

DEVONPORT
COUNTRY CLUB

**CONSTITUTION
OF
THE DEVONPORT COUNTRY CLUB LTD**

Australian Company Number (ACN) 009 477 301
Australian Business Number (ABN) 35 009 477 301

A company limited by guarantee

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Preliminary

1. Name of the company

The name of the **company** is Devonport Country Club Ltd (the **company**).

2. Type of company

The **company** is a not-for-profit public **company** limited by guarantee.

3. Limited liability of members

The liability of members is limited to the amount of the guarantee in clause 4.

4. The guarantee

Each member must contribute an amount not more than \$20.00 (the guarantee) to the property of the **company** if the **company** is wound up while the member is a member, or within 12 months after they stop being a member, and this contribution is required to pay for the:

- (a) debts and liabilities of the **company** incurred before the member stopped being a member, or
- (b) costs of winding up.

5. Definitions

In this constitution, words and phrases have the meaning set out in clauses 64 and 66.

Purposes and Powers

6. Object

The objects of the **company** shall be to:

- (a) Promote and conduct the sports of golf, bowls and croquet and any other event, function, entertainment, or recreation, indoor or outdoor.
- (b) Acquire, hold, deal with, and dispose of any real or personal property.
- (c) Open and operate bank accounts and to invest its money –
 - i. in any security in which trust monies may be invested; or
 - ii. in any other manner authorised by the rules of the Club
 - iii. To borrow or raise funds upon such terms and conditions as the Club thinks fit.
- (d) Give such security for the discharge of liabilities incurred by the Club as the Club thinks fit.
- (e) Appoint agents to transact any business of the Club on its behalf.
- (f) Enter into any other contract the Club considers necessary or desirable to achieve the objects of the Club.
- (g) have regard to the public in its operations; and
- (h) Undertake all such activities or events that are necessary, incidental or conducive to the advancement of these objectives.

7. Powers

Subject to clause 8, the **company** has the following powers, which may only be used to carry out its purpose(s) set out in clause 6:

- (a) the powers of an individual, and
- (b) all the powers of a **company** limited by guarantee under the **Corporations Act**.

8. Not-for-profit

8.1 Sole Purpose

The income and property of the Club will be applied only towards the promotion of the objects.

8.2 Clause 8.1 does not stop the **company** from doing the following things, provided they are done in good faith:

- (a) paying a member for goods or services they have provided or expenses they have properly incurred at fair and reasonable rates or rates more favourable to the **company**, or
- (b) making a payment to a member in carrying out the **company's** charitable purpose(s).

9. Amending the constitution

9.1 The members may amend this constitution by passing a **special resolution**.

Members

10. Membership and register of members

10.1 The Members are those members of the Club existing at the commencement of this Constitution, and the persons the Board admit to membership thereafter in accordance with this Constitution.

10.2. Deliberately left blank

10.3 The Membership of the club shall be divided into the following categories:-

- (a) Ordinary Members.
- (b) Special Members.

Classes of Membership within each category are set out in the By-laws as are the privileges, obligations, and criteria for Membership within each particular class. Only ordinary **financial members** shall have a right to vote at General Meetings of members. Special Members have no right to vote at any General Meeting of members.

10.4 Each person admitted to membership shall be:

- (a) First and foremost a member of the Country Club.
- (b) bound by the Constitution and By-Laws of the Club.
- (c) liable for such fees and subscriptions as may be fixed by the Club.
- (d) Entitled to all advantages and privileges of membership that apply to such membership category under this Constitution and such class under the By-Laws; and
- (e) Required to further the interests of the Club.

10.5 Membership Renewal and subscriptions

- a) The Directors shall determine the annual subscription payable by Members in accordance with the Membership categories as set out in the By-Laws.
- b) The annual subscription will be due and payable on or before the first day of each financial year or on a date to be determined by the Directors.

10.6 The **company** must establish and maintain a register of members. The register of members must be kept by the secretary and must contain:

- (a) for each current member:
 - i. name
 - ii. address, including email address
 - iii. any alternative address nominated by the member for the service of notices,
 - iv. the member's category of membership, and
 - v. date the member was entered on to the register.
- (b) for each person who ceased being a member in the last 3 years:
 - i. name
 - ii. address
 - iii. any alternative address nominated by the member for the service of notices, and
 - iv. dates the membership started and ended.

