



Martha Cove Yacht Squadron Inc.

Constitution

June 2019

## Introduction

Martha Cove Yacht Squadron was founded by a group of like-minded boat owners who saw a need for a club to serve yacht and power boat owners, and residents at Martha Cove.

The foundation Committee called for expressions of interest from people to become Foundation Members and with over 170 applicants, it proved that there was overwhelming support for the formation of MCYS.

The facilities at Martha Cove offer boat owners and residents at the Southern end of Port Phillip a unique opportunity.

MCYS is an Incorporated Association pursuant to the Associations Incorporation Reform Act 2012 and began with a foundation committee made up of yacht and power boat owners.

MCYS will stand as an umbrella body catering for a diverse number of 'interest' groups with an overarching governance body providing governance, administration, club facilities, and management with individual constituent interest 'divisions' operating within the overarching structure, but essentially running their own "on water" and other activities.

Initially there will be a "Power" division with a Rear Commodore in command, and likewise a "Yacht" division with a Rear Commodore in command of that division, each serving its constituent squadron members.

We also see the exciting prospect of cruising and racing to destinations, running functions and squadron events involving both divisions and social members, something which occurs regularly in other places very successfully, but up until now has not occurred in the southern end of Port Phillip.

The Committee believes that MCYS will ultimately:

- provide a central focus for watercraft owners and residents at Martha Cove Marina, Hidden Harbour and Martha Cove Village;
- become a social "Centre" for the Marina and Village occupants as Squadron members;
- draw people from the wider community to enjoy the facilities at Martha Cove and who would also like to be members of a high-profile Squadron;
- consist of members from keel boat and trailable yachts as well as powerboats, including large and small Cruisers, Powerboats and Runabouts;
- see the formation of "partnerships" with sister, and affiliated clubs and squadrons, so as to maximise the opportunities of Martha Cove as a destination, and as a hub for maritime activities;
- provide a knowledge base and infrastructure for training facilities for all nautical activities;
- act as a representative body and "voice" for owners of watercraft in Martha Cove and Squadron members generally.

John Hall  
Foundation Committee Chair MCYS  
June 2019

# Martha Cove Yacht Squadron Inc. Constitution

## Part 1 - Administrative

### 1 Name

The name of the Incorporated Association is Martha Cove Yacht Squadron Inc. (Registration No. A0011997N) ("**Squadron**")

### 2 Purposes

2.1 The purposes of the Squadron are:

- (a) To provide a squadron for yacht and power boat owners and enthusiasts which fosters and promotes inshore and offshore racing, sailing, cruising and training activities for its members and associates;
- (b) To be seen as an organisation of which its members are proud, and which is responsive to member's views;
- (c) To be regarded as amongst the best aquatic organisations in our State, and Nationally;
- (d) To partner and form alliances with other organisations so as to promote mutual opportunities and enhance member opportunities.

2.2 The purposes of the Squadron are to be achieved by:

- (a) being a squadron of like-minded people and families, which caters for diverse aquatic interests;
- (b) being managed and operated by elected representatives at all levels;
- (c) maintaining state of the art facilities, systems and governance;
- (d) being seen as welcoming, inclusive and professionally run;
- (e) encouraging and teaching new and existing members;
- (f) fostering training by the sharing of knowledge and expertise

2.3 The purposes of the Squadron shall be interpreted widely and liberally in the event of doubt or uncertainty.

2.4 The Squadron is located at Martha Cove or such other place or places as the General Committee may determine and its mailing address will be as determined by the General Committee from time to time.

## **Part 2 - Powers**

### **3 General Powers**

3.1 Without limiting its powers under the Act or otherwise, the Squadron 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 Squadron if any;
- (c) sell, exchange, lease, mortgage, hire, dispose of or otherwise deal with any part of the real or personal property of the Squadron;
- (d) borrow, raise or secure the payment of money any manner the Squadron thinks fit;
- (e) have 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 Squadron, and to redeem or pay off any existing or future security;
- (f) apply for and obtain grants and funding from Government departments and Federal and State public authorities;
- (g) amalgamate, co-operate, affiliate and enter into reciprocal arrangements with other clubs or squadrons in the manner determined from time to time and allowed by the Act;
- (h) appoint, employ, pay, dismiss and suspend any employees and servants of the squadron; and
- (i) do any other lawful thing which in the Squadron's opinion is incidental or conducive to the attainment of the purposes and exercise of powers of the Squadron.

### **3.2. Income and Property**

- (a) The income and property of the Squadron must be used and applied solely in promotion of its purposes and under its powers set out in this constitution.

- (b) Subject to 3.2(c) hereof no income or property of the Squadron 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 this constitution prevents the payment in good faith to Members, Officers or servants of the Squadron in respect of remuneration for services rendered to the Squadron on approval of the General Committee.

## **Part 3 Membership**

### **4 Application for Membership**

4.1 A natural person who:

- (a) is nominated and approved for Membership by the General Committee as provided in this constitution;
- (b) supports the purposes of the Squadron; and
- (c) has an interest in yachting or power boating,

is eligible for election as a Member of the Squadron.

### **4.2 New Members**

4.2.1 A person not already approved as a foundation member may be nominated in accordance with this constitution and may become a Member as approved herein by the General Committee.

4.2.2 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 if the General Committee so determines from time to time, by a proposer and seconder, both of whom must be a voting Member and have been either foundation members or otherwise voting Members of the Squadron for 12 months prior to the date of the nomination;
- (c) must contain an undertaking signed by the nominee to be bound by the constitution and Bylaws of the Squadron; and
- (d) must be received by the Secretary either in person or by email.

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

- (a) the CEO or Secretary may circulate by email to members or at his or her discretion display, in the members section of the Squadron website or on the Squadron notice board, details of any 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 Membership, other than a Junior Member, may be interviewed by a Selection Committee comprised as determined by the General Committee before the applicant's name is presented to the General Committee for election;
- (c) an applicant for Junior Membership may be interviewed by the General Committee's nominees before the Applicant's name is presented to the General Committee for election; and

### **4.4 Approval of Nomination**

- (a) a person will be elected as a Member of the Squadron by the vote of the General Committee 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 under (a) hereof;
- (c) upon a nomination being approved by the General Committee, the CEO or Secretary must, as soon as practicable, notify the applicant in writing of the approval for Membership and cause the Treasurer to raise an invoice for the appropriate amount to be forwarded to the applicant and request payment within 28 days (or other time as determined by the General Committee) of that notification and invoice;
- (d) the applicant will forfeit any entrance fee (if any, paid under 5.1 hereof) if the amount under 4.4(c) is not paid within 28 days;
- (e) if the General Committee rejects a Membership application, the CEO or Secretary must, as soon as practicable, notify the applicant that the application has been rejected, and refund any entrance fee (if any, paid under 5.1 hereof).

