



Western Australian Speedway Commission Inc.

CONSTITUTION

Effective from 10 May, 2022

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PART I – OBJECTS AND POWERS

1. NAME OF ASSOCIATION

- 1.1 The name of the Association is the Western Australian Speedway Commission Inc., herein after referred to as the 'Commission'.

2. OBJECTS OF COMMISSION

- 2.1 The objects of the Commission are to:
- 2.1.1 Promote and advocate for safe speedway activities across Western Australia.
 - 2.1.2 Provide independent and impartial advice, and work with members to continually improve safety and delivery of speedway.
 - 2.1.3 Develop partnerships with State and Local Government, national and local industry organisations, and other stakeholders in relation to speedway risk and safety.
 - 2.1.4 Develop and implement systems, specifications and guidelines for the speedway industry in Western Australia in accordance with the Safety Governance Framework.
 - 2.1.5 Develop and deliver speedway training and accreditation programs for stewards, officials, scrutineers and for other related key positions.

3. POWERS OF COMMISSION

- 3.1 The powers conferred on the Commission are the same as those conferred by section 14 of the Act, so that subject to the Act and any additions, exclusions or modifications inserted below, the Commission may do all things necessary or convenient for carrying out its objects and purposes, and in particular, may:
- 3.1.1 acquire, hold, deal with, and dispose of any real or personal property;
 - 3.1.2 open and operate bank accounts;
 - 3.1.3 invest its money;
 - 3.1.4 in any security in which trust monies may lawfully be invested; or
 - 3.1.5 in any other manner authorised by the rules of the Commission;
 - 3.1.6 borrow money upon such terms and conditions as the Commission thinks fit;
 - 3.1.7 give such security for the discharge of liabilities incurred by the Commission as the Commission thinks fit;
 - 3.1.8 appoint agents to transact any business of the Commission on its behalf;
 - 3.1.9 enter into any other contract it considers necessary or desirable; and
 - 3.1.10 act as trustee and accept and hold real and personal property upon trust, but does not have power to do any act or thing as a trustee that, if done otherwise than as a trustee, would contravene this Act or the rules of the Commission.

4. APPLICATION OF INCOME

- 4.1 Except as prescribed in this constitution:
- 4.1.1 the property and income of the Commission shall be applied solely towards the promotion of the objects of the Commission 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;

4.1.2 no portion of the income or property of the Commission shall be paid or transferred, directly or indirectly by way of remuneration, dividend, bonus or otherwise to any Member or Commissioner;

4.1.3 Clauses 4.1.1 and 4.1.2 do not prevent:

- a) the payment in good faith of remuneration to any Commissioner, employee or Member in return for any services actually rendered to the Commission or for goods supplied in the ordinary and usual course of business;
- b) 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 Commissioner or Member;
- c) the payment of reasonable and proper rent by the Commission to a Commissioner or Member for premises leased by the Commissioner or Member to the Commission; or
- d) the reimbursement of expenses incurred by any Commissioner or Member on behalf of the Commission.

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties.

PART II – DEFINITIONS AND INTERPRETATION

5. DEFINITIONS

In this Constitution, unless the contrary intention appears:

Act means the Associations Incorporation Act 2015

Affiliate Member means a member as per Clause 7.1.1

Associate Member means a non-voting member as per Clause 7.1.2

Annual General Meeting is the meeting convened under Clause 20

Appointed Commissioner means those Commissioners referred to in Clause 13.2.2 who are appointed in accordance with this Constitution

Board means Board in accordance with this constitution

Board Meeting means a meeting referred to in Clause 13

Chairperson means in relation to the proceedings at a Board Meeting or General Meeting, the person presiding at the Board Meeting or General Meeting in accordance with Clause 13.5

Commission means the Western Australian Speedway Commission Inc.

Commissioner means a member of the Board of Commissioners elected, appointed or co-opted in accordance with this Constitution and includes any persons acting in those capacities from time to time

Department means the government department with responsibility for administering the Act

Deputy Chairperson means in relation to the proceedings at a Board Meeting or General Meeting, the person appointed by the Board to act in the role of Deputy Chairperson in accordance with Clause 13.7

Elected Commissioner means those Commissioners referred to in Clause 13.2.1, who are elected in accordance with this Constitution

Event Permit means the permit provided in accordance with Clause 12

Financial Statements means the financial statements in relation to the Commission required under Part 5 Division 3 of the Act

Financial Year means the period commencing 1 July and ending on 30 June the following year

General Manager means the most senior person employed by the Commission appointed by the Board, to conduct the affairs of the Commission and implement its policies.

General Meeting means a General meeting of the Commission whether Annual or Special to which all Members are invited

Intellectual Property means all rights subsisting in copyright, business names, names, trademarks (or signs), logos, designs, equipment including computer software, images (including photographs, videos or films) or service marks relative to the Commission or any activity of or conducted, promoted or administered by the Commission in Western Australia

Member means an Affiliate Member or Associate Member of the Commission

Member Representative means a member of a Member as above who has been authorised, in writing by their committee, to represent and/or vote on their behalf.

Ordinary Resolution means a resolution other than a special resolution

Rules means the Rules of the Commission as authorised by this Constitution

Seal means the common seal of the Commission and includes any official seal of the Commission

Special General Meeting means a General Meeting called in accordance with Clause 21 hereunder, at which only business that has been described in the notice may be transacted

Special Resolution means a resolution passed in accordance with section 51 of the Act

Track Licence An affiliate member who is a track operator requires an annual Track Licence as an essential component of a venue operators risk management, processed under the WA Speedway Safety Governance Framework. A Track Licence also represents membership to the Western Australian Speedway Commission.

