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# The Rules of the Association of Tompkins Park Community and Recreational Association Incorporated

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# The Rules of the Association of Tompkins Park Community and Recreational Association Incorporated

## 1. Name of Association

- (a) The name of The Association shall be "Tompkins Park Community and Recreational Association Incorporated".

## 2. Objects

- (a) The **principal objects** are to establish, maintain and conduct an association for the promotion of local sports and to support the recreational, social, sporting, cultural and community dimensions of those sporting interests. These objects include the provision of facilities for the pursuit of literary, scientific, athletic, and professional and any other lawful purpose that provides benefits and enjoyment for the members of The Association.
- (b) To provide and maintain amenities for the use of members and the community of the City of Melville.

## 3. Not for Profit

- (a) The property and income of The Association shall be applied solely towards the promotion of the objects of The Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

## 4. Definitions

- (a) In reading this Constitution, unless the context or such otherwise indicates or requires:
  - (i) "Annual Meeting" means an Annual General Meeting.
  - (ii) "Board Member" means a Representative Member; and the City of Melville Representative;
  - (iii) "Board" means the Board for The Association, duly elected or appointed for the time being in accordance with these Rules.
  - (iv) "Books of the Association" means: The Members Register; the Record of Office Holders; and the Association Constitution.
  - (v) "By-Laws" means the codes of rules made and adopted by The Association in accordance with Section 18(b)(xii).
  - (vi) "Commissioner" means: the person for the time being designated as the Commissioner under section 153 of the Associations Incorporation Act.
  - (vii) "Financial records" Includes: invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; documents of prime

entry; working papers and other documents needed to explain the methods by which financial statements are prepared; and adjustments to be made in preparing financial statements;

- (viii) "Financial report" has the meaning given in Part 5 of The Act;
- (ix) "Financial statements" means the financial statements in relation to The Association required under Part 5 of The Act;
- (x) "Financial year" means from the first of April each year, until the following 31<sup>th</sup> of March.
- (xi) "General Meeting" means a General meeting of The Association whether Annual or Special.
- (xii) "Liquor Act" means the Liquor Control Act 1988, its amendments and any other legislation that may come into force to replace or supplement this Act, and shall form part of these Rules.
- (xiii) "Member" is as defined in Section 5(d) of these Rules;
- (xiv) "Month" means a calendar month.
- (xv) "Special General Meeting" means a General Meeting as defined below, called in accordance with Section 12 hereunder, at which only business that has been described in the notice may be transacted.
- (xvi) "Special Resolution" means a resolution passed by the members at a general meeting in accordance with Section 51 of The Act.
- (xvii) "The Act" means the Associations Incorporation Act 2015, its amendments and any other legislation that may come into force to replace or supplement this Act, and shall form part of these Rules.
- (xviii) "The Association" means Tompkins Park Community and Recreation Association Incorporated.
- (xix) "The Association Premises" means all land, building and structures thereon of which The Association is the bona fide occupier.
- (xx) "Voting rights" means the ability for a financial member to propose or second an application for membership; move or second a motion or special motion; speak at all general meetings; nominate for a position on the Board; vote at all general meetings; and petition for a special general meeting.

## 5. Membership

- (a) The Association shall keep an up to date register of members in respect of Affiliate, Associate, Association Life, Recreational, Corporate and Honorary members.
  - (i) This register must be continually available for inspection at The Association premises by authorised officers.
  - (ii) Residential, postal or email address; or information by means of which contact can be made with the member, can be nominated for the members register.
    - 1. The Secretary of each Affiliate Body and Associate Organisation shall submit to the Board of the Association an updated member register, by membership class, within fourteen (14) days of making any amendments to current membership.



(b) Affiliate Body shall mean:

- (i) The Palmyra Rugby Union Club Inc (PRUC) and the Melville Cricket Club Inc (MCC).
- (ii) If an Affiliate Body changes their name without any significant alteration to their objects, then the amended name shall apply for that Affiliated Body.
- (iii) Any such other association that may be granted Affiliate Membership status per the process outlined in 6(a), providing they meet all the requirements in the By-laws covering Affiliate membership.

(c) Associate Organisation shall mean:

- (i) Sporting, community and cultural organisations that may be admitted to the status of Associate Organisation per 6(b), providing they meet all the requirements in the By-laws covering Associate membership.
- (ii) Associate Organisation members shall have use of the sporting and recreational facilities of The Association but shall not have voting rights.

(d) Membership of The Association shall consist of the following:

- (i) Representative Member: This category of membership is limited at any one time to Four (4) natural persons from each Affiliate Body and who shall have voting rights.
- (ii) Affiliate Members: A financial member of each Affiliate Body, who shall have no voting rights unless they are the Representative Member of their Affiliate Body.
- (iii) Associate Member: A member of each of the Associate Organisations who shall be deemed to be an Associate Member of the Association and shall have no voting rights.
- (iv) Association Life Member: The Board may nominate any member for consideration of Association Life Membership, in consideration of special services rendered to the Association. Association Life Members shall be entitled to be present at any meeting of the members of The Association upon invitation from the Board, however will not have voting rights.
- (v) Recreational Member:
  - 1. A Recreational Member is a member who is interested in promoting the objects of The Association but does not wish to participate in any sporting activities.
  - 2. Recreational Members shall not be entitled to voting rights.
- (vi) Temporary Member: A person who is on any day visiting The Association as a member or an official of another club or team, including those persons who are assisting a visiting club or team, to:
  - 1. Engage in a pre-arranged event with The Association as per The Association's objects; or
  - 2. Hold a pre-arranged function at The Association involving the use of The Association's sporting facilities.

Temporary Members shall not be entitled to be present at any meeting of the members of The Association, nor have voting rights.

