



CONSTITUTION
of
NEWCASTLE CRUISING
YACHT CLUB LIMITED

ABN: 72 064 201 029

15 March 2010

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General

1. Definitions and Interpretation

1.1. Definitions

In this Constitution:

“**Act**” means the *Corporations Act 2001* and includes any act passed in substitution for or in addition to the Act, and regulations made under the Act;

“**Annual General Meeting**” means the general meeting held each year as required by the Act;

“**Board**” means the whole or any number of the Directors assembled at a meeting of Directors, being not less than a quorum or majority, as the case may require;

“**Boat**” means a cruiser, power boat or motor-sailer all being of or over five (5) metres in length;

“**Club**” means Newcastle Cruising Yacht Club Limited, ABN 72 064 201 029;

“**Constitution**” means this constitution;

“**Director**” means a director of the Club.

“**Full Member**” means a person who is a General Member, Crew Member, Social Member, Junior Member, Special Member or Life Member (as these terms are defined in clause 13 of the Constitution) of the Club;

“**Membership Register**” means the register of Members kept pursuant to the Act;

“**Month**” means calendar month;

“**Owner**”, in relation to a yacht or boat, means either:

- (a) a person who is the sole owner thereof or is one of no more than three co-owners thereof and has an undivided interest of at least one third; or
- (b) in the case of a boat or yacht whose legal owner is a company, a person who proves to the Board's satisfaction that they are the controlling owner of the boat or yacht.

“**Sailing Yacht**” means a commissioned single-hulled sailing vessel having a waterline length of not less than 18 feet which is eligible under the rules for the time being governing sailing racing conducted by the Club to be accepted as an entry for Club races;

“**Secretary**” includes the assistant or honorary secretary, or any substitute for the secretary.

1.2. Interpretation

In this Constitution, unless the contrary intention appears:

- (a) Words importing the singular include the plural and vice versa;

- (b) Person includes an individual, a body corporate, a partnership, a firm, unincorporated associations and institutions, and government bodies;
- (c) Headings do not affect the interpretation of this Constitution.

1.3. Board Decision on Interpretation

The decision of the Board on the interpretation of this Constitution or any rules, regulation or by-law of the Club is conclusive and will be binding on all Members.

2. Replaceable Rules

The replaceable rules contained in the Act are excluded and do not apply to the Club.

3. Notices

3.1. Notices may be given:

- (a) personally;
- (b) by sending it by post to the address for the Member in the Register or the alternative address nominated by the Member;
- (c) by sending it to the fax number, email or other electronic address nominated by the Member.

3.2. Notices are deemed to have been received two (2) days after posting or on the business day after having been faxed or emailed.

4. Club Register and Supplementary List

4.1. Every Sailing Yacht owned by a General Member (or General Members) on application by the owner (or owners), and after approval by the Board, may be registered in a book kept for that purpose by the Secretary, called the Club Register. The Club Register will set out the owner's name and the rig, sail number and principal measurements of the yacht.

4.2. Any Sailing Yacht or Boat which is the property of a General Member (or General Members) may, after the approval of the Board, be placed on the list called the Supplementary List.

4.3. Any Sailing Yacht or Boat on the Club Register or Supplementary List:

- (a) may display the Club Burgee and use the Club's boating facilities;
- (b) must have its name and home club clearly marked;
- (c) must only use sail numbers issued by an appropriate authority for that vessel;
- (d) which ceases to be the property of the Member (or Members) in whose name (or names) it appears will be removed from the Club Register or Supplementary List;

- (e) which is let on hire or for valuable reward may only remain on the Club Register or Supplementary List while such letting or hiring is a valid extension of the objects set out in clause 7.1(a) of this Constitution and the letting or hiring is not prohibited by any contract or association that legally binds the Club.
- 4.4. Any Sailing Yacht owner on the Club Register or Supplementary List who has not paid all subscriptions, race entry fees or other moneys due to the Club is not entitled to race in Club events or receive a prize.
- 4.5. Each member must give the Secretary immediate notice of any circumstances affecting the eligibility of his or her Sailing Yacht or Boat to remain on the Club Register or Supplementary List.
- 4.6. Members disposing of any Sailing Yacht or Boat on the Club Register or Supplementary List must withdraw Club flags and markings from the vessel.

5. Racing Rules

- 5.1. Until otherwise determined by the Club in general meeting the Racing Rules of Yachting Australia and Yachting New South Wales, subject to any valid by-law or regulation made under this Constitution, will govern all races held by the Club.
- 5.2. Every Sailing Yacht competing in a race must be steered by a Member or by a member of any other club to which the race is open.
- 5.3. All Sailing Yachts racing in class races conducted by the Club must comply with the rules governing the class.

6. Club Burgee

- 6.1. The Club Burgee is red over blue triangular flat split horizontally and overlaid diagonally with three small pennants coloured, in order from the top, turquoise, gold and red.
- 6.2. The Commodore's flag is the Club Burgee with swallow-tail; the Vice Commodore's a swallow-tail with one white ball in the upper right quarter; the Rear Commodore's a similar flag with two white balls, one above the other, in the upper right quarter and the Captain's flag a swallow-tail with two white balls horizontally in the lower right corner. The flag of a former Commodore is the Club Burgee with swallow-tail and the capital letter "R" in white in the upper right corner.
- 6.3. The Blue Ensign is the ensign of the Club.