Voting Rights means the ability for a financial member's representative to move or second a motion or special motion; speak at all general meetings; vote at all general meetings; and petition for a special general meeting.

6. INTERPRETATION

In this Constitution

- 6.1 a reference to a function includes a reference to a power, authority and duty;
- 6.2 words importing the singular include the plural and vice versa;
- 6.3 references to persons include corporations and bodies politic;
- 6.4 references to a person include the legal personal representatives, successors and permitted assigns of that person;
- 6.5 a reference to an Australia state includes a reference to an Australia territory;
- 6.6 a reference to "writing" shall unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form, including messages sent by electronic mail; and
- 6.7 any matters of ambiguity relating to this Constitution, shall be resolved by the Board in its sole discretion.

7. MEMBERSHIP OF THE COMMISSION

- 7.1 Membership of the Commission shall consist of the following:
 - 7.1.1** Affiliate Member – a Track Operator, or WASC recognised Racing Division that is an incorporated association under the Act and delivers speedway in Western Australia; and who affiliates with the Commission in accordance with this constitution and with voting rights as follows:
 - a) An Affiliate Member is able, upon the first anniversary of membership and payment of membership fees, to nominate one (1) representative who will have full voting rights and any other rights conferred on members by these rules or approved by resolution at a general meeting or determined by the board. The Board may, at its discretion, reduce or waive this timeframe for new Affiliate Member/s.
 - b) This nomination must be in writing from the Member's committee.
 - 7.1.2** Associate Member – any person/division/association/organisation, who affiliates with the Commission as a non-voting member in accordance with this constitution.
 - a) An Associate Member shall have no voice in the management of the Commission and shall not be entitled to hold voting rights.
- 7.2 As per the by-laws, the Board may create new classes of membership and determine the rights and obligations that apply to those classes.
- 7.3 This constitution binds every Member and the Commission to the same extent as if every Member and the Commission had signed and sealed this constitution and agreed to be bound by all of its provisions.

8. REGISTER OF MEMBERS

- 8.1 The Commission must keep and maintain a register of Members at the office of the Commission.
- 8.1.1** Residential, postal, or email address can be nominated for the register of members.
- 8.2 The register is to be available for inspection by Member Representatives during normal business hours
- 8.2.1** The Member Representative may make a copy of details from the Register but has no right to remove the Register for that purpose.
- 8.2.2** A Member Representative may make a request in writing for a copy of the Register.
- 8.2.3** The Commission may charge a reasonable fee to the Member for providing a copy of the Register, the amount to be determined by the Board from time to time.
- 8.2.4** A Member must not use or disclose the information on the Register:
- a) 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);
 - b) To contact, send material to the Commission or a Member for the purpose of advertising for political, religious, charitable or commercial purposes, or
 - c) 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 Commission; or
 - b) Related to the provision of the information to the Department in accordance with a requirement of the Act.
- 8.2.5** The Board may require a Member who requests a copy of the 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 Commission.

9. APPLICATION FOR MEMBERSHIP

- 9.1 All applications for membership must:
- 9.1.1** be completed by the duly authorised person on behalf of the applicant and lodged with the Commission in writing on the appropriate form, or as otherwise prescribed from time to time;
 - 9.1.2** provide a copy of the applicant's constitution
 - 9.1.3** provide a list of member numbers; and
 - 9.1.4** provide details of the nominated Representative.
- 9.2 Each application for membership will be considered for acceptance or rejection by the Commission at the next Board meeting
- 9.3 The Commission must not accept an application unless the applicant is eligible under Clause 7.1
- 9.4 The Commission may reject an application even if the applicant is eligible under Clause 7.1
- 9.5 The Commission must notify the applicant of the board's decision to accept or reject the application as soon as practicable after making the decision.
- 9.6 If the Commission rejects the application, the Commission is not required to give the applicant its reasons for doing so.
- 9.7 Membership of the Commission shall be deemed to commence upon acceptance of the application by the Commission in accordance with Clause 9.5.
- 9.7.1** The Register of Members shall immediately be amended accordingly.
- 9.8 All members, upon successful registration, will be supplied with an electronic copy of the Commission constitution or will be directed to obtain a copy of the Commission's constitution from the Commission's website.

10. CESSATION OF MEMBERSHIP

- 10.1 Membership of the Commission ceases upon:
- 10.1.1** receipt by the Commission of a notice in writing from the representative of their resignation from the Commission;
 - 10.1.2** non-payment by a Member of their subscription within three months of the date fixed by the Board of Commissioners for subscriptions to be paid; or
 - 10.1.3** expulsion of a Member in accordance with Clause 11.
- 10.2 A Member remains liable to pay to the Commission the amount of any subscription due and payable by that Member to the Commission but unpaid at the date of cessation

