

**CONSTITUTION
OF
SUNBURY UNITED SPORTING CLUB
LIMITED**

Australian Company Number (ACN) 005 560 850
Australian Business Number (ABN) 15 005 560 850

A company limited by guarantee

Adopted by a special resolution of members at the AGM on 9 October 2022

Table of contents

Preliminary

- 1 Name of the club
- 2 Type of club
- 3 Limited liability of members
- 4 The guarantee
- 5 Definitions

Purposes and powers

- 6 Object
- 7 Powers
- 8 Not-for-profit
- 9 Amending the constitution

Members

- 10 Membership and register of members
- 11 Who can be a member
- 12 How to apply to become a member
- 13 Directors decide whether to approve membership
- 14 When a person becomes a member
- 15 When a person stops being a member
- 16 Classes of membership
- 17 Benefits packages

Dispute resolution and disciplinary procedures

- 18 Dispute resolution
- 19 Disciplining members

General meetings of members

- 20 General meetings called by directors
- 21 General meetings called by members
- 22 Annual general meeting
- 23 Notice of general meetings
- 24 Quorum at general meetings
- 25 Auditor's right to attend meetings
- 26 Using technology to hold meetings
- 27 Chairperson for general meetings
- 28 Role of the chairperson

- 29 Adjournment of meetings

Members' resolutions and statements

- 30 Members' resolutions and statements
- 31 Club must give notice of proposed resolution or distribute statement

Voting at general meetings

- 32 How many votes a member has
- 33 Challenge to member's right to vote
- 34 How voting is carried out
- 35 When and how a vote in writing must be held

Directors

- 36 Number of directors
- 37 Election and appointment of directors
- 38 Election of chairperson
- 39 Term of office
- 40 When a director stops being a director

Powers of directors

- 41 Powers of directors
- 42 Delegation of directors' powers
- 43 Payments to directors
- 44 Execution of Documents

Duties of directors

- 45 Duties of directors
- 46 Conflicts of interest

Directors' meetings

- 47 When the directors meet
- 48 Calling directors' meetings
- 49 Chairperson for directors meetings
- 50 Quorum at directors' meetings
- 51 Using technology to hold directors' meetings
- 52 Passing directors' resolutions

53 Circular resolutions of directors

Secretary

54 Appointment and role of secretary

Minutes and records

55 Minutes and records

56 Financial and related records

By-laws

57 By-laws

Notice

58 What is notice

59 Notice to the club

60 Notice to members

61 When notice is taken to be given

Financial year

62 Club's financial year

Indemnity, insurance and access

63 Indemnity

64 Insurance

65 Directors' access to documents

Winding up

66 Surplus assets not to be distributed to members

67 Distribution of surplus assets

Liquor and Gaming

68 Liquor

69 Gaming

Definitions and interpretation

70 Definitions

71 Reading this constitution with the Corporations Act

72 Interpretation

Preliminary

1. Name of the club

The name of the **club** is Sunbury United Sporting Club Limited (the **club**).

2. Type of club

The **club** is a not-for-profit public company limited by guarantee.

3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each member must contribute an amount not more than \$50.00 (the guarantee) to the property of the **club** if the **club** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **club** incurred before the member stopped being a member, or
- (b) costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 71 and 73.

Purposes and powers

6. Object

The **club's** object is to encourage participation in games and sport to the wider community, including through the following activities:

- (a) to provide and maintain sporting and gaming grounds and facilities for use by **affiliated sporting and gaming teams** in competition and practice, members, and the local community;
- (b) to provide funding and administrative, promotional, and/or organisational support to **affiliated sporting and gaming teams**;
- (c) to provide function and event facilities and services to **affiliated sporting and gaming teams** for events organising, promoting, viewing and/or celebrating sports and gaming;
- (d) to hold or arrange matches, sporting events, trials and competitions and provide or contribute towards the provision of prizes, awards and distinctions for games and sports or to the cost of the holding or promotion of those things;
- (e) to foster, promote, encourage and assist in any possible way the support of any sporting body and field teams thereof which are currently associated and which may become associated with the **club**;
- (f) to provide of food, drink and gaming facilities and services incidental, ancillary and/or secondary to the above objects to members and visitors;
- (g) to establish, rent, hire, own, manage or maintain such grounds, fences, terraces, grandstands, clubrooms, accommodation and equipment as may be required or desirable for the better carrying out of these objects;

