

# Constitution

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**McCRAE YACHT CLUB INC.**  
**(ABN 91 736 526 581)**  
**(Registration No. A0018202N)**

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# Constitution of McCrae Yacht Club Inc.

## PART I – PURPOSES, POWERS AND INTERPRETATION

### 1. NAME

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The name of the incorporated association is McCrae Yacht Club Inc. (**Club**).

### 2. INCORPORATION

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- (a) The Club is incorporated under the Act and shall remain incorporated.
- (b) The model rules made under the Act are expressly displaced by this Constitution.

### 3. PURPOSES OF CLUB

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The Club is established solely for these Purposes. The Purposes of the Club are to:

- (a) promote and encourage Sailing generally in any shape or form as defined by the rules of the affiliated Australian representative of World Sailing;
- (b) encourage Sailing and boating activities by the promotion of regattas, the giving of prizes, the conduct of seasonal racing programmes, the training and tuition of members and potential members in the art of Sailing and in any other related disciplines, and by any other means which may from time to time be determined by the Club in General Meeting;
- (c) provide and maintain at McCrae suitable premises and storage facilities for use of the members of the Club, its guests and visitors including the provision and maintenance of a club house;
- (d) have regard to the public interest in its operations; and
- (e) undertake and or do all such things or activities which are necessary, incidental or conducive to the advancement of these Purposes.

### 4. POWERS OF THE CLUB

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Solely for furthering the Purposes set out above, the Club has in addition to the powers and functions under the Act, the legal capacity and powers of a company limited by guarantee as set out under section 124 of the *Corporations Act 2001* (Cth).

### 5. INTERPRETATION AND DEFINITIONS

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#### 5.1. Definitions

In this Constitution, unless the contrary intention appears:

**Act** means the *Associations Incorporation Reform Act 2012* (Vic).

**Annual General Meeting** means a meeting of Members convened in accordance with rule 13.

**Annual Subscriptions** means the annual fees payable by each category of Member as determined by the General Committee under rule 8.

**Appointed Director** means a Director appointed in accordance with rule 21.

**By-Laws** mean any by-laws made by the General Committee under rule 29.

**Club** means McCrae Yacht Club Inc.

**Club Captain** means the chair of the Sailing Committee who shall hold the title of club captain of the Club and who is appointed in accordance with rule 26.6.

**Committee** means any committee of the General Committee created under rule 25.4 from time to time.

**Commodore** means the commodore for the time being of the Club appointed in accordance with rule 23.4(a)(i).

**Constitution** means this constitution of the Club as amended from time to time.

**Director** means a member of the General Committee and includes the Elected Directors, Appointed Directors and Club Captain.

**Elected Director** means a Director elected in accordance with rule 20.

**Financial Year** means the 12 month period commencing 1 May and ending 30 April in the subsequent calendar year.

**Flag Officer** means any of the Commodore, Vice Commodore or Rear Commodore.

**General Committee** means the body managing the Club and consisting of the Directors under rule 19.2.

**General Meeting** means the annual or any Special General Meeting of the Club convened in accordance with rule 14.

**Intellectual Property** means all rights subsisting in copyright, business names, names, trade marks (or signs), logos, designs, equipment, images (including photographs, television, videos or films) or service marks (whether registered or Sailing activity of or conducted, promoted or administered by the Club).

**Life Member** means an individual elected as such under rule 7.7.

**Member** means any person recognised as a member of the Club by the General Committee under rule 7 from time to time.

**Purposes** mean the purposes of the Club under rule 3.

**Rear Commodore** means the rear commodore for the time being of the Club appointed in accordance with rule 23.4(a)(iii).

**Register** means the register of Members kept in accordance with rule 9.1.

**Relevant Documents** mean the records and other documents, however recorded, compiled or stored, that relate to the Club and management of the Club and includes membership records, financial statements, financial records, and records and documents relating to transactions, dealings, business or property of the Club, but does not include minutes of General Committee meetings.

**Sailing** means the sport of sailing as determined by World Sailing with such variations as may be recognised by the affiliated Australian representative or Yachting Victoria from time to time.

**Sailing Committee** means the committee of the Club established under rule 26

**Secretary** means the secretary for the time being of the Club appointed in accordance with rule 27.2.

**Special General Meeting** means a General Meeting of the Club other than an Annual General Meeting.

**Special Resolution** has the same meaning as that given to it by the Act.

**Vice Commodore** means the vice commodore for the time being of the Club appointed in accordance with rule 23.4(a)(ii).

**Voting Member** means a Member entitled to vote at General Meetings under rule 7.2

**World Sailing** means World Sailing, the international governing body for Sailing, or its successors.

**Yachting Victoria** means Yachting Victoria Inc., the governing body for Sailing in Victoria, or its successors.

## 5.2. Interpretation

In this Constitution:

- (a) a reference to a rule, regulation, schedule or annexure is to a rule, regulation, schedule or annexure of, or made under, this Constitution;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing any gender include the other genders;
- (d) headings are for convenience only and shall not be used for interpretation;
- (e) words or expressions shall be interpreted in accordance with the provisions of the Act as they vary from time to time;
- (f) references to persons include natural persons, corporations and bodies politic, and any legal personal representatives, successors and permitted assigns of that person;
- (g) except where the contrary intention appears in this Constitution, an expression that deals with a matter under the Act has the same meaning as that provision of the Act;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any legislative authority having jurisdiction); and
- (i) expressions referring to "writing" shall unless the contrary intention appears, be construed as including references to printing, photography and other

modes of representing or reproducing words in a visible form, including messages sent by electronic mail.

### 5.3. Enforceability

If any provision of this Constitution or any phrase contained in it is invalid or unenforceable in any jurisdiction, the phrase or provision shall be read down for the purpose of that jurisdiction, if possible, so it is valid and enforceable. If it cannot be so read down the provision shall be severed to the extent of the invalidity or unenforceability. The remaining provisions of this Constitution and its validity or enforceability shall not be affected by the severance in any other jurisdiction.

## PART II - MEMBERSHIP

### 6. LIABILITY OF MEMBERS

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The liability of the Members of the Club is limited.

### 7. MEMBERSHIP OF CLUB

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#### 7.1. Minimum number of Members

The Club must have at least five (5) Voting Members.

#### 7.2. Categories of Member

The Members of the Club shall consist of:

- (a) **Family Members**, comprising a person at least 18 years of age and his or her spouse or de facto spouse and one or more dependent children under the age of 21 years at 1 July of the relevant Financial Year, who shall each have the right to be present, debate and, subject to being at least 18 years of age at the date of the relevant meeting, vote at General Meetings;
- (b) **Family Couple Members**, comprising a person at least 18 years of age and his or her spouse or de facto spouse, who shall each have the right to be present, debate and, subject to being at least 18 years of age at the date of the relevant meeting, vote at General Meetings;
- (c) **Senior Members**, being a person at least 18 years of age on 1 July of the relevant Financial Year who is not part of a Family or Family Couple Membership, who shall have the right to be present, debate and vote at General Meetings;
- (d) **Student Members**, being full time students who would otherwise fall within the Senior Membership category, who shall have the right to be present, debate and vote at General Meetings;
- (e) **Junior Members**, being persons under the age of 18 years on 1 July of the relevant Financial Year who are not part of a Family Membership, who are not entitled to attend, debate or vote at General Meetings;
- (f) **Life Members**, who shall have the right to be present, debate and vote at General Meetings;
- (g) **Honorary Members**, being a person who is appointed by the General Committee to acknowledge having previously rendered special services to the



Club. An Honorary Member shall hold that membership for a period of 1 year. No more than 5 people may hold Honorary Membership at any one time and each individual appointment of Honorary Membership will be reviewed annually. Honorary Members are not entitled to attend, debate or vote at General Meetings nor serve on any elected or appointed Committee;