11. SUSPENSION AND EXPULSION

- 11.1 The Board shall have the power to reprimand, suspend or expel any member of the Commission.
- 11.2 The Board in receiving a complaint of a member's behaviour which is considered a serious breach of acceptable member behaviour or where police involvement is required, may suspend a member for a period of time until disciplinary action under Clause 11 can be taken.
- 11.3 The Board shall apply the power to reprimand, suspend or expel any member of the Commission who:
- 11.3.1** fail in the observance or commit any breach of any rule or by-law of the Commission, members Code of Conduct; any order or direction of the Board; or of any General Meeting; and/or
 - 11.3.2** in the sole judgement of the Board have been guilty in or out of the Commission's premises of any act, conducted matter or thing calculated to bring discredit on the Commission or its members, or to impair or affect the enjoyment of the Commission by other members
- 11.4 The Board is required to exempt any Commissioner from hearing a charge in which he or she has an interest.
- 11.5 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 thirty (30) days' notice.
- 11.5.1** 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 reprimand, suspension from all or any of the privileges of membership.
 - 11.5.2** 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.
 - 11.5.3** A suspension or expulsion under Clause 11.5.1 or 11.5.2 is effective immediately after the decision to suspend or expel the Member is communicated to him or her.
 - 11.5.4** If a Member is suspended or expelled under Clause 11.5.1 or 11.5.2, the Member may appeal the Board's decision through a Special General Meeting by giving written notice to the General Manager within fourteen (14) days of receiving notice of the Board's decision under Clause 11.5.1 or 11.5.2.
 - 11.5.5** When notice is given under Clause 11.5.4:
 - a) the Commission in a General Meeting, must either confirm or set aside the decision of the Board to suspend or expel the Member, after having afforded the Member who gave that notice a reasonable opportunity to be heard by, or to make representations in writing to, the Commission in the General Meeting; and
 - b) the Member who gave that notice is not suspended or does not cease to be a member unless, and until the decision of the Board to suspend or expel them is confirmed under Clause 11.5.5.

- 11.6 If a Member Representative 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 and determination will be made at the hearing.
- 11.7 Member Representatives are not permitted to have legal representation attend any disciplinary matters, but may bring another Member Representative to act in a support capacity only.
- 11.8 If a Member's membership is suspended under Clause 11.5.1, the General Manager must record in the Register:
 - 11.8.1** the name of the Member that has been suspended from membership;
 - 11.8.2** the date on which the suspension takes effect; and
 - 11.8.3** the length of the suspension as determined by the Board under Clause 11.5.1
- 11.9 During the period a member's membership is suspended, the member:
 - 11.9.1** loses any rights (including voting rights) arising as a result of membership; and
 - 11.9.2** is not entitled to a refund, rebate, relief or credit for membership fees paid, or payable, to the Commission.
- 11.10 Upon the expiry of the period of a Member's suspension, the General Manager must record in the Register that the Member is no longer suspended.
- 11.11 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 Clause 11.6, is deemed to be valid, notwithstanding the Member's inability to exercise their rights or privileges of Membership, including voting rights, during that period.

12. SUBSCRIPTIONS AND FEES

- 12.1 Membership of the Commission is subject to payment of a track licence fee for Affiliate Members or an affiliation fee for Associate Members, the amount, time and manner of payment as determined by the Board and detailed in the by-laws.
 - 12.1.1** A fresh application must be made at the time of membership renewal.
- 12.2 Track Licence
 - 12.2.1** A Track Licence is included with Affiliate membership of the Commission.
 - 12.2.2** The Commission may issue or grant licences in Western Australia to any Affiliate Division or Track Operator, which makes application to the Commission upon such terms and subject to such provisions and conditions as they think fit.
 - 12.2.3** If an applicant is granted a licence, the licensee will be bound by and conform to this Constitution and the rules, regulations and by-laws and to such other directions or requirements as the Commission may give or determine.
- 12.3 Event Permit
 - 12.3.1** Granted to Affiliate Members on application for additional fee
 - a) each and every member must apply for a permit from the Commission, before conducting any speedway event or meeting;
 - b) the Member makes application to the Commission upon such terms and subject to such provisions and conditions as they think fit.;
 - c) the Commission in its absolute discretion may, upon receiving an application from a member issue or grant an event permit to that member, to conduct a Speedway meeting/competition/race or event, on such terms and conditions as they see fit
- 12.4 The Board may from time to time;
 - 12.4.1** set fees payable for admission as a Member;
 - 12.4.2** set fees for renewal of membership;

- 12.4.3** set fees for Event Permits;
- 12.4.4** set any other fees for activities supporting the objectives of the Commission; and
- 12.4.5** determine the terms and conditions attaching to those payments including the manner and time for payment

13. COMPOSITION OF THE BOARD

- 13.1 Subject to the Act and this Constitution the business of the Commission shall be managed, and the powers of the Commission shall be exercised, by the Board.
- 13.2 The Board must consist of not more than seven (7) Board Commissioners, comprising of:
 - 13.2.1** Three (3) elected Members as per Clause 14; and
 - 13.2.2** Four (4) appointed by the Board as per Clause 15.
- 13.3 Only one (1) representative from each Member is eligible to be a Commissioner.
- 13.4 An employee of a Member or the Commission is not eligible to be a Commissioner.
- 13.5 Commissioners shall not hold office in any member body associated with Speedway.
- 13.6 The Board will elect a Chairman from one of the three (3) elected Commissioners.
- 13.7 The Board may elect a Deputy Chairman from one of the seven (7) Commissioners.
- 13.8 The General Manager will be entitled to attend all meetings of the Board and all Advisory Committee meetings, however is not entitled to vote at those meetings.
- 13.9 The Chairman will act as chairman at meetings of the Board
 - 13.9.1** If the Chairman is not present within 10 minutes of the time appointed for holding the meeting, the Deputy Chairman will act as chairman
 - 13.9.2** If the Deputy Chairman is not present within 10 minutes of the time appointed for holding the meeting, the Commissioners present may choose one of their numbers to chair the meeting.
- 13.10 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:
 - 13.10.1** an indictable offence in relation to the promotion, formation or management of a body corporate;
 - 13.10.2** an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
 - 13.10.3** an offence under Part 4 Division 3 or section 127 of the Act;unless the person has obtained the consent of the Department.
- 13.11 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.
- 13.12 The Chairman of a meeting of the Board has a deliberative vote and a casting vote.
- 13.13 Commissioners shall be elected or appointed in accordance with this Constitution for a term of three (3) years, and subject to this Constitution, shall hold office from the conclusion of the Annual General Meeting at which they were elected or appointed until the conclusion of the Annual General Meeting at which their term of office expires.
- 13.14 Board Members may be re-elected and re-appointed in accordance with this Constitution.