The Club

7. Objects

7.1. The objects for which the Club is established are:

- (a) to encourage and promote:
 - (i) the sports of amateur yachting and boating;
 - (ii) cruising for pleasure;
 - (iii) the building and sailing of yachts and boats; and
 - (iv) the sport of fishing;
- (b) to establish and maintain a club and to provide all or any of the amenities, facilities, conveniences and other advantages of a club;
- (c) to promote, foster, encourage and support social activities of all kinds and descriptions amongst members of the Club;
- (d) to promote and conduct (either alone or jointly with any other club, association or person) races, matches, competitions and exhibitions in relation to yachting, boating yacht racing and boat racing. In relation to such events:
 - (i) to give or contribute to prizes and trophies;
 - (ii) to guarantee prize money and expenses in connection with such events;

PROVIDED THAT no Member will receive any prize, award, or distinction except as a successful competitor at any event held or promoted by the Club (or to which the Club may have subscribed to the cost of holding or promoting) and which may be awarded under the regulations governing the event;

- (e) generally to foster, promote, encourage and support the sports of yachting, boating, yacht racing and boat racing;
- (f) to provide and maintain:
 - (i) a club-house;
 - (ii) club-rooms;
 - (iii) boathouses;
 - (iv) wharves, jetties, piers, boatslips;
 - (v) ship and boat-building and repairing sheds;
 - (vi) dining and refreshment rooms;
 - (vii) garages; and
 - (viii) generally all such other lands, buildings and other facilities as may be required for the benefit and convenience of Members;

- (g) to provide meals, liquids and other refreshments, and to purchase and sell foodstuffs and intoxicating liquors, tobacco, sports equipment and other goods, wares and merchandise likely to be required by Members;
- (h) to raise money by way of levy, subscriptions and contributions by all or some of the Members and others, and to fix and determine the rates of such levy and/or subscriptions and contributions, and to enforce payment by the imposition of fines or other penalties;
- (i) to make rules, regulations and by-laws that are consistent with this Constitution to be observed by Members and others, regulating sailing races, aquatic sports, and the conduct of Members in the use and enjoyment of the property of the Club, and to enforce the observance of such rules, regulations and by-laws by the imposition and levying of fines, suspension or expulsion;
- (j) to establish, promote, assist in establishing or promoting, subscribe to, become a member of, co-operate with or associate with any club, society, institution, association or company whose objects are similar to the objects of the Club and which prohibits the distribution of its income and property amongst its members to an extent at least as great as is provided by this Constitution;
- (k) to publish for the use of Members a journal containing records of yacht or sailing races and articles and information relating to yachts, sailing and boating;
- (l) to support and subscribe to any charitable or public body, or to any institution, society or club which may be for the benefit of the Club or its employees, or may be connected with the sport of yachting or boating; to give pensions, gratuities or charitable aid to any person who may have served the Club, or to the spouse, children or other relative of such persons; to make payments towards insurance, and to form and contribute to any provident fund or superannuation scheme for the benefit of any person employed by the Club;
- (m) to operate and make available for the use of Members (and bona fide guests in accordance with the relevant legislation) approved gaming machines and similar devices as are, or may be, authorised by the Casino, Liquor and Gaming Control Authority and/or a relevant court, government department or any other competent authority;
- (n) to do all such other lawful things as are incidental or conducive to the attainment of the objects of the Club.

8. Non-profit Club

- 8.1.** The income and property of the Club must be applied solely toward promotion of the objects of the Club.
- 8.2.** No part of the income or property of the Club may be paid to or distributed among the Members except as:
 - (a) proper remuneration to any Member employed by the Club in return for services rendered to the Club;

- (b) payment to a Member or Director in return for goods or services supplied to the Club for fair value and in the ordinary course of business;
- (c) payment of out-of-pocket expenses of a kind authorised by resolution of the Board and reasonably incurred by a Member, the Secretary, or any employee, in the course of carrying out his or her duties in relation to the Club;
- (d) interest (at an interest rate per annum not exceeding the bank bill rate as published in the Australian Financial Review or elsewhere at the relevant date) on money borrowed by the club from a Member or Director;
- (e) reasonable and fair market rent or premises let by any Member to the Club.

9. Financial Records

- 9.1.** The Club must keep written financial records which correctly record and explain its transactions and financial position and performance and which enable true and fair financial statements to be prepared and audited.
- 9.2.** Each Member may inspect the financial records of the Club. The Board may restrict the manner and times in which such inspections may take place.
- 9.3.** The Club's financial year will end on the last day of March each year.

