

Further information on governance topics raised at Members Governance Forum

During the February Members Governance Forum a few topics required further information or advice. Please find below information relating to those topics that Members requested clarification on, as well as draft wording for consideration.

Members are invited to the second Governance Forum being held on Monday 2 May at 7pm to give further input and feedback on this information. This will assist the WACA and its consultants in documenting the Constitutional and By-law changes.

The intent is that a complete revised draft Constitution and By-laws will be available for review by Members in the new financial year for final input and feedback, prior to being proposed at a future general meeting of Members for deliberation and adoption.

1 WACA Objects

The consensus of the first Members' Governance Forum was for the WACA to give primary focus to the promotion and development of the game of cricket, but also have the promotion and development of the WACA Ground within its objects.

Comments were also made around the promotion and development of the game of cricket being at all levels i.e. elite, developmental and community based participation (both active and passive).

The following draft is proposed as the revised Constitutional objects for the WACA in response to this feedback:

(a) Primary object

To promote, develop, co-ordinate, administer and provide governance leadership for cricket at all levels, including active and passive elite, developmental and community-based participation, and through affiliation and co-operation with other organisations.

(b) Additional object

To promote, develop and manage, or otherwise deal with, the WACA Ground as a strategic asset of the organisation, ancillary to and in furtherance of the primary object in (a) above.

2 WACA's regulatory structure

Under the proposed Corporations Act regulatory structure:

(a) Perceived benefits include

- more disciplined and robust governance framework in terms of financial reporting and integrity and board accountability, including conflicts of interest and directors' duties generally
- greater familiarity with and acceptance of a Corporations Act regulatory structure by financiers, government and commercial contract counterparties, generally leading to efficiencies and ease of doing business
- depending on future developments and opportunities in the game of cricket, and given cricket's increasing international appeal in a sports/entertainment business environment, registration under the Corporations Act would give greater flexibility and reduced regulatory limitations (compared with the Associations Incorporation Act) for

the WACA to pursue cricket and team-related activities at a national and international level beyond the geographic boundaries of WA.

(b) General background

- With legislated changes to the Associations Incorporation Act effective from 1 July 2016, the WACA will need to review and amend its constitution in any event within the next two or three years.
- It is common, and generally regarded as good governance practice, for larger not-for-profit organisations to transition from the Associations Incorporation Act to the Corporations Act under the more vigilant oversight of ASIC as the regulator.
- In the Australian Sports Commission's good governance guidelines for peak sporting organisations, such as the WACA, endorses the regulatory framework of companies limited by guarantee under the Corporations Act as the preferred organisational model to the state/territory legislative incorporated associations model.

3 Board composition, elections and Board Member skill base

The first forum, attendees reinforced the survey preferences for:

- the majority of Board Members to be elected by the Members
- the board to have the right to appoint a limited minority number of Board Members to round out the skill and experience set desired on the board
- better information be provided to Members on the skills and experience of Members standing for election and the skills and experience the Board would value from its elected Members.

In this context, the following principles are tabled for further consideration and input by Members:

(a) Maximum number of board members to be ten, comprising:

- six (Member-elected)
- four (Board appointed, which may include the CEO if the Board so determines)

(b) Board Member election, appointment and retirement:

- (i) Member-elected Board Members
- three year term(*)
- (ii) Board-appointed Board Members
- up to three year term(‡)
- (iii) chair
- three year term elected by Board (‡)

(*) may be removed from office during three year term by resolution of Members

(‡) may be removed from office during three year term by resolution of Board

Transitional staggered arrangements will apply so that approximately $\frac{1}{3}$ of the board will be eligible for retirement and re-election/appointment each year.

(c) Maximum terms of board tenure

- (i) for a director – nine successive years
(three x three year terms)
- (ii) for a chair – six successive years
(two x three year terms) in addition to or contemporaneously with term served as a director i.e. up to 15 years maximum as a director for nine years and chair for six years)

- (d) The Constitution might include a descriptive (not prescriptive) suite of desired skills, experience and attributes to be found amongst the WACA Board as a whole to give non-binding guidance to Members and the Board when considering WACA Board Member elections or appointments, such as:

“Without creating a prescriptive Constitutional requirement the following skills, experience and attributes might be considered relevant within the board membership as a whole:

- *relevant business, professional, financial and governance experience, skills and acumen*
- *understanding of, and empathy with, relevant stakeholder interests of the organisation, including without limitation country, premier and club cricket stakeholders*
- *an understanding of the game and business of cricket*
- *experience in the governance and management of sporting or community-based organisations*
- *diversity of experience and perspective.”*

- (e) Through use of a Board skills matrix analysis (or similar), the Board should identify:
- the desired suite of skills and experience required for WACA Board Members (as a whole) to meet the WACA’s strategic objectives and needs (including being guided by (d) above);
 - the current skills and experience of the existing WACA Board as a whole;
 - the gap in desired skills and experience.

This gap can be communicated to WACA Members at or around Board election time.

- (f) Members wishing to stand for Board election, in addition to being nominated by other WACA Members, should also provide the Board (via the Nominations Committee) relevant information as to their skills, experience and attributes. This information can be communicated, along with the WACA Board’s gap analysis, at or around Board election time to help better inform WACA Members when they are voting on the election of Board Members.

4 Office bearers (including Patrons and Presidents)

There was general consensus at the first forum as to the following principles to be covered in the constitution:

- there was perceived value in Members of standing in the game of cricket being recognised and giving support to the WACA in largely a ceremonial capacity;
- such persons should not have a functional leadership role in the governance or management of the WACA, which primarily should be vested in the Chair and CEO.

Based on this feedback, it is suggested that an acceptable good governance model for a major not-for-profit sporting organisation like the WACA could feature recognition of the following office bearers in its constitution:

Governance function	Executive function	Ceremonial
<ul style="list-style-type: none"> • Chair (leader of Board and the organisation’s governance) 	<ul style="list-style-type: none"> • CEO (leader of the organisation’s management and 	<ul style="list-style-type: none"> • Patron (The Governor – by custom for the WACA)

<ul style="list-style-type: none"> • Deputy Chair (as appropriate in support of the Chair) • Company Secretary (supporting role to Board on governance related matters and, as applicable, the CEO on management related matters) 	<p>supported by the executive management team, including the Company Secretary on management related matters)</p>	<ul style="list-style-type: none"> • Vice (or Co) Patrons (To lend more frequent practical and promotional support to the WACA and the game of cricket as and when desired)
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5 Member classification and rights

The views expressed at the first forum were generally reflective of the Member survey results, with flexibility desirable to meet the various needs and circumstances of the WACA's membership as a whole.

The WACA Governance Committee is currently deliberating on proposals for membership classes and clarification of rights attached to each designated class. It is anticipated that more detailed proposals should be ready for sharing at the next Governance Forum so Member input and feedback can be obtained.

At this stage, other than for perhaps some simplification of membership classes, no fundamental changes to existing Member rights or entitlements are currently under contemplation.

6 Affiliated associations

There was commentary as to the risks to the sport as a whole if sound governance did not prevail at all levels of the game, with AFL, NRL and FIFA examples mentioned.

This aspect remains a continuing work in progress of the WACA Governance Committee. The committee is actively and directly engaging with its affiliated associations in separate stakeholder meetings to gain their valuable input into this Constitutional review process.

It is anticipated that more detailed proposals should be forthcoming for general Member input and feedback by the time of the next Member Governance Forum.