



FRIENDS OF LAKE CLAREMONT LIMITED

CONSTITUTION

**Constitution for
Friends of Lake Claremont Limited**

A public company limited by guarantee
Pursuant to the Corporations Act 2001

1. General

1.1 Name of the Company

Friends of Lake Claremont Limited

1.2 Replaceable rules

This constitution takes the place of the Replaceable Rules contained in the Act.

1.3 Constitution

This constitution contains the Rules setting out the manner in which the Members of the Company have agreed to conduct the internal administration of the Company.

2. Definitions and Interpretation

2.1 Definitions

In this constitution, the following definitions will apply unless it is inconsistent with the subject or context in which it is applied.

Act

This means the Corporations Act 2001 or any statutory changes, amendment or re-enactment in force and any reference to any section, part or division is to that provision as so modified, amended or Re enacted.

AGM

This means an annual general meeting of the Company held in accordance with section 250N of the Act.

ASIC

This means the Australian Securities and Investments Commission.

Auditor

This means the auditor for the company.

Board

This means the Members of the board of the company.

Chair

This includes an acting Chairman or Chairperson.

Code of Conduct

This means the policy adopted by the Board which governs the manner in which each of the Board members are required to conduct themselves in the discharge of their duties.

Committee

This means a committee which may have powers delegated to it by the Board.

Company

This means Friends of Lake Claremont Limited

Constitution

This means this constitution and any supplement, substitution or amendment.

Director

This means a person or persons selected by simple majority of the Members to represent the Members of the Company.

Guarantee

This means the maximum amount that each Member agrees to pay the Company in accordance with this constitution.

Member

This means any person who becomes a member in accordance with the Act and this constitution.

Members present

This means any member who is present at a general meeting of the Company in person, or if applicable, by a duly appointed representative.

Office

This means the registered office of the Company.

Officer

This means an officer of the Company within the meaning of section 9 of the Act.

Register

This means the register of Members of the Company to be kept as per the Act.

Registered office

This means the address of a Member specified in the Register or any other address of which the Member notifies the Company as a place at which the Member will accept service of notices.

Replaceable rules

This means any or all of the replaceable rules contained in the Act which from time to time may include any replaceable rules which may become part of the Act.

Rules

This means the rules of this Constitution as varied or added to from time to time.

Seal

This means the common seal, if any, from time to time of the Company.

Secretary

This means a person appointed as secretary of the Company and includes any person appointed to perform the duties of the secretary.

Securities

This includes shares, rights to shares, options to acquire shares and other securities with rights of conversion to equity.

Special persons

This means a person who the Board considers can provide specialised or professional assistance to the Board and the Company.

Voting member

This is a Member who under the rules is entitled to vote at any general meeting.

Writing or written

This includes printing, typing, faxing, emailing (including attachments) or any other mode of reproducing words in a visible form.

2.2 Interpretation – words, expressions and rules

Persons include companies and corporations and vice versa.
Masculine gender includes feminine gender and vice versa.
Singular number includes the plural number and vice versa.

An expression used in this Constitution that has a particular meaning in the Act has the same meaning in this Constitution.

This Constitution is subject to the Act and where there is any inconsistency between a Rule of this Constitution and the Act, the Act will prevail to the extent of the inconsistency.

3. The Company

3.1 The Company is a public company limited by guarantee.

3.2 The Company does not have the power to issue or allot shares of any kind.

3.3 The Company is a non-profit organisation.

A. The income, property, profits and financial surplus of the

Company however derived, must be applied solely towards the promotion of the objects of the Company as set out in this Constitution.

