

**CONSTITUTION OF YARRA RANGES
TOURISM LTD**

A company limited by guarantee under the
Corporations Act 2001 (Cth)

CONSTITUTION

of

YARRA RANGES TOURISM LTD
ACN 120 061 109

SECTION A - DEFINITIONS, OBJECTS & POWERS

1 PRELIMINARY

1.1 Definitions and interpretation

1.1.1 In this constitution:

- (a) **"Absolute Majority"** means a majority of the votes of all members of the Board entitled to vote at the time, whether or not those Board members are present, and whether or not they vote.
- (b) **"Annual Subscription"** means the annual amount determined by the Board in accordance with clause 8.1 (if any).
- (c) **"Board"** means the board of directors of the Company for the purposes of the Corporations Act being the whole or any number (not being less than a quorum) of the board of the Company for the time being acting as such in accordance with the Constitution.
- (d) **"By-Laws"** means by-laws of the Company made by the Board pursuant to the Constitution, and for the time being in force.
- (e) **"Chair"** means the person appointed by Yarra Ranges Council pursuant to Clause 21, who is to be a member of the Board and chair general meetings of the Members and meetings of the Board.
- (f) **"Clause"** means a clause of the Constitution.
- (g) **"Committee"** means the committee for the time being of the Company.
- (h) **"Company"** means the company established or continued in existence under this Constitution.
- (i) **"Constitution"** means this constitution as for the time being in force.
- (j) **"Corporations Act"** means the *Corporations Act 2001* (Cth).
- (k) **"Director"** means a member of the Board.

- (l) **"Entrance Fee"** means the amount determined by the Board in accordance with clause 8.1 (if any).
- (m) **"Liability"** includes costs, charges, losses, damages, expenses and penalties.
- (n) **"Member"** means a member for the time being of the Company appearing as such in the register of members.
- (o) **"Nomination and Consultative Committee"** means the committee established pursuant to Clause 17.
- (p) **"Objects"** means the objects contained in Clause 2.
- (q) **"Officer"** means:
 - (1) a member of the Board;
 - (2) a person appointed to a committee established by the Board in accordance with the Constitution; or
 - (3) a person appointed a trustee by, or acting as trustee at the express request of the Company.
- (r) **"Partnership Subscription"** is a marketing subscription service offered to businesses servicing the Yarra Valley and the Dandenong Ranges. This service is not the same as membership, see in particular Clause 6.3.1.
- (s) **"Proceedings"** means any proceedings, whether civil or criminal, being proceedings in which it is alleged that the person has done or omitted to do some act, matter or thing in his or her capacity as such an Officer, or in the course of acting in connection with the affairs of the Company, or otherwise arising out of the Officer's holding such office (including proceedings alleging that he or she was guilty of negligence, default, breach of trust, or breach of duty in relation to the Company).
- (t) **"Person"** includes an individual, incorporated and unincorporated group or organisation, parts of incorporated and unincorporated groups or organisations and a company or incorporated entity.
- (u) **"Public Call"** includes advertising on the Company Website and at least one other source.
- (v) **"Register"** means the register of Members of the Company.
- (w) **"Representative"** means a representative of a corporate Member appointed pursuant to section 250D of the Corporations Act.
- (x) **"Secretary"** means a person appointed by the Board pursuant to Clause 22, to act as the secretary of the Company for the purposes of the Corporations Act.
- (y) **"To the Relevant Extent"** means:
 - (1) to the extent the Company is not precluded by law from doing so; and
 - (2) to the extent, and for the amount that the Officer is not otherwise entitled, to be indemnified and is not otherwise actually indemnified.

(z) **“Yarra Ranges Council”** means the Yarra Ranges Shire Council ABN 21 973 226 012.

1.1.2 A Member is to be taken to be present at a general meeting if the Member is present in person or by proxy, attorney or Nominee.

1.1.3 Unless the contrary intention appears in the Constitution:

- (a) words importing the singular include the plural, and words importing the plural include the singular;
- (b) words importing a gender include every other gender;
- (c) words used to denote persons generally or importing a natural person include any company, corporation, body corporate or other body (whether or not the body is incorporated);
- (d) a reference to a person includes that person's successors, legal personal representatives and permitted transferees;
- (e) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute; and
- (f) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

1.1.4 In the Constitution headings and boldings are for convenience only and do not affect its interpretation.

1.2 Application of the Corporations Act

1.2.1 The Constitution is to be interpreted subject to the Corporations Act. However, the rules that apply as replaceable rules to companies under the Corporations Act do not apply to the Company.

1.2.2 Unless the contrary intention appears, a word or expression in a clause that is defined in section 9 of the Corporations Act has the same meaning in the Constitution as in that section.

2 OBJECTS

The objects for which the Company is established are:

2.1 To be the single regional tourism organisation for the Yarra Valley and Dandenong Ranges campaign region (as defined by Victoria’s Tourism Regions). To lead the promotion and development of its assets to visitors through effective information servicing and marketing that targets segments aligned to local brand strengths and opportunities. Resulting in economic prosperity, business growth, employment creation and sustainable community development for the region; and

2.2 do such things as may be incidental or conducive to the attainment of the objects set out in this Clause 2.

3 COMPANY POWERS

Subject to Clause 4, solely for the purpose of carrying out the Objects, the Company may, in any manner permitted by the Corporations Act:

- 3.1 exercise any power;
- 3.2 take any action; and
- 3.3 engage in any conduct or procedure,

which, under the Corporations Act a company limited by guarantee may exercise, take or engage in if authorised by its constitution.

4 NO POWER TO BORROW MONEY

- 4.1 The Company does not have the power to “borrow money in its own right”, within the meaning given to that phrase in section 193 of the *Local Government Act 1989* (Vic), unless the requirements of that provision have been satisfied.
- 4.2 If the requirements of section 193 of the *Local Government Act 1989* (Vic) are met, the Board may, at its discretion, exercise all the powers of the Company to raise or borrow money and to secure its repayment in such manner and on such terms and conditions as it thinks fit, including the issue of bonds, debentures, or other securities charged on all or any part of the undertaking assets or rights of the Company, including its unpaid subscriptions.

SECTION B - FINANCES

5 INCOME AND PROPERTY

5.1 Distributions to Members

The income and property of the Company, however derived, shall be applied solely towards the promotion of the Objects of the Company, and no portion of the income or property of the Company shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to any Member.

5.2 Payment for services rendered

Nothing in Clause 5.1 prevents the payment in good faith of remuneration to any officer or servant of the Company or to any Member in return for any services actually rendered to the Company nor for goods supplied in the ordinary and usual course of business nor prevents the payment of interest at a commercial rate on money borrowed from any Member.

5.3 Payment to directors

5.3.1 Subject to Clause 5.3.2, the directors shall not be paid by way of remuneration for their services, provided that:

- (a) reimbursement for out-of-pocket expenses incurred in carrying out the duties of a director shall be paid where payment does not exceed any amount previously approved by the Board;
- (b) payment for any service rendered to the Company in a professional or technical capacity shall be made where the provision of that service has the prior approval of the Board and the amount payable is approved by a resolution of the Board and is on reasonable commercial terms; and
- (c) payment as an employee of the Company shall be made where the terms of employment have been approved by resolution of the Board.

5.3.2 The Chair may be paid for services (that is, the Chair may be paid a "director's fee"), at a rate and in a manner directed or approved by the Board at the time of appointment or at any time thereafter.

SECTION C - MEMBERS

6 MEMBERSHIP

6.1 Members

The following persons are Members:

- 6.1.1 those Persons who are Members as at the date of adoption of the Constitution;
and
- 6.1.2 any other Person who becomes a Member by virtue of Clause 6.5.

