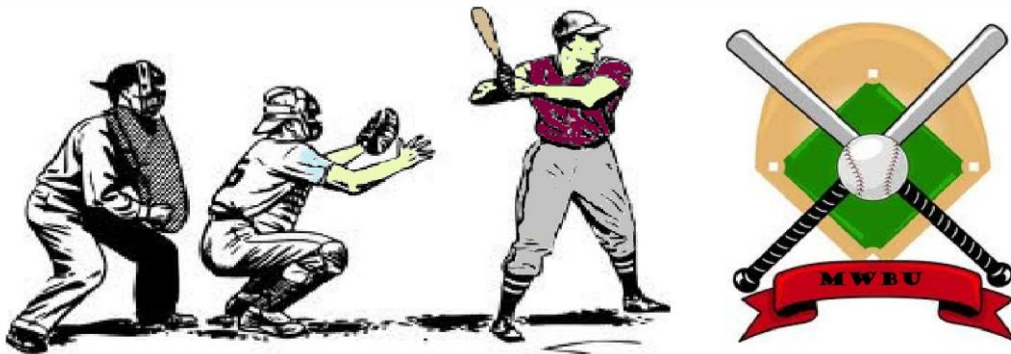


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**MANLY WARRINGAH BASEBALL  
UMPIRES INCORPORATED**

**MANLY WARRINGAH**



**BASEBALL UMPIRES**

**CONSTITUTION**

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## **Associations Incorporations Act (1984) New South Wales Constitution of:**

Manly Warringah Baseball Umpires Incorporated

### **PART I OBJECTS, POWERS AND INTERPRETATION**

#### **1. Name of the Organization**

The name of the Club is Manly Warringah Baseball Umpires Incorporated ("MWBU").

#### **2. Objects of the Organization**

MWBU is established for the administration and promotion of umpiring in the sport of Baseball in the areas covered by the Manly District Baseball. The objects for which MWBU is established and maintained are to:

- (a) participate as associate Member of the JBC, MWDBA, ML, NSWBL and the ABF through and by which the sport of Baseball can be conducted, encouraged, promoted, advanced and administered;
- (b) provide for the conduct, encouragement, promotion and administration of Umpires within the District;
- (c) ensure the maintenance and enhancement of MWBU and Baseball Umpiring, its standards, quality and reputation for the benefits of the Members and Baseball;
- (d) at all times promote mutual trust and confidence between MWBU, JBC, MWDBA, ML, NSWBL, ABF and baseball Clubs within the State of New South Wales and the Members in pursuit of these objects;
- (e) at all times act on behalf of and in the interests of the Members and Baseball;
- (f) use and protect the intellectual property of MWBU and, where permitted to do so, the intellectual property of JBC, MWDBA, ML, NSWBL and the ABF;
- (g) apply the property and capacity of MWBU towards the fulfilment and achievement of these objects;
- (h) review and/or determine any matters relating to Umpiring Baseball in the District, including disciplinary matters;
- (i) pursue commercial arrangements, including sponsorship and marketing opportunities as are appropriate and to further the interests of Baseball Umpiring in the District;
- (j) adopt and implement the policies of JBC, MWDBA, ML, NSWBL and the ABF including in relation to sexual harassment, equal opportunity, equity, drugs in sport, health, safety, infectious diseases, junior programs and such other matters as arise from time to time as issues to be addressed in Baseball in the District.
- (k) represent the interests of its Members and of Baseball generally in any appropriate forum conducted by JBC, MWDBA, ML and NSWBL in New South Wales.

- (l) encourage Members to realise their potential by extending to them the opportunity of education and participation in Baseball Competition;
- (m) encourage and promote performance-enhancing drug free competitions;
- (n) undertake and/or do all such things or activities which are necessary, incidental or conducive to the advancement of these objects including but not limited to complying with the Constitution, By-laws and Rules of NSWBL and the ABF in force from time to time.

### **3. Powers of MWBU**

Solely for furthering the objects set out above, MWBU has in addition to the rights, powers and privileges conferred on it under the Act, the legal capacity and powers of a company as set out under Section 124 of the *Corporations Act 2001*.

### **4. Interpretation**

#### **4.1. Definitions**

In this Constitution, unless the contrary intention appears, these words shall have the following meanings:

“Baseball” means the sport of baseball played in accordance with the official Australian Baseball Rules and such other games of baseball played with modified rules including but not limited to ‘T-Ball’.

“ABF” means the Australian Baseball Federation Incorporated, being the national peak body for the sport of Baseball in Australia.

“ABF Constitution” means the Constitution of the ABF as amended from time to time and any By-laws of ABF as amended from time to time.

“Act” means the *Associations Incorporation Act (1984) New South Wales* or any other act under which MWBU may be incorporated from time to time.

“Affiliated Club” means a Club affiliated with JBC, whether incorporated, unincorporated or otherwise.

“By-law” means any By-law, Regulation or Policy made by the Board under Rule 26.

“Committee” means the body consisting of the Committee Members.

“Committee Member” means a member of the Committee elected or appointed in accordance with this Constitution, including the elected positions of President, Secretary, and Treasurer.

“Chairperson” means the person elected to hold the position of Chairperson of MWBU.

“District” means suburbs or areas approved by the Committee or appointed by JBC, MWDBA, and ML.

