

# Royal Brighton Yacht Club Inc

Rules as of 28<sup>th</sup> September 2021

A0018674M



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## PART 1 PRELIMINARY

### 1. Name

The name of the incorporated Association shall be "Royal Brighton Yacht Club Incorporated", ("the Club") A0018674M.

### 2. Purposes

The objectives of the Club shall be the promotion and encouragement of the sport of yachting generally, and racing between sailing yachts in particular, and the doing of all things incidental to or not inconsistent with the foregoing. The Club's income and property shall be exclusively applied in the promotion of the objectives of the Club.

### 3. Financial year

The financial year of the Club shall be from the first day of July until the 30th day of June in the year following.

### 4. Definitions

In these Rules—

The **Act** means the Associations Incorporation Reform Act 2012 (Vic) and includes any regulations made under that Act;

**Active Sailing Member**, means:

A Senior Member who is the owner, co-owner, or part owner, of a sailing yacht on the Yacht Register, or

A Senior Member who has been a regular member of the crew of any sailing yacht for:

- i. at least five seasons during their membership, or
- ii. for at least three racing seasons during the five years immediately preceding the current Club financial year;

**Annual General Meeting** means the General meeting of Club members convened in September every year;

**By-laws** means the By-laws of the Club made under Rule 42(2);

**Categories of membership** means those categories set out in Sub-Rule 8(2);

**Chairperson**, of a general meeting or committee meeting, means the person chairing the meeting as required under Rule 46;

**Club** means the Royal Brighton Yacht Club Incorporated

**Club year** commences on the first day of July;

**Commission** means the Victorian Commission for Gambling and Liquor Regulation;

**Committee**, in these Rules and the By-laws means the General Committee having management of the business of the Club;

**Committee meeting** means a meeting of the Committee, or any sub-committee, that is held in accordance with these Rules, and includes an urgent Committee Meeting and a special Committee meeting;

**Committee member** means a Member of the Committee elected or appointed under Division 3 of Part 5;

**Disciplinary appeal** meeting means a meeting of the Members of the Club convened under Rule 28(3);

**Disciplinary meeting** means a meeting of the Committee convened for the purposes of Rule 24;

**Disciplinary sub-committee** means the sub-committee appointed under Rule 24;

**Financial member** means a Member of the Club who is not in arrears under Rule 12(4)(c)

**Financial year** means the 12-month period specified in Rule 3;

**Flag Officers** means the Commodore, Vice-Commodore, Rear Commodore and Club Captain of the Club

**General meeting** means the Annual General Meeting, or Half-yearly General Meeting of the Members of the Club convened in accordance with Part 4;

**Half-yearly General Meeting** means the General meeting of Members of the Club convened in March every year.

**Immediate Past Commodore** means the title of the retiring Commodore for a 12-month period immediately following their retirement from office;

**Liquor Control Reform Act** means the Liquor Control Reform Act 1998 (Vic) and includes any regulations made under that Act;

**Member** means a member of the Club, howsoever defined in the Rules;

**Member entitled to vote** means a Member who under Rule 13 is entitled to vote at a general meeting;

**Registrar** means the Registrar of Consumer Affairs Victoria;

**Secretary** means the Manager/Secretary of the Club, appointed in accordance with Rule 47(1)

**Special General Meeting** means a meeting of the Members of the Club convened in accordance with Rule 31;

**Special resolution** means a resolution that requires not less than three-quarters of the Members voting at a general meeting, whether in person or by proxy, to vote in favour of the resolution;

**Treasurer** means the Honorary Treasurer of the Club, appointed in accordance with Rule 48;

**Construction:**

(a) In these Rules, any reference to a particular gender includes the other genders.

(b) Words or expressions contained in these Rules must be interpreted in accordance with the provisions of the Interpretation of Legislation Act 1984 and the Act as in force from time to time.

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## PART 2 POWERS OF ASSOCIATION

### 5. Powers of Association

- (1) Subject to the Act, the Club has power to do all things incidental or conducive to achieve its purposes.
- (2) Without limiting sub-rule (1), the Club may—
  - (a) purchase, take on, lease, exchange, hire or otherwise acquire and maintain any real or personal property and any related rights and privileges;
  - (b) sell, exchange, lease, mortgage, hire, dispose of or otherwise deal with any part of the real or personal property of the Club;
  - (c) erect, improve, repair, pull down and rebuild buildings and other structures of the Club;
  - (d) open and operate accounts with financial institutions;
  - (e) borrow, raise or secure the payment of money any manner the Club thinks fit, and with the power to issue debentures and grant mortgages, charges or any other class of security against any real or personal property, both present and future, of the Club, and to redeem or pay off any existing or future security;
  - (f) appoint agents to transact business on its behalf;
  - (g) apply for and obtain grants and funding from Government departments and Federal and State public authorities;
  - (h) amalgamate, co-operate, affiliate and enter into reciprocal arrangements with other clubs in the manner determined from time to time and allowed by the Act;
  - (i) appoint, employ, pay, dismiss and suspend officers, employees and servants; and
  - (j) do any other lawful thing which in the Club's opinion is incidental or conducive to the attainment of the objects and exercise of powers of the Club.
- (3) The Club may only exercise its powers and use its income and assets (including any surplus) for its purposes.

### 6. Not for profit organisation

Notwithstanding anything to the contrary contained or implied in these Rules, the Club is hereby prohibited from making any distribution to its Members, whether in money, property or otherwise.

#### (1) Sources of Funds

- (a) The funds of the Club may be derived from joining fees, annual subscriptions, levies, donations, fund-raising activities, grants, interest and other sources approved by the Committee. The Club's income and property shall be exclusively applied in the promotion of the objectives of the Club.
- (b) The income and property of the whencesoever derived, shall be applied solely towards the promotion of the objects of the Club, and no proportion shall be paid or transferred directly, or indirectly, by way of profit or gain to the individual Members of the Club. Provided that nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any officer or servant or to any Member of the Club in return for any service actually rendered to the Club, nor prevent the payment for out of pocket expenses, interest on money lent, or reasonable and proper rent for premises demised or let by any officer or servant of the Club or Member of the Club.
- (c) No Member, except at a particular function or occasion authorised by the Committee and the subject of a Permit from the Commission, or other person shall receive a greater profit, benefit or advantage from the Club than that received by every other Member of the Club other than a remuneration or honorarium approved by the Commission for work done by the Secretary, or other Officer of the Club or salary or wages paid to employees.

#### (2) Committee Members not to hold salaried office

- (a) No Member of the Committee shall be appointed to, or whilst a Member of the Committee, hold any salaried Office or Office of profit in the Club and no remuneration or other benefit in money or monies worth shall be given by the Club to any Member of the Committee except for the repayment of out of pocket expenses, interest on or principal of money lent to the Club under Debenture or otherwise or reasonable and proper rent for premises demised or let to the Club.

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## PART 3 MEMBERS, DISCIPLINARY PROCEDURES AND GRIEVANCES

### Division 1 Membership

#### 7. Minimum number of members

- (1) The number of Members in any or all categories may be restricted by the Committee.
- (2) If the number of Senior Members falls below 60% of the total Membership of the Club, excluding temporary or Honorary Members who are Members only by reason of reciprocal arrangements with another Club then one or more of the following classes of Members shall successively in the priority listed below be added as Members entitled to vote until the number of Members entitled to vote for the election of the Committee is not less than 60% of the total membership.

