

Wollongong Golf Club Limited – Explanatory Notes to Proposed Constitution

Clause	Topic	Explanatory Notes
1	Objects and powers	<p>The objects are set out in schedule 1, which are the same as those in the current Constitution of the Club (‘Existing Constitution’)</p> <p>The powers reflect section 124 of the Corporations Act which provides that a company has the legal capacity and powers of an individual.</p>
2	Replaceable rules	<p>The Corporations Act sets out a number of ‘replaceable rules’ in relation to corporate governance of companies, which can be displaced by a company’s constitution. It is common for companies to displace these rules in their constitution. Clause 2 expressly provides that the replaceable rules are displaced. This is similar to clause 52 of the Existing Constitution.</p>
3	Property and income	<p>Clause 3.1 restricts the use and application of the income and property of the Club consistent with the Registered Clubs Act.</p> <p>Clauses 3.2, 3.3 and 3.4 contain restrictions on benefits to members and payments to directors that are consistent with the Registered Clubs Act. Given the importance of these restrictions they have been set out in the Constitution although they are imposed by the Registered Clubs Act.</p>
4	Membership	<p>The categories of membership have been amended to remove honorary members.</p>
5	Ordinary members	<p>There are 5 categories of ordinary member, being full playing member, other golfing member, junior member social member and City Diggers social member.</p> <p>Full playing member, Junior member and social member are existing categories.</p> <p>The ‘other golfing member’ represents a grouping of the intermediate member, 5 day member, 6 day member, corporate nominee member, country member and international member sub-categories. These sub-categories are grouped under the ‘other golfing member’ as their voting rights and rights to introduce guests are the same. The reference to ‘playing member’ has been removed. The rights (excluding voting rights) of other golfing members will be fully set out in the clubs by-laws</p> <p>‘City Diggers social member’ was a new category of membership introduced into the Existing Constitution in November 2020 as a result of the amalgamation of the Club with City Diggers.</p> <p>While the Constitution sets out governance related rights, the social, playing, facilities, amenities and competition privileges of each category and sub-category of ordinary membership will be as set out in the by-laws of the Club.</p> <p>At clause 5.7 there has been a modification to the procedure for admission of ordinary members, with the requirement for seconding of applications removed from the Constitution. The requirements for the application have</p>

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		<p>been simplified, so that the board will have the discretion to stipulate the application form and information required to be provided, avoiding the need for a constitutional change where a change is desired.</p> <p>There has also be a reduction in the required minimum period between application and election from 3 weeks to 2 weeks, as this is prescribed by the Registered Clubs Act.</p> <p>The ability for a transfer of membership between categories from clause 11 of the Existing Constitution has been retained and is at clause 5.8</p> <p>It has been clarified at clause 5.9 that an ordinary member will immediately cease to be a member if they cease to meet the stated criteria for admission.</p>
6	Provisional members	<p>Clause 6.2 provides for more specific rights and restrictions of provisional members.</p> <p>Clauses 6.3 and 6.4 set out the process for the issue of a provisional membership receipt or card and the requirement of the provisional member to produce it on request.</p> <p>Clause 6.5 sets out when provisional membership will end.</p>
7	Temporary members	<p>Clause 7.1 defines a temporary member consistently with the Registered Clubs Act and clause 7.3 sets out the rights of temporary members.</p> <p>Clauses 7.4 and 7.5 set out the process for the issue of a temporary membership receipt or card and the requirement of the temporary member to produce it on request.</p> <p>Clause 7.6 sets out when temporary membership will end.</p>
8	Life members	<p>The existing categories of golfing life member and City Diggers life member have been retained consistently with the Existing Constitution.</p> <p>Clause 8.2.1 clarifies that the requirement for 5 year’s membership does not need to be consecutive.</p> <p>Clause 8.2.2 also clarifies that a golfing life member has all of the rights of a full playing member, rather than a playing member which is the current terminology used in the Existing Constitution.</p> <p>The process under clause 8 of the Existing Constitution for admission of golfing life members has been retained.</p> <p>There is no provision for admission of new City Diggers life members, as this class of membership was established for the purpose of the amalgamation to ensure that the rights of existing life members of the City Diggers club would be preserved.</p>