10.7 The **company** must give current members access to information contained in the register of members that pertains to them.

10.8 Information that is accessed from the register of members must only be used in a manner relevant to the interests or rights of members.

11. Who can be a member?

11.1 A person who supports the purposes of the **company** is eligible to apply to be a member of the **company** under clause 12.

11.2 In this clause, "person" means an individual.

12. How to apply to become a member

A person may apply to become a member of the **company** by writing to the secretary stating that they:

- (a) want to become a member
 - (b) support the purpose(s) of the **company**, and
 - (c) agree to comply with the **company's** constitution, including paying the guarantee under clause 4 if required,
 - (d) agree to comply with the **company's** Code of Conduct
- and by paying such annual membership fee (or pro rata portion of such fee) that is applicable to that membership category.

13. Directors decide whether to approve membership

13.1 The directors must consider an application for membership within a reasonable time after the secretary receives the application.

13.2 If the directors approve an application, the secretary must as soon as possible:

- (a) enter the new member on the register of members, and
- (b) write to the applicant to tell them that their application was approved, and the date that their membership started.

13.3 If the directors reject an application, the secretary must write to the applicant as soon as possible to tell them that their application has been rejected but does not have to give reasons.

13.4 For the avoidance of doubt, the directors may approve an application even if the application does not state the matters listed in clauses 12(a), 12(b) or 12(c). In that case, by applying to be a member, the applicant agrees to those three matters.

14. When a person becomes a member

- 14.1 A person will become a member when they are entered on the register of members.
- 14.2 An applicant shall become a temporary member upon submitting the application and fee payment referred to in clause 12.
- 14.3 Should an application be rejected by the directors under clause 13.3 the applicant's temporary membership shall cease and the secretary must cause the fee paid by the applicant under clause 12 to be refunded in full to the applicant within 14 days of such rejection.
- 14.4 A temporary member shall be bound by, and entitled to, the obligations and entitlements set out in clause 10.4 except that they shall not be entitled to vote at any **general meeting of the company**.

15. When a person stops being a member

- 15.1 A person immediately stops being a member if they:
 - (a) die
 - (b) are wound up or otherwise dissolved or deregistered (for an incorporated member)
 - (c) resign, by writing to the secretary
 - (d) are expelled under clause 16, or
 - (e) have not responded within three months to a written request from the secretary that they confirm in writing that they want to remain a member, or
 - (f) have failed to pay any annual fees payable by the member after receiving not less than two account rendered statements from the secretary each of which must be not less than 14 days apart.
- 15.2 The Directors have the power in their absolute discretion to waive reliance upon clauses 15.1 (e) and (f)

Disciplinary procedures

16. Disciplining members

- 16.1 In accordance with this clause, the directors may resolve to warn, suspend or expel a member from the **company** if the directors consider that:
 - (a) the member has breached this constitution, or any by-laws made under this constitution, or the Code of Conduct of the **company**, or
 - (b) the member's behaviour is causing, has caused, or is likely to cause harm to the **company**, another member or a person employed by the **company**.
- 16.2 At least 14 days before the directors' meeting at which a resolution under clause 16.1 will be considered, the secretary must notify the member in writing:
 - (a) that the directors are considering a resolution to warn, suspend or expel the member
 - (b) that this resolution will be considered at a directors' meeting and the date of that meeting
 - (c) what the member is said to have done or not done
 - (d) the nature of the resolution that has been proposed, and
 - (e) that the member may provide an explanation to the directors, and details of how to do so.
- 16.3 Before the directors pass any resolution under clause 16.1, the member must be given a chance to explain or defend themselves by:
 - (a) sending the directors, a written explanation before that directors' meeting, and/or
 - (b) speaking at the meeting.
- 16.4 After considering any explanation under clause 16.3, the directors may:
 - (a) take no further action
 - (b) warn the member
 - (c) suspend the member's rights as a member for a period of no more than 12 months
 - (d) expel the member

- 16.5 The directors cannot fine a member.
- 16.6 The secretary must give written notice to the member of the decision under clause 16.4 as soon as possible.
- 16.7 Disciplinary procedures must be completed as soon as reasonably practical.
- 16.8 There will be no liability of the **company** or of any of the directors for any loss or injury suffered by the member as a result of any decision made in good faith under this clause.