14. ELECTED COMMISSIONERS

- 14.1 Nominations of candidates for election as Commissioners shall be received from current members of the Commission.
- 14.1.1** Nominees for elected Commissioner positions on the Board must meet the qualifications as prescribed from time to time by the Board
- 14.1.2** Nominations are accepted after endorsement by the Board
- a) Endorsement is by simple majority vote at the Board meeting immediately after nominations close
- 14.2 Nominations shall be:
- 14.2.1** made in writing
- 14.2.2** signed by 2 authorised officers of a Member
- 14.2.3** accompanied by the written consent of the nominee (which may be endorsed on the form of nomination)
- 14.2.4** in the hands of the General Manager by 5pm not less than fourteen (14) days before the date of the Annual General Meeting
- 14.3 If the number of nominees nominating for the elected Commissioner positions is not greater than the number to be elected, the Chairman at the Annual General Meeting:
- 14.3.1** must declare each of those nominees to be elected to the position; and
- 14.3.2** may call for further nominations from the representatives at the meeting to fill any positions remaining unfilled.
- 14.4 If the number of nominations exceeds the number of vacancies to be filled, a secret ballot shall be taken.
- 14.5 The elections shall be by standard preferential ballot and secret ballot (when required) on papers prepared by the General Manager or returning officer appointed.
- 14.6 If there are vacancies to be filled, the position will be deemed to be a Casual Vacancy and filled by the Board in accordance with Clause 16.

15. APPOINTED COMMISSIONERS

- 15.1 The Elected Commissioners may appoint up to four (4) Appointed Commissioners.
- 15.2 An Appointed Commissioner does not need to be a Representative or member of a Member of the Commission
- 15.3 Preference for appointment will be given to a nominee independent of the Commission and Members
- 15.4 The Appointed Commissioners shall have specific skills as determined by the Board to complement the Board composition.
- 15.5 Appointment is by simple majority vote at the Board meeting

16. CASUAL VACANCIES

- 16.1 A casual vacancy occurs on the Board of the Commission and that office becomes vacant if the Commissioner:
- 16.1.1** dies;
- 16.1.2** if an Elected Commissioner:
- a) ceases to be a member of a Member of the Commission;
- 16.1.3** if an Appointed Commissioner:
- a) may be terminated by vote of a majority of the Commissioners in office;

- 16.1.4** becomes disqualified from holding a position under Clause 13.9 or 13.10 as a result of bankruptcy or conviction of a relevant criminal offence;
- 16.1.5** has a material personal interest in any contract or proposed contract with the Commission and fails to declare the nature of their interest;
- 16.1.6** becomes permanently incapacitated by mental or physical ill-health;
- 16.1.7** in the opinion of the Board in its discretion has acted in a manner unbecoming or prejudicial to the objects and interests of the Commission;
- 16.1.8** resigns by notice in writing delivered to the Chairperson or, if the Commissioner is the Chairperson, to another Commissioner;
- 16.1.9** becomes an employee of the Commission or a Member of the Commission;
- 16.1.10** is absent from more than:
 - a) three consecutive Board Meetings without a good reason; or
 - b) three Board Meetings in the same financial year without tendering an apology to the person presiding at each of those Board Meetings; of which meetings the Commissioner received notice, and the Board of Commissioners has resolved to declare the office of that Director vacant; or
- 16.1.11** Is removed from office under by resolution at a General Meeting of the Commission where a majority of the Members present and with voting rights at the meeting vote in favour of the removal.
 - a) The Commissioner 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.
 - b) If all Commissioners are removed by resolution at a General Meeting, the Members must, at the same General Meeting, elect an interim Board.
 - c) The interim Board must, within two months, convene a General Meeting of the Association for the purpose of electing a new Board.
- 16.2** In the event of a casual vacancy in the office of Elected Commissioner, the Board will appoint a Commissioner to the vacant office and the person so appointed may continue in office for the remaining term and be eligible for re-election.
- 16.3** In the event of a casual vacancy in the office of an Appointed Commissioner, the Board will appoint a Commissioner to the vacant office and the person appointed may continue in office for the remaining term and be eligible for re-appointment.
- 16.4** The Board will upon any vacancy occurring in the membership of the Board invite expressions of interest from persons seeking appointment as a Commissioner in such ways as the Board considers appropriate.
 - 16.4.1** Within twenty-eight (28) days of the last day specified by the Board for submissions of such expression the Board must provide recommendations of the person or persons the Board proposes to appoint as a Commissioner.
- 16.5** If vacancies in the Board result in the number of Commissioners being less than the number fixed under Clause 18.3, the continuing Commissioners may act to only:
 - 16.5.1** increase the number of Commissioners on the Board to the number required for a quorum; or
 - 16.5.2** convene a General Meeting of the Association