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9	Application fees, membership fees and levies	<p>At clause 9.1 the right of the board of directors to determine the amount of application fees, membership fees and other payments payable by members has been retained.</p> <p>At clause 9.2 the board of directors has the right to determine when annual membership fees will be payable. A member whose fees are more than 30 days overdue will cease to be a member unless otherwise determined by the board of directors.</p>
10	Guests of members	<p>Clause 10.1 provides that all members except junior members can introduce guests to the Club. Clause 22(1) of the Existing Constitution excludes temporary members, but temporary members have this right provided that the Registered Clubs Act permits it.</p> <p>Clause 10.2 retains the right of the board to make by-laws relating to guests, and the procedural requirement for signing in guests.</p>
11	Resignation and cessation of membership	<p>This sets out the process for resignation and confirms that resignation will not result in a refund of membership fees unless the board considers that there are circumstances warranting the refund.</p>
12	Membership disciplinary proceedings	<p>This clause reflects the process under the Existing Constitution except that the member can be suspended pending the hearing.</p> <p>Clause 12.2 also clarifies that the board can delegate its functions under this clause to a committee or other person and removes the requirement for a majority of two thirds of the board to vote in favour of the outcome by secret ballot. Instead, the decision will be by majority, under the process established in clause 17.4.2.</p>
13	Application of property on dissolution	<p>Clauses 13.1 and 13.2 limits the liability of members to \$5.</p> <p>Clauses 13.4 establishes the process for dealing with surplus funds on winding up and provides that the surplus is not to be paid to members, but is to be given to an organisation having objects similar to those of the Club and which prohibit distribution of income and property to members. Clause 13.5 provides that the decision as to the relevant organisation will be made by the full playing members and life members at or before the winding up or dissolution. The Supreme Court of NSW will make the decision after the time of winding up or dissolution.</p>
14	Board of Directors	<p>Clause 14.1 provides that the board will consist of up to 9 directors. This is consistent with the maximum number prescribed by the Registered Clubs Act.</p> <p>Clause 14.2 establishes the 4 executive positions of President, Vice President, Treasurer and Captain (who will stand for and be elected in those positions) as well as up to 5 ordinary directors.</p>

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		<p>By clause 14.3 only full playing members and golfing life members are entitled to stand for the board (provided that they are not employees of the Club or under suspension). The Existing Constitution does not provide for the right of life members to stand for the board, but if life members have the same rights as full playing members, then they should have this right.</p> <p>The triennial rule will continue to apply so that directors hold a term of 3 years and one third of the board stand down each year. There is no maximum term for directors, and directors who are required to stand down are eligible to stand again for re-election.</p> <p>Clause 14.5 provides that casual vacancies are to be filled by full playing members or golfing life members, who will hold office until the next AGM, except where the casual vacancy is in respect of a City Diggers director, as the process in clause 14.5.1 will apply to this distinct category.</p> <p>A casual vacancy in the office of the President will be filled by the Vice President.</p>
15	Election of the Board	<p>Clause 15.1 sets out the process for election of directors. It distinguishes between City Diggers directors (which requires a nomination endorsed by 2 City Diggers members) and all other directors (which requires a nomination from either a full playing member who has been such a member for 2 years preceding, or golfing life member).</p> <p>The prescriptive approach for the ballot contained in clause 29 of the Existing Constitution has been removed, and instead the ballot can be conducted in such a manner as determined by the board from time to time.</p>
16	Powers of the Board	<p>The powers of the board are drafted broadly, which is appropriate given the responsibility for the management and control of the Club.</p>
17	Delegations of Committees	<p>The right of the board of directors to delegate to committees under clause 34(2) of the Existing Constitution has been retained, with decisions to be made by majority and the chair of the meeting of the committee having a casting vote in the event of deadlock.</p>
18	Board Meetings	<p>The requirement for the board of directors to meet at least once a month has been retained at clause 18.1.1.</p> <p>The right for the President to convene a board meeting and for 3 directors to call a board meeting has been retained at clause 18.1.2.</p> <p>The quorum for a board meeting of 5 directors has been retained at 18.2.3.</p> <p>Clause 18.3 confirms the limited circumstances where the board can act despite not achieving a quorum, being to convene a general meeting or to increase the number of directors to the quorum.</p>

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		<p>Clause 18.4 allows meetings to be held utilising technologies so that the directors need not be present.</p> <p>Clause 18.5 prescribes that the President is the chairperson, and failing that the Vice President.</p> <p>Voting at board meetings remains by majority vote, with the chairperson having a casting vote.</p> <p>Clause 18.6.3 prohibits proxy voting at board meetings.</p> <p>Clause 18.7 sets out the procedure for written resolutions without a general meeting.</p>
19	Removal of directors from office	<p>This clause reflects clause 32(1) of the Existing Constitution, but clarifies that it is the ordinary members, rather than the Club that can remove a director from office and appoint a replacement.</p> <p>The provisions in the Existing Constitution allowing for the directors to put their case to members has been removed as this right is contained in section 203D of the Corporations Act.</p>
20	Vacancies on board	<p>The circumstances in which a director will have vacated their office set out in this clause are consistent with the Existing Constitution.</p>
21	General meetings	<p>Clause 21.1 refers to the Corporations Act for the timing of AGMs, rather than prescribed the time period (currently 5 months from the end of the financial year).</p> <p>Clause 21.2 amends existing clause 38(2) to provide that 5% of the members with the votes that may be cast at the general meeting have the right to request a general meeting, rather than only full playing members and golfing life members</p> <p>Clauses 21.3 and 21,4 reflects the provisions of the Corporations Act where members with 50% of the votes out of the members who made a request for a general meeting may themselves call the meeting if the board fails to do so, with costs to be paid by the Club. This is a change to the Existing Constitution, which allowed for 1 month (instead of 21 days) for the board to call the meeting and for any of the members who made the request to call the meeting, rather than 50% of them, as prescribed by the Corporations Act.</p> <p>Clause 21.5 retains the 28 days notice for AGMs and clause 21.6 retains the 21 days notice for all other general meetings.</p> <p>Clause 21.8 clarifies that non receipt of notice will not invalidate the proceedings at a general meeting unless a declaration is made by the Court on application of an affected party.</p>
22	Procedure at general meetings	<p>As an AGM is a form of general meeting, this single clause deals with general meetings procedure instead of multiple clauses (37, 38, 40, 41 and 42 of the Existing Constitution).</p>

