

## **EXPLANATORY MEMORANDUM.**

This Explanatory Memorandum and the attachments to it are important documents. They should be read carefully.

### **Election of Directors:**

It is an obligation of the ASX Listing Rules that Flight Centre Limited has a minimum of three independent, non-executive directors on its board of directors and as members of the audit committee. With the proposed standing down of incumbent directors Mr Bruce Brown and Mr Howard Stack from 2 November 2007, the following two candidates have been proposed for the members to elect.

#### **1. Election of Mr. Peter Morahan to the position of Director**

Shareholders will be asked to vote on a proposal to elect Mr. Peter Morahan to the position of director of Flight Centre Limited. As a non-executive director, Mr. Morahan will also be a member of the Audit Committee.

Peter, 47, has been at the heart of Moreton Hire's transformation over the past 25 years from a small family business into a large national logistics group with a diverse range of business units. Today, Moreton Hire is Australia's leading exhibition and event hire company, with a workforce of more than 300 full-time and casual employees in Brisbane, Sydney and Melbourne and an annual client portfolio of more than 700 events, exhibitions and conferences.

Peter, a father-of-seven, joined the company at age 17, following the death of his father, and has overseen its evolution, diversification and growth. Under his leadership, Moreton Hire has consistently achieved double-digit profit growth through a strong commitment to customer service, geographic expansion and product and service diversification.

In his current capacity as executive chairman of the investment company that owns the business, Peter's priorities include charting Moreton Hire's future direction, growth strategies and corporate governance. During the past two years, he has focused on positioning Moreton Hire for the longer-term future, through organic growth strategies, acquisitions and by bolstering the business's management to decrease reliance on the founding Morahan family.

Peter is an active member of the Young Presidents' Organisation, the Australian Institute of Company Directors and the Australian Institute of Management. He has studied extensively in the areas of business, marketing, strategy, leadership and decision making.

#### **2. Election of Mr. Gary Smith to the position of Director**

Shareholders will be asked to vote on a proposal to elect Mr. Gary Smith to the position of director of Flight Centre Limited. As a non-executive director, Mr. Smith will also be a member of the Audit Committee.

Gary, 47, has vast tourism industry experience and has served on a diverse range of Boards and tourism industry related government bodies during the past 20 years. He is currently managing director of Tourism Leisure Corporation and the Kingfisher Bay Resort Group of companies, Queensland Tourism Industry Council chairman, an Ecotourism Australia Board member and a Queensland Tourism Strategy Steering Committee member.

After completing a Bachelor of Commerce degree at University of Queensland, Gary joined international accounting and consultancy firm Arthur Andersen & Co's financial consulting division, where he qualified as a chartered accountant. He then embarked on what has become a highly successful career in the travel industry when he became founding director and full time executive of Queensland Tourism Industries Limited, a public company that listed on the Australian Securities Exchange in 1987.

In 1996, Gary founded Tourism Leisure Corporation, a diverse business that today operates the Undara Lava Experience in the Gulf Savannah region, Twin Waters Golf Course on Queensland's Sunshine Coast, a number of backpacker-related businesses and the Kingfisher Bay Resort (KBRV) Group. As a director of the KBRV Group, Gary has maintained an active involvement in strategic, financial, managerial and operational aspects relating to Fraser Island's multi award winning Kingfisher Bay Resort & Village project since its inception in 1987.

Gary, a Fellow of the Australian Institute of Company Directors, was an independent director of S8 Limited from soon after its inception until its acquisition by MFS Limited in 2007.

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### 3. Adoption of Constitution

Shareholders will be asked to vote on a proposal to adopt a new version of the constitution to govern Flight Centre Limited.

The existing constitution is the original memorandum and articles of association as adopted by the members of Flight Centre Limited upon its conversion to that of a public company. As of 1 July 1998, the company's memorandum and articles of association were taken together to form the company's constitution, in line with amendments to the Corporations Law.

The company's directors are hereby tabling a new constitution to the members to repeal the current constitution in its entirety and to adopt the new version (as available on the company's website <http://www.flightcentre.com.au/aboutus/investors/>).

The existing articles of association are silent on many issues that have developed in the business community since 1995 when they were drafted. Hence, a new constitution has been drafted to provide the company and its shareholders increased guidance for its future operations.

The table below has been developed to identify variances between the existing Articles of association and the proposed constitution.