### **4.5 Entry in Register**

- a) If the applicant is approved, the CEO or Secretary must, upon payment of the amounts referred to in 4.4 hereof within the

period referred to therein, enter the applicant's name in the register of Members; and

- b) The applicant becomes a Member on the member's name being entered into the register of Members.

#### **4.6 Categories of Membership**

The Squadron has the following classes of Membership:

##### **4.6.1 Senior Member**

- (a) A Senior Member is a Member who is 18 years old or older and who has been admitted to Membership;
- (b) A Senior Member is entitled to all of the privileges of Membership without restriction

##### **4.6.2 Family Membership**

- (a) A Family Membership consists of one (1) Senior Member and one (1) Affiliate (Spouse or Partner) Member; and
- (b) an unlimited number of junior dependants under the age of 18 or full-time students under the age of 18 years,

who have been admitted to Family Membership.

- (c) Each member of a Family Membership has the rights applicable to their respective category of Membership as determined by the General Committee from time to time.

##### **4.6.3 Affiliate Member**

- (a) Affiliate member means a Social Member, Crew Member, Dual Member or "Spouse or Partner" Member.
- (b) A Crew Member is a Member who is 18 years old or older, who is proposed to be active sailing or power boat crew and who has been admitted to Crew Membership.
- (c) A Crew Member shall have rights of membership as determined by the General Committee from time to time.
- (d) A Social Member is a Member who is 18 years old or older, who is proposed to be a social member and not an active sailing or power boat crew.

- (e) A Social Member shall have rights of membership as determined by the General Committee from time to time.
- (f) A Dual Member is a Member who is 18 years old or older, who has membership with another club or squadron and is the equivalent of a senior member of that club provided that it is affiliated with Australian Sailing and who has been admitted to Dual Membership.
- (g) A Dual Member shall have rights of membership as determined by the General Committee from time to time.
- (h) A Spouse or Partner Member is a person over the age of 18 years who is the Spouse [as defined in the Marriage Act 1961 CTH] or Domestic Partner [as defined in the Relationships Act 2008 (Vic)] of a Senior Member who together comprise the adult Members in a Family Membership.
- (i) A Spouse or Partner Member shall have rights of membership as determined by the General Committee from time to time.

#### **4.6.4 Intermediate Member**

- (a) An Intermediate Member is a Member who is over 18 years old and under the age of 30 years, and undertaking an apprenticeship or course of study, who is proposed to be an active sailing or power boat crew and who has been admitted to Intermediate Membership.
- (b) An Intermediate Member shall have rights of membership as determined by the General Committee from time to time

#### **4.6.5 Junior Members**

- (a) A Junior Member is a Member who is under 18 years of age and who has been admitted to Junior Membership.
- (b) A Junior Member is not allowed access to any licensed premises occupied by the Squadron except as permitted by the By-laws and the Liquor Act.
- (c) A Junior Member shall have rights of membership as determined by the General Committee from time to time.

#### **4.6.6 Outport Members**

- (a) An Outport Member is a Member who is 18 years old or older, permanently residing outside the areas abutted by Port Phillip



and Westernport Bays, and outside the land area 40 km landwards from the shorelines of Port Phillip and Westernport Bays and who has been admitted to Outport Membership.

- (b) An Outport Member shall have rights of membership as determined by the General Committee from time to time.

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

##### **4.7.1 The By-Laws shall set out:**

- (a) the privileges of each class of Membership, to the extent that those privileges are not modified by this constitution; and
- (b) the availability of Squadron facilities and services to each Membership class.
- (c) The voting rights of Members insofar as they are not set out herein.

#### **4.8 Other Categories of Membership**

##### **4.8.1 Training Members**

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

##### **4.8.2 Day Members**

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

##### **4.8.3 Absentee Members**

- (a) An Absentee Member is a Member who has been granted Absentee Membership.
- (b) Only a Senior Member who will live interstate or overseas for a continuous period of at least 6 months during a Squadron Year may apply for Absentee Membership.
- (c) An Absentee Membership ceases at the end of the Squadron Year in which it commenced, at which point the former Absentee Member may reapply for Absentee Membership.

#### **4.8.4 Life Members**

- (a) A Life Member is a Member who has been elected to Life Membership under this constitution in consideration for special services rendered to the Squadron.
- (b) A candidate for Life Membership shall be proposed and seconded by a Senior, or Life Member, both of whom must have been Members of the Squadron for not less than 2 years prior to the date of the nomination.
- (c) 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 Squadron. The General Committee may develop and adopt a policy in respect of the election of Life Members.
- (d) In the General Committee's discretion, it may submit the Life Membership proposal to a panel of Members such panel as determined by the General Committee including two Flag Officers as members ("Life Membership Panel").
- (e) Should the General Committee not for any reason be able to comply with 4.8.4(d) hereof for whatever reason, it may substitute one or more former Commodores for one or more members of the Life Membership Panel or if it cannot do so, substitute one or more Flag Officers for one or more members of the Life Membership Panel.
- (f) The Life Membership Panel must:
  - i) determine whether the candidate is acceptable for Life Membership; and
  - ii) deliver its recommendation to the Secretary who must then place the matter on the agenda for the next General Committee meeting.

- (g) 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.
- (h) A two-thirds majority of the General Committee is required for election to Life Membership
- (i) If the candidate is elected to Life Membership:
  - i) 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
  - ii) the Life Member will be entitled to vote and to all the privileges of Membership without payment of any further fees.
- (j) Only one Life Member may be declared at a General Meeting and no more than 2 Life Members may be declared in a Squadron Year unless a two thirds majority of the General Committee shall so determine otherwise.

#### **4.8.5 Honorary Members**

- (a) The General Committee may elect a person who is not a Member and who has rendered special services to the Squadron or to the sport of yachting, as an Honorary Member if the General Committee determines that special circumstances apply to that person.
- (b) Honorary Membership expires at the end of each calendar year, or at such shorter time as determined by the General Committee at which point it may be extended for a period as determined by the General Committee.
- (c) The General Committee may:
  - i) elect any person, or any person who is a bona fide Member of a Club or Squadron affiliated with Australian Sailing, as an Honorary Member for such period of as determined by the General Committee; and
  - ii) enter into reciprocal rights arrangements with other recognised yachting clubs or squadrons to allow members of those clubs or squadrons to visit the Squadron's

premises and be entitled to the privileges of Honorary Membership for such period as determined by the General Committee.

- (d) Honorary Members are entitled to all the privileges of Membership except:
  - i) voting rights;
  - ii) eligibility for election as an Officer or to the General Committee;
- (e) The General Committee may terminate any Honorary Membership with or without cause at any time;
- (f) Honorary Members have no claim or interest in funds or property of the Squadron.
- (g) Honorary Members do not have to pay membership fees.