General meetings of members

17. General meetings called by directors

- 17.1 The directors may call a **general meeting**.
- 17.2 If not less than 40 ordinary members who hold votes that may be cast at a **general meeting** make a written request to the **company** for a **general meeting** to be held, the directors must:
 - (a) within 21 days of the members' request, give all ordinary members notice of a **general meeting**, and
 - (b) hold the **general meeting** within 2 months of the members' request.
- 17.3 The members who make the request for a **general meeting** must:
 - (a) state in the request any resolution to be proposed at the meeting
 - (b) sign the request, and
 - (c) give the request to the **company**.
- 17.4 Separate copies of a document setting out the request may be signed by members if the wording of the request is the same in each copy.

18. General meetings called by members

- 18.1 If the directors do not call the meeting within 21 days of being requested under clause 17.2, 50% or more of the members who made the request may call and arrange to hold a **general meeting**.
- 18.2 To call and hold a meeting under clause 18.1 the members must:
 - (a) as far as possible, follow the procedures for **general meetings** set out in this constitution
 - (b) call the meeting using the list of ordinary members on the **company's** member register, which the **company** must provide to the members making the request at no cost, and
 - (c) hold the **general meeting** within three months after the request was given to the **company**.
- 18.3 The **company** must pay the members who request the **general meeting** any reasonable expenses they incur because the directors did not call and hold the meeting.

19. Annual general meeting

- 19.1 A **general meeting**, called the annual **general meeting**, must be held:
 - (a) within 18 months after registration of the **company**, and
 - (b) after the first annual **general meeting**, at least once in every calendar year.
- 19.2 Even if these items are not set out in the notice of meeting, the business of an annual **general meeting** may include:
 - (a) a review of the **company's** activities
 - (b) a review of the **company's** finances
 - (c) any auditor's report
 - (d) the election of directors, and
 - (e) the appointment and payment of auditors, if any.
- 19.3 Before or at the annual **general meeting**, the directors must give information to the members on the **company's** activities and finances during the period since the last annual **general meeting**.

- 19.4 The chairperson of the annual **general meeting** must give ordinary members as a whole a reasonable opportunity at the meeting to ask questions or make comments about the management of the **company**.

20. Notice of general meetings

- 20.1 Notice of a **general meeting** must be given to:
- (a) each member entitled to vote at the meeting
 - (b) each director, and
 - (c) the auditor (if any).
- 20.2 Notice of a **general meeting** must be provided in writing at least 21 days before the meeting.
- 20.3 Notice of a **general meeting** must include:
- (a) the place, date and time for the meeting (and if the meeting is to be held in two or more places, the technology that will be used to facilitate this)
 - (b) the general nature of the meeting's business
 - (c) if applicable, that a **special resolution** is to be proposed and the words of the proposed resolution
 - (d) a statement that ordinary members have the right to appoint proxies and that, if a member appoints a proxy:
 - i. the proxy does need to be a member of the **company**
 - ii. the proxy form must be delivered to the **company** at its registered address or the address (including an electronic address) specified in the notice of the meeting, and
 - iii. the proxy form must be delivered to the **company** at least 48 hours before the meeting.
- 20.4 If a **general meeting** is adjourned (put off) for one month or more, the members must be given new notice of the resumed meeting.

21. Quorum at general meetings

- 21.1 For a **general meeting** to be held, thirty (30) ordinary members (a quorum) must be present (in person, by proxy or by representative) for the whole meeting. When determining whether a quorum is present, a person may only be counted once (even if that person is a proxy of more than one member).
- 21.2 No business may be conducted at a **general meeting** if a quorum is not present.
- 21.3 If there is no quorum present within 30 minutes after the starting time stated in the notice of **general meeting**, the **general meeting** is adjourned to the date, time and place that the chairperson specifies. If the chairperson does not specify one or more of those things, the meeting is adjourned to:
- (a) if the date is not specified – the same day in the next week
 - (b) if the time is not specified – the same time, and
 - (c) if the place is not specified – the same place.
- 21.4 If no quorum is present at the resumed meeting within 30 minutes after the starting time set for that meeting, the meeting is cancelled.

22. Auditor's right to attend meetings

- 22.1 The auditor (if any) is entitled to attend any **general meeting** and to be heard by the members on any part of the business of the meeting that concerns the auditor in the capacity of auditor.
- 22.2 The **company** must give the auditor (if any) any communications relating to the **general meeting** that a member of the **company** is entitled to receive.