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Current Articles of Association	Constitution proposed to be adopted	How does the Constitution proposed to be adopted alter the current Articles of Association?
<p>7. <u>Class of shares</u></p> <p>"(2) The right attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied:</p> <p>(a) with the consent in writing of the holders of three-fourths of the issue shares of that class; or</p> <p>(b) with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class."</p>	<p>Does not provide specifically for the variation of class rights. Therefore, it relies on the powers given by the <i>Corporations Act 2001</i> (Cth) (the <i>Act</i>).</p>	<p>Section 246B(2) of the Act provides that "If a company does not have a constitution, or has a constitution that does not set out the procedure for varying or cancelling:</p> <p>(a) for a company with a share capital – rights attached to shares in a class of shares; or</p> <p>(b) for a company without a share capital – rights of members of members in a class of members;</p> <p>those rights may be varied or cancelled only by special resolution of the company and:</p> <p>(c) by special resolution passed at a meeting:</p> <p>(i) for a company with a share capital of the class of members holding shares in the class; or</p> <p>(ii) for a company without a share capital of the class of</p>

		<p>members whose rights are being varied or cancelled; or</p> <p>with the written consent of members with at least 75% of the votes in the class."</p> <p><i>Therefore, the Constitution proposed to be adopted does not alter clause 7(2) of the current Articles of Association as section 246B(2) of the Act has the same effect as clause 7(2) of the current Articles of Association.</i></p>
<p>11. <u>Register of debenture holders: suspension</u></p> <p>"If at any time the Company has issued debentures and keeps a register of debenture holders, the Company may close its register of debenture holders during a period or periods not exceeding in aggregate 30 days in any calendar year."</p>	<p>Does not make specific provision for suspension of register of debenture holders</p>	<p><i>The proposed Constitution alters the existing Articles of Association as it removes the Company's right to close its register of debenture holders during a period or periods not exceeding in aggregate 30 days in any calendar year.</i></p>
<p>13. <u>Share certificates</u></p> <p>"(1) Subject to Article 12, a person whose name is entered as a member in the register of members is entitled without payment to receive a certificate in respect of the member's shares under the Seal or otherwise in accordance with the Law."</p> <p>15. <u>Worn out or defaced share certificates</u></p> <p>"(2) The Company:</p>	<p>11. <u>Certificates</u></p> <p>"Directors may determine to issue certificates for Securities of the company and to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form they determine from time to time."</p>	<p>Section 1071H(a) of the Act provides that "within 2 months after a company issues a security, the company must...complete and have ready for delivery to the holder of the security all the appropriate certificates or other title documents in connection with the issue of the security".</p> <p>Section 1070D(3) provides that "a company must, in accordance with subsection (4), issue a</p>

<p>(a) is to issue a certificate in replacement of a worn out or defaced certificate only if the certificate to be replaced is received by the Company for cancellation and is cancelled; and</p> <p>(b) may require the payment of any amount (not exceeding any maximum amount prescribed by the Corporations Law) as the Directors determine in connection with the issue of a replacement certificate."</p>		<p>duplicate certificate or other title document for securities if:</p> <p>(a) the certificate or document is lost or destroyed; and</p> <p>(b) the owner of the securities applies to the company for the duplicate in accordance with subsection (5); and</p> <p>(c) the owner complies with any requirements made in accordance with subsection (6)."</p> <p><i>The Constitution proposed to be adopted does not alter clauses 13 and 15 of the current Articles of Association as sections 1071H(a) and 1070D(3) of the Act have the same effect as clauses 13 and 15 of the current Articles of Association.</i></p>
<p><b>17. Exercise of lien</b>  "(2) A share on which the Company has a lien may not be sold unless:</p> <p>(a) a sum in respect of which the lien exists is payable; and</p> <p>(b) at least seven days before the date of the sale, the Company has given to the member of the share or the person entitled to the share by reason of</p>	<p><b>18. Sale of Shares to Enforce Lien</b>  "(a) For the purpose of enforcing a lien, the Directors may sell the shares which are subject to a lien in any manner they determine and with or without giving any notice to the shareholder in whose names the shares are registered. The Directors may authorise a person to do everything necessary to transfer the shares sold to the purchaser of the shares."</p>	<p><i>The Constitution proposed to be adopted alters clause 17(2) of the existing Articles of Association as it does not require directors to give 7 days notice to the shareholder in whose name shares subject to a lien are registered prior to selling those shares.</i></p>