- (vii) Reciprocal Member: Is a visitor who is a full financial member of any club with like sports or recreation in Western Australia or any licensed club located outside of Western Australia.
  - 1. Reciprocal Members shall not be entitled to be present at any meeting of the members of The Association, nor have voting rights.
- (viii) Corporate Member: Organisations, restricted to senior management, conducting community or tourism related business in the City of Melville and its surrounds that have made a contribution to The Association through business, sponsorship or donations.
  - 1. Corporate membership will be restricted at any one time to a level deemed appropriate by The Association or as may be required by the liquor licensing authority.
  - 2. Corporate Members shall not be entitled to be present at any meeting of the members of The Association, nor have voting rights.
- (ix) Honorary Member: Membership shall be granted to the City of Melville Representative and may be granted to Association Patrons, Sponsors, Selected Government Officers and any other such persons as the Board may decide from time to time based on their relationship to The Association or community.
  - 1. Honorary membership will be restricted at any one time to a level deemed appropriate by the Board or as may be suggested by the liquor licensing authority.
  - 2. Honorary Members shall be entitled to be present at any meeting of the members of The Association upon invitation from the Board, however will not have voting rights.
- (e) Temporary and Reciprocal membership would be subject to withdrawal by any Association official, including bar persons, acting on the best interests of The Association.
- (f) Cessation of Membership:
  - (i) A person ceases to be a member when any of the following takes place:
    - 1. For a member who is an individual, the individual dies;
    - 2. For a person whose title represents a corporate member, the body corporate is wound up;
    - 3. For a person who is a member of an Affiliate Body or Associate Organisation, upon ceasing to become a member of such Body shall cease to be a member of The Association, effective upon The Association receiving written notice that such person has ceased to be a member of that Body from the Secretary of that Body;
    - 4. The person resigns from The Association;
    - 5. The person is expelled from The Association under Section 25(c);
    - 6. The person ceases to be a member under Section 10(c).
  - (ii) The Secretary will keep a record on file of the date on which the person ceased to be a member; and
  - (iii) The reason why the person ceased to be a member

- (iv) A member may resign from membership of The Association by giving written notice of the resignation to the Secretary:
  - 1. The resignation takes effect when the Secretary receives the notice; or if a later time is stated in the notice, at that later time.
  - 2. A person who has resigned from membership of The Association remains liable for any fees that are owed to The Association (the owed amount) at the time of resignation.
  - 3. The owed amount may be recovered by The Association in a court of competent jurisdiction as a debt due to The Association.

## 6. Application to Become a Member of The Association

### (a) Affiliate Body:

- (i) Any eligible body, as detailed in the By-laws, desiring Affiliate Body may apply in writing to the Board to become an Affiliate Body.
- (ii) Within thirty (30) days of such application being made the Board shall cause Special Board Meeting to be called and the applicant eligible body shall be admitted as an Affiliate Body if:
  - 1. The Special Board Meeting by two thirds majority approves of such affiliation conditionally or unconditionally;
  - 2. The applicant body agrees to comply with any conditions to such approval as may be decided by the Special Board Meeting by two-thirds majority;
  - 3. The applicant body pays to the Association an entrance fee in the sum of \$50,000 or such greater amount as may be decided by the Special Board Meeting by two-thirds majority.
  - 4. The successful applicant body must pay the agreed fee within 30 days of invoice, otherwise the admittance to membership will lapse.

### (b) Associate Organisation:

- (i) Any eligible body, as detailed in the By-laws, desiring Associate Organisation status may apply in writing to the Board to become an Associate Organisation.
- (ii) Within thirty (30) days of such application being made the Board shall cause a Special Board Meeting to be called and the applicant eligible body shall be admitted as an Associate Organisation if:
  - 1. The Special Board Meeting by two-thirds majority approves admission conditionally or unconditionally; and
  - 2. The applicant eligible body agrees to comply with any conditions to such approval that may be decided by the Special Board Meeting by two-thirds majority.
  - 3. The applicant body pays to the Association any entrance fee as may be decided by the Special Board Meeting by two-thirds majority.

- (c) Recreational Member: Any person desiring to become such a member of The Association shall sign an application form provided



- (i) When the application form and all subscriptions have been received, the person shall be a provisional member of the Association and exercise all of the privileges of a member until such time as the next Board meeting.
- (ii) At the next Board meeting, the applicant will then be accepted or denied membership.
- (iii) If membership is denied, all subscriptions shall be refunded.
- (d) No person shall be entitled to exercise any of the privileges of a member until they have paid all subscriptions due by them.
- (e) The Board shall have the right to refuse to admit any person to membership without assigning any reason for doing so.
- (f) On the election of each candidate, the Secretary shall notify the same to them, and they shall on payment of their subscription be enrolled as a Member of The Association, and become entitled to the privileges and be bound by its rules and by all consequences resulting from breach or non-performance thereof, and shall thereby absolve every person concerned in carrying out enforcing such rules from all personal responsibility or legal liability on such account.
- (g) Association Life Member – A Board member may propose another member for Association Life Membership to the Board in writing, giving reasons that Life Membership should be granted.
  - (i) A Board Meeting may, upon a 75% majority vote, confer Life Membership on a member who has rendered special and outstanding services to The Association, provided always that the Board shall not nominate a member to such position unless such member has completed ten (10) years' membership with the Association.

## **7. Member's Rights**

- (a) The rights and privileges of every member shall be personal and shall not be in any manner transferable by their own act or through any other person on their behalf or by operation of law.
- (b) Voting rights for each membership category are as detailed in Section 5.
- (c) Employees – Members who are employees of The Association are entitled to all the rights and privileges of Recreational membership only.
- (d) All members, upon successful registration, will be supplied with an electronic copy of The Association constitution or will be directed to obtain a copy of The Association constitution from The Association's website.
- (e) Upon acceptance to membership, all members agree to be bound by The Association Code of Conduct.
- (f) Guests – Affiliate, Associate, Recreational, Corporate and Association Life Members shall be at liberty to invite guests to The Association, but the number of guests shall not exceed the maximum number as contained in Section 48(4)(b) of the Liquor Act.
  - (i) The Board may set a limit for guests to attend the Association before the guest must apply for membership.
- (g) A member may hold private family and business functions without limit to number of guests, providing that the sale of liquor shall be:

