

Perth Racing Member Consultation (1)

- Respecting our Heritage while embracing the Future -

- (a) This is the first of two Discussion Memorandum upon which the Board wishes to consult with the Club's members.
- (b) This Discussion Memorandum (1) covers the overall proposal for the governance structure of Perth Racing to be revised by the incorporation of the Club and otherwise to ensure its consistency with contemporary accepted good governance principles and practice in the best interests of the Club as a whole.

Contents

- 1. Introduction and Background
- 2. Key concerns raised with current governance framework and legal structure
- 3. Proposed way forward
- 4. Technical steps to achieve objective
- 5. Rationale for the proposal
- 6. Other Impacts of the proposal
- 7. Consultation
- 8. Conclusion

1. **Introduction and Background**

Since the early days of the Swan River Colony, The Western Australian Turf Club (“Club”) has performed a vital community function as part of the economic and social fabric of Western Australia. Now trading as “Perth Racing”, we are the premier sporting organisation engaged in thoroughbred horse racing in Western Australia especially from our two leading venues at Ascot Racecourse and Belmont Park.

Our Club has unique historical foundations with legislative recognition through The Western Australian Turf Club Act 1892 (as amended), with the Club’s administrative governance or constituent rules in the form of By-laws determined by the governing Board of the Club.

It is a heritage of which all Members should be proud.

But time marches on, as does the evolution of informed corporate governance expectations and business affairs since the Club’s 1892 statutory enablement, now some 133 years ago.

It is your Board’s desire for the Club to operate in accordance with generally accepted contemporary high standards of governance principles and practice to deliver the Club’s strategic objectives. Further to that desire your Board commissioned an independent review of the Club’s legal structure, By-laws and governance framework by a highly reputed WA based consultant with expertise in organisational governance and structuring.

2. **Key concerns raised with current governance framework and legal structure**

The consultant critiqued in detail the Club’s current governance framework and legal structure and to quote from the report’s executive summary:

- “(a) The Western Australian Turf Club (“Club”) operates under a unique, relatively complex and anachronistic governance structural model dating back to 1892.
- (b) Such a model:
 - (i) is not consistent with contemporary generally recognised organisational governance principles;
 - (ii) risk personal liability claims in certain events for directors and officers, and possibly even members; and
 - (iii) may inhibit optimal outcomes for the Club in its future business dealings either by counterparties risk weighting their dealings with the Club, or by added legal complexities in structuring dealings arising, to address the unique governance structure and the Club’s unincorporated status.”

The report goes on to highlight material risks for the Club, its officers and members should the current governance framework remain for the future including:

- risks of ultimate material personal liability for directors, officers and possibly also members in connection with contractual and/or tortious liability claims against the Club;
- the misalignment of the Club's governance structure (and the implications of such misalignment) with commonly accepted organisational governance, business practices and commercial understanding, creating confusion and uncertainty which may inhibit ongoing development and operations in the best interests of the Club;
- the limitation of its business horizons to the State boundaries of WA without extra registration and extensive extra regulatory compliance requirements.

Without delving into the legal technicalities, in particular, the consultant's concerns arise municipally from:

- the Club's unincorporated status;
- the complexities of terminology of the 1892 Act;
- the lack of alignment of the Club's governance framework with contemporary accepted organisational structures and accountability models.

Subject to:

- extensive Member consultation and feedback between now and the 2025 AGM;
- support in principle to the proposal by the Minister and RWWA,

your Board has resolved to develop a more contemporary governance framework for the Club consistent with the consultant's recommendations.

3. Proposed way forward

Essentially from a technical perspective this is anticipated to entail:

- ensuring the "continuity of being" of the Club to maintain its rich heritage without loss of licensed status from Racing and Wagering WA ("RWWA") without risk of adverse tax and stamp duty complications and without having to restructure its contractual arrangements with staff, contractors and other counterparties;
- ultimately incorporating and registering the Club as a "company limited by guarantee" under the Corporations Act (a structure commonly now adopted by many significant not for profit sporting and community organisations of size and operational scale similar to the Club);
- adopting a comprehensive "governance charter" for the Club to better assure integrity of decision making, strategic focus, maintenance of operational regulatory compliance, transparency and Member accountability.

The Board has recently engaged with the Minister and RWWA to brief them on the proposal and anticipates support in principle to the initiative.

4. Technical steps to achieve objective

Due to the unique complex nature of the Club's current governance framework and legal structure, and to ensure the requisite "continuity of being" referred to in section 3 above, the following processes will be required to achieve the objective:

- (a) application by the Club to incorporate as an "association" under the Association's Incorporation Act 2015 ("AI Act"). This will entail:
 - (i) the adoption by the Board of a new set of By-laws which are consistent with the requirements of the AI Act;
 - (ii) member resolution in support of incorporation under the AI Act;
 - (iii) application via the Department of Mines, Industry Regulation and Safety Consumer Protection (the designated agency responsible for the AI Act) for incorporation;
 - (iv) the grant of that application.
- (b) Promptly thereafter, application by the Club (as an incorporated association under the AI Act) to transfer its registration to becoming a company limited by guarantee under the Corporations Act ("CA"). This will entail:
 - (i) Some technical modifications to the revised By-laws (or constitution) of the Club referred to in 4(a)(i) above, to a new set of By-Laws/Constitution which are consistent with the requirements of the CA (rather than the AI);
 - (ii) special resolution of members in support of the change of By-laws/Constitution and the transfer of registration to the CA;
 - (iii) application to both the Department (refer 4(a)(iii) above) and to ASIC for approval to the transfer of registration from the AI Act becoming a company limited by guarantee under the CA;
 - (iv) the grant of those applications.
- (c) Ultimately and desirably for reasons of efficiency and governance clarity, the repeal of The Western Australian Turf Club Act 1892, although the incorporation and transfer of registration of the Club under the CA is not dependent on the timing of that repeal.