<p>death or bankruptcy of the member, a notice in writing demanding payment of the sum."</p>		
<p>20. <u>Directors' power to make calls</u>          "(2) On receiving at least 14 days' notice specifying the time and place of payment, each member must pay to the Company at the time and place so specified the amount called on the member's shares."</p>	<p>No similar provision.</p>	<p>Section 254M(1) provides that "If shares in a company are partly-paid, the shareholder is liable to pay calls on the shares in accordance with the terms on which the shares are on issue."   <i>Therefore, the proposed Constitution alters clause 20 of the existing Articles of Association as it does not specify the maximum time within which payment must be made by a member on a call on their shares. The position under the proposed Constitution will be that under the Act which requires the shareholder to pay calls on the shares in accordance with the terms on which the shares are issued.</i></p>
<p>31. <u>Notice of non-registration</u>          "If the Directors decline to register any transfer of securities, the Company must within five Business Days after the transfer is lodged with the Company give to the person who lodges the transfer written notice of, and the precise reasons for, the decision to decline registration."</p>	<p>No similar provision.</p>	<p>Section 1071E of the Act provides that if a company refuses to register a transfer of a security of the company, it must, within 2 months after the date on which the transfer was lodged with it, give the transferee notice of the refusal. <i>The proposed Constitution alters the existing Articles of Association as it does not require directors to disclose grounds or reasons for a refusal to register a transfer.</i></p>

<p>32. <u>Suspension of transfers</u>          "To the extent permitted any period as the Directors from time to time decide. The aggregate of those periods must not exceed in the aggregate 30 days in any calendar year."</p>	<p>No specific provision in relation to suspension of registration of transfer of securities.          Therefore, it relies on the powers given by the Act.</p>	<p>Section 1071B provides that a company must only register a transfer of securities if a proper instrument of transfer has been delivered to the company. This is so despite anything in its constitution.  <i>Therefore, the proposed Constitution alters clause 32 of the existing Articles of Association only to the extent that it deletes the express right of directors to suspend the registration of transfers of securities.</i></p>
<p>40. <u>Powers of Directors</u>          "(3) The proceeds of sale of a forfeited share are to be applied by the Company in the following order:</p> <ul style="list-style-type: none"> <li>(a) first, in payment of all costs of or in relation to the sale;</li> <li>(b) next, in satisfaction of the amount in respect of the shares as is then payable to the Company (including interest);</li> <li>(c) last, the residue (if any) to or at the direction of the person registered as the holder of the shares immediately prior to the sale or to the person's estate, on production of any evidence as to title required by the Directors." </li></ul>	<p>17. <u>Disposal of Forfeited Shares</u>          "Any forfeited share is considered the property of the company and the Directors may sell or otherwise dispose of or deal with the share in any manner they determine and with or without any money paid on the share by any former holder being credited as paid".</p>	<p><i>The proposed Constitution alters clause 40 of the existing Articles of Association as it does not specify the order in which the proceeds of sale of a forfeited share must be applied by the Company. Instead the proposed Constitution allows the Directors to deal with the forfeited shares in any manner they determine.</i></p>
<p>43. <u>Evidentiary matters</u></p>	<p>No such evidentiary provision.</p>	<p><i>The proposed Constitution alters clause</i></p>

<p>"Without prejudice to Article 42, a statement in writing by a Director or a secretary of the Company to the effect that:</p> <ul style="list-style-type: none"> <li>(a) a share in the Company has been duly forfeited on a date specified in the statement; or</li> <li>(b) a particular sum is payable by a member or former member to the Company as at a particular date in respect of a call or instalment of a call (including interest),</li> </ul> <p>is prima facie evidence of the facts set out in the statement as against all persons claiming to be entitled to the share and against the member or former member who remains liable to the Company under Article 41."</p>		<p><i>43 of the existing Articles of Association as it does not contain any similar evidentiary provision.</i></p>
<p><b>71. <u>Where proxy is incomplete</u></b>  "(1) No instrument appointing a proxy is treated as invalid merely because:</p> <ul style="list-style-type: none"> <li>(a) it does not contain the address of the appointor or of a proxy;</li> <li>(b) it is not dated; or</li> <li>(c) it does not contain in relation to any or all resolutions, an indication of the manner in which the proxy is to vote." </li></ul>	<p><b>43. <u>Form of Proxy</u></b>  "(c) Any appointment of proxy under this rule 43 which is incomplete may be completed by the Secretary on the authority of the Directors and the Directors may authorise completion of the proxy by the insertion of the name of any Director as the person in whose favour the proxy is given."</p>	<p><i>The proposed Constitution alters clause 71 of the Articles of Association as it allows a Secretary on the authority of the Directors to complete an incomplete proxy rather than merely treating the proxy as valid.</i></p>
<p><b>72. <u>Rights of officers and advisers to attend general meeting</u></b></p>	<p>No similar provision.</p>	<p>Section 249V of the Act provides that a company's auditor is entitled to attend</p>