- (h) to buy, hire, lease, grant and accept options over, sell, let on hire, let on lease, mortgage or otherwise dispose of any real or personal property rights and privileges of the **club** as may be required or desirable for the better carrying out of these objects;
- (i) to invest any monies of the **club** not immediately required upon such securities and in such manner as may be deemed fit from time to time and required or desirable for the better carrying out of these objects;
- (j) to borrow money and to furnish security for loans by mortgage or charge over the **club's** assets as may be required or desirable for the better carrying out of these objects;
- (k) to erect, maintain, improve or alter any building or buildings as may be required or desirable for the better carrying out of these objects;
- (l) to give security over the **club's** assets by mortgage or other charge for any payment liability or indebtedness of the **club** as may be required or desirable for the better carrying out of these objects;
- (m) to enter into any arrangements with any government or authority, and to obtain from any such government or authority any rights, privileges and concessions, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions, in each case as may be required or desirable for the better carrying out of these objects;
- (n) to purchase, acquire or take lease from time to time such land, premises or buildings or part of a building or any personal property, and to construct, alter, add or maintain the said land or any premises or any building or part of a building, and from time to time and subject to the obtaining of such approvals as may be necessary to sell, transfer, let, sub-let, mortgage, charge, pledge, dispose of or otherwise deal with the whole or any part of the land, premises or buildings or part of a building or personal property owned or leased by the **club**, in each case as may be required or desirable for the better carrying out of these objects; and
- (o) to acquire and hold any licenses, permits and approvals necessary for the provision of food, alcohol and gaming as may be required or desirable for the better carrying out of these objects.

7. Powers

Subject to clause 8, the **club** has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a company limited by guarantee under the **Corporations Act**.

8. Not-for-profit

- 8.1 The **club** must not distribute any income or assets directly or indirectly to its members, except as provided in clauses 8.2 and 67.
- 8.2 Clause 8.1 does not stop the **club** from doing the following things, provided they are done in good faith:
 - (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **club**, or
 - (b) making a payment to a member in carrying out the **club's** purpose(s).

9. Amending the constitution

The members may amend this constitution by passing a **special resolution**.

Members

10. Membership and register of members

- 10.1 The members of the **club** are any person(s) that the directors allow to be a member, in accordance with this constitution.
- 10.2 The **club** must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:
- (a) for each current member:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. date the member was entered on to the register.
 - (b) for each person who stopped being a member in the last 7 years:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. dates the membership started and ended.
- 10.3 The **club** must give current members access to the register of members.
- 10.4 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

11. Who can be a member

- 11.1 A person is eligible to apply to be a member of the **club** under clause 12 if they:
- (a) are over 18 years of age;
 - (b) are of good fame and character; and
 - (c) support the purposes of the **club**.
- 11.2 In this clause, 'person' means an individual and excludes an incorporated body.

12. How to apply to become a member

- 12.1 A person (as defined in clause 11.2) may apply to become a member of the **club** by submitting an application for membership (in the form determined by the **committee** from time to time) to the secretary stating that they:
- (a) want to become a member
 - (b) support the purpose(s) of the **club**, and
 - (c) agree to comply with the **club's** constitution, including paying the guarantee under clause 4 if required.
- 12.2 An application for membership may be submitted on behalf of the person by an authorised representative of an **affiliated sporting and gaming team** where the person has been elected or otherwise become a member of that **affiliated sporting and gaming team** and has given that **affiliated sporting and gaming team** notice of the matters set out in clause 12.1.

