



**BERWICK BASKETBALL CLUB INC.  
REGISTRATION NO. A0021122Y  
Date of Incorporation: 20 June 1990**

# **RULES OF INCORPORATION**

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## **PART 1 – PRELIMINARY**

### **1. Name and Registration Number**

- (1) The name of the organisation is the "Berwick Basketball Club Inc." hereinafter referred to as "the Club".
- (2) Pursuant to s.23 of the Incorporated Associations Act ("the Act") the name and registration number (A0021122Y) shall appear on all business documents, advertisements and publications. **Note: Penalty – 5 penalty units.**
- (3) Business documents include documents issued, signed or endorsed by or on behalf of the Club including:
  - (a) letters;
  - (b) statement of accounts or invoices;
  - (c) cheques; and
  - (d) receipts.

### **2. Registered Address**

- (1) The registered address of the Club is PO Box 749, Berwick 3806.
- (2) The registered address may be altered and determined from time to time by resolution of the Committee.

### **3. Purpose**

- (1) The purpose of the Club is to:
  - (a) promote the game of basketball in the Berwick area;
  - (b) provide the opportunity for people in the Berwick area to play and learn the skills of basketball;
  - (c) field teams in local basketball competitions; and
  - (d) encourage a spirit of co-operation and friendship amongst the members of the club.

#### 4. Financial Year

The financial year of the Club is the period 1 October to 30 September of each year.

#### 5. Definitions

In these Rules, the following terms are defined as:

<b>TERM</b>	<b>DEFINITION</b>
The Act	<i>Associations Incorporation Reform Act (Vic) 2012.</i>
s.55 or ss.55 & 56	Refers to a section or sections of the <i>Associations Incorporation Reform Act (Vic) 2012</i> which is relevant to the rule in which it appears
The Club	Berwick Basketball Club Inc.
Member	As defined in Part 3, Rule 8.
Member entitled to vote	As defined in Part 3, Rule 8, being a financial member over the age of 18 years.
Committee	The Committee of Management as elected by the members, responsible for the administration and management of the Club.
Disciplinary Hearing Panel	The three independent members nominated by the President to hear cases of alleged misconduct by a member of the Club
General Meeting	Includes Annual General Meetings, Special General Meetings.
Special resolution	A resolution that requires not less than three-quarters of the members voting at a general meeting to vote in favour of the resolution.
The Registrar of Incorporated Associations	Registrar of Incorporated Associations pursuant to <i>Public Administration Act 2004.</i>
Penalty Units	Penalty applied to infringements against the Act. The value of 1 penalty unit can be found on CAV website: <a href="http://www.consumer.vic.gov.au/clubs-and-not-for-profits/incorporated-associations/penalties">http://www.consumer.vic.gov.au/clubs-and-not-for-profits/incorporated-associations/penalties</a>

## PART 2 – POWERS OF THE CLUB

#### 6. Powers of the Club

- (1) Subject to the Act, the Club has the power to do all things to achieve its purposes, including but not limited to:

- (a) acquire, hold and dispose of real or personal property;
  - (b) open and operate accounts with financial institutions;
  - (c) invest its money in any security in which trust monies may lawfully be invested;
  - (d) raise and borrow money on any terms and in any manner it thinks fit;
  - (e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
  - (f) appoint agents to transact business on its behalf; and
  - (g) enter into any other contract it considers necessary or desirable.
- (2) The Club may only exercise its powers and use its income and assets (including any surplus) for its purposes.

## **7. Not for Profit Organisation**

The Club's assets and income shall be applied solely to achieve its purpose as outlined in rule 3(1) and no portion shall be distributed directly or indirectly to the members of the organisation, except as bona fide compensation for services rendered or expenses incurred on behalf of the Club. **Note: Penalty – 60 penalty units.**

# **PART 3 – MEMBERSHIP, FEES, DISCIPLINARY PROCEDURES & GRIEVANCES**

## **Division 1 – Membership**

### **8. Club Membership**

- (1) Club Membership may be conferred on:
- (a) any person wishing to join a team fielded by the Club, provided that they have completed an Application for Membership (refer rule 9) and paid the prescribed membership fee (refer rule 14) A person, accepted as a member under this rule shall be described as a **Playing Member**;

- (b) the parent/s, or legal guardian/s of any Playing Member who is a minor (refer rule 8(1)(a). Person/s accepted under this rule shall be described as a **Parent/Guardian Member**;
- (c) any team official (coach or team manager) who is not otherwise a member under rule 8(1)(a) or (b). A person accepted under this rule shall be described as a **Team Official Member**;
- (d) any person elected to the Club Committee who is not otherwise a member under rule 8(1)(a), 8(1)(b) or 8(1) (c). A person accepted under this rule shall be described as an **Elected Member**;
- (e) **Honorary members:** At any scheduled Committee meeting, a Committee member may nominate a person for honorary membership, and:
  - (i) such membership shall be granted, subject to a simple majority decision of the Committee at that meeting;
  - (ii) the membership of honorary members shall be maintained for a period of twelve (12) months after which the Committee may extend such membership for a further twelve (12) months, at its discretion;
- (f) **Life Members:** All persons awarded Life Membership by the Club (see rule 61) are deemed to be members of the Club.

## 9. Application for Membership

- (1) A prospective new member or any person wishing to renew membership (or the parent or guardian in the case of a minor) must complete the approved Club Registration form agreeing to:
  - (a) support the purposes of the Club;
  - (b) comply with these Rules; and
  - (c) comply with the Club's Rules of Membership.
- (2) The application must be accompanied by the applicable player administration fee (membership fee), as determined by the Committee pursuant to rule 14.

