# TILLIGERRY RSL SPORTS CLUB LIMITED

# ACN 003 364 654

# EXPLANATORY MEMORANDUM FOR PROPOSED NEW CONSTITUTION

At the Annual General Meeting of the Club, members will be asked to consider a Special Resolution to adopt a new Constitution to replace the existing Memorandum and Articles of Association (**Articles)**.

This Explanatory Memorandum is intended to assist members with understanding the proposed new Constitution and why it is appropriate to adopt it.

Copies of the proposed new Constitution and the existing Articles are displayed on the Club’s noticeboard and website and they are also available on request from the Club.

A summary of the proposed new Constitution and its principal features is set out below. **Significant variations from the existing Articles are set out in bold**. However, there are many additional new provisions which reflect the requirements of various pieces of legislation which impact on the Club. These have not been set out in bold.

NAME

1. Rule 1 states that the name of the company is Tilligerry RSL Sports Club Limited. The company name remains unchanged.

PRELIMINARY

1. Rule 2.1 states that the Club is a company limited by guarantee and a non-proprietary company.
2. Rule 2.2 provides that the company is established for the purposes set out in the Constitution.
3. Rule 2.3 provides that the replaceable rules referred to in the Corporations Act are displaced or modified as provided in the Constitution.
4. Rule 2.4 provides that the Club must supply a member with a copy of the Club’s Constitution if a copy is requested by a member as prescribed by the Corporations Act.

DEFINITIONS

1. Rule 3 sets out definitions and terms used in the proposed new Constitution.

OBJECTS

1. Rule 4 sets out the objects for which the Club was established. **The objects of the Club remain unchanged**.

WINDING UP AND MEMBER’S LIABILITY

1. Rule 5 states that the liability of the members is limited. That limit is two dollars ($2.00) as set out in Rule 6.
2. Rule 6 provides that each member of the Club undertakes to contribute an amount not exceeding two dollars ($2.00) if the Club is wound up and the assets of the Club are insufficient to discharge the liabilities. This undertaking continues for a period of 12 months after the person ceases to be a member.
3. Rules 7.1 and 7.2 provide that on the winding up of the Club, if there remains any assets (after the satisfaction of all debts and liabilities), those assets shall not be distributed among the members but shall be given or transferred to the Returned Services League of NSW Sub Branch, or failing that another institution having objects similar to that of the Club and which has a prohibition on distribution of its assets to members to the same extent as the Club.

PROPERTY AND INCOME

1. Rule 8.1 provides that the property and income of the Club must be applied solely towards the promotion of the objects of the Club.
2. Rules 8.2 and 8.3 set out specific requirements of the Registered Clubs Act in relation to benefits available to members.
3. Rule 8.4 provides that a director of the Club cannot be appointed or elected to any office of the Club paid by salary or wages or any similar basis of remuneration.
4. Rule 8.5 provides that the payment in good faith of reasonable and proper remuneration to any officer, employee or to any member of the Club for services actually rendered is not prohibited.
5. Rule 8.6 specifies that a director shall not receive from the Club remuneration or any other benefit in money or monies worth except by way of an honorarium, reasonable out of pocket expenses or interest on money lent by the director to the Club or rent on property leased to the Club by the director.

LIQUOR & GAMING

1. Rules 9.1 and 9.2 provide that liquor shall only be supplied to persons of or over the age of 18 years in accordance with the Registered Clubs Act.
2. Rule 9.3 states that a person using the gaming facilities of the Club must be of or over the age of 18 years.
3. Rules 9.4 to 9.6 inclusive prohibit a person associated with the Club from receiving direct or indirect benefits including but not limited to monetary payments or commissions from liquor sales and/or the use of poker machines at the Club.

MEMBERSHIP

1. Rule 10.1 states that no person under the age of eighteen (18) years is to be admitted as a member of the Club except as a Junior member.
2. Rule 10.2 provides that Full membership of the Club comprises all other membership types other than Life members, Honorary members, Temporary members, Associate Sports members and Provisional members. There are no changes to the membership of the Club under the Constitution.
3. Rule 10.3 provides that persons who are not Full members may be admitted to the Club as Associate Sports members, Provisional members, Honorary members or Temporary members.
4. Rule 10.4 provides that the number of Full members having the right to vote in the election of the Board shall at all times comprise a majority of the members of the Club.