<p>"(1) A Director who is not a member is entitled to present and to speak at any general meeting.</p> <p>(2) A secretary who is not a member is entitled to be present and, at the request of the chairman, to speak at any general meeting.</p> <p>(3) Any other person (whether a member or not) requested by the Directors to attend any general meeting is entitled to be present and, at the request of the chairman, to speak at that general meeting."</p>		<p>any general meeting of the company and be heard at the meeting on any part of the business of that meeting that concerns the auditor in their capacity as auditor.</p> <p><i>The proposed Constitution alters clause 72 of the existing Articles of Association as it does not allow a director who is not a member, a secretary who is not a member or any other person who is not a member other than the company's auditor to attend and speak at a general meeting.</i></p>
<p>109. <u>Notices of general meeting</u></p> <p>(1) Notice of every general meeting must be given in the manner authorised by Article 108:</p> <ul style="list-style-type: none"> <li>(a) subject to Article 110, to every member and director;</li> <li>(b) to every person entitled to a share in consequence of the death or bankruptcy of a member who, but for death or bankruptcy, would be entitled to receive notice of the meeting; and</li> <li>(c) to the auditor to the Company.</li> </ul> <p>(2) Notice of every general meeting must also be given in accordance with the Listing Rules to any other</p>	<p>No such specific provision.</p>	<p>Section 249J(1) of the Act provides that written notice of a meeting of shareholders must be given individually to each shareholder entitled to vote and to each director. Section 249K provides that an auditor is entitled to the same notice and any other related communications as a shareholder is entitled to receive.</p> <p><i>Therefore, the proposed Constitution does not alter clause 109 of the existing Articles of Association as section 249J(1) of the Act has the same effect as that clause.</i></p>

<p>person to whom the Company is required to give notice under the Listing Rules.</p> <p>(3) No other person is entitled to receive notice of general meetings."</p>		
<p>Does not make specific provision for the sale of small shareholdings.</p>	<p>Clause 73 of the Constitution makes specific provision for the sale of small shareholdings. It sets out the following relevant definitions:</p> <ul style="list-style-type: none"> <li>(a) "Small Holder" means a shareholder who holds less than a Marketable Parcel of shares in the company (i.e. less than \$500) but does not include a Prescribed New Small Holder.</li> <li>(b) "Prescribed New Small Holder" means a New Small Holder which the company determines should be treated as a Prescribed New Small Holder with the consequences set out in this rule and, accordingly, is a person whom the company determines to send a divestment notice.</li> <li>(c) "New Small Holder" means a shareholder who holds less than a Marketable Parcel of shares in the company where: <ul style="list-style-type: none"> <li>(A) the holding is a new holding created by the transfer of a parcel of shares that was less than a</li> </ul> </li> </ul>	<p><i>The proposed Constitution alters the existing Articles of Association as it allows the company to issue a divestment notice to a small shareholder notifying the shareholder that the company intends to sell or arrange for the sale of its shares.</i></p>

	<p>Marketable Parcel at the time a proper ASTC transfer was initiated or a paper based transfer was lodged ;and</p> <p>(B) the transfer occurred after the date on which this rule 73 was included in this Constitution.</p> <p>(d) "Specified Period" means either:</p> <p>(A) a period of not less than six weeks after the date on which the company sends to a shareholder a divestment notice; or</p> <p>(B) if the company in its discretion determines in the case of a New Small Holder, the period of seven days after the date on which the company sends to a shareholder a divestment notice.</p> <p>Clause 73 allows the Secretary to send a notice to a Small Holder or a Prescribed New Small Holder to the effect that the company intends to sell or arrange the sale of the shares of the shareholder as the shareholder's agent unless within the Specified</p>	
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	<p><b>Period:</b></p> <ul style="list-style-type: none"> <li>(a) the shareholding of the shareholder increases to at least a Marketable Parcel and the shareholder notifies the company in writing of the increase;</li> <li>(b) the shares are sold by the shareholder; or</li> <li>(c) (save in respect of Prescribed New Small Holders who are not entitled to give notice of a wish to retain the relevant shares) the shareholder gives to the company a written notice that the shareholder wishes to retain the relevant shares.</li> </ul> <p>The company will bear the cost of sale of the transferor of shares sold under this rule.</p>	
<p>Does not make specific provision for an employee share plan</p>	<p>Clause 75 of the Constitution makes specific provision for an employee share plan subject to the ASX listing rules.</p>	<p><i>The proposed Constitution does not alter the existing Articles of Association in this respect as under the Act the Company already has a right to implement an employee share plan subject to the ASX listing rules.</i></p>