6.2 Classes and rights

6.2.1 The classes of membership shall be as follows –

- (a) Partner Members as set out at clause 6.3; and
- (b) Honorary Members as set out in clause 6.4.

6.2.2 Additional:

- (a) classes of membership; and
- (b) eligibility criteria for admission to membership for any class of membership including the classes set out in this clause 6.2,

may be set out in the By-Laws and subject to the Constitution, the rights and benefits, duties and obligations, and status of Members, within the various classes of membership may be defined by the By-Laws.

6.3 Partner Members

- 6.3.1 Partner membership is not the same as Partnership Subscription. For the avoidance of doubt, a Partnership Subscription subscriber will not be a member of the Company unless they have separately successfully applied for membership.
- 6.3.2 The Partner Members comprise the members of all the Partner Member sub-classes. It is not possible to be a Partner Member without being a valid member of recognised Partner Member sub-class.
- 6.3.3 The recognised subclasses of membership of Partner Membership shall be as follows –
 - (a) Industry Partners Members; and
 - (b) Local Government Partner Members.
- 6.3.4 Partner Membership is not open to individuals.

- 6.3.5 Industry Partner Membership is open to companies, Incorporated Associations and trusts who –
- (a) are validly existing and in good standing;
 - (b) support the purposes of the Company; and
 - (c) can be a member and uphold this Constitution (including the purposes) without resulting in a breach of their Rules of Incorporation, Constitution, Trust Deed or other documents.
- 6.3.6 An Industry Partner Member must -
- (a) provide the Company with a copy of its current Rules of Incorporation, Constitution, Trust Deed (as the case may be) as amended from time to time; and
 - (b) Serve notice on the Company of every general meeting of their entity (if applicable) noting that the Company shall be entitled to send a representative to attend such meeting who will report back to the Board.
- 6.3.7 Local Government Partner Membership is open to Councils as defined by the Local Government Act 1989 (Vic) as amended, consolidated, re-enacted or replaced with successor legislation from time to time.
- 6.3.8 An Partner Member is entitled to one vote.
- 6.3.9 Partner Members are eligible to appoint candidates for Partner Directors and associated Alternate Directors to serve on the Board on their behalf by serving notice in accordance with clause 17.4.
- 6.3.10 All valid Industry Partner memberships as at 30 June in any given year will automatically expire immediately prior to the commencement of the following annual general meeting unless:
- (a) the member reapplies for membership as if they were a new member by 31 August of that same year; and
 - (b) That member's application is approved in accordance with 6.7.

6.4 Honorary Members

- 6.4.1 Board members who are neither Members nor Nominees of Members are deemed to be Honorary Members for the duration of their term of office.
- 6.4.2 Yarra Ranges Council is deemed to be an Honorary member.
- 6.4.3 An Honorary member is entitled to one vote.

6.5 Admission to membership

- 6.5.1 Membership shall be open to those Persons who, being eligible to become a member in accordance with the Constitution and the By-Laws, agree in writing to become a member and whose application for membership is approved by the Board in accordance with clause 6.7.
- 6.5.2 Members are entitled to be admitted to membership, upon the granting of approval by the Board (in a class of membership approved or directed by the Board).
- 6.5.3 A member not being an individual, may only become a member by nominating a Nominee to act as a member on its behalf in accordance with clause 13.

6.6 Applications

Applications for membership must be:

- 6.6.1 in writing in the form determined by the Board from time to time, stating that the applicant:
 - (a) wishes to become a member of the Company; and
 - (b) supports the Objects;
- 6.6.2 signed by the applicant; and
- 6.6.3 lodged with the Board, or as the Board otherwise specifies from time to time.

6.7 Board to consider and approve applications for membership

- 6.7.1 An application for membership shall be considered at the first regular meeting of the Board following the receipt of the application, unless it is impractical to do so.
- 6.7.2 The Board must:
 - (a) by resolution approve or reject the application; and
 - (b) notify the applicant in writing whether the application has been approved or rejected.
- 6.7.3 If the Board approves the application:
 - (a) the Board shall request the applicant pay within a period of 28 days after the date of the Board meeting the amount payable under the Constitution as the Entrance Fee and the first year's Annual Subscription (if any);
 - (b) the name and address of the new member, and the date of becoming a member, must be entered in the Register within 7 days of the receipt of the amounts referred to in Clause 6.7.3(a), or as soon as reasonably practicable if no such amount is payable; and
 - (c) the applicant becomes a member from the date of the applicant is recorded in the register of members, in accordance with Clause 6.7.3(b).
- 6.7.4 The decision of the Board on an application for Membership, and as to the class (if any), of Membership for which the applicant is eligible shall be final and conclusive and binding on the applicant and the Board is not bound to acknowledge or take into account comments received from existing Members.
- 6.7.5 The Board will not be required to give any reason for the rejection of any application for Membership.
- 6.7.6 The Board may require such additional evidence as is reasonably required to establish eligibility for membership as a pre-condition to accepting a membership application.

6.8 Changes to classes of membership

- 6.8.1 The Board may dissolve any present or future class or classes of membership of the Company and may create new or further class or classes of membership.
- 6.8.2 The Board may from time to time temporarily or permanently close any class of membership.

6.8.3 Where a class of membership is dissolved or closed, the members within than class of membership cease to be Members and must reapply as new members.

7 RIGHTS AND OBLIGATIONS OF MEMBERS

7.1 The rights of Members are not transferable, and end when the Member ceases to be a Member in accordance with Clause 9 or Clause 10.

7.2 By joining the Company, Members agree to support the Objects.

8 ENTRANCE FEE AND ANNUAL SUBSCRIPTIONS

8.1 The Board may by resolution set:

8.1.1 an Entrance Fee payable by Members upon being admitted to Membership; and

8.1.2 an Annual Subscription for each class of Members.

8.2 The amount of the Entrance Fee and Annual Subscription and the date for payment for either may vary according to criteria set by the Board in the resolution.

8.3 The voting and other rights of Members who have not paid the Annual Subscription by the date for payment are suspended until the Annual Subscription is paid, subject to Clause 15.8.7.

9 RESIGNATION AND EXPULSION OF MEMBERS

9.1 Resignation

9.1.1 A Member may resign their membership of the Company at any time by giving notice in writing to the Board.

9.1.2 A Member is taken to have resigned if—

- (a) the Member's Annual Subscription is more than 3 months in arrears; or
- (b) where no annual fee is payable—

- (1) the Company has made a written request to the Member to confirm that he or she wishes to remain a member; and
- (2) the Member has not, within 3 months after receiving that request, confirmed in writing that he or she wishes to remain a member.

9.2 Discipline

9.2.1 The Board may, by special resolution, suspend or expel a Member or its Nominee for:

- (a) failing to comply with the Constitution;
- (b) failing to support the Objects; or
- (c) conduct prejudicial to the interests of the Company.

9.2.2 Before suspending or expelling the Member or its Nominee, the Board must give notice in writing to that Member and their Nominee of the Board's intention to do so and stating the Board's reason for the proposed suspension or expulsion.

9.2.3 The notice given under Clause 9.2.2 must specify a time and place at which the Member and/or the Nominee may appear before the Board to show cause why

the Member or its Nominee should not be expelled, such time to be not less than 14 days from the date of the notice.

