



Constitution



Margaret River Busselton Tourism Association (Inc)

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Constitution

4th February 2015

Operative provisions

1. Name

The name of the Association is Margaret River Busselton Tourism Association (Inc).

2. Rules of Association

This constitution sets out the Association's rules of association for the purposes of Part IV of the Act.

3. Defined Terms

Capitalised terms used in this constitution are defined in rule 22.

4. Objects

(A) The objects of the Association are:

- (i) to promote the Region as a tourist destination;
- (ii) to provide tourist services and attractions;
- (iii) to engage in such commercial activities as are from time to time deemed appropriate for the purpose of raising and attracting funds to assist the Association in the achievement of its objects;
- (iv) to undertake all reasonable measures to protect, preserve and maintain the natural environment of assets under the management and care of the Association; and
- (v) to do or be concerned in any other matters or things which may tend to benefit the residents of, commercial interests in and visitors to the Region but subject always to rule 4(b).

(B) The property and income of the Association shall be applied solely towards the promotion of the Objects of the Association and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members except in good faith in the promotion of those objects.

(C) The Association shall operate in a manner that will have due regard to its members' interests.

5. Membership

(A) Subject to this rule 5 and to acceptance by the Board, any person other than an employee of the Association may become a member of the Association by notice in writing to the Board and payment of the prescribed Subscription. If a membership application is rejected, the applicant shall be entitled to make written or personal representations to the Board, whereupon the Board shall review its decision and subsequently notify the applicant accordingly.

(B) Application for membership is to be made in such form as the Board from time to time directs.

(C) A natural person, corporation, partnership, incorporated association or an authority may be a member. Where a member is not a natural person, the member shall nominate a natural person (Representative) in the notice referred to in rule 5(a), to act on its behalf in the affairs of the Association.

(D) A member may change its Representative, by giving notice to the Board in writing.

(E) A Representative nominated by a member under rule 5(c) or rule 5(d) shall be deemed for all purposes to be the member's agent with the authority to exercise all of the member's rights as a member of the Association until the member gives the Board notice in writing of the revocation of the Representative's appointment.

6. Life members

(A) The Association may nominate a member to be a life member of the Association.

(B) A life member of the Association is not required to pay any Subscription fees, but has all of the rights of any other member of the Association.

7. Cessation of Membership

A member will cease to be a member of the Association if:

(A) having given one month's notice in writing of the member's intention to resign, that notice expires;

- (B) the member dies or ceases to exist;
- (C) the member becomes an employee of the Association;
- (D) the member fails to pay the prescribed Subscription within 30 days of the due date, and fails to remedy that failure within 30 days of receiving notice from the Association of its intention to terminate the membership; or
- (E) the Board, after proper investigation, provided the member is given the opportunity to be heard, decides to expel or suspend a member on the basis that the member's conduct is considered detrimental to the Association's reputation or the achievement of the Association's objects.

8. Subscriptions

- (A) Subscriptions for membership in the Association shall be fixed from time to time by the Board.
- (B) In fixing the Subscriptions, the Board may fix different Subscriptions and payment terms for different classes of members.
- (C) Subscriptions shall be due for payment on the date to be determined by the Board.

9. Register of Members

The Public Officer of the Association shall keep and maintain in an up to date condition, a register of the members of the Association with:

- (A) the member name and if applicable, the name of the Representative nominated in accordance with sub-rule 5(c); and
- (B) the postal addresses of each member; and

upon request of a member of the Association, shall make the register available for the inspection of the member and the member may make a copy of or take an extract from the register but shall have no right to remove the register or use the information contained in the register for any purpose other than in connection with the affairs of the Association.