13. Directors decide whether to approve membership

- 13.1 The directors must consider an application for membership within a reasonable time after the secretary receives the application.
- 13.2 If the directors approve an application, the secretary must as soon as possible:
- (a) enter the new member on the register of members, and
 - (b) write to the applicant to tell them that their application was approved, and the date that their membership started (see clause 14).
- 13.3 If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected, but does not have to give reasons.
- 13.4 For the avoidance of doubt, the directors:
- (a) may delegate the consideration and decision whether to approve an application for membership to one or more directors and/or employees of the **club**; and
 - (b) may approve an application even if the application does not state the matters listed in clauses 12.1(a), 12.1 (b) or 12.1 (c). In that case, by applying to be a member, the applicant agrees to those three matters.

14. When a person becomes a member

Other than **current members**, an applicant will become a member when they are entered on the register of members.

15. When a person stops being a member

A person immediately stops being a member if they:

- (a) die
- (b) resign, by writing to the secretary
- (c) are expelled under clause 19, or
- (d) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member.

16. Classes of membership

- 16.1 All members are entitled to use the facilities and services of the **club**.
- 16.2 FULL MEMBERS means any member who is not a pensioner member or a life member.
- 16.3 PENSIONER MEMBERS means a member who holds a current pensioner medical card and applies in writing to the secretary to be a pensioner member and is approved by the secretary as such.
- 16.4 LIFE MEMBERS means a member nominated by the **committee**, in consideration of special services rendered to the **club**, as a subscription-free member for life.

17. Benefit packages

- 17.1 The **committee** shall offer tiered annual benefit packages to members with prices and features determined by the **committee** each year.
- 17.2 Pensioner members shall be entitled to purchase annual benefit packages for 50% of the full member price.

- 17.3 Life members shall be entitled to receive the Gold annual benefit package each year without charge, and may upgrade to a higher tier annual benefit package in any year by paying the difference between the Gold annual benefit package price and the annual the annual benefit package price of the desired tier payable by full members. In the event the **committee** changes the names or features of annual benefit packages materially in future, life members shall have the same rights as set out herein in respect of a tier which the **committee** determines (in its sole discretion) is reasonably equivalent to the current Gold tier.
- 17.4 Members are not obliged to acquire any annual benefit package in any given year, and may change their annual benefit package from year to year.

Dispute resolution and disciplinary procedures

18. Dispute resolution

- 18.1 The dispute resolution procedure in this clause applies to disputes (disagreements) under this constitution between a member or director and:
- one or more members
 - one or more directors, or
 - the **club**.
- 18.2 A member must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 17 until the disciplinary procedure is completed.
- 18.3 Those involved in the dispute must try to resolve it between themselves within 14 days of knowing about it.
- 18.4 If those involved in the dispute do not resolve it under clause 18.3, they must within 10 days:
- tell the directors about the dispute in writing
 - agree or request that a mediator be appointed, and
 - attempt in good faith to settle the dispute by mediation.
- 18.5 The mediator must:
- be chosen by agreement of those involved, or
 - where those involved do not agree:
 - for disputes between members, a person chosen by the directors, or
 - for other disputes, a person chosen by the president of the Law Institute of Victoria.
- 18.6 A mediator chosen by the directors under clause 18.5(b)(i):
- may be a member or former member of the **club**
 - must not have a personal interest in the dispute, and
 - must not be biased towards or against anyone involved in the dispute.
- 18.7 When conducting the mediation, the mediator must:
- allow those involved a reasonable chance to be heard
 - allow those involved a reasonable chance to review any written statements
 - ensure that those involved are given natural justice, and
 - not make a decision on the dispute.

19. Disciplining members

- 19.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the **club** if the directors consider that:

- (a) the member has breached this constitution, or
 - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the **club**.
- 19.2 At least 14 days before the directors' meeting at which a resolution under clause 19.1 will be considered, the secretary must notify the member in writing:
- (a) that the directors are considering a resolution to warn, suspend or expel the member
 - (b) that this resolution will be considered at a directors' meeting and the date of that meeting
 - (c) what the member is said to have done or not done
 - (d) the nature of the resolution that has been proposed, and
 - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 19.3 Before the directors pass any resolution under clause 19.1, the member must be given a chance to explain or defend themselves by:
- (a) sending the directors a written explanation before that directors' meeting, and/or
 - (b) speaking at the meeting.
- 19.4 After considering any explanation under clause 19.3, the directors may:
- (a) take no further action
 - (b) warn the member
 - (c) suspend the member's rights as a member for a period of no more than 12 months
 - (d) expel the member
 - (e) refer the decision to an unbiased, independent person on conditions that the directors consider appropriate (however, the person can only make a decision that the directors could have made under this clause), or
 - (f) require the matter to be determined at a **general meeting**.
- 19.5 The directors cannot fine a member.
- 19.6 The secretary must give written notice to the member of the decision under clause 19.4 as soon as possible.
- 19.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 19.8 There will be no liability for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