- B. The Company is a non-profit organisation and must not carry on business for the purpose of profit or gain to its Members. No portion of the Company's income, property, profits and financial surplus may be paid, distributed or transferred, directly or indirectly, by way of dividend, property, bonus or otherwise by way of profits, to the Members, or the Directors, or the Trustees, or their relatives, except as provided by this Constitution.
- C. Any allocation of funds or property to other persons or organisations will be made in accordance with the established purposes of the organisation and not be influenced by the preference of the donor.
- D. Payment in good faith of reasonable and proper remuneration to any officer or servant of the Company, or to any Member or the Board of the Company, in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual course of business is accepted.
- E. The directors of the company must approve all payments the company makes to any director or member of the company.
- F. The payment of interest at a rate not exceeding interest at the relevant rate for the time being charged by the Company's bankers for overdrawn accounts on money borrowed from a Member is accepted.
- G. Payment of reasonable and proper rent for premises lent by any Member to the Company is accepted.

3.4 There is to be no distribution of profits to members on winding up.

If the company is wound up or dissolved, the assets and property available for distribution after satisfaction of all debts and liabilities are to be given or transferred to some other institution or institutions with similar objectives to the objectives of the company, that is approved by the Australian Commissioner of Taxation as an institution exempt from income tax, and selected by simple majority of the directors of the Company.

4.0 Guarantee of Members

In the event that the Company is wound up, each Member or member that was a member within one year after the Member ceases to be a member, undertakes to contribute a maximum of Australian \$2 to the Company for payment of debts and liabilities of the Company, costs, charges and expenses of any winding up and the adjustment of the rights of Members between themselves.

5.0 Objects of the Company

5.1 The primary objective of the Company is to ensure continual improvement to the biodiversity of Lake Claremont and its surrounds, with the support of the community, the indigenous elders and the Town of Claremont.

The following objectives are ancillary to the primary objective as stated above:

5.2 To convert the majority of the now closed long 9 hole golf course to bush land, including an Interpretive Trail.

5.3 To develop a shared ownership with the local community to promote the objectives of the Company.

5.4 To attract, solicit and retain continuing interest, bequests, gifts and financial support by interested persons, groups, corporations and government bodies in the objectives of the Company.

5.5 To establish and maintain a public fund to be called the Lake Claremont Environment Fund for the specific purpose of supporting the environmental objects/purposes of the Friends of Lake Claremont Limited. The Fund is established to receive all gifts of money or property for this purpose and any money received because of such gifts must be credited to its bank account. The Fund must not receive any other money or property into its account and it must comply with subdivision 30-E of the Income Tax Assessment Act 1997.

6.0 The Public Fund

6.1 The objective of the fund is to support the organisation's environmental purposes.

6.2 The Rules of the fund.

- A. Members of the public are to be invited to make gifts of money or property to the fund for the environmental purposes of the organisation.
- B. Money from interest on donations, income derived from donated property, and money from the realisation of such property is to be deposited into the fund.
- C. A separate bank account is to be opened to deposit money donated to the fund, including interest accruing thereon, and gifts to it are to be kept separate from other funds of the organisation.
- E. The fund will be operated on a not-for-profit basis.
- F. A committee of management of no fewer than three persons will administer the fund. The committee will be appointed by the organisation. A majority of the members of the committee are required to be 'responsible persons' as defined by the Guidelines to the Register of Environmental Organisations.
- G. Receipts are to be issued in the name of the fund and proper accounting records and procedures are to be kept and used for the fund.

6.3 Requirements of the fund

The organisation must inform the Department responsible for the environment as soon as possible if:

- it changes its name or the name of its public fund; or
- there is any change to the membership of the management committee of the public fund;
- there has been any departure from the model rules for public funds located in the Guidelines to the Register of Environmental Organisations.

6.4 Ministerial Rules

The organisation agrees to comply with any rules that the Treasurer and the Minister, with responsibility for the environment, may make to ensure that gifts made to the fund are only used for its principal purpose.

6.5 Winding up.

In case of the winding-up of the Fund, any surplus assets are to be transferred to another fund with similar objectives that is on the Register of Environmental Organisations.

6.6 Statistical Information

Statistical information requested by the Department on donations to the Public Fund will be provided within four months of the end of the financial year.

An audited financial statement for the organisation and its public fund will be supplied with the annual statistical return. The statement will provide information on the expenditure of public fund monies and the management of public fund assets.