- (i) Ancillary to a meal supplied at The Association by or on behalf of The Association to a member and to each of the guests of that member being guests of whose attendance was given prior notice to The Association; or
  - (ii) To a member, for consumption by the guests of that member at a function held by or on behalf of that member at The Association.
- (h) Functions – Affiliate, Associate, Recreational, Corporate and Association Life Members are entitled to host functions on The Association premises after written application for said function has been considered and approved by the Board.
- (i) The Secretary will furnish the applicant with a written copy of Association rules relating to functions after the application has been approved and any additional conditions and restrictions it shall see fit.
- (i) Upon request, a member is able to inspect the Books of the Association at such time and place as is mutually convenient to the Association and the Member.
- (i) A Member must contact the Secretary to request to inspect the Member Register.
  - (ii) The Member may make a copy of details from the Member Register but has no right to remove the Register for that purpose.
  - (iii) A Member may make a request in writing for a copy of the Member Register.
  - (iv) The Association may charge a reasonable fee to the Member for providing a copy of the Member Register, the amount to be determined by the Board from time to time.
  - (v) A Member must not use or disclose the information on the Member Register:
    - 1. To gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
    - 2. To contact, send material to The Association or a Member for the purpose of advertising for political, religious, charitable or commercial purposes, or
    - 3. For any other purpose unless the use of the information is approved by the Board and for a purpose:
      - a. That is directly connected with the affairs of The Association; or
      - b. Related to the provision of the information to the Commissioner in accordance with a requirement of the Act.
  - (vi) The Board may require a Member who requests a copy of the Member Register to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of The Association.

## 8. Subscriptions

### (a) Affiliate Body:

- (i) All Affiliate membership subscriptions from each Affiliated Body shall be set by two-thirds majority vote of the Board prior to the commencement of each financial year.
- (ii) All subscriptions are due on the first day of each individual Affiliate Body's season.

- (b) Associate Organisations: The annual subscription from members of Associate Organisations shall be set by two-thirds majority vote of the Board prior to the commencement of each financial year; and are payable in full by the 1<sup>st</sup> August each year.



- (c) Recreational Members: The annual subscription for Recreational Members of The Association shall be set by two-thirds majority vote of the Board prior to the commencement of each financial year; and are payable in full by the anniversary date for each recreational member.
- (d) Notice of subscriptions shall be notified to members via The Association notice board and/or electronically.

## **9. New Members**

- (a) Affiliate Body and Associate Organisation: Entrance fees and subscriptions must be paid in full within two weeks of election.
- (b) Recreational Members: Subscriptions must be paid within two weeks of election and shall be paid as follows:
  - (i) If elected between 1 July and 30 September – Full annual subscription
  - (ii) If elected between 1 October and 31 December – 75% annual subscription
  - (iii) If elected between 1 January and 31 March – 50% annual subscription
  - (iv) If elected between 1 April and 30 June – 25% annual subscription

## **10. Liability for Subscription**

- (a) Any member who does not notify the Secretary in writing before the date of the Annual Meeting of his or her withdrawal from The Association shall be liable for the subscription for the current Association year.
- (b) The Board shall have the power by resolution to remove from the roll of members the name of any new member who fails to pay his or her subscription within two weeks from the date of his or her election.
- (c) Any member whose subscription is in arrears after 31<sup>st</sup> August in each year shall cease to be a member.

## **11. General Meetings – Annual General Meeting**

- (a) The Annual General Meeting of members shall be held every calendar year within six months after the end of The Association's financial year, with the Board to determine the date, time and place.
- (b) All Notices of Motion for consideration at the Annual Meeting must be handed to the Secretary in writing by 5pm no less than fourteen (14) days prior to the date set for said meeting.
- (c) Notice of the meeting (including date, time and location) and agenda items, including wording of Notices of Motion or proposed resolutions, must be posted on The Association notice board for seven (7) days before the date of the meeting for all members to read. If the resolution is intended to be proposed as a special resolution this will also be stated in the notice with the wording of the proposed special resolution.
- (d) Members who have provided an email address will also be emailed a copy of the notice of the meeting, agenda items and any Notices of Motion.
- (e) Fifty (50%) percent of voting members shall constitute a quorum at an Annual Meeting.

- (f) In the case of insufficient members to form a quorum being present after 30 minutes following the advertised start time for an Annual Meeting, said meeting will be automatically adjourned to re-convene at the same time seven days later and shall proceed with or without a quorum.
- (g) The Chairperson of the meeting shall be the Association President or if not available a person nominated and elected by the members present.
- (h) Only members with voting rights, as per the constitution will be permitted to vote on matters at the Annual Meeting.
- (i) Any resolution put to the vote shall be decided by a majority of votes cast on show of hands.
- (j) The Chairperson shall decide all questions of order unless otherwise provided by these rules.
- (k) In the case of equality of votes, the motion shall be decided in the negative.
- (l) The order of business at the Annual Meeting shall be as follows:
  - (i) Reading notice of meeting.
  - (ii) Reading minutes of the last Annual Meeting and any other General Meeting not yet confirmed and confirming or amending same.
  - (iii) Reading President's Report, discussion and adoption or otherwise.
  - (iv) Reading Statement of Accounts and Balance Sheet to be received or otherwise.
  - (v) Notification of Board members.
  - (vi) Special Business of which Notice of Motion has been given.
  - (vii) Other Business.

## **12. General Meetings – Special General Meeting**

- (a) The Board may at any time call a Special General Meeting.
- (b) A Special General Meeting shall also be called by the Board on a requisition signed by no less than 20% of members with voting rights, stating in detail the purpose of the meeting.
- (c) Notice of the meeting (including date, time and location) and agenda items, including wording of Notices of Motion or proposed resolutions, must be posted on The Association notice board for seven (7) days before the date of the meeting for all members to read. If the resolution is intended to be proposed as a special resolution this will also be stated in the notice with the wording of the proposed special resolution.
- (d) Members who have provided an email address will also be emailed a copy of the notice of the meeting, agenda items and any Notices of Motion.
- (e) Only business of which notice shall have been given as above, or in accordance with these rules, shall be transacted at a Special General Meeting.
- (f) Any special resolution put to the vote shall be decided by a majority of votes cast on show of hands; if requested by three voting members then a poll will be taken.
- (g) Seventy-Five (75%) percent of voting members shall form a quorum.
- (h) In the case of insufficient members to form a quorum being present after 30 minutes following the advertised start time for a Special General Meeting, said meeting will be

automatically adjourned to re-convene at the same time seven days later and shall proceed with or without a quorum.