23. Using technology to hold meetings

- 23.1 The **company** may hold a **general meeting** at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 23.2 Anyone using this technology is taken to be present in person at the meeting.

24. Chairperson for general meetings

- 24.1 The **elected chairperson** is entitled to chair **general meetings**.
- 24.2 If the **elected chairperson** is unable or unwilling to chair a **general meeting** such meeting shall be chaired by his or her deputy.
- 24.3 The members present and entitled to vote at a **general meeting** may choose a director to be the chairperson for that meeting if:
 - (a) there is no **elected chairperson**, or his or her deputy, or
 - (b) the **elected chairperson** and his or her deputy have both given written notice of their nonattendance at the meeting or are not present within 30 minutes after the starting time set for the meeting, or
 - (c) the **elected chairperson** and his or her deputy are present but say they do not wish to act as chairperson of the meeting.

25. Role of the chairperson

- 25.1 The chairperson is responsible for the conduct of the **general meeting**, and for this purpose must give members a reasonable opportunity to make comments and ask questions (including to the auditor (if any)).
- 25.2 The chairperson does not have a casting vote.

Voting at general meetings

26. How many votes a member has

Only ordinary **financial members** may vote at a general meeting and each ordinary **financial member** has one vote.

27. Challenge to member's right to vote

- 27.1 An ordinary financial member or the chairperson may only challenge a person's right to vote at a **general meeting** at that meeting.
- 27.2 If a challenge is made under clause 27.1 the chairperson must decide whether or not the person may vote. The chairperson's decision is final.

28. How voting is carried out

- 28.1 Voting must be conducted and decided by:
 - (a) a show of hands
 - (b) a vote in writing, or
 - (c) another method chosen by the chairperson that is fair and reasonable in the circumstances.
- 28.2 Before a vote is taken, the chairperson must state whether any proxy votes have been received and, if so, how the proxy votes will be cast.
- 28.3 On a show of hands, the chairperson's decision is conclusive evidence of the result of the vote.
- 28.4 The chairperson and the meeting minutes do not need to state the number or proportion of the votes recorded in favour or against on a show of hands.

29. When and how a vote in writing must be held

- 29.1 A vote in writing may be demanded on any resolution instead of or after a vote by a show of hands by:

- (a) at least five ordinary **members present**
- (b) the chairperson.
- 29.2 A vote in writing must be taken when and how the chairperson directs, unless clause 29.3 applies.
- 29.3 A vote in writing must be held immediately if it is demanded under clause 29:
 - (a) for the election of a chairperson under clause 24.3, or
 - (b) to decide whether to adjourn the meeting.
- 29.4 A demand for a vote in writing may be withdrawn.

30. Appointment of proxy

- 30.1 An ordinary member may appoint a proxy to attend and vote at a **general meeting** on their behalf.
- 30.2 A proxy does need to be an ordinary member.
- 30.3 A proxy appointed to attend and vote for a member has the same rights as the member to:
 - (a) speak at the meeting
 - (b) vote (but only to the extent allowed by the appointment), and
 - (c) join in to demand a vote in writing under clause 29.1.
- 30.4 An appointment of proxy (proxy form) must be signed by the member appointing the proxy and must contain:
 - (a) the member's name and address
 - (b) the **company's** name
 - (c) the proxy's name or the name of the office held by the proxy, and
 - (d) the meeting(s) at which the appointment may be used.
- 30.5 A proxy appointment may be standing (ongoing).
- 30.6 Proxy forms must be received by the **company** at the address stated in the notice under clause 34.4(d) or at the **company's** registered address at least 48 hours before a meeting.
- 30.7 A proxy does not have the authority to speak and vote for a member at a meeting while the member is at the meeting.
- 30.8 Unless the **company** receives written notice before the start or resumption of a **general meeting** at which a proxy votes, a vote cast by the proxy is valid even if, before the proxy votes, the appointing member:
 - (a) dies
 - (b) is mentally incapacitated
 - (c) revokes the proxy's appointment, or
 - (d) revokes the authority of a representative or agent who appointed the proxy.
- 30.9 A proxy appointment may specify the way the proxy must vote on a particular resolution.
- 30.10 A proxy may not hold more than 10 proxies in any one general meeting.