10. Transitional Board

- (A) The affairs of the Association shall be managed during the Transitional Period by a Transitional Board (which is to be the committee of the Association for the purposes of section 20 of the Act) consisting of 9 Transitional Board members, initially comprising:

- (i) 4 members of the AMRTA board (AMRTA Representatives) appointed by the AMRTA board, one of whom will be a Vice-Chairperson of the Transitional Board;
- (ii) 4 members of the GBTA board (GBTA Representatives) appointed by the GBTA board, one of whom will be a Vice-Chairperson of the Transitional Board; and
- (iii) an independent Chairperson (who is not a member of the ARMTA board or the GBTA board) appointed by the boards of the AMRTA and the GBTA.

(B) The Chairperson, or in his or her absence, a Vice-Chairperson, shall preside over all meetings of the Association and the Transitional Board during the Transitional Period. In the Chairperson's absence, the Vice-Chairpersons will preside on a rotating basis, or as otherwise agreed between the Vice-Chairpersons. Should both the Chairperson and both Vice-Chairpersons be absent from a meeting, the members or Transitional Board members (as appropriate) then present shall elect one of their number to be Chairperson for that meeting.

(C) A member of the Transitional Board shall cease to be a member of the Transitional Board if:

- (i) the member dies or becomes permanently incapacitated;
- (ii) the member resigns by notice in writing delivered to the Public Officer;
- (iii) the member is convicted of an offence under the Act; or
- (iv) the member is absent for 3 scheduled Board meetings in any 12 month period without reasonable cause notified to the Public Officer prior to the meeting.

(D) Four of the members of the Transitional Board (being those members who are selected by the Transitional Board) will retire on or before the 2016 Annual General Meeting.

(E) The remaining members of the Transitional Board will retire on or before the 2017 Annual General Meeting.

(F) Following the retirement of the Transitional Board members pursuant to rule 10(d), replacement Transitional Board members will be elected or appointed in accordance with rule 11. If a person's membership of the Transitional Board ceases during the Transitional Period for any other reason, the Transitional Board shall appoint a replacement Transitional Board member and if the departing member:

- (i) is an AMRTA Representative, the replacement Transitional Board member shall be an AMRTA Representative; and
- (ii) is a GBTA Representative, the replacement Transitional Board member shall be a GBTA Representative.

(G) The rules of this constitution with respect to the Board (other than rule 11 and rule 13) will apply to the Transitional Board in the same way as to the Board except that the provisions of this rule 10 will prevail over any inconsistent rules to the extent of the inconsistency.

11. Board

(A) On and from the expiry of the Transitional Period, the affairs of the Association shall be managed by a Board (which is to be the committee of the Association for the purposes of section 20 of the Act) consisting of 9 members comprising:

- (i) at least 6 elected members, each of whom is to be a Financial Member of the Association and, subject to rule 11(h), is to be elected for a term of 2 years at an Annual General Meeting; and
- (ii) up to 3 appointed members, who may or may not be Financial Members of the Association, who are appointed, from time to time, for a term not exceeding 2 years by a majority of the Board where that majority includes at least 4 elected members.

(B) Subject to rule 11(h), elections to fill vacancies for elected members shall arise with respect to half of the members successively year by year (rounded up or down as necessary to ensure that, during each two year period, elections arise with respect to all elected members).

(C) Only members who have been Financial Members for at least the 12 consecutive months immediately prior to the election and whose Representative (if the member is not a natural person), is a principal of the member, a spouse of a principal of the member or an employee of the member, shall be eligible for nomination to fill a vacancy for an elected member on the Board caused by the effluxion of time.

(D) There is no limit to the number of times a Financial Member may be elected, or a person may be appointed, to the Board.

(E) A person may be reappointed as an appointed member only by a majority of the Board where that majority includes at least 4 elected members.

(F) Board elected member shall cease to be a member of the Board if the member:

- (i) dies or becomes permanently incapacitated;
- (ii) ceases to be a Financial Member of the Association;
- (iii) resigns by notice in writing delivered to the Public Officer;
- (iv) is convicted of an offence under the Act;
- (v) is absent for 3 scheduled Board meetings in any 12 month period without reasonable cause notified to the Public Officer prior to the meeting; or
- (vi) ceases to be the Representative nominated by a member.