General meetings of members

20. General meetings called by directors

- 20.1 The directors may call a **general meeting**.
- 20.2 If members with at least 5% of the votes that may be cast at a **general meeting** make a written request to the **club** for a **general meeting** to be held, the directors must:
- (a) within 21 days of the members' request, give all members notice of a **general meeting**, and
 - (b) hold the **general meeting** within 2 months of the members' request.
- 20.3 The percentage of votes that members have (in clause 20.2) is to be worked out as at midnight before the members request the meeting.

- 20.4 The members who make the request for a **general meeting** must:
- (a) state in the request any resolution to be proposed at the meeting
 - (b) sign the request, and
 - (c) give the request to the **club**.
- 20.5 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

21. General meetings called by members

- 21.1 If the directors do not call the meeting within 21 days of being requested under clause 20.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.
- 21.2 To call and hold a meeting under clause 21.1 the members must:
- (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
 - (b) call the meeting using the list of members on the **club's** member register, which the **club** must provide to the members making the request at no cost, and
 - (c) hold the **general meeting** within three months after the request was given to the **club**.
- 21.3 The **club** must pay the members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

22. Annual general meeting

- 22.1 A **general meeting**, called the annual **general meeting**, must be held:
- (a) within 18 months after registration of the **club**, and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 22.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
- (a) a review of the **club's** activities
 - (b) a review of the **club's** finances
 - (c) any auditor's report
 - (d) the election of directors, and
 - (e) the appointment and payment of auditors, if any.
- 22.3 Before or at the annual **general meeting**, the directors must give information to the members on the **club's** activities and finances during the period since the last annual **general meeting**.
- 22.4 The chairperson of the annual **general meeting** must give members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **club**.

23. Notice of general meetings

- 23.1 Notice of a **general meeting** must be given to:
- (a) each member entitled to vote at the meeting
 - (b) each director, and
 - (c) the auditor (if any).

- 23.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting, and may be given by email or other electronic means, but members may request to receive a hard copy.
- 23.3 Subject to clause 23.4, notice of a meeting may be provided less than 21 days before the meeting if:
- (a) for an annual **general meeting**, all the members entitled to attend and vote at the annual **general meeting** agree beforehand, or
 - (b) for any other **general meeting**, members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 23.4 Notice of a meeting cannot be provided less than 21 days before the meeting if a resolution will be moved to:
- (a) remove a director
 - (b) appoint a director in order to replace a director who was removed, or
 - (c) remove an auditor.
- 23.5 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
 - (b) the general nature of the meeting's business
 - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
- 23.6 If a **general meeting** is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

24. Quorum at general meetings

- 24.1 For a **general meeting** to be held, at least 20 members (a quorum) must be present for the whole meeting.
- 24.2 No business may be conducted at a **general meeting** if a quorum is not present.
- 24.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 24.4 At the resumed meeting, a quorum is the number of members present at the starting time set for that meeting.

25. Auditor's right to attend meetings

- 25.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 25.2 The **club** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **club** is entitled to receive.

26. Using technology to hold meetings

- 26.1 The **club** may hold a **general meeting** at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.

26.2 Anyone using this technology is taken to be present in person at the meeting.

27. Chairperson for general meetings

27.1 The **chairperson** is entitled to chair **general meetings**.

27.2 The members present and entitled to vote at a **general meeting** may choose a director or member to be the chairperson for that meeting if:

- (a) there is no **chairperson**, or
- (b) the **chairperson** is not present within 30 minutes after the starting time set for the meeting, or
- (c) the **chairperson** is present but says they do not wish to act as chairperson of the meeting.

