



**CONSTITUTION
OF
NEWCASTLE CRUISING
YACHT CLUB LIMITED**

Table of contents

1.	Preliminary.....	3
2.	Membership.....	8
3.	Meetings of Members.....	15
4.	Proceedings at General Meetings of Members.....	17
5.	Votes of Members	19
6.	Club Register and Supplementary List.....	19
7.	Racing Rules.....	20
8.	The Directors	20
9.	Flag Officers and the Treasurer	24
10.	Powers of Board of Directors.....	25
11.	By-Laws	26
12.	Proceedings of Directors.....	26
13.	Secretary.....	28
14.	Minutes.....	29
15.	Club Burgee.....	29
16.	Inspection of Records.....	29
17.	Service of Documents.....	29
18.	Audit and Accounts	30
19.	Indemnity	30
20.	Winding-up or Dissolution	30

Corporations Act of Australia

Constitution

of

Newcastle Cruising Yacht Club (ACN 064 201 029)

A company limited by guarantee

1. Preliminary

This is the Constitution of the Company known as the Newcastle Cruising Yacht Club.

1.1. The Company is limited by Guarantee

The Company is limited by guarantee and the liability of Members is limited as provided in this Constitution.

1.2. Objects of the Company

The objects of the company 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 to give or contribute to prizes and trophies 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) To provide and maintain:
 - (i) A club house;
 - (ii) Club rooms;
 - (iii) Boathouses;
 - (iv) Wharves, jetties, piers, boat slips;
 - (v) Ship and boat building and repair facilities;
 - (vi) Dining and refreshment rooms;
 - (vii) Generally all such other lands, buildings and other facilities as may be required for the benefit and convenience of Members.
- (f) To provide meals, liquids and other refreshments, and to purchase and sell foodstuffs, liquor, sports equipment and other goods, wares and merchandise likely to be required by Members;
- (g) 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;
- (h) 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.
- (i) 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;
- (j) 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;
- (k) 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;
- (l) To do all such other lawful things as are incidental or conducive to the attainment of the objects of the Club.

1.3. Application of income and property – Not for Profit Club

The Company must apply its income solely towards promoting the objects of the Company and subject to this Constitution.

No part of the Company's income may be paid or transferred directly or indirectly by way of dividend bonus or otherwise to Members.

Notwithstanding any rule in this Constitution the Company may pay:

- (a) interest at a commercial rate;
- (b) reasonable and proper rent for premises demised or let to the Company;
- (c) authorised expenses of a Director, Flag Officer or Treasurer; and
- (d) in good faith, the reasonable and proper remuneration to any member, Director, Secretary or employee in return for any services actually rendered to the Company.

1.4. Replaceable rules not to apply

The provisions of the Corporations Act that are referred to as replaceable rules are replaced by the rules set out in this Constitution.

1.5. Definitions

The following definitions apply in this Constitution unless the contrary intention appears.

Act means the Corporations Act 2001 (Cth). 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 all or some of the Directors acting collectively under this document.

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

By-Laws mean any rules or regulations made by the Directors pursuant to this Constitution.

Club's Register means a Register of Yachts owned by Members of the Club.

Company means Newcastle Cruising Yacht Club (ACN 064 201 029). In this Constitution the word "company" is interchangeable with the word "Club."

Constitution means this Constitution as amended from time to time.

Corporations Act means the *Corporations Act 2001 (Cth)*

Director means a person holding office as a Director of the Company.

Flag Officer means a director appointed to any one of the following offices:

- (a) the Commodore;
- (b) the Vice Commodore,
- (c) a Rear Commodore

Full Member means a person who is a General Member, Senior Member, Crew Member, Social Member, Junior Member, Youth Crew Member, Special Member, and Life Member (as these terms are defined in this Constitution) of the Club.

Ordinary Resolution means a resolution passed at a meeting of Members by a majority of the Members present and voting at that meeting.

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

- (a) a person who is the sole owner thereof or is one of a number of co-owners thereof having equal interest and proof of same; 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.

Register of Members means the register of members of the Company under the Corporations Act.

Registered Clubs Act means the *Registered Clubs Act (NSW)*.

Registered Office means the registered office of the Company.

Secretary means a person appointed as the secretary of the Company in accordance with this Constitution.

Section means a section of the Corporations Act.

Special General Meeting means a general meeting of the Company other than an Annual General Meeting.

Special Resolution means a resolution passed at a meeting of members by a 75 per cent majority of the members present and voting at that meeting.

Supplementary Register means a Register of boats owned by Members of the Club.

Voting Member means any one of General Member, Senior Member, or Life Member.

1.6. Interpretation of this Constitution

Headings are inserted for convenience and do not affect the interpretation of this Constitution. The following rules also apply in interpreting this constitution, except where the context makes it clear that a contrary intention is to apply:

- (a) words importing any gender include all other genders;
- (b) the word “person” does not include a firm, a body corporate, an unincorporated body or association or an authority;
- (c) the singular includes the plural and vice versa;
- (d) a reference to a law includes regulations and instruments made under the law;
- (e) a reference to a law or a provision of a law includes amendments, re- enactments or replacements of that law or the provision;
- (f) a power, an authority or a discretion vested in a Director, the Directors, the Company in general meeting or a member may be exercised at any time and from time to time;
- (g) the word “including” when introducing an example does not limit the meaning of the words to which the example relates.

