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# Sandringham Yacht Club Incorporated Constitution

September 2022

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ASSOCIATIONS INCORPORATION  
REFORM REGULATIONS

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# Sandringham Yacht Club Incorporated

## Constitution

### 1 Name

The name of the Incorporated Association is Sandringham Yacht Club Incorporated (Registration No. A0011997N) (“Club”)

### 2 Purposes

The purposes of the Club are:

- (a) To promote and encourage participation in yacht racing and boating events;
- (b) To acquire and maintain suitable Club premises to provide accommodation and entertainment for the Members of the Club and their guests;
- (c) To supply refreshments for Members and to apply for, hold and renew from time to time any necessary certificates of registration as a club and any licences, permits or other provisions for the sale and disposal of liquor within the meaning of the Liquor Act;
- (d) To provide facilities for training in marine related activities in particular, but not limited to, school and higher education certificate courses;
- (e) To participate in community activities centred around the Club’s purposes; and
- (f) To foster a friendly and hospitable culture among Members, through sailing, recreational boating and social activities, to support the achievement of the Club’s purposes.

In the event of doubt, uncertainty or dispute concerning this statement of purposes or any matter relevant to them, the purposes of the Club will be given a wide and liberal interpretation.

### 3 Location

The location of the headquarters of the Club is the Sandringham foreshore or other such place as the Club may determine and its mailing address will be as determined by the Committee from time to time.

### 4 Interpretation

#### 4.1 Definitions

In these Rules, unless the contrary intention appears:

“Act” means the *Associations Incorporation Reform Act 2012* and includes any regulation made under that Act, as amended from time to time;

“Annual General Meeting” means the annual general meeting of members convened under **Rule 15**;

“By-Laws” means the by-laws of the Club made under **Rule 34.1**;

**Chief Executive Officer** means:

- (a) where a person holds that office under these Rules – that person; and
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- (b) in any other case, the person responsible for the obligations of a secretary under the Act;

**“Club Year”** means a period of time determined by General Committee as set out in the by-laws;

**“Corporations Act”** means the *Corporations Act 2001* (Cth) as amended from time to time;

**“Eligible Payment Plan”** means a payment plan as determined by General Committee;

**“Financial Year”** means the year ending on 30 June;

**“Flag Officers”** means the Commodore, the Vice-Commodore, and the Rear-Commodore of the Club;

**“General Committee”** means the committee having management of the business of the Club;

**“General Meeting”** means a meeting of Members convened under this Rules and includes an Annual General Meeting and a Special General Meeting;

**“Liquor Act”** means the *Liquor Control Reform Act 1998* (Vic);

**“Member”** where not used in the context of a particular category means an Ordinary member or Life Member of the Club

**“Membership”** means membership of the Club.

**“Notice Board”** means the official notice board that must be maintained by the Chief Executive Officer at the Club’s premises in a location readily accessible to Members.

**“Relevant Document”** includes records and other documents, however compiled, recorded or stored, about the incorporation and management of the Club and the following:

- (a) its financial documents;
- (b) its financial records; and
- (c) records and documents about transactions, dealings, business or property of the Club;

## 4.2 Construction

- (a) In these Rules, any reference to a particular gender includes the other genders.
- (b) Words or expressions contained in these Rules must be interpreted in accordance with the provisions of the *Interpretation of Legislation Act 1984* and the Act as in force from time to time.

## 5 Powers

Without limiting its powers under the Act or otherwise, the Club may:

- (a) purchase, take on, lease, exchange, hire or otherwise acquire and maintain any real or personal property and any related rights and privileges;
  - (b) erect, improve, repair, pull down and rebuild buildings and other structures of the Club;
  - (c) sell, exchange, lease, mortgage, hire, dispose of or otherwise deal with any part of the real or personal property of the Club;
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- (d) borrow, raise or secure the payment of money any manner the Club thinks fit, and with the power to issue debentures and grant mortgages, charges or any other class of security against any real or personal property, both present and future, of the Club, and to redeem or pay off any existing or future security;
- (e) apply for and obtain grants and funding from Government departments and Federal and State public authorities;
- (f) amalgamate, co-operate, affiliate and enter into reciprocal arrangements with other clubs in the manner determined from time to time and allowed by the Act;
- (g) appoint, employ, pay, dismiss and suspend officers, employees and servants; and
- (h) do any other lawful thing which in the Club's opinion is incidental or conducive to the attainment of the objects and exercise of powers of the Club.

## 6 Income and Property

- (a) The income and property of the Club must be used and applied solely in promotion of its purposes and under its powers set out in these Rules.
- (b) Subject to **Rule 6(c)** no income or property of the Club may be distributed, paid or transferred directly or indirectly as a dividend, bonus or otherwise as a pecuniary profit to a Member
- (c) Nothing in these Rules prevents the payment in good faith to Members, Officers or servants of the Club in respect of remuneration for services rendered to the Club.

## 7 Application for Membership

### 7.1 Eligibility

A natural person who:

- (a) is nominated and approved for Membership as provided in these Rules;
- (b) supports the purposes of the Club; and
- (c) has an interest in recreational boating,

is eligible for election as a Member of the Club.

### 7.2 New Members

A person who is not a Member immediately after the adoption of these Rules will not be admitted to Membership unless nominated as provided in **Rule 7.3** and the admission as a Member is approved by the General Committee.

### 7.3 Nomination

A nomination of a person for Membership:

- (a) must be in writing and contain the full name and address of the applicant and any other information prescribed by the General Committee from time to time;
  - (b) must be signed by the nominee and by a proposer and seconder, both of who must be a Full, Life, Intermediate or Associate Member and have been Members of the Club for 12 months prior to the date of the nomination;
  - (c) must contain an undertaking signed by the nominee that he or she will be bound by the Rules and Bylaws of the Club; and
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- (d) must be lodged with the Chief Executive Officer

#### **7.4 Referral of Nomination to General Committee**

- (a) the Chief Executive Officer must display, in a conspicuous place in the Club premises, as soon as practicable after receipt of the nomination, details of the nomination, for not less than 7 days prior to the General Committee Meeting at which the nomination is to be considered;
- (b) an applicant for Ordinary Membership, other than a Youth Member who is under the age of 18, must pass an interview with a Selection Committee comprised of a Flag Officer and two other General Committee Members before the applicant's name is presented to the General Committee for election; and
- (c) an interval of 7 days or more must elapse between the lodging of an application for Membership and the election held by the General Committee to elect the applicant as an Ordinary Member.

#### **7.5 Approval of Nomination**

- (a) a person will be elected as an Ordinary Member of the Club by the vote of the General Committee Members unless 2 or more General Committee Members vote against his or her admission as a Member;
- (b) a record must be kept of the number of General Committee Members voting at the election;
- (c) upon a nomination being approved by the General Committee, the Chief Executive Officer must, as soon as practicable, notify the applicant in writing of the approval for Membership and request payment (or commitment to an Eligible Payment Plan) within 28 days of that notification of the sum payable under these Rules as the entrance fee and the first year's annual subscription;
- (d) the applicant will forfeit his or her nomination if he or she does not pay the entrance fee and the first year's annual subscription as required by this **Rule 7.5** and
- (e) if the General Committee rejects a Membership application, the Chief Executive Officer must, as soon as practicable, notify the applicant that the application has been rejected.

#### **7.6 Entry in Register**

- (a) If the applicant is approved, the Chief Executive Officer must, upon payment of the amounts referred to in **Rule 7.5** within the period referred to in that Rule, enter the applicant's name in the register of Members; and
- (b) The applicant becomes a Member upon his or her name being entered into the register of Members.