28. Role of the chairperson

28.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).

28.2 The chairperson does not have a casting vote.

29. Adjournment of meetings

29.1 If a quorum is present, a **general meeting** must be adjourned if a majority of **members present** direct the chairperson to adjourn it.

29.2 Only unfinished business may be dealt with at a meeting resumed after an adjournment.

Members' resolutions and statements

30. Members' resolutions and statements

30.1 Members with at least 5% of the votes that may be cast on a resolution may give:

- (a) written notice to the **club** of a resolution they propose to move at a **general meeting** (members' resolution), and/or
- (b) a written request to the **club** that the **club** give all of its members a statement about a proposed resolution or any other matter that may properly be considered at a **general meeting** (members' statement).

30.2 A notice of a members' resolution must set out the wording of the proposed resolution and be signed by the members proposing the resolution.

30.3 A request to distribute a members' statement must set out the statement to be distributed and be signed by the members making the request.

30.4 Separate copies of a document setting out the notice or request may be signed by members if the wording is the same in each copy.

30.5 The percentage of votes that members have (as described in clause 30.1) is to be worked out as at midnight before the request or notice is given to the **club**.

30.6 If the **club** has been given notice of a members' resolution under clause 30.1(a), the resolution must be considered at the next **general meeting** held more than two months after the notice is given.

30.7 This clause does not limit any other right that a member has to propose a resolution at a **general meeting**.

31. Club must give notice of proposed resolution or distribute statement

31.1 If the **club** has been given a notice or request under clause 30:

- (a) in time to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, it must do so at the **club's** cost, or
 - (b) too late to send the notice of proposed members' resolution or a copy of the members' statement to members with a notice of meeting, then the members who proposed the resolution or made the request must pay the expenses reasonably incurred by the **club** in giving members notice of the proposed members' resolution or a copy of the members' statement. However, at a **general meeting**, the members may pass a resolution that the **club** will pay these expenses.
- 31.2 The **club** does not need to send the notice of proposed members' resolution or a copy of the members' statement to members if:
- (a) it is more than 1 000 words long
 - (b) the directors consider it may be defamatory
 - (c) clause 31.1(b) applies, and the members who proposed the resolution or made the request have not paid the **club** enough money to cover the cost of sending the notice of the proposed members' resolution or a copy of the members' statement to members, or
 - (d) in the case of a proposed members' resolution, the resolution does not relate to a matter that may be properly considered at a **general meeting** or is otherwise not a valid resolution able to be put to the members.

Voting at general meetings

32. How many votes a member has

Each member has one vote, and proxies are not permitted.

33. Challenge to member's right to vote

- 33.1 A member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.
- 33.2 If a challenge is made under clause 33.1, the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

34. How voting is carried out

- 34.1 Voting must be conducted and decided by:
 - (a) a show of hands
 - (b) a vote in writing, or
 - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 34.2 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 34.3 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

35. When and how a vote in writing must be held

- 35.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:
 - (a) at least five **members present**

- (b) **members present** with at least 5% of the votes that may be passed on the resolution on the vote in writing (worked out as at the midnight before the vote in writing is demanded), or
 - (c) the chairperson.
- 35.2 A vote in writing must be taken when and how the chairperson directs, unless clause 35.3 applies.
- 35.3 A vote in writing must be held immediately if it is demanded under clause 35.1:
- (a) for the election of a chairperson under clause 27.2, or
 - (b) to decide whether to adjourn the meeting.
- 35.4 A demand for a vote in writing may be withdrawn.

Directors

36. Number of directors

The **club** must have at least four and no more than nine directors, which shall be comprised of:

- (a) the **office bearers**, being a president, vice president, treasurer and secretary; and
- (b) up to five general directors.