- (h) **Veteran (Couple or Single) Members**, comprising at least one person having a combined age plus total years of membership of the Club, not including Lighthouse Membership, equalling 100. Veteran Members shall each have the right to be present, debate and vote at General Meetings but are not entitled to skipper or crew a yacht participating in any sanctioned Sailing event at the Club;
- (i) **Lighthouse (Family, Family Couple or Senior) Members**, comprising one or more persons complying with the requirements of either Family, Family Couple or Senior Membership outlined above, subject to Lighthouse Members not being entitled to skipper or crew on a yacht participating in any sanctioned Sailing event at the Club. Lighthouse Members shall each have the right to be present and debate but not vote at General Meetings nor serve on the General or Sailing Committees;
- (j) **Secondary Club (Senior or Junior) Members**, being a person who concurrently holds membership of another sailing club in Australia and who complies with the requirements of either Senior or Junior Membership outlined above. Secondary Club Members shall have the right to be present and debate but not vote at General Meetings.
- (k) **Day Members**, being a person who is not currently a member of another sailing club in Australia. Day Membership is valid only for the single day it is applied for. A person may only apply for a maximum 10 separate Day Memberships during each Financial Year. Day Members are not entitled to attend, debate or vote at General Meetings nor serve on any elected or appointed Committee; and
- (l) **Temporary Members**, comprising a person or group of people who may be appointed by the General Committee for a period not exceeding 2 months in any one Financial Year, to use the Club facilities for training, regatta or other purposes approved by the General Committee. Temporary Members are not entitled to attend, debate or vote at General Meetings nor serve on any elected or appointed Committee.

### 7.3. Application for Membership

- (a) Subject to this Constitution, to be eligible for membership as a Member, except as a Life Member which is governed by rule 7.7, the applicant must be a natural person and meet any other criteria set by the General Committee from time to time.
- (b) Subject to this Constitution or any procedures set by the General Committee from time to time, an application for membership as a Member except a Life Member must be:
  - (i) in writing in the form prescribed by the General Committee from time to time;

- (ii) proposed and seconded by Voting Members who have each been Members for not less than 12 months immediately preceding the application;
- (iii) accompanied by the appropriate fee or fees, if any; and
- (iv) lodged with the General Committee or its nominee.

#### **7.4. Discretion to Accept or Reject Application**

- (a) The General Committee may accept or reject an application whether the applicant has complied with the requirements in rule 7.3 or not, and shall not be required or compelled to provide any reason for such acceptance or rejection.
- (b) If the General Committee rejects an application for membership, it shall, as soon as practicable, notify the applicant in writing that their application for membership is not approved. If the General Committee rejects an application, it shall refund any fees forwarded with the application.
- (c) If a person satisfies the criteria set by rule 7.3 and the General Committee accepts the application for membership, the applicant shall be deemed a Member in the category described in their application, subject always to this Constitution. Membership of the Club shall be deemed to commence upon acceptance of the application by the General Committee. The Register shall be updated accordingly as soon as practicable.

#### **7.5. Renewal of membership**

- (a) Membership of the Club expires:
  - (i) for Temporary Membership, at the conclusion of the period of appointment under rule 7.2(l);
  - (ii) for Day Membership, at midnight on the relevant day the Day Membership is applied for; and
  - (iii) for all other categories except for Life Membership, on 30 June in each calendar year.
- (b) Members, except for Life Members, must reapply for membership of the Club each financial year in accordance with the procedures set down by the General Committee from time to time.
- (c) Upon re-application a Member must provide details of any change in their personal details, and any other information reasonably required by the Club.

#### **7.6. Deemed Membership**

All persons who are, prior to the approval of this Constitution under the Act, Members of the Club shall be deemed Members from the time of approval of this Constitution under the Act. Such membership shall continue subject to the terms of this Constitution.

## **7.7. Life Members**

Life Membership of the Club may be conferred at any Annual General Meeting upon any person recommended by the General Committee, subject to the following:

- (a) nominations for Life Membership must be lodged with the General Committee or its nominee. The General Committee may recommend to the Annual General Meeting that any natural person who has rendered distinguished service to the Club be appointed as a Life Member;
- (b) before making a recommendation to an Annual General Meeting, the General Committee must appoint a panel of four (4) Members with experience in the administration of the Club, one (1) of whom must be a Flag Officer who must attend all meetings of the panel;
- (c) a resolution of the panel in favour of recommending Life Membership must be received by the General Committee no later than two (2) months prior to the relevant Annual General Meeting. The resolution shall state the reasons why it is considered such a person should have Life Membership conferred upon him or her;
- (d) Directors are not eligible for Life Membership;
- (e) no more than two (2) persons shall have Life Membership conferred upon them at any one Annual General Meeting;
- (f) there shall be no more than 15 living Life Members at any one time;
- (g) a resolution of the Annual General Meeting to confer Life Membership on the recommendation of the General Committee must be a Special Resolution;
- (h) a person must accept or reject the Club's resolution to confer Life Membership. Upon acceptance, the person's details shall be entered upon the Register, and from the time of entry on the Register the person shall be a Life Member, but remain subject to this Constitution; and
- (i) the partner of a Life Member shall have the same privileges of membership of the Club as the Life Member.

## **7.8. Effect of Membership**

- (a) Members acknowledge and agree that:
  - (i) this Constitution constitutes a contract between each of them and the Club and that they are bound by this Constitution and the By-Laws;
  - (ii) they shall comply with and observe this Constitution and the By-Laws;
  - (iii) by submitting to this Constitution and the By-Laws they are subject to the jurisdiction of the Club;
  - (iv) this Constitution and By-Laws are necessary and reasonable for promoting the Purposes of the Club;
  - (v) they are subject to all qualifications of membership as determined by the General Committee; and

- (vi) they are entitled to all benefits, advantages, privileges and services of their membership as determined by the General Committee.
- (b) Members may by virtue of membership of the Club and unless otherwise provided by this Constitution:
  - (i) express in writing or otherwise their views and opinions in any meeting in respect of which they are entitled to participate in accordance with this Constitution;
  - (ii) make proposals or submissions to the General Committee
  - (iii) subject to the By-Laws, attend the Club facilities;
  - (iv) volunteer to assist with any Club activity;
  - (v) serve on any Committee; and
  - (vi) subject to the By-Laws, engage and participate in any activity approved, sponsored or recognised by the Club.
- (c) A right, privilege or obligation of a person by reason of their membership of the Club:
  - (i) is not capable of being transferred or transmitted to another person; and
  - (ii) terminates upon the cessation of membership whether by death, resignation or otherwise in accordance with this Constitution.

## **8. SUBSCRIPTIONS AND FEES**

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- (a) The Annual Subscriptions and any other fees payable by Members or categories of Members to the Club, the benefits which apply, the time for, and manner of payment, shall be determined by the General Committee following the Annual General Meeting in each calendar year.
- (b) The date on which Annual Subscriptions and any other fees payable by Members or categories of Members shall be payable to the Club will be determined by the General Committee from time to time.
- (c) The General Committee is empowered to prevent any Member whose Annual Subscription or any other fees are in arrears from exercising the whole or any of the rights or privileges of membership of the Club, including but not limited to the right to vote at General Meetings.

## **9. REGISTERS**

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### **9.1. Club to Keep Register of Members**

The Club shall keep and maintain a Register of Members in accordance with the Act in which shall be entered:

- (a) the full name and address of the Member;
- (b) the category of membership of the Member;

- (c) the date on which the Member became a Member;
- (d) any other information determined by the General Committee; and
- (e) for each former Member, the date of ceasing to be a Member.

## **9.2. Change to Member details**

Members shall provide notice of any change and required details to the Club within one (1) month of such change.

## **9.3. Inspection of Register**

Inspection of the Register will only be available as required by the Act and in accordance with rule 33(d).

## **9.4. Use of Register**

Subject to confidentiality considerations and privacy laws, the Register may be used by the Club to further the Purposes, as the General Committee considers appropriate.