31. Voting by proxy

- 31.1 A proxy is not entitled to vote on a show of hands (but this does not prevent a member appointed as a proxy from voting as a member on a show of hands).
- 31.2 When a vote in writing is held, a proxy:
 - (a) does not need to vote, unless the proxy appointment specifies the way they must vote
 - (b) if the way they must vote is specified on the proxy form, must vote that way, and
 - (c) if the proxy is also an ordinary member or holds more than one proxy, may cast the votes held in different ways.

Directors

32. Number of directors

The **company** must have at least six and no more than nine directors.

33. Election and appointment of directors

- 33.1 The initial directors are the people who have agreed to act as directors and who are named as proposed directors in the application for registration of the **company**.
- 33.2 Apart from the initial directors and directors appointed under clause 33.5, the ordinary members may elect a director by a resolution passed in a **general meeting**.
- 33.3 Each of the directors must be appointed by a separate resolution, unless:
- (a) The ordinary members present have first passed a resolution that the appointments may be voted on together, and
 - (b) no votes were cast against that resolution.
- 33.4 A person is eligible for election as a director of the **company** if they:
- (a) are a member of the **company**,
 - (b) are nominated by two members entitled to vote (unless the person was previously elected as a director at a **general meeting** and has been a director since that meeting),
 - (c) give the **company** their signed consent to act as a director of the **company**, and
 - (d) are not ineligible to be a director under the **Corporations Act**.
- 33.5 The directors may appoint a person as a director to fill a casual vacancy or as an additional director if that person:
- (a) is a member of the **company**,
 - (b) gives the **company** their signed consent to act as a director of the **company**, and
 - (c) is not ineligible to be a director under the **Corporations Act**.
- 33.6 If the number of directors is reduced to fewer than six or is less than the number required for a quorum, the continuing directors may act for the purpose of increasing the number of directors to six (or higher if required for a quorum) or calling a **general meeting**, but for no other purpose.
- 33.7 Subject to clause 35.1(c), each director elected at an annual general meeting shall be elected for a two year term.

34. Election of chairperson

The **chairperson** shall be elected by majority vote of directors present at the first meeting of directors immediately following the annual **general meeting**.

35. Term of office

- 35.1 At each annual **general meeting**:
- (a) any director appointed by the directors to fill a casual vacancy or as an additional director must retire, and
 - (b) subject to clause 35.1(c), all directors who have served two consecutive years as a director must retire at the annual general meeting marking their two year anniversary as a director.
 - (c) Subclause (b) does not apply to those directors who were elected for a one year term at the annual general meeting following the end of the 2020 financial year.
 - (d) For the avoidance of doubt, a reference to a director's two year term means a period ending on the second annual general meeting immediately following his or her election.
- 35.2 Other than a director appointed under clause 33.5, a director's term of office starts at the end of the annual **general meeting** at which they are elected and ends at the end of the annual **general meeting** at which they retire.
- 35.3 A director who retires under clause 35.1 may nominate for election or re-election, subject to clause 35.4.
- 35.4 A director who has held office for a continuous period of ten years from the 1st day of January 2021 may only be eligible for re-election if the Board by unanimous decision made prior to the annual **general meeting** resolves that he or she should be so eligible.

36. When a director stops being a director

A director stops being a director if they:

- (a) give written notice of resignation as a director to the **company**
- (b) die
- (c) are removed as a director by a resolution of the members
- (d) stop being a member of the **company**
- (e) must retire under clause 35.4
- (f) are absent for 4 consecutive directors' meetings without approval from the directors, or
- (g) become ineligible to be a director of the **company** under the **Corporations Act**.

Powers of directors

37. Powers of directors

- 37.1 The directors are responsible for managing and directing the activities of the **company** to achieve the purposes set out in clause 6.
- 37.2 The directors may use all the powers of the **company** except for powers that, under the **Corporations Act** or this constitution, may only be used by members.
- 37.3 The directors must decide on the responsible financial management of the **company** including:
 - (a) any suitable written delegations of power under clause 38, and
 - (b) how money will be managed, such as how electronic transfers, negotiable instruments or cheques must be authorised and signed or otherwise approved.
- 37.4 The directors cannot remove a director or auditor. Directors and auditors may only be removed by a members' resolution at a **general meeting**.