#### **4.8.6 Foundation Members**

- (a) A Foundation Member is a member who joined the Squadron during its foundation period as determined by the General Committee who has been admitted to Foundation Membership;
- (b) Foundation Members shall have ongoing benefits of Foundation Membership being:
  - i) 10% discount for life on membership fees;
  - ii) 10% discount for life on approved personalised Squadron merchandise;
  - iii) The right to display "Foundation Member" on all approved squadron merchandise for life;
  - iv) Foundation Member status recognised in the Member Register, and on membership card;
  - v) such other privileges as determined by the General Committee from time to time

#### **4.8.7 Membership not transferable**

- (a) A right, privilege or obligation of a person by reason of Membership other than in the case of a Foundation Membership:
  - i. is not capable of being transferred to another person; and
  - ii. terminates upon the cessation of Membership

unless otherwise determined at the discretion of the General Committee.

- (b) The General Committee may grant Leave of Absence to any member who may be absent for a period longer than 9 months on such terms as it shall see fit.
- (c) A Member does not have any transferable or assignable interest in any property of the Squadron due to his or her Membership.
- (d) Foundation Membership is ONLY transferable on the death of a Foundation Member to the Member's spouse or in the case where there is no such spouse, to the deceased member's eldest child or to the deceased member's other child who has in interest in becoming a member of the Squadron and wishes to take such a transfer of Foundation Membership.

#### **4.9 Register of Members**

4.9.1 The CEO or Secretary must keep and maintain a Register of Members that includes:

- (a) the Member's name;
- (b) the address for notice last given by the Member;
- (c) the date of becoming a Member;
- (d) the class of Membership;
- (e) the Member's membership number
- (f) the date of the last payment by the Member of his or her annual subscription; and
- (g) for each former Member, that former Member's name and their date of ceasing to be a Member (such record to be kept for a period not less than seven years).

4.9.2 A Member must as soon as practicable notify the Secretary in writing of a change in his or her address.

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

- 4.9.4 It is an offence under the Act and contrary to this constitution and constitutes a disciplinary offence hereunder to make improper use of information recorded on the register of Members.
- 4.9.5 A Member may resign from the Squadron by giving notice in writing to the Secretary.

## **Part 5 Fees**

### **5.1 Entrance Fee**

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

### **5.2 Annual Fees**

- 5.2.1 Annual fees for each category of Membership is the amount fixed prior to the commencement of the Squadron Year by the General Committee and recorded pursuant to the By-Laws.
- 5.2.2 The General Committee requires the prior approval of Members by resolution at a General Meeting to increase annual fees by more than 10% in excess of the increase in the Consumer Price Index for Melbourne All Groups in the preceding Squadron year.
- 5.2.3 For the sake of clarity, as the facilities of the squadron increase, so will the annual fees also increase to reflect the level of the facilities but any increase in excess of 10% must be approved by resolution of members at General meeting.
- 5.2.4 Annual Fees are due and payable at the commencement of the Squadron Year or such other time as the General Committee may determine.
- 5.2.5 The General Committee may determine to allow a discount to fees for holders of Pensioner Concession cards.

### **5.3 Pro rata fees**

- 5.3.1 Where a member joins more than 30 days after the commencement of the Squadron Year the annual fee is to be pro-rated.
- 5.3.2 where a fee is to be pro-rated the fee will be the annual fee applicable divided by 12 and then multiplied by the number of whole months remaining in the Squadron Year.

## **5.4 Unfinancial Members**

- 5.4.1 A Member who has not paid the member's annual fee or any other fees payable within the time required by this constitution or any By-Law, is deemed unfinancial;
- 5.4.2 An unfinancial member shall cease to enjoy the rights and privileges of membership and will cease to be a Member if payment of the amount(s) due is not made within such time as determined by the General Committee as set out in the By-Laws.

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

- 5.5.1 Officers, General Committee Members and members of any sub-Committee of the Squadron who are unfinancial are not entitled to continue in such office.
- 5.5.2 Officers, General Committee Members and members of any sub-Committee of the Squadron who remain unfinancial for a period longer than 60 days are deemed to have resigned from their office.

## **5.6 Illness or Hardship**

- 5.6.1 The General Committee may in its absolute discretion reduce or waive the annual fee in part or in full payable by a Member suffering from significant illness or genuine hardship.
- 5.6.2 The decision to reduce or waive the annual fee or any part thereof applies only for that current Squadron Year.
- 5.6.3 A Member whose annual fee is reduced or waived is entitled to the benefits and privileges of that class of Membership but such Member will not enjoy a voting right in that Squadron Year except as determined by the General Committee.

## **5.7 Overdue Monies**

- 5.7.1 Any fees or charges owed by a Member to the Squadron other than annual fees are due and payable within 14 days upon the service of an account (or such other time as determined by the General Committee) on the Member by email or personally.
- 5.7.2 Any Member who fails to pay any annual fees or other monies owed to the Squadron within the time stipulated is deemed unfinancial and is not entitled to attend or take part in any meetings of the Squadron or to exercise any of the rights and privileges of a Member until all outstanding monies, together with any penalty for late payment as

determined at the discretion of the General Committee have been paid.

5.7.3 All fees and other monies owing to the Squadron by a Member at the time of resignation or expulsion of a Member remain a debt due and owing to the Squadron notwithstanding the member's resignation or expulsion.

5.7.4 A Member who resigns from the Squadron is not entitled to any refund, either in whole or in part, of any annual fee or entrance fee paid in the Squadron Year.

5.7.5 A member who has previously resigned from the Squadron who wishes to re-join the Squadron must pay any joining fee then applicable less any amount previously paid for any joining fee.

## **5.8 Visitors**

5.8.1 Any Member, other than a Junior, Absentee, Day or Training Member may invite visitors onto areas of the Squadron that are licensed under the Liquor Act for the day of visit provided that:

(a) the member complies with the relevant sign in process as required by the particular venue or Liquor Licence applicable; and

(b) the inviting Member is responsible for the visitor's conduct.

5.8.2 Any person who has:

(a) had application for membership not accepted; or

(b) had admission as an Honorary member refused; or

(c) has been expelled from the Squadron; or

(d) has had proceedings instituted against them for unpaid moneys by the Squadron -

shall NOT be admitted as a visitor.

## **Part 6 Disciplinary Proceedings**

### **6.1 Disciplinary Action**

The Squadron may take disciplinary action against a Member in accordance with this constitution where it is found that a member:

(a) has failed to comply with this constitution or By-Laws; or



- (b) refuses to support the purposes of the Squadron; or
- (c) has engaged in conduct prejudicial to the Squadron; or
- (d) has engaged in conduct unbecoming a Member; or
- (e) has refused, failed or neglected to act in the squadron's best interests;  
or
- (f) has refused, failed or neglected to act in accordance with the purposes  
of the squadron

## **6.2 Disciplinary Subcommittee**

- (a) If the General Committee is satisfied that there are sufficient grounds for taking disciplinary action against a Member, the General Committee shall appoint a Disciplinary sub-committee to hear the matter and determine what action, if any, to take against the Member.
- (b) The disciplinary sub-committee shall be made up of:
  - i) General Committee Members, or Senior Members and if appropriate may be assisted by legally qualified representation;
  - ii) Members who are not biased against, or in favour of, the Member concerned;
  - iii) Members who are not directly concerned with the alleged disciplinary matter;
- (c) must accord to the subject member the right to be heard, to make submissions in person or in writing, and to be represented by legally represented and otherwise afford Natural Justice to the subject member;
- (d) may determine any action to be taken, if any in accordance with this constitution;
- (e) may determine the matter in the absence of the subject member if satisfied that the said member has notice of the disciplinary meeting, and is aware of the time and place of any disciplinary sub-committee and fails, refuses or neglects to attend or make any submission without due cause or otherwise being excused.