- (i) Only members with voting rights, as per the constitution will be permitted to vote on matters at the Special General Meeting.
- (j) The Chairperson shall all questions of order unless otherwise provided by these rules.
- (k) In the case of equality of votes, the motion shall be decided in the negative.

### **13. General Provisions for General Meetings**

- (a) General Meetings may take place:
  - (i) where the Members are physically present together; or
  - (ii) where the Members are able to communicate by using any technology that reasonably allows the Member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that the participation of the Member in the General Meeting must be made known to all other Members.
- (b) A Member who participates in a meeting as set out in Section 13(a)(ii):
  - (i) is deemed to be present at the General Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum; until the Member notifies the other Members that he or she is no longer taking part in the General Meeting.

### **14. General Provision**

- (a) No member shall be entitled to take any legal action against The Association, other than a claim for goods sold and delivered and services rendered, and must conform to the decisions of the Board.
- (b) These rules shall be the rules of The Association and shall be binding on members.
- (c) Correct accounts and books shall be kept showing the financial affairs of The Association and the particulars usually shown in books of accounts of a like nature.
- (d) The interpretation of these rules and any by-laws of The Association shall, unless set aside by a general meeting called for that purpose, be in the sole determination of the Association whose decision shall be binding on all members.
- (e) The Association premises and other Association facilities are to be provided and maintained from the joint funds of The Association and no person shall be entitled under these rules to derive any benefit or advantage from The Association which is not shared equally by every member thereof.
- (f) Section 14(e) does not prevent:
  - (i) the payment in good faith of remuneration to any officer, employee or Member in return for any services actually rendered to The Association or for goods supplied in the ordinary and usual course of business;
  - (ii) the payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the "Cash Rate Target" from time to time on money borrowed from any Member;



- (iii) the payment of reasonable and proper rent by The Association to a Member for premises leased by the Member to The Association; or
- (iv) the reimbursement of expenses incurred by any Member or any Board Member on behalf of The Association.
- (v) the reimbursement of a Board Member's travelling and other expenses as properly incurred:
  - 1. in attending Board Meetings or Sub-Committee meetings;
  - 2. in attending any General Meetings of The Association; and
  - 3. in connection with The Association's business.
- (vi) The payment of an honorarium to Board Members as determined by members by special resolution at an Annual or Special General meeting.
- (g) A member eligible to vote may appoint in writing another member to be the proxy of the appointing member and to attend and vote on behalf of the appointing member at any meeting of the Association. Only one proxy is allowed per member.
- (h) In the event of an Affiliate Body desiring to withdraw from the Association and having given to the Board twelve (12) months' notice in writing of its intention so to do and providing that all moneys due by it have been paid up to that time and adjusted if necessary for any proportion of the year the Affiliate Body was affiliated such Affiliate Body may withdraw from The Association and its members shall thereupon cease to be members of the Association.
  - (i) On the withdrawal of an Affiliate Body from the Association, such Affiliate Body shall deliver up and assign unto The Association all its rights, title and interest in and to the premises and property of The Association; and its obligations under this Rule shall thereby terminate without prejudice, however to any rights or remedies of the Association in respect of any antecedent breach of these Rules by the Affiliate Body.
- (i) All rents and profits made by The Association in hiring or letting of any of its premises or property for functions or meetings whether to an Affiliate Body or to other bodies or persons and all funds otherwise acquired, shall be credited to the account of The Association and applied towards the improvement of The Association's amenities and facilities and/or to the acquisition and/or repayment thereof whether freehold or leasehold or in assisting in the promotion of any of the objects of The Association as the Board may determine.

## **15. Appointment to the Board**

- (a) The management of The Association shall be vested in a Board as follows:
  - (i) Four (4) members from each Affiliate Body, elected to membership of the Board by their Affiliate Body, each meeting a skill set identified by The Association and detailed in the By-laws.
    - 1. Each Affiliate Body shall elect the required number of Representative Members, as per 15(a)(i), to serve on the Board, and inform the Board in writing not less than seven days before the Annual General Meeting.
    - 2. Board Members cannot hold more than one position on the Board.
    - 3. Junior members of an Affiliate Body are ineligible to hold office.

- (ii) One (1) Officer from the City of Melville, to be nominated by the City of Melville Chief Executive Officer:
  - 1. The Representative is to meet the skill set and any other criteria as identified by The Association and detailed in the By-laws.
- (b) The City of Melville Chief Executive Officer shall nominate the Representative, as per 15(a)(ii) to serve on the Board, and inform the Board in writing not less than seven days before the Annual General Meeting. Affiliate Body Representatives shall hold office for a period of two (2) years, with those retiring eligible for reappointment.
- (c) Board Transition – Affiliate Body
  - (i) In the first year commencing the start of the new rules:
    - 1. One Representative from each Affiliate body shall hold a one-year term; the other three shall hold a two-year term;
      - a. Each Affiliate body is to nominate which Representative will hold the one-year term;
  - (ii) At the end of the first year commencing the start of the new rules: Those Board Members with a one-year term will retire from the Board but are eligible for reappointment;
  - (iii) At the end of the second year commencing the start of the new rules: The remaining Board Members will retire from the Board but are eligible for reappointment.
- (d) Thereafter, Board members will each serve two-year terms but are eligible for reappointment.
- (e) One (1) delegate from each Associate Organisation, nominated by their Associated Organisation, may be invited to attend meetings of the Board but the person shall not have any right to comment without invitation, or vote on any matter, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
  - (i) All Associate Organisations shall elect or nominate their delegates to attend Board meetings upon request, and shall inform the Board in writing not less than seven days before said meeting.

