

***CORPORATIONS ACT 2001***



# **ROYAL MELBOURNE YACHT SQUADRON**

**A.B.N. 64 006 124 867**

# **CONSTITUTION**

16 March 2019

[Note: This constitution includes amendments made up to and on 16 March 2019]

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**PREAMBLE**

Royal Melbourne Yacht Squadron was founded as the St Kilda Sailing Club in 1876. It became the St Kilda Yacht Club in 1884 and was granted a liquor licence in April 1905.

The 5-pointed White Star introduced on the club burgee in 1902 was replaced by the 6 pointed Star in 1904 and finally the 7 pointed Federation Star in 1913. The squadron colours of red and white were registered in September 1907. The St Kilda Yacht Club was granted Royal Assent in April 1924 to become Royal St Kilda Yacht Club. Royal St Kilda Yacht Club amalgamated with the St Kilda 14-Foot Sailing Club in June 1961 and adopted the name "***Royal Melbourne Yacht Squadron***".

The squadron was registered as a not-for-profit company limited by guarantee under the National Companies Code on 21 February 1983. The squadron has the legal capacity of a natural person with all consequential powers as conferred by the *Corporations Act* including the power to do all such other things as are necessary, incidental or conducive to the attainment of the objectives of the squadron. The limitations on those powers are as set out in this constitution and the *Corporations Act*.

## ROYAL MELBOURNE YACHT SQUADRON

A.C.N 006 124 867

# CONSTITUTION

## 1. NATURE AND NAME OF COMPANY

The name of the company is "Royal Melbourne Yacht Squadron" ("the squadron"). The squadron is a company constituted in accordance with the *Corporations Act* and is a not-for-profit corporation whose members' liability is limited by guarantee.

## 2. MEANING OF WORDS

2.1 In this constitution, unless the context requires otherwise:

**"Committee"** means the directors of the squadron being the committee of management.

**"General Manager"** means the person employed from time to time as the general manager of the squadron.

**"Keelboat"** means a yacht which is a ballasted monohull with a keel or a multihull yacht at least 9 metres in length and in each case complies with at least safety category 7 of the current Australian Sailing Special Regulations Part 1 for racing boats.

**A member is "financial"** if the member is not in arrears in accordance with the squadron's terms with any money the member owes to the squadron.

**A member "actively participates in sailing"** if in the squadron's previous financial year, the member has participated as a skipper, crew member or race official in at least 5 yacht races conducted by a club that is directly or indirectly affiliated with World Sailing, has commenced at least 5 genuine voyages on a keelboat of at least 2 hours duration each or has undertaken keelboat voyage or voyages of at least 3 days duration in total.

**"Rules"** and **"policies"** means a rule or policy formally made by the committee in accordance with clause 18.4.

“**Volunteer**” is a person who at the squadron’s request provides services to or on the squadron’s behalf without fee or monetary reward.

“**Yacht**” means a sailing boat which is:

- principally powered by wind on the boat’s sails;
- capable of carrying at least 1 person; and
- recorded on the squadron yacht register.

2.2 Unless the context requires otherwise:

- words or expressions in this constitution have the same meaning as in the *Corporations Act*.
- this constitution will be interpreted in accordance with the provisions of the Acts Interpretation Act 1958.

2.3 Any provision of this constitution in conflict with the *Corporations Act* or any other law will be read down and severed from the constitution without affecting any other part not in conflict.

### 3. OBJECTS OF THE SQUADRON

The objects of the squadron are:

- 3.1 To promote and encourage the recreation and sport of sailing on Port Phillip and other waters;
- 3.2 To establish and maintain relations with entities having similar objects in Australia and elsewhere;
- 3.3 To co-ordinate and encourage the activities of persons engaged in sailing, particularly, but not exclusively, on Port Phillip.

### 4. POWERS

The squadron’s powers under the *Corporations Act* are not restricted except as provided by this constitution and the *Corporations Act*.

### 5. INCOME AND PROPERTY

- 5.1 The income and property of the squadron must be applied solely toward the promotion of the objects of the squadron. No part of the property of the squadron may be directly or indirectly paid or transferred by way of dividend, bonus, by way of profit or otherwise to a member except as provided in this constitution.

5.2 Payment may be made to a member of the squadron for:

- services rendered;
- goods supplied or hired to the squadron; and
- interest on a loan of money.

Payment and the rate of interest paid to any member must not exceed that which would normally be paid if that person was not a member.

5.3 In this subclause “officer” has the same meaning as in the *Corporations Act*. The squadron may reimburse any officer of the squadron for the reasonable cost of public company officer’s liability insurance.

5.4 Distributions may not be made to members and fees may not be paid to members of the committee.

5.5 The committee must approve all payments that the squadron makes to a member of the committee.

5.6 The two immediately preceding sub-clauses take precedence over any other provisions of this constitution.

## 6. MEMBER LIABILITY

6.1 The liability of each member of the squadron is limited to the sum of \$250.00.

6.2 Each member undertakes to contribute to the assets of the squadron, if the squadron is wound up while he or she is a member, or within one year after he or she ceases to be a member, for

- (a) payment of the debts and liabilities of the squadron (incurred before he or she ceases to be a member)
- (b) the costs, charges, and expenses of winding up, and
- (c) for the adjustment of the rights of the contributories amongst themselves.