“Financial Year” means the year commencing 1 July of the preceding year and ending 30 June on the current year.

“Foundation Member” means an individual whom was one of the first members of MWBU has been conferred and who are entitled to vote at General Meetings.



“General Meeting” means the Annual or any Special General Meeting of MWBU.

“Individual Member” means a registered financial individual member of.

“Intellectual Property” means all rights, all good will subsisting in copyright, business names, names, trademarks (or signs), logos, designs, patents or service marks (whether registered or registrable) relating to MWBU or any event, competition.

“Junior Member” means those Individual Members, under the age of 18 years.

“JBC” means the Manly Warringah Junior Competition Committee.

“Life Member” means an individual upon whom life membership of MWBU has been conferred under Rule 6.3. and who are entitled to vote at General Meetings.

“MWDBA” means the Manly Warringah District Baseball Association.

“ML” means the Manly Warringah Minor League.

“NSWBL” means the New South Wales Baseball Club being the peak body for the sport of Baseball in NSW.

“NSWBUA” means the New South Wales Baseball Umpires Association being the association accrediting Umpires within NSW.

“Public Officer” means, for the purposes of the Act.

“Senior Member” means those Individual Members, over the age of 18 years and who are entitled to vote at General Meetings.

“Secretary” means the person elected to hold the position of Secretary of MWBU.

“Treasurer” means the person elected to hold the position of Treasurer of MWBU.

“Umpires” means those individual members who participate as officials in Baseball Competitions conducted by JBC, MWDBA, ML and NSWBL and/or in which MWBU participates.

#### Interpretation

In this Constitution:

- (a) a reference to a function includes a reference to a power, authority and duty;
- (b) a reference to the exercise of a function includes, where the function is a power, authority or duty, reference to the exercise of the power or authority or the performance of the duty;
- (c) words importing the singular include the plural and vice versa;
- (d) words importing any gender include the other gender;
- (e) references to persons include corporations and bodies politic;
- (f) references to a person include the legal personal representatives, successors and permitted assigns of that person;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, enactments or replacements of any of them whether of the same or any legislative authority having jurisdiction; and

- (h) 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.

4.2. Severance

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable. If the rule or phrase cannot be so read down, it shall be severed to the extent of the invalidity or unenforceability. Such severance shall not affect the remaining provisions of this Constitution or affect the validity or enforceability of any provision in any other jurisdiction.

4.3. Expressions in Act

Except where the contrary intention appears, in this Constitution, an expression that deals with a matter dealt with by a particular provision of the Act, has the same meaning as that provision of the Act.

## PART II - MWBU CONSTITUTION

### 5. Status and Compliance of MWBU

#### 5.1. Recognition of MWBU

For as long as MWBU is recognised as an Affiliated Organisation of JBC, MWDBA, ML, NSWBUA and NSWBL and of the ABF, it shall be subject to compliance with the Constitution of the ABF, NSWBL and MWDBA. MWBU shall administer the umpiring in the sport of Baseball in the District in accordance with the objects of MWBU, JBC, MWDBA, ML and NSWBL.

#### 5.2. Compliance of MWBU as an Affiliated Organisation.

The Members acknowledge and agree that MWBU shall:

- (a) be incorporated in New South Wales;
- (b) apply its property and capacity in pursuit of the objects of JBC, MWDBA, ML and NSWBL and the ABF, MWBU and the sport of Baseball in the District;
- (c) do all that is reasonably necessary to enable the objects of the JBC MWDBA, ML and NSWBL and the ABF and MWBU to be achieved;
- (d) act in good faith and loyalty to ensure the maintenance and enhancement of the JBC, MWDBA, ML and NSWBL and the ABF, MWBU and the sport of Baseball, its standards, quality and reputation for the collective and mutual benefit of the Individual Members and the sport of Baseball;
- (e) affiliate with NSWBUA annually, and shall pay the prescribed membership fee accordingly;
- (f) at all times act on behalf of and in the interests of the Individual and the sport of Baseball;

#### 5.3. Documents that form part of this Constitution.

- (a) the MWBU Operations Manual
- (b) the MWBU By-laws

these documents must be read as part of the constitution.

## PART III - MEMBERSHIP

### 6. Members

#### 6.1. Category of Members

The Members of MWBU shall consist of:

- (a) Senior Members who, subject to this Constitution, shall have the right to attend, debate and vote at General Meetings;
- (b) Junior Members, who subject to this Constitution, may attend and debate at meetings of the Committee but have no right to vote at those meetings or at General Meetings;
- (c) Life Members, who subject to this Constitution, may attend and debate at meetings and General Meetings of MWBU and also have a right to vote at those meetings;
- (d) Foundation Members, who subject to this Constitution, may attend and debate at meetings and General Meetings of MWBU and also have a right to vote at those meetings;
- (e) Such new categories of Members created in accordance with Rule 6.2 below.

#### 6.2. Creation of New Categories

The Committee has the right and power from time to time to create new categories of membership with such rights, privileges and obligations as are determined applicable (other than voting rights), even if the effect of creating a new category is to alter rights, privileges or obligations of any existing category of members. No new category of members may be granted voting rights.