### **Classes of Members:**

1. Crew Members
2. Intermediate Members

### **8. Who is eligible to be a member**

#### (1) A natural person who:

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

is eligible for election as a Member of the Club.

#### (2) The Club has the following classes of Ordinary Membership:

##### (a) Senior Members

- (i) Senior Members are members over the age of 18 years, who have been elected as Senior Members, or who have otherwise been admitted to Senior Membership as permitted by these Rules. Only Senior Members (excluding Absentee or Country Members) may own yachts or power boats and lease marina pens. Senior Members may occupy space(s) on the hardstand.
- (ii) For the purposes of voting, Senior Members include 40 year members, Senior Special Members, Absentee and Country members.
- (iii) 50 year Members who were Senior, Country or Absentee members at the time of their becoming eligible as 50 year Members are deemed to be Senior Members
- (iv) A Senior Member is entitled to all of the privileges of Membership without restriction

##### (b) Crew Members

- (i) Crew Members are Members who are 30 years of age and over, who elect not to apply to be Senior Members.
- (ii) Crew Members may keep off-the-beach boats at the Club.
- (iii) Shall be eligible to vote in elections for the Committee in the circumstances set out in sub-rule 7(2).

##### (c) Youth and Intermediate Members

- (i) All persons under the age of 18 years are eligible to be Youth Members. Persons aged 18 years and under 30 years are eligible to be Intermediate Members.
- (ii) Persons seeking Intermediate Membership shall satisfy the Committee that they are under 30 years, and the Committee may then class them as Intermediate Members with Intermediate Member's rights only.
- (iii) A Youth Member or Intermediate Member may keep off-the-beach boats at the Club.
- (iv) A Youth Member cannot access licensed premises in the Club except as permitted by the Rules and the Liquor Control Reform Act.
- (v) Notwithstanding anything hereinafter contained or implied, Youth and Intermediate Members shall:
  - (A) - not be eligible for any office or as a Member of Committee;
  - (B) - not be entitled to propose or second a candidate for membership.
- (vi) Intermediate Members shall be eligible to vote in elections for the Committee in the circumstances set out in sub-rule 7(2).

##### (d) Partners of Senior Members

- (i) A Partner of a Senior Member is a Member who is 18 years old or older who is the spouse or domestic partner (as defined in the Relationships Act 2008 (Vic)) of a Senior Member or Honorary Life Member.

##### (e) Country Members

- (i) Any person who is eligible for admission as a Senior Member and whose permanent residence is beyond the radius of one hundred kilometres from The Club may, subject to the previous consent of the Committee, be admitted to membership in this category of Senior membership.
- (ii) Notwithstanding anything hereinafter contained or implied, Country Members shall:
  - (A) not be eligible for any office or as a Member of Committee
  - (B) be entitled to propose or second a candidate for membership.

##### (f) Senior Family Members

- (i) Senior Family Membership consists of either two Senior Members who are lawfully married to each other or are domestic partners (as defined in the Relationships Act 2008 (Vic) and the children of either of them who are under the age of 21 years, or a single Senior Member and his or her children who are under the age of 21 years.
- (ii) Each parent in the Family Membership has the rights of a Senior Member.  
Each child in the Family Membership aged under 18 years old has the rights of a Youth Member.  
Each child in the Family Membership aged between 18 years and under 21 years old has the rights of an Intermediate Member.

##### (g) Absentee Members

- (i) An Absentee Member shall be a Senior Member who, having been a Member for over a period of three years, becomes resident outside the state of Victoria and remains outside the State for a period of not less than one year. Application for Absentee Membership shall be in writing to the Secretary. Absentee Members shall be retained on the Register for a maximum period of five years unless application is received for an extension of this term.
  - (ii) Notwithstanding anything hereinafter contained or implied Absentee Members shall:
    - (A) not be eligible for any office or as a Member of Committee
    - (B) be entitled to propose or second a candidate for membership.
- (3) Other Categories of Membership
- (a) Honorary Life Members
    - (i) Persons who have rendered valuable service to the Club may, upon recommendation of the Committee and confirmed by the unanimous vote of the Members present at any properly constituted General Meeting, be elected Honorary Life Members of the Club. Names of Honorary Life Members shall only be removed from the Roll upon the recommendation of the Committee, confirmed by a resolution passed on the majority vote of the Members present at any properly constituted General Meeting.
    - (ii) Honorary Life Members shall be entitled to all the rights and privileges of a Senior Member of the Club.
  - (b) Aquatic Members
    - (i) An Aquatic Member is a person who has joined the Club to participate in the swimming recreational activities of the Club.
    - (ii) Notwithstanding anything hereinafter contained or implied, Aquatic Members shall:
      - (A) not be eligible for any office or as a Member of Committee
      - (B) not be entitled to propose or second a candidate for membership.
  - (c) Social Members
    - (i) A Social Member is a member over the age of eighteen years who is elected as a Social Member.
    - (ii) Notwithstanding anything hereinafter contained or implied Social Members shall:
      - (A) not be eligible for any office or as a Member of Committee
      - (B) not be entitled to propose or second a candidate for membership.
  - (d) Reciprocal Members
    - (i) Honorary Members
      - The following persons shall be eligible to be elected as Honorary Members of the Club:
      - (A) Persons who are or have been members of yacht clubs situated outside Victoria who have become resident in Victoria and who have been duly proposed and seconded for membership may, at the direction of the Committee, be admitted as Honorary Members during the period pending their election upon such conditions as the Committee decides, and provided further that such Member shall pay an annual subscription and entrance fee determined by the Committee. The number of Members admitted under this clause shall not exceed ten at any one time.
      - (B) Persons who are members of a recognised yacht club and who are on the premises for an official meeting to promote the sport of sailing.
      - (C) Competitors in any yacht race or sailing regatta on the Club course, or held with the permission of the Club, and members of other clubs and/or families accompanying competitors.
      - (D) Any officials acting at such a yacht race or regatta.
    - (ii) Ex-Officio Members
      - Upon the recommendation of the Committee, confirmed by the Members at a properly constituted General Meeting, Flag Officers of other yacht clubs and persons holding office in the service of the State or of the community may be elected ex-officio Members of the Club. Ex-officio membership may be terminated at any time by the Committee at its discretion.

## 9. Application for membership

- (1) Every candidate for admission to the Club shall be proposed and seconded by Senior Members who have been Senior Members for not less than 12 months immediately preceding such a proposal. Every proposal shall be in writing and shall set forth the candidate's full name, address and occupation, and shall be signed by the proposer, seconder, and candidate.
- (2) A person may apply for admission to Senior Membership of the Club at the age of 18 years and above.
- (3) A Member in the Intermediate membership category, who has not elected to become a Senior Member at the age of 18 years, may within one month before attaining the age of 30 years make an application in writing to the Committee to be elected a Senior Member upon attaining such age. A copy of such application shall be posted in a conspicuous place in the Club premises and the Committee shall not consider such application in the seven days thereafter. Upon considering the application, the Committee shall act upon the decision of the majority and may, in its discretion, grant or refuse the application.

