

THE HILLS DISTRICT BOWLING CLUB LTD
ACN 000 932 945
EXPLANATORY MEMORANDUM FOR PROPOSED NEW CONSTITUTION

Enclosed with this Memorandum is Notice of a General Meeting of the Club.

At the General Meeting members will be asked to consider, and if thought fit pass, a Special Resolution to adopt a new Constitution to replace the existing Constitution.

This Explanatory Memorandum is to assist members to understand the proposed new Constitution and why it is appropriate to adopt it.

Members who wish to review the proposed new Constitution can inspect it at the Club where it is prominently on display on the Club Notice Board together with a copy of the existing Constitution.

Members may also obtain a copy of the proposed new Constitution and the existing Constitution upon request at the Club's office.

The Club's lawyers who have reviewed the current Constitution have advised that the existing Constitution requires updating in various areas and does not strictly comply with the requirements of the *Corporations Act*, *Registered Clubs Act*, *Liquor Act*, *Gaming Machines Act* or their respective Regulations.

A summary of the proposed new Constitution and its principal features is set out below. **Significant variations from the existing Constitution are set out in bold.** However, there are many additional new provisions which reflect the requirements of various pieces of legislation which impact on the Club. These have not been set out in bold.

NAME

1. Rule 1 states that the name of the company is The Hills District Bowling Club Ltd.

PRELIMINARY

2. Rule 2.1 states that the Club is a company limited by guarantee and a non-proprietary company.
3. Rule 2.2 provides that the Club is established for the purposes set out in the Constitution.
4. Rule 2.3 provides that the replaceable rules referred to in the *Corporations Act* are displaced or modified as provided in the Constitution.
5. Rule 2.4 provides that the Club must supply a member with a copy of the Club's Constitution if a copy is requested by a member as prescribed by the *Corporations Act*.

DEFINITIONS

6. Rule 3 sets out definitions and terms used in the proposed new Constitution.

OBJECTS

7. Rule 4 provides that the objects for which the Club was established are set out in Schedule A.
8. The objects reflect those in the existing Constitution. However alterations have been made to bring the objects into line with the *Liquor Act* and *Registered Clubs Act*.

WINDING UP AND MEMBER'S LIABILITY

9. Rule 5 states that the liability of the members is limited. That limit is \$4.00 as set out in Rule 6 and is the same as the limit in the current Constitution.
10. Rule 6 provides that each member of the Club undertakes to contribute an amount not exceeding \$4.00 if the Club is wound up and the assets of the Club are insufficient to discharge the liabilities. This undertaking continues for a period of 12 months after the person ceases to be a member.

11. Rules 7.1 and 7.2 relate to the distribution of the Club's surplus property if the Club is wound up or dissolved. It provides that any surplus property will be distributed to a club or clubs with similar objects, which are prohibited from distributing their income and assets to the same extent that the Club is so prohibited.

PROPERTY AND INCOME

12. Rule 8.1 provides that the property and income of the Club must be applied solely towards the promotion of the objects of the Club.
13. Rules 8.2 and 8.3 set out specific requirements of the *Registered Clubs Act* in relation to benefits available to members.
14. Rule 8.4 provides that a director of the Club cannot be appointed or elected to any office of the Club paid by salary or wages or any similar basis of remuneration.
15. Rule 8.5 provides that the payment in good faith of reasonable and proper remuneration to any officer, employee or to any member of the Club for services actually rendered, or interest on money lent by the member to the Club, or rent on property leased to the Club by the member, is not prohibited.
16. Rule 8.6 specifies that a director shall not receive remuneration from the Club, or any other benefit in money or monies worth, except by way of an honorarium or reasonable out of pocket expenses.

LIQUOR & GAMING

17. Rules 9.1 and 9.2 provide that liquor shall only be supplied to persons of or over the age of 18 years in accordance with the *Registered Clubs Act*.
18. Rule 9.3 states that a person using the gaming facilities of the Club must be of or over the age of 18 years.
19. Rules 9.4 to 9.6 inclusive prohibit a person associated with the Club from receiving direct or indirect benefits including, but not limited to, monetary payments or commissions from liquor sales and/or the use of poker machines at the Club.