#### 6.3. Life Members

- (a) Each year the Committee will call for nominations from Members for persons to be considered for Life Membership of MWBU. The Committee may recommend to the Annual General Meeting that one or more persons (but not more than two persons in any single year) be nominated and who has rendered distinguished or special service to umpiring of Baseball, have Life Membership conferred upon them.
- (b) A resolution of the Annual General Meeting to confer Life Membership must be passed by special resolution. The vote on such resolution will be taken by secret ballot.
- (c) Conditions, obligations and privileges of Life Membership shall be as prescribed in the By-laws.
- (d) by definition a Life Member has the option of paying fees, without any retribution from clause 6.7 and 7.1 and 7.2.

#### 6.4. Application for Membership

An application for membership as a Member must be:

- (a) in writing on the form prescribed from time to time by the Committee, from the applicant or its nominated representative and lodged with MWBU;
- (b) accompanied by the appropriate fee (if any).

- (c) membership to the MWBU is conditional of all members of the Executive approving the application.

6.5. Discretion to Accept or Reject Applications

- (a) MWBU shall not be bound to accept all applications for membership and shall have regard to such matters as the interests of the sport of Baseball in the District, umpiring and the enhancement of the game of Baseball in the District.
- (b) Where MWBU accepts an application, the applicant shall become a Member. Membership of MWBU shall be deemed to commence upon acceptance of the application by MWBU.
- (c) Where MWBU rejects an application MWBU shall refund any fees forwarded with the application and the application shall be deemed to be rejected by MWBU.
- (d) MWBU shall be under no obligation to provide reasons as to why the application has been rejected.

6.6. Membership Renewal

- (a) Each Member must reapply for membership with MWBU from time to time, but no more frequently than once every twelve months by paying the appropriate fee.
- (b) Failure to renew membership in this fashion shall result in the Member ceasing to be a member of MWBU.

**7. Subscriptions and Fees**

7.1 The annual membership subscription (if any), fees and any levies payable by members to MWBU, the basis of, the time for and manner of payment shall be as determined by the Committee from time to time.

7.2 Any member who has not paid all moneys due and payable by that member to MWBU shall (subject to the Committee's discretion) have all rights under this Constitution immediately suspended from the expiry of the time prescribed for payment of those moneys. Such rights shall be suspended until such time as the moneys are fully paid or otherwise in the Committee's discretion. In the meantime, the member shall have no automatic right to resign from MWBU and shall be dealt with in the Committee's discretion, which includes the right to expel, suspend, disqualify, fine, discipline or retain that member as a member or impose such other conditions or requirements as the Committee considers appropriate.

**8. Register of Members**

8.1 The Secretary of MWBU shall keep and maintain a register of all members in which shall be entered such information as required under the Act from time to time.

8.2 Having regard to confidentiality considerations, an extract of the register showing the name of the member shall be available for inspection (but not copying) by members upon a reasonable request.

## **9. Effect of Membership**

Members acknowledge and agree that:

- (a) this Constitution constitutes a contract between each of them and MWBU and that they are bound by this Constitution and the By-laws;
- (b) they shall comply with and observe this Constitution and the By-Laws and any determination, resolution or policy which may be made or passed by the Committee or any duly authorised committee;
- (c) by submitting to this Constitution and the By-laws they are subject to the jurisdiction of MWBU;
- (d) this Constitution is made in pursuit of a common object, namely the mutual and collective benefit of MWBU; the members and the sport of Baseball in the District;
- (e) this Constitution and By-laws are necessary and reasonable for promoting the objects of MWBU and particularly the advancement and protection of the sport of Baseball in the District; and
- (f) they are entitled to all benefits, advantages, privileges and services of membership of MWBU.

## **10. Discontinuance of Membership**

### **10.1. Notice of Resignation**

Subject to this Constitution, any member which has paid all moneys due and payable to MWBU and has no other liability (contingent or otherwise) to MWBU may resign from MWBU by giving one (1) months' notice in writing to MWBU of such intention to withdraw or resign and upon the expiration of that period of notice, the member shall cease to be a member. A Life Member who has paid all moneys due and payable to MWBU may resign by notice in writing with immediate effect.

### **10.2. Expiration of Notice Period**

Upon the expiration of any notice period applicable under Rule 10.1, an entry recording the date on which the member who or which gave notice ceased to be member shall be recorded in the register.

### **10.3. Forfeiture of Rights**

A member who or which ceases to be a member, for whatever reason, shall forfeit all right in and claim upon MWBU and its property including Intellectual Property. Any MWBU documents, records or other property in the possession, custody or control of that member shall be returned to MWBU immediately.

### **10.4. Membership may be Reinstated**

Membership which has lapsed, been withdrawn or terminated under this Constitution may be reinstated at the discretion of the Committee, on application in accordance with this Constitution and otherwise on such conditions as it sees fit.

## **Disciplining of Members**

### 10.5. Disciplinary Action

Where the Committee is advised or considers that a member has allegedly:

- (a) breached, failed, refused or neglected to comply with the provision of this Constitution, the By-laws or any resolution or determination of the Committee or any duly authorised committee; or
- (b) acted in a manner unbecoming of a member or prejudicial to the objects and interests of MWBU and/or umpiring and/or the sport of Baseball; or
- (c) brought MWBU or umpiring or the sport of Baseball into disrepute; or
- (d) the Committee is advised that there has been a breach of any competition rules created by the Committee or any of its sub-committees or the official rules of Baseball;

the Committee may commence or cause to be commenced disciplinary proceedings against that member, and that member will be subject to, and submits unreservedly to the jurisdiction, procedures, penalties and appeal mechanisms (if any) of MWBU set out in the By-laws.