38. Delegation of directors' powers

- 38.1 The directors may delegate any of their powers and functions to a committee, a director, an employee of the **company** (such as a general manager) or any other person, as they consider appropriate.
- 38.2 The delegation must be recorded in the **company's** minute book.

39. Payments to directors

- 39.1 The **company** must not pay fees to a director for acting as a director.
- 39.2 The **company** may:
 - (a) pay a director for work they do for the **company**, other than as a director, if the amount is no more than a reasonable fee for the work done, or
 - (b) reimburse a director for expenses properly incurred by the director in connection with the affairs of the **company**.
- 39.3 Any payment made under clause 39.2 must be approved by the directors.
- 39.4 The **company** may pay premiums for insurance indemnifying directors, as allowed for by law (including the **Corporations Act**) and this constitution.

40. Execution of documents

The **company** may execute a document without using a common seal if the document is signed by:

- (a) two directors of the **company**, or
- (b) a director and the secretary.

Duties of directors

41. Duties of directors

The directors must comply with their duties as directors under legislation and common law (judge-made law) which are:

- (a) to exercise their powers and discharge their duties with the degree of care and diligence that a reasonable individual would exercise if they were a director of the **company**
- (b) to act in good faith in the best interests of the **company** and to further the charitable purpose(s) of the **company** set out in clause 6
- (c) not to misuse their position as a director
- (d) not to misuse information they gain in their role as a director
- (e) to disclose any perceived or actual material conflicts of interest in the manner set out in clause 42
- (f) to ensure that the financial affairs of the **company** are managed responsibly, and
- (g) not to allow the **company** to operate while it is insolvent.

42. Conflicts of interest

- 42.1 A director must disclose the nature and extent of any actual or perceived material conflict of interest in a matter that is being considered at a meeting of directors (or that is proposed in a circular resolution):
- (a) to the other directors, or
 - (b) if all of the directors have the same conflict of interest, to the members at the next **general meeting**, or at an earlier time if reasonable to do so.
- 42.2 The disclosure of a conflict of interest by a director must be recorded in the minutes of the meeting.
- 42.3 Each director who has a material personal interest in a matter that is being considered at a meeting of directors must not, except as provided under clauses 42:
- (a) be present at the meeting while the matter is being discussed, or
 - (b) vote on the matter.
- 42.4 A director may still be present and vote if:
- (a) their interest arises because they are a member of the **company**, and the other members have the same interest
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the **company** (see clause 600)
 - (c) their interest relates to a payment by the **company** under clause 59 (indemnity), or any contract relating to an indemnity that is allowed under the **Corporations Act**
 - (d) the Australian Securities and Investments Commission (ASIC) makes an order allowing the director to vote on the matter, or
 - (e) the directors who do not have a material personal interest in the matter pass a resolution that:
 - (i) identifies the director, the nature and extent of the director's interest in the matter and how it relates to the affairs of the **company**, and
 - (ii) says that those directors are satisfied that the interest should not stop the director from voting or being present.

Directors' meetings

43. When the directors meet

The directors may decide how often, where and when they meet.

44. Calling directors' meetings

- 44.1 A director may call a directors' meeting by giving reasonable notice to all of the other directors.

- 44.2 A director may give notice in writing or by any other means of communication that has previously been agreed to by all of the directors.

45. Chairperson for directors' meetings

- 45.1 The **elected chairperson** is entitled to chair directors' meetings.
- 45.2 If the **elected chairperson** is unable or unwilling to chair a meeting such meeting shall be chaired by his or her deputy.
- 45.3 The Directors present may choose a director to be the chairperson for that meeting if:
- (a) there is no **elected chairperson**, or his or her deputy, or
 - (b) the **elected chairperson** and his or her deputy have both given written notice of their nonattendance at the meeting or are not present within 30 minutes after the starting time set for the meeting, or
 - (c) the **elected chairperson** and his or her deputy are present but say they do not wish to act as chairperson of the meeting.

46. Quorum at directors' meetings

- 46.1 Unless the directors determine otherwise, the quorum for a directors' meeting is a majority (more than 50%) of directors.
- 46.2 A quorum must be present for the whole directors' meeting.