# **10. DISCONTINUANCE OF MEMBERSHIP**

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## **10.1. Discontinuance by Notice of Resignation**

- (a) A Member having paid all arrears of fees payable to the Club may resign or withdraw from membership of the Club by giving notice in writing to the Club of resignation or withdrawal.
- (b) Upon the expiration of that period of notice, the Member shall cease to be a Member. A Life Member may resign by notice in writing with immediate effect.

## **10.2. Discontinuance by Breach**

- (a) Membership of the Club may be discontinued by the General Committee upon breach of any rule of this Constitution, including but not limited to the failure to pay any monies owed to the Club, failure to comply with the By-Laws or any resolution or determination made or passed by the General Committee or any duly authorised Committee.
- (b) Membership shall not be discontinued by the General Committee under rule 10.2(a) without the General Committee first giving the accused Member the opportunity to explain the breach and/or remedy the breach.
- (c) Where a Member fails, in the General Committee's view to adequately explain or remedy the breach, that Member's membership shall be discontinued under rule 10.2(a) by the Club giving written notice of the discontinuance.

## **10.3. Discontinuance by Failure to Pay Subscription**

- (a) A Member is taken to have resigned if:
  - (i) the Member's Annual Subscription is outstanding more than three (3) months after the due date determined by the General Committee in accordance with rule 8(b). Where a Member fails to pay the Annual

Subscription by that time, that Member's membership will automatically be deemed to have lapsed from that time; or

- (ii) if no Annual Subscription is payable:
  - (A) the Secretary has made a written request to the Member to confirm that he or she wishes to remain a Member; and
  - (B) the Member has not, within three (3) months after receiving that request, confirmed in writing that he or she wishes to remain a Member.
- (b) Should a sufficient explanation be made to the General Committee for the failure to pay subscription or reason for not responding to a request, the General Committee shall have the power to restore the Membership upon payment of the amount due (if any).

#### **10.4. Amendment to the Register**

Upon the expiration of a notice given under rule 10.1, an entry, recording the date on which the Member who gave notice ceased to be a Member, shall be recorded in the Register.

#### **10.5. Forfeiture of Rights**

A Member who ceases to be a Member, for whatever reason, shall forfeit all rights in and claims upon the Club and its property and shall not use any property of the Club including Intellectual Property. Any Club documents, records or other property in the possession, custody or control of that Member shall be returned to the Club immediately.

#### **10.6. Membership may be Reinstated**

Membership which has been discontinued under this rule 10 may be reinstated at the discretion of the General Committee, upon such conditions as it deems appropriate.

#### **10.7. Refund of Membership Fees**

Membership fees or subscriptions paid by the discontinued Member may be refunded on a pro-rata basis to the Member upon discontinuance.

### **11. DISCIPLINE OF MEMBERS**

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#### **11.1. Establishing a Disciplinary Committee**

- (a) Where the General Committee is advised of an allegation (not being vexatious, trifling or frivolous) or considers that a Member has allegedly:
  - (i) breached, failed, refused or neglected to comply with a provision of this Constitution, the By-Laws or any resolution or determination of the General Committee or any duly authorised committee; or
  - (ii) acted in a manner unbecoming of a Member or prejudicial to the Purposes and interests of the Club and/or Sailing, or another Member; or

- (iii) brought themselves, another Member, the Club or Sailing into disrepute,

the General Committee may by resolution and in accordance with rule 25.4, establish a disciplinary Committee to convene to hear a matter against any Member and to determine what action, if any, to take against that Member (**Disciplinary Hearing**), and that Member, will be subject to, and submits unreservedly to the jurisdiction, disciplinary procedures and penalties and the appeal mechanisms (if any) in this Constitution.

- (b) After establishing a disciplinary Committee, the General Committee may by resolution provisionally suspend the Member in question, subject to the Disciplinary Hearing, until such time as the disciplinary Committee makes a finding.

### **11.2. Determination of Disciplinary Committee**

- (a) The members of the disciplinary Committee may be Members or anyone else but must not be biased against, or in favour of, the Member concerned.
- (b) The disciplinary Committee must serve on the Member not later than 14 days before the Disciplinary Hearing a notice in writing stating the alleged breach, the date, place and time of the Disciplinary Hearing and that the Member may address the Disciplinary Hearing either in person or through a written statement.
- (c) When determining whether the alleged breach under rule 11.1 occurred, the disciplinary Committee must ensure that the Member has the opportunity to be heard and to call witnesses and that due consideration is given to any written statement submitted by the Member or a witness.
- (d) Where the disciplinary Committee determines there was a breach, it will determine what penalty (if any) shall be given to the Member and give notice of this to the General Committee. The disciplinary Committee may impose any penalty it sees fit.

### **11.3. No Appeal**

- (a) A determination of the disciplinary Committee under rule 11.2 is final and binding on the Member and there is no right of appeal available to any further body under this Constitution.
- (b) A Member who is the subject of disciplinary proceedings under this rule 11 must not initiate a grievance procedure under rule 12 in relation to the matter which is subject of the disciplinary proceedings until the disciplinary procedure has been completed.

## **12. GRIEVANCE PROCEDURE**

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- (a) The grievance procedure set out in this rule applies to disputes under this Constitution between:
  - (i) a Member and another Member; or
  - (ii) a Member and the Club.

- (b) The parties to the dispute must meet and discuss the matter in dispute, and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (c) If the parties are unable to resolve the dispute at the meeting, or if a party fails to attend that meeting, then the parties must, within ten (10) days, hold a meeting in the presence of a mediator.
- (d) The mediator must be:
  - (i) a person chosen by agreement between the parties; or
  - (ii) in the absence of agreement:
    - (A) in the case of a dispute between a Member and another Member, a person appointed by the General Committee; or
    - (B) in the case of a dispute between a Member and the Club, a person who is a mediator appointed or employed by the Dispute Settlement Centre of Victoria.
- (e) A Member can be a mediator. The mediator cannot be a Member who is a party to the dispute.
- (f) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (g) The mediator, in conducting the mediation, must:
  - (i) give the parties to the mediation process every opportunity to be heard; and
  - (ii) allow due consideration by all parties of any written statement submitted by any party; and
  - (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (h) The mediator must not determine the dispute.
- (i) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.
- (j) Any costs arising from a grievance procedure under this rule 12 will be met equally by each party to the dispute.

## **PART III- GENERAL MEETINGS**

### **13. ANNUAL GENERAL MEETINGS**

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#### **13.1. Annual General Meeting to be Held**

- (a) The Club shall convene and hold an Annual General Meeting of its Members annually in accordance with the Act.



- (b) The Annual General Meeting of the Club shall, subject to the Act and to rule 13.1(a), be convened at a time, date and venue to be determined by the General Committee.

### **13.2. Business**

In addition to any business required to be transacted at the Annual General Meeting under the Act, the business of the Annual General Meeting shall include the following:

- (a) confirmation of minutes from the previous Annual General Meeting and of any Special General Meeting held since then;
- (b) receive and consider:
  - (i) reports of the General Committee and Sailing Committee;
  - (ii) reports of auditors;
  - (iii) financial statements of the Club; and
  - (iv) any other reports as determined by the General Committee in its sole discretion;
- (c) election of the Elected Directors;
- (d) election of the Sailing Committee;
- (e) approval by ordinary resolution of proposed General Committee expenditure on any single project exceeding \$15,000 nett;
- (f) confirmation of the appointment and fixing of the remuneration of auditors; and
- (g) any other business of which notice is given in accordance with this Constitution.

### **13.3. Additional Meetings**

The Annual General Meeting shall be in addition to any other General Meetings that may be held in the same year. Any General Meeting other than an Annual General Meeting is a Special General Meeting.

## **14. SPECIAL GENERAL MEETINGS**

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### **14.1. Special General Meetings May be Held**

The General Committee may, whenever it thinks fit, convene a Special General Meeting of the Club and, where but for this rule more than 15 months would elapse between Annual General Meetings, it shall convene a General Meeting before the expiration of that period.