### **6.3 Notice to Member**

- 6.3.1 Before any disciplinary action is taken against a Member, the Secretary must give written notice to the Member as follows:
- (a) stating that the Squadron proposes to take disciplinary action against the Member;
  - (b) stating the grounds for the proposed disciplinary action including sufficient particulars to enable the member to understand the basis for the disciplinary action;
  - (c) specifying the date, place and time of the meeting at which the disciplinary sub-committee intends to consider the disciplinary action at the disciplinary meeting;
  - (d) advising the Member that the member may -
    - (i) attend the Disciplinary Meeting and address the disciplinary sub-committee at that meeting; or
    - (ii) give a written statement to the disciplinary sub-committee at any time before the Disciplinary Meeting; or
    - (iii) do both (i) and (ii) as seen fit by the member; and
    - (iv) setting out the Member's appeal rights under this constitution.
  - (e) the notice must be given no earlier than 28 days, and no later than 14 days, before the Disciplinary Meeting.

### **6.4 Decision of Disciplinary sub-committee**

- (a) The disciplinary sub-committee must:
  - i) give the Member an opportunity to be heard; and
  - ii) consider any written statement submitted by the Member.
- (b) After complying with 6.4(a) hereof, the disciplinary sub-committee may do any of the following:
  - i) take no further action against the Member;
  - ii) provide a written warning to the member and require the member to enter into an undertaking that the behaviour will not be repeated;

- iii) require the member to undergo counselling, training or being mentored by an appropriate Senior Member or Flag Officer for any period thought necessary;
  - iv) reprimand the Member;
  - v) suspend the Membership rights of the Member for any period thought appropriate;
  - vi) fine the Member; or
  - vii) expel the Member from the Squadron.
- (c) The disciplinary sub-committee shall impose the least severe action applicable to the degree of culpability found against the Member.
- (d) The disciplinary sub-committee may take into account any prior finding against the member at any previous disciplinary hearing only after determining that the member has acted in a manner warranting disciplinary action under 6.1 hereof.
- (e) The suspension of Membership rights or the expulsion of a Member by the disciplinary sub-committee under this constitution takes effect immediately after the vote is passed.
- (f) The required majority vote for taking disciplinary action shall be a majority of at least 2/3 (66.7%) of the disciplinary sub-committee and a secret ballot may be taken at the discretion of the chair of the disciplinary sub-committee.

## **6.5 Appeal rights**

- (a) A person whose Membership rights have been suspended, has been fined or who has been expelled from the Squadron under 6.4 (b) hereof may give notice of appeal against the suspension, fine or expulsion.
- (b) A Notice under 6.5 (a) must be in writing and given:
- (i) to the disciplinary sub-committee as soon as practicable after the vote to suspend, fine or expel the person is taken; or
  - (ii) to the Secretary not later than 48 hours after the decision.
- (c) If a person has given notice under 6.5(b) hereof, a disciplinary Appeal meeting must be convened by the General Committee

as soon as practicable, but in any event not later than 21 days, after the notice is received.

- (d) Notice of the disciplinary Appeal meeting must be given as soon as practicable to each Member who is entitled to vote under this constitution and must:
  - i) specify the date, time and place of the meeting; and
  - ii) state:
    - (a) the name of the person against whom the disciplinary action has been taken;
    - (b) the grounds for taking that action; and
    - (c) that at the disciplinary Appeal meeting, the Members present must vote on whether the decision to suspend, fine or expel the person should be upheld or revoked.

## **6.6 Conduct of disciplinary appeal meeting**

- (a) At a disciplinary Appeal meeting:
  - i) no business other than the question of the Appeal may be conducted;
  - ii) the General Committee must state the findings and grounds for suspending, fining or expelling the Member and the reasons for taking that action; and
  - iii) the person whose Membership has been suspended or who has been fined or who has been expelled must be given an opportunity to be heard, either orally, or by written submission or both.
- (b) After complying with 6.6 (a) hereof, the Members present and entitled to vote at the meeting must vote by secret ballot on the question of whether the decision to suspend, fine or expel the person should be upheld or revoked.
- (c) A Member may vote by proxy at the Appeal meeting in the manner provided for proxy voting pursuant to this constitution.
- (d) The decision is upheld if a majority of the Members voting at the meeting vote in favour of the decision. Otherwise it is not upheld.

## **Part 7 Officers**

7.1 The Officers of the Squadron are:

- (a) the Commodore
- (b) the Vice-Commodore
- (c) the Rear-Commodore Sailing
- (d) the Rear-Commodore Power
- (e) the Treasurer
- (f) the Secretary
- (g) any other position approved as an Officer from time to time by the General Committee.

### **7.2 Flag Officers**

7.2.1 After the first full Squadron year, any Flag Officer must have been a Member of the General Committee for a period, or periods in aggregate, of at least 12 months or such other time as determined by the General Committee.

7.2.2 The Flag Officers shall be as defined in Part 21 hereof.

### **7.3 Casual Vacancy of Officer**

In the event of a casual vacancy in any office referred to in 7.1 hereof, the General Committee may appoint a Member of the General Committee or other Senior Member to the vacant office and the person so appointed may continue in that office until the expiration of the Squadron year in which the appointment took place.

### **7.4 Position on Sub-Committee**

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

## **Part 8 Meetings**

### **8.1 Annual General Meeting**

The Squadron must convene an Annual General Meeting each Squadron Year or otherwise in accordance with the Act on or before 30 November each Squadron year at a time and place determined by the General Committee.

## **8.2 Notice of Annual General Meeting**

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

## **8.3 Ordinary Business**

The ordinary business of the Annual General Meeting is:

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

## **8.4 Auditors**

8.4.1 Any auditor elected under 8.3(d) hereof:

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

8.4.2 In the event that an Auditor is not necessary to be appointed under the Act, the General Committee may appoint an Internal Auditor who is suitably qualified as an Auditor who may be a member of the General Committee

## **8.5 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 8.2 hereof.

## **8.6 Business**

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 of the Annual General Meeting under 8.2 hereof.

## **8.7 Special General Meeting**

### **8.7.1 A Special General Meeting may be convened by:**

- (a) notice at a General Meeting;
- (b) resolution of the General Committee;
- (c) requisition signed by 25% or more of Ordinary Members who are entitled to vote at the date of the requisition, stating the business to be considered such requisition delivered to the Secretary; or
- (d) a Member under the provisions of Part 6 hereof relating to a disciplinary Appeal.