### 10.6. Right of Appeal

A Member disciplined by MWBU in accordance with Rule 11.1 shall have a right of appeal which shall be exercised in accordance with the By-laws.

## PART IV - GENERAL MEETINGS

### 11. General Meetings

- 12.1 An Annual General Meeting of MWBU shall be held in accordance with the provisions of the Act and this Constitution and on a date and at a venue to be determined by the Committee.
- 12.2 All General Meetings, other than the Annual General Meeting shall be Special General Meetings and shall be held in accordance with this Constitution.

### 12. Notice of General Meetings

#### 12.1. Notice of General Meetings

- (a) Notice of every General Meeting shall be given to the Members at the address appearing in the register kept by MWBU or in such other manner as it determined by the Committee.
- (b) Notice of General Meetings shall be given at least twenty-one (21) days prior to the General Meeting and shall specify the place, day and hour of the General Meeting.
- (c) The agenda for the General Meeting stating the business to be transacted at the General Meeting shall be given at least seven (7) days prior to the General Meeting together with any notice of motion received from the Members.
- (d) Notice may be given by mail and/or email and/or notice on the webpage and/or any other way deemed appropriate by the committee.

#### 12.2. Entitlement to Attend General Meetings

Notwithstanding any other rule, no Member shall be represented at, or take part in a General Meeting, unless all moneys then due and payable to MWBU are paid.

### 13. Business

#### 13.1. Business of General Meetings

- (a) The business to be transacted at the Annual General Meeting includes the consideration of accounts, reports of the Committee (including in relation to the activities of MWBU during the past proceeding financial year) and the election of the Committee, Life Members or other elected positions.
- (b) All business that this transacted at a General Meeting and also all that is transacted at the Annual General Meeting; with the exception of those matters set out in Rule 14.1(a) shall be special business. 'Special business' is business of which a notice of motion has been submitted in accordance with Rule 12.

#### 13.2. Business Transacted

No business other than that stated in the notice shall be transacted at the meeting.



**14. Notices of Motion**

All notices of motion for inclusion as special business at a General Meeting must be submitted in writing in the required form to the Secretary of MWBU not less than fourteen (14) days (excluding receiving date and meeting date) prior to the General Meeting.

**15. Special General Meetings.**

15.1. Special General Meetings May be Held

The Committee may, whenever it thinks fit, convene a Special General Meeting of MWBU, and where, but for this rule, more than fifteen (15) months would elapse between Annual General Meetings, shall convene a Special General Meeting before the expiration of that period.

15.2. Requisition of Special General Meetings

- (a) The Committee shall, on requisition in writing or electronic request of a member supported by seven (7) other members, convene a Special General Meeting.
- (b) The requisition for a Special General Meeting shall state the object(s) of the meeting, shall be signed by the member making the requisition and the supporting members and be sent to MWBU.
- (c) If the Committee does not cause a Special General Meeting to be held within three (3) months after the date on which the requisition is sent to MWBU, the member making the requisition may convene a Special General Meeting to be held not later than three (3) months after that date.
- (d) A Special General Meeting convened by a member under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the Committee.

**16. Proceedings at General Meetings**

16.1. Quorum

No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of MWBU shall be six (6) or more members. Members may attend using phone conferencing or video conferencing or other electronic media as determined.

16.2. Chairperson to Preside

The Chairperson shall, subject to this Constitution, preside as Chair at every General Meeting of MWBU. If the Chairperson is not present, or is unwilling or unable to preside, the Vice President/Chairperson shall preside as Chair for that meeting only.

16.3. Adjournment of Meeting

- (a) If, within half an hour from the time appointed for the General Meeting a quorum is not present the meeting shall be adjourned to such other day and at such other time and place as the Chair may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the meeting will lapse.
- (b) The Chair may, with the consent of any General Meeting at which a quorum is present, and shall, if so directed by the General Meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for thirty (30) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (d) Except as provided in Rule 17.3(c) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

16.4. Voting Procedure

- (a) At any General Meeting a resolution put to the vote of the meeting shall be decided by secret ballot, unless otherwise provided for in this Constitution, and unless a poll is (before or on the declaration of the result of the secret ballot) demanded:
  - (i) by the Chair; or
  - (ii) by the majority of the Members.
- (b) All voting shall take place with a minimum of two (2) returning officers as determined by the Chair, however the returning officers may not divulge any details of the vote at or after the meeting other than the result to the Chair;
- (c) Any party may request a scrutineer be present at the counting, however that scrutineer may not divulge any details of the vote at or after the meeting;
- (d) The “rules of debate” will apply to all meetings.

16.5. Recording of Determinations

Unless a poll is demanded under Rule 17.4, a declaration by the Chair that a resolution has, on the secret ballot, been carried or carried unanimously or by a 75% majority or lost an entry to that effect in the book containing the minutes of the proceedings of MWBU shall be conclusive evidence of the fact without proof of the number of the votes recorded in favour of or against the resolution.