Unless the contrary intention appears in a provision of this Constitution that deals with a matter dealt with by a particular provision of the Corporations Act, an expression has the same meaning as in that provision of the Corporations Act.

1.7. Liability limited

The liability of the members is limited.

Each member undertakes to contribute to the assets of the Company if it is wound up while the member is a member, or within one year after the member ceases to be a member, for payments of the debts and liabilities of the Company incurred before the member ceases to be a member and of the costs, charges and expenses of winding up and for adjustment of the rights of contributions between themselves, any amount required not exceeding \$2.00.

1.8. Director not entitled to Directors fees or to be an employee

A Director is not entitled to

- (a) be employed by the Company; or
- (b) be paid any fees for being a Director.

1.9. Common Seal

- (a) The Directors must keep the Club seal safe.
- (b) The seal may only be used with the authority of the Directors or a committee of Directors authorised on that behalf.
- (c) 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.

2. Membership

2.1. The members

The number of members of the Company shall be such number of ordinary and other members as the Board determines from time to time.

The members recorded on the Register of Members at the date of the adoption of this Constitution continue as members subject to this Constitution and the By-Laws.

2.2. Membership not transferable to another person, only to another class of membership

A member may not transfer the membership to another person.

The Board may transfer a member from membership in one class to membership in another class, with the member's consent.

2.3. Classes of members

The classes and sub classes of membership in existence at the date of the adoption of this Constitution continue as classes and sub classes of membership subject to this Constitution and the By-Laws, and the rules prescribed by the Registered Clubs Act.

The classes and sub classes of membership in existence at the date of the adoption of this Constitution are:

- (a) Full Members:
 - (i) General Members;
 - (ii) Senior Members;
 - (iii) Crew Members;
 - (iv) Social Members;
 - (v) Junior Members;
 - (vi) Youth Crew Members
 - (vii) Special Members;
 - (viii) Life Members;
- (b) Honorary Members
- (c) Temporary Members;
- (d) Provisional Members

2.4. The Members who are entitled to vote, to enjoy full privileges and to hold Office

Only General Members, Senior Members and Life Members are entitled to vote at general meetings of the Company and enjoy full privileges.

Only General Members, Senior Members and Life Members are eligible to be elected or appointed to office as a Director or Flag Officer.

2.5. Eligibility for election as a Full Member

To be eligible for election to full membership the candidate in each sub class must be over the age of 18 years (with the exception of Junior Members) and must satisfy the criteria as follows:

- (a) to be a General Member, a person must fulfil all eligibility criteria determined by the Board from time to time;
- (b) to be a Senior Member, a person must:
 - (i) be admitted as a fully paid General Member in accordance with Clause 2.5 (a); and
 - (ii) be more than 65 years old and have held continuous General membership for 15 years or more; and
 - (iii) Annual subscription fee will be discounted at the Board's discretion.
- (c) to be a Life Member, a person must:
 - (i) in the opinion of the Board have rendered valuable service to the Club; and
 - (ii) on recommendation of the Board, be elected as a Life Member by resolution of the members in a general meeting;
 - (iii) Annual subscription fee will be waived.
- (d) to be a Crew Member a person must:
 - (i) be admitted as a member in accordance with Clauses 2.3 & 2.4
- (e) to be a Social Member a person must:
 - (i) be admitted as a member in accordance with Clauses 2.3 & 2.4;
- (f) to be a Junior Member a person must:
 - (i) be aged between 5 and 17 years; and
 - (ii) intend to take part in yachting activities organised by the Club;
 - (iii) if a member of a General Member's immediate family, will not be required to pay membership fees, so long as the General Member remains current;
 - (iv) At all times while on Club premises remain in the company and immediate presence of a member who is a responsible adult in relation to the Junior member; and
 - (v) Not remain on the Club premises any longer than the member who is the responsible adult.

(g) To be a Youth Crew Member a person must:

- (i) Be aged between 18 and 25 years;
- (ii) Be admitted as a member in accordance with Clauses 2.3 and 2.4.

2.6. A Special Member, granted to a person by the Board:

- (i) The Board may create different classes of Special Membership; and
- (ii) Rights and privileges granted by the Board must be no greater than the rights and privileges granted to Social Members.

2.7. Honorary Membership

- (i) May be conferred on any person by resolution of the Board;
- (ii) Membership to be ratified by the Members in the following general meeting; and
- (iii) All fees will be waived, including application fees, entrance fees and Annual Subscriptions.

2.8. Temporary Member

- (i) A prominent citizen visiting the Club for a special occasion or function;
- (ii) Overseas, country or interstate visitors;
- (iii) Members of other Clubs visiting the Club for the purpose of taking part in a competition of a sporting or social nature (for the period of the competition only);
- (iv) Ordinary place of residence is in NSW and is outside a radius of 5 km from the Clubhouse;
- (v) All fees will be waived, including application fees, entrance fees and Annual Subscriptions.

2.9. Provisional Member

- (i) A person who has applied for admission as a Member of the Club and paid the subscription appropriate to that Class of Membership; and
- (ii) Awaiting a decision based on their application.

