to the resolution in accordance with clause 16.5.

### 17. SECRETARY

The Board must appoint a person to act as Secretary and, as provided by the Constitution, the Corporations Act or general law, the Secretary will have the powers and duties conferred upon him or her by the Board. The Secretary will, in accordance with the Corporations Act, be appointed by the Board for such term, at such remuneration and upon such conditions as the Board thinks fit and any Secretary so appointed may be removed by the Board.

### 18. ACCOUNTS

- 18.1 The Directors must cause proper accounting and other records to be kept in accordance with the Corporations Act and generally accepted accounting principles.
- 18.2 The Directors must distribute and lodge with Australian Securities and Investments Commission copies of every financial statement (including every document required by law to be attached to it) as required by the Corporations Act.

### 19. AUDIT

- 19.1 Subject to the Corporations Act, a registered company auditor must be appointed.
- 19.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Corporations Act.

### 20. NOTICES

#### 20.1 Service of Notices

- (a) Notice may be given by the Union to any person who is entitled to a notice under the Constitution:
  - (i) by serving it on the person; or
  - (ii) by sending it by post, courier, facsimile transmission or electronic notification (including email) to the person at the person's address shown in the Register of Members or the address supplied by the person to the Union for sending notices to the person.
- (b) A notice sent by post or courier is taken to be served:
  - (i) by properly addressing, prepaying and posting or directing the delivery of the notice; and
  - (ii) on the Business Day after the Business Day on which it was posted or given to the courier for delivery.
- (c) A notice sent by facsimile transmission or electronic notification is taken to be served:



- (i) by properly addressing the facsimile transmission or electronic notification and transmitting it; and
  - (ii) on the day of its transmission except if transmitted after 5.00 pm in which case it is taken to be served on the next Business Day.
- (d) Subject to the Corporations Act, the signature to a written notice given by the Union may be written or printed.
- (e) For the purposes of the Constitution, a reference to a **Business Day** means a day that is not a Saturday, Sunday or a public holiday or bank holiday in the Australian Capital Territory.

#### 20.2 **Persons entitled to notice**

- (a) In compliance with clause 8.5, notice of every General Meeting must be given to:
- (i) to all Members;
  - (ii) every Director;
  - (iii) the Life Member Representative;
  - (iv) the Monaro and Other Clubs Representative; and
  - (v) any auditor.
- (b) No other person is entitled to receive notice of a General Meeting.

#### 21. **EMPLOYEES AND CONTRACTORS**

The Board may employ or contract any person or corporation and pay such salaries or remuneration and for such periods and on such terms as it shall think fit and may, subject to conditions of engagement of such employees or contractors, dispense with their services and re-appoint them or appoint other employees or contractors as it thinks fit.

#### 22. **COMMON SEAL**

22.1 The Union may, but need not, have a common seal.

##### 22.2 **Use of common seal**

- (a) If the Union has a common seal the Directors must provide for its safe custody.
- (b) The common seal may not be fixed to any document except by the authority of a resolution of the Directors or of a committee of the Directors duly authorised by the Directors.
- (c) The Union may only execute a document with its common seal if the fixing of the seal is witnessed by:
- (i) two (2) Directors;
  - (ii) a Director and the Secretary; or
  - (iii) a Director and any other person authorised by the Directors for that purpose.

##### 22.3 **Execution of documents without common seal**

- (a) The Union may execute documents without using a common seal in such manner as the Board may from time to time direct or if the document is signed by:
  - (i) two (2) Directors; or
  - (ii) a Director and either the Secretary or the CEO.

**23. Indemnity**

**23.1 Indemnity of officers**

- (a) This clause 23 applies to every person who is or has been:
  - (i) a Director, CEO or Company Secretary of the Union; and
  - (ii) to any other officers, employees, former officers or former employees of the Union or of its related bodies corporate as the Directors in each case determine.

Each person referred to in this paragraph (a) is referred to as an Indemnified Officer for the purposes of the rest of this clause 23.

- (b) The Union will indemnify each Indemnified Officer out of the property of the Union against:
  - (i) every liability (except a liability for legal costs) that the Indemnified Officer incurs as an Officer of the Union or of a related body corporate of the Union; and
  - (ii) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings, whether civil or criminal or of an administrative or investigatory nature, in which the Indemnified Officer becomes involved as an officer of the Union or of a related body corporate of the Union,

unless:

- (iii) the Union is forbidden by statute to indemnify the person against the liability or legal costs; or
- (iv) an indemnity by the Union of the person against the liability or legal costs would, if given, be made void by statute.

**23.2 Insurance**

The Union may pay or agree to pay, whether directly or through an interposed entity, a premium for a contract insuring an Indemnified Officer against liability that the Indemnified Officer incurs as an officer of the Union or of a related body corporate of the Union including a liability for legal costs, unless:

- (a) the Union is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Union paid the premium, be made void by statute.

**23.3 Deed**

The Union may enter into a deed with any Indemnified Officer or a deed poll to give effect to the rights conferred by clause 23.1 on the terms the Directors think fit (as long as they are consistent with clause 23)."

**24. WINDING UP**

- 24.1 Subject to clause 4.2, if upon the winding up or dissolution of the Union any property remains, and after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the Members but must be given or transferred to such other funds, authorities or institutions determined by the Members at or before the time of winding up or dissolution.
- 24.2 If the Members do not make the necessary determination under clause 24.1, the Union may apply to the Supreme Court of the Australian Capital Territory to determine such funds, authorities or institutions.
- 24.3 No fund, authority or institution is eligible to receive property under this clause 24 unless:
- (a) it has objects similar to the Objects;
  - (b) its constitution or other constituent document prohibits the distribution of its income and property among its members to an extent at least as great as is imposed on the Union under the Constitution;
  - (c) it is income exempt under the Tax Act.

**25. ALTERING THE CONSTITUTION**

The Constitution may be altered by Special Resolution at a General Meeting.

**26. PATRONS**

The Board may appoint or remove one or more patrons of the Union ("**Patrons**") from time to time who will hold that office for as long as the Board may determine. The Patrons will be entitled to attend all meetings of the Union but will not be entitled to vote.

**27. COMPETITIONS**

The Union may conduct such competitions as the Board may from time to time determine.

**28. BY-LAWS**

The Board may make, repeal, amend or alter such rules and regulations and by-laws as it considers necessary for the proper conduct of the Union's business and competitions and which are consistent with the Objects and intent contained in the Constitution.