This sub-clause is subject to sub-clause 6.1.

6.3 Each member is bound by the constitution and any rules made under it. Each member must comply with any lawful direction given by or with the authority of the committee.

## 7. WINDING UP/DISSOLUTION OF COMPANY

On the winding up or dissolution of the squadron any surplus moneys after payment of all its debts and liabilities must not be paid to or distributed to any member but must be given or transferred to another institution or institutions having similar objects to the squadron. The constitution of that or those institution or institutions must also prohibit the distribution of any surplus to its or their members on dissolution. The persons who are members at or before the time of the dissolution must decide which institution or institutions receive the surplus. A court may make that decision if the members fail to do so.

## 8. APPLICATION FOR MEMBERSHIP

- 8.1 Every applicant for membership must be proposed by one and seconded by another senior or sailing member who is financial and of not less than one year's standing, or their application be accompanied by two references.
- 8.2 The application for membership must be on an application form which the squadron may from time to time prescribe and be accompanied by:
- the appropriate nomination and other applicable fees; and
  - evidence, where required, of eligibility for the particular class of membership.
- 8.3 The completed application form will be displayed on the squadron notice board for not less than 14 days before the committee accepts the applicant as a member. Any member may object to the applicant becoming a member. The committee may undertake such enquiries as to the suitability, acceptability and good character of the applicant that it thinks fit but is not obliged to do so. The applicant must attend an interview meeting accompanied by either his or her proposer or seconder before being accepted for membership if required by the committee.
- 8.4 A former member wishing to re-join may be exempted from the nomination fee at the level previously paid if they were a financial member at the time they previously ceased to be a member and they were not previously suspended or expelled from membership.
- 8.5 The squadron may waive the whole or part of the nomination fee if the applicant for membership is a financial member of another yacht club affiliated with Australian Sailing, for the amount of the equivalent fee at the member's current club.
- 8.6 The committee will give the applicant for membership:

- written notice of acceptance of membership and the applicant becomes a member from the time of receipt of the written notice acceptance of the applicant as a member unless another date is specified; or
- written notice of non-acceptance or refusal of the application for membership. The committee does not need to give reasons for its refusal.

8.7 Each new member must be given a copy of this constitution if it has not already been provided to him or her.

## 9. MEMBERSHIP CLASSES, ELIGIBILITY AND ENTITLEMENTS

### 9.1 Senior members

- (a) A senior member must be a natural person aged 18 years or more. A senior member is entitled to:
- hold office on the committee;
  - nominate members to serve on committee;
  - 2 votes at general meetings;
  - be the owner or part owner of a yacht on the squadron yacht register, and be the owner or part owner of a long or short term sublease of a mooring pen or swing mooring in St Kilda harbour controlled or managed by the squadron.
- In this clause 9 “short term” means 1 month or less and “owner” includes any leasehold, licence or lesser estate or interest.
- (b) A senior member who has been a member for 25 years or more as a senior, sailing or intermediate member is entitled to a reduction in annual membership fees as is decided by the committee.
- (c) A senior member who has continuously been a member for 50 years or more (including any time as another class of member) is exempt from annual membership fees and from levies.
- (d) A senior member who has continuously been a senior member for at least five years and who is in receipt of an income tested government pension for not less than 6 months at the date of application may be granted such reduction in annual membership fees as is decided by the committee.
- (e) A senior member who is over 65 years of age and who does not actively participate in sailing may be granted a reduction in annual membership fees as is decided by the committee.

- (f) A past commodore who:
- has continuously been a member for 25 years or more, and who held the office of commodore for at least two annual general meetings after the commodore's election or appointment; is exempt from annual membership fees and from levies. This exemption is given in recognition of the time, effort and responsibility expended by the commodore in fulfilling that role.

## 9.2 Sailing Members

- (a) A sailing member must be a natural person aged 18 years or more. A sailing member is entitled to:
- hold office on the committee;
  - nominate members to serve on committee;
  - 1 vote at general meetings; and
  - own a yacht on the squadron yacht register
- (b) A sailing member is entitled, and automatically becomes, a senior member if he or she is or becomes:
- the owner or part owner of a keelboat on the squadron yacht register: or
  - the owner or part owner of a long or short term sublease of a mooring pen or swing mooring in St Kilda harbour controlled or managed by the squadron.
- (c) A sailing member who is over 65 years of age and who does not actively participate in sailing may be granted a reduction in annual membership fees as is decided by the committee.

## 9.3 Intermediate members

- (a) An intermediate member is a member who is:
- aged 18 years or more but is under 30 years of age; or
  - a genuine full time student at a recognised education institution or an apprentice engaged in full-time employment and training.
- (b) An intermediate member is entitled to all the privileges of a senior member except:
- is not entitled to vote at a general meeting, nominate a member to the committee or be elected to the committee;
  - may not be the owner or part owner of a keelboat on the squadron yacht register;
  - may not be the owner or owner or part owner of a long or short term sublease of a mooring pen or swing mooring in St Kilda harbour controlled or managed by the squadron.