- 9.2.4 Where a Member or its Nominee are suspended or expelled pursuant to this Clause 9.2, the Member may call a special general meeting to appeal against the decision of the Board. Such meeting shall be held within 28 days after the Board resolves to suspend or expel the Member or its Nominee. If at such general meeting three quarters of the Members present and entitled to vote, vote in favour of confirmation of the suspension or expulsion, the suspension or expulsion is confirmed. In any other case, the suspension or expulsion is revoked.
- 9.2.5 At a special general meeting of Members convened under Clause 9.2.4:
- (a) no business other than the question of the appeal shall be transacted;
 - (b) the Board may place before the meeting details of the grounds for the resolution and the reasons for the passing of the resolution;
 - (c) the Member and/or its Nominee shall be given an opportunity to be heard; and
 - (d) the Members present shall vote by secret ballot on the question whether the resolution should be confirmed or revoked.

9.3 Effect of Suspension

- 9.3.1 In the event that a Member who is also a Director in their own right is suspended from membership in accordance with clause 9.2, the Member will be deemed to have vacated the office of Director. This clause applies notwithstanding that the vacation from the position of Director may have the effect of automatically resigning that Member from membership.
- 9.3.2 In the event that a Member is suspended from office, all rights of membership (including the right to a position on the Board) are suspended for the duration of the suspension. Unless the Board agrees by absolute majority, a Nominee who is also a Director will be suspended from the position of Director for the duration of the Member's suspension. For the avoidance of doubt, suspension in this clause is not to be taken as a casual vacancy.

10 CESSATION OF MEMBERSHIP

10.1 Members cease to be members:

- 10.1.1 on ceasing to meet the eligibility criteria prescribed pursuant to Clause 6.2 and set out in the By-Laws from time to time (for the relevant class of membership);
- 10.1.2 in accordance with Clause 6.3.10;
- 10.1.3 in accordance with Clause 6.8.3;
- 10.1.4 on resignation, expulsion, death or ceasing to have legal capacity or legal standing;
- 10.1.5 on becoming insolvent, bankrupt, under administration or upon making any arrangement or composition with their creditors generally; and
- 10.1.6 in the case of members nominated to act on behalf of an unincorporated body, or part of an incorporated or unincorporated body under Clause 6.5.3 who are not members in their own right, when another persons is nominated to act.

- 10.2** If a Member ceases to be a member, the date of ceasing to be a Member must be entered in the Register.

11 PRIVACY OF MEMBERS

- 11.1** Personal information about Members is collected for the purpose of membership and purposes incidental to membership, which may mean that it is used for promoting the interests of the Company and disclosed to other Persons, or made available for inspection by other Persons including:

- 11.1.1 accounting, legal and financial advisers of the Company;
- 11.1.2 other Members;
- 11.1.3 government authorities and agencies, including Yarra Ranges Council and the Local Government Partner Members; and
- 11.1.4 suppliers and customers of the Company.

- 11.2** On being admitted to membership Members will be taken to have consented to their personal information being used in accordance with Clause 11.1.

- 11.3** Any Member who's details change, or who would like to update or access their personal information should contact the Board.

12 OBLIGATIONS OF MEMBERS

Save as set out in the Constitution, the rights and benefits, duties and obligations, and status of Members, within the various classes of membership which may exist from time to time shall be defined by the By-Laws.

13 NOMINEES

13.1 General

- 13.1.1 All Members who are not individuals must appoint an individual to act as a member on its behalf as Nominee.
- 13.1.2 Nominees may exercise all the rights of membership on behalf of the Member that they represent.
- 13.1.3 Notwithstanding anything contained to the contrary in this Constitution, a Nominee cannot be a Member in their own right unless they resign from the position of Nominee.

13.2 Deemed Appointments

- 13.2.1 Where a Partner Director has been appointed by a Partner Member, said Partner Director shall be the Nominee for that Member. Where a Partner Director has not been appointed, the Partner Member must separately appoint a Nominee in accordance with clause 13.3.
- 13.2.2 The Nominee at any given time for Yarra Ranges Council shall be the Yarra Ranges Council Nominated Director.
- 13.2.3 The Nominee at any given time for Members who are incorporated bodies shall hold the position of Representative.

13.3 Appointment of Non-director Nominees

- 13.3.1 A Member may appoint or replace a Nominee who is not also a Director at any time in accordance with this clause. Appointments of Nominees must be:
- (a) in writing, naming the individual (or individuals, in order) to represent the Member;
 - (b) sealed by, or signed on behalf of, the Member; and
 - (c) either, sent to the Company at least 24 hours before a general meeting, or given to the chair of the meeting before or at the commencement of the general meeting.

13.4 Appointment of Director Nominees

- 13.4.1 A Nominee who is also a Director will be deemed to appointed upon becoming a Director and will remain as Nominee for the duration of their directorship.

SECTION D - GENERAL MEETINGS

14 MEETINGS OF MEMBERS

14.1 Annual general meeting

14.1.1 An annual general meeting of the Company shall be held in accordance with the requirements of the Corporations Act and at such times and places as the Board may determine.

14.1.2 The ordinary business of the annual general meeting is:

- (a) to receive and consider the accounts, balance sheets and the reports of the directors and of the auditors and of any other documents required by law to be laid before the meeting;
- (b) to elect Directors in place of those retiring or ceasing to hold office; and
- (c) to transact any other business which under the Constitution or the Act ought to be transacted at an annual general meeting.

14.1.3 No business shall be transacted at an annual general meeting other than:

- (a) the ordinary business referred to in Clause 14.1.2; and
- (b) any special business set out in the notice of meeting.

14.2 Special general meetings

14.2.1 A general meeting of Members other than the annual general meeting shall be called a special general meeting.

14.2.2 The Board may, whenever it thinks fit, convene a general meeting and must convene a general meeting on a requisition of:

- (a) Members, as provided for by the Corporations Act;
- (b) at least 20% of the total number of Members; or
- (c) a Director.

14.2.3 The requisition for a special general meeting shall state the objects of the meeting and shall be signed by the Members or Directors making the requisition and be sent to the office of the Company and may consist of several documents in a like form, each signed by one or more of the Members or Directors making the requisition.

14.2.4 Special general meetings may only consider business of which notice has been given in accordance with Clause 14.3.

14.3 Notice of general meetings

- 14.3.1 Subject to the provisions of the Corporations Act, and of the Constitution, not less than 21 clear days notice of a general meeting shall be given in the manner provided in Clause 34 to the Members, Directors and auditors of the Company, specifying the place, day and hour of the meeting and in the case of special business the general nature of that business.
- 14.3.2 The accidental omission to give notice of a general meeting to, or the non-receipt of any such notice by, any of the Members shall not invalidate any resolution passed at any such meeting.
- 14.3.3 A Member desiring to bring any business before a meeting may give notice of that business in writing to the Board who shall include all legitimate business in the notice calling the next general meeting after the receipt of the notice.

14.4 Postal Ballots

- 14.4.1 Subject to the provisions of the Corporations Act, whenever the Board thinks fit it may submit any question or resolution to the vote of all Members entitled to a vote at a general meeting of the Company by means of a postal ballot in such form and returnable in such manner as the Board decides, provided that notice of any postal ballot shall be given to each Member in the manner provided in Clause 14.3.
- 14.4.2 A resolution approved by a majority or specific majority of the Members voting by such ballot shall have the same force and effect as such a resolution would have if carried by such a majority or specific majority at a duly constituted general meeting of the Company competent to pass such a resolution.

14.5 Use of Technology

General meetings may be held at more than one place, provided that the technology that is used enables each Member present at all places the meeting is held to clearly and simultaneously communicate with every other such Member.