#### **7.7 Categories of Ordinary Membership**

The Club has the following classes of Ordinary Membership:

- (a) **Full Members**
    - (i) A Full Member is a Member who is 18 years old or older and who has been admitted to Full Membership (including Veteran Members under **Rule 8.4**);
    - (ii) A Full Member is entitled to all of the privileges of Membership without restriction
  - (b) **Crew Members**
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- (i) A Crew Member is a Member who is 18 years old or older, who is proposed to be active/sailing crew and who has been admitted to Crew Membership.
- (ii) A Crew Member shall not lease a marina berth or hard stand space or access the launch ramp.

(c) **Youth Members**

- (i) A Youth Member is a Member who is under 25 years of age and who has been admitted to Youth Membership.
- (ii) A Youth Member who is under the age of 18 cannot access licensed premises in the Club except as permitted by the By-laws and the Liquor Act.
- (iii) A Youth Member shall not lease a marina berth or hard stand space.

(d) **Intermediate Members**

- (i) An Intermediate Member is a Member between the ages of 18 and 29 years inclusive who has been admitted to Intermediate Membership.
- (ii) An Intermediate Member shall not lease a marina berth or hard stand space.

(e) **Associate Members**

- (i) An Associate Member is a Member who is 18 years old or older who is the spouse or domestic partner (as defined in the *Relationships Act 2008* (Vic)) of a Life or Full Member who has been admitted to Associate Membership.
- (ii) An Associate Member shall not be the sole lessee of a marina berth or hard stand space.
- (iii) An Associate Member may continue to be an Associate Member notwithstanding the death of the Member to whom they are associated.

(f) **Country Members**

- (i) A Country Member is a Member who is 18 years old or older, permanently resides at least 100 kilometres away by road from the Club's premises and who has been admitted to Country Membership.
- (ii) A Country Member shall not lease a marina berth or hard stand space for periods in excess of 4 weeks in a Club Year.

(g) **Family Members**

- (i) A Family Member consists of:
    - (A) 1 Full Member;
    - (B) 1 Associate Member or 1 Crew Member; and
    - (C) unlimited youth dependants under the age of 25,who have been admitted to Family Membership.
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- (ii) Each Member of a Family Member has the rights as for their respective category of Membership at a concessional rate determined by the General Committee.

## **7.8 Privileges and voting rights of Members**

- (a) The By-Laws must set out
  - (i) the privileges of each class of Membership, to the extent that those privileges are not modified by these Rules; and
  - (ii) the availability of Club facilities and services to each Membership class.
- (b) The voting rights of Ordinary Members are set out in **Rule 23.2**.

## **7.9 Other Categories of Membership**

### **(a) Training Members**

- (i) A Training Member is a Member who is undertaking an approved training course at the Club and who has been admitted to Training Membership.
- (ii) Training Members must be admitted in the manner determined by the General Committee under the By-Laws.
- (iii) Training Members have no Membership rights other than to access and use the Club and its facilities for the duration of the training course.

### **(b) Day Members**

- (i) A Day Member is a Member who has been admitted to Day Membership.
- (ii) Day Members must be admitted in the manner determined by the General Committee under the By-Laws.
- (iii) Day Members are entitled to access and use the Club and its facilities for a one-day period and have no other Membership rights.

### **(c) Absentee Members**

- (i) An Absentee Member is a Member who has been admitted to Absentee Membership.
- (ii) Only an Ordinary Member who will live interstate or overseas for a continuous period of at least 6 months during a Club Year may apply for Absentee Membership.
- (iii) An Absentee Membership ceases at the end of the Club Year in which it commenced, at which point the former Absentee Member may reapply for Absentee Membership.
- (iv) An Absentee Member shall not lease a marina berth or any hardstand space for periods in excess of 4 weeks in the Club Year.

### **(d) Life Members**

- (i) A Life Member is a Member who has been elected to Life Membership under this Rule in consideration for special services rendered to the Club.
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- (ii) A candidate for Life Membership must be proposed and seconded by a Full, Life or Associate Member, both of whom must have been Members of the Club for 12 months prior to the date of the nomination.
- (iii) The proposer and seconder must submit to the General Committee a letter setting out the basis of the nomination and the details of the candidate's history with and contribution to the Club.
- (iv) If the General Committee thinks it suitable, it may submit the Life Membership proposal to a panel of a minimum of 4 Life Members ("**Life Membership Panel**").
- (v) If the General Committee cannot comply with **Rule 7.9(d)(iv)** for whatever reason, it may:
  - (A) substitute one or more former Commodores for one or more members of the Life Membership Panel; or
  - (B) if it cannot do so, substitute one or more Flag Officers for one or more members of the Life Membership Panel.
- (vi) The Life Membership Panel must:
  - (A) determine whether the candidate is acceptable for Life Membership; and
  - (B) deliver its recommendation to the Chief Executive Officer, who must then place the matter on the agenda for the next General Committee meeting.
- (vii) If the Life Membership Panel recommends that the candidate is acceptable for Life Membership, the Chairman at the next General Committee meeting must call for a proposer and seconder and, after discussion, put the motion.
- (viii) A two-thirds majority of the General Committee is required for the candidate to be elected to Life Membership
- (ix) If the candidate is elected to Life Membership:
  - (A) that election must be announced at the next General Meeting, at which the candidate will be declared a Life Member and presented with a Life Membership badge; and
  - (B) the Life Member will be entitled to vote and to all the privileges of Membership without payment of any further subscription.
- (x) Only one Life Member may be declared at a General Meeting and no more than 2 Life Members may be declared in a Club Year,

(e) **Honorary Members**

- (i) The General Committee may elect a person who is not a Member and who has rendered special services, to the Club or to the sport of yachting, as an Honorary Member if the General Committee determines that special circumstances apply to that person.
  - (ii) Every Honorary Membership expires on the last day of each Club Year, at which point it may be extended for a period of 12 months or less as determined by the General Committee.
  - (iii) Further to **Rules 7.9(e)(i)** and **(ii)**, the General Committee may:
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- (A) elect any person who is a bona fide Member of a recognised Club as an Honorary Member for a period of 3 months or less; and
  - (B) enter into reciprocal rights arrangements with other recognised yachting clubs to allow members of those clubs to visit the Club's premises and be entitled to the privileges of Honorary Membership for a period of 3 months or less.
- (iv) Honorary Members are entitled to all the privileges of Membership except:
- (A) voting rights;
  - (B) eligibility for election as an Officer or to the General Committee;
  - (C) to use the mooring, slipping or yard facilities, or credit facilities, (except in the capacity as a visitor).
- (v) The General Committee may terminate an Honorary Membership at any time.
- (vi) Honorary Members have no claim or interest in funds or property of the Club.
- (vii) Honorary Members do not have to pay a subscription.

#### **7.10 Membership not transferable**

- (a) A right, privilege or obligation of a person by reason of Membership:
  - (i) is not capable of being transferred to another person; and
  - (ii) terminates upon the cessation of Membership.
- (b) A Member does not have any transferable or assignable interest in any property of the Club due to his or her Membership.

## **8 Entrance Fee and Annual Subscription**

### **8.1 Entrance Fee**

The entrance fee for each category of Member is the amount fixed from time to time by the General Committee and recorded in the By-Laws.

### **8.2 Annual Subscription**

- (a) The annual subscription for each category of Member is the amount fixed prior to the commencement of the Club Year by the General Committee and recorded in the By-Laws.
  - (b) The General Committee requires the prior approval of Members by resolution at a General Meeting to increase the annual subscription by a percentage in excess of the increase in the Consumer Price Index for Melbourne All Groups in the preceding 12 month period.
  - (c) The annual subscription and any other annual fee is due and payable at the commencement of the Club Year. This requirement may be satisfied by commitment to an Eligible Payment Plan prior to commencement of the Club Year.
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### **8.3 Pro rata fees**

- (a) A Member whose name is recorded in the register of members more than 30 days after the commencement of the Club Year is entitled to have his or her annual subscription pro-rated;
- (b) If **Rule 8.3(a)** applies, the Member's annual subscription in that Club Year will be the ordinary annual subscription based on his or her Membership class divided by 12 and then multiplied by the number of whole months remaining in the Club Year.