The members of these classes will enjoy rights and privileges, and pay fees which are determined by the Board from time to time.

2.10. Restrictions on some classes and sub classes of member

Crew Members, Social Members, Junior Members, Youth Crew Members, Special Members, Honorary Members, and Provisional Members shall not be entitled or eligible to;

- (a) vote at any meeting of the Company; or
- (b) be elected or appointed to the office of director or any other office in the Company;

2.11. Sponsor Members

The Board shall determine the number of members of each corporate group or association who may become Sponsor Members of the Club in recognition of their sponsorship of the Club and its associated activities.

A Sponsor Member remains a member only for the duration of any sponsorship provided or for such other period as the Board shall determine in each case.

2.12. Register of Members

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 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.

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.

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.

2.13. Guests

Subject to the Registered Clubs Act, this Constitution and the By-Laws any member, except a Temporary Member, may introduce a guest to the Club.

A guest shall not be introduced:

- (a) more frequently than permitted in the By-Laws or under the Registered Clubs Act; or
- (b) if that person has been expelled from the Club for misconduct or non- payment of subscription or fees; or
- (c) if that person has been suspended by the Board.

2.14. Guests shall be in the company of a member

A guest shall at all times remain in the reasonable company of the member who introduced the guest and countersigned the entry in the Register of Guests.

A guest shall not be supplied with liquor on the premises of the Club except at the invitation of and in the company of a member.

Members shall be responsible for the conduct of any guests they may introduce to the Club.

A guest shall not remain on the premises of the club any longer than the member who introduced that guest.

2.15. Application for Membership

New Members shall be elected by the Board and the Board must ensure that each candidate for membership:

- (a) fulfils all eligibility criteria prescribed by the Company, for the class of membership to which that person is to be admitted;
- (b) agrees to be bound by this Constitution and any By-Laws; and
- (c) pays the entrance fee and the subscription fees (if any) prescribed for that class of membership as determined by the Board from time to time.

The procedure for the election of members will:

- (d) be in writing;
- (e) set out the applicant's full name and address;
- (f) contain a declaration as to the applicant's eligibility under Clause 2.5
- (g) be signed by the applicant;
- (h) be supported by the signature of two Voting Members of not less than 12 month's standing who are 18 or more years of age and who have known the applicant for at least 12 months; and
- (i) be lodged with the Secretary.

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).

If, during the Notice Period, there is no objection to the application, the Secretary must:

- (j) Notify the successful applicant;
- (k) Place the successful applicant's name on the Register of Members.

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.

At the next Board meeting after expiry of the Notice Period the Board must reconsider the application for Membership and the applicant informed of this outcome. The applicant may appear before the Board in person. The Board:

- (l) At each meeting at which the Application is considered, vote by ballot unless the Application is unanimously accepted or rejected;
- (m) Accept or reject any Application without assigning any reason;
- (n) The Secretary must notify an applicant of the outcome of his or her Application and if unsuccessful refund the fees paid on application.

2.16. 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.

2.17. Fees for membership subscription

The fees for annual subscription for the different classes of members will be determined by the Board, from time to time.

There will be no entrance fees charged for the following members:

- (a) Life Members;
- (b) Honorary Members; or
- (c) Sponsor Members.

2.18. Ceasing to be a Member

A Member ceases to be a Member on:

- (a) resignation;
- (b) death;
- (c) becoming bankrupt or making an arrangement or composition with creditors of the person's joint or separate estate generally;
- (d) becoming of unsound mind or a person whose estate is liable to be dealt with in any way under a law relating to mental health;
- (e) the termination of the person's membership; or
- (f) expulsion.

2.19. Resignation

A member may resign membership by notice in writing to the Company with immediate effect or with effect from a specified date occurring not more than six months after the service of the notice.

2.20. Termination of Membership for failure to pay moneys

If a member fails to pay any annual subscription fee or other amount to the Company within two months of its due date (or such longer period as the Board may determine in a particular circumstance), the Secretary may give written notice to the member requiring payment within one month.

If the amount to be paid remains unpaid at the expiry of that one month period the member will automatically cease to be a member and the person's name will be removed from the Register.

2.21. Reinstatement

Notwithstanding anything else in this Constitution, where a person has ceased to be a member by reason only of non-payment of subscription fee, on payment of the full amount due, the Secretary shall arrange for that person to be proposed in a written application for reinstatement by a Director and shall cause the applicant's name to be conspicuously displayed on the Company's premises for at least seven days. The Board may at any meeting after 14 days from the date of such display elect that person as a member without requiring the payment of any entrance fee.

2.22. Disciplinary Procedures

If a member fails to comply with this Constitution or the By-Laws or is, in the opinion of the Board, guilty of any conduct prejudicial to the interests of the Company or unbecoming of a member or such as to render the member unfit for membership, the Board may:

- (a) reprimand the member;
- (b) suspend the member from exercising the rights and privileges of membership for such period as the Directors determine; or
- (c) expel the member.

2.23. Procedure to Expel a Member

The Board may, by resolution, expel from the Company any Member and remove that Member's name from the Register of Members.