- (3) The Committee reserves the right to refuse membership and no reason need be given for the rejection of an application.

## **10. Register of Members**

- (1) In accordance with s.56 of the Act, a Register of Members shall be maintained by the Registrar. **Note: Penalty – 10 penalty units.**
- (2) The register of members shall include:
  - (a) for each current member:
    - (i) the member's name;
    - (ii) the address for notice last given by the member;
    - (iii) the date of becoming a member; and
    - (iv) any other information determined by the Committee; and
  - (b) for each former member:
    - (i) the date of ceasing to be a member; and
    - (ii) the personal details other than the member's name shall be removed from the Register within 14 days of ceasing membership.
- (3) A member may request in writing to the Registrar, that the availability of personal information be restricted to the Registrar and members of the Committee.
- (4) Any member may, at a reasonable time and free of charge, inspect the register of members. **Note: Penalty – 5 penalty units.**

**Note:** Section 58 of the Act provides that it is an offence to make improper use of information about a person obtained from the Register of Members.

## **11. General Rights of Members**

- (1) A member is entitled to vote if:
  - (a) the member is a member pursuant to rule 8;
  - (b) the member is over the age of 18 years; and
  - (c) the member's membership rights are not suspended for any reason, including outstanding membership fees.



- (2) A member of the Club who is entitled to vote has the right to:
  - (a) receive notice of general meetings and of proposed special resolutions in the manner and time prescribed by these Rules;
  - (b) submit items of business for consideration at a general meeting;
  - (c) attend, be heard and vote at general meetings;
  - (d) inspect and/or make copies of the minutes of general meetings, the financial records, and any other relevant document of the Club as provided under sub-rule (2) with the exception of Minutes of Committee meetings;
  - (e) inspect the register of members; and
  - (f) receive a copy of these Rules upon request, free of charge.
- (3) For the purposes of this rule ‘relevant documents’ means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Club and includes the following:
  - (a) its membership records;
  - (b) its financial statements;
  - (c) its financial records; and
  - (d) records and documents relating to transactions, dealings, business or property of the Club.
- (4) The Committee may refuse to permit a member to inspect records of the Club that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Club.
- (5) The rights of a member are not transferable and end when membership ceases.

## **12. Obligations and Liabilities of Members**

- (1) Members shall abide by these rules, and the Club’s Rules of Membership and By-laws.

- (2) Members who wish to be entered as playing members shall comply with the Club's requirements to register in each season.
- (3) Members shall pay the season membership fee by the due date.
- (4) Members who fail to pay the membership fee shall have all membership rights suspended in accordance with Rule 14(7).
- (5) Members shall not be liable to contribute to the debts and liabilities of the Club, or to the costs and expenses of winding up the Club.

### **13. Ceasing Membership**

- (1) A person is deemed to have ceased or resigned their membership if they fail to register for a season, or membership fees remain unpaid for more than two months beyond the due date.
- (2) A person ceases to be a member of the Club if they are expelled under Division 3 of these Rules.
- (3) If a person ceases to be a member of the Club the Registrar must, as soon as practicable, enter the date the person ceased to be a member in the register of members.

## **Division 2 - Fees**

### **14. Fees**

- (1) There shall be no joining fee, unless otherwise determined by the Committee.
- (2) Player membership fees shall be paid on a "user pays" basis in conjunction with each season of competition.
- (3) The player membership fee, which is levied for the purpose of meeting the costs associated with entering teams in competitions, shall be reviewed annually and determined by the Committee after consideration of the budget forecast for the next twelve (12) month period.
- (4) The Committee shall determine the manner and timing of payment of the fees, and the fee structure for families and new members who join after the start of a season.

- (5) Non-playing members, being those members described in rule 8(1)(b) to 8(1)(f), shall not be liable for any subscription or membership fee other than the player membership fee on behalf of their child/ren.
- (6) A playing member for whom the membership fee has not been paid by the due date shall not be entitled to participate with a team in training or competition.
- (7) All rights of a member (and their parent/s or guardian/s if the member is under 18 years of age) who has not paid the membership fee by the due date, including the right to participate in training and competition, and the right to vote, are suspended until the fee is paid.

### **Division 3 - Disciplinary Action & Dismissal of Members**

#### **15. Grounds for Taking Disciplinary Action**

The Club may take disciplinary action against a member in accordance with these Rules, if it is determined that the member:

- (a) has failed to comply with these Rules;
- (b) has failed to comply with the Club's Rules of Membership and By-Laws;
- (c) otherwise refuses to support the purposes of the Club; or
- (d) has engaged in conduct prejudicial to the Club or that would bring the Club into disrepute.

#### **16. Disciplinary Process**

- (1) Where a report is made to the Committee indicating that the conduct of a member is in breach of these rules and/or is likely to draw the Club into disrepute, the President shall nominate three (3) independent members to form a Disciplinary Hearing Panel.
- (2) The members of a Disciplinary Hearing Panel may be Committee members, or members of the Club, but must not be biased against or in favour of the member concerned.
- (3) The Disciplinary Hearing Panel shall conduct a hearing in accordance with these Rules.

## **17. Disciplinary Action – Notice to Member**

- (1) The Disciplinary Hearing Panel shall:
  - (a) give 14 days' notice in writing to the member that the Club intends to take disciplinary action against the member; and
  - (b) state the grounds for the proposed disciplinary action.
- (2) All involved parties shall be advised of the time, date and location of the hearing.