## 10. Consideration of application

- (1) Candidates shall be nominated by the Committee for election as hereinafter provided at such times and in such order of priority as the Committee shall from time to time in its absolute discretion determine. The name of each

candidate so nominated for election shall, with their address, occupation and place of business (if any) and the names of their proposer and seconder, be exhibited in a conspicuous place in the Club premises for at least 14 days immediately preceding the election

- (2) Every Member who desires to object to the election of any candidate shall, during the period of 14 days aforesaid, communicate their objection to the Manager/Secretary in writing. Such objection shall state briefly the grounds on which the objection is based. The Committee shall take the objection into consideration and if, after making such enquires as it thinks fit, considers the objection to be well founded, shall request the proposer and seconder to withdraw the proposal.
- (3) The Secretary is responsible for notifying each Member elect of their election.

#### 11. New membership

- (1) In the event of no objection being lodged to the candidate during the above-mentioned period, or if the Committee believes any objections made under Rule 10(2) are not well founded, or in the event of the proposer and seconder failing to withdraw the proposal after having been requested to do so, the election or otherwise of the candidate shall be determined by a ballot of the Committee. A Member shall be elected by the Committee by ballot provided the votes recorded against them are less in number than one-fifth of those recorded in their favour.
- (2) The Secretary shall record in the Minute Book the number of Members voting and the number of Members whose votes were in favour of the candidate and those against. In the consideration of a candidate by the Committee, due regard shall be given to Rule 2.
- (3) The Secretary is responsible for keeping and maintaining a Register of Membership in which shall be entered the full name and address, and date of election of each Member of the Club, together with the original category to which the Member was first elected, and any changes in such category and the date thereof.

#### 12. Annual subscription and fee on joining

- (1) Entrance Fees shall be payable as set out below, or a lesser amount as determined by the Committee from time to time:
  - (a) Any person of eighteen years of age or over who applies to become a Member of The Club shall pay, if accepted as a Member, an Entrance Fee equal to 200% of the Annual Senior Subscription
  - (b) 50% of the Entrance Fee may be paid when joining and a further 50% on first renewal of Membership.
  - (c) Only one Entrance fee is payable for a Senior Family Membership.
  - (d) If a person accepted as a Member is the spouse or child of a Senior Member who has died within the immediately preceding twelve months, the Entrance Fee shall be half that which would otherwise apply.
  - (e) A Member on election shall pay full subscription unless elected during the second half of the Club's financial year, in which event they shall pay a pro-rata subscription calculated from the first day of the month of their election to the last day of the current Club financial year.
  - (f) If a candidate does not pay the Entrance Fee (if any) and Annual Subscription within one month after their election, such election shall be void unless the delay shall be justified to the satisfaction of the Committee and the required payments made. Until the Entrance Fee (if any) and Subscription are paid, the candidate shall not be considered a Member.
  - (g) The payment of any Subscription shall imply the acquiescence of the Member paying the same in the Club Rules, By-laws and Racing Rules of the Club whether now in force or which may hereafter be enacted, made or formed, and such payment shall also be evidence of their submission to any penalties and obligations imposed or enforced hereafter.
- (2) Annual Subscription shall be set as follows:
  - (a) The annual subscription for each category of Member is the amount fixed prior to the commencement of the Club year by the Committee and recorded in the By-laws.
  - (b) No category of membership subscription shall be less than \$10.00 except as approved by the Victorian Commission for Gambling and Liquor Regulation.
- (3) Members who fall into any of the categories set out below are entitled to full or partial remission of their requirement to pay Subscriptions.
  - (a) 40 and 50 year Members  
A Member who has held full fee-paying Senior Membership for 40 years or Membership for 50, whichever is the sooner, shall thereafter be free of liability to pay any Subscription.
  - (b) Members on Active Service  
A Member, being a Member of the Australian Armed Services, or Merchant Navy, and on active service, shall not be liable for the payment of their Subscription or other dues whilst so serving, if:
    - (i) the Member has made application in writing to the Secretary providing details of his/her service, and
    - (ii) the Committee determines to waive payment of the subscription or dues payable for the period during which the Member is on active service, if it is of the opinion that exceptional circumstance exist in respect of the Member.Nothing in this Rule will entitle a Member to a refund of Subscription or dues unless the Member was on active service at the time the Subscription became due and payable.

A Member granted relief from the payment of Subscription or dues under this Rule will, on return to Australia, be required to pay a pro-rata Subscription for the balance of the financial year then remaining, provided that if they are posted to a Station outside the State of Victoria they shall upon application and if eligible, in accordance with the provisions of Rule 3(c), be granted Absentee Membership.

(c) War Pensioners

A Member who has been a financial member of the Club for ten years or over and who is in receipt of either a Special Rate of Disability Pension (T&PI) under the Veterans Entitlements Act 1986 (Cth), or a Special Rate Disability Pension (SRDP) under the Military Rehabilitation and Compensation Act 2004 (Cth), shall be relieved of the obligation of paying any annual subscription, levy or other monies imposed on Members.

(d) Senior Special Members

A Member who has held Senior Membership for 20 consecutive years and shall have attained the age of 65 years and is a retired person, having advised the Club of their status in writing, shall, from the commencement of the following financial year only be liable to pay an annual subscription of 50% of the current subscription of a Senior Member.

(e) Country Members

A Country Member is liable to pay an annual subscription of 50% of the current subscription of a Senior Member.

(f) Absentee Members

An Absentee Member shall pay an annual membership subscription of 20% of Senior Membership subscription but when he/she returns to live in Victoria, shall resume the same Membership category and pay a pro-rata subscription within one month of his/her return.

(g) Partners of Senior Members

A partner of a Senior Member is entitled to apply for Social Membership and if granted shall pay no membership fee.

(4) Payment of Subscriptions

(a) All Subscriptions shall be due and payable in advance on the first day of the Club year (1 July). A Member may apply to the Committee for approval to pay their annual subscription on a monthly basis.

(b) Any Member may apply to the Committee, on the grounds of hardship, for approval to enter into a payment plan with the Club.

(c) Any Member who:

- i. is ninety days in arrears in relation to the payment of their Subscription or any other monies they owe to the Club, or
  - ii. if, on a monthly payment plan, has not paid three consecutive monthly instalments, and
  - iii. has been given not less than one month's notice in writing of their default, and
  - iv. has not remedied the default:
- may, at the discretion of the Committee, be excluded from the privileges of the Club until they have remedied their default or may be struck off the Register of Members. Whereupon they shall cease to be a Member and their rights to enjoy or participate in the privileges of the Club shall be absolutely forfeit.

(d) No Members who is in arrears with their Subscription and or in the payment of any other monies they owe to the Club shall be eligible for any Office of the Club, or to nominate an Office-Bearer or intending Member, vote at any meeting, sign any requisition under these Rules, or be present at any meeting of the Members of the Club.

(e) Notwithstanding anything contained elsewhere in this Rule, no Member shall be eligible for any Office of the Club unless the full amount of their Annual Subscription (or he/she is up to date with monthly subscription payments) and any other monies he/she owes to the Club has been paid prior to their nomination for such Office.

(f) No yacht whose owner or owners, or any of them, shall not have paid up all arrears, Subscription or monies they owe to the Club, shall be allowed to compete for a prize in any Club race.

(g) For the purposes of this Rule a Member shall be deemed to have paid the full amount of their annual subscription and all other monies they owe to the Club if the Committee has agreed to accept payment by instalments and no instalment due is in arrears.

### 13. Privileges and voting rights of Members

(1) The By-laws must set out

- (a) the privileges of each class of Membership, to the extent that those privileges are not modified by these Rules; and
- (b) the availability of Club facilities and services to each Membership class.

(2) The voting rights of Ordinary Members are set out in Rule 34.