16.6. Where Poll Demanded

If a poll is duly demanded under Rule 17.4, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chair directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

16.7. Resolutions at General Meetings

Except where a special resolution is required, all questions at General Meetings shall be determined by the majority of votes (as set out in Rule 18). Except as otherwise provided in this Constitution, in the case of an equality of votes on a question at a General Meeting, the Chair is entitled to a casting vote.

A resolution put a vote at a general meeting being held using technology can be decided using a suitable method that the committee determines.

16.8. Minutes

The Secretary shall keep minutes of the resolutions and proceedings of each General Meeting in books or electronic versions provided for that purpose, together with a record of the names of persons present at all meetings.

**17. Voting at General Meetings**

Each voting member in attendance shall be entitled to one vote at General Meetings. Electronic voting and postal voted will also be accepted.

## PART V - THE COMMITTEE

### 18. Existing Committee

Upon approval of this Constitution under the Act, the Committee of MWBU shall continue in office until the next Annual General Meeting following the approval of this Constitution at which time all positions shall be declared vacant and there shall be an election of the Committee pursuant to this Constitution. Each member of the Committee shall be eligible for re-election after declaring the position vacant. Each member of the Committee may only hold their position for a period of 10 consecutive years unless no other nominations are received in accordance with this constitution.

### 19. Powers of the Committee

Subject to the Act and this Constitution, the business of MWBU shall be managed, and the powers of MWBU shall be exercised, by the Committee. In particular, the Committee as the controlling authority of MWBU shall be responsible for acting on all issues in accordance with the objects of MWBU and shall operate to the collective and mutual benefit of MWBU, Umpiring and the sport of Baseball throughout the District and shall:

- (a) administer the Umpiring within the Sport of Baseball in the District in accordance with the objects of MWBU;
- (b) determine the major strategic directions of MWBU within the guidelines and principles established by NSWBL and the ABF;
- (c) review MWBU performance in achieving its predetermined aims, objectives and policies and the policies of NSWBL and the ABF; and
- (d) manage its responsibilities to the umpires in the District officiate in Baseball.

### 20. Composition of the Committee

#### 20.1. Committee Composition

The Committee shall comprise of a President, Chairperson, Vice President/Chairperson, Secretary and Treasurer, and two (2) coordinators. The President, Chairperson, Vice President/Chairperson, Secretary & Treasurer shall form the Executive of MWBU.

#### 20.2. Chairperson

The position of Chairperson shall not be appointed by the Committee after the appointment of office bearers at a General Meeting. The position of President, Chairperson, Vice President/Chairperson, Secretary and Treasurer are separate, specific positions for which candidates nominate and shall be elected at General Meetings.

#### 20.3. Election of the Committee

- (a) The Secretary shall call for nominations for the elected positions of President, Chairperson, Vice President/Chairperson, Secretary and Treasurer and the Coordinators positions by forwarding notice in writing and/or on the webpage and/or email to the members at least 21 days before the date of the

Annual General Meeting. For the purposes of this Clause 21, any notice for nomination is deemed to be given to the members when posted on the website of MWBU.

- (b) Nominations can be received by the Secretary prior to the Annual General Meeting or during the meeting provided that the nomination is received at any time prior to the election and need not be in writing.
- (c) If the number of nominations for each of the positions on the Committee are one (1) only, then that person shall be elected unopposed. If the number of nominations for each position is more than one (1), then a ballot shall be taken in such usual and proper manner (secret ballot) as the Chair of the Annual General Meeting directs to elect the person to hold the particular office nominated for. In the event of a tied vote a second secret ballot shall be called for by the Chairman and each of members shall again cast their votes, indicating in order of preference all the nominated candidates. If the number of primary votes for each candidate receiving the first preference is still tied, then the successful candidate shall be the one who receives the greatest number of second preferences. If the vote is still tied after the counting of the second preferences, then each of the other preferences shall be counted until there is a clear winner.

#### 20.4. Term of Appointment

Members of the Committee shall be elected in accordance with this Constitution for a term of one (1) year which shall commence from the conclusion of the Annual General Meeting at which the election occurred until the conclusion of the second Annual General Meeting following.

### **21. Vacancies on the Committee**

#### 21.1. Grounds for Termination of Committee Member

In addition to the circumstances (if any) in which the office of a Committee member becomes vacant by virtue of the Act, the office of a Committee member becomes vacant if the Committee member:

- (a) dies;
- (b) becomes a bankrupt or makes any arrangement or composition with his creditors generally;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (d) resigns his office in writing to MWBU;
- (e) is absent without the consent of the Committee from two consecutive meetings of the Committee;
- (f) holds any office of employment of MWBU;
- (g) without the prior consent or later ratification of the Members in General Meetings holds any office of profit under MWBU;
- (h) is directly or indirectly interested in any contract or proposed contract with MWBU and fails to declare the nature of his interest;
- (i) is removed from office by special resolution under Rule 22.2; or

- (j) would otherwise be prohibited from being a director of a corporation under the Corporations Act or is disqualified from office under the Act.