## **18. Conduct of a Disciplinary Hearing**

- (1) The Disciplinary Hearing Panel shall nominate one of their number as chair.
- (2) The hearing shall give the member/s involved in the complaint the opportunity to present verbal evidence and written statements as to the relevant facts in their defence.
- (3) Witnesses to the material facts and circumstances of the complaint may be called to give evidence by the Club/complainant and by the accused member.
- (4) No professional legal representative will be heard by the Disciplinary Hearing Panel on behalf of the member, however a maximum of two character witnesses (who are not witness to the material facts) will be permitted to speak in support of the member.

## **19. Decision of Disciplinary Hearing Panel**

- (1) When all parties have been given reasonable opportunity to present their case, the members of the Disciplinary Hearing Panel shall withdraw to consider their decision, which must be delivered within 10 days of the hearing.
- (2) If the decision is “not guilty” the Disciplinary Hearing Panel will notify the member that no further action will be taken against the member.
- (3) If the Disciplinary Hearing Panel finds the conduct is proven, it will determine the penalty to apply which may be:
  - (a) a reprimand;

- (b) suspension of membership for a period to be determined by the Disciplinary Hearing Panel;
  - (c) in the case of a team official (coach or team manager) or committee member, suspension from their position for a period to be determined (noting that such suspension does not constitute suspension of membership rights);
  - (d) in the case of a team official (coach or team manager) or committee member, permanent removal from the position (noting that such removal does not constitute suspension of membership rights); or
  - (e) expulsion from the Club.
- (4) The suspension or removal from a position of team official or committee member, and suspension of membership rights or the expulsion of a member by the Disciplinary Hearing panel under this rule takes effect immediately after the vote is passed.
- (4) There shall be no refund of membership fees to any member suspended or expelled under rule 19(3)(b) and/or 19(3)(e).
- (5) The findings of the Disciplinary Hearing Panel shall be final and there shall be no right of appeal except in circumstances where the penalty is suspension of membership under rule 19(3)(b) or expulsion as a member under rule 19(3)(e).

## **20. Effect of Expulsion of a Child Member**

- (1) In the event of the expulsion of a child member who has no sibling who is also a child member of the Club:
- (a) the parent/s or the legal guardian/s of the expelled child shall immediately cease to be members also;
  - (b) if the parent/s or legal guardian/s of the expelled child is a team official at the time, their position shall immediately cease; and
  - (c) if the parent/s or legal guardian/s of the expelled child is a Committee member at the time, their position on the Committee shall immediately be declared vacant.

- (2) In the event of the expulsion of a child member who has a sibling who is also a child member of the Club, the parent/s or the legal guardian/s of the expelled child shall continue to be members.

## **21. Right of Appeal**

- (1) There shall be one (1) right of appeal against the penalty in circumstances where the penalty is suspension of membership rights or expulsion from membership under rule 19(3)(b) or (e).
- (2) A Notice of Appeal must be in writing and given:
  - (a) to the Disciplinary Hearing Panel immediately after the vote is taken to suspend or expel the person; or
  - (b) to the Secretary not later than 48 hours after the vote.
- (3) If a person has given notice under sub-rule (2), a Disciplinary Appeal Panel must be convened by the Committee as soon as practicable, but not later than 21 days after the notice is received.

## **22. Disciplinary Appeal Panel**

- (1) The Disciplinary Appeal Panel shall consist of the President and two (2) members independent of the initial proceedings, and the President shall chair the Panel. In the event the President is not independent the Vice President or other suitable member shall be nominated as Chair.
- (2) The Appeal Panel shall have the power to:
  - (a) Dismiss the appeal;
  - (b) Uphold the appeal in whole or in part;
  - (c) Reduce, increase or otherwise vary the penalty.
- (3) A decision to vary the penalty may include:
  - (d) reducing or increasing the period of suspension;
  - (e) reducing a penalty of expulsion to a period of suspension;
  - (f) increasing a period of suspension to a penalty of expulsion; or
  - (g) imposing a reprimand;

### **23. Notice of Disciplinary Appeal Hearing**

- (1) As soon as practicable, Notice of the Disciplinary Appeal Hearing specifying the date, time and place of the hearing must be given to the member and must state:
  - (a) the name of the person appealing the decision;
  - (b) the penalty imposed; and
  - (c) the grounds for issuing that penalty..

### **24. Conduct of Disciplinary Appeal Hearing**

- (1) At a disciplinary appeal hearing:
  - (a) no matters other than the question of the penalty may be heard; and
  - (b) the person whose membership has been suspended or who has been expelled must be given an opportunity to be heard.
- (2) After hearing from the member the Disciplinary Appeal Panel may withdraw to consider whether the penalty should be upheld or overturned, or varied.
- (3) The decision of the Disciplinary Appeal Panel shall be carried if at least two of the three Appeal Panel members vote in favour of the decision.
- (4) The decision of the Disciplinary Appeal Panel is final and there shall be no further appeal.

## **Division 4 - Grievance Procedure, Disputes & Mediation**

### **25. Application**

- (1) The grievance procedure set out in this rule applies to disputes under these Rules between:
  - (a) a member and another member; or
  - (b) a member and the Committee.
- (2) A member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure until the disciplinary procedure has been completed.

- (3) The parties to the dispute must meet and discuss the matter in dispute, and if possible resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (4) A member may appoint another person, other than a professional legal representative, to speak on their behalf.