### 14. Rights not transferable

All rights are forfeited upon ceasing to be a Member and correspondingly any interest free loan payments obligations cease.



## 15. Ceasing Membership

- (1) A person's membership of the Club will cease for any of the following reasons: resignation, expulsion or death.
- (2) If a person ceases to be a Member of the Club, the Secretary must, as soon as practicable, enter the date the person ceased to be a Member in the Register of Members

## 16. Resigning as a Member

- (1) Any Member wishing to resign from the Club shall give notice in writing of their intention addressed to the Secretary. Their resignation as a Member is effective as of the date of acceptance by the Committee of their resignation.
- (2) A Member is also taken to have resigned if—
  - (a) the circumstances set out in Rule 12(4)(c) apply to the Member; or
  - (b) where no annual subscription is payable—
    - (i) the Secretary has made a written request to the Member to confirm that he or she wishes to remain a Member; and
    - (ii) the Member has not, within three months after receiving that request, confirmed in writing that he or she wishes to remain a Member.
- (3) If the former Member desires to re-join the Club, Rules 9-11 above shall apply, but if the former Member has given notice of resignation on or before the thirtieth of June in the then current financial year, they shall only, if re-elected, be liable for the Annual Subscription, and no further Entrance Fee.

## 17. Registers

### *Register of Members*

- (1) The Secretary is responsible for keeping and maintaining a Register of Members in which shall be entered the full name and address, and date of election of each Member of the Club, together with the original category to which the Member was first elected, and any changes in such category and the date thereof, and particulars of payment of the last membership subscription paid by a Member.

### *Yacht Register*

- (2) On application of the owner or owners, a yacht or boat belonging to a Member or Members of the Club may (subject to the approval of the Committee) be registered and be kept for that purpose by the Secretary and to be known as the Yacht Register. Such register shall contain, in addition to any other particulars required by the Committee or the Club Rules and By-laws, the name of the yacht or boat, the name and address of the owner (or, in the case of more than one owner, of all of them), the official number (if any), tonnage, dimensions, rig, sail area, and particulars of design and build, and of any power installation. Applications for registration shall be made to the Secretary on the form prescribed, which shall be supplemented with any additional information in respect of the yacht or boat proposed for registration that may be required, and in the case of any alterations affecting the registered particulars of a yacht or boat the owner shall notify the same to the Secretary forthwith.

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## Division 2 Grievance procedure

### 18. Application

- (1) The grievance procedure set out in this Division applies to disputes under these Rules between—
  - (a) a Member and another Member;
  - (b) a Member and the Committee;
  - (c) a Member and the Club (including but not limited to its employees, volunteers and servants).

### 19. Parties must attempt to resolve the dispute

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

### 20. Appointment of mediator

- (1) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Rule 20, the parties must within 10 days—
  - (a) notify the Committee of the dispute; and
  - (b) agree to or request the appointment of a mediator; and
  - (c) attempt in good faith to settle the dispute by mediation.
- (2) The mediator must be—
  - (a) a person chosen by agreement between the parties; or
  - (b) in the absence of agreement—
    - (i) if the dispute is between a Member and another Member—a person appointed by the Committee; or
    - (ii) if the dispute is between a Member and the Committee or the Club—a person appointed or employed by the Dispute Settlement Centre of Victoria (Department of Justice and Regulation).
- (3) A mediator appointed by the Committee may be a Member or former Member of the Club, but in any case, must not be a person who—
  - (a) has a personal interest in the dispute; or

- (b) is biased in favour of or against any party; or
- (c) is a current member of the Committee.

#### 21. Mediation process

- (1) The mediator, in conducting the mediation, must—
  - (a) give each party every opportunity to be heard;
  - (b) allow due consideration by all parties of any written statement submitted by any party; and
  - (c) ensure that natural justice is accorded to the parties throughout the mediation process.
- (2) The mediator must not determine the dispute.

#### 22. Failure to resolve dispute by mediation

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

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### Division 3 Disciplinary Action

#### 23. Grounds for taking disciplinary action

- (1) The Club may take disciplinary action against a Member in accordance with this Division if it is determined that the Member:
  - (a) has failed to comply with these Rules or By-laws
  - (b) refuses to support the purposes of the Club
  - (c) has engaged in conduct prejudicial to the Club
  - (d) has engaged in conduct unbecoming of a Member.
- (2) If a grievance procedure has been initiated in respect of the subject matter of the allegation, the Committee must not consider any allegation relating to the same matter until the grievance procedure, other than Rule 23, has been completed.

#### 24. Disciplinary sub-committee

- (1) Matters requiring urgent action
  - (a) If a Member engages in conduct of such a serious nature that it exposes either the Club, or any of its members, employees, or other persons present at the Club, to immediate or imminent risk of harm, then the Committee may, with a minimum of two thirds majority in favour, immediately suspend a member, for a period of up to 28 days.
  - (b) The Committee must ensure that the Member is given an opportunity of being heard by the Committee within 28 days of the immediate suspension (unless a later date is agreed by both the Committee and the affected Member). The Committee must ensure that the Committee follows the procedure in Rule 26 as far as is reasonably practicable, in making a decision with respect to the continuation or removal of the suspension, and whether or not the matter should be referred to a disciplinary sub-committee under Rule 24(3).
- (2) Matters that do not require urgent action

The Committee has power to inquire into any possible breach of the Rules or By-laws by a Member and any action by a Member which may be materially prejudicial to, endangers or puts at risk or adversely affects the safety, finances or wellbeing of the Club, its members, its employees or its volunteers. The Committee may appoint the Secretary/General Manager, or another person to investigate the possible breach or other conduct and report to the Committee on his or her findings.
- (3) If the Committee is satisfied that there is a prima facie case for the taking of disciplinary action against a Member, the Committee must appoint a disciplinary sub-committee of three or more people to hear the matter and determine what action, if any, to take against the Member.
- (4) The members of the disciplinary sub-committee—
  - a) may be Committee Members, Members of the Club or anyone else; but
  - b) must not be biased against, or in favour of, the Member concerned.

#### 25. Notice to Member

- (1) Before disciplinary action is taken against a Member, the Secretary must give written notice to the Member—
  - (a) stating that the Club proposes to take disciplinary action against the Member; and
  - (b) stating the grounds for the proposed disciplinary action; and
  - (c) specifying the date, place and time of the meeting at which the disciplinary sub-committee intends to consider the disciplinary action (the disciplinary meeting); and
  - (d) advising the Member that he or she may do one or more of the following—
    - (i) attend the disciplinary meeting and address the disciplinary sub-committee at that meeting;
    - (ii) give a written statement to the disciplinary sub-committee at any time before the disciplinary meeting;
    - (iii) call any witness to address the disciplinary sub-committee;
    - (iv) submit a written statement of any witness; and
  - (e) setting out the Member's appeal rights under Rule 27; and
  - (f) advising that legal representation will not normally be permitted and will require leave of the sub-committee.

- (2) The notice must be given no earlier than 28 days, and no later than 14 days, before the disciplinary meeting is held.