10. Winding Up

- 10.1.** No Member has any right to any surplus assets remaining after the completion of the winding up or dissolution of the Club.
- 10.2.** On the winding up or dissolution of the Club, after satisfaction of debts and liabilities, any property or surplus which remains must be given or transferred to one or more institutions which operate under a constitution which prohibits the distribution of its income and property to an extent at least as great as imposed on this Club by this Constitution.
- 10.3.** The members in general meeting must identify the institutions to which any remaining property or surplus is to be given or transferred under clause 10.2, at or before the time of winding up or dissolution.

11. Seal

- 11.1.** The Directors must keep the Club seal safe.
- 11.2.** The seal may only be used with the authority of the Directors or a committee of Directors authorised on that behalf.
- 11.3.** Every instrument to which the seal is affixed must be signed by two directors or by one Director and the Secretary, or some other person appointed by the Directors for that purpose.

Members

12. Membership

The Members include all Members on the Register.

13. Classes of Members

13.1. Membership of the Club is divided into the following:

- (a) **Full Members**, which includes the following classes:
 - (i) General Members;
 - (ii) Crew Members;
 - (iii) Social Members;
 - (iv) Junior Members;
 - (v) Special Members;
 - (vi) Life Members;
- (b) Honorary Members;
- (c) Temporary Members;
- (d) Provisional Members.

13.2. A **General Member** means a person:

- (a) admitted as a member in accordance with clause 14;
- (b) who is entitled to all the rights and privileges of the Club.

13.3. A **Crew Member** means a person who:

- (a) is admitted as a member in accordance with clause 14;
- (b) may not be elected as a Director of the Club, may not nominate or second an application for general membership, may not vote at any meeting of the Club and may not use the Club's boating facilities without paying the appropriate commercial fee for the facilities; and
- (c) subject to the provisions of this clause, is otherwise entitled to all the rights and privileges of the Club.

13.4. A Crew Member's annual subscription fee as determined under clause 15 may be less than that payable by General Members.

13.5. A **Social Member** means a person who:

- (a) is admitted as a member in accordance with clause 14;
- (b) may not be elected as a Director of the Club, may not nominate or second an application for general membership, may not vote at any meeting of the Club and may not use the Club's boating facilities without paying the appropriate commercial fee for the facilities; and

- (c) subject to the provisions of this clause, is otherwise entitled to all the rights and privileges of the Club.
- 13.6. A Social Member's annual subscription fee as determined under clause 15 may be less than that payable by General Members.
- 13.7. A **Junior Member** means a person who:
 - (a) is aged between 5 and 17 years inclusive;
 - (b) has become a member to enable the person to take part in regular sporting activities organised by the Club.
- 13.8. If a Junior Member is a member of a General Member's immediate family, then so long as the General Member remains a General Member the Junior Member will not be required to pay any annual subscription fees.
- 13.9. Any Junior Member who is not a member of an General Member's immediate family will be required to pay an annual subscription fee as determined by the board from time to time.
- 13.10. A Junior Member must:
 - (a) at all times while on Club premises remain in the company and immediate presence of an member who is a responsible adult in relation to the Junior Member; and
 - (b) not remain on the Club premises any longer than the member.
- 13.11. The names of Junior Members are not taken into account when determining the number of Club Members.
- 13.12. A Junior Member may not be elected as a Director of the Club, may not nominate or second an application for general membership, may not vote at any meeting of the Club and may not use the Club's boating facilities without paying the appropriate commercial fee for the facilities.
- 13.13. **Special Membership** can be granted to a person by the Board. The Board may create different classes of Special Membership. The rights and privileges of Special Members are as determined by the Board, but the rights and privileges of Special Members must be no greater than the rights and privileges granted to Social Members.
- 13.14. **Life Membership** may be conferred upon any General Member, in consideration of special services rendered to the Club, by resolution of the Members at an Annual General Meeting. Only the Board may nominate an General Member for Life Membership. Life Members are entitled to all the rights and privileges of the Club and are subject to all the obligations of General Members but are not required to pay annual subscriptions.
- 13.15. **Honorary Membership** may be conferred on any person who has rendered outstanding service to the Club. Such membership may be conferred by resolution of the Members in general meeting. Honorary Members are entitled to all the rights and privileges of the Club and are subject to all the obligations of General Members but are not required to pay application fees, entrance fees or annual subscriptions.

- 13.16.** A **Temporary Member** means any of the following persons admitted at the discretion of the Club:
- (a) any prominent citizen visiting the Club for a special occasion or function;
 - (b) overseas, country or interstate visitors;
 - (c) members of other clubs visiting the Club for the purpose of taking part in a competition of a sporting or a social nature (for the period of that competition only); and
 - (d) any person whose ordinary place of residence is in NSW and is outside a radius of 5km from the Club's clubhouse.
- 13.17.** A **Provisional Member** means a person who has applied for admission as a Member of the Club and paid the subscription appropriate for the membership applied for, and is awaiting a decision on the application.