47. Using technology to hold directors' meetings

- 47.1 The directors may hold their meetings by using any technology (such as video or teleconferencing) that is agreed to by all of the directors.
- 47.2 The directors' agreement may be a standing (ongoing) one.
- 47.3 A director may only withdraw their consent within a reasonable period before the meeting.

48. Passing directors' resolutions

A directors' resolution must be passed by a majority of the votes cast by directors present and entitled to vote on the resolution.

49. Circular resolutions of directors

- 49.1 The directors may pass a circular resolution without a directors' meeting being held.
- 49.2 A circular resolution is passed if all the directors entitled to vote on the resolution sign or otherwise agree to the resolution in the manner set out in clause 49.3 or clause 49.4.
- 49.3 Each director may sign:
- (a) a single document setting out the resolution and containing a statement that they agree to the resolution, or
 - (b) separate copies of that document, as long as the wording of the resolution is the same in each copy.
- 49.4 The **company** may send a circular resolution by email to the directors and the directors may agree to the resolution by sending a reply email to that effect, including the text of the resolution in their reply.
- 49.5 A circular resolution is passed when the last director signs or otherwise agrees to the resolution in the manner set out in clause 49.3 or clause 49.4.

Secretary

50. Appointment and role of secretary

- 50.1 The **company** must have at least one secretary, who may also be a director.
- 50.2 A secretary must be appointed by the directors (after giving the **company** their signed consent to act as secretary of the **company**) and may be removed by the directors.
- 50.3 The directors must decide the terms and conditions under which the secretary is appointed, including any remuneration.

- 50.4 The role of the secretary includes:
- (a) maintaining a register of the **company's** members, and
 - (b) maintaining the minutes and other records of **general meetings** (including notices of meetings), directors' meetings and circular resolutions.

Minutes and records

51. Minutes and records

- 51.1 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of **general meetings**
 - (b) a copy of a notice of each **general meeting**, and
- 51.2 The **company** must, within one month, make and keep the following records:
- (a) minutes of proceedings and resolutions of directors' meetings (including meetings of any committees), and
 - (b) minutes of circular resolutions of directors.
- 51.3 To allow members to inspect the **company's** records:
- (a) the **company** must give a member access to the records set out in clause 51.1, and
 - (b) the directors may authorise a member to inspect other records of the **company**, including records referred to in clause 51.2.
- 51.4 The directors must ensure that minutes of a **general meeting** or a directors' meeting are signed within a reasonable time after the meeting by:
- (a) the chairperson of the meeting, or
 - (b) the chairperson of the next meeting.
- 51.5 The directors must ensure that minutes of the passing of a circular resolution (of members or directors) are signed by a director within a reasonable time after the resolution is passed.

52. Financial and related records

- 52.1 The **company** must make and keep written financial records that:
- (a) correctly record and explain its transactions and financial position and performance, and
 - (b) enable true and fair financial statements to be prepared and to be audited.
- 52.2 The **company** must also keep written records that correctly record its operations.
- 52.3 The **company** must retain its records for at least 7 years.
- 52.4 The directors must take reasonable steps to ensure that the **company's** records are kept safe.

By-laws

53. By-laws

- 53.1 The directors may pass a resolution to make by-laws to give effect to this constitution.
- 53.2 Members and directors must comply with by-laws as if they were part of this constitution.

Notice

54. What is notice

- 54.1 Anything written to or from the **company** under any clause in this constitution is written notice and is subject to clauses 55 to 57, unless specified otherwise.
- 54.2 Clauses 55 to 57 do not apply to a notice of proxy under clause 30.6.

55. Notice to the company

Written notice or any communication under this constitution may be given to the **company**, the directors, or the secretary by:

- (a) delivering it to the **company's** registered office

- (b) posting it to the **company's** registered office or to another address chosen by the **company** for notice to be provided
- (c) sending it to an email address or other electronic address notified by the **company** to the members as the **company's** email address or other electronic address, or

56. Notice to members

- 56.1 Written notice or any communication under this constitution may be given to a member:
- (a) in person
 - (b) by posting it to, or leaving it at the address of the member in the register of members or an alternative address (if any) nominated by the member for service of notices
 - (c) sending it to the email or other electronic address nominated by the member as an alternative address for service of notices (if any)
 - (d) sending it to the fax number nominated by the member as an alternative address for service of notices (if any), or
 - (e) if agreed to by the member, by notifying the member at an email or other electronic address nominated by the member, that the notice is available at a specified place or address (including an electronic address).
- 56.2 If the **company** does not have an address for the member, the **company** is not required to give notice in person.