### **14.2. Request for Special General Meetings**

- (a) The General Committee shall convene a Special General Meeting upon receiving a request in writing from not less than 18 Voting Members or if required by the Act.

- (b) The requisition for a Special General Meeting shall be in writing and state the object(s) of the meeting and shall be signed by the Members making the request and be sent to the Secretary. The request may consist of several documents in a like form, each signed by one (1) or more of the Members making the requisition.
- (c) If the General Committee does not cause a Special General Meeting to be held within one (1) month after the date on which the requisition is sent to the Club, the Members making the requisition, or any of them, may convene a Special General Meeting to be held not later than two (2) months after that date.
- (d) A Special General Meeting convened by Members under this Constitution shall be convened in the same manner, or as nearly as possible as that, in which meetings are convened by the General Committee. All reasonable expenses incurred in convening the meeting shall be refunded by the Club to the persons incurring the expenses.

## **15. NOTICE OF GENERAL MEETING**

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### **15.1. Notice to be Given for General Meetings**

- (a) At least 42 days prior to the proposed date of the Annual General Meeting, the Secretary shall call for notices of motion. Members shall be notified of the call for notices of motion in a manner determined by the General Committee.
- (b) The Secretary shall, at least 21 days before the date fixed for holding a General Meeting, send to each Member entitled to vote at such meeting, each Director and the auditor a notice in writing stating the place, date and time of the meeting, the nature of the proposed business to be transacted at the meeting and all information required in accordance with the Act. Notice may be given in any form permitted under rule 38.
- (c) The notice must be sent together with:
  - (i) the agenda for the meeting;
  - (ii) any nominations for candidates to be elected to the General Committee as Directors received in accordance with rule 20;
  - (iii) any nominations for candidates to be elected to the Sailing Committee received in accordance with rule 26.3; and
  - (iv) any notice of motion received from Members in accordance with rule 15.2(b).

### **15.2. Business of Meeting**

- (a) No business other than that set out in the notice convening the meeting shall be transacted at the General Meeting.
- (b) A Member desiring to bring any business before a meeting shall give at least 30 days' notice in writing of that business to the Club, which shall include that business in a notice calling the next General Meeting after the receipt of the notice.

## **16. PROCEEDINGS AT GENERAL MEETINGS**

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### **16.1. Quorum**

- (a) No business shall be transacted at any General Meeting unless a quorum is present at the time when the meeting proceeds to business. A quorum for General Meetings of the Club shall be 30 Voting Members.
- (b) If within half an hour after the appointed time for the commencement of a General Meeting, a quorum is not present, the meeting:
  - (i) if convened upon the requisition of Members, shall be dissolved; and
  - (ii) in any other case, shall stand adjourned to:
    - (A) the same day in the next week at the same time and (unless Members are notified of an alternate venue) at the same place; or
    - (B) any date, time and place determined by the chairperson,and if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the commencement of the meeting, the meeting shall lapse.

### **16.2. Commodore to Chair**

The Commodore shall chair each General Meeting of the Club. If the Commodore is absent from a General Meeting or is unwilling to act, another Flag Officer shall chair. If the remaining Flag Officers are absent from a General Meeting or are unwilling to act, then the Directors present shall elect one of their number to preside as chairperson for that meeting only.

### **16.3. Chairperson May Adjourn Meeting**

- (a) The chairperson may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (b) When a meeting is adjourned for 30 days or more, a notice of the adjourned meeting shall be given as in the case of the original meeting.
- (c) Except as provided in rule 16.3(b) it shall not be necessary to give any notice of an adjournment or the business to be transacted at any adjourned meeting.

## **17. VOTING AT GENERAL MEETINGS**

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### **17.1. Voting Rights**

- (a) Subject to any other provision of this Constitution, each Voting Member shall be entitled to one (1) vote at General Meetings.
- (b) The Directors shall have the right to attend, debate and vote at General Meetings subject to rule 8(c).

## **17.2. Voting Procedure**

- (a) Subject to this rule 17, votes at a General Meeting shall be given in person by those present and entitled to vote or by way of proxy vote.
- (b) Subject to rule 17.4, all questions arising at a General Meeting shall be determined on a show of hands.
- (c) In the case of an equality of votes on a question, the motion shall fail. Neither the Commodore nor the chairperson of the meeting is entitled to exercise a second or casting vote.

## **17.3. Recording of Determinations**

Unless a poll is demanded under rule 17.4, a declaration by the chairperson that a resolution has, on a show of hands, been carried, carried unanimously, carried by a particular majority or lost, then an entry to that effect in the minute book of the Club is conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

## **17.4. Poll at General Meetings**

A poll may be demanded for any resolution put to the vote of the meeting (before or on the declaration of the result of the show of hands) by:

- (a) the chairperson; or
- (b) a simple majority of Members.

If a poll is duly demanded under this rule 17.4, it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the chairperson directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded.

## **17.5. Proxy Voting**

- (a) Proxy voting shall be permitted at all General Meetings in accordance with the Act, provided a proxy form in the form approved by the General Committee from time to time, has been duly completed and executed and is lodged with the Secretary at least seven (7) days (including the day of receipt of the proxy) before the commencement of the meeting.
- (b) The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll. The instrument appointing a proxy may direct the manner in which the proxy is to vote in respect of a particular resolution.
- (c) If a proxy is appointed to vote on a particular resolution by more than one (1) Voting Member and the instruments appointing the proxy direct the proxy to vote on the resolution in different ways, the proxy must not vote on a show of hands taken on the resolution.
- (d) Postal voting is not permitted.

## **18. MINUTES OF GENERAL MEETINGS**

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- (a) The General Committee must ensure that minutes are taken and kept of each General Meeting.
- (b) The minutes must record:
  - (i) the business considered at the meeting;
  - (ii) any resolution on which a vote is taken and the result of the vote;
  - (iii) proxy forms given to the Secretary under rule 17; and
  - (iv) the names of persons present at all meetings.
- (c) In addition, the minutes of each Annual General Meeting must include:
  - (i) any reports or financial statements submitted to the members at the Annual General Meeting; and
  - (ii) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

## **PART IV – GENERAL COMMITTEE**

### **19. GENERAL COMMITTEE**

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#### **19.1. Powers of General Committee**

- (a) The affairs of the Club shall be managed by the General Committee constituted under rule 19.2.
- (b) Subject to this Constitution and the Act, the General Committee:
  - (i) shall control and manage the business and affairs of the Club;
  - (ii) may exercise all such powers and functions as may be exercised by the Club other than those powers and functions that are required by this Constitution to be exercised by the Members in General Meeting; and
  - (iii) has power to perform all such acts and things as appear to the General Committee to be essential for the proper management of the business and affairs of the Club.

#### **19.2. Composition of General Committee**

- (a) Subject to rule 19.2(b), the General Committee shall comprise:
  - (i) eight (8) Elected Directors who must be Voting Members at least 18 years of age who shall be elected in accordance with rule 20;
  - (ii) the Club Captain, who will be ex officio and appointed in accordance with rule 26.6; and

- (iii) up to three (3) Appointed Directors, who must be Members at least 18 years of age who shall be appointed in accordance with rule 21.
- (b) The General Committee shall give due consideration to no one gender being represented on the General Committee by less than two (2) Directors at any one time.

### **19.3. Portfolios**

Subject to rule 23.4, if the General Committee considers it appropriate, in order to further the Purposes, it may allocate Directors to specific portfolios, with specific responsibilities, as determined at the discretion of the General Committee.