14. Application for Membership

- 14.1.** Except for Junior Members, to be eligible for membership an applicant must be 18 or more years of age.
- 14.2.** Applications for Membership ("Applications") must:
- (a) be in writing;
 - (b) set out the applicant's full name and address;
 - (c) contain a declaration as to the applicant's eligibility under Clause 14.1;
 - (d) be signed by the applicant;
 - (e) be supported by the signature of two General Members of not less than 12 months' standing who are 18 or more years of age and who have known the applicant for at least 12 months;
 - (f) be in the form prescribed by the Board from time to time;
 - (g) be lodged with the Secretary; and
 - (h) enclose the relevant entrance fees and subscription.
- 14.3.** The Board may decrease the time periods referred to in clause 14.2 (e) in respect of any one or more Applications.
- 14.4.** The Application will be considered at the next Board meeting following receipt by the Secretary. If the Application is approved by the Board the name and address of each applicant, together with the name of his or her proposer and seconder will be displayed in the Club for not less than 14 days ("the Notice Period").
- 14.5.** During the Notice Period, any Member may object, in writing to the Secretary, to the applicant being admitted as a Member and if called upon must substantiate such objections to the Board. The applicant is entitled to be heard in reply.

- 14.6. At the next Board meeting after expiry of the Notice Period, the Board must reconsider the application for Membership and the applicant must appear before the Board in person.
- 14.7. At each meeting of the Board at which the Application is considered, voting must be by ballot unless the Application is unanimously accepted or rejected.
- 14.8. The Board may accept or reject any Application without assigning any reason.
- 14.9. The Secretary must notify an applicant of the outcome of his or her Application.
- 14.10. The Secretary must refund the fees paid on application to unsuccessful applicants.
- 14.11. The Board may close the Membership list for any period not exceeding three (3) months at any one time. An Application must not be accepted during any such period except for an Application by an owner of a yacht or boat to be registered by the Club.

15. Entrance Fee, Subscription and Development Fund

- 15.1. The Board may from time to time determine or alter the amount of, the time and method of payment for, and any other matter relating to entrance fees, subscriptions and other annual fees or charges payable by any class of Member. The Members in general meeting may review any amount determined by the Board in respect of entrance fees or annual subscriptions.
- 15.2. Annual subscriptions must not be less than two dollars (\$2.00) plus GST.
- 15.3. Subject to clause 15.2, the Board may at any time determine, suspend, fix or waive the entrance fee, either generally or for specific Members.
- 15.4. Subscriptions must be paid in advance before 1 April each year.
- 15.5. Temporary Members and Honorary Members are not required to pay entrance fees or subscriptions.
- 15.6. Life Members are not required to pay subscriptions.
- 15.7. The Board may establish a Development Fund to which Members must contribute such sums as may be determined by the Board, provided the Members in general meeting may review such sum so determined. The money standing to the credit of the Development Fund must be used for capital expenditure.

16. Membership Registers

- 16.1. The Secretary must establish and maintain the following registers:
 - (a) A register of persons who are Full Members of the Club. This register must set forth the name in full, the occupation and the address of each full member and the date on which he or she last paid the annual fee for membership of the club.

- (b) A register of persons who are Honorary Members of the Club. This register must have entered in it the full name, or the surname and initials, and the address, of each Honorary Member.
 - (c) A register of persons of or above the age of 18 years who enter the premises of the Club as guests of Members. This register must have entered therein on each occasion on any day on which a person of or above the age of 18 years enters the premises of the Club as the guest of a Member, the name in full or the surname and initials of the given names, and the address, of that guest, the date of that day and the signature of that Member.
 - (d) A register of persons who are Temporary Members of the Club. This register must have entered in it, when a Temporary Member first enters Club premises on any day, the full name or the surname and initials, and the address, of each Temporary Member together with his or her signature.
- 16.2.** The registers referred to in this clause must be retained by the Club for at least three (3) years after the date of the last entry in each register.
- 16.3.** The Registers must be kept at the principal place of administration of the Club and be open for inspection free of charge by any Member on reasonable prior notice at any reasonable hour.

17. Guests of Members

- 17.1.** A guest of a Member is a person who is a guest of a Full Member, Provisional Member or Honorary Member of the Club and:
- (a) whose name and address (unless the person is a minor) is countersigned by the Member and entered into a register kept for the purpose by the Club;
 - (b) who, at all times whilst on Club premises, remains in the reasonable company of the Member; and
 - (c) who does not remain on the Club premises any longer than the Member.

18. Liability of Members

- 18.1.** The liability of Members is limited.
- 18.2.** Members must each contribute to the assets of the Club if it is wound up while the Member is a Member or within one year afterwards for:
- (a) Payment of the debts and liabilities of the Club contracted before the time at which the Member ceased to be a member; and
 - (b) The costs, charges and expenses of winding up the Club;
- for a sum not exceeding two dollars (\$2.00).

19. Cessation of Membership

19.1. A Member ceases to be a Members if the Member:

- (a) dies;
- (b) resigns by notice in writing to the Secretary;
- (c) is expelled under clause 20;
- (d) after having received a written notice from or authorised by the Board specifying any breach of:
 - (i) the conditions of Membership or the provisions of this Constitution;
 - (ii) any by-laws, rules or regulations adopted by the Club; or
 - (iii) any contract between the Member and the Club,fails, for a period of sixty (60) days, to remedy the specified breach;
- (e) ceases to meet the criteria for Membership of the Class of Membership in which the Member appears on the Register; or
- (f) fails or refuses to pay his or her annual subscription fees within thirty (30) days of the due date.