At least 14 days before the Board holds a meeting to consider a resolution to expel a Member, the Board must give a written notice, to the Member, which states:

- (a) the allegations against the Member;
- (b) the proposed resolution for the Member's expulsion;
- (c) that the Member has an opportunity at the meeting to address the allegations either orally or in writing; and
- (d) that, if the Member notifies the Secretary in writing at least 24 hours before the Board meeting, subject to Section 249F of the Corporations Act, the Member may elect to have the question of that Member's expulsion dealt with by the Company in a general meeting.

Where a general meeting is held to consider whether a member should be expelled, a member will be expelled on the passing of a resolution by a majority of those present and voting in favour of the expulsion of that member. The voting for a resolution under this rule will take place by way of a poll.

The Directors must comply with the principles of natural justice when acting under this Rule.

3. Meetings of Members

3.1. General Meetings

The Company must hold an Annual General Meeting.

A meeting of members:

- (a) may be convened at any time by the Board or a Director; and
- (b) must be convened when requested by Voting members in accordance with the Corporations Act.

3.2. Methods of Receiving Notices and Annual Reports

Members shall receive Notices of Meetings and Annual Reports by email or alternatively, members may elect to receive paper copies by applying in writing to the Secretary.

3.3. Notice of General Meeting

Except where Section 249H(2) of the Corporations Act applies, at least 21 days' notice must be given of a meeting of the members, exclusive of the day on which the notice is served or deemed to be served and of the day for which notice is given.

A notice of a general meeting must:

- (a) set out the place, date and time of meeting and, if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner;
- (b) state the general nature of the business to be dealt with at the meeting; and
- (c) if a Special Resolution is to be proposed, set out an intention to propose the Special Resolution and clearly state the resolution.

The non-receipt of notice of a general meeting by, or the accidental omission to give notice of a general meeting to, any person entitled to receive that notice does not invalidate any resolution passed at the general meeting.

3.4. Postponement or cancellation of meeting

Subject to Sections 249D(5) and 250N of the Corporations Act, the Board may cancel or postpone a meeting to a date and time determined by them and subject to these the following:

- (a) written notice of cancellation or postponement of a general meeting must be given individually to each Voting member and must specify the reason for cancellation or postponement;
- (b) a notice postponing the holding of a general meeting must specify:
 - (i) a date and time for the holding of the rescheduled meeting; and
 - (ii) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
 - (iii) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner;

- (c) the number of clear days from the giving of a notice postponing the holding of a general meeting to the date specified in that notice for the holding of the postponed meeting must not be less than the number of clear days' notice of a general meeting required to be given by this Constitution; and
- (d) the only business that may be transacted at a postponed general meeting is the business specified in the notice convening the original general meeting.

The accidental omission to give notice of the cancellation or postponement of a meeting or the non-receipt of any such notice by any Voting Member or person entitled to notice does not invalidate that cancellation or postponement or any resolution passed at a postponed meeting.

This Rule does not apply to a general meeting convened by Voting Members under Section 249F of the Corporations Act or by the Board pursuant to a request of Voting Members under the Corporations Act.

3.5. Auditor entitled to notice of meeting

The Company must give its auditor:

- (a) notice of a general meeting in the same way that a Voting member is entitled to receive notice; and
- (b) any other communications relating to the general meeting that a Voting member is entitled to receive.

3.6. Use of Technology

The Company may hold a meeting of Members at 2 or more venues using any technology that gives Members, as a whole, a reasonable opportunity to participate.

4. Proceedings at General Meetings of Members

4.1. Representation of member

A Voting member must be present and vote in person.

4.2. Quorum

There is a quorum at a general meeting if 20 Voting members entitled to vote are present.

An item of business may not be transacted at a general meeting unless a quorum is present when the meeting proceeds to consider it.

If within 30 minutes after the time appointed for a meeting a quorum is not present, the meeting:

- (a) if convened by, or on request of, Voting members, is dissolved; and
- (b) in any other case, stands adjourned to the same day in the next week and the same time and place, or to such other day, time and place as the Board appoints.

If a quorum is not present within 30 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

4.3. Appointment and powers of chairman of general meeting

The Commodore is entitled to preside as chairman at a general meeting.

If a general meeting is held and the Commodore is not present within 15 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the following may preside as chairman of the meeting (in order of precedence):

- (a) the Vice Commodore;
- (b) the Rear Commodore;
- (c) a Director chosen by a majority of the Directors present;
- (d) the only Director present;
- (e) a Voting member chosen by a majority of the Voting members present in person.

The chairman of a general meeting:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting;
- (c) may, having regard where necessary to the Corporations Act terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting; and

in these circumstances a decision by the chairman is final.

4.4. Adjournment of general meetings

The chairman may, at any time during a meeting, and must if so directed by the meeting, adjourn the meeting to a new day, time or place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

In exercising the discretion to adjourn a meeting, the chairman may seek the approval of the Voting members present.

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more, in which circumstance, a notice of the adjourned meeting must be given as required for the original meeting.

A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.

4.5. Voting on a resolution

At any general meeting a resolution put to the vote of the meeting must be decided on a show of hands unless a poll is demanded:

- (a) before the vote is taken;
- (b) before the voting results on the show of hands is declared; or
- (c) immediately after the voting results on the show of hands is declared, by the chairman;
or
- (d) by not less than three members entitled to vote on the resolution.