- (c) Intermediate membership automatically converts, at his or her choice, to senior, sailing or social membership when he or she ceases to be eligible to be an intermediate member due to the passing of time, ceasing to be a full time student or apprentice, becoming the owner or part owner of a keelboat on the squadron yacht register or becoming the owner or owner or part owner of a long or short term sublease of a mooring pen or swing mooring in St Kilda harbour controlled or managed by the squadron.

#### 9.4 Junior members

A junior member is a member who is aged 6 years or more but less than 18 years of age. A junior member:

- is not entitled to vote at a general meeting, nominate a member to the committee or be elected to the committee;
- is entitled to serve on the junior sailing sub-committee other than as chair;
- may not be the owner or part owner of a keelboat on the squadron yacht register;
- may not be the owner or owner or part owner of a long or short term sublease of a mooring pen or swing mooring in St Kilda harbour controlled or managed by the squadron;
- must upgrade to intermediate, social, sailing or senior membership on ceasing to be eligible to be a junior member and need not pay the nomination fee if the member has been a junior member for 2 years or more.

#### 9.5 Social members

A social member is a member who is 18 years or more.

A social member:

- (a) is not entitled to vote at a general meeting, nominate a member to the committee or be elected to the committee;
- (b) may only attend social events and must not sail as a member of the crew on a yacht in a yacht race. However, he or she may sail in up to 3 yacht races between 1 October and 30 September in each year:
- for which the squadron is the organising authority; and
  - where special dispensation is included in the notice of race or in the sailing instructions.
- (d) may not be an owner or part owner of a yacht on the squadron yacht register or be the owner or part owner of a long or short term sublease of a mooring pen or swing mooring in St Kilda harbour controlled or managed by the squadron.
- (e) cannot enter a yacht in an event in which the squadron is the organising authority.

Social membership annual membership fees previously paid are credited against the membership nomination fee applicable at the time of changing to a senior, sailing or intermediate member

#### 9.6 Corporate members

- (a) A corporation as defined in the *Corporations Act* is eligible for admission as a corporate member.
- (b) A corporate member may nominate one or more persons as nominees to a maximum number as may be determined for the applicable corporate membership subscription it has paid. The nominees have all the rights and privileges of senior members while so nominated other than the right to vote. The corporate member may change its nominees from time to time.
- (c) A corporate member is entitled:
  - to reduced hiring fees for function/training room facilities and the committee room, subject to availability;
  - to have the name of the corporate member displayed on a plaque in the squadron premises.
- (d) A corporate member must ensure that its nominees comply with all the obligations of a senior member (other than the obligation to pay nomination fees, annual membership fees and levies). A corporate member nominee must attend an interview if requested by the committee. The corporate member must replace a nominee if reasonably required by the committee.

#### 9.7 Temporary members

- (a) The purpose of temporary membership is to enable the committee to award temporary membership to persons:
  - whose membership is likely in the opinion of the committee to bring special benefits and honour to the squadron and its members;
  - who may be participating, be an official or a support person in an event or events conducted in Victoria or under the auspices of the World Sailing and any of its national affiliated members and their affiliates;
  - to encourage persons to become members who are likely to reside in Victoria for less than 12 months;
  - to award temporary membership to members of clubs granting reciprocal rights and privileges to squadron members;

- for any other reason that in the opinion of the committee will benefit the squadron or its members.
- (b) Temporary membership is granted at the discretion of the committee for a maximum period up to one year. A temporary member is entitled to the privileges and obligations specified by the committee other than the right to vote, nominate a member to committee or be elected to the committee. Temporary members are liable to pay such fees and levies (if any) as is decided by the committee either generally or individually.
- (c) A temporary member who is not obliged to pay a fee may be designated by the committee as an ‘honorary’ member.

#### 9.8 Honorary life members

The committee may by unanimous vote recommend to the members that a member who has rendered outstanding service to the squadron to be elected as an honorary life member. The vote of the committee must be supported by a 90% majority votes of the members at a general meeting. The honorary life member will:

- enjoy the rights and privileges of a senior member;
- be exempt from payment of annual membership fees and from levies.

A general meeting, by a majority vote on the recommendation of the committee, may end the right to honorary life membership of a person but the person otherwise remains a member.

A person cannot be elected as an honorary life member if the number of honorary life members exceeds two percent of the total senior and sailing membership.

#### 9.9 Honorary or temporary membership prohibition

A person cannot be admitted as an honorary or temporary member or be exempted from the obligation to pay an annual membership fee unless the person is of a class as specified in this constitution and the admission or exemption is in accordance with this constitution.

#### 9.10 Annual membership fees for families

The committee may set a combined annual membership fee for a family in place of the annual membership fee for each individual member of a family who are members. For the purposes of this clause, a family is:

- (a) a senior member;
- (b) a sailing, intermediate or social member who is a spouse or genuine domestic relationship partner of the senior member; and

- (c) any children or grandchildren of the senior member or the sailing, intermediate or social member.

#### 9.11 Leave of absence

The committee may grant leave of absence from the squadron to a member whose place of residence is or is likely to be outside of Victoria for more than 12 months. The member's privileges are suspended until his or her permanent residency returns to Victoria and payment of the appropriate proportion of the annual membership fees. The annual membership fees and any levies are not payable during the leave of absence but the committee may require payment of a membership retention fee. The period of leave of absence is not included in the calculation of a member's term of membership but is not a break of continuity of membership.