19.2. Cessation of Membership does not extinguish the Member's liability for any amount owing to the Club at the date of cessation or for the Member's liability in the event of winding up or dissolution of the Club.

20. Expulsion

20.1. The Board may:

- (a) call on any Member to explain any alleged misconduct;
- (b) suspend for a specified period or expel any Member who, in its opinion:
 - (i) is guilty of misconduct;
 - (ii) has acted prejudicially to the interests of the Club;
 - (iii) has willfully infringed this Constitution or any by-laws, rules or regulations of the Club;
 - (iv) is unfit to be a Member; or
 - (v) knowingly introduces to the Club any person who has been expelled or suspended from, or refused admission to, the Club.
- (c) suspend for a specified period any Director who, in its opinion, is guilty of neglect of duty, breach of confidence or other misconduct; and
- (d) return any subscription to, or refuse to receive any subscription from, any such Member without giving any reason.

- 20.2.** Any Director or Member affected by a decision of the Board under clause 19.1 may appeal to the Members at an extraordinary general meeting, which the Board must call if requested to do so by the affected Director or Member in writing.
- 20.3.** The vote of the Members at the extraordinary general meeting called in accordance with clause 20.2 will be by ballot. Unless 75% or more of the Members attending that meeting vote against the suspension or expulsion, the determination of the Board will be upheld.
- 20.4.** Without limiting the general powers of the Board, all Members and guests acknowledge that the Board has the power from time to time to organise and enforce (temporarily) the exclusion from Club premises of any Member or other person/guest in accordance with:
- (a) the Club's responsible service of alcohol policy;
 - (b) the Club's responsible conduct of gaming policy;
 - (c) gambling/gaming on Club premises (except where lawfully approved/authorised) as prohibited by law;

or in relation to any behaviour by a Member or a guest on the Club's premises which is likely to cause offence or embarrassment to the Club or its Members, whether or not the subject of any charge brought in accordance with the law for suspension/cancellation of membership.

Members' Meetings

21. Annual General Meeting

- 21.1.** A general meeting called the annual general meeting or AGM must be held at least once in every calendar year, within five (5) months of the end of the Club's financial year. The AGM must be held in addition to any other meetings held during the year.
- 21.2.** A copy of the accounts, statements and reports prescribed by the Act to be presented at each AGM must be provided to Members at least twenty one (21) days before the AGM.
- 21.3.** The chair of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask questions about or make comments on the management of the Club.
- 21.4.** If the Club's auditor or his or her representative is at the meeting, the chair of the AGM must allow a reasonable opportunity for the Members as a whole at the meeting to ask the auditor or his or her representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.
- 21.5.** The Club may hold a meeting of Members at two or more venues using technology that gives Members as a whole reasonable opportunity to participate.

22. Notice of Meeting

- 22.1.** Written notice of a Members' meeting must be given to each Member and Director, and to the Club's auditor.
- 22.2.** The required notice period for a Members' meeting is twenty one (21) days unless:
- (a) all the Members entitled to attend and vote at the AGM agree to a shorter period of notice for that meeting beforehand; or
 - (b) Members with 95% of the votes that may be cast at any other meeting agree to a shorter period of notice for that meeting beforehand.
- 22.3.** The shorter periods of notice permitted under clause 22.2 are not permitted for meetings at which a Director or auditor is to be removed or appointed.
- 22.4.** When a meeting is adjourned, new notice of the adjourned meeting must be given if the meeting is adjourned for a month or more.
- 22.5.** The notice of meeting must specify:
- (a) the place, day and time of the meeting;
 - (b) in the case of special business, the nature of that business.
- 22.6.** For the purpose of clause 22.5, all business other than:
- (a) the consideration of the annual financial report, Directors' reports and auditor's reports;
 - (b) the election of Directors;
 - (c) the appointment of an auditor; and
 - (d) the fixing of the auditor's remuneration,
- is special business.
- 22.7.** The non-receipt of any notice given in accordance with this clause, or the accidental omission to give any such notice does not invalidate any resolution passed at any meeting.

23. Calling General Meetings

- 23.1.** General Meetings may be called by any Director.
- 23.2.** An extraordinary general meeting may be called by any Director and must be called as required by the Act and this Constitution.

24. Quorum at Members' Meetings

- 24.1.** Twenty (20) Members constitute a quorum for a general meeting.
- 24.2.** In determining whether a quorum is present, count individuals attending.
- 24.3.** If a quorum is not present within half an hour of the appointed time for the commencement of the general meeting:
- (a) the meeting, if convened upon the request of Members, is to be dissolved; or

- (b) in any other case, the meeting is to be adjourned to the same day, time and place in the next week or to a date, time and place determined by the person chairing the meeting.

24.4. No notice is required of an adjournment under clause 24.3 (b) other than a notice displayed in the Club for at least five (5) days before the date to which the meeting is adjourned.