MEMBERSHIP

20. Rule 10.2 states that no person under the age of 18 years is to be admitted as a member of the Club except as a Junior member.
21. **Rule 10.3 provides that the categories of full membership of the Club are Bowling membership, Social membership, Junior membership and Life membership.**
22. **The proposed new Constitution does not retain the categories of "Special Senior member" or "Associate Bowling member". Members in these membership categories will become Bowling members if the proposed new Constitution is adopted.**
23. **In particular, this amendment will ensure that males and females are treated equally and can join the same category of Bowling membership.**
24. Rule 10.4 provides that persons who are not Full members may be admitted to the Club as Provisional members, Honorary members or Temporary members.
25. Rule 10.5 provides that the number of Full members having the right to vote in the election of the Board shall not be less than the minimum number of Full members required by the *Registered Clubs Act*.

Bowling Members

26. Rules 10.6 and 10.7 set out the eligibility requirements and the entitlements of Bowling members, which reflect the existing Constitution and practice of the Club. However, as noted above if the new Constitution is adopted female bowlers (currently Associate Bowling members) and Special Senior members will become Bowling members.
27. **A new condition will be introduced in Rule 10.13 for persons who become Bowling members in the future. Those members will only be able to become directors, attend and vote at general meetings,**
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vote in the election of the Board, and propose members for office, once they have been members of the Club for at least 12 continuous months. This will not affect current members.

Social Members

28. **The proposed new Constitution proposes significant amendments to the rights of Social members, as it will permit one Social member to be a director of the Club at any one time. This does not guarantee a position on the Board to Social members. Rather, it will allow up to one Social member to a director if they receive a sufficient number of votes to be elected to the Board or if they are appointed by the Board to fill a casual vacancy. (A Social member could only be so appointed if there were no Social members on the Board at that time.) However, Social members will not be eligible to hold the office of Chairperson – they can only be ordinary directors. Social members will also have the right to propose and second any Social member for election to the Board.**
29. Social members will continue to enjoy the current rights they have in terms of voting, namely the right to vote in the election of the Board, the right to vote on any resolution to remove a director, and the right to vote on any honorarium, and the right to vote where legislation gives all members voting rights.
30. **However, the proposed new Constitution will provide that, if a Social member is a director, they will have the same voting rights as Bowling members but only while they remain a director of the Club.**
31. **The Board recognises that the change to Social member rights is significant, as currently, they have no right to be a director. However, this amendment is proposed to ensure the Club can access the talents of its Social members in its governance, while protecting and enhancing the bowling activities, traditions and ethos of the Club.**
32. **Furthermore, a new condition will be introduced in Rule 10.13 for persons who become Bowling or Social members in the future. Subject to the qualification in paragraph 33 below, those members will only be able to become directors, attend and vote at general meetings, vote in the election of the Board, and propose members for office, once they have been members of the Club for at least 12 continuous months. This will not affect current members.**
33. All members, no matter their category or period of membership, are given rights under legislation to vote on certain resolutions. Currently, as noted in the proposed new Constitution, all members (apart from members who are employees of the Club) can vote on resolutions to
- (a) to approve an amalgamation with another Club in accordance with the Registered Clubs Act;
 - (b) in connection with the Club's core property in accordance with the Registered Clubs Act and Regulation;
 - (c) to approve the transfer of gaming machine entitlements, if the number of entitlements issued to a license is 10 or less, in accordance with the Gaming machines Act;
- no matter how long they have been admitted to membership.

Junior Members

34. Rules 10.15 to 10.17 inclusive set out the eligibility requirements and the entitlements of Junior members. These rules reflect the existing Constitution and practice of the Club, but are more comprehensive in relation to the requirements for Junior membership.