### **19.4. Right to Co-Opt**

It is expressly acknowledged that the General Committee may co-opt any person with appropriate experience or expertise to assist the General Committee in respect of such matters and on such terms as the General Committee thinks fit. Any person so co-opted shall not be a Director, and shall not exercise the rights of a Director, but shall act in an advisory role only

### **19.5. Term of Office of Elected Directors**

- (a) Subject to rule 22, each Elected Director shall take office from the conclusion of the Annual General Meeting at which they are elected and shall hold office until the conclusion of the second Annual General Meeting following their election.
- (b) Four (4) Elected Directors shall be elected in every odd-numbered year.
- (c) The four (4) Elected Directors not elected in the odd-numbered year shall be elected in every even-numbered year.
- (d) Elected Directors are eligible for re-election, however no Director may serve more than five (5) consecutive terms of two years. However, that Director shall be eligible to return to the General Committee following an absence of at least two (2) years.

### **19.6. Transitional Arrangements**

- (a) Notwithstanding any other rule of this Constitution, the transitional arrangements set out at rule 42 shall apply from the date of adoption of this Constitution.
- (b) Should any adjustment to the term of Directors elected under this Constitution be necessary to ensure rotational terms in accordance with this Constitution, this shall be determined by the General Committee. Elections to subsequent General Committees shall then proceed in accordance with the procedures in this Constitution.

## **20. ELECTION OF ELECTED DIRECTORS**

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- (a) At least 42 days prior to the proposed date of the Annual General Meeting, the Secretary shall call for nominations from Members for Director positions falling vacant. All Members shall be notified of the call for nominations in a manner determined by the General Committee.

- (b) Candidates must:
  - (i) be aged 18 years or over;
  - (ii) be Voting Members of the Club; and
  - (iii) reside in Australia.
- (c) Nominations of candidates for election as Directors shall be:
  - (i) made in writing on the form provided by the Club from time to time (if any), signed by two (2) Members at least 18 years of age as nominees and accompanied by the written consent of the nominee; and
  - (ii) delivered to the Secretary or person nominated by the General Committee by the date specified on the call for nominations.
- (d) If the number of nominations received is equal to the number of vacancies to be filled, or if there are insufficient nominations received to fill all vacancies on the General Committee, then those nominated shall be declared elected.
- (e) If there are insufficient nominations received to fill all vacancies on the General Committee, the remaining positions will be deemed casual vacancies under rule 22.3.
- (f) If the number of nominations exceeds the number of vacancies to be filled, voting papers shall be prepared by the General Committee containing the names of the candidates for each vacancy on the General Committee in alphabetical order.
- (g) Voting shall be conducted at the Annual General Meeting by the first past the post system for each individual position, or in such alternate manner and by such a method as determined by the General Committee from time to time.

## **21. APPOINTMENT OF APPOINTED DIRECTORS**

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### **21.1. Appointed Directors**

The Elected Directors may themselves appoint up to three (3) persons to be Appointed Directors because of their special business acumen and/or technical skills.

### **21.2. Term of Office of Appointed Directors**

- (a) Subject to rule 22, an Appointed Director holds office for a term determined by the Elected Directors not to exceed two (2) years beginning on the date of appointment until the conclusion of the first or second subsequent Annual General Meeting (as determined by the term of office) and the appointment will be on such other terms as the Elected Directors determine.
- (b) Subject to rule 19.5(d), Appointed Directors are eligible for re-appointment or election as an Elected Director.

## **22. VACANCY ON THE GENERAL COMMITTEE**

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### **22.1. Grounds for Termination of Director**

For the purposes of this Constitution and in addition to the circumstances (if any) in which the office of a Director becomes vacant by virtue of the Act, the office of a Director becomes vacant if the Director:

- (a) ceases to be a Voting Member;
- (b) dies;
- (c) becomes bankrupt or makes any arrangement or composition with their creditors generally;
- (d) becomes of unsound mind or a person whose person or estate is liable to be dealt with in anyway under the law relating to mental health;
- (e) resigns their office by notice in writing given to the Club;
- (f) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of the interest as required by the Act;
- (g) is removed from office in accordance with this Constitution;
- (h) has been expelled or suspended from membership (without further recourse under this Constitution);
- (i) fails to attend three (3) consecutive meetings of the General Committee without having previously obtained leave of absence in accordance with rule 23.6 or provided reasonable excuse for such absence; or
- (j) would otherwise be prohibited from being a director of a corporation under the *Corporations Act 2001* (Cth);

### **22.2. Removal of Director**

- (a) The Club in a General Meeting may by Special Resolution remove any Director, before the expiration of their term of office and appoint another Voting Member in their place to hold office until the expiration of the term of the first mentioned Director.
- (b) Where the Director to whom a proposed resolution referred to in rule 22.2(a) makes representations in writing to the Secretary or the Commodore and requests that such representations be notified to the Members, the Secretary or the Commodore may send a copy of the representations to each Member or, if they are not so sent, the Director may require that they be read out at the meeting, and the representations shall be so read.

### **22.3. Casual Vacancy**

In the event of a casual vacancy in the office of any Director, the General Committee may appoint an appropriate Voting Member (who is at least 18 years of age) to the vacant office and the person so appointed will continue in office up to the end of the term of the Director they are replacing.



## **23. QUORUM AND PROCEDURE AT GENERAL COMMITTEE MEETINGS**

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### **23.1. Convening a General Committee Meeting**

- (a) Subject to rule 23.1(b), the General Committee may meet as often as is deemed necessary for the dispatch of business. Subject to this Constitution the General Committee may adjourn and otherwise regulate its meetings as it thinks fit.
- (b) The General Committee must meet at least five (5) times in each calendar year.
- (c) Unless all Directors agree to hold a meeting at shorter notice either by agreement that is sufficiently evidenced in writing or by their presence, or in accordance with rule 23.2, not less than two (2) days written notice of General Committee meetings shall be given to each Director.
- (d) Written notice of each General Committee meeting, specifying the general nature of the time, date and place of the General Committee meeting and the business to be transacted, shall be served on each Director by:
  - (i) delivering it to that Director personally; or
  - (ii) sending it in writing, by facsimile, email or other means of electronic communication (subject to receiving appropriate confirmation that the notice has been effectively dispatched),in accordance with the Director's last notified contact details.
- (e) Notice may be given of more than one (1) General Committee meeting at the same time.

### **23.2. Urgent General Committee Meetings**

- (a) In cases of urgency, a meeting can be held without notice being given in accordance with rule 23.1 provided that as much notice as practicable is given to each Director by the quickest means practicable.
- (b) Any resolution made at an urgent General Committee meeting must be passed by an absolute majority of the General Committee.

### **23.3. Quorum**

- (a) Five (5) Directors shall constitute a quorum for the transaction of the business of a meeting of the General Committee.
- (b) No business shall be transacted unless a quorum is present and if within half an hour of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same place and at the same hour of the same day in the following week, or any date, time and place determined by the Commodore.
- (c) The General Committee may act notwithstanding any casual vacancy. However, if there are casual vacancies in the office of a Director such that the number of remaining Directors is not sufficient to constitute a quorum at a meeting of the General Committee, those Directors may act only for the

purpose of increasing the number of Directors to a number sufficient to constitute such a quorum.

#### **23.4. Election of Flag Officers**

- (a) The Directors must at the first General Committee meeting after the Annual General Meeting annually elect by majority vote one (1) Elected Director to each of the following separate positions:
  - (i) Commodore;
  - (ii) Vice Commodore; and
  - (iii) Rear Commodore.
- (b) Each Elected Director elected as a Flag Officer under rule 23.4(a) will remain in that position for a period of one (1) year commencing at the conclusion of the General Committee meeting at which they are elected until the conclusion of the first General Committee meeting following the subsequent Annual General Meeting.
- (c) Subject to rule 19.5(d) and each individual remaining an Elected Director, the Flag Officers are eligible for re-election; however no Flag Officer may serve more than three (3) consecutive terms of one year in any one (1) of the separate Flag Officer positions.
- (d) In the event of a casual vacancy in the office of any Flag Officer, the General Committee must appoint a Director to the vacant office and the person so appointed will continue in office up to the end of the term of the Flag Officer they are replacing.