17. DUTIES AND POWERS OF THE BOARD

- 17.1 The management and control of the affairs of the Commission are vested in the Board which, without limiting the generality of this statement has the following powers and duties to:
- 17.1.1** from time to time by resolution enter into any contract or other arrangement with any Member or other Association formed for the purpose of conducting or encouraging Speedway and may by resolution cancel or determine any such contract agreement or other arrangement;
 - 17.1.2** grant licences and permits to conduct events in Western Australia subject to the Constitution and the rules and/or regulations and/or by-laws upon such terms and conditions as the Board decides and to impose such requirements upon or attach such conditions to the licences and permits as it considers desirable and to give directions to a Licensee as to the conduct of the competition;
 - 17.1.3** appoint, dismiss and fix the salary and terms and conditions of employment of such employees as the Board may from time to time determine and to delegate to any person so appointed any of its powers or duties;
 - 17.1.4** appoint Advisory Committees composed of such persons as the Board may think fit to perform such duties as the Board may determine and the Board may regulate the proceedings of all such Advisory Committees;
 - 17.1.5** ensure that minutes are kept of all meetings of the Board and of such other meetings as the Board may from time to time determine;
 - 17.1.6** make, alter and repeal by-laws not inconsistent with these rules;
 - 17.1.7** keep a correct account of all moneys and other assets belonging to the Commission and;
 - 17.1.8** ensure that all moneys received by the Commission are banked in a bank approved by the Board
 - 17.1.9** to authorise persons to sign cheques on any such bank account and endorse cheques, or approve transactions by electronics means and other documents on behalf of the Commission;
 - 17.1.10** maintain proper books of account for the Commission and balance them for the purposes of annual audit and otherwise as decided by the Board and to prepare and submit annual accounts to auditors;
 - 17.1.11** invest moneys of the Commission not immediately required for the purposes thereof in any form of investment thought appropriate by the Board and from time to time to vary or realise such investments;
 - 17.1.12** sell any real or personal property of the Commission whether for cash or on terms and by action or by private contract on such terms and conditions as the Board thinks fit;
 - 17.1.13** exchange any real or personal property of the Commission for any other property on such terms and conditions as the Board thinks fit;
 - 17.1.14** buy or take on exchange or otherwise acquire any real or personal property for the Commission and do any such thing on such terms and conditions as the Board thinks fit;
 - 17.1.15** alter, amend, renovate, demolish, rebuild or otherwise deal with any real or personal property of the Commission on such terms and conditions as the Board thinks fit;
 - 17.1.16** borrow money for the Commission and give security therefore by mortgage or charge over any property of the Commission;
 - 17.1.17** make and give receipts releases and other discharges for money payable to the Commission or any other claims or demands of the Commission;
 - 17.1.18** institute, conduct, defend, compound or abandon any legal proceedings by or against the Commission or against any other person to refer any claims or demands by or against the Commission to arbitration and observe and perform the awards;

- 17.1.19** enter into all such negotiations and contracts and rescind and vary all such contracts and execute and do all such acts deeds and things as the Board may consider desirable for the proper performance of their duties;
 - 17.1.20** do all such acts and things and exercise all such powers as are incidental to or expedient for the fulfilment and implementation of the objects of the Commission or as the Board otherwise considers desirable;
 - 17.1.21** cause the Commission to keep and maintain and provide for the use of Members:
 - a) copies of this Constitution and any rules or bylaws; and
 - b) a record of all office holders;
- 17.2 A Commissioner must exercise their powers and discharge their duties with a degree of care and diligence that a reasonable person would exercise in the circumstances and in good faith in the best interests of the Commission and for a proper purpose;
- 17.3 A Commissioner or former Commissioner must not improperly use their position or information obtained because they are a Commissioner to:
 - 17.3.1** gain an advantage for themselves or another person; or
 - 17.3.2** cause detriment to the Commission;
- 17.4 A Commissioner having any material personal interest, i.e.: financial or non-financial interests, in a matter being considered at a Board Meeting must:
 - 17.4.1** as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Board;
 - 17.4.2** disclose the nature and extent of the interest at the next General Meeting of the Commission; and
 - 17.4.3** not be present while the matter is being considered at the Board Meeting or vote on the matter.
- 17.5 Clause 17.4 does not apply in respect of a material personal interest that:
 - 17.5.1** exists only because the Commissioner belongs to a class of persons for whose benefit the Commission is established; or
 - 17.5.2** the Commissioner has in common with all, or a substantial proportion of, the members of the Commission.
- 17.6 The General Manager must record every disclosure made by a Commissioner under Clause 17.4 in the minutes of the Board Meeting at which the disclosure is made.
- 17.7 No Commissioner shall make any public statement or comment or cause to be published any words or article concerning the conduct of the Commission unless the person is authorised by the Board to do so and such authority is recorded in the minutes of the Board meeting.

18. BOARD MEETINGS

- 18.1 The Board of Commissioners must meet together for the dispatch of business as deemed necessary, but not less than eight times per year.
- 18.2 Not less than ten (10) days' notice of a Board Meeting shall be given to each Commissioner.
 - 18.2.1** The agenda shall be forwarded to each Commissioner not less than seven (7) days prior to that meeting.
- 18.3 At a Board meeting, five (5) Commissioners constitute a quorum.
- 18.4 Each elected and appointed Commissioner has a deliberative vote.
- 18.5 A question arising at a Board Meeting must be decided by a majority of votes
 - 18.5.1** If there is no majority, the person presiding at the Board Meeting will have a casting vote in addition to his or her deliberative vote.