### **8.4 Veteran Members under old Rules**

Any Member, regardless of that Member's current Membership class, who was, prior to the 1 July 1994, within the category of Veteran Membership and who had at that date paid five times the annual Full Subscription to remain a Member free of further charge, shall not be required to pay any further annual subscriptions.

### **8.5 Unfinancial Members**

A Member who has not paid his or her annual subscription or any other fees payable by the Member, within the time required by these Rules, will be deemed unfinancial and will cease to be a Member if payment of the amount(s) in arrears is not made within 14 days of a final demand for payment of the arrears.

### **8.6 Officers, General Committee Members and Sub-Committee Members must be financial**

Officers, General Committee Members and members of any sub-Committee of the Club who are unfinancial are not entitled to continue in their office.

Officers, General Committee Members and members of any sub-Committee of the Club who are unfinancial for a period longer than 60 days are deemed to have resigned from their office.

### **8.7 Illness or Hardship**

The General Committee may in its absolute discretion reduce or waive the annual subscription payable by a Member suffering from significant illness or genuine hardship. The decision to reduce or waive the annual subscription in this manner is only effective for the then current Club Year. A Member whose annual subscription is reduced or waived is entitled to the benefits of the relevant class of Membership but that Member will not have a voting right in that Club Year.

### **8.8 Suspension**

Upon application, the General Committee may in its absolute discretion suspend membership for any Member. The decision to suspend membership in this manner is only effective for the then current Club Year. A Member whose membership is suspended is not entitled to any of the benefits of membership.

## **9 Overdue Monies**

- (a) Any fees or charges owed by a Member to the Club other than annual fees under **Rule 8.2** are due and payable upon the service of an account on the Member under **Rule 39**.
  - (b) Any Member who has not paid his or her annual subscription or other monies owed to the Club, and is therefore deemed unfinancial, is not entitled to attend or take part in any proceedings at any meetings of the Club or to exercise any of the rights and privileges of a Member until all outstanding monies, together with any
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penalty for late payment which the General Committee may from time to time impose, have been paid, whether payment has been requested or not.

## **10 Register of Members**

### **10.1 Maintenance of register of Members**

The Chief Executive Officer must keep and maintain a register of Members that includes:

- (a) for each Member:
  - (i) the Member's name;
  - (ii) the address for notice last given by the Member;
  - (iii) the date of becoming a Member;
  - (iv) the class of Membership;
  - (v) the date of the last payment by the Member of his or her annual subscription; and
- (b) for each former Member, that former Member's name and their date of ceasing to be a Member (for a period not less than seven years).

### **10.2 Notification of change in address**

A Member must notify the Chief Executive Officer in writing of a change in his or her address.

### **10.3 Inspection of register of members**

A Member may, at a reasonable time and free of charge, inspect the register of Members upon request to the Chief Executive Officer.

### **10.4 Improper use of information**

It is an offence under the Act to make improper use of information recorded on the register of Members.

## **11 Resignation of a Member**

### **11.1 Resignation**

A Member may resign from the Club by giving notice in writing to the Chief Executive Officer of his or her resignation

### **11.2 Fees**

- (a) All subscriptions, fees and other monies owing to the Club by a Member at the time of resignation or expulsion of a Member, despite the Member's resignation or expulsion, remain a debt due and owing to the Club. For the avoidance of doubt, this includes any future amounts payable under any payment plan for the current Club Year"
- (b) A Member who resigns from the Club is not entitled to a refund, either in whole or in part, of any annual subscription or entrance fee paid in the Club Year.

### **11.3 Rejoining**

A member who has previously resigned from the Club who wishes to rejoin the Club must, in accordance with these Rules, pay the rejoining fee as determined by General Committee and set out in the By-Laws.

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## 12 Visitors

- (a) A Member, other than a Youth Member who is under the age of 18, Absentee, Day or Training Member may invite visitors onto areas of the Club that are licensed under the Liquor Act for the day of visit only provided that:
- (i) visitors' names are recorded in the relevant sign in process and signed by the inviting Member; and
  - (ii) the inviting Member is responsible for his or her visitor's conduct.
- (b) No person:
- (i) who has been rejected as a candidate for Membership;
  - (ii) whose admission as an Honorary member has been refused;
  - (iii) who has been expelled from the Club;
  - (iv) who is in default of payment of any monies owed to the Club for which the Club may institute, or has instituted, recovery proceedings,
- shall be admitted as a visitor under this Rule.
- (c) These Rules do not prevent the General Committee authorising visitors to attend a function or other occasion on the Club's premises that is conducted under the conditions of its liquor licence from the Victorian Commission for Gambling and Liquor and any other conditions or restrictions imposed by the General Committee.

## 13 Discipline of Members

### 13.1 General

The Club may take disciplinary action against a Member in accordance with this **Rule 13** if it is determined that the Member:

- (a) has failed to comply with these Rules or By-Laws;
- (b) refuses to support the purposes of the Club;
- (c) has engaged in conduct prejudicial to the Club; or
- (d) has engaged in conduct unbecoming a Member.

### 13.2 Disciplinary subcommittee

- (a) If the General Committee is satisfied that there are sufficient grounds for taking disciplinary action against a Member, the General Committee must appoint a disciplinary sub-committee to hear the matter and determine what action, if any, to take against the Member.
- (b) The Members of the disciplinary sub-committee:
- (i) may be General Committee Members, Members or anyone else; but
  - (ii) must not be biased against, or in favour of, the Member concerned.

### 13.3 Interim Order

Where a Flag Officer or delegate deems it reasonably necessary to protect a person, the Flag Officer or delegate may immediately impose interim arrangements (including suspension or other limitations of a Member's rights) that will apply to a Member:

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- (a) where the Member is the subject of a disciplinary procedure, until the conclusion of that procedure; and
- (b) in all other cases, for a maximum duration of one calendar month or until General Committee resolves not to take disciplinary action under Rule 13.2(a), whichever occurs sooner.

#### **13.4 Notice to Member**

- (a) Before the disciplinary action is taken against a Member, the Chief Executive Officer must give written notice to the Member:
  - (i) stating that the Club proposes to take disciplinary action against the Member;
  - (ii) stating the grounds for the proposed disciplinary action;
  - (iii) specifying the date, place and time of the meeting at which the disciplinary sub-committee intends to consider the disciplinary action ("**Disciplinary Meeting**");
  - (iv) advising the Member that he or she may do one or both of the following:
    - (A) attend the Disciplinary Meeting and address the disciplinary sub-committee at that meeting;
    - (B) give a written statement to the disciplinary sub-committee at any time before the Disciplinary Meeting; **and**
  - (v) setting out the Member's appeal rights under **Rule 13.6**; and
  - (vi) setting out any Interim Order made under **Rule 13.3**.
- (b) The notice must be given no earlier than 28 days, and no later than 14 days, before the Disciplinary Meeting is held.