Life members

35. Rules 10.18 to 10.25 inclusive set out the eligibility requirements and entitlements of Life members. The eligibility requirements and entitlements of Life members are unchanged and reflect the existing Constitution and practice of the Club.

Transfer between classes of membership

36. Rule 11 deals with the transfer of members between classes of membership.
37. Rule 11.2 provides that the Board may transfer any Junior member who attains the age of eighteen (18) years to another category of membership for which the Junior member has the necessary qualifications.
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Provisional Members

38. Rule 12 deals with Provisional membership. Any person may apply for Provisional membership upon completing and submitting the appropriate membership form and paying the membership subscription in advance. The eligibility requirements and entitlements of Provisional members reflect the existing practice of the Club.

Honorary Members

39. Rule 13 deals with Honorary membership in a way that is consistent with the *Registered Clubs Act*.

Temporary Members

40. Rule 14 deals with Temporary membership in a way that is consistent with the *Registered Clubs Act*.

ELECTION OF MEMBERS

41. Rule 15 introduces new provisions relating to the election of members which are consistent with the *Registered Clubs Act*.

JOINING FEES, SUBSCRIPTIONS AND LEVIES

42. Rule 16 deals with joining fees, subscriptions and levies and is different to the current Constitution.
43. The current Constitution requires annual subscriptions to be paid annually in advance on the first day of June each year. The proposed new Constitution provides that annual subscriptions are due and payable on such date or dates as determined by the Board and that the Board can determine whether subscriptions are payable by monthly, quarterly or half yearly instalments, in advance, or for more than one (1) year in advance. This provides the Board with greater flexibility regarding the payment of annual subscriptions.
44. Rule 16.6 requires the Secretary to cause reasonable notice to be given in writing to each Club member of the due date for payment of the joining fee, subscription, levy or other payment.
45. Any person who has not paid his or her subscription by the due date shall cease to be entitled to the privileges of membership of the Club and may by resolution of the Board be removed from membership of the Club.

NON-FINANCIAL MEMBERS

46. Rule 17 is a new rule which clarifies that non-financial members cease to be entitled to all of the rights and privileges of the membership, which include the right to attend at the premises of the Club, the right to participate in the recreational, social and sporting activities of the Club, the right to vote, the right to attend meetings of the Club and the right to be elected to the Board.

REGISTERS OF MEMBERS AND GUESTS

47. Rule 18 sets out the registers the Club is required to maintain in respect of members and guests. This is consistent with the *Registered Clubs Act*.

ADDRESSES OF MEMBERS

48. Rule 19 requires members to advise the Club of any change in their address within 7 days to ensure compliance with the *Registered Clubs Act* and to keep records up to date.

DISCIPLINARY PROCEEDINGS

49. Rule 20 and Schedule B deals with powers of the Board to discipline members. The provisions broadly reflect the existing Constitution and practice of the Club **except that the proposed new Constitution provides as follows:**

- (a) The Board or the Secretary (independently of the Board) may suspend a member if the member has been issued with a notice of a charge, until the hearing or for up to five (5) weeks.
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- (b) The requirement in the current Constitution to hold the meeting to determine a charge within one month after the matter has been first considered by the Board has not been retained. This is because it may not be possible to determine a disciplinary charge in that time.

50. Rule 21 contains the rules in relation to the disciplinary appeals committee, and the process for the election of members to the appeals committee. Those rules reflect the current Constitution. Currently, only the Board has this power. This reflects current governance and the fact that it may not be possible to convene a Board meeting to deal with a change in the time required.
51. Rule 22 is a new rule which clarifies that any member suspended pursuant to Rules 20 or 21 shall, during the period of suspension, cease to be entitled to all of the rights and privileges of membership. This includes the right to attend at the premises of the Club, the right to participate in the social and sporting activities of the Club, the right to vote, the right to attend meetings of the Club and the right to be elected to the Board.
52. Rule 23 and Schedule C deals with the power given to the Secretary and employees of the Club under the *Liquor Act* to remove persons from the Club's premises and to prevent that person from returning to the Club. These powers given to the Secretary and employees are consistent with those given under the *Liquor Act*.
53. Rule 24 contains the procedures for a member to resign from the Club.