18.6 Subject to this constitution, the procedure and order of business to be followed at a Board Meeting must be determined by the Commissioners.

19. ADVISORY COMMITTEES

19.1 Advisory Committees may be appointed by the Board to advise the Board on specific technical, operational and regulatory needs of Speedway.

19.2 The following Advisory Committees may be appointed:

19.2.1 Track and Grading Advisory Committee;

19.2.2 Safety and Regulations Advisory Committee;

19.2.3 Audit and Risk Committee;

19.2.4 Grievances Committee and

19.2.5 Any other Committee as determined appropriate by the Board from time to time.

19.3 The specific responsibilities of each Advisory Committee are prescribed in the by-laws of the Commission as amended from time to time.

19.4 Each Advisory Committee must:

19.4.1 provide strategic and policy advice to the Board on matters related to the particular Advisory Committee's role and terms of reference;

19.4.2 provide opinions to the Board, upon request, which may assist the Board to make decisions that are within its jurisdiction;

19.4.3 provide a two way communication channel for Members, partners, stakeholders and other interested parties to participate in the development of strategic improvement projects;

19.4.4 be responsible for its own minutes and agenda; and

19.4.5 provide copies of its minutes to the Board within two (2) weeks of each Advisory meeting, and no later than one (1) week prior to the subsequent Board meeting.

19.5 Each Advisory Committee may:

19.5.1 co-opt people to form Project Task Groups to work on specific projects; and

19.5.2 propose changes in policy to the Board, formulate opinions and report to the Board in the area related to the Committee's specific charter.

19.6 Each Advisory committee will be comprised of a maximum of seven (7) members, with the following requirements:

19.6.1 Track and Grading Advisory Committee

a) Composition to be determined by the Board

19.6.2 Safety and Regulations Advisory Committee

b) Composition to be determined by the Board

19.6.3 Audit and Risk Committee

c) Composition to be determined by the Board

19.6.4 Grievances Committee

d) Composition to be determined by the Board

19.6.5 Any other Committee as determined appropriate by the Board from time to time

e) Composition to be determined by the Board

19.7 The General Manager may be a member of an Advisory Committee as deemed appropriate by the Board. The General Manager is not eligible for appointment as Chairman of an Advisory Committee.

19.8 A person may serve on more than one Advisory Committee at a time.

- 19.9 Subject to this Constitution and or the rules, and/or regulations and by-laws an Advisory Committee appointed by the Board may determine its own procedure. If at any meeting the chairman is not present within ten (10) minutes after the time appointed for holding the meeting, the members of the committee present may choose one of their number to be chairman of the meeting.
- 19.10 An Advisory Committee may meet and adjourn as it thinks proper.

20. GENERAL MEETINGS – ANNUAL GENERAL MEETING

- 20.1 The Annual General Meeting of members shall be held every calendar year within six months after the end of the Commission's financial year, with the Board to determine the date, time and place.
- 20.2 All Notices of Motion for consideration at the Annual General Meeting must be handed to the General Manager in writing by 5pm no less than twenty-eight (28) days prior to the date set for said meeting.
- 20.3 Notice of the meeting (including date, time and location) and agenda items, including wording of Notices of Motion or proposed resolutions, must be emailed or posted to all members twenty-one (21) days prior before the date of the meeting.
- 20.3.1** 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.
- 20.4 The order of business at the Annual General Meeting shall be as follows:
- 20.4.1** Reading notice of meeting.
- 20.4.2** confirm the minutes of the previous annual general meeting and of any special general meeting held since then if the minutes of that meeting have not yet been confirmed.
- 20.4.3** Reading President's Report, discussion and adoption or otherwise.
- 20.4.4** Reading of the financial statements of the Commission for the preceding financial year presented under Part 5 of the Act to be received or otherwise.
- 20.4.5** Election of Board.
- 20.4.6** Election of Commission Auditor if required
- 20.4.7** Special Business of which Notice of Motion has been given.

21. GENERAL MEETINGS – SPECIAL GENERAL MEETING

- 21.1 The Board may at any time call a Special General Meeting.
- 21.2 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.
- 21.3 Notice of the meeting (including date, time and location) and agenda items, including wording of Notices of Motion or proposed resolutions, must be posted emailed or posted to all members twenty-one (21) days prior before the date of the meeting.
- 21.3.1** 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.
- 21.4 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.

22. GENERAL MEETING PROVISIONS

- 22.1 General Meetings may take place:
- 22.1.1** where the Members are physically present together; or

24. VOTING AT GENERAL MEETINGS

- 24.1 24.1 Only financial Affiliate Member Representatives will be permitted to vote on matters at a General Meeting as per Section 7. of the Constitution. Each Member, through their Representative, is entitled to one deliberative vote in person, or if not present:
- 24.1.1** by absentee on the prescribed ballot paper as provided and endorsed by the General Manager; or
 - 24.1.2** by proxy as per Clause 25.
- 24.2 Commissioners shall have the right to attend and debate at General Meetings, but shall not have the right to vote on matters at General Meetings unless the Commissioner is the Representative of a Member.
- 24.3 Chairperson of the meeting has a casting vote.