## 26. Hearing and Decision of sub-committee

- (1) At the disciplinary meeting, the disciplinary sub-committee must—
  - (a) give the Member and any witness an opportunity to be heard; and
  - (b) consider any written statement submitted by or on behalf of the Member.
- (2) The disciplinary sub-committee must make a finding as to whether any or all of the allegations are, or are not substantiated and notify the Member within 72 hours of the conclusion of the disciplinary meeting.
- (3) If all of the allegations are not substantiated, then the disciplinary sub-committee shall take no further action against the Member.
- (4) If the disciplinary sub-committee has made a finding that one or more allegations have been substantiated then it may—
  - (a) take no further action against the Member
  - (b) reprimand the Member
  - (c) suspend the membership rights of the Member for a specified period; or
  - (d) expel the Member from the Club.
- (5) The disciplinary sub-committee may not fine the Member.
- (6) The suspension of membership rights or the expulsion of a Member by the disciplinary sub-committee under this Rule takes effect immediately after the vote is passed.

## 27. Appeal rights

- (1) A person whose membership rights have been suspended or who has been expelled from the Club under Rule 26 may give notice to the effect that he or she wishes to appeal against the suspension or expulsion.
- (2) The notice must be in writing and given—
  - (a) to the disciplinary sub-committee immediately after the vote to suspend or expel the person is taken; or
  - (b) to the Secretary

within seven days of being provided with the decision of the disciplinary sub-committee.

- (3) If a person has given notice under sub-rule (2), the Committee must appoint an appeals sub-committee as soon as practicable, but in any event not later than twenty one days after the notice is received.
- (4) The Committee must appoint an appeals sub-committee consisting of at least three 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. The appeals sub-committee must not include members of the disciplinary sub-committee that heard the discipline matter at first instance. The Member may object to the constitution of the appeals sub-committee if they believe that a sub-committee member has a conflict of interest.
- (5) Before the appeals sub-committee meets, the Secretary must give written notice to the Member—
  - (a) specifying the date, place and time of the appeals sub-committee meeting;
  - (b) the names of the members of the appeals sub-committee;
  - (c) advising the Member that he or she may do one or more of the following—
    - (i) attend the appeals sub-committee meeting and address the appeals sub-committee at that meeting;
    - (ii) give a written statement to the appeals sub-committee at any time before the appeals sub-committee meeting;
    - (iii) call any witness to address the appeals sub-committee;
    - (iv) submit a written statement of any witness; and
  - (d) advising that legal representation will not normally be permitted and will require leave of the sub-committee.
- (6) The notice must be given no earlier than twenty-eight days, and no later than seven days, before appeals sub-committee meeting is held.

## 28. Conduct of Disciplinary Appeal

- (1) At a disciplinary appeal—
  - (a) the Member may appear before the appeals sub-committee or make written submissions or both. The appeals sub-committee may inform itself of the resolution of the disciplinary sub-committee, its reasons for decision, any evidence or submissions given or presented to the disciplinary sub-committee. The appeals sub-committee has all the powers and discretions of the disciplinary sub-committee.
  - (b) the appeal is a re-hearing of the allegation(s) against the Member and the appeals sub-committee makes a fresh decision on the basis of the options available in Rule 26.
  - (c) the Committee must state the grounds for suspending or expelling the Member and the reasons for taking that action.

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## PART 4 GENERAL AND SPECIAL GENERAL MEETINGS OF THE CLUB

### 29. General meetings

- (1) General Meetings of Members of the Club shall be held in the Club Rooms or some other convenient place during the months of March and September in each year.
- (2) No visitor shall be permitted to attend any General, Special General, Committee or other meeting without the sanction of the Chairperson of such meeting being first obtained. Visitors with permission to attend the meeting, must also request permission of the Chairperson to be allowed to speak.

### 30. Special General meetings

- (1) Any meeting of the Members of the Club, other than a General Meeting, a Disciplinary Appeal Meeting, or a Committee or Sub-Committee meeting, is a Special General Meeting.
- (2) The Committee may convene a Special General Meeting by direction whenever it considers necessary.
- (3) A Special General Meeting must also be convened, if requested by requisition addressed to the Secretary and signed by at least four Members of the Committee, or at least 20 Members of the Club, stating the object or objects of such Meeting.

### 31. Special resolutions

#### *Alteration or additions to Club Rules, By-laws or Regulations*

- (1) Any Member wishing to propose an alteration of or an addition to the Club Rules, By-laws must give notice thereof in writing at a General or Special General Meeting and move the proposed alteration or addition as a special resolution at the next General or Special General Meeting held not less than 21 days after the date of the meeting at which such notice was given.

#### *Special Resolutions in relation to other matters*

- (2) Special resolutions required to be passed in relation to any other matters specified in the Act are not required to comply with the notice requirements of Rule 31(1).

### 32. Notice of General or Special general meetings

- (1) Notice of the date, time and place of a General or Special General Meeting and the business proposed to be transacted at the meeting shall be posted or otherwise on the Notice Board for:
  - a) at least seven days immediately prior to the date of the meeting in the case of an Annual General Meeting,
  - b) at least 14 days in the case of a Half-Yearly or Special General Meeting, and
  - c) at least 21 days in the case of a special resolution.
- (2) Notice of a proposed special resolution shall:
  - (a) specify the date, time and place of the General or Special General Meeting at which the resolution is intended to be proposed;
  - (b) state in full the proposed resolution; and
  - (c) state the intention to propose the resolution as a special resolution.
- (3) The Secretary shall forward through the post or otherwise to each Member (other than Honorary, Reciprocal, Youth Members or Intermediate Members) having a registered address in Australia, the following materials:
  - a) notice of the Meeting,
  - b) the business proposed to be transacted at the Meeting, including notice of any proposed special resolution(s),
  - c) a proxy form to those who are eligible to vote, and
  - d) if it is an Annual General Meeting, the Club's Annual Report and Balance Sheet.

#### *within the following timeframes:*

- a) at least seven days prior to every Annual General Meeting,
  - b) at least two days prior to every Half-Yearly or Special General Meeting, or
  - c) at least 21 days prior to the meeting in relation to any special resolutions proposed to be passed at the meeting.
- (4) Any amendment to a proposed special resolution must be received not later than 14 days before the meeting at which the proposed special resolution is to be voted upon. Notification of the proposed amendment must be forwarded to all Members eligible to vote at least seven days prior the date of the meeting, and the details posted on the Club web site and be generally available to Members.
  - (5) Notice of any other business proposed to be considered at a General or Special General Meeting shall be lodged with the Secretary:
    - a) at least seven days prior to any Annual General Meeting, and
    - b) two days prior to every Half-Yearly or Special General Meeting.
  - (6) The business at a General or Special General Meeting shall be confined to the business for which the Meeting is called.

### 33. Correction of acts, omissions or irregularities

- (1) No act or omission done or omitted in good faith in or in connection with the Summoning of any Meeting of Members under these Rules shall invalidate the proceedings at the Meeting unless a later Meeting of the Club is satisfied that there was irregularity in or in connection with the summoning of the earlier Meeting and resolves

- that the proceedings at the earlier Meeting are to be treated as invalid.
- (2) Notwithstanding any failure to observe the times for Notices (and other proceedings provided by these Rules or requirements of a like nature) the Members in General or Special General Meeting may by a majority of those present and voting waive the requirement or those requirements and declare the Notice, Meeting, Motion or other order to be in order.
  - (3) Any irregularity in any appointment or election of or any act or thing done by the Committee or any Member of the Committee shall be rendered regular if a General Meeting or Special General Meeting of Members of the Club under these Rules resolves that such appointment, act or thing be approved.