### **8.7.2 Requisition**

- (a) A requisition under 8.7.1(c) hereof 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.

## **8.8 Special Business**

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

## **8.9 Notice of Meeting**

The Secretary must, at least 7 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 entitled to vote 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.

## **8.10 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.

### **8.11 Quorum**

A quorum exists where:

- i. at an Annual, General or Special Meeting, at least 10% of Members entitled to attend and to vote are present; and
- ii. at a General Committee Meeting, 5 Members (including ex-officio Members) or one-half of the General Committee members - whichever is the lesser of the General Committee are present.

### **8.12 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 10 Members entitled to vote at the meeting present, there will be a quorum.
- (c) If there is no quorum at an adjourned General Meeting, that meeting must be dissolved.

### **8.13 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.

### **8.14 Notice of Motion**

- (a) A Member who wishes to raise a motion at a General Meeting must notify the secretary in writing at least 7 days before the meeting of the proposed motion, or 7 days before a meeting where the Member proposes to move a special resolution.



- (b) Any Notice of Motion must have a proposer and a seconder both of whom must be a member entitled to vote.
- (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 that person's place with the agreement of the members attending the meeting.
- (e) Upon receipt of a notice under 8.14 (a), the secretary must notify Members pursuant to 8.6 hereof,
- (f) A proposed motion which does not comply with 8.14 hereof may not be subject to discussion or a vote at a General Meeting.

### **8.15 Other Business**

A Member desiring to bring any business before a General Meeting may give notice of that business in writing to the secretary not less than 7 days prior to the date appointed for the General Meeting and the secretary must include that business in the notice calling the next General Meeting after the receipt of the notice.

### **8.16 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.

### **8.17 Chair of General 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, or the chair of the Foundation Committee in the event of the first General Meeting, will be the Chair of any General and General Committee Meetings.

### **8.18 Voting**

#### **8.18.1 Each Member has One Vote**

Upon a question arising at a General Meeting, a Member entitled to vote ("a voting Member" defined under 11 hereof) has one vote only.

#### **8.18.2 Proxies**

- (a) A voting Member may appoint another Member as his or her proxy to speak and vote the voting Member's behalf at a General Meeting.
- (b) The appointment of a proxy must be in writing and signed by the Voting Member making the appointment. The General Committee may approve a form of proxy for use, and if it has done so, such form must be used.
- (c) The voting Member appointing the proxy may give specific directions as to how the proxy is to vote, and in the absence thereof, the proxy may vote on behalf of the voting Member in any matter as seen fit.
- (d) Notice of a General Meeting given to a Member under 8.2 or 8.9 hereof, or of any Special General Meeting under this constitution must:
  - iii) state that the voting Member may appoint another Member as a proxy for the General or Special General Meeting; and
  - iv) 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 received by the Secretary not after 5pm on the day before the meeting and will be refused thereafter and will not be valid.
- (f) A form appointing a proxy sent by post or electronically must be received by the Secretary no later than 5pm on the day before the General or Special Meeting, and the Secretary's decision regarding when a notice has been received shall be final and binding.

### **8.18.3 Casting Vote**

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

### **8.18.4 No Postal Voting**

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

### **8.18.5 Discussion Meetings**

- (a) Nothing in this constitution prevents the Squadron holding general discussion meetings for the purposes of full ranging discussion with and amongst Members.
- (b) No binding vote or motion may be passed, but the agreement of a majority of Members present may be taken to the General Committee for consideration.

## **Part 9 Determination of Motions**

### **9.1 Requisite Majorities**

Subject to this constitution, 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 or this constitution states otherwise.

### **9.2 Procedure**

9.2.1 A motion arising at a General Meeting or a General Committee Meeting will be determined on a show of hands (with or without coloured paper as a visual aid as determined by the Chair of the meeting) and, unless before or on the declaration of the show of hands a poll is demanded under 10 hereof;

9.2.2 A declaration by the Chairman that a resolution has, on a show of hands as in 9.2.1 hereof, 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 Squadron, 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.

### **9.3 Referendum**

Notwithstanding any other provision of this constitution, 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, either electronically via email or otherwise.

### **9.4 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 this constitution to vote at the meeting, or elected by the Chair, a poll will be taken in the manner prescribed by the Chair.

### **9.5 Time for Taking Poll**

A poll that is demanded on the election of the Chair 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.

## **9.6 Entitlement to Vote**

### **9.6.1 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 9.6.2 hereof; and
- (b) is financial, meaning that all monies due and payable as at the date of the General Meeting by that Member to the Squadron have been paid.

### **9.6.2 Voting Members**

Only Members of the following classes of Membership have a voting right under 9.1(a) and (b) hereof:

- (a) Life Members;
- (b) Senior Members;
- (c) Intermediate Members.

## **Part 10 General Committee**

### **10.1 Management of Affairs of Squadron**

The General Committee is charged with and responsible for the entire management of the business and affairs of the Squadron.

### **10.2 Composition**

The General Committee consists of:

- (a) the Officers; and
- (b) no less than 4 and no more than 6 members elected under 10.5.2 hereof; and
- (c) of the members in b) hereof, at least one, and up to two thereof may be Intermediate Members.

### **10.3 General Committee Member Vacancy**

In the event of a vacancy under in any office referred to in 10.2 hereof, the Committee may appoint a Member of the Squadron to the vacant office and the person so appointed will hold that office until the expiry of the term of that office.

## **10.4 Duties**

The General Committee may, subject to this constitution and the Act:

- (a) exercise all of the powers and functions of the Squadron other than those powers and functions required by this constitution to be exercised by Members at a General Meeting;
- (b) do all lawful things that are in the opinion of the General Committee incidental or conducive to the attainments of the purposes of the Squadron, 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) the issue debentures;
  - ii) the purchase, sale, mortgage or creation of any other encumbrance on any property of the squadron;
  - iii) the making of a capital purchase of a single item in excess of \$50,000; and
  - iv) expense in excess of \$50,000 on in respect of the Squadron's facilities or equipment.

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

### **10.5.1 Election of Officers**

- (a) The election of the Officers must take place at the first Annual General Meeting, and thereafter shall take place on the Saturday prior to the Annual General Meeting in each odd numbered year;
- (b) Any Life Member or Senior Member or Intermediate Member (who is financial, and after the first Annual General Meeting, has been a Life, Senior or Intermediate Member for at least 12 months) is eligible to be elected as an Officer.
- (c) An Officer may only be a Flag Officer subject to complying with 7.2. hereof.

### **10.5.2 Election of Committee Members**

- (a) The election of the Ordinary Committee Members must take place at the first Annual General Meeting, and thereafter on the Saturday prior to the Annual General Meeting in each even numbered year;

- (b) Any Life Member or Senior Member or Intermediate Member (who is financial, and after the first Annual General Meeting, has been a Life, Senior or Intermediate Member for at least 12 months) is eligible to be elected as an Officer; and
- (c) A General Committee Member is eligible to be elected as an Officer, subject to 7.2 hereof, provided upon being so elected Ordinary Committee Membership is resigned.

