



8 Parliament Street  
Brighton Victoria  
3186 Australia

ABN 96 128 871 698  
ACN 128 871 698

p +61 3 9592 3636  
m +61 (0) 417 616 805  
e [chris@venuelegal.com](mailto:chris@venuelegal.com)

Our Ref: CF:21521

15 March 2021

Tim Gledhill  
CEO  
Sandhurst Club Ltd  
75 Sandhurst Blvd  
SANDHURST VIC 3977

Dear Tim

**RE: Constitution - Voting Rights**

We refer to your email to the writer dated 5 March 2021 and confirm that you seek advice on voting rights for Sandhurst shareholders and members. Our advice follows.

We confirm that there are two relevant entities, being Sandhurst Holdings (Australia) Limited and Sandhurst Club Limited. The Constitutions of the two entities are different and will be considered separately.

**Sandhurst Holdings (Australia) Limited**

Sandhurst Holdings (Australia) Limited is a company limited by shares. The Constitution provides for different types of shares (Individual, Family and Corporate).

From the Completion Date (as defined in the Constitution), Shareholders have the right to vote at General Meetings of the Company pursuant to clause 12.2 of the Constitution. For the purpose of this advice, it is assumed that the Completion Date has passed.

There is also a reference to 'Manager Members' and 'Non-Participating Members'.

Manager Members have a right to vote at General Meetings, but only prior to the Completion Date (clause 12.3). It is therefore assumed, for the purpose of this advice, that Manager Members no longer have a right to vote.

Non-Participating Members have a right to vote at General Meetings, but only in respect of matters affecting the Club Facilities and the provision of those facilities to Non-Participating Members or as otherwise specifically provided in the Constitution (clause 12.4).



8 Parliament Street  
Brighton Victoria  
3186 Australia

ABN 96 128 871 698  
ACN 128 871 698

p +61 3 9592 3636  
m +61 (0) 417 616 805  
e [chris@venuelegal.com](mailto:chris@venuelegal.com)

Shareholders, Manager Members and Non-Participating Members are together referred to in the Constitution as 'Interest Holders'.

For the purpose of voting at General Meetings, clause 18.5 provides that resolutions put to a vote will be decided on a show of hands unless a poll is demanded. There are specific provisions dealing with how a poll may be demanded, which are broadly in line with common corporate procedures (eg five Interest Holders may demand a poll).

Clause 18.7 deals with votes. It provides that subject to clause 12 (which as indicated earlier deals with the right to vote of Interest Holders), each Interest Holder is entitled to one vote on a show of hands or on a poll.

Accordingly, in my view, a Shareholder (who is an Interest Holder) is only entitled to one vote regardless of how many shares (or types of shares) in the company that Shareholder owns.

This is contrary to the position set out in section 250E(1) of the *Corporations Act 2001*, which provides that on a poll, each member has one vote *for each share they hold*. However, section 250E is a 'replaceable rule' and clause 7 of the Constitution states, as it is entitled to, that the replaceable rules do not apply to the company.

### **Sandhurst Club Limited**

Sandhurst Club Limited is a company limited by shares. There are many different types of members of the company, each with different rights.

Clause 13 of the Constitution sets out the right of members to vote at General Meetings. The following types of Members have a right to vote, but only from the Completion Date (which is defined in the same manner as in the Constitution of Sandhurst Holdings (Australia) Limited): Resident, Individual Shareholder, Family Shareholder and Corporate A, B & C.

For the purpose of voting at General Meetings, clause 19.5 provides that resolutions put to a vote will be decided on a show of hands unless a poll is demanded. There are specific provisions dealing with how a poll may be demanded, which are broadly in line with common corporate procedures (eg five Members may demand a poll).

Clause 19.7 deals with votes. It provides that subject to clause 13 (which as indicated earlier deals with the right to vote of Members), each Member is entitled to one vote on a show of hands or on a poll.

Accordingly, in my view, a Member is only entitled to one vote regardless of how many memberships (or types of memberships) in the company that Member owns.



8 Parliament Street  
Brighton Victoria  
3186 Australia

ABN 96 128 871 698  
ACN 128 871 698

p +61 3 9592 3636  
m +61 (0) 417 616 805  
e [chris@venuelegal.com](mailto:chris@venuelegal.com)

This is contrary to the position set out in section 250E(1) of the *Corporations Act 2001*, which provides that on a poll, each member has one vote for each share they hold. However, section 250E is a 'replaceable rule' and clause 7 of the Constitution states, as it is entitled to, that the replaceable rules do not apply to the company.

Whilst I do not agree with all aspects of the earlier advice you received on this matter, I confirm that the substance of this advice (namely, one vote per shareholder or member regardless of the number of shares or memberships held) is broadly in line with that earlier advice.

If any clarification of this advice is required, please let me know.

Yours faithfully  
**Venue Legal Consulting Pty Ltd**

A handwritten signature in black ink, appearing to read "C. Farrell", is written over a light grey rectangular background.

Chris Farrell