#### **23.5. Procedures at General Committee meetings**

- (a) At meetings of the General Committee, the Commodore shall chair the meeting. If the Commodore is absent or unwilling to act, another Flag Officer shall chair the meeting. If the remaining Flag Officers are also absent or unwilling to act, the General Committee shall appoint one of its members to chair that meeting only.
- (b) Questions arising at a meeting of the General Committee shall be determined on a show of hands or, if demanded by a Director, by a poll taken in such manner as the person presiding at the meeting may determine.
- (c) Questions arising at any meeting of the General Committee shall be decided by a majority of votes and a determination of a majority of Directors shall be deemed a determination of the General Committee. All Directors present shall have one (1) vote on any question. In the event of an equality of votes on any question, the motion shall fail; neither the Commodore nor chair may exercise a second or casting vote.
- (d) Voting by proxy is not permitted.
- (e) A resolution in writing signed or assented to by facsimile or other form of electronic communication by all the voting Directors, shall be as valid and effectual as if it had been passed at a meeting of the General Committee duly convened and held. Any such resolution may consist of several documents in like form each signed by one or more of the Directors.

- (f) Without limiting the power of the General Committee to regulate its meetings as it thinks fit, a meeting of the Directors may be held where one or more of the Directors is not physically present at the meeting, provided that:
  - (i) all persons participating in the meeting are able to communicate with each other effectively, simultaneously and instantaneously whether by means of telephone or other form of communication;
  - (ii) notice of the meeting is given to all the Directors entitled to notice in accordance with the usual procedures agreed upon or laid down from time to time by the General Committee;
  - (iii) in the event that a failure in communications prevents condition (i) from being satisfied by that number of Directors which constitutes a quorum, and none of such Directors are present at the place where the meeting is deemed by virtue of the further provisions of this rule to be held then the meeting shall be suspended until condition (i) is satisfied again. If such condition is not satisfied within fifteen (15) minutes from the interruption the meeting shall be deemed to have terminated; and
  - (iv) any meeting held where one or more of the Directors is not physically present shall be deemed to be held at the place specified in the notice of meeting provided a Director is there present and if no Director is there present the meeting shall be deemed to be held at the place where the chairperson of the meeting is located.

### **23.6. Leave of absence**

- (a) The General Committee may grant a Director leave of absence from General Committee meetings for a period not exceeding three (3) months.
- (b) The General Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Director to seek the leave in advance.

## **24. DIRECTORS' INTERESTS**

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### **24.1. Material Personal Interests**

- (a) A Director who has a material personal interest in a matter being considered at a General Committee meeting must disclose the nature and extent of that interest to the General Committee.
- (b) A Director with such a material personal interest must not:
  - (i) be present while the matter is being considered at the meeting; and
  - (ii) must not vote on the matter.
- (c) This rule 24.1 does not apply to a material personal interest that:
  - (i) exists only because the Director belongs to a class of persons for whose benefit the Club is established; or
  - (ii) that the Director has in common with all, or a substantial proportion of the Members.

- (d) A general notice that a Director is to be regarded as having a material personal interest in a matter being considered is sufficient declaration for such Director and the said matter. After such general notice it is not necessary for such Director to give a special notice relating to the said matter.
- (e) It is the duty of the Secretary to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with this rule 24.1.

## **24.2. Financial Interest**

- (a) A Director is disqualified from:
  - (i) holding any place of profit or position of employment in the Club, or in any company or incorporated association in which the Club is a shareholder or otherwise interested; or
  - (ii) contracting with the Club either as vendor, purchaser or otherwise, except with express resolution of approval of the General Committee.
- (b) Any contract or arrangement in which any Director is in any way interested which is entered into by or on behalf of the Club without the approval of the General Committee, will be voided for such reason.
- (c) The nature of the financial interest of such Director must be declared by the Director at the meeting of the General Committee at which the contract or arrangement is first taken into consideration if the interest then exists, or in any other case at the first meeting of the General Committee after the acquisition of the interest.
- (d) A general notice that a Director is a member of any specified firm or company and is to be regarded as interested in all transactions with that firm or company is sufficient declaration under rule 24.2(c) for such Director and the said transactions. After such general notice it is not necessary for such Director to give a special notice relating to any particular transaction with that firm or company.
- (e) It is the duty of the Secretary to record in the minutes any declaration made or any general notice as aforesaid given by a Director in accordance with rule 24.2.

## **24.3. Conflicts**

A Director, notwithstanding the interest, may be counted in the quorum present at any meeting but cannot vote in respect of any contract or arrangement in which the Director is interested. If the Director votes, the vote shall not be counted.

## **25. DELEGATED POWERS**

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### **25.1. General Committee May Delegate Functions**

- (a) The General Committee may, by instrument in writing, create, establish or appoint from amongst its own members, or otherwise, special committees, sub-committees, individual officers and consultants to carry out such duties and functions, and with such powers, as the General Committee determines.

- (b) In the establishing instrument, the General Committee may delegate such functions as are specified in the instrument, other than:
  - (i) this power of delegation; and
  - (ii) a function imposed on the General Committee by the Act, any other law, this Constitution, or by resolution of the Club in a General Meeting.
- (c) At any time the General Committee may, by instrument in writing, revoke wholly or in part any delegation made under this rule. It may amend or repeal any decision made by a body or person under this rule.

## **25.2. Exercise of Delegated Functions**

- (a) A function, the exercise of which has been delegated under this rule, may, while the delegation remains unrevoked, be exercised from time to time in accordance with the terms of the delegation.
- (b) A delegation under this rule may be made subject to certain conditions or limitations regarding the exercise of any function. These may be specified in the delegation.

## **25.3. Procedure of Delegated Entity**

- (a) The procedures for any entity exercising delegated power shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the General Committee under rule 23.
- (b) The entity exercising delegated powers shall make decisions in accordance with the Purposes, and it shall promptly provide the General Committee with details of all material decisions.
- (c) The entity shall also provide any other reports, minutes and information required by the General Committee.

## **25.4. Committees**

- (a) As set out in rule 25.1, the General Committee may establish and delegate any of its functions, powers or duties (except this power to delegate) to such committees as it thinks fit. The General Committee may recall or revoke any such delegation or appointment and may amend or repeal any decision made by such committee.
- (b) The General Committee may establish an unrestricted number of committees.
- (c) The General Committee shall determine in writing the duties and powers afforded to any committee and the committee shall, in the exercise of such delegated powers, conform to any directions or By-Laws that may be prescribed by the General Committee.
- (d) The Directors shall be ex-officio members of any committee so appointed, excluding the Sailing Committee, subject to rule 26.2(c).

## 25.5. Representative of Club

The General Committee shall appoint representatives to attend meetings and events on its behalf from time to time. This shall include, but not be limited to, Yachting Victoria meetings.

## 26. SAILING COMMITTEE

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### 26.1. Duties of Sailing Committee

- (a) There must be a Sailing Committee, which shall be responsible for:
  - (i) all on-water activities sanctioned by the Club;
  - (ii) the preparation of the Sailing programme for each season and the conduct of races, events and regattas listed therein;
  - (iii) the provision and maintenance of on-water, race and associated equipment subject to the provision of funds by the General Committee;
  - (iv) the making of rules and regulations for the conduct of yacht races and regattas included in the Club programme; and
  - (v) the co-opting of any person or persons either as an individual or sub-committee to assist it in carrying out its objectives or to further any of the Purposes.
- (b) The Sailing Committee may delegate any of its responsibilities under rule 26.1(a) (except this power to delegate) to such Committees, sub-committees, individual officers and consultants as it thinks fit. The delegation must be by instrument in writing. The Sailing Committee may recall or revoke any such delegation and may amend or repeal any decision made by such Committee, individual or consultant where it relates to the delegated Sailing Committee responsibilities. Where a Committee established under rule 25 is delegated responsibility by the Sailing Committee under this rule, the Sailing Committee may only amend or repeal a decision of that Committee to the extent the decision relates to the delegated Sailing Committee responsibilities. Such a Committee will otherwise be governed by rule 25.