### **10.5.3 Tenure**

- (a) An Officer holds office from the Annual General Meeting at which his or her election was declared, until the Annual General Meeting in the next odd numbered year; and
- (b) A General Committee Member holds office from the Annual General Meeting at which his or her election was declared until the Annual General Meeting in the next even numbered year.
- (c) For avoidance of doubt, after the first year, tenure of officers and General Committee Members is intended to be of two (2) years' duration in order to provide continuity of governance;
- (d) For avoidance of doubt it is intended that the General Committee, and Flag Officer elections occur in alternating years so that not all positions (Flag Officers and General Committee members) are declared vacant in the same year.
- (e) For avoidance of doubt, the General Committee elected at the first Annual General meeting shall hold office until the Annual General Meeting in 2020, and the Officers shall hold office until the Annual General Meeting in 2021.

### **10.5.4 Re-election**

All Officers and General Committee Members, upon expiry of their term of office as provided in this constitution, are eligible for re-election.

### **10.6 General Committee Nominations**

The Secretary must:

- a) at least 21 days prior to the first Annual General Meeting and after the first Annual General Meeting, at least 21 days prior to the next Annual General Meeting:
  - i) notify all Members entitled to vote pursuant to clause 9.6.2 hereof by electronic means (email), of the

closing date for nominations, of the date of the Annual General Meeting and of the existence and terms of 8.18 hereof (proxies); and

- ii) After the first annual general meeting invite prospective nominees to an information night hosted by the General Committee as the case may be.
  - iii) post on the website each valid nomination as soon as practicable after its receipt and each nomination must be posted on the website at least 7 days prior to the Annual General Meeting; and
- b) with the cooperation with the General Committee, post on the website as soon after nominations close as practicable a second notice to all Members giving details of any Members nominated and whether each of those Members will be elected unopposed or an election will be necessary.
  - c) For avoidance of doubt, it is intended that nominations for election to the General Committee or as Officers shall be declared open 21 days prior to the relevant Annual General Meeting and close 7 days before the relevant Annual General Meeting, thereby remaining open for 14 days.

#### **10.6.1 Nomination of Candidates**

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

- a) must be made in writing, and after the first year of operation of this constitution be signed by two Senior Members of 12 months' standing, each of whom must be a Life Member or financial Senior 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 Secretary at least 7 days prior to the date of election.
- c) For avoidance of doubt, at the First Annual General Meeting, Nominations of candidates for election as Officers or as General Committee Members must be signed by two financial Senior Members and accompanied by the written consent of the candidate (which may be endorsed on the form of nomination); and must be lodged with the Secretary at least 7 days prior to the date of election.

#### **10.6.2 Insufficient Nominations**

If insufficient nominations are received to fill all the vacancies on the General Committee, the General Committee may call for any nominations from the floor of the meeting, seek a seconder or second a nomination so made, or may nominate a sufficient number of willing qualified Members to fill any the vacancies.

## **10.7 Ballot**

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

## **10.8 Manner of Conducting Ballot**

- (a) The Secretary notifies members pursuant to 10.7 hereof that a ballot is necessary, and arrange for the ballot to be taken at the Annual General Meeting:
- (b) a Member votes when the vote is called for by raising his or her hand with or without a coloured piece of paper as a visual aid given at registration for the meeting.
- (c) the nominees who receive the most votes for each vacant position shall be declared duly elected to that position on the show of papers in hand.
- (d) a poll may be called for in the same manner and with the same requirements as in 9.4 hereof.
- (e) as soon as is reasonably practicable after the Annual General Meeting, the secretary must, by notice posted on the Squadron website, and circulated by email to members advise the result of the election to the Members of the Squadron.

## **10.9 Alternative form of ballot**

10.9.1 In addition to the nomination processes set out in 10.6 hereof and ballot processes set out above in 10.8 hereof, and subject to 10.9.2 hereof, the General Committee may determine alternative forms or methods of nominations and voting from time to time, including relevant dates for closing of nominations, and including voting by electronic means.

10.9.2 The General Committee must notify Members of a determination to conduct an alternative method of nomination or voting via email and by publishing the same on the Squadron Website.

10.9.3 If a Member has not provided his or her email address to the Squadron or has notified the Squadron that he or she does not have the means



to vote electronically, the Secretary or his or her delegate, must provide that Member with a physical ballot paper and the other printed information in accordance with 10.6 hereof.

### **10.10 Vacancy**

For the purposes of this constitution, the office of an Officer or of a General Committee Member becomes vacant if the Officer or Member of the General Committee:

- (a) ceases to be a Member of the Squadron;
- (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 secretary;
- (d) becomes a "represented person" within the meaning of that term under the *Guardianship and Administration Act 1986* (Vic);
- (e) moves permanently overseas; or
- (f) fails to attend 3 consecutive meetings of the General Committee and the General Committee, at its sole and unfettered discretion, declares the office vacant.

### **10.11 Procedure of General Committee**

#### **10.11.1 Number of Meetings**

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

#### **10.11.2 Special General Committee Meetings**

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

#### **10.11.3 Notice of Special General Committee Meetings**

Notice must be given to General Committee Members of any Special General Committee meeting convened under 10.11.2 hereof specifying the general nature of the business to be transacted and no other business can be transacted at that Special General Committee meeting.

#### **10.11.4 Vacancy on Committee**

The General Committee may act notwithstanding any vacancy on the General Committee provided there is a quorum as defined in 8.11 hereof.

#### **10.11.5 Use of Technology**

- (a) At the discretion of the Chairman, a General Committee Meeting may take place by the use of technology that allows that General Committee Members to clearly and simultaneously communicate with each other.
- (b) A General Committee Member who is present via technology in 10.12.5 a) hereof is taken for all purposes to have been present at the relevant meeting and if the General Committee Members vote at the meeting, is taken to have voted in person.

#### **10.11.6 Appointment of CEO**

- (a) The General Committee may propose the appointment of a CEO of the Squadron upon the terms and conditions it deems appropriate.
- (b) The appointment of a CEO may only be made by a Special Resolution ratifying or appointing the CEO on such terms as are determined at the Special meeting.
- (c) Upon appointment pursuant to 10.11.6 (b) hereof the General Committee may delegate any of its powers to the CEO as allowed by the Act;
- (d) The CEO 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 to the CEO.
- (e) Subject to the authority of the General Committee, the CEO is responsible for the appointment and dismissal of all employees of the Squadron including temporary and casual employees.
- (f) When the CEO is absent from the Squadron's premises or vacates his or her position, his or her powers and duties must be performed by an administration manager appointed by the Squadron ("Administration Manager"), or in his or her absence, by the Commodore, failing that by any other nominated executive manager or General Committee Member

#### **10.11.7 Minutes**

- (a) The Secretary 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 this constitution.