#### **13.5 Decision of sub-committee**

- (a) At the Disciplinary Meeting, the disciplinary subcommittee must:
    - (i) give the Member an opportunity to be heard; and
    - (ii) consider any written statement submitted by the Member.
  - (b) After complying with **subrule (a)**, the disciplinary sub-committee may vote by simple majority to:
    - (i) take no further action against the Member; or
    - (ii) impose one or more of the following disciplinary measures it considers appropriate ("the Disciplinary Measures"):
      - (A) reprimand the Member;
      - (B) suspend the Membership rights of the Member for a specified period;
      - (C) expel the Member from the Club; and
      - (D) any other disciplinary measures the disciplinary sub-committee considers appropriate.
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- (c) Unless otherwise specified in the Disciplinary Measures, the Disciplinary Measures (including any suspension of Membership rights or the expulsion of a Member by the disciplinary sub-committee) under this Rule take effect immediately after the vote is passed.
- (d) The disciplinary sub-committee must use reasonable endeavours to notify the Member promptly of its decision.

### **13.6 Appeal rights**

- (a) A person against whom Disciplinary Measures have been taken may lodge an appeal in relation to the decision of a disciplinary sub-committee on one or more of the following grounds:
  - (i) that a denial of procedural fairness has occurred;
  - (ii) that the sanction imposed is unjust and/or unreasonable;
  - (iii) that the decision was not supported by the information/evidence provided at the mediation or to the Disciplinary Meeting;
- (b) A person wanting to appeal must lodge a letter setting out the basis for their appeal with the CEO within fourteen (14) days of the decision being made.
- (c) If the letter of appeal is not received by the CEO within this time, the right of appeal will lapse.
- (d) The letter of appeal and the notice of the disciplinary sub-committee's decision will be forwarded to the CEO and Flag Officers to review and to decide whether there are sufficient grounds for the appeal to proceed.
- (e) If the appellant has not shown sufficient grounds for an appeal in accordance with (a) above, then the appeal will be rejected. The appellant will be notified in writing, including the reasons for the decision.
- (f) If the appeal is accepted, an Appeal Meeting with new panel members will be convened to rehear the complaint.
- (g) The Disciplinary Meeting procedure shall be followed for the Appeal Meeting.
- (h) The decision of the Appeal Meeting will be final and binding.

### **13.7 Disciplinary suspension of Membership**

A Member who has been suspended as a result of disciplinary action is not entitled to any of the benefits of Membership, including but not limited to:

- (a) access to the carpark, clubhouse, marina, hardstand, boat yard, off-the-beach, storage lockers and other Club facilities;
- (b) participation in racing and any other Club events; and
- (c) voting and any other privileges,

for a period of up to two (2) years, after which he or she can apply to General Committee to have their Membership rights reinstated.

During the period of suspension, the Member will not be liable for Membership fees (but will not be entitled to a refund of fees paid in advance) but will be liable to meet obligations as a rental tenant or licence holder.

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### **13.8 Termination of Membership**

A Member who has been terminated or expelled as a result of disciplinary action is not entitled to any of the benefits of Membership and cannot apply for Membership (as if a new Member in accordance with Rule 7 of the Constitution) for a minimum period of five (5) years.

### **13.9 Three Strikes**

The Club will not tolerate ongoing or repeated breaches of the Club's Constitution, By-Laws or Policies. A Member who has on two occasions, at any time after 20 September 2022, had formal written disciplinary action of any form imposed by a disciplinary sub-committee, will be expelled from the Club if a disciplinary sub-committee determines that the Member has for a third occasion within 10 years of the previous two occasions breached any of the Club's Constitution, By-Laws or Policies.

## **14 Officers**

### **14.1 Officers of the Club**

The Officers of the Club are:

- (a) the Commodore
- (b) the Vice-Commodore
- (c) the Rear-Commodore
- (d) the Treasurer
- (e) the Club Captain Sailing
- (f) the Club Captain Off the Beach Sailing Centre
- (g) the Club Captain Recreational Boating

### **14.2 Flag Officer**

A Flag Officer must have been a Member of the General Committee for a period, or periods in aggregate, of at least 9 months.

### **14.3 Casual Vacancy of Officer**

In the event of a casual vacancy in any office referred to in **Rule 14.1**, the Committee may appoint a Member of the General Committee or a Full Member to the vacant office and the person so appointed may continue in that office until the expiration of his or her term of office as specified under **Rule 25.3**.

### **14.4 Position on Sub-Committee**

Each Sub-Committee appointed by the General Committee must include at least one Officer of the Club.

## **15 Annual General Meeting**

### **15.1 Each Club Year**

The Club must convene an Annual General Meeting each Club Year on or before 30 November at a time and place determined by the General Committee.

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## **15.2 Notice of Annual General Meeting**

The General Committee must give Members at least 14 days' notice of the upcoming Annual General Meeting;

## **15.3 Ordinary Business**

The ordinary business of the Annual General Meeting is:

- (a) to confirm the minutes of the last preceding Annual General Meeting and of any General Meeting held since that meeting;
- (b) to confirm the election of Officers and Ordinary General Committee Members, as appropriate;
- (c) to receive and consider the financial statement submitted by the Club under the Act; and
- (d) to elect an auditor.

## **15.4 Auditors**

The auditor elected under **Rule 15.3(d)**:

- (a) must have his or her appointment confirmed at the next Annual General Meeting to hold that position in the coming Club Year;
- (b) remains in office until the next Annual General Meeting;
- (c) has the power to call for a special audit of the Club's accounts at any time; and
- (d) must not be a Member of the General Committee.

## **15.5 Notice of Proposed Resolution**

No resolution may be passed at an Annual General Meeting unless the subject matter of the resolution is contained in the notice given under **Rule 15.2**.

## **15.6 Special Business**

Further to **Rule 15.3**, the General Committee may set business to be conducted at the Annual General Meeting by giving Members notice in writing at the same time as the notice under **Rule 15.2**.

# **16 Special General Meeting**

## **16.1 Convening**

A Special General Meeting may be convened by:

- (a) notice at a General Meeting;
  - (b) resolution of the General Committee;
  - (c) requisition signed by 20 or more Ordinary Members, who are entitled to vote, stating the business to be considered that is delivered to the General Committee; or
  - (d) an Ordinary Member under the provisions of **Rule 13.5**.
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## **16.2 Required Special General Meeting**

Where, but for this **Rule 16**, more than 15 months would elapse from the date of the last Annual General Meeting, the General Committee must convene a Special General Meeting before the expiration of that period.

## **16.3 Requisition**

- (a) A requisition under **Rule 16.1(c)** may consist of several documents in a like form, each signed by one or more of the Members making the requisition; and
- (b) If the General Committee does not hold a Special General Meeting within 1 month of its receipt of the requisition, the Members making the requisition may convene a Special General Meeting to be held not later than 3 months after that date.

## **16.4 Special Business**

All business that is transacted at a Special General Meeting is deemed to be special business.

## **17 Notice of Meeting**

The Chief Executive Officer must, at least 14 days, and if a special resolution has been proposed at least 21 days, before the date fixed for holding a General Meeting, cause to be sent by post or electronic means as appropriate to each Member at his or her address on the register of members, a notice stating the place, date and time of the General Meeting and the business to be transacted at the General Meeting.

## **18 Proceedings at Meetings**

### **18.1 No Business Without a Quorum**

No business shall be transacted at a General Meeting or a General Committee meeting in the absence of a quorum

### **18.2 Quorum**

A quorum exists where:

- (a) at an Annual, General or Special Meeting, at least 50 Members entitled to attend and vote are present; and
- (b) at a General Committee Meeting, 6 Members (including ex-officio Members) of the General Committee are present.

### **18.3 No Quorum**

- (a) If within half an hour after the appointed time for the commencement of a General Meeting (or the other such longer period the Chairman determines), a quorum is not present, the General Meeting must:
    - (i) if convened upon the requisition of Members, be dissolved; and
    - (ii) in any other case, will stand adjourned to the same time 14 days later.
  - (b) If, at an adjourned General Meeting, the quorum is not present within half an hour after the time appointed for the commencement of the General Meeting, provided that there are at least 3 Members entitled to vote at the meeting present, there will be a quorum.
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- (c) If there is no quorum at an adjourned General Meeting, that meeting must be dissolved.