7.0 Membership

7.1 Number of Members

There must be at least one member.

7.2 Classes of Members

The Directors of the company by simple majority may establish different classes of Members with different qualifications, rights and privileges.

7.3 Admission to Membership

The Board or its nominated Officer may accept an applicant for Membership to the Company from any real person aged 16 years of age or more, or their guardian if under 16 years of age.

7.4 Cessation of Membership

A Member ceases to be a Member if they die, resign in writing, are expelled by a simple majority of the Members at a general meeting, or are no longer regarded as a paid up Member if and where applicable. A living Member who ceases to be a Member, continues to be liable for the Company Guarantee for one year after their Membership ceases, and also liable for all moneys due by them to the Company unless waived by the Board of the Company.

7.5 Rights and obligations of Members

Where applicable, the Members of the Company may set and vary the rights and obligations of Members by simple majority at a general meeting.

8.0 Financial Records

8.1 Keeping of Accounting and financial records

Accounting and other financial and business records must record and explain the transactions and financial position of the Company to enable the true and fair profit and loss accounts and balance sheets to be prepared and to permit preparation of any other documents required by the Act or this Constitution.

8.2 The financial records must be kept in such a manner as to enable them to be conveniently and properly maintained and audited, for a period of seven years after completion of the transactions or operations to which they relate and at the Company's registered office or at such other places as the Director's believe are appropriate.

8.3 Financial year and financial reports

The financial year of the Company commences on the first day of July and ends on the 30th day of June in the following calendar year, except in the first year of operations. For each financial year, the Company must prepare a financial report and a director's report in accordance with the Act, consisting of a profit and loss statement and balance sheet where applicable, supported by disclosure notes required by the Act and any applicable regulations, and including a Board's declaration with respect to such financial reports.

The Board must distribute to Members copies of the financial reports and supporting documentation required under the Act within 6 months after the end of the financial year.

8.4 Appointment of Auditor

The Company must appoint and retain a properly qualified Auditor to audit the Company's financial statements whose duties are determined in accordance with the Act.

9.0 General Meetings

9.1 Calling of meetings of Members

A director may call a meeting of Members at any time. A director must call a meeting of Members in accordance with section 249D(1) of the Act on the request of 5% of Members, or at least 100 Members, who can vote at a general meeting.

9.2 Failure of Directors to call a general meeting

Members with more than 50% of the votes of all Members who called for a general meeting under section 249D of the Act may call and arrange to hold a general meeting where the directors do not do so within 21 days after the request is given to the Company in accordance with section 249E of the Act.

9.3 Calling of a Meeting by the Court

The Court may order a meeting of Members to be called in accordance with section 249G of the Act if it is impractical to call the Meeting in any other way.

9.4 Notice of meetings of Members

Subject to the Act, at least 21 days notice must be given of a meeting of Members, unless for an annual general meeting where all that are entitled to vote agree, or for a general meeting where 90% of all that are entitled to vote agree.

Notice is deemed to be given to a Member if given personally, by sending a written notice by post or some acceptable electronic form including fax or email, (with or without an attachment), or by any other means authorised by the Act.

9.5 Auditor entitled to appropriate notice

The Company must give its auditor appropriate notice of general meetings and include any other communication matters, as if the auditor was a Member of the Company.

- 9.6 Contents of notice of a meeting or adjourned meeting if the adjourned meeting is set for more than one calendar month.

The notice should conform with the requirements of section 249L of the Act, including the time, date, place and purpose of the meeting, including the ability to make an apology and appoint a proxy to vote on behalf of the Member if desired.

9.7 **Notice of an adjourned meeting**

When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for one calendar month or more.

9.8 **Member's rights to put a resolution at a general meeting**

Members may propose a resolution to be moved at a general meeting having due regard to provisions of division 4 of Part 2G.2 of the Act.

9.9 **Member's right to propose an item of business or resolution before a general meeting.**

Members may propose to have an item of business or resolution placed before a general meeting by giving notice to the Board at least 28 days notice before such a general meeting.