Eligibility Requirements and Membership Rights

1. Rules 10.5 to 10.7 inclusive set out the eligibility requirements and membership rights of Club members. The eligibility requirements and membership rights of Club members are unchanged.
2. Club members will continue to have “full membership rights” and they will be entitled to:
	* 1. such playing and social privileges and advantages of the Club as may be determined by the Board; and
		2. introduce guests to the Club.

and provided Full members have been a Financial member for at least one year, they will be entitled to

* + 1. attend and vote at general meetings (including Annual General Meetings) of the Club;
		2. nominate for and be elected to hold office on the Board;
		3. vote in the election of the Board;
		4. vote on any Special Resolution (including a Special Resolution to amend the Constitution);
		5. propose, second, or nominate any eligible member for any office of the Club;
		6. propose, second or nominate any eligible member for Life membership;
1. Rule 10.8 provides that if not enough Full members have been Financial members for at least one year, the one year limitation will be reduced until at least a majority of members of the Club who hold the right to vote are Full members of the Club.
2. Rules 10.09 to 10.11 inclusive set out the eligibility requirements and entitlements of Junior members.
3. Junior members will also have “limited membership rights” and they will only be entitled to such playing and social privileges and advantages of the Club as may be determined by the Board from time to time.
4. Rules 10.12 to 10.19 inclusive set out the eligibility requirements and entitlements of Life membership. Amongst other things, Life members will continue to have the same entitlements as Club members (ie “full membership rights”). This reflects the existing practice of the Club and the Articles.
5. Rules 10.20 to 10.23 inclusive set out the eligibility requirements and entitlements of Associate Sports membership. Amongst other things, Associate Sports members will continue to have the same social entitlements as Club members, yet not enjoy the voting and general meeting rights. This reflects the existing practice of the Club and the Articles.

Transfer between classes of membership

1. Rule 11 deals with the transfer of members between classes of membership.

Provisional Members

1. Rule 12 deals with Provisional membership. Any person may apply for Provisional membership upon completing and submitting the appropriate membership form and paying the membership subscription in advance. The eligibility requirements and entitlements of Provisional members reflect the existing practice of the Club.

Honorary Members

1. Rule 13 deals with Honorary membership in a way that is consistent with the Registered Clubs Act.

Temporary Members

1. Rule 14 deals with Temporary membership in a way that is consistent with the requirements of the Registered Clubs Act.

ELECTION OF MEMBERS

1. Rule 15 sets out the system for making application for membership of the Club. This reflects the existing practice and Articles of the Club.

JOINING FEES, SUBSCRIPTIONS AND LEVIES

1. Rule 16 deals with joining fees, subscriptions and levies in a manner which is consistent with the Registered Clubs Act and the existing practice of the Club.

NON-FINANCIAL MEMBERS

1. Rule 17 clarifies that non-financial members cease to be entitled to all of the rights and privileges of membership whilst they are a non-financial member of the Club.

REGISTERS OF MEMBERS AND GUESTS

1. Rule 18 sets out the various members and guests registers that the Club must maintain under the Registered Clubs Act.

NOTIFIFICAT!ION OF CHANGE OF CONTACT DETAILS

1. Rule 19 requires members to advise the Club of any change in their contact details within seven (7) days.

DISCIPLINARY PROCEEDINGS

1. Rule 20 deals with powers of the Board to discipline members. The provisions are more comprehensive than the existing Articles but they generally reflect the existing Articles and the existing practice of the Club.
2. **Rule 21 inserts a new provision which provides the Board with the power to delegate its disciplinary powers to a disciplinary committee comprising three (3) directors**. The Board retains the power to review a decision of a disciplinary committee provided the Board follows the procedure set out in Rule 21.3.
3. Rule 22 clarifies that any member who is suspended from the Club is not entitled to the rights and privileges of membership during their period of suspension.
4. Rule 23 deals with the power given to the Secretary Manager and employees of the Club under the Liquor Act to remove persons from the Club’s premises and to prevent them from returning to the Club. These powers given to the Secretary Manager and employees are no wider than those given under the Liquor Act.
5. Rule 24 deals with the procedure for a member to resign from the Club.

GUESTS

1. Rule 25 deals with guests of members and it reflects the provisions of the Registered Clubs Act.

PATRONS

1. Rule 26 states that the Club may appoint patrons from time to time and sets out the membership status of a patron who is not a member. This reflects the Articles.