#### **18.4 Business of General Meeting**

No business other than that set out in the notice convening the General Meeting may be transacted at the General Meeting.

#### **18.5 Notice of Motion**

- (a) A Member who wishes to raise a motion at a General Meeting must notify the Chief Executive Officer in writing at least 28 days before the meeting of the proposed motion.
- (b) Any Notice of Motion must have a proposer and a seconder both of whom must be a financial Full, Associate or Intermediate member.
- (c) Both the proposer and seconder of the motion must be present at the meeting at which the motion is to be heard.
- (d) Should there be serious, unforeseen circumstances that prevent a seconder or proposer attending the meeting, a voting member may be appointed by the remaining proposer/seconder to take his/her place with the agreement of the members attending the meeting.
- (e) Upon receipt of a notice under **Rule 18.5(a)**, the Chief Executive Officer must notify Members pursuant to **Rule 17**,
- (f) A proposed motion which does not comply with this Rule may not be subject to discussion or a vote at a General Meeting.

#### **18.6 Other Business**

A Member desiring to bring any business before a General Meeting may give notice of that business in writing to the Chief Executive Officer, who must include that business in the notice calling the next General Meeting after the receipt of the notice.

#### **18.7 Minutes of Previous General Meeting**

At every General Meeting, the Minutes of the previous General Meeting must be tabled and submitted for confirmation before proceeding with any other business.

### **19 Chairman of General Meetings and General Committee Meetings**

At all General Meetings and all General Committee Meetings, the Senior Flag Officer, or in the absence of a Flag Officer, a Member elected by the Members, will be the Chairman.

### **20 Voting**

#### **20.1 Each Member has One Vote**

Upon a question arising at a General Meeting, a Member has one vote only.

#### **20.2 Proxies**

- (a) A Member may appoint another Member as his or her proxy to speak and vote on his or her behalf at a General Meeting.
  - (b) The appointment of a proxy must be in writing and signed by the Member making the appointment.
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- (c) The Member appointing the proxy may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the Member in any matter as he or she sees fit.
- (d) Notice of a General Meeting given to a Member under **Rules 15.2** or **17** must:
  - (i) state that the Member may appoint another Member as a proxy for the General Meeting; and
  - (ii) include a copy of any form that the General Committee has approved for the appointment of a proxy.
- (e) A form appointing a proxy must be given to the Chairman of the General Meeting before or at the commencement of the meeting.
- (f) A form appointing a proxy sent by post or electronically must be received by the Club no later than 24 hours before the commencement of the General Meeting.

### **20.3 Casting Vote**

In the case of an equality of votes on a question, the Chairman has a personal as well as a casting vote.

### **20.4 No Postal Voting**

Votes may not be cast by post, unless the General Committee determines that voting on a particular question be conducted by a postal ballot.

## **21 Determination of Motions**

### **21.1 Requisite Majorities**

Subject to these Rules, motions put to General Meetings and General Committee Meetings will be decided by a simple majority of votes unless the motion is one which requires a special resolution.

### **21.2 Procedure**

A motion arising at a General Meeting or a General Committee Meeting will be determined on a show of hands and, unless before or on the declaration of the show of hands a poll is demanded under **Rule 22.1**, a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously or carried by a particular majority or lost, and an entry to that effect in the relevant minutes of the Club, is evidence of the fact, without the need to show proof of the number or proportion of the votes recorded in favour of or against that resolution.

### **21.3 Referendum**

Notwithstanding any other provision of these Rules, the General Committee shall have the power to refer any motion to be decided on at a General Meeting to a written referendum of Members entitled to vote under **Rule 23**.

## **22 Poll**

### **22.1 Demand for Poll**

If at a General Meeting a poll on any motion is demanded by at least one quarter of the Members entitled under these Rules to vote at the meeting, the ballot will be taken in the manner prescribed by the Chairman.

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## **22.2 Time for Taking Poll**

A poll that is demanded on the election of the Chairman or on a question of an adjournment must be taken immediately and a poll that is demanded on any other question must be taken before the close of the General Meeting.

## **23 Entitlement to Vote**

### **23.1 Only Financial Members to Vote**

A Member is entitled to vote at any General Meeting if he or she is:

- (a) a Member of a Membership class under **Rule 23.2**; and
- (b) financial, meaning that all monies due and payable by that Member to the Club have been paid.

### **23.2 Voting Members**

Members of the following classes of Membership have a voting right under **Rule 23.1(a)**:

- (a) Life Members;
- (b) Full Members (including Veteran Members under **Rule 8.4**);
- (c) Intermediate Members; and
- (d) Associate Members (including those deemed as such by virtue of Family Membership).

## **24 Discussion Meetings**

Nothing in these Rules prevents the Club holding general discussion meetings for the purposes of full ranging discussion with and amongst Members.

## **25 General Committee**

### **25.1 Management of Affairs of Club**

The General Committee is responsible for the entire management of the business and affairs of the Club.

### **25.2 Composition**

The General Committee consists of:

- (a) the Officers; and
- (b) 5 Ordinary Committee Members elected under **Rule 26**.

### **25.3 General Committee Member Vacancy**

In the event of a vacancy under **Rule 27** in any office referred to in **Rule 25.2**, the Committee may appoint a Full Member of the Club to the vacant office and the person so appointed will hold that office until the expiry of the term of that office.

### **25.4 Duties**

The General Committee may, subject to these Rules and the Act:

- (a) exercise all of the powers and functions of the Club other than those powers and functions required by these Rules to be exercised by Members at a General Meeting;
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- (b) do all lawful things that are in the opinion of the General Committee incidental or conducive to the attainments of the objects of the Club, provided that any proposal to undertake any of the following actions must be approved by a majority of voting Members at a General Meeting:
  - (i) issue debentures;
  - (ii) purchase, sell or mortgage land or property;
  - (iii) issue extensions to marina licences;
  - (iv) make a capital purchase of a single item in excess of \$200,000; and
  - (v) expend in excess of \$200,000 on the construction or renovation of the Club's facilities or equipment.

## **26 Election of Officers and General Committee Members**

### **26.1 Election of Officers**

- (a) The election of the Officers must take place on the Saturday prior to the Annual General Meeting in each even numbered year;
- (b) Only Life Members and financial Full Members of at least 12 months standing are eligible to be elected as an Officer.
- (c) An Officer may only be a Flag Officer subject to **Rule 14.2**.

### **26.2 Election of Ordinary Committee Members**

- (a) The election of the Ordinary Committee Members must take place on the Saturday prior to the Annual General Meeting in each odd numbered year;
- (b) Only Life Members and financial Full Members of at least 12 months standing are eligible to be elected as an Ordinary Committee Member; and
- (c) An Ordinary Committee Member is eligible to be elected as an Officer, subject to **Rule 14.2**, provided he or she resigns as an Ordinary Committee Member upon being so elected.

### **26.3 Tenure**

- (a) An Officer holds office from the Annual General Meeting immediately following the date of his or her election under **Rule 26.1(a)**, at which his or her election must be declared, until the Annual General Meeting in the next even numbered year; and
- (b) An Ordinary Committee Member holds office from the Annual General Meeting immediately following the date of his or her election under **Rule 26.2(a)**, at which his or her election must be declared, until the Annual General Meeting in the next odd numbered year.

### **26.4 Re-election**

All Officers and Ordinary Committee Members, upon expiry of their term of office as provided in these Rules, are eligible for re-election.