24.5. If, at the adjourned meeting referred to in clause 24.3 (b), a quorum is not present within half an hour after the appointed time for the commencement of the meeting, the Members present (being not less than two) will be a quorum.

25. Chairing Members' Meetings

The chair, if any, of the Board will preside as chair at every general meeting of the Club or, if there is no such chair, or if he or she is not present within 15 minutes of the appointed time for the commencement of the meeting or is unwilling to act, the Members present must elect one of their number to chair the meeting.

26. Adjourned Meetings

26.1. No business can be transacted at an adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

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

27. Voting

27.1. Every Life Member and every General Member present in person has one vote on a show of hands or on a poll unless:

- (a) any sum presently payable to the Club by that Member remains unpaid; or
- (b) that Member is an employee of the Club.

27.2. Temporary Members, Crew Members, Social Members, Honorary Members, Junior Members and Provisional Members are not entitled to vote.

27.3. A challenge to a right to vote at a meeting of Members may only be made at the meeting and must be determined by the chair, whose decision is final.

27.4. At a general meeting a motion put to the vote of the meeting is to be decided on a show of hands unless a poll is demanded.

27.5. A poll may be demanded by at least five (5) Members entitled to vote on the resolution, Members with at least 10% of the votes that may be cast on that resolution, or the chair. The poll may be demanded before a vote is taken, before the voting results are declared on a show of hands, or immediately after the voting results are declared on a show of hands. A demand for a poll may be withdrawn.

27.6. A poll demanded in a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs. A poll on the election of a chair or on the question of an adjournment must be taken immediately.

- 27.7.** If there are an equal number of votes the chair has a casting vote.
- 27.8.** On a show of hands a declaration by the chair is conclusive evidence of the result, provided the declaration reflects the show of hands and the votes received. Neither the chair nor the minutes need state the number or proportion of votes recorded in favour or against the resolution.

Directors

28. Composition of the Board

- 28.1.** The Directors who hold office at the date of adoption of this Constitution continue in office subject to this Constitution.
- 28.2.** The Board will consist of a:
- (a) Commodore;
 - (b) Vice Commodore;
 - (c) Rear Commodore;
 - (d) Club Captain;
 - (e) Honorary Treasurer; and Two other Members.
- each of whom are Directors of the Club.
- 28.3.** The Commodore, Vice Commodore, Rear Commodore and Club Captain are the Flag Officers of the Club.
- 28.4.** The duties of each of the Flag Officers and other Directors are set out in the Club's By-Laws.

29. Election of the Board

- 29.1.** To be eligible for election to the office of Director a person must:
- (a) have been a General Member for a minimum of 2 years; and
 - (b) not hold any office of profit in the Club.
- 29.2.** To be eligible to be the Commodore or Rear Commodore, a person must own a Sailing Yacht which is registered in the Club Register. If the yacht is either sold or otherwise disposed of the office bearer under this clause shall be allowed to remain as Commodore or Rear Commodore until the period of their election expires.
- 29.3.** To be eligible to be the Vice Commodore a person must be the owner of either a Sailing Yacht or boat which is registered in the Club Register or the Supplementary List. If the yacht or boat is either sold or otherwise disposed of the office bearer under this clause shall be allowed to remain as Vice Commodore until the period of their election expires.

- 29.4.** Any one or more of the Captain, Honorary Treasurer and the two other Members must own a Sailing Yacht or boat registered in the Club Register or the Supplementary List. If the yacht or boat is either sold or otherwise disposed of the office bearer under this clause shall be allowed to remain in the office to which they were elected under this clause until the period of their election expires.
- 29.5.** If two or more Members are joint owners of a Sailing Yacht or Boat, only one of those Members may be treated as the owner under this clause.
- 29.6.** At alternate AGMs three, then four, Directors will retire from office. Retiring Directors will be eligible for re-election.
- 29.7.** The Directors to retire will be those who have been in office longest since their last election (unless a Director has been appointed to fill a casual vacancy, in which case they must retire at the next AGM). Between persons who became Directors on the same day, those to retire will (unless they otherwise agree among themselves) be determined by lot. In that case, the order for retirement will be the order in which names are drawn.
- 29.8.** Nomination for the offices of Directors must:
- (a) specify the office on the Board to which the nominee is nominated;
 - (b) be in the form set out in Appendix 1;
 - (c) be delivered to the returning officer not later than 5.00pm on the fifth Sunday before the date fixed for the AGM, or on such other date as may be fixed by the Board; and
 - (d) be exhibited in the Club by the returning officer.
- 29.9.** At 5.00pm on the day of closing of nominations the returning officer will declare the names of the candidates eligible for election to the office for which the candidates are nominated. A Member may be eligible for nomination for more than one position but may only hold one position.
- 29.10.** If the requisite number of Directors is nominated for each of the available offices, the returning officer must declare those nominated duly elected.
- 29.11.** If less than the requisite number of Directors is nominated, the Meeting will be adjourned until the same day in the next week at the same time and place and the adjourned Meeting may receive nominations for the unfilled positions.
- 29.12.** If more than the requisite number of Directors is nominated, an election by ballot must take place. If a ballot is necessary, it must be conducted in the following manner:
- (a) the returning officer will be provided with an empty ballot box marked on the outside "Ballot Box", which he or she must lock and seal in the presence of three scrutineers and which must, until the closing of the ballot, be kept locked in the Club for at least 14 consecutive days before the time fixed for the closing of the ballot.
 - (b) the returning officer must advise each Member entitled to vote (by pre-paid post) at least twenty one (21) days before the date of the AGM, of the candidates eligible for election to the various offices of the Club.