BOARD OF DIRECTORS

1. Rule 27.1 provides the Board shall consist of seven (7) directors who shall comprise a President, Vice President, Treasurer and four (4) Ordinary Directors. **Rule 27.1 also provides that the Board may appoint two Board appointed directors in addition to the directors that are elected by members. This rule amends the Articles to bring them into line with the Registered Clubs Act.**
2. Rule 27.2 provides that the Board is elected biennially (every second year), in accordance with the Articles.
3. Rule 27.3 provides that only Full members and Life members can stand for and be elected or appointed to the Board, provided that they;
	* 1. have been a Financial member of the Club for at least 1 year; and
		2. are a permanent resident of the Shire of Port Stephens.
4. For the avoidance of doubt, Associate Sports members and Junior members cannot be directors of the Club.
5. Rules 27.4 and 27.5 provide that a member is not eligible to stand for or be elected or appointed to the Board if they:
	* 1. are an employee of the Club;
		2. are currently suspended from the Club (or have been recently suspended);
		3. are not a Financial member;
		4. have been convicted of an indictable offence;
		5. were formerly an employee whose services were terminated for misconduct;
		6. were an employee of the Club, or any club that has amalgamated with the Club, within the period of five (5) years prior to the nomination.
6. **Rule 27.8 inserts a new provision which provides that any person who is elected or appointed to the Board must complete mandatory training requirements for directors as prescribed by the Regulations made under the Registered Clubs Act (unless exempted).**

ELECTION OF BOARD

1. Rule 28 deals with the election of the Board. The provisions are more comprehensive than the existing Articles and reflect the established practice of the Club.

POWERS OF THE BOARD

1. Rule 29 deals with the Board’s powers. The provisions are more comprehensive than the existing Articles and reflect the existing Articles and the established practice of the Club.

PROCEEDINGS OF THE BOARD

1. Rule 30 deals with proceedings of the Board. The provisions reflect the existing Articles and the requirements of the Corporations Act.
2. **Rule 30.4 provides that the quorum for a board meeting shall be the majority of directors on the Board as at the date of the meeting. The existing Articles held that the quorum for the conduct of the business of the Board is four out of the seven directors. The new phrasing of this Rule will in principle keep the quorum as four out of seven directors, however, it will allow for more flexibility in the case where the active number of directors is reduced, for example due to a director leaving office before the end of their term.**
3. All decisions of the Board are determined by a majority vote. In the case of an equality of votes the chairperson of the meeting has a second or casting vote.
4. **Rules 30.8 and 30.9 allow the Board to pass board resolutions without board meetings (for example, by email). This is consistent with the Corporations Act.**
5. **Rule 30.10 introduces a new provision which allows a meeting of the Board to be called or held using technology consented to by all directors. This is consistent with the Corporations Act.**

MATERIAL PERSONAL INTERESTS OF DIRECTORS AND REGISTERED CLUBS ACCOUNTABILITY CODE

1. **Rules 31 and 32 insert new provisions dealing with accountability and corporate governance which are consistent with the Corporations Act and Registered Clubs Act.**
2. Rule 33 provides that the Club must make available certain accountability reports to members as required by the Registered Clubs Regulations.

REMOVAL FROM OFFICE OF DIRECTORS

1. Rule 34 provides that the members in general meeting may by ordinary resolution remove any director, or the whole Board, before the expiration of their period of office and appoint another person or persons in their place. This is consistent with the Corporations Act and the existing Articles.

VACANCIES ON THE BOARD

1. Rule 35.1 clarifies how a casual vacancy on the Board arises.
2. Rule 35.3 states that the Board has the power to fill a casual vacancy. Any person appointed to fill a casual vacancy will hold office only until the next Biennial General Meeting.

GENERAL MEETINGS

1. Rules 36.1 to 36.17 inclusive relate to the calling and holding of general meetings (and Annual General Meetings) of the Club. However, they are more comprehensive than the existing Articles and have been updated to reflect the current law.

ATTENDANCE AND VOTING AT GENERAL MEETINGS

1. Rules 36.18 to 36.30 inclusive relate to attendance and voting at general meetings.
2. Proxy voting is not permitted. This is a requirement of the Registered Clubs Act.
3. Every member eligible to vote, either by show of hands or a poll, is entitled to one vote.
4. A member, who is also an employee of the Club, is not permitted to vote. This is a requirement of the Registered Clubs Act.
5. All questions and resolutions (other than Special Resolutions) shall be decided by a simple majority of votes.
6. Voting shall be on a show of hands unless a poll is demanded.