#### 21.2. Removal of Committee Person

- (a) MWBU, in a General Meeting may, by special resolution remove any Committee Member, before the expiration of their term of office. If the Committee Member removed in accordance with this Rule, is the President, Chairperson, Vice President/Chairperson, Secretary or Treasurer then that office becomes vacant and shall be filled in accordance with the procedures set out in Rule 22.3.
- (b) Where the Committee Member to whom a proposed resolution referred to in Rule 22.2(a) makes representations in writing to the Secretary and requests that such representations be notified to the Members, the Secretary shall send a copy of the representations to each Member a reasonable period of time prior to the date of the General Meeting.

#### 21.3. Casual Vacancies

A vacancy in a position of a member of the Committee (including the President) shall be filled by a financial member until the next Annual General Meeting of MWBU. If the term of the Committee has not expired, the member shall fill the vacancy for the remainder of the Committee's term.

#### 21.4. Remaining Committee Members May Act

In the event of a casual vacancy or vacancies in the office of Committee Member, the remaining Committee Members may act but, if the number of remaining Committee Members is not sufficient to constitute at quorum at a meeting of the Committee, they may act only for the purpose of increasing the number of Committee Members to a number sufficient to constitute a quorum.

### **22. Meetings of the Committee**

#### 22.1. The Committee to Meet

The Committee shall meet as often as is deemed necessary in every calendar year for the dispatch of business (but on at least six (6) occasions) but usually monthly and may adjourn, and subject to this Constitution otherwise regulate its meetings as it thinks fit. The Secretary shall, on the requisition of two (2) Committee Members, convene a meeting of the Committee within a reasonable time.

#### 22.2. Decisions of the Committee

Subject to this Constitution, questions arising at any meeting of the Committee shall be decided by a majority of votes and all questions so decided shall for all purposes be deemed a determination of the Committee. All Committee Members shall have one (1) vote on any question. The President shall also have a casting vote where voting is equal. The Committee shall take into account in relation to voting procedures at all meetings the vote of all the Committee Members.

#### 22.3. Resolutions Not in Meeting

- (a) A resolution in writing, signed or assented by telegram, cablegram, radiogram, facsimile, electronic mail or other form of visible or other electronic communication by all the Committee

Members shall be as valid and effectual as if it had been passed at a meeting of the Committee Members duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more Committee Members.

- (b) Without limiting the power of the Committee to regulate their meetings as they think fit. A meeting of the Committee may be held where one or more of the Committee Members is not physically present at the meeting, provided that:
- (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously, whether by means of telephone or other form of communication;
  - (ii) notice of the meeting is given to all the Committee Members entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the Committee and such notice specifies that Committee Members are not required to be present in person;
  - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Committee Members which constitutes a quorum, and none of such Committee Members are present at the place where the meeting is deemed by virtue of the further provisions of this Rule to be held, then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within fifteen minutes of the interruption, the meeting shall be deemed to have terminated;
  - (iv) any meeting held where one or more of the Committee Members is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Committee Member is there present, and if no Committee Member is there present the meeting shall be deemed to be held at the place where the Chairman of the meeting is located.

#### 22.4. Quorum

At meetings of the Committee, the number of Committee Members whose presence (or participation under Rule 23.3) is required to constitute a quorum is two (2) Committee Members. Should the number of Committee Members not met the quorum a nomination proxy member can be appointed.

#### 22.5. Notice of Committee Meetings

Unless all Committee Members agree to hold a meeting at shorter notice (which agreement shall be sufficiently evidenced by their presence) not less than seven (7) days oral or written notice of the meeting of the Committee shall be given to each Committee member by the Secretary. The agenda shall be forwarded to each Committee Member not less than three (3) days prior to such meeting.

#### 22.6. Validity of Committee Decisions

A procedural defect in decisions taken by the Committee shall not result in such decision being invalidated.

22.7. Chair of Committee Meeting

The Chairperson appointed under Rule 23.2 shall preside at every meeting of the Committee. If the Chairperson is not present, or is unwilling or unable to preside, the Vice president/Chairperson shall preside as Chair for that meeting only.

22.8. The Secretary

The Secretary will record, during each meeting of the Committee, the minutes of that meeting and shall circulate to all Committee Members a copy of those minutes within seven (7) days of the conclusion of that meeting.

**23. Conflicts**

23.1. Conflicts of Interest

A Committee Member shall declare his or her interest in any:

- (a) contractual matter;
- (b) selection matter;
- (c) disciplinary matter; or
- (d) other financial matter;

In which a conflict of interest arises or may arise, and shall, unless otherwise determined by the Committee, absent himself from discussions of such matter and shall not be entitled to vote in respect of such matter. If the Committee Member votes, the vote shall not be counted. In the event of any uncertainty as to whether it is necessary for a Committee Member to absent himself or herself from discussions and refrain from voting, the issue shall be immediately determined by vote of the Committee, or if this is not possible, the matter shall be adjourned or deferred.

23.2. Disclosure of Interests

The nature of the interest of such Committee Member must be declared by the Committee Member at the meeting of the Committee at which the contract or other matters is first taken into consideration if the interest which exists or in any other case at the first meeting of the Committee after the acquisition of the interest. If a Committee Member becomes interested in a contract or other matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Committee held after the Committee Member becomes so interested.

23.3. General Disclosure

A general notice that a Committee Member is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under Rule 24.2 as regards to such Committee Member and the said transaction. After such general notice, it is not necessary for such Committee Member to give a special notice relating to any particular transaction with that firm or company.