15 PROCEEDINGS AT GENERAL MEETINGS

15.1 Quorum

- 15.1.1 No business shall be transacted at a general meeting unless a quorum is present at the commencement of business.
- 15.1.2 The quorum for consideration of the business of a general meeting is the presence in person, by Nominee or by proxy of the greater of:
- (a) at least 25% of the Members entitled to vote; and
 - (b) at least 3 Members entitled to vote.

15.2 Chairperson

The Chair is entitled to act as chairperson of general meetings, but if no such person has been appointed, or if at any meeting the Chair is not present within 10 minutes after the time appointed for holding the meeting, or unwilling to act, the members of the Board present may choose one of their number to be chairperson of the meeting.

15.3 Absence of quorum

If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved. In any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day and at such other time and place as the Board may determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present (being not less than three) shall be a quorum. If three Members are not present the meeting shall be dissolved.

15.4 Adjournment of meeting

The chairperson of a meeting may, with the consent of any meeting at which a quorum is present (and shall if so directed by the 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. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or the business to be transacted at an adjourned meeting.

15.5 Poll

15.5.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:

- (a) by the chairperson of the meeting;
- (b) by at least 3 Members present by Nominee or by proxy; or
- (c) by any 2 members of the Board.

15.5.2 Unless a poll is so demanded a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.

15.6 Manner of taking poll

If a poll is duly demanded it shall be taken in such a manner and either at once or after an interval or adjournment or otherwise as the chairperson directs, and the result of the poll shall be the resolution of the meeting at which the poll was demanded but a poll demanded on the election of a chairperson or on a question of adjournment shall be taken forthwith.

15.7 Casting vote by chairperson

In the case of an equality of votes whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

15.8 Voting

15.8.1 Subject to Clause 35, the voting rights of the Members will be set out in the By-Laws.

15.8.2 Each Member who is an Individual who has the right to vote may vote:

- (a) in person;

- (b) by the appointment of a single proxy, who shall be entitled to vote on a show of hands as well as on a poll; or
 - (c) by attorney.
- 15.8.3 Each Nominee (of a Member who has the right to vote) shall vote on behalf of the Member. The Nominee may vote:
 - (a) in person;
 - (b) by the appointment of a single proxy duly authorised by the Member, who shall be entitled to vote on a show of hands as well as on a poll; or
 - (c) by attorney duly authorised by the Member.
- 15.8.4 A proxy or attorney need not be a Member and may be appointed for all, any number of, or for a particular meeting.
- 15.8.5 The decision of the chairperson of a meeting as to the validity of a proxy or power of attorney shall be final and conclusive.
- 15.8.6 Where a person present at a general meeting represents personally or by proxy, attorney or Nominee of more than one Member, the following provisions apply to a vote taken on a show of hands:
 - (a) the person is entitled to one vote only despite the number of Members the person represents; and
 - (b) the person's vote will be taken as having been cast for all the Members the person represents.
- 15.8.7 A Member is not entitled to vote at a general meeting unless all moneys due and payable by the Member to the Company have been paid.

15.9 Qualification of voters

An objection may be raised to the qualification of a voter only at the meeting or adjourned meeting at which the vote objected to is given or tendered. Any such objection shall be referred to the chairperson of the meeting, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

15.10 Proxies

- 15.10.1 An appointment of a proxy is valid if it meets the requirements of the Corporations Act and the Constitution.
- 15.10.2 The instrument appointing a proxy shall be in writing under seal or under the hand of an officer or attorney duly authorised. The instrument appointing a proxy shall be lodged at the registered office of the Company or such other place as is specified for that purpose in the notice convening the meeting not less than 48 hours before the proxy purports to vote at any general meeting of the Company. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. A Member shall be entitled to instruct their proxy to vote in favour of or against any proposed resolutions. Unless otherwise instructed the proxy may vote as they think fit.
- 15.10.3 The instrument appointing a proxy may be in the following form or in a common or usual form:

"To: Yarra Ranges Tourism Ltd

I of
..... being a
member of Yarra Ranges Tourism ("**Company**") hereby appoint
..... of
..... or failing
them of
..... as my
proxy to vote on my behalf at the general meeting of the Company to be
held on the day of and at any adjournment
thereof.

The proxy is hereby authorised to vote *in favour of/*against the following
resolutions:

Signed this day of

*Note: In the event of the member desiring to vote for or against any
resolution they shall instruct their proxy accordingly. Unless otherwise
instructed, the proxy may vote as they think fit.*

*Strike out whichever is not desired."

- 15.10.4 Unless the Company has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
- (a) the appointing Member dies;
 - (b) the Member is mentally incapacitated;
 - (c) the Member revokes the proxy's appointment; or
 - (d) the Member revokes the authority under which the proxy was appointed by a third party.
- 15.10.5 The appointment of a proxy or attorney is not revoked by the appointer attending the general meeting, but:
- (a) if the appointer votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the appointer's proxy or attorney on that resolution; and
 - (b) if the appointer otherwise takes part in the meeting in relation to a resolution the proxy or attorney must not take part in the meeting in relation to that resolution.

SECTION E - BOARD OF MANAGEMENT

16 BOARD OF DIRECTORS

16.1 Board of Management

- 16.1.1 The affairs of the Company shall be managed by a Board of directors constituted as provided in this Clause 16.
- 16.1.2 The Board shall consist of:
- (a) the Chair, appointed in accordance with Clause 21; and
 - (b) up to four ordinary directors appointed in accordance with Clause 18 ("**Skills-based Directors**");
 - (c) up to six ordinary directors to represent Partner Members appointed in accordance with clause 18 ("**Partner Directors**") provided that:
 - (1) no more than five Partner Directors may be appointed at any given time to represent members from the Industry Partner membership sub-class; and
 - (2) no more than one Partner Director may be appointed at any given time to represent members from the Local Government Partner membership sub-class; and
 - (d) one ordinary director to be appointed by Yarra Ranges Council ("**Yarra Ranges Council Nominated Director**").
- 16.1.3 At any given time, the Board shall endeavor to have at least one Director amongst their number who is either a representative for or has direct experience in one of the following –
- (a) Businesses which are owned/operated in the Yarra Valley region; and
 - (b) Businesses which are owned/operated in the Dandenong Ranges region; and
 - (c) Any other groups or industries as set out in the By-laws.

16.2 Alternate Directors

- 16.2.1 There shall be one Alternate Director appointed by the relevant Partner Member at any given time who shall act in the place of the Partner Director–
- (a) For the duration of any leave of absence by the Partner Director;
 - (b) In the event that position becomes vacant in accordance with clause 18.4.2.
- 16.2.2 Clauses 16.5.1 and 16.4 do not apply to Alternate Directors.

16.3 Holding office

Subject to the Constitution, a member of the Board shall hold office until the close of the annual general meeting at which they are to retire in accordance with Clause 16.4 or Clause 18.5.1.

16.4 Retirement of Directors

16.4.1 At each annual general meeting of the Company:

- (a) all of the Partner Directors shall retire from office;
- (b) any Skills-based Director who has held office for a continuous period of more than 3 years shall retire from office; and
- (c) the Directors appointed pursuant to Clause 18.5.1 to fill casual vacancy, shall retire from office.

16.4.2 Subject to Clause 16.5, a retiring Director shall be eligible for re-election.

16.5 Maximum term

16.5.1 Unless by special resolution of the Board, an Ordinary Director is eligible for re-election for the applicable maximum consecutive terms for that type of director as follows:

	Type of Director	Maximum consecutive terms
(a)	Partner Director	Eligible for re-election for a maximum of 3 consecutive terms
(b)	Skills-based Director	Eligible for re-election for a maximum of 2 consecutive terms
(c)	Yarra Ranges Council Nominated Director	Eligible for election for indefinite consecutive terms

16.5.2 In the event that an appointment infringes upon the requirements of the Constitution, including Clause 16.5, the appointment shall be considered invalid and the position shall be considered vacant until such time as the position is filled in accordance with the Constitution.