## 16. The Board and Conditions

- (a) The Executive positions on the Board shall be President, Vice President, Secretary and Treasurer and shall be elected at the first Board meeting following the Annual General Meeting.
  - (i) The City of Melville Representative is ineligible for any Executive positions and has no voting rights; however, is able to speak at all Board and General meetings.
- (b) The Manager of The Association may attend all Board meetings to give their report and then leave at the discretion of the Board.
- (c) The quorum at all Board meetings shall be 50%.
- (d) Board Meetings may take place:
  - (i) Where the Board Members are physically present together; or

- (ii) Where the Board Members are able to communicate by using any technology that reasonably allows the Board Member to participate fully in discussions as they happen in the Board Meeting and in making decisions, provided that the participation of the Board Member in the Board Meeting must be made known to all other Members.
- (e) A Board Member who participates in a meeting as set out in Section 16(d)(ii):
  - (i) Is deemed to be present at the Board Meeting; and
  - (ii) Continues to be present at the meeting for the purposes of establishing a quorum, until the Board Member notifies the other Board Members that he or she is no longer taking part in the Board Meeting.
- (f) Board meetings shall be held monthly.
- (g) Special meetings may be called by the President, Secretary or on the request of three members of the Board.
- (h) The Board is able to determine the distribution of Board Meetings minutes, as detailed in the By-laws.
- (i) All Members, or other guests, may attend Board Meetings if invited by the Board but the person shall not have any right to comment without invitation, or vote on any matter, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
- (j) No member of the Board shall be held to have resigned his/her seat until his/her resignation, in writing, has been accepted by the Board.
- (k) Board Vacancies
  - (i) Casual vacancies will be filled as follows, but the person so chosen shall only hold office until the expiration of the term of the original appointee to that office:
    1. Representative Members shall filled by that retiring member's Affiliate Body;
    2. The City of Melville Representative shall be filled as per s. 15(a)(ii);
  - (ii) In the vacancy of the President then the Vice President shall become President.
  - (iii) A casual vacancy of Vice President shall be filled by the Board from a Member of the Board.
  - (iv) If vacancies in the Board result in the number of Board Members being less than the number fixed under Section 16(c), the continuing Board Members may act to only:
    1. Increase the number of Members on the Board to the number required for a quorum; or
    2. Convene a General Meeting of the Association.
- (l) The President shall preside at all meetings of the Board of The Association and, in his or her absence the Vice President.
  - (i) Should neither be present, the meeting shall elect a Chairperson.
- (m) All resolutions of the Board shall be decided by a majority vote of all those present.
  - (i) In the case of equality of votes, the proposal before the Board shall be decided in the negative.



- (ii) The President or in his or her absence, the acting President shall be authorised to speak on behalf of The Association.
- (n) Any act performed by the Board, a Sub-Committee or a person acting as a Board Member is deemed to be valid even if the act was performed when:
  - (i) there was a defect in the appointment of a Board Member, Sub-Committee or person holding a subsidiary office; or
  - (ii) a Board Member, a Sub-Committee member or a person holding a subsidiary office was disqualified from being a Board/Sub-Committee Member as per Section 19(g) or 19(h) as a result of bankruptcy or conviction of a relevant criminal offence.

#### **17. Ceasing to be a member of the Board**

- (a) A casual vacancy occurs in the office of a Board Member and that office becomes vacant if the Board Member:
  - (i) Ceases to be a member as per Section 5(f);
  - (ii) Becomes disqualified from holding a position under Section 19(g) or 19(h) as a result of bankruptcy or conviction of a relevant criminal offence;
  - (iii) Becomes permanently incapacitated by mental or physical ill-health;
  - (iv) Resigns from office under rule 16(j);
  - (v) Is absent from more than:
    - 1. Three consecutive Board Meetings without a good reason; or
    - 2. Three Board Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Board Meetings;
  - (vi) With the exception of the City of Melville representative, is removed from office under by resolution at a General Meeting of The Association if a majority of the Members present and with voting rights at the meeting vote in favour of the removal.
    - 1. The Board Member who faces removal from the Board must be given a full and fair opportunity at the General Meeting to decide the proposed resolution, to state his or her case as to why the Member should not be removed from his or her position on the Board.
    - 2. If all Board Members are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Board.
    - 3. The interim Board must, within two months, convene a General Meeting of the Association for the purpose of electing a new Board.
- (b) If representing an Affiliate Body and:
  - (i) That Affiliate Body ceases to be a member of The Association; or
  - (ii) That Affiliate Body revokes the appointment of that person as their representative; or
  - (iii) The representative ceases to be a member of that Affiliate Body as per Section 5(f)(i)3.
- (c) All decisions regarding the removal of the City of Melville representative shall be at the sole discretion of the City of Melville Chief Executive Officer.

- (i) Appointment of the City of Melville representative shall cease if the Officer's employment with the City of Melville terminates, effective from the date of that termination;
- (ii) The Board may apply in writing to the City of Melville Chief Executive Officer to remove the representative, outlining the reasons why this should occur.
- (iii) The City of Melville Chief Executive Officer shall advise the Board of any decision regarding removal or replacement within seven (7) days prior to the next Board meeting.