#### 9.12 Distance

The committee may individually or generally, grant a reduction in annual membership fees to senior, sailing, intermediate, junior and social members whose permanent place of residence is outside 100 kilometres or more radius from the squadron's registered office.

#### 9.13 Evidence

The committee or the general manager may require such evidence of membership eligibility or concessions as the committee or general manager decides.

#### 9.14 Sailing passes

The committee may grant a sailing pass to a person not otherwise entitled to sail in yacht races on such terms, conditions and fees as the committee decides either individually or generally. The sailing pass may be for any number of days up to one year at one time. The sailing pass holder becomes a member for the day or days the pass is activated only, and the person is bound by all the rules and obligations of a member on that day or days.

#### 9.15 Differentiation within membership classes

The committee may also create, amend or delete categories of members in different membership classes for the purpose of setting differential fees within a class of members.

## 10. VISITORS

### 10.1 Day visitors

- (a) A committee member, the general manager and a member (other than a junior member) may introduce a visitor/s for the day of visit only.

However, a visitor to the part or any parts of the squadron premises that are licensed under the Liquor Control (Reform) Act under a club licence or restricted club licence must not be supplied with liquor in those parts of the premises unless the visitor is a guest in the company of a member.

- (b) The introducing member is responsible for the conduct of his or her visitor/s. The member must remain on squadron premises for the duration of the visitor's visit unless exempted from doing so by a committee member or the general manager; and
- (c) Any fee or other obligation imposed by the committee is paid and performed.

#### 10.2 Function or event visitors

The general manager or a committee member may also authorise the admission of visitors to a particular function or event if there is no breach of any liquor law.

### 11. MEMBERSHIP FEES AND LEVIES

11.1. The membership and nomination fees, and levies for or within each category of membership are decided from time to time by the committee except that:

- (a) The annual membership fee and any levy for or on any member must not exceed that of senior members generally, without any concession or other discount, except:
  - there is no limit on the annual membership fee for a corporate member; and
  - a levy on a corporate member may not exceed the amount of the levy on senior member generally without any concession or other discount, multiplied by the number of corporate member nominees;
- (b) The annual membership fee for senior members must not be increased more than 20% in the squadron's financial year;
- (c) A levy or levies on a member (other than a corporate member) cannot exceed \$200 in the squadron's financial year;

unless resolved or approved otherwise by members in a general meeting.

A levy is not payable by a member until 30 days from service of an invoice or demand.

The committee may decide the fees in any category of membership based on seniority in that category.

The committee may also decide all other fees and charges.

- 11.2 A member who owes monies to the squadron may be prohibited by the committee from all rights and privileges of membership after one month's notice of the default has been sent to the member. The committee may reinstate the member on payment of all arrears, interest, fines and other charges.
- 11.3 The committee may also:
- impose interest and accounting charges on late payments;
  - impose fines and any other disciplinary action on any member who is in default or is persistently in default.
- 11.4 A senior member serving in the Australian Defence Force is exempt from paying annual membership fees while on active service outside Victoria. "Active service" means a declaration by the Governor General to that effect that is applicable to that member.

## 12. CESSATION OF MEMBERSHIP

- 12.1 A member may resign as a member at any time by notice in writing. A member so resigning continues to be liable for:
- any annual membership fees, and any levies due and unpaid at the date of resignation;
  - all other monies due by the member to the squadron;
  - a sum not exceeding the sum of \$250.00 for which he or she is liable under clause 6.1 of this constitution if it is due at the date of resignation.
- 12.2 A member's rights are suspended for the time he or she is an employee of the squadron (other than in an honorary capacity). At the end of the employment, the member's membership rights revert to the same category as before the employment. The time in such employment accrues as a period of membership service.

## 13. PENALTIES, EXPULSION AND RIGHTS OF APPEAL

- 13.1 The committee has power to inquire into any possible breach or non-observance of the constitution, the rules, policies and any other matter which may be materially prejudicial to, endangers, puts at risk or adversely affects; the safety, finances or well being of the squadron, its members, its employees or its volunteers. The committee may appoint the general manager, the company secretary or another person to investigate the possible breach, non-

observance, other matter, conduct or conviction. The committee, general manager, the company secretary or the other person must refer the matter to the discipline sub-committee after he or she has carried out any investigation, unless he or she or the committee are of the opinion that the matter is vexatious, frivolous or requires no further action.