37. Election and appointment of directors

- 37.1 A person is eligible for election as a director of the **club** if they:
- (a) are a member of the **club**
 - (b) are nominated by two members entitled to vote (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),
 - (c) give the **club** their signed consent to act as a director of the **club**, and
 - (d) are not ineligible to be a director under the **Corporations Act**.
- 37.2 Persons wishing to nominate for a vacant position as a director of the **club** at an annual **general meeting** must submit a nomination form (in the form determined by the **committee** from time to time) together with nominations in support from two members entitled to vote to the secretary by the deadline date determined by the **committee** each year.
- 37.3 Where only one nomination is validly received in accordance with clause 37.1 and 37.2 for a vacant position as a director of the **club**, that nominee shall be deemed elected to that position at the annual **general meeting**.
- 37.4 Where more than one nomination is validly received in accordance with clause 37.1 and 37.2 for a vacant position as a director of the **club**:
- (a) each nominee shall have an opportunity to address the annual **general meeting** for no more than five minutes; and
 - (b) the chairperson shall conduct a poll with voting carried out in accordance with clause 34, and the nominee with the highest number of votes shall be elected to that position at the annual **general meeting**.
- 37.5 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
- (a) is a member of the **club**

- (b) gives the **club** their signed consent to act as a director of the **club**, and
- (c) is not ineligible to be a director under the **Corporations Act**.

37.6 If the number of directors is reduced to fewer than three or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to four (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.

38. Chairperson

The **chairperson** shall be:

- (a) the president; or
- (b) if the president is not present, the vice president; or
- (c) if neither is present, the present directors must elect a director as the acting **chairperson**.

39. Term of office

39.1 At each annual **general meeting**:

- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and
- (b) any directors whose term has expired must retire.

39.2 The office bearers shall have two-year terms of office. The general directors shall have one-year terms of office.

39.3 Other than a director appointed under clause 37.5, a director's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.

39.4 A director who retires under clause 39.1 may nominate for election or re-election.

40. When a director stops being a director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the **club**
- (b) die
- (c) are removed as a director by a resolution of the members
- (d) stop being a member of the **club**
- (e) are absent for 3 consecutive directors' meetings without approval from the directors, or
- (f) become ineligible to be a director of the **club** under the **Corporations Act**.

Powers of directors

41. Powers of directors

41.1 The directors are responsible for managing and directing the activities of the **club** to achieve the purposes set out in clause 6.

41.2 The directors may use all the powers of the **club** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.

41.3 The directors must decide on the responsible financial management of the **club** including:

- (a) any suitable written delegations of power under clause 42, and

- (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.

41.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a **general meeting**.

42. Delegation of directors' powers

42.1 The directors may delegate any of their powers and functions to a subcommittee, a director, an employee of the **club** (such as a chief executive officer) or any other person, as they consider appropriate.

42.2 The delegation must be recorded in the **club's** minute book.

43. Payments to directors

43.1 The **club** must not pay fees to a director for acting as a director.

43.2 The **club** may:

- (a) pay a director for work they do for the **club**, other than as a director, if the amount is no more than a reasonable fee for the work done, or
- (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **club**.

43.3 Any payment made under clause 43.2 must be approved by the directors.

43.4 The **club** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

44. Execution of documents

The **club** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **club**, or
- (b) a director and the secretary.

Duties of directors

45. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law), and must:

- (a) exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **club**
- (b) act in good faith in the best interests of the **club** and to further the purpose(s) of the **club** set out in clause 6
- (c) not misuse their position as a director
- (d) not misuse information they gain in their role as a director
- (e) disclose any perceived or actual material conflicts of interest in the manner set out in clause 46
- (f) ensure that the financial affairs of the **club** are managed responsibly, and
- (g) not allow the **club** to operate while it is insolvent.

46. Conflicts of interest

- 46.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
- (a) to the other directors, or
 - (b) if all of the directors have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 46.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 46.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution) must not, except as provided under clauses 46.4:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 46.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the **club**, and the other members have the same interest
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **club** (see clause 64)
 - (c) their interest relates to a payment by the **club** under clause 63 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**
 - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
 - (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **club**, and
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

47. When the directors meet

The directors shall meet each month, but may decide how where and when they meet.

48. Calling directors' meetings

- 48.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.
- 48.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

49. Chairperson for directors' meetings

- 49.1 The **chairperson** is entitled to chair directors' meetings.
- 49.2 The directors at a directors' meeting may choose a director to be the chairperson for that meeting if the **chairperson** is:
- (a) not present within 30 minutes after the starting time set for the meeting, or
 - (b) present but does not want to act as chairperson of the meeting.