16.6 Qualification of Directors

16.6.1 No person is eligible to be appointed or act as a Director (including an Alternate Director) of the Company unless:

- (a) that person is over the age of 18 years; and
- (b) that person is not prohibited or disqualified or otherwise prevented from acting as a director of a company under the Corporations Act.

16.6.2 In addition to Clause 16.6.1, a person is not eligible to be appointed or act as a Skills-based Director of the Company unless that person has been put forward by the Nominations and Consultative Committee or is deemed to be re-elected in accordance with the Constitution.

16.6.3 A Director (including an Alternate Director) need not be a Member or a Nominee however a Director who is neither a Member nor a Nominee will be deemed to be an Honorary Member upon appointment in accordance with clause 6.4.

17 NOMINATION PROCESS

17.1 Establishment of the Nomination and Consultative Committee

- 17.1.1 At least 60 days prior to each annual general meeting of the Company a nomination and consultative committee is to be established on behalf of the Board, consisting of:
- (a) the Chair; and
 - (b) up to 2 other people approved by the Chair or nominated by the Chair, provided that such persons must be independent of the Board.
- 17.1.2 The Nomination and Consultative Committee is to be disbanded at the end of each annual general meeting or upon the creation of a new committee (whichever is the later).

17.2 Call for nominations

- 17.2.1 Nominations for candidates for the position of a Director must be called for by the Board, through the Nomination and Consultative Committee, at least 60 days prior to each annual general meeting of the Company.
- 17.2.2 For the purpose of calling for nominations for Skill-based Directors, the Nomination and Consultative Committee may prepare and circulate "position descriptions" for the purpose of assessing the suitability of candidates.

17.3 Form of nominations for Skills-based Directors

Nominations for candidates for the position of a Skills-based Director:

- 17.3.1 shall be in writing and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination prescribed by the Nominations and Consultative Committee);
- 17.3.2 must contain or be accompanied by a brief statement from the candidate outlining their skills and experience, and how they propose to fulfil their commitments as a Director and add value to the Company;
- 17.3.3 shall be delivered to the Nomination and Consultative Committee at such address as notified by the Nomination and Consultative Committee, not less than 30 days before the date fixed for an annual general meeting; and
- 17.3.4 need not come from the Members (it being intended that there be a "public call" for nominations).

17.4 Form of nominations for Partner Directors

- 17.4.1 Where a Partner Member will be eligible to vote at an annual general meeting, they may nominate a candidate for the positions of Partner Director and Alternate Director prior to that annual general meeting in accordance with this clause 17.4.
- 17.4.2 Not less than 30 days before the date fixed for an annual general meeting, a Partner Member may deliver notice to the Nomination and Consultative Committee at such address as notified by the Nomination and Consultative Committee which –
- (a) nominates candidates for the positions of Partner Director and an Alternate Director to fill each office which is either currently vacant or

which shall be vacated prior to or at the annual general meeting. Such nomination –

- (1) shall be in writing and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination prescribed by the Nominations and Consultative Committee); and
- (2) unless the candidate is a retiring Director, must contain or be accompanied by a brief statement from the candidate outlining their skills and experience, and how they propose to fulfil their commitments as a Director and add value to the Company.

17.4.3 In the event that an Partner Member does not serve notice in accordance with clause 17.4.2 –

- (a) the Partner Member is taken to have forfeited their right to nominate a candidate for the Board for the following year.

17.5 Assessment of nominations

17.5.1 The Nominations and Consultative Committee shall:

- (a) review and assess nominations received pursuant to Clause 17.3 and 17.4;
- (b) select from the candidates nominated under Clause 17.3 a pool of nominees best suited to fill positions on the Board, with a view to:
 - (1) limiting the number of candidates for Skills-based Directors to be voted on by the Members to a practical and readily manageable number;
 - (2) isolating those candidates who, in the view of the Nominations and Consultative Committee:
 - (A) are not suitable; or
 - (B) do not meet or are unlikely to meet the requirements of the Constitution; and
 - (3) engaging and involving people and segments of the community who have not previously participated in the affairs of the Company or had an interest in the activities of the Company (subject to the Objects of the Company); and
 - (4)
 - (5) giving preference to the extent permissible at law to candidates whose appointment is required to satisfy the quota requirements pursuant to clause 16.1.3.
- (c) notify the Board of its selections for Skills-based Directors pursuant to Clause 17.5.1(b) as soon as is reasonably practicable, but in any event, at least 7 days before the date by which the Board is to issue a notice of candidates under Clause 17.6;
- (d) notify the Board and the relevant Partner Member as soon as practicable of any nominations for candidates received pursuant to clause 17.4 who, in the view of the Nominations and Consultative Committee:
 - (1) are not suitable; or

- (2) do not meet or are unlikely to meet the requirements of the Constitution; and

provide the relevant member with 5 days to nominate an alternate candidate who satisfies the requirements of the Nominations and Consultative Committee.

- (e) give the Board reasons for its selections.

17.5.2 The decision of the Nominations and Consultative Committee on the candidates to put to the Members shall be final and conclusive and binding and:

- (a) the Nominations and Consultative Committee is not bound to acknowledge or take into account comments received from the Board (other than by the Chair as a member of the committee); and
- (b) Board will not have the power or authority to veto, alter or reject the selections made pursuant to Clause 17.5.1(b).

17.5.3 The Board will not be required to give any reason for the selections made pursuant to Clause 17.5.1(b) to the Members or members of the public generally.

17.6 Notice of candidates

17.6.1 No less than 2 days before the date fixed for the holding of the annual general meeting the Board must either issue to all Members or display in a public place or forum a list of:

- (a) candidates selected by the Nominations and Consultative Committee and a copy of the statement referred to in Clause 17.3.2 in respect of those candidates; and
- (b) candidates who, being eligible for re-election, have offered themselves for re-election.

17.6.2 The candidates nominated and selected or ratified will be put to the Members for election as per Clause 18.3.1 and no further nominations shall be received at the annual general meeting or after the date on which nominations close under Clause 17.3.3.

18 APPOINTMENT AND REMOVAL OF DIRECTORS

18.1 Candidates for Partner Directors

At each annual general meeting, a Candidate for an Partner Director (or Alternate Director) nominated in accordance with clause 17.4.2 or 17.5.1(d), if offering himself or herself election and not being prevented by the Constitution from holding office as a director, shall be deemed to be have been elected, unless:

- 18.1.1 said individual is precluded by decision of the Nominations and Consultative Committee in accordance with clause 17.5.1(d); or
- 18.1.2 the number of nominations exceeds the number of vacancies to be filled, in which case a vote will be held as per Clause 18.3.1.

18.2 Candidates for Skills-based directors

18.2.1 At each annual general meeting the Members shall fill each vacated or vacant office or offices of Skill-Based Directors by appointing a duly qualified person selected by the Nominations and Consultative Committee. A retiring director, if offering himself or herself for re-election and not being prevented by the

Constitution from holding office as a director, shall be deemed to be have been re-elected, unless:

- (a) at the meeting it is expressly resolved not to fill the vacated office; or
- (b) nominations for the vacated position are received and selections made by the Nominations and Consultative Committee, in which case, the retiring Director will be deemed to be a candidate for the vacated position and will be eligible for election in accordance with Clause 18.3.