On a show of hands, a declaration by the chairman is conclusive evidence of the result.

4.6. Questions decided by majority

Subject to the requirements of the Corporations Act, (except where a Special Resolution is required) a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

4.7. Poll

If a poll is properly demanded, it must be taken at the time of the meeting and the result of the poll is the resolution of the meeting.

A poll may not be demanded on the election of a chairman and a poll demanded on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

4.8. Equality of votes - chairman's casting vote

If there is an equality of votes on a poll, but not on a show of hands then the chairman of the meeting is entitled to a casting vote in addition to any vote to which the chairman is entitled as a member.

5. Votes of Members

5.1. Entitlement to vote

- (a) each Voting Member in attendance at a general meeting has one vote; and
- (b) a member is not entitled to be present or to vote at a general meeting if at the date of the meeting that member's annual subscription fees or other moneys payable by that member to the Company are in arrears by more than two months (or such longer period as the Board may allow in special circumstances).

5.2. Objection to voting qualification

An objection may not be raised to the right of a person to attend or vote at a meeting or an adjourned meeting except at that meeting or the adjourned meeting.

Any such objection must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under such an objection is valid for all purposes.

6. Club Register and Supplementary List

- 6.1.** Every Sailing Yacht owned by a Voting Member (or Voting 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.
- 6.2.** Any Sailing Yacht or Boat which is the property of a Voting Member (or Voting Members) may, after the approval of the Board, be placed on the list called the Supplementary List.
 - (a) Any Sailing Yacht or Boat on the Club Register or Supplementary List:
 - (b) may display the Club Burgee and use the Club's boating facilities;
 - (c) must have its name and home club clearly marked;
 - (d) must only use sail numbers issued by an appropriate authority for that vessel;
 - (e) 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; or
 - (f) 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 1.2 of this Constitution and the letting or hiring is not prohibited by any contract or association that legally binds the Club.
- 6.3.** 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.
- 6.4.** 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.
- 6.5.** Members disposing of any Sailing Yacht or Boat on the Club Register or Supplementary List must withdraw Club flags and markings from the vessel.

7. Racing Rules

- 7.1. Until otherwise determined by the Club in general meeting the Racing Rules of Sailing with Australian Sailing Prescriptions, subject to any valid by-law or regulation made under this Constitution, will govern all races held by the Club.
- 7.2. 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.
- 7.3. All Sailing Yachts racing in class races conducted by the Club must comply with the rules governing the class.

8. The Directors

8.1. Composition of the Board

The Directors who hold office at the date of adoption of this Constitution continue in office subject to this Constitution. The Board of Directors will consist of a:

- (a) Commodore;
- (b) Vice Commodore;
- (c) Rear Commodore;
- (d) Club Captain;
- (e) Honorary Treasurer; and two (2) other Members,

Each of whom are Directors of the Club.

The Commodore, Vice Commodore, Rear Commodore and Club Captain are the Flag Officers of the Club.

The duties of each of the Flag Officers and other Directors are set out in the Club's By-Laws.

8.2. Appointment of Director

- (a) The Board may at any time appoint an eligible person to be a Director to fill a casual vacancy.
- (b) Alternate Director:
 - (i) With the other Directors' prior approval, a Director may appoint an alternate person to exercise some or all of the Director's powers for a specified period.
 - (ii) If the appointing Director requests the Club to give the alternate notice of Directors' meeting, the Club must do so.
 - (iii) 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.
 - (iv) The appointing Director may terminate the alternate's appointment at any time.
 - (v) An appointment or termination must be in writing and a copy must be given to the Club.

8.3. Eligibility

A member is eligible to be appointed as a Director if:

- (a) that person has been a Voting member for not less than two years;
- (b) not hold any office of profit in the Club; and
- (c) the Commodore and Rear Commodore own a Sailing Yacht which is registered in the Club Register;
- (d) the Vice Commodore owns either a Sailing Yacht or Boat which is registered in the Club Register or Supplementary Register
- (e) any one or more of the Club Captain, Honorary Treasurer and the two other Directors own a Sailing Yacht or Boat registered in the Club Register or the Supplementary Register.
- (f) Only one of joint owners of a Sailing Yacht or boat is treated as owner.
- (g) 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.

8.4. Nomination and election of the Board

The Secretary must invite Members to nominate candidates for appointment to offices becoming vacant at an Annual General Meeting.

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.

Nomination for the offices of Directors must:

- (a) Be a Voting Member;
- (b) Specify the office on the Board to which the nominee is nominated;
- (c) Be in the form set out in Appendix 1;
- (d) Be delivered to the returning officer not later than 5.00pm, 28 days before the date fixed for an Annual General Meeting, or on such other date as may be fixed by the Board; and
- (e) Be exhibited in the Club by the returning officer.

At 5pm 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 candidate may be eligible for nomination for more than one position, but may only hold one position.

In the event that the number of candidates is less than or equal to the number of vacancies to be filled at an Annual General Meeting, all candidates will be taken to be appointed as Directors.