50. Quorum at directors' meetings

- 50.1 The quorum for a directors' meeting is four directors.
- 50.2 A quorum must be present for the whole directors' meeting.

51. Using technology to hold directors' meetings

- 51.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- 51.2 The directors' agreement may be a standing (ongoing) one.
- 51.3 A director may only withdraw their consent within a reasonable period before the meeting.

52. Passing directors' resolutions

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

53. Circular resolutions of directors

- 53.1 The directors may pass a circular resolution without a directors' meeting being held.
- 53.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 53.3 or clause 53.4.
- 53.3 Each director may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 53.4 The **club** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 53.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 53.3 or clause 53.4.

Secretary

54. Appointment and role of secretary

- 54.1 The **club** must have at least one secretary, who may also be a director.
- 54.2 A secretary must be appointed by the directors (after giving the **club** their signed consent to act as secretary of the **club**) and may be removed by the directors.
- 54.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.
- 54.4 The role of the secretary includes:

- (a) maintaining a register of the **club's** members, and
- (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

Minutes and records

55. Minutes and records

- 55.1 The **club** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**
 - (b) minutes of circular resolutions of members
 - (c) a copy of a notice of each **general meeting**, and
 - (d) a copy of a members' statement distributed to members under clause 31.
- 55.2 The **club** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any subcommittees), and
 - (b) minutes of circular resolutions of directors.
- 55.3 To allow members to inspect the **club's** records:
- (a) the **club** must give a member access to the records set out in clause 55.1, and
 - (b) the directors may authorise a member to inspect other records of the **club**, including records referred to in clause 55.2 and clause 56.1.
- 55.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 55.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

56. Financial and related records

- 56.1 The **club** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 56.2 The **club** must also keep written records that correctly record its operations.
- 56.3 The **club** must retain its records for at least 7 years.
- 56.4 The directors must take reasonable steps to ensure that the **club's** records are kept safe.

By-laws

57. By-laws

- 57.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 57.2 Members and directors must comply with by-laws as if they were part of this constitution.

Notice

58. What is notice

Anything written to or from the **club** under any clause in this constitution is written notice and is subject to clauses 59 to 61, unless specified otherwise.

59. Notice to the club

Written notice or any communication under this constitution may be given to the **club**, the directors or the secretary by:

- (a) delivering it to the **club's** registered office
- (b) posting it to the **club's** registered office or to another address chosen by the **club** for notice to be provided; or
- (c) sending it to an email address or other electronic address notified by the **club** to the members as the **club's** email address or other electronic address.

60. Notice to members

60.1 Written notice or any communication under this constitution may be given to a member:

- (a) in person
- (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
- (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any); or
- (d) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).

60.2 If the **club** does not have an address for the member, the **club** is not required to give notice in person.

61. When notice is taken to be given

A notice:

- (a) delivered in person, or left at a the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 62.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

62. Club's financial year

The **club's** financial year is from 1 July to 30 June, unless the directors pass a resolution to change the financial year.

Indemnity, insurance and access

63. Indemnity

- 63.1 The **club** indemnifies each officer of the **club** out of the assets of the **club**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **club**.
- 63.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 63.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **club** is not precluded by law (including the **Corporations Act**) from doing so, and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 63.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **club**.

64. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **club** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **club** against any liability incurred by the person as an officer of the **club**.

65. Directors' access to documents

- 65.1 A director has a right of access to the financial records of the **club** at all reasonable times.
- 65.2 If the directors agree, the **club** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors, and
 - (b) any other documents referred to in those documents.

Winding up

66. Surplus assets not to be distributed to members

If the **club** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **club**, unless that member or former member is a not-for-profit entity described in clause 67.1.

67. Distribution of surplus assets

- 67.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **club** is wound up must be distributed to one or more not-for-profit entities:
- (a) with purpose(s) similar to, or inclusive of, the purpose(s) in clause 6, and
 - (b) which also prohibit the distribution of any **surplus assets** to its members to at least the same extent as the **club**.
- 67.2 The decision as to the not-for-profit entity or entities to be given the **surplus assets** must be made by a **special resolution** of members at or before the time of winding up. If the members do not make this decision, the **club** may apply to the Supreme Court to make this decision.