25. PROXIES OF MEMBERS

- 25.1 A Member (in this rule called "the appointing Member") may appoint in writing another Member Representative who is a natural person to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any General Meeting.
- 25.2 An appointment made under Clause 25.1 must be made by a resolution of the Board of appointing member or other governing body of the appointing Member concerned:
- 25.2.1** which resolution is authenticated under the common seal of that Member; and
 - 25.2.2** a copy of which resolution is lodged with the General Manager.
- 25.3 A person appointed under Clause 25.1 to represent a Member is deemed for all purposes to be a Member Representative until that appointment is revoked by that Member or, in the case of an appointment in respect of a particular General Meeting, which appointment is not so revoked, the conclusion of that General Meeting.

26. MINUTES OF MEETINGS

- 26.1 The General Manager must cause proper minutes of all proceedings of all General Meetings to be taken and then to be recorded within thirty (30) days after the holding of each General Meeting.
- 26.1.1** The Chairperson must ensure that the minutes taken are checked and signed as correct by the Chairperson of the General Meeting to which those minutes relate or by the Chairperson of the next succeeding General Meeting.
- 26.2 The General Manager must cause proper minutes of all proceedings of all Board Meetings to be taken and then to be recorded within seven (7) days after a Board Meeting.
- 26.2.1** The Chairperson must ensure that the minutes taken are checked and signed as correct by the Chairperson of the Board Meeting to which those minutes relate or by the Chairperson of the next succeeding Board Meeting.
- 26.3 When minutes have been recorded and signed as correct under this rule, they are, until the contrary is proved, evidence that:
- 26.3.1** the General Meeting or Board Meeting to which they relate was duly convened and held;
 - 26.3.2** all proceedings recorded as having taken place at the meeting did in fact take place at the meeting; and
 - 26.3.3** all appointments or elections purported to have been made at the meeting have been validly made.

27. RESOLVING DISPUTES

27.1 Disputes Arising under the Rules

27.1.1 Clause 27.1 applies to:

- a) Disputes between Members; and
- b) Disputes between the Commission and one or more Members that arise under the rules or relate to the rules of the Commission. This does not include disciplinary matters undertaken with members, which are covered only under Clause of the Commission constitution.

27.1.2 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.

27.1.3 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 General Manager of the parties to, and details of, the dispute.

27.1.4 The General Manager must convene a Board Meeting within twenty-eight (28) days after the General Manager receives notice of the dispute under Clause 27.1.3 for the Board to determine the dispute.

27.1.5 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.

27.1.6 The General Manager 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 Clause 27.1.5.

27.1.7 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.

27.2 Mediation

27.2.1 Clause 27.2 applies:

- a) where a person is dissatisfied with a decision made by the Board under Clause 11.5 or Clause 27.1 or
- b) where a dispute arises between a Member or more than one Member and the Commission and any party to the dispute elects not to have the matter determined by the Board.

27.2.2 Where the dispute relates to a proposal for the suspension or expulsion of a Member this rule does not apply until the procedure under Clause 11.5 in respect of the proposed suspension or expulsion has been completed.

27.2.3 If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Section 26(a)(ii), or a party to the dispute is dissatisfied with a decision made by the Board under Clause 27.1.7 a party to a dispute may:

- a) Provide written notice to the General Manager of the parties to, and the details of, the dispute;
- b) Agree to, or request the appointment of, a mediator.

27.2.4 Party, or parties requesting the mediation must pay the costs of the mediation.

27.2.5 The mediator must be:

- a) a person chosen by agreement between the parties; or
- b) in the absence of agreement:
 - i. if the dispute is between a Member and another Member – a person appointed by the Board; or

- ii. if the dispute is between a Member or more than one Member and the Commission, the Board or a Board Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
- 27.2.6** A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.
- 27.2.7** The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- 27.2.8** The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least 5 days before the mediation session.
- 27.2.9** The mediator, in conducting the mediation, must:
- a) give the parties to the mediation process every opportunity to be heard;
 - b) allow all parties to consider any written statement submitted by any party; and
 - c) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- 27.2.10** 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.
- 27.3** Inability to Resolve Disputes
- 27.3.1** 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. ALTERATION AND REPEAL OF RULES

- 28.1** 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.
- 28.2** Notices of motions to repeal, alter or suspend any rule shall be given to the General Manager by 5pm at least twenty-eight (28) days preceding the Annual or Special General Meeting at which the motion shall be presented.
- 28.3** The General Manager shall post or email the proposal to all members at least twenty-one (21) days prior to such meeting.
- 28.4** Within one month after the making of any amendment or addition to the rules of the Commission, passed by special resolution, the Board shall send or deliver the required documents and a certified copy of the amendment or alteration to Consumer Protection. No effect will be given to the amendments without the approval of this Department.

29. COMMON SEAL OF COMMISSION

- 29.1** The Commission must have a common seal on which its corporate name appears in legible characters.
- 29.2** The common seal of the Commission must not be used without the express authority of the Board and every use of that common seal must be recorded in the minute book referred to in Clause 26.
- 29.3** The affixing of the common seal of the Commission must be witnessed by any two of:
- 29.3.1** Chairperson
 - 29.3.2** Elected Commissioner
 - 29.3.3** General Manager

- 29.4 The common seal of the Commission must be kept in the custody of the General Manager or of such other person as the Board from time to time decides.