### 26.2. Composition

The Sailing Committee shall be comprised of:

- (a) nine (9) members elected in accordance with rule 26.3(a) (**Elected SC Members**);
- (b) up to three (3) members appointed in accordance with rule 26.3(b) (**Appointed SC Members**); and
- (c) the Flag Officers who are ex-officio and elected in accordance with rule 23.4.

### 26.3. Nomination and election

- (a) The procedure for the nomination and election of the Elected SC Members shall be the same as that applicable to Elected Directors of the General Committee under rule 20, subject to the word "Sailing Committee" replacing

the word "General Committee" and any other necessary or incidental amendments to that rule.

- (b) The Elected SC Members may themselves appoint up to three (3) persons to be Appointed SC Members.

#### **26.4. Term of appointment**

- (a) Subject to rule 26.5, Sailing Committee members shall hold office:
  - (i) for Elected SC Members, for a term of one (1) year commencing from the conclusion of the Annual General Meeting at which they are elected until the conclusion of the subsequent Annual General Meeting; and
  - (ii) for Appointed SC Members, for a term of up to one (1) year commencing from the date of their appointment until the conclusion of the Annual General Meeting following their appointment.
- (b) Sailing Committee members are eligible for re-election or re-appointment, however no Sailing Committee member may serve more than ten (10) consecutive terms of one year. However, that individual shall be eligible to return to the Sailing Committee following an absence of at least 12 months.

#### **26.5. Grounds for termination**

A position on the Sailing Committee becomes vacant if there are insufficient nominations received under rule 26.3(a) of if a Sailing Committee member:

- (a) dies;
- (b) 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;
- (c) resigns his or her position in writing to the Club;
- (d) is absent without the consent of the Sailing Committee from meetings of the Sailing Committee held during a period of six (6) months;
- (e) is directly or indirectly interested in any contract or proposed contract with the Club and fails to declare the nature of that interest; or
- (f) is removed by Special Resolution by the Voting Members in General Meeting.

#### **26.6. Club Captain**

- (a) The Sailing Committee members must at the first Sailing Committee meeting after the Annual General Meeting annually elect by majority vote one (1) of their number to the office of Club Captain.
- (b) The individual elected as Club Captain will remain in that position for a period of one (1) year commencing at the conclusion of the Sailing Committee meeting at which they are elected until the conclusion of the first Sailing Committee meeting following the subsequent Annual General Meeting.
- (c) The Club Captain is eligible for re-election, however must not serve more than three (3) consecutive terms of one year.

- (d) At meetings of the Sailing Committee, the Club Captain shall chair the meeting. If the Club Captain is absent or unwilling to act, the Sailing Committee shall appoint one of its members to chair that meeting only.

#### **26.7. Procedure**

- (a) Subject to rule 26.7(b), the procedures for meetings of the Sailing Committee shall, subject to this Constitution and with any necessary or incidental amendment, be the same as that applicable to meetings of the General Committee under rule 23.
- (b) In the event of a casual vacancy or vacancies in positions on the Sailing Committee, the remaining members on the Sailing Committee may act, notwithstanding if the number of remaining Sailing Committee members is not sufficient to constitute a quorum at a meeting of the Sailing Committee.

### **27. DUTIES**

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#### **27.1. General Duties**

- (a) As soon as practicable after being elected or appointed to the General Committee, each Director must become familiar with this Constitution and the Act.
- (b) The General Committee is collectively responsible for ensuring that the Club complies with the Act and that individual Directors comply with this Constitution.
- (c) In addition to any duties imposed by this Constitution, a Director must perform any other duties imposed from time to time by resolution at a General Meeting.
- (d) The General Committee must ensure that the Club complies with all requirements under the Act regarding financial statements.

#### **27.2. Secretary**

- (a) There must be a Secretary who is to be appointed by the General Committee.
- (b) The Secretary must give the registrar notice of his or her appointment within 14 days after the appointment in accordance with the Act.
- (c) If the position of Secretary becomes vacant, the General Committee must appoint a person to the position within 14 days after the vacancy arises.
- (d) The General Committee may suspend or remove the Secretary from that office.
- (e) Subject to this Constitution, the Secretary holds office on the terms and conditions and with the powers, duties and authorities, delegated to him or her by the General Committee.

#### **27.3. Financial Duties**

- (a) The General Committee must:



- (i) receive all moneys paid to or received by the Club and ensure an electronic record is created, where practical, for those moneys in the name of the Club;
  - (ii) ensure that all moneys received are paid into the account of the Club within 5 working days after receipt;
  - (iii) make any payments authorised by the Club or by a General Meeting of the Club from the Club's funds;
  - (iv) ensure that the financial records of the Club are kept and distributed in accordance with the Act;
  - (v) coordinate the preparation of the financial statements of the Club and their submission to the Annual General Meeting of the Club;
  - (vi) ensure that at least two (2) Directors have access to the accounts and financial records of the Club; and
  - (vii) keep in their custody or under their control:
    - (A) the financial records for the current Financial Year; and
    - (B) any other financial records as authorised by the General Committee.
- (b) The General Committee may allocate responsibility for the financial duties described at rule 27.3(a) to a portfolio or Director in accordance with rule 19.3.

## **28. MINUTES OF GENERAL COMMITTEE MEETINGS**

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- (a) The General Committee must ensure that minutes are taken and kept of each General Committee meeting in accordance with the Act.
- (b) The minutes must record:
  - (i) the business considered at the meeting;
  - (ii) any resolution on which a vote is taken and the result of the vote; and
  - (iii) any interest declared under rules 24.1 or 24.2.
- (c) Subject to rule 28(d), the minutes of General Committee meetings shall be available for inspection or copying by the Members.
- (d) The General Committee may refuse to permit a member to inspect or copy any minutes (or part thereof) of General Committee meetings that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Club.

## **PART V - MISCELLANEOUS**

### **29. BY-LAWS**

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#### **29.1. General Committee to Formulate By-Laws**

The General Committee may formulate, issue, adopt, interpret and amend such By-Laws for the proper advancement, management and administration of the Club and for the advancement of the Purposes as it thinks necessary or desirable. Such By-Laws must be consistent with the Constitution.

#### **29.2. By-Laws Binding**

All By-Laws made under this rule shall be binding on the Club and Members of the Club.

#### **29.3. By-Law Transitional Arrangements**

Notwithstanding any other rule of this Constitution, the transitional arrangements set out at rule 42 shall apply from the date of adoption of this Constitution.

#### **29.4. Notices Binding on Members**

Amendments, alterations, interpretations or other changes to By-Laws shall be advised to Members of the Club by means of notices approved and issued by the General Committee.

### **30. FUNDS, RECORDS AND ACCOUNTS**

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#### **30.1. Sources of Funds**

The funds of the Club shall be derived from Annual Subscriptions, donations and such other sources as the General Committee determines.

#### **30.2. Management of funds**

- (a) The Club must open an account with a financial institution from which all expenditure of the Club is made and into which all of the Club's revenue is deposited.
- (b) The General Committee may authorise one (1) or more Directors to expend funds on behalf of the Club up to a specified limit without requiring approval from the General Committee for each item on which the funds are expended. This may be as a part of a designated portfolio in accordance with rule 19.3.
- (c) All funds of the Club must be deposited into the financial account of the Club no later than five (5) working days after the receipt.
- (d) With the approval of the General Committee, one (1) Director may maintain a cash float provided that all money paid from or paid into the float is accurately recorded at the time of the transaction. This may be as a part of a designated portfolio in accordance with rule 19.3.

#### **30.3. Club to Keep Records**

- (a) The Club shall establish and maintain, in accordance with the Act and this Constitution, proper accounting and other records and minutes concerning all

transactions, business, meetings and dealings of the Club and the General Committee. These records and minutes shall be produced as appropriate at each General Committee or General Meeting.