#### **10.11.8 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 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 10.11.8(a) hereof must be conducted by ballot.

## **Part 11 Treasurer**

### **11 The Treasurer must:**

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

# Part 12 Sub-Committees

## 12 Election of Sub-Committees

**12.1** Within 1 month of the Annual General Meeting, the General Committee may appoint any of the following standing Sub-Committees:

- (a) Sailing;
- (b) Power;
- (c) Treasury;
- (d) Social;
- (e) Membership;
- (f) Communications, Marketing and Sponsorship;
- (g) any other Sub-Committee as determined by the General Committee.

**12.2** At the discretion of the General Committee, any of the sub-committees [other than (a) to (c) inclusive] may be combined.

### 12.3 Delegation of authority

The General Committee may delegate to a Sub-Committee formed under 12.1 or 12.2 hereof the authority to:

- (a) take any action; or
- (b) through the assistance of the communications sub-committee publish notices,

necessary for the proper functioning of that Sub-Committee.

### 12.4 Appointment of Chair

- (a) The General Committee must appoint a Chair of each Sub-Committee;
- (b) The Chair of the Powerboat sub-committee shall be the Rear Commodore - Power;
- (c) the Chair of the Sailing sub-committee shall be the Rear Commodore - Sail;
- (d) The Chair of each Sub-Committee may co-opt any person to serve on his or her Sub-Committee;

- (e) Any person co-opted to a Sub-Committee under 12.4(d) hereof does not have voting rights on that Sub-Committee until his or her appointment has been approved and confirmed by the General Committee.
- (f) Each subcommittee shall consist of the number of members as determined from time to time by the General Committee.

## **Part 13 By-Laws**

- 13.1 The General Committee may make, repeal and amend any By-Laws necessary for the good conduct of the Squadron and which are not inconsistent with this constitution or the Act.
- 13.2 In the event of an inconsistency between the constitution and any By-Laws, the relevant provision of the constitution prevails.
- 13.3 The constitution and any By-Laws in force are binding on all Members.
- 13.4 The secretary must:
  - (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 Squadron website and forwarding an email to members outlining such additions or alterations.
- 13.5 The General Committee may make and publish (on the Squadron Website), repeal and amend, and re-publish from time to time, any policies it sees fit in relation to the operation of the Squadron and may where it deems appropriate include such policies in the By-Laws.

## **Part 14 Grievances and Mediation**

- 14.1 The grievance procedure set out in this constitution applies to disputes between:
  - (a) a Member and another Member; or
  - (b) a Member and the General Committee; or
  - (c) a Member and the Squadron (including but not limited to its employees, volunteers and servants).
- 14.2 A Member must not initiate a grievance procedure in relation to a matter that is the subject of a disciplinary procedure under this constitution until the disciplinary procedure has been completed.

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

14.4 If the parties are unable to resolve the dispute between themselves within the timeframe required by 14.3 hereof, the parties must within 10 days:

- (a) notify the General Committee of the dispute;
- (b) agree to or request the appointment of a mediator; and
- (c) attempt in good faith to settle the dispute by mediation.

14.5 The mediator must be:

- (a) a Mediator who has National Mediator (NMAS) qualifications or the equivalent chosen by agreement between the parties;
- (b) in the absence of agreement:
  - i) if the dispute is between a Member and another Member – a mediator so qualified and appointed by the General Committee; or
  - ii) if the dispute is between a Member and the General Committee or the Squadron – a person so qualified and appointed by the Victorian Bar A.D.R. committee.
- (c) A mediator appointed by the General Committee may be a Member or former Member of the Squadron but in all cases 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.

14.6 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.
- (c) Must comply with the National Mediation Standards applicable to the conduct of Mediations in Australia.

14.7 If the mediation process does not resolve the dispute, the parties shall seek to resolve the dispute by Arbitration conducted in Melbourne before an Arbitrator appointed by the President of the Victorian Bar, or otherwise in accordance with the Act.

## Part 15 Property

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

15.2 If the General Committee notifies a Member in writing that it intends to enforce a lien pursuant to 15.1 hereof, the Member may not remove or attempt to remove any property from the Squadron's possession or premises until the debt or money owed to the Squadron has been paid.

15.3 If a Member fails to pay any debt or money owed to the Squadron within 1 month of receiving a notice under 15.2 hereof, the General Committee may remove any property that is subject to the lien from the Squadron's premises.

15.4 If the General Committee exercises its right under 15.3 hereof:

- (a) 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;
- (b) the Member against whom the lien is enforced indemnifies any persons referred to in 15.3 hereof against any damage or loss to the property; and
- (c) the Member must pay or reimburse to the Squadron all expenses incurred by the Squadron as a result of the removal of the property, including any storage charges.

15.5 Further to 15.3 hereof, if a Member fails to pay any debt or money owed to the Squadron within 1 month of receiving a notice under 15.2 hereof, the General Committee may sell any property subject to a lien:

- (a) by public auction or private treaty upon any terms it thinks fit; and

- (b) may hold the sale at the Squadron's premises or any other location as it thinks fit.
- 15.6 The General Committee may deal with the proceeds of a sale under 15.5 hereof to satisfy the lien and pay any costs and expenses incurred in the conduct of the sale.
- 15.7 The General Committee must pay the surplus of the proceeds of a sale under 15.5 hereof to:
  - (a) the person or persons entitled to the surplus; and
  - (b) if there are conflicting claims to the surplus, into a Court of competent jurisdiction to be held pending resolution of that dispute.
- 15.8 The General Committee may sell or dispose of any unclaimed property in any manner it thinks fit.
  - 15.8.1 For the purposes of constitution, unclaimed property includes property found on the Squadron's premises or an owner who refuses to collect the property on the demand of the General Committee.
  - 15.8.2 Where there is no apparent owner of property under 15.8.1 that property will only be deemed unclaimed property if the General Committee advertises the identity of the property and its intention to sell or dispose of the property on Squadron website for at least 21 days and notifies all members by email.
  - 15.8.3 Where an owner refuses to collect property under 15.8.1 hereof, that property will only be unclaimed property if the General Committee notifies its owner via email of its intention to sell or dispose of the property unless the owner collects the property within 21 days and the owner then fails do to so.
- 15.9 The General Committee may deduct from the proceeds of any sale or disposition pursuant to this constitution:
  - (a) its costs and expenses incurred in the sale or disposition; and
  - (b) in the case of property the owner of which is known, any debt or any other money owed by the owner to the Squadron.
  - (c) The General Committee must pay the surplus of the proceeds of a sale under 15.8 hereof to:
    - i) where there is no apparent owner of the property, the Squadron 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.

## **Part 16 This Constitution**

- 16.1 A dispute regarding the meaning or application of constitution 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.
- 16.2 A decision of the General Committee under 16.1 hereof 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 remain valid.