Liquor and Gaming

68. Liquor

- 68.1 The **club** shall maintain a liquor licence permitting the sale of liquor to Members and such other persons (including guests, function and event attendees, and Authorised Gaming Visitors) as the **committee** deems appropriate.
- 68.2 The **club** shall comply at all times with the conditions of its liquor licence and the requirements of the *Liquor Control Reform Act 1998* (Vic) from time to time in force.
- 68.3 This clause 68.3 is deemed to provide and preclude all things the constitution of the **club** is required to do by virtue of Schedule 1 of the *Liquor Control Reform Act 1998* (Vic) from time to time in force, and takes precedence over anything to the Contrary in this constitution.

69. Gaming

- 69.1 The **club** shall maintain all licenses and approvals necessary to permit the operation of gaming machines and betting facilities at Langama Park for Members and such other persons (including Authorised Gaming Visitors) as the **committee** deems appropriate
- 69.2 The **club** shall comply at all times with the conditions of its gaming licenses and approvals the requirements of the *Gambling Regulation Act 2003* (Vic) from time to time in force.

Affiliated Sporting and Gaming Teams

70. Affiliation

- 70.1 The **club** shall maintain affiliations with local not-for-profit **affiliated sporting and gaming teams** to foster, promote, encourage and assist in any possible way the support of any sporting body and field teams thereof which are currently associated and which may become associated with the **club**.
- 70.2 The terms of such affiliations shall be determined by the **committee** from time to time and need not be the same for all **affiliated sporting and gaming teams**, but may include:
- (a) the **club** providing and maintaining sporting and gaming grounds and facilities for use by the **affiliated sporting and gaming team** in competition and practice
 - (b) the **club** providing funding and administrative, promotional, and/or organisational support to the **affiliated sporting and gaming team**
 - (c) the **club** providing function and event facilities and services to the **affiliated sporting and gaming team** for events organising, promoting, viewing and/or celebrating sports and gaming
 - (d) the **affiliated sporting and gaming team** agreeing to refer and recommend its members to be member of the **club**; and
 - (e) the **affiliated sporting and gaming team** appointing a representative to submit membership applications for its members who wish to apply for membership of the **club**

- 70.3 The **club** shall implement a funding model under which a portion of the club's profits each year are paid to the current **affiliated sporting and gaming teams**, as amended by the committee from time to time.
- 70.4 As a condition of affiliation, the **club** and each **affiliated sporting and gaming team** must nominate a senior representative and use reasonable endeavours to ensure that representative attends quarterly meetings organised by the club to discuss matters relevant to the achievement of the mutual objectives of them, and to the encouragement of sport and games generally in the local community.

Definitions and interpretation

71. Definitions

In this constitution:

affiliated sporting and gaming team means a sporting or gaming team or club which has agreed with the **club** in writing to be affiliated

club means the company referred to in clause 1

Corporations Act means the *Corporations Act 2001* (Cth)

chairperson means a the director determined under clause 38

committee means the current directors of the **club**

general meeting means a meeting of members and includes the annual **general meeting**, under clause 22.1

current member means a person who is listed as a current member in the register of members at the date of the adoption of this constitution

member present means, in connection with a **general meeting**, a **member present** in person at the venue or venues for the meeting, or present electronically where electronic attendance has been permitted and made available by the **committee**

special resolution means a resolution:

- i. of which notice has been given under clause 23.5(c), and
- ii. that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution, and

surplus assets means any assets of the **club** that remain after paying all debts and other liabilities of the **club**, including the costs of winding up.

72. Reading this constitution with the Corporations Act

- 72.1 The replaceable rules set out in the **Corporations Act** do not apply to the **club**.
- 72.2 The **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- 72.3 A word or expression that is defined in the **Corporations Act**, or used in that Act and covering the same subject, has the same meaning as in this constitution.

73. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and

CONSTITUTION OF SUNBURY UNITED SPORTING CLUB LIMITED

- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).