- 13.2 The committee may appoint a standing discipline sub-committee and must appoint a discipline sub-committee for the matter if a standing discipline sub-committee has not been appointed. The discipline sub-committee must: further investigate (if required), hear any submissions made to it, and decide any matter before it (unless it is frivolous or vexatious). A discipline sub-committee must have at least 3 members. Each member of the discipline sub-committee must be a past commodore of the squadron unless there are no past commodores willing or available. In that case, the committee must appoint past committee members.
- 13.3 The discipline sub-committee may censure, fine, suspend, continue any suspension or expel a member from the squadron if in the opinion of the discipline sub-committee the member:
- has refused or neglected to comply with the provisions of the constitution, rules or policies; or
  - is guilty of any conduct which committee is unbecoming of a member; or
  - has or is materially prejudicing, endangering, putting at risk or adversely affecting the safety, finances or well being of the squadron, its members, its employees or its volunteers; or
  - has been convicted of an indictable offence (and the time for any appeal has been exhausted).
- 13.4 The discipline sub-committee must adopt the following procedure before it decides to censure, fine, suspend, continue any suspension or expel a member:
- (a) the discipline sub-committee must give the member an opportunity of being heard or of making written submissions or both;
  - (b) the discipline sub-committee must conduct a hearing of any allegations and evidence in rebuttal; and consider any evidence or submissions which any person, including the member or another member, wishes to make;
  - (c) the member must be given at least 14 days written notice:
    - that the discipline sub-committee may censure, fine, suspend, continue any suspension or expel the member;
    - the allegations against the member;
    - that the member has the opportunity of being heard at the hearing or of making written submissions or both; and

- the date, time and place of the hearing.
- 13.5 (a) The committee may immediately suspend a member if the committee is of the opinion that the safety, finances or well being of the squadron, its members, its employees or its volunteers; is, will or may be materially prejudiced, endangered or put at risk if suspension is not immediately imposed. However, the committee must ensure that the member is given an opportunity of being heard or of making written submissions, or both, to the discipline sub-committee within 1 month of the immediate suspension (unless a later date is agreed). The committee must otherwise ensure that the discipline sub-committee follows the procedure in the preceding sub-clause so far as is reasonably applicable.
- (b) Any immediate suspension under this sub-clause continues until the earlier of the date specified in any written notice of suspension or confirmation of suspension of the decision by the discipline sub-committee following any hearing on the matter and any appeal.
- 13.6 The discipline sub-committee may revoke any suspension or abrogate the suspension subject to compliance with any conditions, at any time.
- 13.7 The member may appeal to an appeals sub-committee against the decision of the discipline sub-committee by giving written notice to the general manager or the secretary within 14 day of being provided with the decision of the discipline sub-committee.
- 13.8 The general manager or the secretary must notify the member of the time, date and place of the hearing of the appeal.
- 13.9 The member may appear before the appeals sub-committee or make written submissions, or both. The appeals sub-committee can inform itself of the resolution of the discipline sub-committee, its reasons for decision, and any evidence or submissions given or presented to the discipline sub-committee. The appeals sub-committee has all the powers and discretions of the discipline sub-committee.
- 13.10 The appeal is a re-hearing of the allegations against the member.
- 13.11 The committee may appoint an appeals sub-committee and must appoint an appeals sub-committee for the matter if a standing appeals committee has not been appointed. The appeals sub-committee must have at least 3 members. They must be current members of the committee, unless the committee believes that it is inappropriate to appoint all or any of the current committee members to the appeals sub-committee to hear and decide the matter in which case they must be members of long standing or former or current members of the judiciary. The appeals sub-committee must not include members of the discipline sub-committee that heard the discipline matter at first instance.

- 13.12 The appeals sub-committee may invite a member of the discipline sub-committee that heard and decided the matter at first instance to be present during the hearing of the appeal and any evidence (but not during any deliberations). The discipline sub-committee member may give an account of the discipline sub-committee hearing and proceedings before the discipline sub-committee in the presence of the member.

#### **14. REGISTER OF MEMBERS**

- 14.1 The squadron must maintain a register of its members. The register must include at least:
- the name and address of each member;
  - the date on which the member's name was entered in the register;
  - The name of a parent or guardian of junior members;
  - any telephone and any electronic communication addresses supplied by the member or otherwise known to the squadron as the last known telephone number or electronic address;
  - the name and details of each person who ceased being a member within the last 7 years and the date that person ceased being a member (these entries may be kept separately from the rest of the register); and
  - an up-to-date and convenient index of members' names that allow a member's entry in the register to be readily found. However, the index need not be included in the register if the register itself is kept in a form that operates effectively as an index.
- 14.2 Every member must communicate in writing his or her change of address and other particulars required by the committee.
- 14.3 The squadron may communicate and serve any notice or document on a member by post or to the last known electronic address in the register.

#### **15. FLAG OFFICERS OF THE SQUADRON**

- 15.1 The flag officers of the squadron are (in order of precedence):
- (a) the commodore;
  - (b) the vice commodore;
  - (c) the rear commodore;
  - (d) the club captain.
- 15.2 The commodore must be the owner or part owner of a keelboat on the yacht register at the date of nomination and at the date of election or appointment.

- 15.3 The commodore may not hold such office for more than two consecutive financial years of the squadron but may be elected to another office or as a committee member following that person's service as commodore.

## 16. COMMITTEE

- 16.1 The directors of the squadron are the members of the committee. The committee consists of:

- (a) the flag officers;
- (b) the treasurer; and
- (c) not more than 6 other senior or sailing members;

all of whom are elected as provided in clause 17.

The committee may also appoint the immediate past commodore as a member of the committee.

- 16.2 Not less than 60% of the members of the committee must:

- (a) be an owner or part owner of a keelboat recorded on the squadron yacht register at the time of their nomination and at the time of their election or appointment; or
- (b) actively participate in sailing.