9.10 **Time and place for meetings of Members**

The Board will determine the reasonable meeting time and place for a meeting of Members. Such meetings can be held at two or more venues using any technology that gives the members as a whole a reasonable opportunity to participate. Where necessary voting of Members can be counted by a range of consolidation methods as appropriate.

10.0 **Proceedings of Meetings**

10.1 **Business of general meetings**

Normal attendees at meetings may include Members, voting Members, interested people, the Board, Directors, auditors and media, who may bring recording devices, cameras, reasonable placards and banners to such general meetings, providing the Chair does not regard any or all such persons and items as being overly disruptive, dangerous or offensive.

Auditors and their representatives are entitled to attend and be heard on any part of the business of a meeting concerning an audit in their capacity as auditor.

At a time or times within the general meeting as appropriate, Members, voting Members, interested people, the Board, Directors and the media may question the auditors and their representatives about the audit.

10.2 Quorum

A. Board Meeting

A quorum for a meeting is constituted if at least 50% of the Board Members are present. If a quorum is not present after 30 minutes at the nominated place and time for a meeting, or during a meeting, then only matters such as the appointment of a Chair and the (possible short term) adjournment of the meeting can be undertaken.

B. General Meeting

A quorum for a meeting is constituted if at least 10% of Members are present. If a quorum is not present after 30 minutes at the nominated place and time for a meeting, or during a meeting, then only matters such as the appointment of a Chair and the (possible short term) adjournment of the meeting can be undertaken.

The counting of Members or proxy representations may all be counted, even if held by one person.

Adjourned meetings can recommence once the quorum is re-established or delayed to an agreed time, place and date within 14 days.

10.3 Chairing of meetings

The Chair of the Board is entitled to take the chair at every general meeting or may be substituted by the deputy Chair, if the Chair of the Board is not present or is unwilling to act as the Chair of the meeting.

If both the Chair and Deputy Chair of the Board are not present or unwilling to Act as the Chair of the meeting, then the Board may nominate a Board member to Act as the Chair of the meeting. Failing this, the Members present may choose a Member to Chair the meeting for the duration of the meeting.

10.4 **General conduct of a meeting**

Subject to the requirements of the Act, the Chair or acting Chair will define the general conduct of each general meeting of the Company and the procedures to be followed, including any necessary or desirable aspects for the proper and orderly consideration of business, questions, motions, resolutions or adjournments, including the casting and recording of votes, whether by show of hands or some form of pole, either open or secret.

At an adjourned meeting, only business left unfinished from the meeting at which the adjournment took place, can be proceeded with.

10.5 **Voting**

A voting member has only one vote and it can be cast and recorded by a show of hands or other Chair-approved polling system. Challenges to a show of hands vote may only be made at the meeting where the show of hands vote was undertaken. The Chair's decision is final.

In a challenge to a polling system involving other than a show of hands, then the auditor or his representative will supervise the review of the polling system and report back to that or the next general or special meeting, with the voting members present to vote to accept either the result of the original polling system or the outcome detailed in the auditor's report.

Any voting Member entitled to vote may appoint a proxy, who may or may not also be a Member and entitled to vote. Members or proxy holders voting with more than one voting entitlement can either vote once only at a show of hands or by making their voting status known to the Chair, may have more than one vote recorded depending on their own and other proxy entitlements held.

The proxy appointment will normally only apply for the period up to and including the next general meeting (including an adjourned meeting) of the company, unless otherwise stated in writing from the voting Member to the proxy holder. Such proxy status can be withdrawn immediately by the voting Member if given in writing to the proxy holder. The proxy status can also include all or only some specific issues, provided it is stated in writing at the time that the proxy appointment is made by the voting Member.

10.6 **Special meetings**

All the provisions of the general meeting rules apply to any special meeting.

11.0 Annual General Meetings (AGM's)

11.1 If the Company has more than one Member, then the Company must hold an annual general meeting 18 months after its registration, and thereafter at least once in each financial year within 5 months after the end of the normal financial year, unless an application has been lodged with ASIC to extend the period until the AGM is held in accordance with section 250P of the Act.