In the event that the number of candidates exceeds the number of vacancies to be filled at an Annual General Meeting, Directors will be elected by a ballot conducted in accordance with the following:

- (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 company premises for at least 14 consecutive days before the time fixed for the closing of the ballot.

- (b) At least twenty one (21) days before the date of the AGM, the returning officer must advise each Member entitled to vote of the candidates eligible for election to the various offices of the Club, by either:
 - (i) Pre-paid post; or
 - (ii) Electronic means In accordance with the Board's decision;
- (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, or by electronic methods determined by the Board.
 - (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, or as determined by electronic method.
 - (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, or as determined by electronic method.
- (d) The ballot paper will be in the form set out in Appendix 2; or by electronic means determined by the Board;
- (e) The ballot will close at 5.00 pm, 7 days before the date of the AGM;
- (f) After 5.00 pm on the day the ballot closes, the returning officer, in the presence of three (3) scrutineers, will open the ballot box and with assistance of the scrutineers, count the ballot, or, if the ballot is electronic, receive the results.
- (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.

8.5. Removal of Director

The Company in general meeting may by Ordinary Resolution remove a Director from office as a Director.

8.6. Remuneration of Directors

A Director may not be paid any remuneration for services as a Director.

8.7. Expenses

A Director is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Director may incur when travelling to or from meetings of the Directors or a Committee or when otherwise engaged on the affairs of the Company.

8.8 Director's interests

A Director is not disqualified by the Director's office and the fiduciary relationship established by it from holding any office or place of profit, other than that of auditor, under the Company or a related body corporate of the Company.

A Director may, subject to the Corporations Act:

- (a) be or become a Director of or otherwise hold office or a place of profit in any other company promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise;
- (b) contract or make any arrangement with the Company or any related body corporate whether as a vendor, purchaser, lawyer or accountant or other professional person or otherwise and any contract or arrangement entered or to be entered into by or on behalf of the Company or any related body corporate in which any Director is in any way interested is not avoided for that reason.

Notwithstanding these Rules, a Director who:

- (a) holds any office or place of profit; or
- (b) is involved in a contract or arrangement,

is not, by reason only of that fact or any interest resulting from it or the fiduciary relationship established by it, liable to account to the Company for any remuneration or other benefits accruing from it.

A Director or a firm of which the Director is a partner or employee may act in a professional capacity, other than as auditor, for the Company or any related body corporate and a Director or a Director's firm is entitled to remuneration for professional services as if the relevant Director was not a Director.

Each Director must disclose that Director's interests to the Company in accordance with both the Corporations Act and the Registered Clubs Act (NSW).

A Director who has a material personal interest in a matter that is being considered at a meeting of the Directors may not:

- (a) vote on the matter; or
- (b) be present while the matter (or a proposed resolution of that kind) is being considered at the meeting,

provided that these restrictions may at any time or times be suspended or relaxed to any extent and either prospectively or retrospectively by resolution of the Company in general meeting, if that is permitted by the Corporations Act.

The Director may not be counted in the quorum present at any Director's meeting at which the contract, proposed contract or arrangement or other matter is considered if the Director is permitted by the Corporations Act to be present during the consideration.

A Director does not have an interest in a matter relating to an existing or proposed contract of insurance merely because the contract insures, or would insure, the Director against a liability incurred by the Director as an officer of the Company or of a subsidiary of the Company.

A Director may, despite the Director's interest, and whether or not the Director is entitled to vote, or does vote, participate in the execution of any instrument by or on behalf of the Company whether through signing or sealing the same or otherwise.

8.9. Vacation of office of Director

In addition to the circumstances in which the office of a Director becomes vacant under the Corporations Act, the office of a Director becomes vacant if the Director:

- (a) ceases to be a Voting member;
- (b) becomes of unsound mind or is mentally incapable of performing the functions of that office;

- (c) resigns from the office by notice in writing to the Company;
- (d) in the case of a Director who was a Yacht Owning member as at the date of appointment, ceases to be a Yacht Owning member and does not within three months of ceasing, again become a Yacht Owning member, except where the remaining number of Directors who are Yacht Owning members remain a majority of those Directors.
- (e) is removed from the office at a general meeting;
- (f) becomes prohibited from being a Director of the Company by reason of bankruptcy or an order made under the Corporations Act;
- (g) is not present at meetings of the Directors for a continuous period of six months without leave of absence being given by the Board of Directors.

9. Flag Officers and the Treasurer

9.1 Continuation of appointment of Flag Officers and Treasurer

The Company will appoint a Commodore, a Vice Commodore, a Rear Commodore, and a Treasurer.

The Commodore, Vice Commodore, Rear Commodore and Treasurer in office at the time of adoption of this Constitution continue in office subject to this Constitution.

9.2 Appointment of Flag Officer or Treasurer

The Directors may at any time appoint an eligible person to be a Flag Officer or Treasurer to fill a casual vacancy.

9.3 Eligibility for appointment as Flag Officers or Treasurer

A member is not eligible to be appointed:

- (a) as a Flag Officer or Treasurer unless that person:
 - i. has been a Voting member for not less than two years; and
 - ii. is a Director (including a Director appointed at any general meeting at which the appointment as Flag Officer is to take place);
- (b) as a Commodore or a Rear Commodore unless that person is a Yacht Owning member; or
 - i. as a Vice Commodore unless that person is a Yacht or Boat Owning member.