## **18. Powers of the Board**

- (a) The business of The Association shall be managed by the Board who may exercise all powers of The Association, except those required to be exercised by The Association at a General Meeting.
- (b) Without prejudice to the powers conferred by the last preceding rule, the Board shall, subject to the By-laws, have power to do the following things:
  - (i) To purchase or otherwise acquire any books, newsletters or periodicals and dispose of them as it may see fit.
  - (ii) To determine from time to time the conditions on which and time when, members may use the property of The Association or any part or parts thereof, and when and under what conditions the premises of The Association or any part or parts thereof, shall be used by members.
  - (iii) To determine what person, if any, not being members of The Association shall be permitted to use the premises of The Association or any part or parts thereof and during what time and under what conditions and when and at what times and places and under what conditions such persons shall be supplied with refreshments and accommodation.
  - (iv) To appoint any officials or servants of The Association and to remove them as occasions may require at their discretion and to define their respective duties. Persons appointed to paid positions shall be engaged under a contract, award or classification of work in the Registered and Licensed Clubs Award (2010) and its amendments.
  - (v) To delegate, subject to such conditions as it thinks fit any of its powers to Sub-Committees consisting of such members of the Board and other members of The Association co-opted for the purpose as it may determine and to make such regulations as to the proceedings of such Sub-Committees as may be thought desirable.
  - (vi) To regulate and control their own meeting and the transaction of business.
  - (vii) To reimburse expenses of any servant of The Association for faithful and diligent service as deemed fit.
  - (viii) In accordance with the rules, to suspend, or expel any member.
  - (ix) To enter into or accept any lease or tenancy of the premises where on The Association shall conduct its affairs or of any furniture, goods and effects, which

may be required for the use of The Association on such terms and on such conditions as The Association, may deem expedient.

- (x) To take and defend all legal proceedings by or on behalf of The Association and to appoint all necessary Attorneys for any such purpose.
- (xi) To borrow, raise or secure the payment of money, and to sell and dispose of the assets of The Association.
- (xii) To enter into arrangements with and make contributions to the Affiliate bodies and Associate organisations of The Association, for the promotion of The Association as per the guidelines in the By-laws.
- (xiii) To make, alter and repeal By-laws not inconsistent with these rules regulating the use and management of The Association premises, the admission of members and the conduct of The Association and its affairs generally.
- (xiv) To do and perform any other act, matters and things in connection with or relative to the management of The Association as shall not by these rules require to be done by The Association in General Meetings.
- (xv) To appoint such number of delegates to sporting bodies and associations with which The Association may from time to time be affiliated or associated with, as may be required by the rules thereof, and such delegates shall hold office in accordance with the rules of such sporting bodies and associations respectively.
- (xvi) Every member of the Board shall be indemnified against any loss, expenses or liability incurred by reason of any act or deed performed by him/her in good faith on behalf of the Board and the Board may use the funds of The Association for any such purpose required, together with any reasonable expenses incidental to Board activities.

## **19. Role and Responsibilities of Board Members**

### **(a) Obligations of the Board**

- (i) The Board must take all reasonable steps to ensure The Association complies with its obligations under the Act and these Rules.

### **(b) Responsibilities of Board Members**

- (i) A Board Member must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.
- (ii) A Board Member must exercise his or her powers and discharge his or her duties in good faith in the best interests of The Association and for a proper purpose.
- (iii) A Board Member or former Board Member must not improperly use information obtained because he or she is a Board Member to:
  - 1. Gain an advantage for himself or herself or another person; or
  - 2. Cause detriment to The Association.
- (iv) A Board Member or former Board member must not improperly use his or her position to:
  - 1. Gain an advantage for himself or herself or another person; or



## 2. Cause detriment to The Association.

- (c) A Board Member having any material personal interest, i.e.: financial or non-financial interests, in a matter being considered at a Board Meeting must:
  - (i) As soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
  - (ii) Disclose the nature and extent of the interest at the next General Meeting of The Association; and
  - (iii) Not be present while the matter is being considered at the Board Meeting or vote on the matter.
- (d) Section 19(c) does not apply in respect of a material personal interest that:
  - (i) Exists only because the Board Member belongs to a class of persons for whose benefit The Association is established; or
  - (ii) The Board Member has in common with all, or a substantial proportion of, the members of The Association.
- (e) The Secretary must record every disclosure made by a Board Member under Section 19(c) in the minutes of the Board Meeting at which the disclosure is made.
- (f) No Board Member shall make any public statement or comment or cause to be published any words or article concerning the conduct of The Association unless the person is authorised by the Board to do so and such authority is recorded in the minutes of the Board Meeting.
- (g) No person shall be entitled to hold a position on the Board if the person has been convicted of, or imprisoned in the previous five years for:
  - (i) An indictable offence in relation to the promotion, formation or management of a body corporate;
  - (ii) An offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
  - (iii) An offence under Part 4 Division 3 or section 127 of the Act;unless the person has obtained the consent of the Commissioner.
- (h) No person shall be entitled to hold a position on the Board if the person is, according to the Interpretation Act section 13D, a bankrupt or a person whose affairs are under insolvency laws unless the person has obtained the consent of the Commissioner.
- (i) As soon as is practicable after a person has ceased to be a member of the Board of The Association, all relevant documents, records as defined in the By-laws and security items (including passwords and keys) must be delivered to a member of the Board of The Association.

## 20. Chairperson

- (a) The Chairperson:
  - (i) Must consult with the Secretary regarding the business to be conducted at each Board Meeting and each General Meeting
  - (ii) May convene special meetings of the Board under Section 16(g)
  - (iii) May preside over Board Meetings under Section 16(l)

- (iv) May preside over General Meetings under Sections 11 and 12; and
- (v) Must ensure that the minutes of a General Meeting or Board Meeting are reviewed and signed as correct

## 21. Secretary

(a) The Secretary must:

- (i) Co-ordinate the correspondence of The Association;
- (ii) Consult with the Chairperson about all business to be conducted at meetings and convene General Meetings and Board Meetings, including preparing the notices of meetings and of the business to be conducted at each meeting;
- (iii) Keep and maintain an up to date condition the rules of The Association and any By-laws of The Association;
- (iv) Maintain the register of the Members including the email, street, postal address or information by means of which contact can be made of each member;
- (v) Update the register within 28 days of new members, members resigning, members suspended/expelled and in the latter case, include date in which member ceases and reasons for cessation of membership.
- (vi) Maintain the record of office holders of The Association.
  - 1. Board members may nominate a business address, post office box address or email address to be used in the record in place of their personal address;
- (vii) Ensure the safe custody of the Books, with the exception of the Accounting Records, of The Association;
- (viii) Keep full and correct minutes of Board Meetings for approval at the next Board meeting, which will then be stored and distributed as per the By-laws;
- (ix) Keep full and correct minutes of General Meetings, which will be distributed to all members within 30 days of the General Meeting via email and will be tabled for adoption at the next General Meeting; and
- (x) Perform any other duties as are imposed by these Rules or The Association on the Secretary.