(G) A Board appointed member shall cease to be a member of the Board:

- (i) if the member dies;
- (ii) if the member resigns by notice in writing delivered to the Public Officer;
- (iii) if the member is convicted of an offence under the Act;
- (iv) if the member is absent for 3 scheduled Board meetings in any 12 month period without reasonable cause notified to the Public Officer prior to the meeting; or

- (v) if the member's appointment is terminated by way of a motion to that effect passed by at least 4 of the elected members of the Board at a Board meeting.

(H) If a casual vacancy for an elected member occurs:

- (i) the Board may appoint a Financial Member of the Association to fill the vacancy until the next Annual General Meeting;
- (ii) the person filling the vacancy is to be regarded for all purposes as an elected member of the Board; and
- (iii) at the next Annual General Meeting, nominations for election to fill the vacancy are to be called from eligible members in accordance with rule 11(j), except that the requirement of 6 weeks' notice in rule 11(j) may be reduced where this is not possible or practicable as a result of when the casual vacancy occurred.

(I) If a casual vacancy for an elected member occurs and the term of that elected member was not due to expire at the next Annual General Meeting, a member elected at that Annual General Meeting to fill that vacancy is to have a term of one year.

(J) Nominations for election to the Board shall be called from eligible members, by the Public Officer six weeks before the Annual General Meeting, by notice in writing to each member.

(K) Nominations must be made on the form accompanying the notice, signed by the nominator who must be a Financial Member and signed by the nominee who must consent to the nomination and include a brief credential statement. The nominator and nominee may be the same person.

(L) Nominations shall close 2 weeks after being called, whereupon the Public Officer in the week next following, shall circulate a list of the nominees with a copy of their credentials and if the number of nominations exceeds the number of vacancies, a postal ballot form to each member.

(M) If the same number of nominations as there are vacancies or less are received, the Chairperson of the Annual General Meeting or in the case of a casual vacancy, the Chairperson of the next succeeding Board meeting, shall declare the members so nominated duly elected as members of the Board.

(N) If more nominations than vacancies are received, the Public Officer shall cause a postal ballot to be held to elect members to fill the vacancies. The Chairperson of the Annual General Meeting - or in the case of a casual vacancy, the Chairperson of the next succeeding Board meeting - shall declare sufficient members receiving a simple majority of the votes, duly elected as members of the Board.

(O) If less nominations than there are vacancies are received, each vacancy unfilled shall be filled by the Board at its first meeting following the Annual General Meeting as if it were a casual vacancy, as provided in rule 11(h).

12. Powers of the Board

- (A) Subject to the powers of the members at General Meetings under this constitution and the Act, the Board shall have all such powers and do all such things as are necessary to carry out the objects referred to in rule 4 and the day to day management of the Association.
- (B) The Board may delegate specific powers to persons employed in the service of the Association and may revoke or vary such powers.
- (C) The Board may form sub-committees to which specific powers are delegated other than:
- (i) the power of delegation; and
 - (ii) a function or power which is a duty imposed on the Board by the Act or any other law.
- (D) The Board may cancel the appointment of the sub-committee so formed at any time.
- (E) A sub-committee may have in its composition Financial Members, advisers or employees in addition to members of the Board, provided that Financial Members shall not be in a minority at its meetings and a member of the Board shall be Chairperson.
- (F) The Board may make bylaws for the regulation of the conduct of persons at the Association's premises or at tourist attractions managed or conducted by the Association; including the price of admission, the issuance of free passes, the times and dates of opening Association premises and attractions. The bylaws may include the power to refuse entry to or eject from the premises or attractions, any person whose presence or actions may not be conducive to the attainment of the objects in rule 4.
- (G) The Board may resolve to pay an honorarium or stipend to the Chairperson.
- (H) The Board may appoint a Chief Executive Officer from time to time.