9.4 Removal of Flag Officer or Treasurer

The Company in general meeting may by Ordinary Resolution remove a Flag Officer or Treasurer from office as a Flag Officer or Treasurer, as the case may be.

9.5 Remuneration of Flag Officers and Treasurer

A Flag Officer or Treasurer may not be paid any remuneration for services as a Flag Officer or Treasurer.

9.6 Expenses

A Flag Officer or Treasurer is entitled to be reimbursed out of the funds of the Company for such reasonable travelling, accommodation and other expenses as the Flag Officer or Treasurer may incur when on the affairs of the Company.

9.7 Vacation of office of Flag Officer

The office of a Flag Officer becomes vacant if the Flag Officer:

- (a) ceases to be a Director; or
- (b) resigns from the office by notice in writing to the Company; or
- (c) in the case of Flag Officer who was a Yacht Owning member at the date of appointment, ceases to be a Yacht Owning member and does not within three months of so ceasing again become a Yacht Owning member.

The office of a Treasurer becomes vacant if the Treasurer:

- (a) ceases to be a Director; or
- (b) resigns from the office by notice in writing to the Company.

A Director may remain in the office of Director even after resigning from the role of a Flag Officer or Treasurer.

9.8 Flag Officer's flags

The Commodore's flag is the Club Burgee with swallow-tail.

The Vice-Commodore's flag is the Club Burgee with swallow-tail and one white ball in the upper right quarter.

The Rear Commodore's flag is the Club Burgee with swallow-tail and two white balls, one above the other, in the upper right quarter.

The Club Captain's flag is the Club Burgee with swallow-tail and two white balls horizontally in the lower right quarter.

A retired Commodore's flag is similar to the Commodore's flag with the addition of the capital letter "R" in the upper right quarter.

10 Powers of Board of Directors

The business of the Company is to be managed by or under the direction of the Board.

The Board may exercise all of the powers of the Company except any powers that the Corporations Act or this Company's Constitution requires the Company to exercise in general meeting

These powers include but are not limited to the following:

- (a) to make and amend such By-Laws binding the members as they think fit as long as those By-Laws are not inconsistent with this Constitution;
- (b) to impose such levies on members and collect such fees as the Directors consider are necessary or expedient for the efficient operation of the Company or for some extraordinary expenditure or commitment of the Company;
- (c) to determine the annual subscription for each category of membership in each financial

year, provided that any increase in subscription is not in excess of an amount equivalent to fifteen percent (15%) of the current subscription level, in the event of which a greater increase must be approved by the members by Ordinary Resolution at a general meeting;

- (d) to make calls from time to time on members or any class or classes of members provided that any call on members is subject to the approval by the members by Special Resolution at a general meeting, and

11 By-Laws

Each member is bound by and must comply with the By-Laws.

By-Laws and amendments to the By-laws come into force upon being made or amended, as the case may be, by the Board.

The By-Laws in existence at the date of the adoption of this Constitution continue as By-Laws subject to this Constitution.

The members may by resolution passed in general meeting disallow any By- Law made or amended by the Board. No such disallowance will invalidate any decision or act made or taken pursuant to such By-Law prior to the disallowance unless the resolution specifically so directs.

12 Proceedings of Directors

12.1 Directors' meetings

The Directors may meet together for the dispatch of business and adjourn and otherwise regulate their meetings as they think fit.

Minutes of all proceedings and resolutions of the Board must be kept and entered into a book provided for the purpose.

A Director may at any time, and the Secretary must on the written request of a Director, convene a meeting of the Directors. A meeting of Directors must be held at least once in each calendar month.

12.2 Chairman of Directors

The Commodore will be chairman of meetings of Directors.

If a Directors' meeting is held and the Commodore is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act, the following may preside as chairman of the meeting (in order of precedence):

- (a) the Vice Commodore;
- (b) the Rear Commodore; or
- (c) a Director, chosen by a majority of the Directors present.

12.3 Questions decided by majority

Questions arising at a meeting of Directors are to be decided by a majority of votes of Directors present and entitled to vote and any such decision is for all purposes to be deemed a decision of the Directors.

12.4 Chairman's casting vote

In the event of an equality of votes, the chairman of the meeting has a casting vote.

12.5 Quorum for Directors' meeting

The quorum for a Directors meeting is four or any greater number determined by the Directors from time to time. For the purposes of this Rule, a quorum is present during the consideration of a matter at a meeting of the Directors only if at least four Directors are present who are entitled to vote on any matter.

A Director is treated as being present at a meeting held by audio or audio-visual communication if the director is able to be heard by all others attending the meeting.

12.6 Remaining Directors may act

The continuing Directors may act despite a vacancy in their number but, if and so long as their number is reduced below the quorum for meetings of the Directors, the continuing Directors may, except in an emergency, act only for the purpose of filling vacancies to the extent necessary to bring their number up to that minimum or of convening a general meeting.

12.7 Directors' committees

The Directors may delegate any of their powers, other than powers required by law to be dealt with by Directors as a Board, to a committee which is subject to the direction of the Directors.

Such delegation must be recorded in the Company's Minute Book.