## **26. Appointment of Mediator**

- (1) If the parties are unable to resolve the dispute at the meeting described in rule 26(3), or if a party fails to attend that meeting, then the parties must within 10 days notify the Committee of the dispute and request the appointment of a mediator.
- (2) The mediator must be:
  - (a) a person chosen by agreement between the parties; or
  - (b) failing agreement:
    - (i) in the case of a dispute between a member and another person, a person appointed by the Committee; or
    - (ii) in the case of a dispute between a member and the Committee, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
- (3) A member of the Club can be a mediator, unless.
  - (a) the member is a party to the dispute;
  - (b) the member has a personal interest in the dispute; or
  - (c) the member is biased in favour of or against any party.

## **27. Mediation Process**

- (1) In conducting the mediation, the mediator must:
  - (a) give the parties to the mediation process every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party; and



- (c) ensure that natural justice is afforded to the parties to the dispute throughout the mediation process.
- (2) The mediator must not determine the dispute.
- (3) If the dispute remains unresolved after mediation, the parties may seek to exercise their Common Law rights.

## **PART 4 – GENERAL MEETINGS**

### **28. Quorum at General Meetings**

- (1) No business may be conducted at a general meeting unless a quorum of members is present.
- (2) A total of five (5) members with voting rights shall constitute a quorum at a general meeting.
- (3) If a quorum is not present within 30 minutes after the notified commencement time of a general meeting:
  - (a) in the case of a meeting convened by or at the request of members under rule 37, the meeting must be dissolved;

#### **Note**

If a meeting convened by or at the request of members is dissolved under this sub-rule, the business that was to have been considered at the meeting is taken to have been dealt with. If members wish to have the business reconsidered at another special meeting, the members must make a new request under rule 37(2)(b).

- (b) in any other case:
  - (i) the meeting must be adjourned to a date not more than 21 days after the adjournment; and
  - (ii) notice of the date, time and place to which the meeting is adjourned must be given at the meeting and confirmed by written notice given to all members as soon as practicable after the meeting.
- (4) If on the adjourned date a quorum is not present within 30 minutes, the members present at the meeting (if not less than 3) may proceed with the business of the meeting as if a quorum were present.

## **29. Notice of General Meetings**

- (1) The Secretary (or, in the case of a special general meeting convened under rule 37(2)(b), the members convening the meeting) must give to each member of the Club:
  - (a) at least 21 days' notice of a general meeting if a special resolution is to be proposed at the meeting; or
  - (b) at least 14 days' notice of a general meeting in any other case.
- (2) The notice must:
  - (a) specify the date, time and place of the meeting;
  - (b) indicate the general nature of each item of business to be considered at the meeting;
  - (c) if a special resolution is to be proposed:
    - (i) state in full the proposed resolution;
    - (ii) state the intention to propose the resolution as a special resolution; and
  - (d) state that the member may appoint another member as a proxy for the meeting and include a copy of any form that the Committee has approved for the appointment of a proxy.

## **30. Proxies**

- (1) A member may appoint another member as his or her proxy to vote and speak on his or her behalf at a general meeting.
- (2) The appointment of a proxy must be in writing and signed by the member making the appointment.
- (3) The member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the member in any matter as he or she sees fit.
- (4) A form appointing a proxy must be given to the Chairperson of the meeting before or at the commencement of the meeting.

- (5) A form appointing a proxy sent by post or electronically has no effect unless it is received by the Club not less than 24 hours before the commencement of the meeting.

### **31. Use of Technology**

- (1) A member may be permitted to participate in the general meeting by the use of technology that allows that member and the members physically present at the meeting to clearly and simultaneously communicate with each other.
- (2) A member participating in a general meeting by the use of technology is taken to be present at the meeting and if the member votes at the meeting, is taken to have voted in person.

### **32. Voting at General Meeting**

- (1) On any question arising at a general meeting:
  - (a) subject to sub-rule (3), each member who is entitled to vote has one vote;
  - (b) members may vote personally or by proxy; and
  - (c) except in the case of a special resolution (see rule 33(2)), the question must be decided on a majority of votes.
- (2) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (3) If the question is whether or not to confirm the minutes of a previous meeting, only members who were present at that meeting may vote.

### **33. Special Resolutions**

- (1) A special resolution is required:
  - (a) to remove a committee member from office; or
  - (b) to alter these Rules, including changing the name or the purpose of the Club.
- (2) A special resolution is passed if not less than three-quarters of the members voting at a general meeting (whether in person or by proxy) vote in favour of the resolution.

### **34. Determining Whether Resolution Carried**

(1) Subject to subsection (2), the Chairperson of a general meeting may, on the basis of a show of hands, declare that a resolution has been:

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

and an entry to that effect in the Minutes of the meeting is conclusive proof of that fact.

(2) If a poll (where votes are cast in writing) is demanded by three or more members on any question:

- (a) the poll must be taken at the meeting in the manner determined by the Chairperson of the meeting; and
- (b) the Chairperson must declare the result of the resolution on the basis of the poll.

### **35. Minutes of General Meetings**

(1) The Committee must ensure that minutes are taken and kept of each general meeting.

(2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.

(3) In the case of each Annual General Meeting, the Minutes must include:

- (a) the names of the members attending the meeting;
- (b) proxy forms given to the Chairperson of the meeting under rule 29;
- (c) the financial statements submitted to the members in accordance with rule 36(3)(b)(ii); and
- (d) the certificate signed by two committee members certifying that the financial statements give a true and fair view of the financial position and performance of the Club.