13. Chairperson

- (A) The Chairperson and Vice-Chairperson of the Board are each:
- (i) to be elected by, and from, the members of the Board by way of a motion passed by at least 4 of the elected Board members at a Board meeting; and
 - (ii) to hold office from their election until the first meeting of the Board after the next Annual General Meeting.
- (B) The Chairperson and Vice-Chairperson may be elected:
- (i) at the first meeting of the Board after the Annual General Meeting by, and from, the elected members of the Board; or

- (ii) at any meeting of the Board by, and from, the elected and appointed members of the Board.

(C) The Chairperson, or in his or her absence, the Vice-Chairperson, shall preside over all meetings of the Association and the Board.

(D) Should both the Chairperson and the Vice-Chairperson be absent from a meeting, the members or Board members (as appropriate) then present shall elect one of their number to be Chairperson for that meeting.

14. Public Officer

(A) Unless the Board appoints another, the Association's Chief Executive Officer shall be the Public Officer.

(B) The Public Officer shall be responsible for:

- (i) Maintenance of an office at the principal place of business of the Association and lodging with the Commissioner, a notice of an address for the service of any process, notice or other document on the Association.
- (ii) Giving notice to members, in accordance with these rules, of the date, time and place of General and Board meetings.
- (iii) The preparation and presentation of minutes of General and Board meetings.
- (iv) The preparation and presentation of the annual accounts to the Annual General Meeting.
- (v) Preparation and presentation of reports to the Board, on the operation of the Association.
- (vi) Preparation and maintenance of the Register of Members.
- (vii) Maintenance of an up to date copy of the rules and bylaws of the Association.
- (viii) Maintenance of an up to date copy of the record of office holders of the Association containing the names and residential or postal addresses of the persons who hold the offices of the Association. Upon the request of a member of the Association, the Public Officer shall make the record of office holders available for the inspection of the member and the member may make a copy of or take an extract from the record but shall have no right to remove the record for that purpose.
- (ix) Maintenance and safekeeping of all records, books of account and securities and the carrying out of such other matters as are prescribed by the rules.
- (x) Acting as Returning Officer, for the determination of the numbers of votes cast in postal ballots called under this constitution.

15. Meetings of the Board

- (A) The Board shall meet at least once every 2 months for conducting the business of the Association, at a time and place fixed by the Board provided that, subject to rule 15(g), at least 7 days' notice of such meeting must be given to Board members.
- (B) A quorum of 5 Board members shall be present before the meeting can commence.
- (C) If there is no quorum present within 30 minutes of the time fixed for the Board meeting, the meeting shall be abandoned and the Public Officer, under the direction from the Chairperson, shall give members at least seven days' notice of the next meeting.
- (D) Matters before the Board shall be decided by majority vote but where there is an equality of votes, the Chairperson shall have a casting vote in addition to the deliberative vote only if all Board members able to vote have voted.
- (E) A Board member with a conflict of interest with respect to a matter under Board consideration must declare their conflict and abstain from voting on the matter.
- (F) Members may attend a Board meeting under such conditions as the Board may fix from time to time. Having fixed the conditions for attendance at the Board meetings, the Board shall as soon as practicable, advise members of the conditions so fixed.
- (G) An exceptional Board meeting may be convened by the Chairperson, or by 4 or more Board members (comprising, during the Transitional Period, at least 2 AMRTA Representatives and at least 2 GBTA Representatives), to deal with matters requiring urgent attention when and at such place and time as he, she or they think fit (as applicable), by giving each Board member not less than 24 hours' notice of the meeting.

16. Independent Local Tourism Organisation

The Association shall at all times operate as an independent local tourism organisation.

17. Meetings of the Association

- (A) Subject to rule 17(c), the Annual General Meeting of the Association shall be held each year between 1 July and 31 October.
- (B) Members shall receive at least 21 days' notice in writing to the address appearing in the Register of Members, of the date, time and place of the Annual General Meeting, together with a statement showing the number of vacancies to be filled in the Board and a nominations form.
- (C) At least 2 weeks before the Annual General Meeting, members shall be provided with a statement showing the number of vacancies, a copy of the credentials supplied by each nominee,

notice of any motion to be put to the Annual General Meeting and detail of any special matter to be raised by the Chairperson.