- (c) votes will be recorded:
 - (i) by the returning officer sending by pre-paid post a ballot paper, together with an unmarked envelope and another envelope addressed to the returning officer, to that Member's registered address;
 - (ii) by the Member placing a cross opposite the name of the exact number of candidates required to be elected to the respective offices in accordance with the directions of the ballot paper; and
 - (iii) by the Member placing the ballot paper in the Ballot Box or, in the case of a ballot paper being forwarded to the returning officer by post, by the Member placing the ballot paper in an unmarked envelope and sending both by pre-paid post to the address of the Club, addressed to the returning officer;
- (d) The ballot paper will be in the form set out in Appendix 2;
- (e) The ballot will close at 5.00pm, 7 days before the date of the AGM;
- (f) After 5.00pm on the day the ballot closes the returning officer, in the presence of three scrutineers, will open the ballot box and, with assistance of the scrutineers, count the ballot;
- (g) the declaration of the outcome of the ballot will be made orally by the returning officer at the AGM, following which the returning officer will deliver to the Commodore a written declaration. A copy must be posted in the Club and recorded in the minutes of the next meeting of the Board;
- (h) If there are an equal number of votes for two or more candidates, the returning officer must cause lots to be drawn to determine which of those candidates will be elected. Such drawing must be held in the presence of the three scrutineers immediately following the counting of the ballot and in the manner in which the returning officer directs.

30. Resignation of Directors

A Director may resign as a Director by giving written notice of resignation to the Club at its registered address.

31. Casual Vacancies

31.1. If any Director, including any Flag Officer:

- (a) becomes bankrupt or makes any arrangement or composition with his or her creditors;
- (b) becomes prohibited for being a Director by reason of any order made under the Act;
- (c) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

- (d) resigns his or her office;
- (e) is absent without permission of the Board from meetings of the Board held during a period of six (6) months;
- (f) holds any office of profit of the Club;
- (g) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of his or her interest in the manner required by the Act;
- (h) dies; or
- (i) otherwise ceases to be, or becomes prohibited from being, a Director by virtue of the Act,

his or her office (including that of a Flag Officer) must be declared vacant by the Board and he or she will cease to be a Director. The Board may appoint a successor to hold that office (including office as a Flag Officer) until the next election by Members at the AGM, when that office will be open for nominations and a new Director elected to that position, and until such appointment is made the continuing Directors may act despite such vacancy.

- 31.2.** The Club may by ordinary resolution remove any Director before the expiration of his or her period of office and appoint another Director in his or her place. The person or persons so appointed will hold office during such time only as the Director or Directors so removed would have held office if he or she had not been so removed.

32. Alternate Directors

- 32.1.** With the other Directors' prior approval, a Director may appoint an alternate to exercise some or all of the Director's powers for a specified period.
- 32.2.** If the appointing Director requests the Club to give the alternate notice of Directors' meeting, the Club must do so.
- 32.3.** Where an alternate exercises the Director's powers, the exercise of the powers is just as effective as if the powers were exercised by the Director.
- 32.4.** The appointing Director may terminate the alternate's appointment at any time.
- 32.5.** An appointment or termination must be in writing and a copy must be given to the Club.

33. Honorary Service by the Board

- 33.1.** No Director can be appointed to any salaried office of the Club or any office of the Club paid by fees, and no holder of such an office can be appointed to the Board.
- 33.2.** No remuneration or other benefit in money or money's worth may be paid or given by the Club to any Director, except for the payment of out-of-pocket expenses incurred by the Director in performance as a Board member, unless approved by the Members in general meeting.

34. Indemnity

- 34.1.** Every Director, auditor and other officer of the Club is entitled to be fully indemnified out of the property and assets of the Club against any and all liabilities incurred by them in that capacity:
- (a) in successfully defending any proceedings, whether civil or criminal, or in which judgment is given in favour of the Director, auditor or officer, or in which the Director, auditor or officer is acquitted; and
 - (b) in connection with any application in relation to those proceedings in which relief is granted to the Director, auditor or officer by the court.
- 34.2.** The Club may effect adequate policies of Director's and officers' insurance against liability of its Directors, auditor and other officers of the Club as referred to in clause 34.1.