## 22. Treasurer

(a) The Treasurer must:

- (i) Ensure all moneys payable to The Association are collected, and that receipts are issued for those moneys in the name of The Association;
- (ii) Ensure the payment of all moneys referred to in Section 22(a)(i) into the account or accounts of The Association as the Board may from time to time direct;
- (iii) Ensure timely payments from the funds of The Association with the authority of a General Meeting or of the Board, with all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association signed by either:
  - 1. Two Board members each representing a different Affiliate Body; or
  - 2. One Affiliate Body Board member and a person authorised by the Board

- (iv) Ensure that The Association complies with the account keeping requirements in Part 5 of the Act;
- (v) Ensure the safe custody of the Financial Records of The Association and any other relevant records of The Association;
- (vi) Coordinate the preparation of the financial statements or financial report, as imposed on The Association under Part 5 of the Act, prior to their submission to the annual general meeting of The Association;
- (vii) Assist the reviewer or auditor (if any) in performing their functions; and
- (viii) Perform any other duties as are imposed by these Rules or The Association on the Treasurer.

### **23. Sub-Committees**

- (a) The Board may delegate any of its delegable powers to Sub-Committees consisting of such Ordinary Members of an Affiliate Body as it thinks fit.
- (b) Such Sub-Committee must report to and be responsible to the Board.
- (c) No act of any Sub-Committee shall be binding on the Board or Association until ratified by the Board.
- (d) The Chair must be an existing member of the Board.
- (e) The President of the Board must be an ex-officio member.

### **24. Auditor**

- (a) There shall be an Auditor, not a member of the Board, who shall be appointed by resolution at a general meeting called for that purpose.
- (b) The Auditor shall be independent to The Association.
- (c) Such Auditor shall audit the accounts and have power at any time to call for all books, papers, accounts, etc. relating to the affairs of The Association.
- (d) The Auditor shall be entitled to receive such remuneration as the Board may determine from time to time.
- (e) If any casual vacancy occurs in the office of any Auditor appointed by The Association, the Board will fill the appointment until the next Annual General Meeting.

### **25. Alteration and Repeal of Rules**

- (a) No repeals of any existing rules and no new rules or alteration, amendments or suspensions of a rule shall be valid unless a special resolution is carried by a three-fourths majority of members present and with voting rights at a General or Special General Meeting and by otherwise complying with Part 3 Division 2 of the Act.
- (b) Any proposed alteration to Section 15 must first be accepted by each Affiliate Body by special resolution.
- (c) Notices of motions to repeal, alter or suspend any rule shall be given to the Secretary at least twenty-one (21) days preceding the Annual or Special General Meeting at which the motion shall be presented. The Secretary shall exhibit the proposal on The Association notice board at least fourteen (14) days prior to such meeting.



- (d) Within one month after the making of any amendment or addition to the rules of The Association, passed by special resolution, the Board shall submit the required documents to the Commissioner. No effect will be given to the amendments without the approval of the Commissioner.

## 26. Suspension or Expulsion of Members

- (a) The Board shall have the power to reprimand, suspend or expel any member of The Association.
- (b) The President, Board or Approved Manager in receiving a complaint from the Approved Manager or Approved Bar Staff, of a member's behaviour which is considered a serious breach of the Liquor Act or acceptable member behaviour or where police involvement is required, may suspend a member for a period of time until disciplinary action under Section 26(f) can be taken.
- (c) The Board is required to exempt any member of that Board from hearing a charge in which he or she has an interest.
- (d) If a responding member or a delegate of the responding member does not attend within 30 minutes of the time stated on the hearing notice, the hearing may start without that member or his or her delegate and determination will be made at the hearing.
- (e) The Board shall apply the power to reprimand, suspend or expel any member of The Association who:
  - (i) fail in the observance or commit any breach of any rule of The Association, members Code of Conduct, or any By-law of The Association or of any order or direction of the Board or of any General Meeting; and/or
  - (ii) in the sole judgement of the Board have been guilty in or out of The Association's premises of any act, conducted matter or thing calculated to bring discredit on The Association or its members, or to impair or affect the enjoyment of The Association by other members
- (f) Any member charged with misconduct as above shall be furnished with a written copy of the charge and summoned before the Board with no less than seven (7) days' notice.
  - (i) The Board shall after hearing the accuser and accused and taking such evidence as they may consider proper, if they find the charge proved, inflict a penalty of suspension from all or any of the privileges of membership.
  - (ii) If the Board consider that on a charge of gross misconduct suspension as above is insufficient, they may call on the member to resign, and if he or she neglects to resign within ten (10) days they may declare him or her to be expelled.
  - (iii) If a Member is suspended or expelled under Section 26(f)(i) or 26(f)(ii), the person may appeal the Board's decision through a Special general meeting by giving written notice to the Secretary within fourteen (14) days of receiving notice of the Board's decision under Section 26(f)(i) or 26(f)(ii).
- (g) Members are not permitted to have legal representation attend any disciplinary matters, but may bring another member to act in a support capacity only.
- (h) If a Member's membership is suspended under Section 26(f)(i), the Secretary must record in the Register:
  - (i) the name of the Member that has been suspended from membership;

- (ii) the date on which the suspension takes effect; and
  - (iii) the length of the suspension as determined by the Board under Section 26(f)(i)
- (i) During the period a member's membership is suspended, the member —
- (i) loses any rights (including voting rights) arising as a result of membership;
  - (ii) is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to The Association; and
  - (iii) Cannot attend the Association as a Guest of a member, unless prior written authorisation is received by the Board.
- (j) Upon the expiry of the period of a Member's suspension, the Secretary must record in the Register that the Member is no longer suspended.
- (k) If the Board's decision to suspend or expel a Member is revoked under these Rules, any act performed by the Board or Members in a General Meeting during the period that the Member was suspended or expelled from Membership under Section 26(f), is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of Membership, including voting rights, during that period.