### **36. Annual General Meetings**

- (1) The Committee must convene an Annual General Meeting of the Club to be held no later than the end of November each year.
- (2) The Committee shall determine the date, time and place of the Annual General Meeting.
- (3) The ordinary business of the Annual General Meeting shall be as follows:
  - (a) to confirm the minutes of the previous Annual General Meeting and of any special general meeting held since then;
  - (b) to receive and consider:
    - (i) the annual report of the Committee on the activities of the Club during the preceding financial year; and
    - (ii) the financial statements of the Club for the preceding financial year submitted by the Committee in accordance with Part 7 of the Act;
  - (c) to elect the members of the Committee; and
  - (d) to confirm or vary the amounts (if any) of the Membership (player administration) fee.
- (4) The annual general meeting may also conduct any other business of which notice has been given in accordance with these Rules.
- (5) The Agenda for an Annual General Meeting shall comprise:
  - (a) Apologies;
  - (b) Minutes of the previous Annual General Meeting;
  - (c) Tabling of the Audited Financial Statement;
  - (d) President's Report;
  - (e) Election of Office Bearers (see rule 44);
  - (f) Notices of Motion; and
  - (g) any other business for which notice has been given in accordance with sub-section (4) above.

### **37. Special General Meetings**

- (1) Special General Meetings may be convened:
  - (a) for the Committee to communicate to members of the Club on specific matters that are considered necessary from time to time;
  - (b) for the members to seek information on specific matters; and
  - (c) for the Committee or members to resolve to amend these Rules.
- (2) A Special General Meeting may only be convened in the following manner:
  - (a) by a simple majority of the Committee; or
  - (b) by a notice of motion signed by at least twenty (20) members of the Club, excluding the current members of the Committee; and
  - (c) the notice shall be given to the Secretary and include:
    - (i) a statement of the business to be considered at the meeting and any resolutions to be proposed; and
    - (ii) the names and signatures of the members requesting the meeting.
- (3) The business of the special general meeting shall only be that which is set down in the notice of the meeting.

### **38. Special General Meeting Held at Request of Members**

- (1) The Committee must convene a special general meeting if a request to do so is made in accordance with rule 37(2)(b).
- (2) If the Committee does not convene a special general meeting within one month after the date of the request, the members making the request (or any of them) may convene the special general meeting.
- (3) A special general meeting convened by members under sub-rule (2):
  - (a) must be held within 3 months after the date on which the original request was made; and
  - (b) may only consider the business stated in that request.

- (4) The Club must reimburse all reasonable expenses incurred by the members convening a special general meeting under sub-rule (2).

## **PART 5 – COMMITTEE**

### **39. Powers**

- (1) The Committee shall act as the administrative body of the Club and shall be deemed to have the powers stated in rule 6(1).
- (2) To carry out the business of the Club and fulfil the Club's purpose, the Committee shall also have the power to:
  - (a) establish and maintain continuity of venues for team training;
  - (b) establish and amend from time to time as deemed necessary the Club Regulations and By-Laws, including the Rules of Membership and Conduct by which all members shall be bound;
  - (c) provide pamphlets and other literature or image to explain the aims of the Club;
  - (d) request, where necessary, the members of the Club to assist the Committee in carrying out its function;
  - (e) accept or refuse any application for membership:

### **40. Eligibility and Composition of the Committee**

- (1) Eligibility
  - (a) A member is eligible to be elected or appointed as a committee member if the member is 18 years or over; and
  - (b) Is entitled to vote at a general meeting.
- (2) Composition of the Committee
  - (a) The committee shall consist of:
    - (i) President;
    - (ii) Vice Presidents – the number of whom and purpose shall be determined from time to time by the Committee according to management requirements

- (iii) Secretary;
- (iv) Treasurer;
- (v) Registrar; and
- (vi) Ordinary members, the number of whom shall be determined from time to time by the Committee according to requirements.

#### **41. Indemnity for Committee Members**

The Club shall indemnify all committee members against any liability for activities they undertake on behalf of the Club, provided those activities are undertaken in good faith, with due care and diligence, and for a proper purpose.

#### **42. Appointment and Removal of Secretary**

- (1) The Secretary shall be appointed by a vote of members at the Annual General Meeting in accordance with rule 44.
- (2) The Secretary shall give the Registrar of Incorporated Associations notice of his or her appointment within 14 days after the appointment. **Note: Penalty – 5 penalty units**
- (3) In the event that the Secretary resigns from the position prior to the end of his or her term of appointment, the Committee must appoint a member to the position within 14 days after the vacancy arises, and give notice to the Registrar of Incorporated Associations along with any prescribed fee. **Note: Penalty – 5 penalty units**
- (4) The Secretary may be removed from office prior to the end of his or her term only by special resolution of members at a Special General Meeting.
- (5) In the event there is a proposal to remove the Secretary, he or she may make representations in writing to the President and request that a copy be given to each member, or read out to the membership at the Special General Meeting.

#### **43. Duties of Committee Members**

- (1) General Duties



- (a) As soon as practicable after being elected or appointed to the Committee, each committee member must become familiar with these Rules and the Act;
- (b) The Committee is collectively responsible for ensuring that the Club complies with the Act and that individual members of the Committee comply with these Rules;
- (c) Committee members must exercise their powers and discharge their duties with reasonable care and diligence, in good faith and for a proper purpose, being in the best interests of the Club; and
- (d) Committee members and former committee members must not make improper use of:
  - (i) their position; or
  - (ii) information acquired by virtue of holding their position;to gain an advantage for themselves or any other person or to cause detriment to the Club.