35. Powers and Duties of Directors

- 35.1.** The business of the Club is to be managed by or under the direction of the Directors. The Directors may exercise all the powers of the Club, being a company, except any power the Act or this Constitution requires the Club to exercise in general meeting of its Members.
- 35.2.** The Directors may, by power of attorney, appoint any corporation, firm, person or body of persons whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Club.
- 35.3.** Appointment of an attorney under clause 35.2 may:
- (a) be for the purpose and period:
 - (b) be with the powers, authorities, discretions and conditions;
 - (c) authorise the attorney to delegate all or any of the powers, authorities and discretions vested in him or her; and
 - (d) include provisions for the protection of persons dealing with such attorney,
- as the Directors think fit.
- 35.4.** The Directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument by obtaining the signature of any two Directors of the Club. The Directors may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

Directors' Meetings

36. Directors' Meetings

- 36.1.** The Board must hold a meeting at least once in each month.
- 36.2.** Minutes of all proceedings and resolutions of the Board must be kept and entered into a book provided for the purpose.

- 36.3.** A Directors' meeting may be called by a Director, or by the Secretary on the request of a Director giving notice individually to every other Director and the Secretary.
- 36.4.** A Director's meeting may be called or held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw their consent at a reasonable time before the meeting.
- 36.5.** At all general meetings of the Club and at all meetings of the Board, the chair will be taken by the senior Director present.
- 36.6.** A resolution of Directors must be passed by a majority vote cast by the Directors entitled to vote on the resolution. The chair has a casting vote if necessary in addition to any vote he or she has as a Director, except in respect of the election of Directors.
- 36.7.** The Directors may pass a resolution without a Directors' meeting being held if all the Directors entitled to vote on the proposed resolution sign a document or send or return an identical email to the Club or the Secretary accurately identifying the resolution and stating that they are in favour of the proposed identified resolution. Separate copies of such a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy. The resolution is passed when the last Director signs or sends the required document or email.

37. Quorum at Directors' Meetings

- 37.1.** Unless the Board determines otherwise, the quorum for Board meetings is four (4) Directors. The quorum must be present at all times during the meeting.
- 37.2.** The Board may function validly provided its number is not reduced below the quorum. Should the number of Directors fall below the quorum, the remaining Directors may act only to appoint new Directors or to convene a general meeting of Members.

38. Directors' Interests

- 38.1.** A Directors who is, or becomes, directly or indirectly interested in a contract or proposed contract with the Club must, as soon as practicable after the relevant facts have come to the Director's knowledge, declare the nature of the interest at a meeting of Directors.
- 38.2.** The Secretary must record this declaration in the minutes of that meeting.
- 38.3.** A Director who has a material personal interest in a matter being considered at a Directors' meeting must not vote on the matter or be present while the matter is being considered at the meeting.
- 38.4.** Clause 38.3 does not apply where the interest is an interest the Director holds as a Member and in common with other Members.

39. Board Delegation and Board Committees

- 39.1.** The Board may, by resolution, delegate to a Director or committee of two or more Directors plus (if desired) other General Members chosen by the Board, the exercise of such of the Board's powers (other than this power of delegation) as are specified in the resolution. The Club or the Board may by resolution revoke wholly or in part any such delegation.
- 39.2.** The purpose of any such delegation is to assist the Board to carry out the objects of the Club, by assisting in the development and management of various policies, recommendations, programs and events to promote sailing, boating and social activities.
- 39.3.** A delegation under the above clause may be made subject to conditions or limitations as to the exercise of any powers delegated, or as to time or circumstances.
- 39.4.** Despite a delegation under this Constitution, the Board may continue to exercise all or any of the powers delegated.
- 39.5.** A committee with delegated authority from the Board may:
- (a) select a chair of its meetings. If no chair is elected or if at any meeting the chair is not present within ten (10) minutes after the time appointed for holding the meeting, then the members present may choose one of their number to be chair of the meeting; and
 - (b) meet and adjourn as it thinks proper. Questions arising at any meeting must be determined by a majority of votes of the members present and voting. In the case of an equal number of votes, the chair may have a second or casting vote.

40. Validity of Directors' Acts

The acts of a Director or the Secretary are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.

41. Secretary

- 41.1.** The Club must at any time have one, but not more than one, Secretary who is the chief executive officer of the Club.
- 41.2.** The Board may appoint a Secretary for such term, at such remuneration and on such conditions as it thinks fit.

42. Minutes

- 42.1.** The Board and any committee established by the Board must keep minutes of its meetings. Such minutes may be kept in books or electronic databases provided and maintained for that purpose and, in particular, must record:
- (a) All appointment of officer and employees made by the Board;
 - (b) The names of the persons present at each meeting of the Board and of any committee of the Board; and

- (c) all resolutions and proceedings at all meetings of Members and of the Board and of committees of Directors.

- 42.2.** Minutes must be recorded in the minute book or database within one (1) month of the meeting to which they relate. If minutes of meetings are maintained in an electronic database then hard copies of the minutes must be printed and kept in a separate register as required from time to time by the Act.
- 42.3.** At each meeting, the minutes of the previous meeting must be read and submitted for confirmation by the vote of the Members present before any other business is commenced and must be signed by the chair of the meeting at which the minutes are confirmed and, when so signed, will be receivable as evidence of the matters stated in those minutes.