11.2 AGM Reports and Business

In accordance with the requirements of Part 2M.3 of Chapter 2M of the Act, the Directors must present a financial, Board and auditor's report to the AGM for the meetings consideration.

At the AGM, there is also an election of Board Members, the appointment of the auditor and the auditor's remuneration.

The Chair of the AGM must also allow a reasonable opportunity for the Members as a whole (and even retired auditors) at the meeting to ask questions about or make comments about the Company's management and the auditor.

12.0 The Board

12.1 The First Board

The names of the first Board Members are those persons named as directors in the application for registration of the Company.

12.2 Board Membership

The Board will consist of a Chair, Deputy Chair and a maximum 7 other Board Members, either elected or appointed up to and including the next AGM. Up to 2 additional special Board Members may be chosen at any time by the Board to join the Board up to and including then next AGM.

12.3 Obligations and duties of Board Members

Each Board Member are subject to and must comply with the requirements, obligations and duties imposed on Directors under the Act, this constitution, the Company's Code of Conduct and at common law.

12.4 Election of Board Members

Any 2 voting Members may nominate any currently paid up Member, but not the auditor, to a possible Board position, including the Chair, Deputy Chair or Board Member. A show of hands in simple majority at the AGM is to be used to select the elected Board members.

12.5 Casual vacancies

The Board can appoint a person to fill a casual vacancy for a period up to and including the AGM.

12.6 Resignation, removal and disqualification

Any Board Member may resign from the Board by giving notice in writing to the secretary and/or Chair of the Board, stating the time from which such notice will take effect.

Any Board Member may be removed from office by ordinary resolution of the Members at a general meeting of the Company convened for that purpose. Such a Board Member has the opportunity to answer questions and outline his or her own case before a vote is taken. The Board Member retains his or her position until the general meeting or an adjourned meeting ends.

A Board Member's position on direction of the Board becomes vacant if that member becomes of unsound mind, dies, or fails to attend 3 consecutive meetings of the Board without prior approval of the Board.

13.0 Board Proceedings

13.1 Board meetings

The Board may meet either in person, by telephone or by any acceptable means of communication agreed to by a simple majority of the Board.

Decisions at Board meetings are decided by a simple majority of votes. If needed, the Chair may have a second or casting vote in the event of a tied vote of the Board.

Board meetings will be presided over by the Chair, or in their absence or unwillingness, the Deputy Chair, or if both are unavailable or unwilling, any Board Member selected by the Board Members willing to preside over the meeting.

A Board Meeting or any adjourned meeting at which a quorum of two is present is able to exercise any of the powers vested in the Board,

13.2 Committee Meetings

The Board may delegate any of its powers to Committees, consisting of one or more Board Members and those people as the Board thinks fit under rules and limitations set by the Board within the Act. Such Committees have no direct part or power in the management of the Company.

14.0 Powers of the Board

14.1 The management and control of the business and affairs of the Company are vested in the Board, which may exercise all powers and do all things as are within the power of the Company.

14.2 The Board may make, amend or rescind regulations consistent with the Constitution as considered by the Board to be necessary for the proper control, administration and management of the Company's finances, affairs and property plus the convenience, comfort and well-being of the members. However, regulations made by the Board may be disallowed by the Company in a later general meeting, dated from such a general meeting.

14.3 Members including Board Members except auditors may enter into any arrangement, contract or dealing with the Company provided that it is disclosed at any Board meeting or general meeting at which such arrangements, contracts or dealings are undertaken by the Board or Company.

14.4 All acts done by Members at Board, Committee or general meetings will be valid, irrespective of any defect discovered subsequently to such meetings.

15.0 Secretary and other staff appointments

15.1 The Directors must appoint a Secretary in accordance with the Act on such terms and conditions as the Board determines.