(2) Duties of Office Bearers

- (a) The President shall:
  - (i) act as Chairperson at all meetings;
  - (ii) ensure the successful functioning of the Club and Committee, and the attainment of the purpose of the Club;
  - (iii) be the official spokesperson of the Club;
  - (iv) in all meetings of the Club, exercise a vote as a member of the Club, and in the event of a tie, shall also exercise a casting vote;
  - (v) control, co-ordinate and oversee the activities of the Club;
  - (vi) ensure that the Committee members perform their duties in a manner consistent with the Club's purpose; and
  - (vii) call on the Committee and/or members when necessary to assist in the completion of duties;

- (b) The Vice Presidents shall:
  - (i) provide support and assistance to the President;
  - (ii) assist with decision-making, settlement of disputes/issues;
  - (iii) any one of them so appointed by the President, shall act in the capacity of President in the absence of the President;
  - (iv) Other duties related to their specific purpose as determined by the Committee from time to time.
  
- (c) The Secretary must:
  - (i) perform any duty or function required under the Act to be performed by the secretary of an incorporated association;
  - (ii) subject to the Act and these Rules, provide members with access to the register of members, the minutes of general meetings and other books and documents, upon reasonable notice;
  - (iii) be responsible for all official correspondence of the Committee;
  - (iv) arrange and send out notification of meetings when delegated to do so;
  - (v) keep an up-to-date copy of the Rules of the Club;
  - (vi) be responsible for the safe custody of the books, documents and securities of the Club;
  - (vii) maintain rolls of members attending Annual General Meetings and Special General Meetings; and
  - (viii) submit the Annual Statement to the Registrar of Incorporated Associations within one month of the AGM.
  
- (d) The Treasurer shall:
  - (i) ensure that the financial records of the Club are kept in accordance with the Act;

- (ii) ensure that at least one other committee member has access to the accounts and financial records of the Club;
  - (iii) coordinate the preparation of the financial statements of the Club and their certification by the Committee prior to their submission to the Annual General Meeting of the Club;
  - (iv) be responsible for keeping the records of all financial transactions;
  - (v) prepare a financial budget for the Club on an annual basis, for the financial year ending 30 September;
  - (vi) prepare a report of the Financial Affairs of the Club prior to each Committee meeting, to be presented at the Committee meetings; and
  - (vii) make the books and documents of the Club under his/her control available to members for inspection upon reasonable notice from the member.
- (e) The Registrar shall:
- (i) be responsible for data entry and management of players and teams and ensure consistency of data entry;
  - (ii) oversee the follow-up of outstanding registrations and fees by age group coordinators: runs registration and outstanding fee reports for coordinators to follow-up;
  - (iii) be the point of contact for Age-group coordinators regarding registration and fee matters;
  - (iv) maintain the register of members in accordance with rule 10;
  - (v) liaise with Treasurer and Secretary.

#### **44. Election and Tenure of Office**

##### (1) Nominations

- (a) the Annual General Meeting shall accept nominations for a Committee position from members using the following methods:
  - (i) In Advance of the Annual General Meeting - A member may submit their written nomination, seconded by an adult

member, to the Secretary prior to the Annual General Meeting;

- (ii) In Person at the Annual General Meeting - A member may submit their written nomination, seconded by an adult member, to the Secretary at the Annual General Meeting;
- (iii) In Absentia at the Annual General Meeting - A member may appoint another member to submit their written nomination, seconded by an adult member, to the Secretary at the Annual General Meeting;
- (iv) Verbal Nomination at the Annual General Meeting - Prior to the election process commencing and provided an adult member present at the meeting seconds the nomination, a member may submit their verbal nomination to the Secretary at the Annual General Meeting.

(2) Procedure for Conducting Elections

- (a) At the designated time during the Annual General Meeting the Chairperson shall call for the election of the Committee of Management. The Committee positions shall be filled one by one, in the following order:
  - (i) President (Note: If the Chairperson is also standing for President, the Chairperson shall nominate a suitable person from the floor to act as an interim Chairperson to conduct the election of the President. Once elected, the new President shall assume the role of Chairperson for the remainder of the meeting.)
  - (ii) Vice President/s
  - (iii) Secretary;
  - (iv) Treasurer;
  - (v) Registrar
  - (vi) Ordinary Committee Members;

- (b) If the number of members nominated for the position of ordinary committee member is less than or equal to the number to be elected, the Chairperson of the meeting must declare each of those members to be elected to the position;
  - (c) If the number of members nominated exceeds the number to be elected, a ballot must be held in accordance with sub-rule (3); and
  - (d) A person may nominate for more than one position and once elected to a position, may nominate for and be appointed to a second position in the event there are insufficient nominations to fill all positions.
- (3) Method of Conducting the Voting Process
- (a) The Chairperson shall, prior to the commencement of the election, declare all positions vacant and adopt one of the following methods for conducting the voting process, according to the field of nominees standing:
    - (i) if only one nominee is standing for the position, the Chairperson shall declare that person elected to the position;
    - (ii) if two nominees are standing for a single position, the Chairperson shall call for a show of hands for each nominee in turn. If there is any doubt about the result, the Chairperson shall ask for a division of the floor. The side with the higher count of heads shall be declared the winner;
    - (iii) if there are more than two nominees for a single position, the Chairperson shall call for a ballot, and each member in attendance at the Annual General Meeting and entitled to vote shall submit their vote in writing;
    - (iv) the nominee with the highest number of votes shall be declared the winner;
    - (v) where the highest number of votes is tied between two or more nominees any remaining candidate/s shall be eliminated and there shall be a second ballot; and

(vi) if there is still no clear winner, the process of elimination outlined above shall be repeated.