18.2.2 If either:

- (a) only one nomination for each vacancy of Skills-based Director, or new position is received (including any retiring Director who is deemed to be a candidate); or
- (b) only one candidate for each vacancy of Skills-based Director is selected by the Nominations and Consultative Committee,

the candidate/s nominated or selected (as the case may be) shall be deemed to be elected.

18.2.3 If the number of nominations and selections made by the Nominations and Consultative Committee exceeds the number of vacancies to be filled, a vote will be held as per Clause 18.3.1.

18.3 Voting for new or additional directors

18.3.1 On any vote to appoint a director at an annual general meeting:

- (a) the chairperson of the meeting shall collect the votes of the Members;
- (b) all votes shall be on the prescribed form (being the form prescribed by the Board from time to time);
- (c) votes shall be tallied in simple form, not a preferential system. That is, Members will vote for the candidate/s they most prefer, in accordance with the number of nominations. The candidate with the most votes will be declared elected; and
- (d) if votes are tied:
 - (1) Members will re-vote on the tied candidates, in simple form, not a preferential system;
 - (2) the candidate with the most votes on the revote will be declared elected; and
 - (3) if on a re-vote, votes remain tied, the chair of the meeting will have a casting vote.

18.4 Removal of Directors and vacation of office

18.4.1 Without limiting the rights of the Members under the Corporations Act, the Members may by a "special resolution" (passed by at least 75% of the votes cast (in person, by Nominee, or by proxy) of members entitled to vote on the resolution), remove any Director before the expiration of his or her period of office.

18.4.2 The office of a Director will become vacant if the Director:

- (a) dies;

- (b) ceases to be a Director or is disqualified from being a director pursuant to the Corporations Act;
- (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 or her office by notice in writing to the Company;
- (e) for more than 3 months is absent without permission of the Board from meetings of the Board held during that period;
- (f) has a material personal interest in a matter relating to the affairs of the Company and fails to give the other Directors notice of the interest;
- (g) becomes a bankrupt or makes any arrangement or composition with personal creditors generally;
- (h) being the Chair, is removed in accordance with Clause 21;
- (i) ceases to be a member or in the case of Directors who are Nominees, the member to whom they represent ceases to be a member;
- (j) being an Partner Director the relevant Member to whom they represent serves notice on the Board no less than 21 days from a scheduled Board meeting that said director does not have the ongoing support of the Partner Member; or
- (k) being a Yarra Ranges Council Nominated Director, Yarra Ranges Council replaces the Yarra Ranges Council Nominated Director.

18.5 Power to fill casual vacancies, etc.

- 18.5.1 Subject to Clause 18.5.5, the Board shall have power at any time, and from time to time, to appoint a qualified person as a Skill-based Director, either to fill a casual vacancy of a Skilled-based Director or as an addition to the existing Directors, but so that the total number of ordinary directors (excluding Partner Directors) shall not at any time exceed 6. Any director so appointed shall hold office only until the end of the next following annual general meeting of the Company but shall, subject to the provisions of the Constitution, be eligible for re-election at such meeting.
- 18.5.2 In the event of a casual vacancy in the position of a Partner Director, the associated Alternate Director shall fill the vacancy until the end of the next following annual general meeting of the Company.
- 18.5.3 In the event of a casual vacancy of a Partner Director and the associated Alternate Director, the position shall remain vacant until the end of the next following annual general meeting of the Company.
- 18.5.4 In the event of a casual vacancy of the Yarra Ranges Council Nominated Director, Yarra Ranges Council shall appoint a replacement Yarra Ranges Council Nominated Director.
- 18.5.5 An appointment to fill a casual vacancy:
- (a) in regards to Skills-based Directors, is only valid and effective if ratified or approved by the Chair; and
 - (b) cannot be made in respect of the appointment of the Chair, such position being filled in accordance with Clause 21.

- 18.5.6 The Board may continue to act notwithstanding a vacancy on the Board, but so that if the number of directors falls below 3, then the Board shall not, except in the case of emergencies, or for the purpose of filling up vacancies, or convening a general meeting of the Company, act so long as the number is below the minimum.

19 POWERS AND DUTIES OF THE BOARD

19.1 General powers

The Board:

- 19.1.1 may, subject to the Constitution and the Corporations Act, exercise all such powers and functions as may be exercised by the Company other than those powers and functions that are required by the Constitution to be exercised by general meetings of the members of the Company; and

- 19.1.2 subject to the Constitution and the Corporations Act, has power to perform all such acts and things as appear to the Board to be essential for the proper management of the business and affairs of the Company.

19.2 Control and investment of Company's funds

- 19.2.1 The Board shall control the Company's funds and manage its financial affairs.

- 19.2.2 All cheques and other negotiable instruments, and all receipts for money paid to the Company shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, by any 2 members of the Board or in such other manner as the Board may from time to time determine.

19.3 Liability

Subject to the Corporations Act, Board members are not liable by reason only of their Board membership to contribute towards the payment of the debts and liabilities of the Company or the costs, charges and expenses of the winding up of the Company.

20 COMMITTEES

20.1 Committees

The Board may delegate any of its powers and/or functions (not being duties imposed on the Board as the directors of the Company by the Corporations Act or the general law), to one or more committees consisting of such Members of the Company and/or other persons (at least one of whom shall be a member of the Board) as the Board thinks fit. Any committee so formed shall conform to any regulations or directions that may from time to time be made or given by the Board in relation to such committee, and subject thereto shall have power to co-opt any Member or Members of the Company and all Members of such committees shall have one vote. Unless otherwise directed by the Board, a decision of a committee shall only be binding upon the Company with the written endorsement of the Board.

20.2 Regulation of committees

Subject to the provisions of the Constitution and any aforementioned regulations, directions, every committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairperson shall have a second or casting vote.

20.3 Preference for Board-Decision Making

Wherever practical, the powers of committees should be limited to advising and providing recommendations to the Board.

21 APPOINTMENT OF CHAIR

21.1 A Chair shall be appointed by Yarra Ranges Council (irrespective of whether Yarra Ranges Council remains a Member).

21.2 Subject to the Constitution, the Chair shall be appointed and removed by such means and on such terms as Yarra Ranges Council prescribes from time to time, provided that:

21.2.1 in making an appointment Yarra Ranges Council must ensure that the requirements of Clauses 16.6.1(a) and 16.6.1(b) are met; and

21.2.2 in the event of the office becoming vacant by reason of death, resignation or otherwise, then Yarra Ranges Council shall, subject to the Constitution, fill the vacancy as soon as is reasonably practicable.

21.3 Yarra Ranges Council must notify the Board of any appointment or removal as soon as is reasonably practicable.

21.4 In order to be eligible for the position of Chair, an individual –

21.4.1 must be independent;

21.4.2 must have relevant director or chair experience; and

21.4.3 should have experience in the tourism industry and have business, management and/or financial skills and experience.

“Independent” for the purpose of this clause includes having no direct commercial involvement in the Yarra Valley or Dandenong Ranges tourism industries.

22 APPOINTMENT OF A SECRETARY

22.1 The Secretary shall be appointed by the Board on such terms and conditions as the Board determines from time to time.

22.2 The Secretary may be a member of the Board.

22.3 If the Secretary is not a member of the Board he or she may be removed by the Board within the confines of any applicable employment contract and industrial legislation.

22.4 For the avoidance of doubt, the position of “secretary” is not a position on the Board for the purposes of the Constitution. However, the Secretary shall be entitled to attend meetings of the Board and the Members, if so directed by the Board from time to time.