15.2 The Board has the power to appoint and dispense officers and employees at any time on such terms as it thinks fit.

16.0 The Seal

16.1 The Company may have a seal, and if it has a seal, it should be held in safe custody and only be used with the Board's authority. On each document that the seal is affixed it is required to be signed by 2 members of the Board or one board member and the secretary of the Company. Such signatures may be attached by some mechanical or electronic means.

16.2 Documents including deeds can be executed without a seal provided that the document is signed by 2 members of the Board or one Board member and the Secretary of the Company.

17.0 Minutes

The Company must keep a record within one month of proceedings of meetings. Resolutions of all meetings of members and directors, and resolutions of members and directors without a meeting must be recorded. Such minutes are to be signed by the Chair of the meeting at the time of the meeting or within a reasonable time after the proceedings when a resolution is passed. When resolutions are passed without a meeting, then a Director must sign the minutes record within a reasonable time after the resolution is passed.

Members are entitled to gain access to the minute records in accordance with the Act.

18.0 Notices

18.1 A notice may be given by the Company to a Member in any appropriate format acceptable to the Company and the Member, to be agreed at the time of joining. The Member may change the acceptable format allowing up to 30 days to make such a change. It is the Member's responsibility to ensure that the Company holds the Member's address detail. In the situation where the Member is deceased, it is the responsibility of the Member's heirs, executors or administrators to notify the Company that the Member has died and his or her name is to be withdrawn from the register of members.

18.2 Appropriate formats may include post, where it is the Member's responsibility to supply the correct address and 5 extra days are to be allowed for delivery, personally delivered to the Member's registered address, by fax or other electronic form, including received telephone calls.

19.0 Indemnity

19.1 Subject to Part 2D.2 of the Act, officers and auditors of the Company are indemnified by the Company against any liability unless the liability arises out of conduct involving a lack of good faith or for a pecuniary penalty or composition order under Part 9.4B of the act.

19.2 The Company is required to indemnify an officer against liability for costs and expenses including legal expenses in defending proceedings whether civil or criminal in which judgment is given in favour of the Officer, the Officer is acquitted, or the court grants relief to the Officer under the Act.

19.3 It is the obligation of the Officer to repay to the Company any advances by the Company if the judgment is not given in the Officer's favour, the Officer is not acquitted, a court determines that the indemnification is not permitted or the indemnification is not permitted by the Act.

19.4 The Directors may out of the funds of the Company pay all costs, losses and expenses which any officer incurs or will incur under any contract entered as a result of an act or thing done by them as an Officer or due to the discharge of their duties.

19.5 Subject to the provisions of the Act, an Officer of the Company is not liable for acts, receipts, neglect or defaults of any other Officer, any loss or damage arising from deposits held by persons or entities that become bankrupt, or any other loss, damage or misfortune which occurs in the execution of the Officer's duties, unless the loss, damage or misfortune occurs through the Officer's own dishonesty.

- 19.6 Subject to law, the Company may pay a premium for a contract insuring a person who is or has been an Officer against any liability incurred by the Officer which does not arise out of conduct involving a wilful breach of duty in relation to the Company or a contravention of sections 182 or 183 of the Act or any liability for costs and expenses incurred by that person in defending proceedings relating to that person's position with the Company, whether civil or criminal and whatever their outcome.
- 19.7 If the Board, Board Members or any Officer of the Company becomes personally liable for the payment of any sum primarily due from the Company, the Board may execute a charge or security over all or part of the Company assets as an indemnity for any loss incurred by the person as a result of the liability.
- 19.8 Subject to the law, the Company may pay insurance premiums in respect of insurance for the benefit of every person who is or has been a Board Member, Secretary, Board Officer acting in that capacity, auditor or employees or others involved in the management of the Company against costs and expenses in defending proceedings whether civil or criminal or a liability arising from negligence or other conduct, except for a liability incurred by the person acting in that capacity and arising out of conduct involving a willful breach of duty in relation to the Company or a breach of the provisions of the Act.

*This is to certify that the Constitution as detailed on these 20 pages
is a true copy as applicable on this7th..day of July 2010.....*

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Director / Secretary