### **26.5 General Committee to Call for Nominations**

The Chief Executive Officer must:

- (a) at least 35 days prior to the Annual General Meeting:
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- (i) notify all Members entitled to vote under **Rule 23.1**, by post or electronic means, of the closing date for nominations, of the date of the Annual General Meeting and of the existence of **Rule 18.5**; and
  - (ii) invite prospective nominees to a General Committee information night,
- (b) post on the Notice Board each nomination as soon as practicable after it is received and each nomination must be posted on the Notice Board for at least 14 days prior to the election; and
  - (c) with the cooperation with the General Committee, include in the notice of the Annual General Meeting under **Rule 15.2** a second notice to all Members giving details of the Members nominated and whether each of those Members will be elected unopposed or an election by ballot will be necessary

## **26.6 Nomination of Candidates**

Nominations of candidates for election as Officers or as General Committee Members:

- (a) must be made in writing, signed by 2 Members of 12 months' standing, each of whom must be a Life Member or financial Full Member and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and
- (b) must be lodged with the Chief Executive Officer at least 28 days prior to the date of election.

## **26.7 Insufficient Nominations**

If insufficient nominations are received to fill all the vacancies on the General Committee, the General Committee shall nominate a sufficient number of qualified Members to stand for the vacancies.

## **26.8 Further qualifications**

Persons prescribed by **Rule 23.1** are entitled to vote in General Committee elections provided always that:

- (a) that the total number of such Members comprises at least 60 per cent of the total Membership of the Club excluding Honorary and persons who are Members by reason only of reciprocal arrangements with another Club; and
- (b) where the total number of Life Members and Ordinary Members entitled to vote does not comply with the requirements of this Rule, every financial Member of the general body of Members of the Club other than Crew Members, Youth Members, Training Members, Day Members and Honorary Members, is entitled to vote in General Committee elections held at a time when **Rule 26.8(a)** is not met.

## **26.9 Ballot**

If the number of nominations exceeds the number of vacancies to be filled, a ballot must be held.

## **26.10 Manner of Conducting Ballot**

- (a) the General Committee shall appoint 2 scrutineers ("Scrutineers") and a returning officer ("Returning Officer") to supervise and assist in the conduct of the election :
  - (b) if the Chief Executive Officer notifies members under **Rule 26.5** that a ballot is necessary, he or she must:
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- (i) maintain a ballot box, fitted with two padlocks, for the purpose of receiving votes; and
  - (ii) prepare a list of Members entitled to vote,
- (c) each of the Scrutineers must, before voting commences, secure a padlock upon the ballot box and retain the key.
- (d) at least 14 days before the Annual General Meeting, the Chief Executive Officer must send all Members who are entitled to vote under **Rule 26.8**, by post or electronic means as appropriate:
  - (i) a notice confirming that an election is to be held pursuant to **Rule 26.5(c)** and stating the time and place of the election
  - (ii) a brief introduction of each of the nominees and the position for which he or she is nominated;
  - (iii) any recommendations by the General Committee regarding any of the nominees;
  - (iv) a ballot paper endorsed with the identity of the Member to whom the ballot paper is issued.
- (e) a Member may lodge his or her ballot paper:
  - (i) by hand in the ballot box during office hours; or
  - (ii) by post to the Chief Executive Officer, who must receive the ballot paper at least 2 days before the ballot finishes and then place the ballot paper in the ballot box on the Member's behalf.
- (f) at 1200 hours on the day of the election, the Scrutineers must:
  - (i) declare the ballot concluded and unlock the ballot box;
  - (ii) cross out on the list of members entitled to vote the name of each member from whom a ballot paper has been received
  - (iii) declare invalid any ballot paper that does not reconcile with a name on the list of members entitled to vote;
  - (iv) count the ballot votes for each position in respect of which a ballot has been held.
- (g) the nominees who receive the most votes for each vacant position shall be declared duly elected to that position;
- (h) as soon as is reasonably practicable after the counting of votes, the Scrutineers must certify the result of the ballot by notice in writing signed by both Scrutineers and delivered to the Chief Executive Officer;
- (i) at 1800 hours on the day of the election, the Commodore shall post the result on the Members' Bar Notice Board and on the Club website; and

#### **26.11 Alternative form of ballot**

In addition to the ballot processes set out above in this Rule 26, General Committee may determine alternative forms or methods of voting in a ballot from time to time, including by electronic means. General Committee must notify Members of such determination in writing. If a Member has not provided his or her email address to the Club or has notified the Club that he or she does not have the means to vote electronically, the CEO or the CEO's delegate must provide that Member with a physical ballot paper in accordance with Rule 26 (d) (iv).

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## 27 Vacancy

For the purposes of these Rules, the office of an Officer or of an Ordinary Member of the Committee becomes vacant if the Officer or Ordinary Member of the Committee:

- (a) ceases to be a Member of the Club;
- (b) becomes an insolvent under administration within the meaning of the Corporations Act;
- (c) resigns his or her office by notice in writing given to the Chief Executive Officer;
- (d) becomes a "represented person" within the meaning of that term under the *Guardianship and Administration Act 1986* (Vic);
- (e) moves overseas; or
- (f) fails to attend 3 consecutive meetings of the General Committee and the General Committee, at its discretion, declares the office vacant.

## 28 Procedure of General Committee

### 28.1 Number of Meetings

- (a) The General Committee will meet for the dispatch of business and adjourn and otherwise regulate its meetings as it sees fit.
- (b) The Chief Executive Officer has the power to convene General Committee Meetings and must endeavour to do so monthly.

### 28.2 Special General Committee Meetings

A Special General Committee Meeting may be convened by the Commodore or any 3 General Committee Members.

### 28.3 Notice of Special General Committee Meetings

Notice must be given to General Committee Members of any special meeting convened under **Rule 28.2** specifying the general nature of the business to be transacted and no other business can be transacted at that meeting.

### 28.4 Vacancy on Committee

The General Committee may act notwithstanding any vacancy on the General Committee.

### 28.5 Use of Technology

- (a) At the discretion of the Chairman, a General Committee Member who is not physically present at a General Committee Meeting may participate in the meeting by the use of technology, if available, that allows that General Committee Member and the General Committee Members present at the meeting to clearly and simultaneously communicate with each other.
  - (b) A General Committee Member participating in a General Committee Meeting as permitted under **Rule 28.5(a)** is taken to be present at the meeting and, if the General Committee Members vote at the meeting, is taken to have voted in person.
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## 29 Chief Executive Officer

### 29.1 General

- (a) The General Committee must appoint and contract the services of a Chief Executive Officer of the Club upon the terms and conditions it deems appropriate.
- (b) The General Committee may delegate any of its powers to the Chief Executive Officer as allowed by the Act;
- (c) The Chief Executive Officer has all of the duties and powers of a secretary under the Act, so that a reference in the Act to a secretary means a reference in these Rules to the Chief Executive Officer (or other person under **Rule 29.1(e)**).
- (d) Subject to the authority of the General Committee, the Chief Executive Officer is responsible for the appointment and dismissal of all employees of the Club including temporary and casual employees who form part of a personnel establishment
- (e) When the Chief Executive Officer is absent from the Club's premises or vacates his or her position, his or her powers and duties must be performed by the administration manager appointed by the Club ("**Administration Manager**"), or in his or her absence, by the Commodore, failing that by any other nominated executive manager or General Committee Member

## 30 Minutes

- (a) The Chief Executive Officer must keep minutes of each General Meeting and General Committee Meeting.
- (b) The minutes must record the following:
  - (i) the names of the members in attendance at the meeting;
  - (ii) the business considered at the meeting;
  - (iii) any resolution on which a vote is taken and the result of the vote; and
  - (iv) any material personal interest disclosed under **Rule 40**.