#### **34. Voting**

- (1) Only Financial Members are to entitled to vote. A Member is entitled to vote at any General Meeting if he or she is:
  - (a) a Member of a Membership class under Rule 34(2); and
  - (b) financial, meaning that all Member subscriptions and boat storage due and payable by that Member to the Club have been paid.
- (2) Members of the following classes of Membership have a voting right for both the election of the Committee and for the passing of ordinary and special resolutions at a General Meeting:
  - (a) Senior Members and Senior Family Members who are spouses or domestic partners (as defined in the Relationships Act 2008 (Vic)
  - (b) Senior Special Members
  - (c) 40 Year Members
  - (d) 50 Year Members
  - (e) Honorary Life Members;
  - (f) Country Members
  - (g) Absentee Members

Those Members eligible to vote under Rule 7(2) for the election of the Committee, are not otherwise eligible to vote at a General Meeting.

#### **35. Proxies**

- (1) A Member may appoint another Member as his or her proxy to speak and vote on his or her behalf at a General Meeting. No proxy shall be given or used for the election of Flag Officers or Members of Committee.
- (2) The appointment of a proxy must be in writing and signed by the Member making the appointment. No person shall either give or be appointed a proxy who is not a Member and fully qualified to vote.
- (3) The appointer may give specific directions as to how the proxy is to vote on his or her behalf, otherwise the proxy may vote on behalf of the appointee in any matter as he or she sees fit.
- (4) An instrument appointing a proxy may be sent by post or electronically or deposited with the Secretary and must be received no later than 24 hours before the commencement of the Meeting to which the proxy relates.
- (5) Instruments appointing proxies shall only be valid for voting at the Meeting for which the same are given, or at any adjournment thereof.

#### **36. Use of technology**

- (1) A Member not physically present at a General Meeting is permitted to participate in the meeting by the use of technology, approved by the Committee, that allows that Member and the Members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a Member participating in a General Meeting as permitted under sub-rule (1) is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.
- (3) A Member attending the meeting electronically must be approved by the Secretary no later than 24 hours prior to the meeting. Failure of the technology will not be the responsibility of the Club.

#### **37. Quorum at General Meetings**

At all General and Special General Meetings of Members of the Club, 20 Senior Members shall form a quorum, and the chair shall be taken by the Senior Flag Officer present, and in the absence of any Flag Officer the Members present shall elect a Chairperson.

#### **38. Adjournment of General Meeting**

- (1) The Chairperson of a General Meeting at which a quorum is present may, with the consent of a majority of Senior Members present at the meeting, adjourn the meeting to another time at the same place or at another place.
- (2) Without limiting sub-rule (1), a meeting may be adjourned—
  - (a) if there is insufficient time to deal with the business at hand; or
  - (b) to give the Members more time to consider an item of business.
- (3) No business may be conducted on the resumption of an adjourned meeting other than the business that remained unfinished when the meeting was adjourned.
- (4) Notice of the adjournment of a meeting under this Rule is not required.
- (5) The adjournment must not exceed 14 days.

### 39. Voting at General Meeting

- (1) Each voting Member in attendance is entitled to one vote, and in the event of an equality of votes on any question, the Chairperson shall have a casting vote in addition to his or her ordinary vote.
- (2) Any Senior Member of the Club present at a General Meeting may obtain a ruling from the Chairperson of the meeting as to whether any person(s) present at the meeting is/are entitled to vote. Any person who the Chairperson rules is not entitled to vote shall not vote. No meeting of Members shall be invalid if Members who are unfinancial Members attend, participate and vote in the proceedings so long as:
  - (a) No ruling as to the entitlement of the Member in question to vote was sought; or
  - (b) The Chairperson rules in good faith that the Member in question was entitled to vote.

### 40. Determining whether resolution carried

#### Special Resolution

- (1) A three-quarters majority of votes shall be necessary to carry the motion for a special resolution and such three-quarters majority shall be not less than 15 votes.

#### Ordinary Resolution

- (1) Subject to sub-rule (2), the Chairperson of a General meeting may, on the basis of a show of hands, declare that a resolution has been—
  - (a) carried; or
  - (b) carried unanimously; or
  - (c) carried by a particular majority; or
  - (d) lost—and an entry to that effect in the minutes of the meeting is conclusive proof of that fact.
- (2) If a secret ballot (where votes are cast in writing) is demanded by three or more Members on any question—
  - (a) the secret ballot must be conducted at the meeting in the manner determined by the Chairperson of the meeting; and
  - (b) the Chairperson must declare the result of the resolution on the basis of the poll.
- (3) A secret ballot demanded about the election of the Chairperson or on a question of an adjournment must be taken immediately.
- (4) A secret ballot demanded on any other question must be taken before the close of the meeting at a time determined by the Chairperson.

### 41. Minutes of general meeting

The Secretary is responsible for keeping a Minute Book of the proceedings of the Club, which book shall be produced at every meeting.

- (1) The Committee must ensure that minutes are taken and kept of each General meeting.
- (2) The minutes must record the business considered at the meeting, any resolution on which a vote is taken and the result of the vote.
- (3) In addition, the minutes of each Annual General Meeting must include—
  - (a) the names of the Members attending the meeting; and
  - (b) instruments appointing proxies given under Rule 35(4); and
  - (c) the financial statements submitted to the Members in accordance with Rule 32(3)(d); and
  - (d) the certificate signed by two Committee Members certifying that the financial statements give a true and fair view of the financial position and performance of the Club; and
  - (e) any audited accounts and auditor's report or report of a review accompanying the financial statements that are required under the Act.

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## PART 5 COMMITTEE

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### Division 1 Powers of Committee

#### 42. Role and powers

- (1) The Officers of the Club shall consist of a Commodore, Vice-Commodore, Rear Commodore, and Club Captain, (who shall be designated Flag Officers and who shall be Active Sailing Members), an Honorary Treasurer and a Secretary, the latter officer being either honorary or otherwise.
- (2) The Committee may make, repeal and amend any By-laws necessary for the good conduct of the Club and which are not inconsistent with these Rules. In the event of an inconsistency between these Rules and any By-laws, the relevant provision of these Rules prevails.
- (3) These Rules and any By-laws are binding on all members.
- (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 Committee by posting a notice on the Notice Board and the Club website outlining those additions or alterations within three days.
- (5) The Committee is empowered:
  - (a) to give effect to any resolution which (after appropriate notice has been given) is passed by the Members of the Club in a General or Special General Meeting;
  - (b) with the authority of a resolution of the Members to give security for any loans or advances of the Club over any of the Club's property or assets.
- (6) The number of Members' powerboats berthed in the RBYC marina must be not more than 10% of the total number of berths normally available within the marina. This number may only be exceeded by Committee giving specific permission for each specific powerboat that is in excess of the limit.

#### 43. Delegation

- (1) The Committee for any of the purposes set out in Rule 42(2) may appoint such officer or officers, honorary or otherwise, as it may deem fit, and define the duties and powers of such officer or officers; provided always that no such By-Law or appointment shall in any way abrogate or alter any existing Rule of the Club.
- (2) The Committee, when delegating under Rule 43(1), may delegate to a Member of the Committee, a sub-committee or staff, any of its powers and functions other than—
  - (a) this power of delegation; or
  - (b) a duty imposed on the Committee by the Act or any other law.
- (3) The delegation must be in writing and may be subject to the conditions and limitations the Committee considers appropriate.
- (4) The Committee may, in writing, revoke a delegation wholly or in part.