SECTION F - BOARD MEETINGS

23 PROCEEDINGS OF THE BOARD

23.1 Meetings

- 23.1.1 The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit, provided that it must meet at least 4 times each financial year. The Board must convene at the request of at least 1 Director.
- 23.1.2 Written notice of each Board meeting shall be given to each Director by delivering it, or by sending it by post, facsimile or email addressed to his or her usual or last known postal address or facsimile or email contact at least 2 business days before the date of the meeting. Notice may also be given by any other method of communication approved by the Board, provided that notice is given at least 2 business days before the date of the meeting.
- 23.1.3 In cases of urgency a meeting may be held without the notice required under Clause 23.1.2, provided that:
- (a) as much notice as practicable is given by whatever means will reach each Director as soon as possible; and
 - (b) no resolution may be passed at the meeting except by an Absolute Majority.
- 23.1.4 The business transacted at the Board meeting shall be only that listed on the notice, however the chairperson of the meeting may allow other business deemed urgent to be transacted.

23.2 Voting

- 23.2.1 Subject to the Constitution, questions arising at any meeting of the Board shall be decided by a majority of votes and a determination by a majority of the Directors present shall for all purposes be deemed a determination of the Directors.
- 23.2.2 Where something is to be determined or voted on by the Board each Director shall have 1 vote.
- 23.2.3 Questions arising at a meeting of the Board shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting shall determine.
- 23.2.4 Unless otherwise expressly provided in the Constitution, there shall be no voting by proxy or by post at Board meetings.
- 23.2.5 In case of an equality of votes the chairperson of the meeting (as determined in accordance with Clause 23.4) shall have a second or casting vote.

23.3 Quorum

The quorum necessary for the transaction of the business of the Board shall be a majority of Board members.

23.4 Chairperson

The Chair is entitled to act as chairperson of Board meetings, but if no Chair has been appointed, or if at any meeting the Chair is not present within 10 minutes after the time appointed for holding the meeting, or unwilling to act, the Directors present may choose one of their number to be chairperson of the meeting.

23.5 Circulatory resolutions and telephone meetings

23.5.1 A resolution in writing signed by all of the Directors for the time being entitled to receive notice of meetings of the Board shall be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held provided that the Directors signing the resolution would constitute a quorum and would have power to pass such resolution at a meeting of the Board. Any such resolution may consist of several documents in similar form each signed by one or more Directors. Any such document sent by a Director by facsimile transmission, or other means of communication approved by the Directors, shall be deemed to have been signed by such Director and to suffice for the purpose of this clause.

23.5.2 Meetings of the Board may be held at more than one place provided that the technology that is used enables each member present at all places the meeting is held to clearly and simultaneously communicate with every other such member.

23.5.3 For the purposes of the Constitution, the contemporaneous linking together by telephone of a number of the Directors not less than a quorum shall be deemed to constitute a meeting of the Directors and all the provisions thereof as to meetings of the Board shall apply to such meetings by telephone so long as the following conditions are met:

- (a) all the Directors for the time being entitled to receive notice of a meeting of the Directors shall be entitled to notice of a meeting by telephone and to be linked by telephone for the purposes of such meeting;
- (b) notice of any such meeting may be given by telephone;
- (c) each of the Directors taking part in the meeting by telephone must be able to hear each of the other directors taking part in the meeting; and
- (d) at the commencement of the meeting each director must acknowledge his or her presence for the purpose of a meeting of the Directors of the Company to all the other Directors taking part.

23.5.4 A Board meeting held using a form of technology in accordance with Clause 23.5.3 is deemed to have been held at the place determined by the chairperson of that meeting, provided that at least one of the Directors who took part in the meeting was at that place for the duration of the meeting.

23.6 Acts of Board or committees valid notwithstanding defective appointment etc.

All acts done at any Board meeting or any meeting of a committee of Directors or by any person acting as a Director shall notwithstanding that it is afterwards discovered that there was some defect in the appointment of any Director or person acting as Director, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

23.7 Conflicts

Any Board member who is in any way, directly or indirectly, interested in any contract or arrangement or proposed contract or arrangement with the Company shall declare the nature of such interest prior to the consideration of such matter and:

23.7.1 must not be present while the matter is being considered; or

23.7.2 vote on the matter.

SECTION G - FINANCIAL AND LEGAL

24 POWER TO MAKE BY-LAWS

- 24.1** Subject to the provisions of the Constitution, the Board has the power from time to time to make, amend and repeal all such By-Laws as it deems necessary or desirable for the proper conduct and management of the Company, the regulation of its affairs, and the furtherance of its Objects.
- 24.2** Without in any way limiting the power of the Board under Clauses 6, 12 and 24.1, the Board may make, amend and repeal By-Laws which:
- 24.2.1 define the rights and benefits, duties, obligations and status of Members and classes of Members;
 - 24.2.2 regulate all matters relating to applications for, and admission to, Membership not otherwise provided for in the Constitution; and
 - 24.2.3 define and regulate the procedure and order of business of general meetings of Members and meetings of the Board, to the extent to which this is not provided for in the Constitution.
- 24.3** No By-Law will be inconsistent with, nor shall it affect a repeal or modification of anything contained in the Constitution.
- 24.4** Any By-Law made by the Board may be set aside by a special resolution of a general meeting of Members.
- 24.5** Save as provided in the Constitution, all By-Laws so long as they remain in force will be binding upon all Members.
- 24.6** A book containing the By-Laws will be kept in such place as the Board shall appoint for that purpose.

25 POWER TO TRADE UNDER OTHER NAMES

The Company may trade under a duly registered business name or trade mark as determined by the Board from time to time.

26 AMENDMENT

No modification or repeal of this Constitution or any provision of this Constitution will be effective unless it is:

- 26.1** passed as a special resolution in accordance with the Corporations Act; and
- 26.2** approved or ratified by Yarra Ranges Council, in writing.

27 LIMITED LIABILITY

27.1 Subject to Clauses 27.2 and 28, the liability of Members is limited and Members are not liable by reason only of their membership to contribute towards the payment of the debts and liabilities of the Company.

27.2 Members are liable for any unpaid Entrance Fee and Annual Subscriptions.

28 LIMIT OF CONTRIBUTION BY MEMBERS IN WINDING UP

Each Member undertakes to contribute to the property of the Company, in the event of its being wound up while the Member's membership is current or within one year after the Member ceases to be a Member, for payment of the debts and liabilities of the Company contracted before the Member ceases to be a Member and the costs, charges and expenses of winding up and for adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding **TWENTY DOLLARS** (\$20.00).

29 EXCESS PROPERTY ON WINDING UP

If, upon the winding up or dissolution of the Company, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Members but shall be given or transferred to some other institution or institutions:

29.1 having objects similar to the Objects of the Company;

29.2 which prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed on the Company under or by virtue of Clause 5; and

29.3 ratified or approved by Yarra Ranges Council,

such institution or institutions to be determined by the Members at or before the time of dissolution for review by Yarra Ranges Council, and in default thereof, by either:

29.4 application to the Supreme Court of Victoria for determination; or

29.5 by determination by Yarra Ranges Council.

30 ACCOUNTS AND AUDIT

30.1 The Board shall, in accordance with the requirements of the Corporations Act:

30.1.1 cause proper accounting and other records to be kept, and

30.1.2 cause to be made out and laid before each annual general meeting of the Company a balance sheet and profit and loss account made up to a date not more than five months before the date of the meeting, or such other date as may from time to time be prescribed by the Corporations Act.