This provision 16.2 is satisfied by the candidates who are not qualified under (a) and (b) failing to be elected in order of the least number of votes cast.

- 16.3 The committee may appoint a senior or sailing member to fill any casual vacancy on the committee (and any flag officer or treasurer position). The member so appointed holds office until the next annual general meeting.

- 16.4 The committee may, at its discretion, declare the office vacant of any flag officer and committee member who fails to attend three consecutive committee meetings, without the prior consent of the committee.

- 16.5 The squadron may from time to time by ordinary resolution at a general meeting increase or reduce the number of flag officers or the number of the other members of the committee and may remove the office of treasurer.

- 16.6 The members of the committee must be elected by members of a class of members that constitute not less than 60% of the total membership of the squadron excluding temporary or honorary members, persons who are members only by reason of reciprocal arrangements with another club and persons whose rights as members are limited to rights as social members.

## 17. ELECTION OF FLAG OFFICERS AND COMMITTEE

- 17.1 The flag officers, the treasurer and the other committee members are elected at the annual general meeting. They hold office from the date of such meeting until the commencement of the next annual general meeting.
- 17.2 Each flag officer, treasurer and each other member of the retiring committee is eligible and is deemed to be nominated for election at the annual general meeting for the position held by that person before the election, unless any retiring member has indicated in writing to the secretary or commodore that he or she does not wish to stand for re-election.
- 17.3 A proposed flag officer, treasurer, and other member of the committee standing for election must otherwise be nominated in writing by another senior or sailing member and seconded in writing by another senior or sailing member.
- 17.4 The nomination of such a candidate:
- must be signed by the candidate; and
  - must be lodged with the secretary not less than 14 days prior to the date of the annual general meeting.
- 17.5 The candidate for election to the committee, the proposer, and seconder must be financial at the time of nomination.
- 17.6 The secretary must:
- At least 21 days before the annual general meeting, notify all members entitled to vote of the closing date for nominations and the date of the annual general meeting; and
  - Display in a conspicuous place in the squadron clubhouse all nominations together with the name of the proposer and seconder immediately they are received. The nomination must remain on display for not less than 7 days before the annual general meeting.
- 17.7 Elections will be conducted by ballot as follows:
- (a) Balloting lists will be prepared by the secretary containing the names of the candidates only in alphabetical order;
  - (b) The committee must appoint two scrutineers to supervise and assist in the conduct of the election;
  - (c) The secretary must maintain a ballot box and must prepare a list of members entitled to vote;

- (d) On the day of the election the scrutineers will remove the locked ballot box and a list of members entitled to vote to the place of voting;
- (e) Each member entitled to vote and present in person or by proxy at the annual general meeting is entitled to vote for any number of such candidates not exceeding the number of vacancies;
- (f) As soon as is practicable after the close of voting the scrutineers must certify the result of the ballot by notice in writing signed by both scrutineers and delivered to the secretary or the general manager. The general manager or secretary must advise the members of the result at the first reasonable opportunity after receipt of the certified notice of the result of the ballot.

17.8 The committee may nominate a sufficient number of senior or sailing members to stand if there are insufficient nominations for the committee, or if there is no nomination for the position of a flag officer or the treasurer.

## **18. POWERS AND DUTIES OF THE COMMITTEE**

18.1 The committee controls all business matters in connection with the management of the squadron and may exercise all powers of the squadron as are not required to be exercised by the members at a general meeting.

18.2 All cheques, promissory notes and negotiable instruments on behalf of the squadron must be signed by, and any electronic funds transfer must be specifically authorized by, any two of the following namely:

- The commodore
- The vice commodore
- The rear commodore
- The club captain
- The treasurer; or
- A member of the committee.

However, the committee may also delegate to those or other persons for limited purposes, for a limited time, for limited amounts or in accordance with agreed budgets to so sign or authorize but the delegation ends at the end of the next annual general meeting unless ended earlier by the committee.

18.3 The committee must meet for a minimum of 11 times per year and may adjourn and otherwise regulate its meetings as it thinks fit.

18.4 (a) The committee has power to make rules and policies for the proper control, administration and management of the safety, finances and well being of the squadron, its members, its employees, its volunteers and the squadron's assets.

(b) The rules and policies:

- are subject to this constitution and must be consistent with it;
  - are binding on the members and require that members ensure that their guests, visitors and nominees also comply with them.
- (c) The rules and policies take effect when published to the members or placed on display in the clubhouse notice board.
- (d) The rules and policies adopted by the committee may be revoked by resolution of the next general meeting.
- 18.5 The committee may create and appoint members to other honorary positions to the squadron.
- 18.6 The committee must ensure that preference is given to members' keelboats (and the squadron's own boats) in at least 90% of the mooring pens it controls in its St. Kilda safe harbour stage 1 marina. This sub-clause does not prevent the use of mooring pens by non-keelboats under arrangements for periods of 1 year or less.