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### Division 2 Composition of Committee and duties of Members

#### 44. Composition of Committee

- (1) The Club shall be managed by a Committee consisting of the Commodore, Vice-Commodore, Rear Commodore, Club Captain, Honorary Treasurer and six Senior Members of the Club. The Flag Officers and at least four of the six ordinary Members of the Committee shall be Active Sailing Members as defined in Rule 4.
- (2) The title of the retiring Commodore for a 12-month period shall be 'Immediate Past Commodore'.
- (3) The Secretary shall be an ex-officio Member of all Committees and Sub-Committees, but shall not be entitled to vote at any meetings thereof.

#### 45. General Duties

- (1) The Committee shall have overall control of all matters in connection with the management of the Club, and may appoint a Sailing Committee, a Membership Committee and other such Sub-Committees as may be deemed to be necessary, and may define the powers and functions of any such Sailing Membership or other Sub-Committee.
- (2) All other Committees formed by or with the consent of the above-described elected Committee shall be Sub-Committees and shall be designated by a name appropriate to the functions for which they may be formed.
- (3) The duties of the Club Captain shall be to fully promote active yachting amongst the Members and he or she shall be the chairman of the Sailing Committee.
- (4) As soon as practicable after being elected or appointed to the Committee, each Committee Member must become familiar with these Rules and the Act.
- (5) The Committee is collectively responsible for ensuring that the Club complies with the Act and that individual Members of the Committee comply with these Rules.
- (6) Committee Members must exercise their powers and discharge their duties with reasonable care and diligence.
- (7) Committee Members must exercise their powers and discharge their duties—
  - (a) in good faith in the best interests of the Club; and

- (b) for a proper purpose.
  - (8) Committee Members and former committee Members must not make improper use of—
    - (a) their position; or
    - (b) information acquired by virtue of holding their position;
- so as to gain an advantage for themselves or any other person or to cause detriment to the Club.

#### 46. Committee Chairs

At every Committee meeting the chair shall be taken by the senior Flag Officer present. Should no Flag Officer be present a Chairperson shall be appointed from the Members in attendance.  
In conjunction with Rule 45, permanent chairs of Sub-Committees may be appointed by the Committee or elected from the members of such Sub-Committee, and should any such Chairperson not be present, a Chairperson shall be appointed from the members of such Sub-Committee in attendance.

#### 47. Secretary

- (1) A Manager/Secretary shall be appointed by the Committee at such a salary and upon such terms and conditions as the Committee shall from time to time determine. No payment or part payment of any Secretary, Manager, or other Officer or servant of the Club shall be made by way of commission or allowance from or upon the receipts of the Club for alcoholic drink supplied.
- (2) The Secretary shall at all times be responsible to the Committee who may at any time terminate his or her appointment by giving notice in writing according to the terms of their employment contract.
- (3) The Secretary is responsible for:
  - (a) keeping a Minute Book of the proceedings of the Club, which book shall be produced at every meeting;
  - (b) keeping a minute book of the proceedings and business of each meeting of every Committee;
  - (c) keeping and maintaining a Register of Members in which shall be entered the full name and address, and date of election of each Member of the Club, together with the original category to which the Member was first elected, and any changes in such category and the date thereof;
  - (d) keeping the Yacht Register;
  - (e) notifying each Member elect of their election;
  - (f) notifying Members of each meeting;
  - (g) keeping proper and requisite files of all documents, reports and correspondence;
  - (h) performing such duties as may be necessary to comply with the Licensing Acts of the State of Victoria;
  - (i) generally carrying out the directions of the Committee;
  - (j) acting as the administrative officer of the Club;
  - (k) notifying the Registrar of Incorporated Associations (Victoria) of their appointment in accordance with the requirements of section 74 of the Act.
- (4) The Secretary of the Club shall ensure that there are kept proper accounts and records of the transactions and affairs of the Club and such records as will sufficiently explain the financial operations and financial position of the Club.
- (5) The books and documents referred to above shall be kept in the custody of the Secretary and shall be available for inspection by Members.

#### 48. Honorary Treasurer

- (1) It shall be the duty of the Honorary Treasurer to:
  - (a) oversee the financial dealings of the Club,
  - (b) present updated financial accounts monthly to the Committee,
  - (c) produce at the Annual General Meeting before the election of Officers of the Club a Balance Sheet as at 30th June each year and an Income and Expenditure Account for the year ended on that date, duly audited by the Auditor or Auditors, and
  - (d) generally, to carry out the directions of the Committee.

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### Division 3 Election of Committee Members and tenure of office

#### 49. Who is eligible to be a Committee Member

- (1) No Member shall be eligible for election to the Committee unless they are and have been a Senior Member of the Club for at least three consecutive years immediately prior to nomination.
- (2) No Member of the Committee shall be appointed to, or whilst a Member of the Committee, hold any salaried Office or Office of profit in the Club and no remuneration or other benefit in money or monies worth shall be given by the Club to any Member of the Committee except for the repayment of out of pocket expenses, interest on or principal of money lent to the Club under Debenture or otherwise or reasonable and proper rent for premises demised or let to the Club.

#### 50. Fixing the date for the annual election

- (1) The Committee shall fix the date of the annual ballot for Flag Officers and Honorary Treasurer and ordinary Members of Committee and shall give 30 clear days' notice thereof to each Member of the Club eligible to vote at



such elections.

#### **51. Nominations**

- (1) All nominations of Candidates for election to the Committee shall be in writing and signed by the nominator, seconder and candidate, and such nominator and seconder shall be Senior Members.
- (2) Nominations shall be lodged with the Secretary not later than 6.00 pm, 21 clear days before the date on which the annual ballot is to be held and must then be displayed in a conspicuous place in the Club premises. All contested elections shall be by ballot.

#### **52. Nominations for Flag Officers.**

Nominations for Flag Officers and Honorary Treasurer shall specify whether the candidate also nominates for election as an ordinary Member of the Committee in the event of their not being elected a Flag Officer or Honorary Treasurer as the case may be.

#### **53. Ballot**

- (1) Votes for the election of Officers and Members of Committee may be given by Members duly entitled to vote, either:
  - a) by attending or depositing their ballot papers with the Returning Officer (to be appointed by the Committee) between the hours of 10.00 am. and 4.00 pm on the day of the Annual Ballot; or
  - b) by postal ballot paper which must reach the Secretary not later than midday on the day of the Annual Ballot, such ballot paper to be in the form prescribed from time to time by the Committee and obtainable from the Secretary by application in writing signed by the Member desiring such ballot paper, or
  - c) by electronic voting, in accordance with the requirements of section 100 and Part 6A of the Electoral Act 2002 (Vic), and Part 5 of the Electoral Regulations 2012.
- (2) In the event of there being a contest for election as an Officer of the Club, the voting for six Committee Members shall be by placing a number from 'one' to the number of candidates standing for election as Committee Members beside each candidate's name listed on the ballot paper. The vote shall be deemed to be a vote for the six candidates given the numbers one to six after deducting from the number given to each candidate the number equal to the number of candidates for election as Committee Members elected as Officers of the Club and given a lower number on the voter's ballot paper.
- (3) Ballot papers not containing a number against each candidate's name, containing a duplication of numbers, or containing a number greater than the number of candidates for election as Committee Members, shall be invalid.

#### **54. Term of office**

The Committee shall be elected annually prior to the Annual General Meeting held in September of each year and shall hold Office for a period of 12 months commencing at the declaration of the poll at the Annual General Meeting.