GUESTS

54. Rule 25 deals with guests and reflects the provisions of the *Registered Clubs Act*.
55. Every guest must be introduced by a member and that member must complete and sign the guests register in order for that guest to enter the Club. The only exception to this is in relation to a guest who is a minor. A minor may be admitted as a guest of a member without the member having to complete the Guests Register. However, the minor (like any other guest) must remain in the reasonable company of that member at all times while on the premises of the Club.

PATRONS

56. Rule 26 states that the Club may appoint patrons from time to time and sets out the membership status of a patron who is not a member.

BOARD OF DIRECTORS

57. Rule 27 deals with the composition and election of the Board.
58. The Board shall comprise of a Chairperson, Deputy Chairperson, Treasurer and six (6) directors.
59. **As noted above, if the new Constitution is adopted, Social members will be eligible to be directors of the Club. However, Social members will not be guaranteed a position on the Board, there can be no more than one Social member on the Board at any one time, and a Social member will not be eligible to become the Chairperson of the Club.. If more than one Social Member receives sufficient votes, then only the Social Member with the most votes shall be elected. Social Members will also have the right to nominate and second other Social Members for the position of Director;**
60. The Board will continue to be elected biennially – i.e every 2 years. The restriction on a member who is a director, secretary or bowls secretary of another club not being eligible to nominate, stand for or be elected or appointed to the Board is retained. **However, a new rule is also contained in the proposed new Constitution that a member cannot be a director if they are a member of another bowling club and they have nominated that other bowling club as their main, primary or home bowling club for purposes of bowls with any district, regional or state governing body.**
61. Rule 27.4 provides that a member is not eligible to stand for or be elected or appointed to the Board if they are an employee of the Club, currently suspended from the Club or not a financial member of the Club.
62. Rule 27.5 inserts a new provision which provides that any person who is elected or appointed to the Board must complete mandatory training requirements for directors as prescribed by the Regulations made under the *Registered Clubs Act* (unless exempted).
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ELECTION OF BOARD

63. **Rule 28 deals with the election of the Board. The provisions in the proposed new Constitution are not as detailed as the current Constitution, allowing the Club to adopt different voting methods in the future. The proposed new Constitution provides that nominations can only be withdrawn before the close of nominations.**

POWERS OF THE BOARD

64. Rule 29 deals with the Board's powers. The provisions reflect the existing Constitution and the established practice of the Club.
65. Importantly, the proposed Constitution maintains the restriction on the Board's powers in the current Constitution, namely that if any of the following apply, the Board can only act with the approval of eligible Bowling and Life members passing a resolution at a general meeting:
- (a) The purchase in a single transaction of land and/or buildings at a cost exceeding 7.5% of the value of the nett assets of the Club as shown in the most recent balance sheet of the Club laid before an Annual General Meeting (**Most Recent Balance Sheet**).
 - (b) The undertaking of building works where the estimated cost of such building works exceeds 7.5% of the value of the Nett Assets of the Club as shown in Most Recent Balance Sheet.
 - (c) The sale, exchange or other disposition of all or any of the property and/or rights of the Club having a value which exceeds 10% of the value of the fixed assets of the Club as shown in the Most Recent Balance Sheet.
 - (d) The amalgamation by the Club with any corporation, institution, society or association.
66. Members who are or become Bowling members on the adopting of the proposed new Constitution and Life members will be eligible to vote on a resolution under Rule 29. Persons who become Bowling members after the adoption of this Constitution will only be eligible to vote on such a resolution if they have been members for at least 12 months.