Any recommendation of the committee must be ratified at a Board Meeting.

12.8 Proceedings of Directors' committees

The Directors may elect one of their number as chairman of the meetings of a committee.

If a meeting of a committee is held and:

- (a) a chairman has not been elected; or
- (b) the chairman is not present within 10 minutes after the time appointed for the holding of the meeting or is unable or unwilling to act.

The members of the committee present may elect one of their numbers to be chairman of the meeting.

A committee may meet and adjourn as it thinks proper.

Questions arising at a meeting of a committee are to be determined by a majority of votes of the members of the committee present and voting.

The chairman, in addition to the chairman's deliberative vote, has a casting vote.

12.9 Written resolution by Directors

If all the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

A Director is deemed to have signed a document containing such a statement if the approval of that statement is contained in an email sent by that Director.

12.10 Use of technology

A Directors' meeting or a meeting of a committee may be called or held using any technology consented to by each Director. The consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting.

12.11 Validity of acts of Directors

Subject to the other provisions of this Constitution all acts of the Directors, a committee or a member of a Directors committee are valid even if it is afterwards discovered that there was a defect in the appointment, election or qualification of any of them or that any of them were disqualified or had vacated office.

13 Secretary

13.3 Appointment of Secretary

There must be one Secretary of the Company, who is the Chief Executive Officer of the Club and who is to be appointed by the Directors.

13.4 Suspension and removal of Secretary

The Directors may suspend or remove the Secretary from that office.

13.5 Powers, duties and authorities of Secretary

The Board may appoint a Secretary for such term, at such remuneration and on such conditions as it thinks fit.

The Directors may vest in the Secretary such powers, duties and authorities as they may determine from time to time and the Secretary must exercise all such powers and authorities subject at all times to the control of the Directors.

14 Minutes

14.1 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.

14.2 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.

14.3 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.

15 Club burgee

15.3 Club burgee

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.

15.4 Flying of burgee

The By-Laws shall provide that the burgee must not be flown on any yacht or boat that is owned by a member unless the member is present when that yacht is being used.

15.5 The Blue Ensign is the ensign of the Club.

16 Inspection of records

16.1 Subject to the Corporations Act, the Directors may determine whether and to what extent, and at what time and places and under what conditions, the accounting records and other documents of the Company or any of them will be open to the inspection of members (other than Directors).

16.2 A member (other than a Director) does not have the right to inspect any document of the Company except as provided by law or authorised by the Directors or by the Company in general meeting.

16.3 The Club's financial year will end on the last day of March each year.

17 Service of documents

This Rule does not apply to the giving of a notice of meeting of members. The Company may give a document to a member:

- (a) personally;
- (b) by sending it by post (by airmail if to an address outside Australia) to the address for the member in the Register or an alternative address (if any) nominated by the member; or
- (c) by sending it to an electronic address (if any) nominated by the member.

A member may give a document to the Company or to the Secretary:

- (a) in the case of the Secretary, personally;
- (b) by sending it by post to the registered office of the Company; or
- (c) by sending it to an electronic address (if any) nominated by the Company.

If a document is sent by post, delivery of the document is:

- (a) taken to be effected by properly addressing, prepaying and posting a letter containing the document; and
- (b) taken to be effective on the third day after the date of its posting.

If a document is sent by electronic transmission, delivery of the document is:

- (a) taken to be effected by properly addressing and transmitting the electronic transmission, and
- (b) taken to be effective on the day following its transmission.

18 Audit and accounts

18.1 Company to keep accounts

The Directors must cause the Company to keep accounts of the business of the Company in accordance with the requirements of the Corporations Act and the Registered Clubs Act.

18.2 Company to audit accounts

The Directors must cause the accounts of the Company to be audited in accordance with the requirements of the Corporations Act.

19 Indemnity

19.1 Indemnity of officers

Every person who is or has been a Director or Secretary of the Company or its subsidiaries is entitled to be indemnified out of the property of the Company against:

- (a) every liability incurred by that person in that capacity (except a liability for legal costs) and
 - (b) all legal costs incurred in defending or resisting (or otherwise in connection with) proceedings whether civil or criminal or of an administrative nature, in which that person becomes involved because of that capacity
- unless:
- (c) the Company is forbidden by statute to indemnify the person against the liability or legal costs; or
 - (d) an indemnity by the Company of the person against the liability or legal costs would, if given, be made void by statute.

19.2 Insurance

The Company may pay or agree to pay a premium for a contract insuring a person who is or has been a Director or Secretary of the Company and its subsidiaries against liability incurred by the person in that capacity, including a liability for legal costs, unless:

- (a) the Company is forbidden by statute to pay or agree to pay the premium; or
- (b) the contract would, if the Company paid the premium, be made void by statute.

20 Winding-up or dissolution

If upon the winding up or dissolution of the Company there remains, after satisfaction of all its debts and liabilities, any property, that property will not be paid to or distributed among the members but will be given or transferred to some other institution or institutions:

- (a) having objects similar to the objects of the Company; and
- (b) whose constitution prohibits the distribution of its or their income and property among its or their members to an extent at least as great as imposed under this Constitution,

Such institution or institutions to be determined by the members, at or before the time of winding up or dissolution.