(D) 20 Financial Members shall be a quorum and, if that number is not present within 30 minutes of the advertised time for the meeting, the meeting shall be abandoned and a new date advertised, even though the date is not within the time prescribed by rule 17(a).

(E) Except as is otherwise provide for in this constitution voting on any matter before the meeting shall be by a show of hands, with the matter being determined by a simple majority. The Chairperson shall declare the result.

(F) In the event of at least 6 members disagreeing with the declaration by the Chairperson, the matter shall be decided by poll in a manner to be determined by the Chairperson. The Chairperson shall have a deliberative and casting vote.

(G) A member may appoint in writing a representative, who is a natural person, to be the proxy of the appointing member and to attend, and vote on behalf of the appointing member at, any General Meeting. The proxy appointment must be in the form approved by the Board from time to time.

(H) Proxy appointments must be received in writing by the Public Officer at least 72 hours before the commencement of the General Meeting.

(I) Except at the first Annual General Meeting of the Association, no member shall be entitled to vote, whether by show of hands, proxy, postal vote, ballot or poll, unless that member is a Financial Member and has been a Financial Member for at least 3 months.

(J) A member entitled to vote on any matter before an Annual General Meeting, who is unable to attend, may vote by postal vote or by written proxy to another person who is able to attend and that person may cast a vote on behalf of the member.

(K) Non-Financial Members may attend an Annual General Meeting, may speak on any matter before the meeting but shall not be entitled vote in determining the matter.

(L) Persons not being members may attend an Annual General Meeting on such conditions as the Chairperson may prescribe but in any event, shall not speak on any matter before the meeting unless so requested by the Chairperson.

(M) The order of business for an Annual General Meeting shall be:

- (i) Welcome;
- (ii) Apologies;
- (iii) Minutes of the last Annual General Meeting;
- (iv) Minutes of any Special General Meetings held during the year;
- (v) Matters arising from those minutes;
- (vi) Chairperson's report;
- (vii) Financial Statements; and
- (viii) General Business.

- (N) Minutes of the last Annual General Meeting, minutes of any Special General Meetings held during the year and the Financial Statements to be presented to an Annual General Meeting shall be made available on request to members, at the principal place of business of the Association during the week immediately prior to the Annual General Meeting.
- (O) Special General Meetings of the Association may be called for by the Board or by at least 20 Financial Members giving a request to the Public Officer, indicating the matter to be decided.
- (P) In either event, the Public Officer shall arrange for a Special General Meeting to be held within 45 days of the request, by giving appropriate notice to the members as prescribed in rule 17(b).
- (Q) The other provisions of this rule, relating to Annual General Meetings, shall be applied with suitable modification to a Special General Meeting, provided that no matter other than that described in the request may be dealt with.
- (R) Any resolution by members at an Annual General Meeting or a Special General Meeting, which seeks to amend this constitution or which seeks to effect a winding up of the Association, shall not be valid unless notice has been given that the resolution is to be a Special Resolution.

18. Finance

- (A) All financial arrangements undertaken by or for the Association shall conform with legal requirements and good accounting and business practice.
- (B) All payments by the Association and to the Association shall be recorded in appropriate books of account, with receipts given for all monies received and cheques or remittance advices written for all monies paid.
- (C) All monies received by the Association shall be deposited or electronically transferred into a cheque account at a trading bank.
- (D) Payments made by the Association may only be drawn on deposited funds or within overdraft limits set for operational purposes pursuant to a prior commitment authorized by budget or a Board resolution and signed by the Public Officer and a member of the Board specifically named for that purpose.
- (E) Remittances in payment of members' Travel Trust Account balances due shall be signed by the Public Officer and one senior employee designated by the Board.
- (F) Funds in excess of normal operating requirements may be invested in a nominated bank account or other authorized trustee securities.
- (G) The books of account shall be kept in such a manner as will enable true and fair accounts of the Association to be prepared and audited from time to time.
- (H) The accounts presented to the Annual General Meeting shall consist of an income and expenditure account and a balance sheet duly audited by a person qualified for that purpose. The

auditor shall be appointed by the Board at the first meeting of the Board next following the Annual General Meeting.