QUORUM AT GENERAL MEETINGS

1. Rules 36.31 to 36.34 inclusive detail the quorum required for general meetings.
2. Rule 36.31 provides that no business may be transacted at a general meeting unless a quorum of members is present.
3. Rule 36.32 provides that, at any general meeting (including an Annual General Meeting) of the Club, twenty-five (25) Life members and Full members who are eligible to attend and vote at the meeting constitutes a quorum. This reflects the existing Articles.
4. Rules 35.33 to 35.38 inclusive set out the procedure to be followed if a quorum is not present and the procedure if an adjournment of a general meeting occurs.

**CANCELLATION AND POSTPONEMENT OF MEETINGS**

1. Rule 36.39 provides that the Board may cancel or postpone any general meeting prior to the date on which it is to be held, except where such cancellation or postponement would be contrary to the Corporation Act.

**WITHDRAWAL OF RESOLUTIONS**

1. Rule 36.40 provides that the Board may withdraw any resolution which has been proposed by the Board and which is to be considered at a general meeting, except where the said withdrawal would be contrary to the Corporations Act.

USE OF TECHNOLOGY FOR GENERAL MEETINGS

1. Rule 36.41 provides that the Club may hold a general meeting (including an Annual General Meeting) at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate at the meeting.

MEMBERS’ RESOLUTIONS AND STATEMENTS

1. **Rule 37 provides that individual members may submit items of business and notices of motion provided they are received by the Secretary of the Club at least thirty-five (35) days prior to the date fixed for an Annual General Meeting.**
2. **Rule 37 also provides that one hundred (100) members or five percent (5%) of the voting membership may make a written request requiring the Board to include an item of business or notice of motion in the business of an Annual General Meeting. This reflects the Corporations Act.**

MINUTES

1. Rule 38 provides that minutes of all resolutions and proceedings at general meetings must be entered in a minute book within one month of the meeting and signed by the chairperson of that meeting or the chairperson of the next succeeding meeting.

ACCOUNTS

1. Rule 39 deals with the accounts and reporting to members and it is consistent with the Corporations Act and Registered Clubs Act.

FINANCIAL YEAR

1. Rule 40 provides that the financial year of the Club shall commence on the first day of July in each year and will end on the last day of June in the following year. There is no change to the financial year of the Club.

AUDITOR

1. Rule 41 requires the Club to appoint an auditor. The auditor holds office until removed by the members in general meeting or resigns from office or dies. This is a requirement of the Corporations Act.

SECRETARY

1. Rule 42 requires the Board to appoint one (and only one) Secretary who will be the Secretary Manager of the Club for the purposes of the Registered Clubs Act.

EXECUTION OF DOCUMENTS

1. Rule 43 deals with execution of documents and the common seal of the Club.

NOTICES

1. Rule 44 deals with the requirements of giving notice to members and it reflects the requirements of the Corporations Act.

INDEMNIFICATION OF OFFICERS

1. Rule 45 deals with the insurance and indemnification of the officers and auditors of the Club in accordance with the Corporations Act.

INTERPRETATION

1. Rule 46 provides that a decision of the Board on the construction or interpretation of the Constitution or any Rule, or any policy of the Club made pursuant to this Constitution, shall be conclusive and binding on all members of the Club

AMENDMENTS TO CONSTITUTION

1. Rule 47 provides for amendments to the Constitution. The Constitution can only be amended by way of Special Resolution passed at a general meeting of members.
2. Life members and Full members can vote on any Special Resolution to amend the proposed Constitution provided that only Life members and Full members who have been financial members of the Club for one year prior to the relevant general meeting.

It is hoped that this summary will provide members with sufficient background and information to enable them to make an informed decision in relation to the proposed special resolution to adopt the new Constitution. However, there may be matters about which members may have questions not covered by this Memorandum. In these circumstances, they are invited to raise their questions with the Secretary Manager of the Club.

The Board of the Club considers the proposed new Constitution as being a significant improvement on the existing Articles and recommend that members vote in favour of the Special Resolution. To be passed the Special Resolution will need votes from not less than three-quarters (75%) of those members who being eligible to do so vote in person at the meeting.

**Dated: 28th October 2020**

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**Anthony Watson**

**Secretary Manager**