(b) If there remains no clear winner, the Chairperson shall exercise a casting vote as described in rule 43(2)(a)(iv).

(4) Term of Office

All elected Committee Members shall hold office until the next Annual General Meeting (i.e. a nominal period of approximately 12 months).

**45. Casual Vacancies on the Committee**

(1) A vacancy on the Committee shall exist in the following circumstances:

- (a) death of a member;
- (b) the member becomes of unsound mind;
- (c) the member delivers a letter of resignation to the President and/or Secretary;
- (d) the member is convicted of an indictable offence, resulting in a term of imprisonment;
- (e) the member is expelled under Division 3 of these rules; and
- (f) the member is absent from three (3) consecutive meetings of the Committee without special leave being granted by the Committee.

(2) In the event of a casual vacancy occurring in the circumstances described in sub-rule (1), the Committee may appoint a member of the Club to fill the vacancy.

(3) The appointed member shall hold office subject to these Rules, for the period to which his/her predecessor had been elected.

(4) The Committee may continue to act despite any vacancy in its membership.

**46. Vacation of Office**

(1) A committee member may resign from the Committee by written notice addressed to the Committee.

(2) A person ceases to be a committee member if he or she:

- (a) ceases to be a member of the Club; or
- (b) fails to attend 3 consecutive committee meetings (other than special or urgent committee meetings) without leave of absence granted under rule 54; or
- (c) otherwise ceases to be a committee member by operation of s.78 of the Act.

#### **47. Meetings of Committee**

- (1) The Committee shall meet at least five (5) times in each year at the dates, times and places determined by the Committee.
- (2) Special committee meetings may be convened by the President or by any four (4) members of the Committee.
- (3) A simple majority of the Committee shall constitute a quorum at all committee meetings.
- (4) If a quorum is not present within 30 minutes after the notified commencement time of a committee meeting:
  - (a) in the case of a special meeting, the meeting lapses; and
  - (b) in any other case, the meeting must be adjourned to a date within 14 days, and notice of the date and place to which the meeting is adjourned must be given in accordance with rule 48.

#### **48. Notice of Committee Meetings**

- (1) Notice of each committee meeting must be given to each committee member not less than 7 days before the date of the meeting.
- (2) The notice must state the date, time and place of the meeting.
- (3) If a special committee meeting is convened, the notice must include the nature of the business to be conducted.
- (4) The only business that may be conducted at the special committee meeting is the business for which the meeting is convened.

#### **49. Urgent Meetings**

- (1) In cases of urgency, a meeting may be held without notice being given in accordance with rule 48 provided that as much notice as possible is given to each committee member by the quickest practicable means.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Committee.
- (3) The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

#### **50. Use of Technology**

- (1) A committee member may participate in the meeting by the use of technology that allows that committee member and the committee members physically present at the meeting to communicate with each other clearly and simultaneously.
- (2) A committee member participating in a committee meeting as permitted under sub-rule (1) is taken to be present at the meeting, and if the member votes at the meeting, is taken to have voted in person.

#### **51. Voting at Committee Meetings**

- (1) On any question arising at a committee meeting, each committee member present at the meeting shall have one vote.
- (2) A motion is carried by a majority vote in favour of the motion.
- (3) Sub-rule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- (4) If votes are divided equally on a question, the Chairperson of the meeting shall have a second or casting vote.
- (5) Voting by proxy shall not be permitted.

#### **52. Conflict of Interest**

- (1) A committee member who has a material personal interest in a matter being considered at a committee meeting must disclose the nature and extent of that interest to the Committee (see ss.80 & 81). **Note: Penalty – 10 penalty units**



- (2) The member must not be present while the matter is being considered at the meeting and must not vote on the matter. **Note: Penalty – 10 penalty units**

### **53. Minutes of Committee Meetings**

- (1) The Committee must ensure that minutes are taken and kept of each committee meeting.
- (2) The minutes must record the following:
  - (a) the names of the members in attendance at the meeting;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;  
and
  - (d) any material personal interest disclosed under rule 52.
- (3) The minutes should be made available to the committee members within one week of the committee meeting.

### **54. Leave of Absence**

- (1) The Committee may grant a committee member leave of absence from committee meetings for a period not exceeding 3 months.
- (2) The Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the committee member to seek the leave in advance.

## **PART 6 – FINANCIAL MATTERS**

### **55. Source of Funds**

The funds of the Club shall be derived from the player administration fees referred to in rule 14(2) of these Rules, together with any gifts or donations made to the Club, or fundraising undertaken from time to time.

### **56. Management of Funds**

- (1) The Club must maintain an account with a financial institution into which all of the Club's revenue is deposited and from which all expenditure of the Club is made.

- (2) Subject to any restrictions imposed by a general meeting of the Club, the Committee may approve expenditure on behalf of the Club.
- (3) All cheques, drafts, bills of exchange, promissory notes, electronic funds transfer and other negotiable instruments must be signed or authorised by two (2) committee members.

## **57. Financial Records**

- (1) The Club must keep financial records that:
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act.
- (2) The Club must retain the financial records for seven (7) years after the transactions covered by the records are completed.
- (3) The Treasurer must keep in his or her custody, or under his or her control:
  - (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Committee.