## **27. Resolving Disputes**

### **(a) Disputes Arising under the Rules**

- (i) Section 27(a) applies to:
  - 1. Disputes between Members; and
  - 2. Disputes between The Association and one or more Members that arise under the rules or relate to the rules of The Association. This does not include disciplinary matters undertaken with Association members, which are covered only under Section 25(c) of The Association constitution.
- (ii) The parties to a dispute must attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.
- (iii) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (iv) The Secretary must convene a Board Meeting within twenty-eight (28) days after the Secretary receives notice of the dispute under Section 27(a)(iii) for the Board to determine the dispute.
- (v) At the Board Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (vi) The Secretary must inform the parties to the dispute of the Board's decision and the reasons for the decision within seven (7) days after the Board Meeting referred to in Section 27(a)(v).
- (vii) If any party to the dispute is dissatisfied with the decision of the Board they may elect to initiate further dispute resolution procedures as set out in the Rules.

### **(b) Mediation**

- (i) Section 27(b) applies:

1. where a person is dissatisfied with a decision made by the Board under Section 27(a) or
  2. where a dispute arises between a Member or more than one Member and The Association and any party to the dispute elects not to have the matter determined by the Board.
- (ii) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Section 27(a)(ii), or a party to the dispute is dissatisfied with a decision made by the Board under Section 27(a)(vii) a party to a dispute may:
1. Provide written notice to the Secretary of the parties to, and the details of, the dispute;
  2. Agree to, or request the appointment of, a mediator.
- (iii) Party, or parties requesting the mediation must pay the costs of the mediation.
- (iv) The mediator must be:
1. a person chosen by agreement between the parties; or
  2. in the absence of agreement:
    - a. if the dispute is between a Member and another Member – a person appointed by the Board; or
    - b. if the dispute is between a Member or more than one Member and The Association, the Board or a Board Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
- (v) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- (vi) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (vii) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least five (5) days before the mediation session.
- (viii) The mediator, in conducting the mediation, must:
1. give the parties to the mediation process every opportunity to be heard;
  2. allow all parties to consider any written statement submitted by any party; and
  3. ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (ix) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.

**(c) Inability to Resolve Disputes**

- (i) If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.



## 28. Liquor Act

- (a) The Association will maintain a club licence under the current Liquor Act and its amendments.
- (b) The Association shall ensure a Duty Manager is on the licensed premises for the purposes of observing liquor licensing requirements and regulations, as required under the Liquor Act.
- (c) The Association shall be open for sale of liquor during such hours as The Board shall from time to time determine and as permitted under the Liquor Act.
- (d) No liquor shall be sold or supplied to any juvenile.
- (e) The Association may allow visitors onto the premises, as per the requirements of the Liquor Act.
  - (i) Visitors shall not be entitled to be present at any meeting of the members of The Association, nor have any right, title or interest in or to any of the property of The Association.
  - (ii) Visitors will be subject to withdrawal by any Association official, including bar persons, acting on the best interests of The Association.
  - (iii) An up-to-date register of visitors must be continually available for inspection at The Association premises by authorised officers.
- (f) No liquor shall be sold or supplied for consumption other than on The Association's premises, unless the member purchasing it removes such liquor from the premises of The Association.
- (g) The Association may seek an Extending Trading Permit – Associations to add local Associations as users of The Association facility to hold their functions.

## 29. Common Seal

- (a) The Association shall have a Common Seal, which shall be kept in the custody of the Secretary and shall not be affixed to any document except by the authority of the Board and in the presence of one other member of the Board from a separate Affiliate Body.
- (b) Any document to which the Common Seal is affixed shall be countersigned by the Secretary or an officer appointed by the Board for that purpose.
- (c) The Association may execute a document without using a Common Seal if the document is signed by:
  - 1. Two Board members each representing a different Affiliate Body; or
  - 2. One Affiliate Body Board member and a person authorised by the Board

## 30. Dissolution of the Association


- (a) The Association may cease its activities and have its incorporation cancelled in accordance with Part 10 of the Act:
  - (i) After the Board has determined the association is able to pay or meet its debts and liabilities; and
  - (ii) The Members resolve by Special Resolution that The Association will:
    - 1. Apply to the Commissioner for cancellation of its incorporation; or
    - 2. Appoint a liquidator to wind up its affairs

- (b) The Association shall be wound up in accordance with Part 9 of the Act if:
  - (i) The Board has determined the association is unable to pay or meet its debts and liabilities; or
  - (ii) The Board or members determine by special resolution to wind up The Association as a result of financial difficulty resulting in or from:
    - 1. Being party to any current legal proceedings; or
    - 2. Any other outstanding legal obligations
- (c) Upon cancellation of The Association, the Surplus Property must only be distributed to one or more of the following:
  - (i) An incorporated association under the Act;
  - (ii) A body corporate that at the time of the distribution is the holder of a licence under the charitable collections legislation in Western Australia;
  - (iii) A company limited by guarantee that is registered as mentioned in section 150 of the Corporations Act 2001 (Cwth);
  - (iv) A company holding a licence that continues in force under section 151 of the Corporations Act 2001 (Cwth);
  - (v) a body corporate that:
    - 1. is a member or former member of The Association; and
    - 2. at the time of the Surplus Property is distributed, has rules that prevent the property being distributed to its members;
  - (vi) A trustee for a body corporate referred to in rule Section 30(c)(v); or
  - (vii) A co-operative registered under the Co-operatives Act 2009 that, at the time of the distribution, is a non-distributing co-operative as defined in that Act.

The Constitution was endorsed at the Annual General Meeting of the Tompkins Park Community and Recreational Association Inc. on 6 August 2020.

Kim Short, President 

Date: 17/9/20

Sean Terry, Hon. Secretary 

Date: 24/9/20