SELECTORS AND SUB CLUBS

67. The proposed new Constitution retains the rules in relation to selectors for bowls. Male bowlers will elect the selectors for male bowls, and female bowlers will elect the selectors for female bowls.
68. **The proposed new Constitution also includes rules dealing with sub clubs. Sub clubs are groups of members who carry out a common activity within the Club.** Under the proposed new Constitution, the Board shall have power to:
- (a) establish Sub clubs with such rules (including objects, powers and membership qualifications) as the Board may determine;
 - (b) allow Sub clubs established pursuant to this Rule 29.11 or those already in existence, to conduct, manage and control sport or other activities for which they were respectively established;
 - (c) allow Sub clubs to create constitutions, rules and by-laws for the control and regulation of the sporting or other activities for which they are respectively established;
 - (d) permit Sub clubs to adopt a name; and
 - (e) allow Sub clubs to become affiliated with the bodies controlling sports or other activities on such terms and conditions (not inconsistent with this Constitution or the Registered Clubs Act) as such controlling bodies may require and to pay on behalf of the Club capitation or affiliation fees to any such controlling bodies or as required by such bodies.
69. While the Board already has the power to permit sub clubs to exist, the proposed new Constitution set out these provisions in greater detail.

PROCEEDINGS OF THE BOARD

70. Rule 30 deals with proceedings of the Board. The provisions are more comprehensive than the existing Constitution. However, there is no broadening of the Board's powers.
71. The quorum for a meeting of the Board shall be five (5) members.
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72. All decisions of the Board are determined by a majority vote. In the case of an equality of votes the chairperson of the meeting has a second or casting vote.
73. Rule 30.5 allows the Chairperson at any time and the Secretary upon the request of not less than three (3) directors to convene a meeting of the Board.
74. Rule 30.9 introduces a new provision which allows a meeting of the Board to be called or held using technology consented to by all directors. This is consistent with the *Corporations Act*.

CORPORATE GOVERNANCE

75. Rules 31 to 39 inclusive introduce new provisions relating to corporate governance which are consistent with the *Corporations Act* and *Registered Clubs Act*.

REMOVAL FROM OFFICE OF DIRECTORS

76. Rule 40 provides that the members in general meeting may by ordinary resolution remove any director, directors or the whole Board, before the expiration of his, her or their period of office and appoint another person or persons in his, her or their place. This is consistent with the *Corporations Act*.

VACANCIES ON THE BOARD

77. Rule 41 clarifies how a casual vacancy on the Board arises.
78. Rule 41 states that the Board has the power to fill a casual vacancy. Any person appointed to fill a casual vacancy will hold office only until the next Biennial General Meeting.

GENERAL MEETINGS

79. Rule 42 relates to the calling and holding of general meetings (and Annual General Meetings) of the Club. The provisions are different from the existing Constitution but are consistent with the *Corporations Act*.

ATTENDANCE AND VOTING AT GENERAL MEETINGS

80. Life members and financial Bowling members are entitled to attend and vote at a general meeting of the Club (including voting on any Special Resolution to amend the Constitution). This is consistent with the existing Constitution.
81. Social members will only be entitled to attend and vote at a general meeting (including Annual General Meeting) of the Club in respect of the following matters:
- (a) The election of the Board.
 - (b) A resolution to remove a director or directors from office.
 - (c) A resolution to approve an honorarium.
 - (d) A resolution on which Social members are permitted to vote under the *Gaming Machines Act* or *Registered Clubs Act*. As noted in
82. As noted above, all members, no matter their category or period of membership, are given rights under legislation to vote on certain resolutions. Currently, as noted in the proposed new Constitution, all members (apart from members who are employees of the Club) can vote on resolutions to
- (a) to approve an amalgamation with another Club in accordance with the Registered Clubs Act;
 - (b) in connection with the Club's core property in accordance with the Registered Clubs Act and Regulation;
 - (c) to approve the transfer of gaming machine entitlements, if the number of entitlements issued to a license is 10 or less, in accordance with the Gaming machines Act.
83. Proxy voting is not permitted. This is a requirement of the *Registered Clubs Act*.
84. Every member eligible to vote, either by show of hands or a poll, is entitled to one vote.
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85. A member, who is also an employee of the Club, is not permitted to vote. This is a requirement of the *Registered Clubs Act*.
86. All questions and resolutions (other than Special Resolutions) shall be decided by a simple majority of votes.
87. Voting shall be on a show of hands unless a poll is demanded.