30.2 Subject to any reasonable restrictions as to time and manner of inspection prescribed by the Board, the accounts of the Company may be inspected by the Members and Yarra Ranges Council (on such conditions as the Company may impose).

30.3 Members may not inspect the records of the Company that relate to personal, employment, contractual and legal matters that are confidential in nature, or that are not required to be disclosed by the Company under the Corporations Act, or by operation of law.

30.4 A properly qualified auditor or auditors shall be appointed and his or their duties regulated in accordance with the requirements of the Corporations Act.

31 MINUTES OF PROCEEDINGS

- 31.1** The Board shall cause minutes of the resolutions and proceedings of each general meeting, and Board meeting and each committee meeting to be kept in books provided for that purpose and shall be signed by the chair of the meeting at which the proceedings took place, or the chair of the next succeeding meeting.
- 31.2** Where minutes have been so entered and signed then, unless the contrary is proved:
- 31.2.1 the meeting shall be deemed to have been duly convened and held;
- 31.2.2 all proceedings that are recorded in the minutes as having taken place at the meeting shall be deemed to have duly taken place; and
- 31.2.3 all appointments of officers or auditors that are recorded in the minutes as having been made at the meeting shall be deemed to have been validly made.

32 COMMON SEAL

- 32.1** The Board will determine whether or not the Company is to have a common seal and, if so, will provide for the safe custody of such seal.
- 32.2** The common seal, if any, of Company shall not be affixed to any instrument except by the authority of the Board and the affixing of the common seal shall be attested by the signatures of those authorised to attest to the affixing of the common seal from time to time.

33 OFFICERS INDEMNITY AND INSURANCE

33.1 Indemnity

- 33.1.1 To the Relevant Extent and subject to the Corporations Act, the Company shall indemnify every person who is or has been an Officer out of the assets of the Company to the Relevant Extent against:
- (a) any Liability incurred by the Officer in or arising out of the conduct of the affairs or business of the Company, or in or arising out of the discharge of the duties of the Officer, unless such Liability arises out of conduct involving a lack of good faith; and
- (b) for costs and expenses incurred by the person:
- (1) in defending Proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (2) in connection with an application, in relation to such Proceedings, in which the Court grants relief to the person under the Act or the Corporations Act.
- 33.1.2 Without limiting the effect of the foregoing, the Company may execute and deliver any deed, agreement or other document in favour of any Officer or former Officer to whom this Clause applies, confirming the indemnities contained in this Clause, in relation to that person. (The foregoing provisions of this Clause shall apply whether or not any such deed, agreement or other document is given.)

33.2 Insurance

To the extent permitted by law, the Company may pay (but is not obliged to), or agree to pay, a premium in respect of a contract insuring a person who is or has been a Director or an Officer (which may include run off cover commencing 7 years from the person ceasing to be a Director or Officer of the Company) against a Liability:

- 33.2.1 incurred by the person in his or her capacity as an Officer, or in the course of acting in connection with the affairs of the Company, or otherwise arising out of the Officer's holding such office, which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of the Act or sections 182 or 183 of the Corporations Act; and
- 33.2.2 for costs and expenses incurred by that person in defending proceedings, whatever their outcome.

34 NOTICES

- 34.1** A notice may be given by the Company to any Member personally, by post to the Member's address as set out in the Register, or to such facsimile number or e-mail or other electronic address as the Member may have supplied the Company for the giving of notices. The fact that a Member has supplied a fax number or e-mail or other electronic address for the giving of notices does not require the Company to give any notice to that Member by that electronic means.
- 34.2** In the case of a Member who has not supplied the Company with a postal address within the Commonwealth of Australia, the Company may give notice to that Member by sending it by air mail to the address outside Australia (if any) advised by the Member.
- 34.3** A notice or other document given by the Company will be deemed to have been served on a Member:
 - 34.3.1 in the case of a notice sent by post (including by air mail pursuant to Clause 34.2), at the expiration of 24 hours after the envelope or wrapper containing the same is posted. In proving such service it shall be sufficient to prove that the envelope or wrapper containing the notice or document was addressed and put in the post office or a post office letter box; and
 - 34.3.2 in the case of a notice sent by fax, e-mail or other electronic means, on the business day next following the day on which it is sent.
- 34.4** Notice of every general meeting of the Company shall be given in the manner set out in this Clause 34 to:
 - 34.4.1 every Member except those Members who (having no registered address within the Commonwealth of Australia) have not provided to the Company an address outside Australia for the giving of notices; and
 - 34.4.2 the auditor for the time being of the Company.

35 BY-LAWS

35.1 By-Laws

If there are no By-Laws regulating voting rights and/or classes of membership (whether because no By-Laws have been enacted or because By-Laws have been set aside):

- 35.1.1 all Members will have one vote;
- 35.1.2 there will be deemed to be only the classes of membership as set out in this Constitution,

until such time as one or more By-Laws are enacted to the contrary.

TABLE OF CONTENTS

1PRELIMINARY	1
2OBJECTS	3
3COMPANY POWERS	3
4NO POWER TO BORROW MONEY	4
5INCOME AND PROPERTY	5
6MEMBERSHIP	6
7RIGHTS AND OBLIGATIONS OF MEMBERS	9
8ENTRANCE FEE AND ANNUAL SUBSCRIPTIONS	9
9RESIGNATION AND EXPULSION OF MEMBERS	9
10CESSATION OF MEMBERSHIP	10
11PRIVACY OF MEMBERS	11
12OBLIGATIONS OF MEMBERS	11
13NOMINEES	11
14MEETINGS OF MEMBERS	13
15PROCEEDINGS AT GENERAL MEETINGS	14
16BOARD OF DIRECTORS	18
17NOMINATION PROCESS	20
18APPOINTMENT AND REMOVAL OF DIRECTORS	22
19POWERS AND DUTIES OF THE BOARD	25
20COMMITTEES	25
21APPOINTMENT OF CHAIR	26
22APPOINTMENT OF A SECRETARY	26
23PROCEEDINGS OF THE BOARD	27
24POWER TO MAKE BY-LAWS	30
25POWER TO TRADE UNDER OTHER NAMES	30
26AMENDMENT	30
27LIMITED LIABILITY	31
28LIMIT OF CONTRIBUTION BY MEMBERS IN WINDING UP	31
29EXCESS PROPERTY ON WINDING UP	31

30	ACCOUNTS AND AUDIT	31
31	MINUTES OF PROCEEDINGS	31
32	COMMON SEAL	32
33	OFFICERS INDEMNITY AND INSURANCE	32
	(A) ANY LIABILITY INCURRED BY THE OFFICER IN OR ARISING OUT OF THE CONDUCT OF THE AFFAIRS OR BUSINESS OF THE COMPANY, OR IN OR ARISING OUT OF THE DISCHARGE OF THE DUTIES OF THE OFFICER, UNLESS SUCH LIABILITY ARISES OUT OF CONDUCT INVOLVING A LACK OF GOOD FAITH; AND	32
	(B) FOR COSTS AND EXPENSES INCURRED BY THE PERSON:	32
	(1) IN DEFENDING PROCEEDINGS, WHETHER CIVIL OR CRIMINAL, IN WHICH JUDGMENT IS GIVEN IN FAVOUR OF THE PERSON OR IN WHICH THE PERSON IS ACQUITTED; OR	32
	(2) IN CONNECTION WITH AN APPLICATION, IN RELATION TO SUCH PROCEEDINGS, IN WHICH THE COURT GRANTS RELIEF TO THE PERSON UNDER THE ACT OR THE CORPORATIONS ACT.	32
34	NOTICES	33
35	BY-LAWS	33