- (b) All records and minutes kept in accordance with rule 30.3(a) shall be kept in the care and control of the General Committee in accordance with rule 33.

#### **30.4. General Committee to Submit Accounts**

The General Committee shall submit to the Members at the Annual General Meeting the statements of account of the Club in accordance with this Constitution and the Act.

#### **30.5. Accounts Conclusive**

The statements of account when approved or adopted by an Annual General Meeting shall be conclusive except as regards to any error discovered in them within three (3) months after such approval or adoption.

### **31. AUDITOR**

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- (a) A properly qualified auditor or auditors shall be appointed, and the remuneration of such auditor or auditors fixed by the Club in General Meeting. The auditor's duties shall be regulated in accordance with the Act, or if no relevant provisions exist under the Act, in accordance with the *Corporations Act 2001* (Cth) and generally accepted principles, and/or any applicable code of conduct. The auditor may be removed by the Club in General Meeting.
- (b) The accounts of the Club shall be examined and the correctness of the profit and loss accounts and balance sheets ascertained by an auditor or auditors at the conclusion of each Financial Year.

### **32. APPLICATION OF INCOME**

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- (a) The income and property of the Club shall be applied solely towards the promotion of the Purposes of the Club as set out in this Constitution.
- (b) No portion of the income or property of the Club shall be paid or transferred, directly or indirectly by way of dividend, bonus or otherwise to any Member.
- (c) Nothing in this rule 32 shall preclude payment to a Member in good faith for expenses incurred or services rendered, including, but not limited to:
  - (i) any services actually rendered to the Club whether as an employee or otherwise;
  - (ii) goods supplied to the Club in the ordinary and usual course of operation;
  - (iii) interest on money borrowed from any Member;
  - (iv) rent for premises demised or let by any Member to the Club; or
  - (v) any out-of-pocket expenses incurred by the Member on behalf of the Club,

provided that any such payment shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction.

### **33. CUSTODY OF BOOKS AND OTHER DOCUMENTS**

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- (a) Except as otherwise provided in this Constitution, the General Committee shall designate a Director to keep in his or her custody or control all books, minutes, documents and securities of the Club.
- (b) If requested by a Member, the General Committee must permit such Member to inspect:
  - (i) the rules of the Club; or
  - (ii) the minutes of each General Meeting, including financial statements submitted at the General Meeting.
- (c) Upon written request and payment of a fee determined by the General Committee from time to time, a Member may obtain a copy of the documents listed at rule 33(b).
- (d) If requested by a Member and subject to the Act, the General Committee must permit such Member to inspect and copy the Register.
- (e) Subject to the Act and rules 33(b) and 33(d), no Member is entitled to inspect and copy the financial records, accounts, books, securities or other Relevant Documents of the Club, unless authorised in writing by the General Committee.

### **34. SIGNING OF NEGOTIABLE INSTRUMENTS**

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All cheques, promissory notes, bankers drafts, bills of exchange, other negotiable instruments and all electronic means of payment shall be signed, drawn, accepted, endorsed, approved or otherwise executed, as the case may be, by any two (2) duly authorised Directors or in such manner as the General Committee determines.

### **35. ALTERATION OF CONSTITUTION**

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This Constitution shall not be altered except by Special Resolution in accordance with the Act and in compliance with all other procedures under the Act (if any).

### **36. DISSOLUTION**

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- (a) The Club may be wound up voluntarily by Special Resolution.
- (b) In the event of the Club being wound up, the liability of the Members shall be limited to any outstanding monies due and payable to the Club, including the amount of the Annual Subscription payable in respect of the current Financial Year. No other amount shall be payable by the Members.
- (c) If upon winding up or dissolution of the Club, there remains, after satisfaction of all its debts and liabilities, any property, the same shall not be paid to or distributed amongst the Members, but shall be given or transferred to some other organisation having purposes similar to the Purposes of the Club and which prohibits the distribution of its or their income and property among its or their members and which is also not carried on for the profit or gain to its

members. Such body or bodies to be determined by the Members at or before the time of dissolution, and in default thereof by such judge of the Supreme Court of Victoria as may have or acquire jurisdiction in the matter.

### **37. INDEMNITY**

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- (a) Every Director, officer, auditor and employee of the Club shall be indemnified out of the property or assets of the Club against any liability incurred by him/her in his/her capacity as Director, officer, auditor or employee in defending any proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted or in connection with any application in relation to any such proceedings in which relief is, under the Act, granted to him or her by the Court.
- (b) The Club shall indemnify its Directors, officers, auditors and employees against all damages and costs (including legal costs) for which any such Directors, officer, auditor or employee may be or become liable to any third party in consequence of any act or omission except wilful misconduct:
  - (i) in the case of a Director or officer, performed or made whilst acting on behalf of and with the authority, express or implied of the Club; and
  - (ii) in the case of an employee, performed or made in the course of, and within the scope of his or her employment by the Club.

### **38. SERVICE OF NOTICES**

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- (a) Notices may be given to Members entitled under this Constitution to receive any notice by sending the notice by post or facsimile transmission or where available, by electronic mail, to the Member's registered address or facsimile number or electronic mail address, or by posting the notice on the Club's official website or noticeboard located at the Club's premises.
- (b) Where a notice is sent by post, service of the notice shall be deemed to be effected at the time the letter would have been delivered in the ordinary course of post.
- (c) Where a notice is sent by facsimile transmission, service of the notice shall be deemed to be effected upon receipt of a confirmation report confirming the facsimile was sent to the correct facsimile number.
- (d) Where a notice is sent by electronic mail, service of the notice shall be deemed to be effected by properly addressing and transmitting the electronic transmission with delivery of the document taken to have been delivered on the day of its transmission.
- (e) Where a notice is posted on the Club's website or noticeboard located at the Club's premises, service of the notice shall be deemed to be effected on the day the notice is posted.

### **39. COMMON SEAL**

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- (a) The Club may have a Seal upon which its corporate name shall appear in legible characters.
- (b) The Seal shall not be used without the express authorisation of the General Committee. Every use of the Seal shall be recorded in the Club's minute

book. Two (2) Directors must witness every use of the Seal, unless the General Committee determines otherwise.

#### **40. REGISTERED ADDRESS**

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The registered address of the Club is:

- (a) the address determined from time to time by resolution of the General Committee; or
- (b) if the General Committee has not determined an address to be the registered address, the postal address of the Secretary.

#### **41. LIQUOR LICENCE**

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##### **41.1. Receipts for the supply of liquor**

The Club must not pay any amount to an officer or servant of the Club by way of commission or allowance from the receipts of the Club for the supply of liquor.

##### **41.2. Management of the Club**

In accordance with rule 19, the Directors constitute the management committee of the Club and have responsibility for the affairs of the Club.

##### **41.3. Guests**

A visitor to the Club must not be supplied with liquor in those premises unless the visitor is a guest in the company of a Member.

##### **41.4. Register of guests**

The Club must keep on the Club premises a register of guests to the Club's premises, which must contain the:

- (a) name and address of each guest; and
- (b) date on which each guest attended the premises.

#### **42. TRANSITIONAL ARRANGEMENTS**

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- (a) Notwithstanding any other rule of this Constitution, the transitional arrangements set out in this rule 42 shall apply from the date of adoption of this Constitution.
- (b) Any consecutive years served by each Director immediately prior to approval of this Constitution under the Act shall count towards the five (5) consecutive terms totalling ten (10) years under rule 19.5(d) after the adoption of this Constitution.
- (c) At the 2018 AGM, five Elected Directors shall be elected with:
  - 1. four Elected Directors elected for a term of two years, expiring at the conclusion of the second AGM following their election;
  - 2. one Elected Director elected for a term of one year, expiring at the conclusion of the AGM immediately following their election;

3. the Elected Director referred to in (ii) to be determined by lot from among the five Elected Directors referred to in this clause 42(c).