## **Part 17 Service**

- 17.1 Service of any notice upon a Member required by this constitution is to be deemed properly made for all intents and purposes:
  - (a) personally by giving it to the Member;
  - (b) by forwarding it by electronic means to the member's email address,
  - (c) by mail to the Member's last address shown on the register of members only if the member has no email address.
- 17.2 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 or within 2 days whichever the lesser.
- 17.3 If no address is given to the secretary a communication displayed on the Squadron website for at least 7 days is deemed to have been served on the Member to whom the communication is addressed.

## **Part 18 Conflict of interest**

- 18.1 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;
- 18.2 The Member:

- (a) must not be present while the matter is being discussed or considered at the General Committee Meeting; and
  - (b) must not vote on the matter,
- 18.3 paragraphs 18.1 and 18.2 hereof do not apply to a material personal interest:
- i) that exists only because the Member belongs to a class of persons for whose benefit the Squadron is established; or
  - ii) that the Member has in common with all, or a substantial proportion of, the Members of the Squadron.

## **Part 19 Sailing**

- 19.1 Rules governing and applicable to Squadron sailing are the current Racing Rules of Sailing of the International Sailing Federation ("RRS"), prescriptions of Yachting Australia ("YA"), safety regulations of the YA and any By-Laws made by the General Committee under this constitution subject to such alterations and modifications as are contained in any sailing instructions.
- 19.2 All entrants and participants in Squadron events, both in sailing and power boats enter and participate in those events entirely at their own risk.

## **Part 20 Administrative**

- 20.1 Except as otherwise provided in this constitution, the secretary must keep in his or her custody or control all records, securities and Relevant Documents of the Squadron.
- 20.2 The secretary may delegate the duties under 20.1 hereof to the Communications Officer or other Member.
- 20.3 Members may inspect free of charge:
- a) the minutes of General Committee Meetings; and
  - b) the financial records, books, securities and any other Relevant Document of the Squadron, including minutes of General Committee Meetings.
  - c) The Committee may refuse to permit a member to inspect records of the Squadron that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Squadron.

- d) The Committee must keep a copy of this constitution on the Squadron's premises and make copies of this constitution available on the Squadron website free of charge.
- 20.4 The funds of the Squadron will be derived from entrance fees, annual fees, donations, fund-raising activities, grants, sponsorship, interest and other sources determined by the General Committee.
- 20.5 The Squadron must maintain an account or accounts with a financial institution from which all expenditure of the Squadron is made and into which all of the Squadron's revenue is deposited.
- 20.6 Subject to any restrictions imposed by this constitution or by a General Meeting of the Squadron, the General Committee may approve expenditure on behalf of the Squadron.
- 20.7 No money can be expended on behalf of the Squadron unless sanctioned by the General Committee.
- 20.8 All cheques, drafts, bills of exchange, promissory notes and other negotiable instruments must be signed by 2 of the following:
- (a) the Commodore;
  - (b) the Vice-Commodore;
  - (c) the Rear-Commodore;
  - (d) the CEO;
  - (e) the Treasurer; or
  - (f) the Administration Manager,
- each of whom must be covered by a fidelity guarantee policy.
- 20.9 All funds of the Squadron must be deposited into the financial account of the Squadron no later than 5 working days after receipt.
- 20.10 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.
- 20.11 No person is entitled under this constitution or any By-laws to derive any profit, benefit or advantage from the Squadron which is not shared equally by every Member, provided always that the distribution of monies, property or otherwise, to Members is prohibited whilst the Squadron is a going concern.

- 20.12 No payment or part payment to any Officer or servant of the Squadron shall be made by way of commission or allowance from the receipts of the Squadron for the supply of liquor or any other item or thing.
- 20.13 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 Squadron premises unless the visitor is a guest in the company of a Member.
- 20.14 No liquor may be sold or supplied to any person under 18 years of age except when that person is accompanied by a spouse, parent or guardian (who is at least 18 years or older) and the liquor is supplied as part of a meal supplied on the Squadron premises.
- 20.15 No liquor shall be sold or supplied for consumption elsewhere than on the Squadron premises unless that liquor is removed from the premises of the Squadron by the Member who purchased the liquor.
- 20.16 Liquor may not be sold or disposed of on the Squadron premises except in accordance with any Licence held by the venue or on behalf of the Squadron under the Liquor Act.
- 20.17 If and so long as the Squadron is licensed under the Liquor Act, the secretary must, within 14 days of the making of an alteration to this constitution, forward to the secretary of the Victorian Commission for Gambling and Liquor a certified copy of the alteration.
- 20.18 An alteration to this constitution has no effect until the alteration is approved by the Victorian Commission for Gambling and Liquor.
- 20.19 The Squadron has a common seal.
- 20.20 The common seal of the Squadron must be kept in the custody of the secretary.
- 20.21 A document may only be sealed with the common seal of the Squadron by the authority of the General Committee and the sealing must be witnessed by the signatures of:
- i) 2 Officers; or
  - ii) an Officer and the CEO (if any).
- 20.22 The rights of a Member except as provided by this constitution are not transferable and end when Membership ceases.

- 20.23 In addition to the powers contained in this constitution the Squadron may trade as permitted by the Act.
- 20.24 The Squadron must indemnify every Member of the General Committee and any 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.
- 20.25 The General Committee must effect and maintain insurance to cover the indemnity under 20.24.
- 20.26 The Squadron may be wound up voluntarily only by special resolution.
- 20.27 In the event of the winding up or the cancellation of the incorporation of the Squadron, the surplus assets of the Squadron must not be distributed to any Members or former Members of the Squadron.
- 20.28 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:
- a) has similar purposes to the Squadron, including yachting training;
  - b) is not carried on for the profit or gain of its individual members; and
  - c) is exempt from income tax under Item 9.1(c) of section 50.45 of the *Income Tax Assessment Act 1997* (Cth).

## Part 21 Interpretation

21.1 In this constitution, 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 pursuant to this constitution;

“**By-Laws**” means the by-laws of the Squadron made in accordance with this constitution by the General Committee;

**Chief Executive Officer (“CEO”)** means:

- (a) where a person holds that office appointed under this constitution – that person; and
- (b) otherwise, the person responsible for the obligations of Secretary under the Act

“**Squadron 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;

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

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

“**General Committee**” means the committee consisting of the Officers and elected or appointed committee members having management of the business of the Squadron;

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

“**Liquor Act**” means the *Liquor Control Reform Act 1998* (Vic) or any subsequent legislation replacing it;

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

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

**“Notice Board”** means the official notice board that must be maintained on the Squadron’s website, or at any other place approved by the General Committee.

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

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

## **21.2 Construction**

- a) In this Constitution, any reference to a particular gender includes the other genders where the context so permits; and
- b) Words or expressions contained in this constitution 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.
- c) A reference to a number with or without the words hereof or herein after it is a reference to the paragraph with the corresponding number in this constitution.

## **21.3 Alteration**

This constitution may only be altered by special resolution at a General Meeting.

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