(I) The Board is not empowered to enter into a lease of property or contract or contracts for the development of a project which in total will cost the Association an amount equal to more than 25% of its previous year's gross revenue, without the prior approval of members of the Association.

(J) The Financial Year shall commence on July 1st.

19. Constitution and Bylaws

(A) This constitution, including the name of the Association, may be amended only by a Special Resolution of the Association.

(B) Amendment of this constitution shall commence by way of notice of meeting giving precise detail of the amendment sought and a brief statement setting out the reason for the amendment.

(C) Copies of the up to date constitution and bylaws shall be available for inspection by members at the principal place of business of the Association. Members are entitled to a free copy of the constitution on becoming a member of the Association and whenever there is a change of the constitution. Other copies may be made available to members at a cost.

20. Common Seal

(A) The Association shall have a common seal on which its corporate name shall appear in legible characters.

(B) The common seal of the Association must not be used without the express authority of the Board. Every use of the common seal shall be recorded in the minutes of the Board meeting following its use and in the Register which is kept for that purpose.

(C) The affixing of the common seal of the Association shall be witnessed by the Chairperson of the meeting authorising its use and either one other member of the Board specifically named for that purpose or the Public Officer. If the Chairperson is unable to attend the affixing of the seal, then the Public Officer shall obtain Board approval for one of its members to so act.

(D) The common seal of the Association shall be kept in the custody of the Public Officer.

21. Winding Up

Upon winding up or dissolution, any surplus property must be given or transferred to another association incorporated under the Act which has similar objectives and which is not carried out for the purposes of profit or gain to its individual members, and which association shall be determined by resolution of the members.

22. Definitions

In this constitution:

Act means the Associations Incorporation Act 1987 (WA).

AMRTA means the Augusta Margaret River Tourism Association (Inc).

Annual General Meeting means a meeting convened under rule 17 (a) and (b).

Association means the Margaret River Busselton Tourism Association (Inc).

Board means the board of the Association constituted pursuant to rule 11.

Chairperson means the person performing the functions described in rule 13 or rule 10.

Chief Executive Officer means the person appointed in accordance with rule 12(h).

Commissioner means the person designated as the Commissioner under section 39A of the Act.

Financial Member means a member who has paid the Subscription.

Financial Year means a period commencing 1 July and ending on 30 June in the following year.

GBTA means Geographe Bay Tourism Association (Inc).

General Meeting means a meeting to which all members of the Association are invited.

Public Officer means the person appointed in accordance with rule 14(a).

Region means the area within the boundaries of the City of Busselton and the Shire of Augusta Margaret River, and such other areas as are determined by the Board from time to time having regard to the geographic spread of Financial Members.

Register of Members means the register of members kept by the Association in accordance with rule 9.

Representative means a natural person appointed by a member who is not a natural person to act as its representative in accordance with rule 5.

Special General Meeting means a General Meeting other than Annual General Meeting.

Special Resolution means a resolution passed by a majority of not less than three-quarters of the members who are entitled under this constitution to vote, in attendance (either in person or by proxy) at a General Meeting of which notice specifying the intention to propose the resolution as a special resolution was given in accordance with this constitution.

Subscription means the fee payable for membership of the Association in accordance with rule 8.

Transitional Board the board of the Association during the Transitional Period constituted pursuant to rule 10.

Transitional Period means the period from the incorporation of the Association until [the Association's 2017 Annual General Meeting] or any earlier date determined by the Transitional Board.

Vice-Chairperson means a vice-chairperson referred to in rule 13 or rule 10.