57. When notice is taken to be given

A notice:

- (a) delivered in person, or left at the recipient's address, is taken to be given on the day it is delivered
- (b) sent by post, is taken to be given on the third day after it is posted with the correct payment of postage costs
- (c) sent by email, fax or other electronic method, is taken to be given on the business day after it is sent, and
- (d) given under clause 56.1(e) is taken to be given on the business day after the notification that the notice is available is sent.

Financial year

58. Company's financial year

The **company's** financial year is from 1st July to 30th June unless the directors pass a resolution to change the financial year.

Indemnity, insurance, and access

59. Indemnity

- 59.1 The **company** indemnifies each officer of the **company** out of the assets of the **company**, to the relevant extent, against all losses and liabilities (including costs, expenses and charges) incurred by that person as an officer of the **company**.
- 59.2 In this clause, 'officer' means a director or secretary and includes a director or secretary after they have ceased to hold that office.
- 59.3 In this clause, 'to the relevant extent' means:
- (a) to the extent that the **company** is not precluded by law (including the **Corporations Act**) from doing so, and
 - (b) for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including an insurer under an insurance policy).
- 59.4 The indemnity is a continuing obligation and is enforceable by an officer even though that person is no longer an officer of the **company**.

60. Insurance

To the extent permitted by law (including the **Corporations Act**), and if the directors consider it appropriate, the **company** may pay or agree to pay a premium for a contract insuring a person who is or has been an officer of the **company** against any liability incurred by the person as an officer of the **company**.

61. Directors' access to documents

- 61.1 A director has a right of access to the financial records of the **company** at all reasonable times.
- 61.2 If the directors agree, the **company** must give a director or former director access to:
- (a) certain documents, including documents provided for or available to the directors, and
 - (b) any other documents referred to in those documents.

Winding up

62. Surplus assets not to be distributed to members

If the **company** is wound up, any **surplus assets** must not be distributed to a member or a former member of the **company**.

63. Distribution of surplus assets

- 63.1 Subject to the **Corporations Act** and any other applicable Act, and any court order, any **surplus assets** that remain after the **company** is wound up must be distributed:
- (a) to another incorporated Club having objects similar to those of the **company**; or
 - (b) for charitable or benevolent purposes,
- which incorporated association or purposes, as the case requires, shall be determined by **special resolution** of the members. If the members do not make this decision, the **company** may apply to the Supreme Court to make this decision.

Definitions and interpretation

64. Definitions

In this constitution:

company means the **company** referred to in clause 1

club means the *Devonport Country Club* and any reference to the club is a reference to the company.

Corporations Act means the *Corporations Act 2001* (Cth)

elected chairperson means a person elected by the directors to be the **company's** chairperson under clause 34

financial member means any member who is not in arrears in respect to any annual subscription payable to the Club.

general meeting means a meeting of members and includes the annual **general meeting**, under clause 19.1

member present means, in connection with a **general meeting**, a **member present** in person, by representative or by proxy at the venue or venues for the meeting

membership means membership of the company. Categories of membership are defined in this Constitution. Classes under each category are contained in the By-Laws.

special resolution means a resolution:

- i. of which notice has been given under clause 20.3(c), and
- ii. that has been passed by at least 75% of the votes cast by **members present** and entitled to vote on the resolution, and

surplus assets means any assets of the **company** that remain after paying all debts and other liabilities of the **company**, including the costs of winding up.

Temporary member means a person admitted as a temporary member under clause 14 of this Constitution.

65. Reading this constitution with the Corporations Act

- 65.1 The replaceable rules set out in the **Corporations Act** do not apply to the **company**.
- 65.2 The **Corporations Act** overrides any clause in this constitution which is inconsistent with that Act.
- 65.3 A word or expression that is defined in the **Corporations Act** or used in that Act and covering the same subject, has the same meaning as in this constitution.

66. Interpretation

In this constitution:

- (a) the words 'including', 'for example', or similar expressions mean that there may be more inclusions or examples than those mentioned after that expression, and
- (b) reference to an Act includes every amendment, re-enactment, or replacement of that Act and any subordinate legislation made under that Act (such as regulations).