30. GENERAL MANAGER

- 30.1 The Board shall appoint a General Manager for such term and on such conditions as it thinks fit.
- 30.2 Where the Commission does not have a General Manager, the next most Senior Person or Public Officer will, subject to confirmation by the Board, assume the functions of the General Manager under this Constitution
- 30.3 The General Manager shall act as and carry out the duties of the public officer of the Commission and shall administer and manage the Commission in accordance with this Constitution and the Act.
- 30.3.1** Subject to the Act, this Constitution, the Regulations and any directive of the Board, the General Manager shall have the delegated power to perform all such things as are necessary or desirable for the proper management and administration of the Commission.
- 30.3.2** No resolution passed by the Commission in a General Meeting shall invalidate any prior act of the General Manager or the Board that would have been valid if that resolution had not been passed.
- 30.4 The General Manager may in consultation with the Board and as appropriate, employ such personnel as are deemed necessary or appropriate from time to time and such appointments shall be for such period and on such conditions as the General Manager determines.
- 30.5 The General Manager must:
- 30.5.1** pursue the Objects of the Commission;
- 30.5.2** regularly report to the Board on the activities of, and issues relating to, the Commission;
- 30.5.3** co-ordinate the correspondence of the Commission;
- 30.5.4** 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;
- 30.5.5** as far as is practicable attend all meetings of the Board and all General Meetings of the Commission;
- 30.5.6** keep and maintain an up to date condition the rules of the Commission and any by-laws of the Commission;
- 30.5.7** maintain the register of the Members including the email, street or postal address of each member;
- 30.5.8** 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.
- 30.5.9** maintain the record of office holders of the Commission.
- a) 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;
- 30.5.10** keep full and correct minutes of Board Meetings for approval at the next Board meeting, which will then be stored and distributed as per by-laws;
- 30.5.11** keep full and correct minutes of General Meetings, which will be distributed as per by-laws and will be tabled for adoption at the next General Meeting; and
- 30.5.12** ensure all moneys payable to the Commission are collected, and that receipts are issued for those moneys in the name of the Commission;
- 30.5.13** ensure the payment of all moneys referred to in Clause 30.5.12 into the account or accounts of the Commission as the Board may from time to time direct;

- 30.5.14** ensure timely payments from the funds of the Commission 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:
- a) 2 Commissioners; or
 - b) one Commissioner and a person authorised by the Board
- 30.5.15** ensure that the Commission complies with the account keeping requirements in Part 5 of the Act;
- a) **Tier 1 Association:** coordinate the preparation of the Financial Statements of the Association prior to their submission to the annual general meeting of the Commission;
 - b) **Tier 2 or 3 Association:** coordinate the review for Tier 2 or audit for Tier 3 of the Financial Report of the Commission prior to its submission to the annual general meeting of the Commission;
- 30.5.16** ensure the accounts of the Commission are audited at the conclusion of each Financial Year;
- 30.5.17** assist the reviewer or auditor in performing their functions;
- 30.5.18** ensure the safe custody of the Books, and Financial Records of the Commission;
- a) The Commission shall retain custody of the Books, and Financial Records for at least seven years after the completion of the financial year to which the transactions or operations relate or any such length of time as might be required by law.
- 30.5.19** perform any other duties as are imposed by these Rules or the Commission on the General Manager.

31. AUDITOR

- 31.1 The accounts of the Commission shall be audited at the conclusion of each Financial Year.
- 31.2 There shall be an Auditor, not a member of the Board, who shall be elected at the Annual General Meeting.
- 31.3 The Auditor shall be independent to the Commission.
- 31.4 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 Commission.
- 31.5 The Auditor shall be entitled to receive such remuneration as the Board may determine from time to time.
- 31.6 If any casual vacancy occurs in the office of any Auditor appointed by the Commission, the Board will fill the appointment until the next Annual General Meeting.

32. INDEMNITY

- 32.1 Every Commissioner, Auditor, Employee and Volunteer of the Commission shall be indemnified out of the property of the Commission against any liability incurred by that person in the capacity of Commissioner, auditor, employee or volunteer in defending any proceedings, whether civil or criminal in which judgement is given in their favour or in which they are acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act granted to them by the court.

33. WINDING UP OF COMMISSION

33.1 The Commission may cease its activities and have its incorporation cancelled in accordance with Part 10 of the Act:

33.1.1 after the Board has determined the Commission is able to pay or meet its debts and liabilities; and

33.1.2 the Members resolve by Special Resolution that the Commission will:

- a) apply to the Commissioner for cancellation of its incorporation; or
- b) appoint a liquidator to wind up its affairs

33.1.3 The Commission must be wound up in accordance with Part 9 of the Act if:

- a) the Board has determined the Commission is unable to pay or meet its debts and liabilities; or
- b) is party to any current legal proceedings; or
- c) has any other outstanding legal obligations

33.1.4 Upon cancellation of the Commission, the Surplus Property must only be distributed to one or more of the following:

- a) an incorporated association under the Act;
- b) a body corporate that at the time of the distribution is the holder of a licence under the charitable collections legislation in Western Australia;
- c) a company limited by guarantee that is registered as mentioned in section 150 of the Corporations Act 2001 (Cwth);
- d) a company holding a licence that continues in force under section 151 of the Corporations Act 2001(Cwth);
- e) a body corporate that:
 - a. is a member or former member of the Commission; and
 - b. at the time of the Surplus Property is distributed, has rules that prevent the property being distributed to its members;
- f) a trustee for a body corporate referred to in Clause 33.1.4 e); or
- g) 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.