QUORUM AT GENERAL MEETINGS

88. Rules 42.31 to 42.34 inclusive detail the quorum required for general meetings. The quorum in the proposed new Constitution is 40 members present and eligible to vote which is the same as the current Constitution.
89. Rule 42 provides that no business may be transacted at a general meeting unless a quorum of members is present. Rules 42.33 and 42.34 set out the procedure to be followed if a quorum is not present.

MEMBERS' RESOLUTIONS AND STATEMENTS

90. Rule 43 deals with individual members submitting items of business for Annual General Meetings of the Club, and the power of a group of members to compel the Board to include items of business in the business of the Annual General Meeting or a general meeting of the Club.
91. The proposed new Constitution requires proposed items of business to be received at least forty two (42) days before the date for an Annual General Meeting. This is to allow sufficient time for the item of business to be considered by the Board, for the Board, if necessary, to get advice and then for it to be incorporated into the notice of meeting and sent to members if approved by the Board. This is in addition to the rights of members to compel the Board to include an item of business.

MINUTES

92. Rule 44 provides that minutes of all resolutions and proceedings at general meetings must be entered in the minute book within one month of the meeting and signed by the chairperson of that meeting or the chairperson of the next meeting.

ACCOUNTS

93. Rule 45 deals with the accounts and reporting to members and is consistent with the *Corporations Act* and *Registered Clubs Act*. **The Club is now only required to send copies of the annual financial statements and reports to those members who have requested to receive them in the manner in which they elected to receive them.**

FINANCIAL YEAR

94. Rule 46 provides that the financial year of the Club shall commence on the first day of June in each year and will end on the last day of May in the following year. There is no change to the financial year of the Club.

AUDITOR

95. Rule 47 deals with the auditor.

SECRETARY

96. Rule 48 requires the Board to appoint one Secretary who will be the Chief Executive Officer of the Club for the purposes of the *Registered Clubs Act*.

EXECUTION OF DOCUMENTS

97. Rule 49 deals with execution of documents and the common seal of the Club.

NOTICES

98. Rule 50 deals with the requirements of giving notice to members. Where a notice of a meeting is sent by post it shall be deemed to have been effectively served on the member on the day following the posting. The proposed new Constitution also specifically allows for notices to be given by electronic means (such as email) nominated by a member.
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INDEMNIFICATION OF OFFICERS

99. Rule 51 deals with the insurance and indemnification of the officers and auditors of the Club in accordance with the *Corporations Act*.

INTERPRETATION

100. Rule 52 provides that a decision of the Board on the construction or interpretation of the Constitution or any Rule, or any policy of the Club made pursuant to this Constitution or on any matter arising therefrom, shall be conclusive and binding on all members of the Club.

AMENDMENTS TO CONSTITUTION

101. Rule 53 provides for amendments to the Constitution. The Constitution can only be amended by way of Special Resolution passed at a general meeting of members. Life members and financial Bowling members shall be the only members eligible to vote on any Special Resolution to amend the Constitution.

This summary has been prepared to provide members with sufficient background and information to enable them to make an informed decision in relation to the proposed special resolution to adopt the new Constitution. However, there may be matters about which members may have questions not covered by this Memorandum. In those circumstances, members are invited to raise their questions either with the General Manager of the Club who if necessary will obtain advice from the Club's lawyers to pass back to the member.

The Board of the Club considers that the proposed new Constitution as being a significant improvement on the existing Constitution and recommend that members vote in favour of the Special Resolution.

To be passed the Special Resolution will need votes from not less than three-quarters (75%) of those members who being eligible to do so vote in person at the meeting.

Dated: **2019**

Secretary