5. Rationale for the proposal

As set out in greater detail in the aforementioned independent expert's report, the rationale for and benefits of proposed changes include:

- (a) the transition of the Club's governance framework to become consistent with generally accepted contemporary high standards of organisational governance and practice;
- (b) materially enhanced accountability of the Board to the members including with power to the members ultimately to determine the provisions of the Club's By-Laws/ Constitution;
- (c) greater regulatory governance oversight of the Club and the performance of the Board members in the performance of their duties and responsibilities;
- (d) clarity of board, chair and board member authority to make decisions on behalf of and to commit the Club contractually;
- (e) relief of material personal liability risks for board members and even members arising from the Club's current unincorporated status;
- (f) improved ease of commercial dealings by the Club with banks, financiers, contractors and other counterparties by reason of having a generally recognised governance framework and legal structure rather than a complex and legally unique structure under a 133 year old anachronistic piece of legislation.

6. Other impacts of the proposal

In addition to the benefits arising as mentioned in section 5 above:

- (a) the Club remains exactly the same entity it has always been since the 1800's with its proud heritage and identity retained;
- (b) the Club's current formal name of "The Western Australian Turf Club" with need to be modified to "The Western Australian Turf Club Limited" although its trading name "Perth Racing" will remain unchanged;
- (c) the costs to the Club are anticipated to be relatively modest, without stamp duty or taxation risk implications, and largely will be confined to reasonable consultant's fees, modest regulatory/bureaucratic filing fees and some internal signage and administration expenses.

7. Consultation

In furtherance of the Board's acknowledgement of its accountability to the Members, the Board wishes to actively consult with the Membership to:

- respond to any queries Members may have concerning the initiative;
- to gain Member feedback on the initiative;
- to better explain the anticipated process that will be involved;

and otherwise hopefully to gain Member support to the proposal.

Annexure "A" to this Discussion Paper includes an anticipated timetable of:

- timing and nature of the desired Member consultation process
- timing of formal Member general meetings to be called and held at which the requisite Member resolutions will be proposed for consideration and voting upon by the Members;
- timing of completion of the process.

Annexure "B" to this Discussion Paper contains a list of specific issues upon which Member feedback and consultation is invited at the Member consultation meetings to be held.

The first Members' consultation session is scheduled for 5.30pm, Tuesday 27 May in the Directors' Lounge at Ascot Racecourse.

Ultimately, it is the Members who will have the determining say on the proposal and accordingly the Board is keen to hear from the Members so it may have due regard to the sentiment of the Membership as a whole in the final terms of the proposal to be put to the Members for their approval and vote.

8. Conclusion

It is the Board's belief that to better assure the Club's vibrant future, these proposed changes to the Club's governance framework will not only strengthen the Club for the benefit the Members as a whole, but are evolutionary of the Club's distinguished heritage to be the premier sporting organisation engaged in thoroughbred horse racing in WA.

The Board looks forward to the consultation with Members as well as progressively keeping Members apprised of progress of matters. Watch this space for more information to be forthcoming.

Annexure "A"

Anticipated Timetable for Proposal

Date	Event
22 April 2025	Initial advice of proposal in Club newsletter
14 May 2025	Publication of this Discussion Memorandum
27 May 2025	Member meeting (1) for consultation purposes on the overall initiative
July 2025	Member meeting (2) for consultation purposes on proposed revisions to By-laws/Constitution
August 2025	Report to Members on main feedback received from Member consultation
October 2025	Members to approve incorporation (Associations Incorporation Act) and adopt proposed revised By-laws/ Constitution at the Club's AGM
December 2025	Meeting of Members to approve transition of registration and adoption of proposed revised compliant By-laws/Constitution.
Q1 of 2026	Approval of transfer of registration by ASIC and effective date of revised compliant By-laws/Constitution.
Feb/March 2026	Effective date for Completion of Initiative

Annexure “B”

Specific issues upon which Member feedback and consultation are invited at the first consultation meeting relate to the overall rationale for the initiative

1. Do Members have any issues of concern that have not reasonably been addressed in Discussion Memorandum (1)?
2. Are Members satisfied with the rationale for the proposal as described in Discussion Memorandum (1)?
3. Would Members like the governance framework and legal structure of the Club to accord with contemporary accepted organisational governance principles and practice for other not for profit organisations comparable to the Club?
4. Are Members satisfied that the consequential inclusion of the word “Limited” at the end of the Club’s formal name will not have any material detrimental impact of the Club’s industry standing.
5. Are there any aspects of the Club’s current By-laws that Members would like to be addressed when the By-laws and Constitution are being revised to meet the requirements of the initiative?