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		<p>Clause 22.1 still provides that the President, and in their absence the Vice President will act as chairperson. However this clause now provides that in the absence of both that the members will elect another director to preside, rather than any member.</p> <p>Clause 22.2 reduces the quorum to 30 full playing members, instead of the 50 full playing members under the Existing Constitution.</p> <p>Clauses 22.3 and 22.4 reflect clauses 40(3), 40(4) and 42 of the Existing Constitution with the process for adjournment and the members present and entitled to vote at the reconvened meeting constituting the quorum.</p> <p>Clause 22.5 is consistent with clause 44 of the Existing Constitution, with ordinary members (other than junior members) having the right to vote at general meetings on specified decisions, being:</p> <ul style="list-style-type: none"> (a) the election of directors (b) a resolution to approve the disposal of core property (c) a resolution to amend the Constitution. <p>A further right for ordinary members to vote to approve remuneration paid to directors has also been inserted, consistent with the Registered Clubs Act.</p> <p>There has been no change to the existing voting rights for full playing members and life members.</p> <p>Clause 22.6 extends the right to demand a poll to members with 5% of the votes than may be cast on the resolution or the President, in addition to 3 members entitled to vote on the resolution.</p> <p>Clause 22.7 clarifies when the poll can be demanded.</p> <p>Clause 22.8 retains the chairperson’s casting vote.</p> <p>Clause 22.9 retains the effect of the declaration by the chairperson as to a resolution.</p> <p>Clause 24.10 reflects the prohibition on proxy voting contained in the Registered Clubs Act.</p> <p>Clauses 22.11 to 22.13 retain the existing right of the Chairperson to adjourn the meeting with consent of a majority of members present and entitled to vote, and procedural matters in respect of that adjourned meeting.</p> <p>Clause 2.14 provides that if the minutes have been recorded and signed in accordance with the Corporations Act, then they will be conclusive evidence unless the contrary is proved.</p>

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23	Annual Meeting General	This confirms the business of each annual general meeting, with scope to add items of general business provided that notice has been given to the members. The provisions in clause 37 of the Existing Constitution relating to the timing for the holding of an AGM have been removed as the Corporations Act prescribes these.
24	Auditor	This confirms the right of the Auditor to receive notice of and attend general meetings and the right to be heard at a general meeting.
25	Records of members and guests	This clause now requires record keeping in accordance with the Registered Clubs Act rather than prescribing each specific record keeping obligation (as done in clause 20 of the Existing Constitution), as these could change as the legislation changes.
26	Financial Year	This confirms that the Club's financial year is 1 July to 30 June.
27	Indemnity to officers	This generally reflects clause 36 of the Existing Constitution in respect of an indemnity to directors and the company secretary, but extends the benefit of the indemnity to 'officers' as that is defined in the Corporations Act, which is broader than just the directors and the company secretary. The obligation on the Club to maintain insurance also uses the terminology of 'officer.'
28	Company secretary	This clause reflects clause 30 of the Existing Constitution but is less prescriptive and allows the board of directors to determine the terms of appointment, duties and responsibilities, in addition to the responsibilities prescribed under the Corporations Act.
29	By-laws	This confirms that by-laws made by the Board of Directors will be binding on the Club and the members and that notification of the by-laws can be given by posting on the Club's notice board.
30	Seal and execution of documents	The Club does not have a seal, so that clauses 47(2) and (3) from the Existing Constitution, with section 127 of the Corporations Act now governing execution of documents by the Club.
31	The constitution	This provision reflects clause 46 of the existing Constitution which sets out the process for amending the Constitution, but clarifies that a special resolution of the ordinary members is required, rather than a special resolution of the Club.
32	Notices	This simplifies the process for service of notices by reference to the Corporations Act. Section 249J of the Corporations Act allows for service personally, by post or by electronic communication, while also retaining the existing right to nominate a means of accessing notices.

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33	Transitional provision	This ensures continuity of membership for 5 day members and 6 days members intermediate, corporate nominee members, country members, international members despite the change in the name of membership.
34	Core Property	There is a restriction on the disposal of core property as required by the Registered Clubs Act. The existing two tiered vote will apply so that a disposal can only occur by both a special resolution of ordinary members and a resolution of not less than 75% of the full playing members and golfing life members present and entitled to vote
35	Definitions and interpretation	This defines key terms used elsewhere in the Constitution.
		The maximum number of full members prescribed at clause 3 of the Existing Constitution has been deleted as this is no longer applicable.
		The prescription of the Club's colours at clause 51 of the Existing Constitution has been deleted as this is to be contained in the by-laws, so that a change in colours does not require a constitutional change.