23.4. Recording Disclosures

It is the duty of the Secretary to record in the minutes any declaration made or any general notice given by a Committee Member in accordance with Rule 24.2 and 24.3.

## PART VI - MISCELLANEOUS

### 24. Delegations

#### 24.1. The Committee may Delegate Functions to Committees

The Committee may, by instrument in writing create, establish or appoint from among its own Members, the Individual Members or otherwise sub-committees to carry out such duties and functions and having such powers, as the Committee determines.

#### 24.2. Delegation by Instrument

The Committee may, in the establishing instrument delegate such functions as are specified in the instrument other than:

- (a) the power of delegation; or
- (b) a function imposed on the Committee by the Act or any other law, or this Constitution.

#### 24.3. Delegated Function in Accordance with Terms.

A function, the exercise of which has been delegated under this Rule, may whilst the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.

#### 24.4. Procedure of Delegated Entity

- (a) The procedures for any sub-committee established shall, with any necessary or incidental amendment, be the same as that applicable to meetings of the Committee under Rule 22. A quorum shall be determined by the sub-committee but shall be no less than the majority of the total number of sub-committee members.
- (b) Within seven (7) days of any meeting of any sub-committee the sub-committee shall send a copy of the minutes and any supporting documents to the Secretary.

#### 24.5. Delegation may be Confidential

A delegation under this Rule may be made subject to such conditions or limitations as to the exercise of any function or at the time or circumstances as may be specified in the delegation.

#### 24.6. Revocation of Delegation

The Committee may, by instrument in writing, revoke wholly or in part any delegation made under this Rule and may amend, repeal or veto any decision made by such sub-committee, where such decision is contrary to its Constitution, the By-laws, the Act, the Objects of MWBU or the sub-committee's delegation.

## **25. By-laws**

### **25.1. Committee to Formulate By-laws**

The Committee may (by itself or by delegation to a sub-committee) formulate, approve, issue, adopt, interpret and amend such By-laws, Regulations and Policies (“By-laws”) for the proper advancement, management and administration of MWBU, the advancement of the Objects of MWBU and the sport of Baseball as it thinks necessary or desirable. Such By-laws must be consistent with this Constitution.

### **25.2. By-laws Binding**

All By-laws made under this Rule shall be binding on MWBU and its members.

### **25.3. By-laws Deemed Applicable**

All By-laws, Regulations and Policies of MWBU in force at the date of the approval of this Constitution under the Act insofar as such By-laws, Regulations and Policies are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be By-laws under this Rule.

### **25.4. Notices Binding on Members**

Amendments, alterations, interpretations or other changes to By-laws shall be advised to Members by means of notices approved by MWBU and prepared and issued by the Secretary. Notices are binding upon all Members.

## **26. Operations Manual**

### **26.1. Committee to Formulate the Operations Manual**

The Committee may (by itself or by delegation to a sub-committee) formulate, approve, issue, adopt, interpret and amend such the Operations Manual for the proper advancement, management and administration of MWBU, the advancement of the Objects of MWBU and the sport of Baseball as it thinks necessary or desirable. Such procedures must be consistent with this Constitution.

### **26.2. Operations Manual Binding**

All procedures within the Operations Manual made under this Rule shall be binding on MWBU and its members.

### **26.3. Operations Manual Deemed Applicable**

All Procedures and Policies of MWBU in force at the date of the approval of this Constitution under the Act insofar as such Operations Manual, Procedures and Forms are not inconsistent with, or have been replaced by this Constitution, shall be deemed to be Operations Manual Procedures under this Rule.

### **26.4. Notices Binding on Members**

Amendments, alterations, interpretations or other changes to the Operations manual shall be advised to Members by means of notices approved by MWBU and prepared and issued by the Secretary. Notices are binding upon all Members

## **27. Records and Accounts**

### **27.1. Secretary to Keep Records**

The Secretary shall establish and maintain proper records and minutes concerning all transactions, businesses, meetings and dealings of MWBU and the Committee and shall produce these as appropriate at each Committee Meeting or General Meeting.

### **27.2. Inspection of Records**

Subject to privacy and commercial considerations, the Committee may in its discretion, make the records, books and other documents of MWBU available for inspection (but not copying) by a Member at any reasonable hour. The Committee may impose reasonable charges in relation to such inspection.

The Committee may refuse to allow a member to inspect or obtain copies of records in certain circumstances.

### **27.3. Records Kept in Accordance with the Act**

Proper accounting and other records shall be kept in accordance with the Act, generally accepted accounting principles and/or any applicable Code of Conduct. The books of account shall be kept in the care and control of the Treasurer or Public Officer.

### **27.4. MWBU to Retain Records**

MWBU shall retain such records for seven (7) years after the completion of the transaction or operations to which they relate.

### **27.5. Committee to Submit Accounts**

The Committee shall submit to the Annual General Meeting the accounts of MWBU in accordance with the Act.

### **27.6. Negotiable Instruments**

All cheques, promissory notes, bankers drafts, bills of exchange and other negotiable instruments shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be, by one (1) person appointed in writing by the Committee and all receipts for money paid to MWBU shall be signed, drawn accepted, endorsed or otherwise executed, as the case may be, by one (1) person appointed in writing by the Committee.