## 31 Dismissal of Officer or Member of the General Committee

- (a) An Officer or General Committee Member may be removed from office by a vote passed by a majority of not less than three quarters of the Members present and entitled to vote at a Special General Meeting called for that specific purpose.
- (b) The voting at a Meeting under **Rule 31(a)** must be conducted by ballot.

## 32 Treasurer

The Treasurer must:

- (a) receive all monies paid to or received by the Club and issue receipts for those monies in the name of the Club;
  - (b) ensure that all monies received are paid into the account of the Club within 5 working days after receipt;
  - (c) make any payments authorised by the General Committee or by a General Meeting of the Club from the Club's funds;
  - (d) ensure cheques are signed in accordance with **Rule 45.2(d)**;
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- (e) ensure that the financial records of the Club are kept in accordance with the Act;
- (f) coordinate the preparation of the financial statements of the Club prior to their submission to the Annual General Meeting; and
- (g) ensure that at least one other Member of the General Committee has access to the accounts and financial records of the Club.

## **33 Sub-Committees**

### **33.1 Election of Sub-Committees**

Within 1 month of the Annual General Meeting, the General Committee must appoint the following standing Sub-Committees:

- (a) Sailing (which should include at least one Intermediate Member);
- (b) Recreational Boating;
- (c) Off the Beach Sailing Centre;
- (d) Finance and Audit; and
- (e) any other Sub-Committee as determined by the General Committee.

### **33.2 Delegation of authority**

The General Committee may delegate to a Sub-Committee formed under **Rule 33.1** the authority to :

- (a) take any action; or
- (b) post or circulate notices,

necessary for the proper functioning of that Sub-Committee.

### **33.3 Appointment of Chairman**

- (a) The General Committee must appoint a Chairman of each Sub-Committee;
- (b) The Chairman of each Sub-Committee may co-opt any person to serve on his or her Sub-Committee;
- (c) Any person co-opted to a Sub-Committee under **Rule 33.3(b)** does not have voting rights on that Sub-Committee until his or her appointment has been approved and confirmed by the General Committee.

## **34 By-Laws and Rules**

### **34.1 Making of By-Laws**

The General Committee may make, repeal and amend any By-Laws necessary for the good conduct of the Club and which are not inconsistent with these Rules.

In the event of an inconsistency between these Rules and any By-Laws, the relevant provision of these Rules prevails.

### **34.2 Rules and By-Laws are binding**

These Rules and any By-Laws are binding on all Members.

### **34.3 New By-Laws and alterations to By-Laws**

The Chief Executive Officer must:

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- (a) maintain a record of all By-Laws; and
- (b) notify Members of any additions or alterations to By-Laws that have been made by the General Committee by posting a notice on the Notice Board outlining those additions or alterations.

## **35 Grievance Procedure**

### **35.1 Application**

The grievance procedure set out in these Rules applies to disputes under these Rules between:

- (a) a Member and another Member; or
- (b) a Member and the General Committee; or
- (c) a Member and the Club (including but not limited to its employees, volunteers and servants) .

### **35.2 Initiation of grievance procedure**

A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure under **Rule 13** until the disciplinary procedure has been completed.

### **35.3 Parties must attempt to resolve the dispute**

The parties to a dispute must attempt to resolve the dispute between themselves within 14 days of the dispute coming to the attention of each party.

### **35.4 Appointment of mediator**

- (a) If the parties are unable to resolve the dispute between themselves within the timeframe required by **Rule 35.3**, the parties must within 10 days:
    - (i) notify the General Committee of the dispute;
    - (ii) agree to or request the appointment of a mediator; and
    - (iii) attempt in good faith to settle the dispute by mediation.
  - (b) The mediator must be:
    - (i) a person chosen by agreement between the parties; or
    - (ii) in the absence of agreement:
      - (A) if the dispute is between a Member and another Member – a person appointed by the General Committee; or
      - (B) if the dispute is between a Member and the General Committee or the Club – a person appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice).
  - (c) A mediator appointed by the General Committee may be a Member or former Member of the Club but in any case must not be a person who –
    - (i) has a personal interest in the dispute; or
    - (ii) is biased in favour of or against any party; or
    - (iii) is a current member of General Committee.
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### **35.5 Mediation process**

- (a) The mediator, in conducting the mediation, must:
  - (i) give each party every opportunity to be heard;
  - (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 throughout the mediation process.
- (b) The mediator must not determine the dispute.

### **35.6 Failure to resolve dispute by mediation**

If the mediation process does not resolve the dispute, the parties may seek to resolve the dispute in accordance with the Act or otherwise at law.

### **35.7 Alternative procedures in By-Laws**

Without limiting this Rule 35, the By-Laws may make provision for alternative procedures and processes for the resolution of grievances or complaints.

## **36 Lien on Property**

### **36.1 Existence of lien**

The Club has a lien on any property of a Member, which is in the possession or on the premises of the Club, for any debt or money owed by him or her to the Club;

### **36.2 Restriction on use of property subject to lien**

If the General Committee notifies a Member in writing that it intends to enforce a lien pursuant to **Rule 36.1**, the Member may not remove or attempt to remove any property from the Club's possession or premises until the debt or money owed to the Club has been paid.

### **36.3 Removal of property from Club's premises**

- (a) If a Member fails to pay any debt or money owed to the Club within 1 month of receiving a notice under **Rule 36.2**, the General Committee may remove any property that is subject to the lien from the Club's premises.
- (b) If the General Committee exercises its right under **Rule 36.3(a)**:
  - (i) no Member of the General Committee, Officer or other person acting at the direction of the General Committee or officer who removed the property is liable for any damage or loss to the property;
  - (ii) the Member against whom the lien is enforced indemnifies any persons referred to in **Rule 36.3(b)(i)** against any damage or loss to the property; and
  - (iii) the Member must pay or reimburse to the Club all expenses incurred by the Club as a result of the removal of the property, including any storage charges.

### **36.4 Sale of property**

Further to **Rule 36.3**, if a Member fails to pay any debt or money owed to the Club within 1 month of receiving a notice under **Rule 36.2**, the General Committee may sell any property subject to a lien:

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- (a) by public auction or private treaty upon any terms it thinks fit; and
- (b) may hold the sale at the Club's premises or any other location as it thinks fit.

### **36.5 Proceeds of sale of property**

- (a) The General Committee may deal with the proceeds of a sale under **Rule 36.4** to satisfy the lien and pay any costs and expenses incurred due to the sale.
- (b) The General Committee must pay the surplus of the proceeds of a sale under **Rule 36.4** to:
  - (i) the person or persons entitled to the surplus; and
  - (ii) if there are conflicting claims to the surplus, into a Court of competent jurisdiction to be held pending resolution of that dispute.

## **37 Unclaimed Property**

### **37.1 Sale of unclaimed property**

The General Committee may sell or dispose of any unclaimed property in any manner it thinks fit.

### **37.2 Meaning of unclaimed property**

- (a) For the purposes of these Rules, unclaimed property includes property found on the Club's premises, including in adjacent waters, which has no apparent owner, or an owner who refuses to collect the property on the demand of the General Committee.
- (b) Where there is no apparent owner of property under **Rule 37.2(a)**, that property will only be unclaimed property for the purpose of this **Rule** if the General Committee advertises the identity of the property and its intention to sell or dispose of the property on the Notice Board for at least 21 days and once in a newspaper circulating throughout Melbourne.
- (c) Where an owner refuses to collect property under **Rule 37.2(a)**, that property will only be unclaimed property for the purpose of this **Rule 37.2(c)** if the General Committee notifies its owner in writing of its intention to sell or dispose of the property unless the owner collects the property within 21 days and the owner then fails to do so.