## **19. SUB-COMMITTEES & ADVISORY BOARDS**

- 19.1 The committee may appoint such sub-committees as it deems fit.
- 19.2 Sub-committees, other than the discipline sub-committee and the appeals sub-committee, only have the right to make recommendations to the committee. However, the committee may delegate authority to any sub-committee any specified function, task or project, with or without conditions, requirements or limits.
- 19.3 The committee appoints the chair of each sub-committee. The chair has the right to co-opt any member to serve on the sub-committee (other than the discipline sub-committee and the appeals sub-committee).
- 19.4 The committee may also appoint one or more advisory boards consisting of such member and other persons as the committee thinks fit and may end the appointment at any time.

## **20. DISMISSAL OF OFFICERS**

- 20.1 Any flag officer, treasurer, and other member of the committee may be removed from office by a vote passed by a majority of votes of the members present and entitled to vote at a general meeting called for that specific purpose.
- 20.2 All voting at a meeting called for this purpose must be by secret ballot and the flag officer, treasurer or other committee member proposed to be removed must be given notice of the meeting and is entitled to be heard at the meeting.

- 20.3 The office of a flag officer, member of the committee or any office bearer becomes vacant if the person:
- (a) is disqualified from being a company director;
  - (b) becomes an insolvent under administration;
  - (c) has been convicted of an offence with a penalty of imprisonment for 1 year or more;
  - (d) cannot manage the squadron because of mental incapacity and is a person whose estate or property has had a personal representative or trustee appointed to administer it;
  - (e) resigns his or her office in writing to the commodore or secretary; or
  - (f) not being the secretary, holds any office of profit under the squadron.

## 21. AUDIT AND AUDITORS

- 21.1 The accounts of the squadron must be audited at least once each financial year by one or more auditors who are registered under the *Corporations Act*.
- 21.2 The auditor or auditors are appointed by the members at a general meeting unless the committee is required by the *Corporations Act* to fill a vacancy in the position of auditor.

## 22. SECRETARY

The secretary is appointed by the committee for such term and on such conditions as it thinks fit. The secretary is the public officer of the squadron.

## 23. GENERAL MEETINGS

### 23.1 Annual General Meeting

- (a) The annual general meeting must be held not later than 5 months after the end of the squadron's financial year.
- (b) The secretary must cause to be sent to each member a notice stating the place, date and time of the meeting and the nature of the business to be transacted at the meeting at least 21 days before the date fixed for holding an annual general meeting.
- (c) The ordinary business of the annual general meeting includes:
  - confirming the minutes of the last general meeting and the last annual general meeting if the last general meeting was not the last annual general meeting;

- consideration of the annual financial reports and auditor's report;
- receiving the committee's annual report;
- the election of the flag officers, treasurer, and the other members of the committee;
- appointment of the auditors;
- such other business as may be discussed of which not less than 7 clear days notice in writing has been given to members by posting of such notice on the Club notice board.

### 23.2 Ordinary general meetings

The committee may convene an ordinary general meeting provided that at least 21 clear days notice of such meeting has been given to the members.

### 23.3 Extraordinary general meetings

- (a) The committee must call and arrange to hold an extraordinary general meeting on the request of:
  - members of the squadron with at least 5% of the votes which may be cast at a general meeting; or
  - 4 members of the committee.
- (b) The request must:
  - be in writing; and
  - state any resolution to be proposed at the meeting; and
  - be given to the secretary.
- (c) The committee must call the meeting within 21 days after the request is given to the secretary. The meeting is to be held not later than 2 months after the request is given to the secretary.

## 24. PROCEEDINGS AT MEETINGS

### 24.1 Chairman

At all general meetings and all committee meetings the most senior flag officer in order of precedence present is the chair of the meeting. The longest serving other committee member is the chair if no flag officer is present. The meeting must select a chairperson for the purpose of such meeting if there is no flag officer or committee person present.

### 24.2 Quorum

- (a) 6 committee persons constitute a quorum of a committee meeting.
- (b) 15 members eligible to vote constitute or quorum of a general meeting.

- (c) If within half an hour after the time appointed for the meeting a quorum is not present, the meeting, if convened on the requisition of members, is dissolved. In any other case, the meeting is adjourned to such time and place as the committee determines. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present, (being not less than 3), will be a quorum.
- (d) For the purpose of this clause, "member" includes a person attending as a proxy or the designated nominee of a corporate member.

## 25. VOTING

- 25.1 At any meeting a resolution is decided on a show of hands unless a poll is demanded by:
- at least one quarter of the members present in person or in proxy, or the chair;
  - A poll must be taken when and in such manner as the chair directs.
- 25.2 Unless otherwise provided, a majority of votes will decide the resolution.
- 25.3 On a show of hands, a declaration by the chair is conclusive evidence of the result provided that the declaration reflects the show of hands and the votes of the proxies received. Neither the chair nor the minutes need state the number of votes recorded in favour or against.
- 25.4 Each senior member has two votes and each sailing member has one vote at a general members meeting. Each committee member has one vote at a committee meeting.
- 25.5 The chair has a second or casting vote in the case of an equality of votes.
- 25.6 A member may vote in person or by proxy.
- 25.7 A member is not entitled to vote at any general meeting if he or she is not financial.

## 26. PROXIES

- 26.1 Each member is entitled to appoint another person as a proxy by notice given to the secretary or general manager not later than 48 hours before the time of the general meeting in respect of which the proxy is appointed.
- 26.2 The notice appointing the proxy may be in the form prescribed from time to time by the committee and will contain the following information:

- the member's name and address;
- the proxy's name;
- the meeting at which the appointment may be used.