## **28. Notice**

### **28.1. Manner of Notice**

(a) Notices may be given by the Secretary to any member by sending the notice by post or facsimile transmission, or where available, by electronic mail, to the members registered address, facsimile number or electronic mail address.

(b) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing and posting the notice. Service of the notice is deemed to have been effected two (2) days after posting.

- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to or received at the facsimile number to which it was sent.
- (d) Where a notice is sent by electronic mail, service of notice shall be deemed to be effected upon receipt of a confirmation report confirming the electronic mail message was received at the electronic mail address to which it was sent.

**28.2. Notice of General Meeting**

Notice of every General Meeting shall be given in the manner authorised and to the persons entitled to receive notice under this Constitution.

**28.3. Notice to Members**

Notice to members whether appropriate or required, shall be deemed given by notice being given in accordance with this Constitution to the Member.

**29. Seal**

**29.1. Safe Custody of Seal**

The Secretary shall provide for safe custody of the seal.

**29.2. Affixing the Seal**

The seal shall only be used by authority of the Committee and every document to which the seal is affixed shall be signed by two (2) Members of the Committee.

**29.3. Committee Member's Interest**

A Committee Member may not sign a document to which the seal of MWBU is affixed where the Committee Member is interested in the contract or the arrangement to which the document relates.

**30. Alteration of Constitution**

- (a) this Constitution shall not be altered except by special resolution.
- (b) in addition there shall be no alteration or amendment to rules without the consent of the relevant minister or other authority under the Act.

**31. Indemnity**

**31.1. Committee Members to be Indemnified**

Every Committee Member, auditor, employee or agent of MWBU shall be indemnified to the extent provided under the Directors and Officers Insurance Policy of MWBU (if any) against any liability incurred by him /her in his/her capacity as Committee Member, auditor, manager, employee or agent in defending any proceedings, whether civil or criminal in which judgment is given in his/her favour or in which he/she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him/her by the court.

31.2. MWBU to Indemnify

MWBU shall indemnify its Committee Members and employees to the extent provided under the Directors and Officers Insurance Policy of MWBU (if any) against all damages and costs (including legal costs) for which any such Committee Member or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:

- (a) In the case when a Committee Member performed or made whilst acting on behalf of and with the authority, expressed or implied of MWBU; and
- (b) In the case when an employee performed or made in the course of, and within the scope of his/her employment by MWBU.

**32. Winding Up**

32.1. Winding Up of MWBU

Subject to this Rule MWBU may be wound up in accordance with the provisions of the Act.

32.2. Liability of Members

The liability of Members of MWBU is limited.

32.3. Members Contribution

Every member of MWBU undertakes to contribute to the assets of MWBU in the event of it being wound up while a member or within one year of ceasing to be a member for payment of the debts and liabilities of MWBU contracted before the time at which he or she ceases to be a member and the costs, charges and expenses of winding up and for adjustment of the rights and contributors among themselves. Such amount as may be required not exceeding \$1.00.

32.4. Distribution of Property on Winding Up

If upon winding up or dissolution of MWBU there remains, after satisfaction of all its debts and liabilities, any assets or property, the same shall not be paid to or distributed amongst the members of MWBU but shall be held in trust and returned to an Umpiring Organisation that operates solely within the Manly Warringah District Baseball Association by BBNSW and which prohibits the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on MWBU by this Constitution and which is also not carried on for profit and which is similarly exempt (or entitled to be exempt) from income tax. Such body or bodies to be determined by the members of MWBU at or before the time of dissolution, and in default thereof by such judge of the relevant Supreme Court or such other court as may have or acquire jurisdiction in the matter.

**33. Authority to Trade**

MWBU is authorised to trade in accordance with the Act.

**34. Source of Funds**

The funds of MWBU may be derived from annual membership subscriptions fees and levies payable by members, donations, grants, sponsorships and such other sources as the Committee determines.

## **35. Application of Income**

### **35.1. Income and Property Applied to Objects**

Any income and property of MWBU shall be applied solely towards the promotion of the Objects of MWBU as set out in this Constitution.

### **35.2. No Income to Members Except those Prescribed in this Constitution**

- (a) No portion of the income or property of MWBU shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise to any Member.
- (b) No remuneration or other benefit in money or money's worth shall be paid or given by MWBU to any Member who holds any office of MWBU.

### **35.3. Payments in Good Faith**

Nothing contained in 35.2 in Rule 35 shall prevent payment in good faith of or to any member for:

- (a) any services actually rendered to MWBU whether as an employee or otherwise;
- (b) goods supplied to MWBU in the ordinary or usual course of the operation;
- (c) interest on money borrowed from any member;
- (d) rent for premises demised or let by any member to MWBU;
- (e) any out of pocket expenses incurred by the member on behalf of MWBU, or
- (f) any other reason,

provided that such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

## **36. Correspondence**

### **36.1. Incoming**

Only correspondence received by the Secretary will be read or minuted. Any correspondence received for action or to be entered in official records must be forwarded to the Secretary.

### **36.2. Outgoing**

All correspondence that is to be issued by MWBU must be sent by the Secretary. Any other correspondence will not be recognized by MWBU and will not be minuted or acted on.