### **37.3 Proceeds of sale of unclaimed property**

- (a) The General Committee may deduct from the proceeds of any sale or disposition pursuant to this Rule:
    - (i) its costs and expenses incurred in the sale or disposition; and
    - (ii) in the case of property the owner of which is known, any debt or any other money owed by the owner to the Club.
  - (b) The General Committee must pay the surplus of the proceeds of a sale under **Rule 37.1** to:
    - (i) where there is no apparent owner of the property, the Club to be used for its purposes; and
    - (ii) where there is a known owner of the property, to that owner or his or her legal representative.
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## 38 Interpretation of Rules

- (a) A dispute regarding the meaning or application of these Rules or any By-Laws must be determined by the General Committee, whose decision is final and binds Members, subject to any right of appeal under the Act or at otherwise at law.
- (b) A decision of the General Committee under **Rule 38(a)** may be reversed or quashed by a resolution passed at a General Meeting, however any actions made in reliance on that decision prior to the reversal or quashing are valid.

## 39 Service of Notices

### 39.1 Methods of service

Service of any notice upon a Member required by these Rules may be effected:

- (a) personally by hand;
- (b) by mail to the Member's last address shown on the register of members; or
- (c) by electronic means, as appropriate.

### 39.2 Service by mail

Where a document is properly addressed, pre-paid and posted to a person as a letter the document is, unless the contrary is proved, deemed to have been given to the person at the time at which the letter would have been delivered in the ordinary course of post.

### 39.3 Service by posting on the Notice Board

If no address is given to the Chief Executive Officer, a communication displayed on the Notice Board for at least 7 days is deemed to have been served on the Member to whom the communication is addressed.

## 40 Conflict of Interest

- (a) A Member of the General Committee 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) The Member:
  - (i) must not be present while the matter is being considered at the General Committee Meeting; and
  - (ii) must not vote on the matter,
- (c) This Rule 40 does not apply to a material personal interest:
  - (i) that exists only because the Member belongs to a class of persons for whose benefit the Club is established; or
  - (ii) that the Member has in common with all, or a substantial proportion of, the Members of the Club.

## 41 Commodore-in-Chief

- (a) The Members at a General Meeting may upon the recommendation of the General Committee appoint a Commodore-in-Chief or a patron of the Club ("**Commodore-in-Chief**");
  - (b) The Commodore-in-Chief is entitled to all the privileges of Membership but does not have a voting right.
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- (c) The Commodore-in-Chief is not eligible for election as an Officer or General Committee Member.

## 42 Sailing Rules

- (a) The sailing regulations of the Club are the current Racing Rules of Sailing of World Sailing, prescriptions of Australian Sailing (“**AS**”), safety regulations of AS and any By-Laws made by the General Committee under **Rule 34** subject to such alterations and modifications as are contained in the sailing instructions.
- (b) All entrants and participants in Club events enter and participate in those events entirely at their own risk.

## 43 Custody of Books and Other Documents

Except as otherwise provided in these Rules, the Chief Executive Officer must keep in his or her custody or control all records, securities and Relevant Documents of the Club.

## 44 Inspection by Members

- (a) Further to **Rule 10.3**, Members may inspect free of charge:
  - (i) the minutes of General Committee Meetings; and
  - (ii) subject to **subrule (b)**, the financial records, books, securities and any other Relevant Document of the Club, including minutes of General Committee Meetings.
- (b) The Committee may refuse to permit a member to inspect records of the Club that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Club.
- (c) The Committee must keep a copy of these Rules on the Club’s premises and make copies of these rules available on request to Members and applicants for membership free of charge.

## 45 Funds

### 45.1 Source of funds

The funds of the Club will be derived from entrance fees, annual subscriptions, donations, fund-raising activities, grants, interest and other sources determined by the General Committee.

### 45.2 Management of funds

- (a) The Club must maintain an account or accounts 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) Subject to any restrictions imposed by a General Meeting of the Club, the General Committee may approve expenditure on behalf of the Club.
  - (c) No money can be expended on behalf of the Club unless sanctioned by the General Committee.
  - (d) All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 of the following:
    - (i) the Commodore;
    - (ii) the Vice-Commodore;
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- (iii) the Rear-Commodore;
- (iv) the Chief Executive Officer;
- (v) the Treasurer; or
- (vi) the Administration Manager,

each of whom must be covered by a fidelity guarantee policy.

- (e) All funds of the Club must be deposited into the financial account of the Club no later than 5 working days after receipt.
- (f) With the approval of the General Committee, the Treasurer 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.

## **46 Licensing Laws**

- (a) No person is entitled under these Rules or any By-laws to derive any profit, benefit or advantage from the Club which is not shared equally by every Member, provided always that the distribution of monies, property or otherwise, to Members is prohibited whilst the Club is a going concern.
- (b) No payment or part payment to any Officer or servant of the Club shall be made by way of commission or allowance from the receipts of the Club for the supply of liquor.
- (c) Except at a particular function or occasion authorised by the General Committee and the subject of a liquor licence from the Victorian Commission for Gambling and Liquor a visitor must not be supplied with liquor on the Club premises unless the visitor is a guest in the company of a Member.
- (d) No liquor may be sold or supplied to any person under 18 years of age on the Club premises.
- (e) No liquor shall be sold or supplied for consumption elsewhere than on the Club premises unless that liquor is removed from the premises of the Club by the Member who purchased the liquor.
- (f) No person under 18 years of age may be employed by the Club in licensed areas, except persons who are being trained as waiters and are not allowed to serve behind the Bar.
- (g) Liquor may not be sold or disposed of on the Club premises except in accordance with the Licence held on behalf of the Club under the Liquor Act.
- (h) While and so long as the Club is licensed under the Liquor Act, the Chief Executive Officer must, within 14 days of the making of an alteration to these Rules, forward to the secretary of the Victorian Commission for Gambling and Liquor a certified copy of the alteration.
- (i) An alteration to the Rules has no effect until the alteration is approved by the Victorian Commission for Gambling and Liquor.

## **47 Common seal**

### **47.1 Existence**

The Club has a common seal.

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## **47.2 Custody of common seal**

The common seal of the Club must be kept in the custody of the Chief Executive Officer

## **47.3 Use of common seal**

A document may only be sealed with the common seal of the Club by the authority of the General Committee and the sealing must be witnessed by the signatures of:

- (a) 2 Officers; or
- (b) an Officer and the Chief Executive Officer

## **48 Rights not transferable**

The rights of a Member are not transferable and end when Membership ceases.

## **49 Trading**

The Club may trade as permitted by the Act.

## **50 Indemnity**

- (a) The Club must indemnify every Member of the General Committee and a Sub-Committee, and persons who assist them, against any liability incurred in good faith by that person in the course of performing his or her duties.
- (b) The General Committee may effect and maintain insurance to cover this indemnity.

## **51 Winding up and cancellation**

### **51.1 Voluntary winding up**

The Club may be wound up voluntarily by special resolution.

### **51.2 Distribution of assets**

- (a) In the event of the winding up or the cancellation of the incorporation of the Club, the surplus assets of the Club must not be distributed to any Members or former Members of the Club.
- (b) Subject to the Act and any court order made under section 133 of the Act, the surplus assets must be given to a body determined by the General Committee that:
  - (i) has similar purposes to the Club, including yachting training;
  - (ii) is not carried on for the profit or gain of its individual members; and
  - (iii) is exempt from income tax under Item 9.1(c) of section 50.45 of the *Income Tax Assessment Act 1997* (Cth).

## **52 Alteration of Rules**

These Rules may only be altered by special resolution at a General Meeting.

## **53 Miscellaneous**

- (a) All previous Rules of the Club are repealed.
  - (b) A copy of these Rules must be kept on the Club's premises.
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