26.3 A proxy appointed to attend and vote for a member has the same rights as the member:

- to speak at the meeting;
- to vote (but only to the extent allowed by the appointment);
- join a demand for a poll.

## 27. MEMBERS' RESOLUTIONS

27.1 Notice may be given of a resolution proposed to be moved at the next general meeting by:

- (a) a member of the committee;
- (b) 5% of the members entitled to vote; or
- (c) at least 100 members entitled to vote.

27.2 The notice must:

- (a) be in writing;
- (b) set out the wording of the proposed resolution; and
- (c) be signed by the members proposing to move the resolution.

27.3 The resolution must be considered at the next General meeting that occurs no later than 2 months after the notice is given.

27.4 The squadron must give all its members notice of the resolution at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.

27.5 The squadron is responsible for the cost of giving members notice of the resolution if the squadron receives the notice in time to send it to members with the notice of meeting.

27.6 The members requesting the resolution are jointly and individually liable for the expenses reasonably incurred by the squadron in giving members notice of the resolution if the squadron does not receive the members' notice in time to send it out with the notice of meeting.

27.7 The squadron need not give notice of the resolution:

- (a) if it is more than 1,000 words long or is defamatory; or
- (b) if the members making the request are to bear the expenses of sending the notice out - unless the members give the squadron a sum sufficient to meet the expenses that it will reasonably incur in giving the notice.

## 28. INDEMNITY AND RELEASE

28.1 The squadron indemnifies:

- (a) the squadron's officers in respect of liability incurred by the person as such an officer; and
- (b) any employee, volunteer and any other member performing any role or function for or on behalf of the squadron; not being mere participation as a competitor or otherwise;
- (c) against any loss, payment or liability to another person (other than the squadron or a related body corporate), unless the liability arises out of conduct involving a lack of good faith; and
- (d) liability for costs and expenses incurred by that person (not being an employee):
  - in defending civil or criminal proceedings, in which judgment is given in favour of that person or in which the person is acquitted; or
  - in connection with an application, in relation to such proceedings, in which the Court grants relief to that person under the Corporations Law.

28.2 The squadron exempts from liability its employees and members (not being an officer) performing any role or function for or on behalf of the squadron (not being mere participation as a competitor or otherwise) unless the liability arises out of conduct involving a lack of good faith.

## 29. YACHT REGISTER

29.1 All yachts owned by a member or members of the squadron or on charter to a member and which yacht ordinarily has its home port at St Kilda Harbour or its immediate vicinity or is ordinarily entered in events conducted by the squadron, must be recorded on the yacht register.

29.2 The yacht register must contain:

- (a) the name of each yacht;
- (b) the sail or other official number of the yacht;
- (c) such other particulars of the yacht as required from time to time by the committee.

29.3 The register may contain such other particulars and information as the committee decides.

### 30. LIQUOR TRADING

- 30.1 Liquor must not be sold or disposed of on the squadron premises except in accordance with a licence held under the *Liquor Control Reform Act* (as amended from time to time).
- 30.2 A visitor must not be supplied with liquor in the squadron premises unless the visitor is a guest in the company of a member except at a particular function or occasion authorised by the general manager or the committee and the subject of a licence from the Director of Liquor Licensing.
- 30.3 Liquor must not be sold for consumption elsewhere than on the squadron premises, unless the liquor is removed from the premises by the member purchasing it.
- 30.4 No payment or part payment may be made to any officer or employee of the squadron by way of commission or allowance from the receipts of the squadron for the sale of liquor.
- 30.5 Records of guests must be maintained.  
(See also clauses 9.9 and 16.6)

### 31. COMMON SEAL

- 31.1 The common seal of the squadron must be kept in the custody of the secretary.
- 31.2 The common seal must not be affixed to any document except by the authority of the committee. The affixing of the common seal must be attested by the signature either of two flag officers or of one flag officer and the general manager or secretary or another member of the committee.

### 32. NOTICES

- 32.1 Any notice may be served on any member:
- personally; or
  - by delivering or sending it by post to the member at his or her address shown in the register of members; or
  - by sending it to the fax machine or other electronic address (if any) nominated by the member.
- 32.2 A notice is taken to be properly sent by post 3 days after posting. A notice sent by fax or by other electronic means is taken to be given on the business day it is sent.

**33. MINUTES OF MEETINGS**

33.1 The committee must keep minutes of the resolutions and proceedings of each general meeting and each committee meeting together with a record of the names of persons present at the meeting.

33.2 The minutes will be signed by the chair of the meeting at which the proceedings were held or by the chair of the next succeeding meeting.

**34. DISPUTE RESOLUTION**

34.1 The committee may decide any dispute or difference which may arise as to the meaning or interpretation of this constitution and any rules or policies made under it.

34.2 The decision of the committee made in accordance with the sub-clause above may be amended, reversed or quashed by a resolution passed at a general meeting. However, any act done on such decision prior to the amendment, reversal or quashing is deemed to have been made in accordance with this constitution.

34.3 A copy of this constitution will be kept on the squadron's clubhouse premises. A copy of it will be given to any member on payment of any required fee.

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