## **58. Financial Statements**

- (1) For each financial year, the Committee must ensure that the requirements under Part 7 of the Act (ss 92, 93 & 94) relating to the financial statements of the Club are met. **Note: Penalty – 5 penalty units**
- (2) Without limiting sub-rule (1), those requirements include:
  - (a) the preparation of the financial statements;
  - (b) the certification of the financial statements by the Committee;
  - (c) the submission of the financial statements to the Annual General Meeting of the Club; and
  - (d) the lodgement with the Registrar of Incorporated Associations of the financial statements and accompanying reports, certificates, statements and fee.
- (3) As soon as practicable after the conclusion of the annual general meeting of the Club, a committee member must certify in the approved form, that:

- (a) the committee member attended the annual general meeting of the Club; and
  - (b) the financial statements were submitted to the members of the Club at the annual general meeting.
- (4) The committee must ensure that the minutes of the annual general meeting include a copy of:
- (a) the financial statements submitted under sub-rule (1); and
  - (b) the certificate referred to in sub-rule (2)(b); and
  - (c) if applicable—the report of the review of the financial statements.

## **PART 7 – GENERAL MATTERS**

### **59. Notice Requirements**

- (1) Any notice required to be given to a member or a committee member under these Rules may be given:
- (a) by handing the notice to the member personally;
  - (b) by sending it by post to the member at the address recorded for the member on the register of members; or
  - (c) by email or facsimile transmission.
- (2) Any notice required to be given to the Club or the Committee may be given:
- (a) by handing the notice to a member of the Committee;
  - (b) by sending the notice by post to the registered address; or
  - (c) by email to the email address of the Club or the Secretary.

### **60. Alteration of Rules**

- (1) These Rules and the Statement of Purpose of the Club shall not be altered, except in accordance with the Act.

- (2) The Secretary of the Club shall, within one month after the passing of the resolution altering the Statement of Purpose or the Rules, lodge written notice of the resolution with the Registrar of Incorporated Associations.
- (3) This notice shall set out particulars of the alteration together with a declaration signed by at least two (2) members of the Committee, to the effect that the resolution was passed in accordance with these Rules.
- (4) Such alterations to the Rules or Statement of Purpose shall not take effect until approved by the Registrar of Incorporated Associations.

## **61. Regulations and By Laws**

- (1) The Regulations and By-laws of the Club may be established, amended, and rescinded as deemed necessary by the Committee for the proper functioning of the Club, provided they are not contrary to the purpose of the Club in rule 3.
- (2) Such Regulations and By-laws shall be recorded in the minutes of the Club committee meeting.

## **62. Life Membership**

The Club may formally recognise a member's significant contribution to the Club by conferring Life Membership on the member.

- (1) Criteria for Assessing Eligibility for Life Membership
  - (a) There shall be three categories of member, for which Life Membership is considered:
    - (i) **Committee Membership**  
Criteria: Active Committee membership in the Club for 10 years (continuously, or in total if not continuous). This recognises a significant commitment to the Club that goes beyond self-interest for one's own children playing in a team;
    - (ii) **Coach or Team Manager**  
Criteria: A Coach or Team Manager who has been active in the role within the Club for 15 years (continuously, or in total

if not continuous). This recognises a significant commitment to the Club;

(iii) **Any person making tangible improvements/benefits to the Club**

Criteria: A person who has been active in making contributions that lead to tangible improvements or benefits to the Club over a period of seven years (continuously, or in total if not continuous). Included under this category will be contributions of a broader nature than covered in the above two categories, such as the establishment and/or the running of a new program within the Club, or activities that have enhanced the Club's profile or standing in the basketball community or the Berwick community.

(2) Process for Nominating, Confirming & Presenting Life Membership

- (a) Any member of the Club may nominate a person for Life Membership of the Club. The nomination must be seconded by another club member, and submitted to the President or Secretary no later than 30 June of each year;
- (b) The nomination must be presented as a motion for Committee consideration and should include:
  - (i) the name, address and contact number of the nominee; and
  - (ii) details of the contributions made by the nominee, which should address the eligibility criteria;
- (c) The Committee will consider the nomination in terms of the criteria, and confirm or deny the nomination by vote;
- (d) Once a Life Membership has been confirmed the Secretary shall:
  - (i) include the Presentation of the Life Membership as an Agenda item at the AGM to be held in November of the same year; and
  - (ii) make arrangements for the nominee to attend the AGM to receive the presentation; and

- (e) The Life Member shall receive a medallion that is suitably marked to denote the Life Membership of the recipient.

### **63. Winding Up and Disposal of Assets**

- (1) The Club may be wound up voluntarily by special resolution of a Special General Meeting of the members which may be called in terms of rule 38, wherein a seventy-five percent majority of those present and entitled to vote, must be achieved for the resolution to be carried.
- (2) The Special General Meeting shall decide, by a seventy-five percent majority, the disposal of assets of the Club after payment of any liabilities. In any event:
  - (a) no member or former members of the Club shall receive any benefit from the disposal of the Club's assets;
  - (b) subject to the Act and any court order made under s. 133 of the Act, the surplus assets must be given to a body that has similar purposes to the Club and which is not carried on for the profit or gain of its individual members; and
  - (c) the body to which the surplus assets are to be given must be decided by special resolution.
- (3) Otherwise, in circumstances described in ss. 126 and 127 of the Act, the Club may be wound-up by order of the Supreme Court, or by the Registrar of Incorporated Associations.