#### **55. Vacation of office**

- (1) A Committee Member may resign from the Committee by written notice addressed to the Committee.
- (2) Any Member of the Committee who shall not be in attendance for three consecutive Meetings of such Committee (unless leave of absence shall have been given under Rule 66) shall be considered as having resigned their seat.
- 3) A person also ceases to be a Committee Member if he or she—
  - (a) ceases to be a Member of the Club; or
  - (b) otherwise ceases to be a committee Member by operation of section 78 of the Act.

#### **56. Filling casual vacancies**

- (1) Except in the case of a vacancy in the office of either Commodore or Vice Commodore, any vacancy which may occur in the Committee by reason of death, resignation, or otherwise, may be filled by the appointment by the remaining Members of the Committee of any duly qualified Member of the Club. Any Member so appointed shall retire at the next Annual General Meeting, but shall be eligible for re-election.
- (2) In the event of a vacancy in the office of either Commodore or Vice-Commodore, the Flag Officer next in seniority shall be appointed to the vacant office, and any Member appointed to any such vacancy shall hold the office to which they may be so appointed for the balance of the period for which the former holder thereof would have held the same.

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### **Division 4 Meetings of Committee**

#### **57. Meetings of Committee**

The Committee shall meet at least once each month at such times as may be arranged and deemed necessary.

#### **58. Notice of meetings**

- (1) Notice of each committee meeting must be given to each Committee Member no later than 5 days before the date of the meeting.
- (2) Notice may be given of more than one Committee Meeting at the same time.
- (3) The notice must state the date, time and place of the meeting.
- (4) If a special Committee Meeting is convened, the notice must include the general nature of the business to be

conducted. The only business that may be conducted at a special Committee meeting is the business for which the meeting is convened.

#### **59. Urgent meetings**

- (1) In cases of urgency, a meeting can be held without notice being given in accordance with Rule 58 provided that as much notice as practicable is given to each committee Member by the quickest means practicable.
- (2) Any resolution made at the meeting must be passed by an absolute majority of the Committee. The only business that may be conducted at an urgent meeting is the business for which the meeting is convened.

#### **60. Procedure and order of business**

- (1) The procedure to be followed at a meeting of a Committee must be determined from time to time by the Committee.
- (2) The order of business may be determined by the Committee Members present at the meeting.

#### **61. Use of technology**

- (1) A committee Member who is not physically present at a Committee Meeting may participate in the meeting by the use of technology that allows that committee Member and the Committee Members present at the meeting to clearly and simultaneously communicate with each other.
- (2) For the purposes of this Part, a Committee Member participating in a Committee Meeting as permitted under sub-rule (1) is taken to be present at the meeting and, if the Member votes at the meeting, is taken to have voted in person.

#### **62. Quorum**

Six Members of the Committee shall form a quorum. A quorum of any Sub-Committee shall consist of one half of the members of such Sub-Committees, unless such Sub-Committees be composed of only two members, in which case both members must be in attendance.

#### **63. Voting**

- (1) On any question arising at a Committee meeting, each Committee Member present at the meeting has one vote.
- (2) A motion is carried if a majority of Committee Members present at the meeting vote in favour of the motion.
- (3) Sub-rule (2) does not apply to any motion or question which is required by these Rules to be passed by an absolute majority of the Committee.
- (4) If votes are divided equally on a question, the Chairperson of the meeting has a second or casting vote.
- (5) Voting by proxy is not permitted.

#### **64. Conflict of interest**

- (1) A Committee Member who has a material personal interest in a matter being considered at a Committee Meeting must disclose the nature and extent of that interest to the Committee.
- (2) The Member—
  - (a) must not be present while the matter is being considered at the meeting; and
  - (b) must not vote on the matter.
- (3) This Rule does not apply to a material personal interest—
  - (a) that exists only because the Member belongs to a class of persons for whose benefit the Club is established; or
  - (b) that the Member has in common with all, or a substantial proportion of, the Members of the Club.

#### **65. Minutes of meeting**

- (1) The Secretary must ensure that minutes are taken and kept of each Committee Meeting.
- (2) The minutes must record the following—
  - (a) the names of the Members in attendance at the meeting;
  - (b) the business considered at the meeting;
  - (c) any resolution on which a vote is taken and the result of the vote;
  - (d) any material personal interest disclosed under Rule 64.

#### **66. Leave of absence**

- (1) The Committee may grant a committee Member leave of absence from Committee Meetings for a period not exceeding 3 months.
- (2) The Committee must not grant leave of absence retrospectively unless it is satisfied that it was not feasible for the Committee Member to seek the leave in advance.

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## PART 6 FINANCIAL MATTERS

### 67. Source of funds and their application

#### *Club's sources of income*

- (1) The funds of the Club may be derived from joining fees, annual subscriptions, levies, donations, fund-raising activities, grants, interest and any other sources approved by the Committee.

#### *Circumstances in which Club income may or may not be paid to Members*

- (2) The income and property of the Club whencesoever derived, shall be applied solely towards the promotion of the objectives of the Club, and no portion thereof shall be paid or transferred directly or indirectly, by way of bonus or otherwise howsoever by way of profit or gain to the individual Members of the Club. However, nothing herein shall prevent the payment in good faith of reasonable and proper remuneration to any officer or servant or to any Member of the Club in return for any services actually rendered to the Club, nor prevent the payment of out of pocket expenses, interest on money lent, or reasonable and proper rent for premises demised or let by any officer or servant of the Club or Member of the Club.

#### *Levies*

- (3) The Members may in a General Meeting empower the Committee to impose a levy on Members, or category or categories of Members.

#### *Interest Free Loans by Senior Members*

- (4) Each person who is or becomes a Senior Member shall make a \$250.00 interest free loan to the Club of payable by instalments of \$25.00 on or before the first days of January and June in the each year in the month of January and June first occurring after becoming a Senior Member; whichever be the later and continuing until a total loan of \$250.00 has been made provided that such loan or such part thereof as falls due on or after the date upon which the person attains the age of 65 years need not be made by such person.
- (5) The monies lent in accordance with this Rule shall be separately accounted for by the Committee and shall only be applied:
  - a) in the purchase of property or assets for the benefit of the Club, or
  - b) the carrying out of works and improvements on the premises and facilities of, or for the benefit of, the Club, and
  - c) in accordance with any resolution of the Members of the Club at a Special or General Meeting.
- (6) The monies lent in accordance with this Rule shall be repayable to a former Member or to their legal personal representative, after deduction therefrom of all monies due by them to the Club:
  - a) as at the date of their ceasing to be a Member,
  - b) within twelve months from the date upon which they ceased to be a Member, or
  - c) within one month from the date upon which a person can give a lawful receipt,whichever be the later.

### 68. Management of funds

- (1) The Club must open a bank account with a financial institution from which all expenditure of the Club is made and into which all of the Club's revenue is deposited. All funds will be received by the Club finance staff who are responsible for depositing all funds of the Club into the account of the Club no later than 5 working days after receipt.
- (2) All cheques to be drawn on the Club's banking account and any drafts, bills of exchange, promissory notes and other negotiable instruments shall be signed by any two of the following, namely, the Commodore, Vice-Commodore and Honorary Treasurer, or any of the above together with the Secretary.
- (3) Subject to any restrictions imposed by a General Meeting of the Club, the Committee may approve expenditure on behalf of the Club.
- (4) The Committee may authorise the General Manager to expend funds on behalf of the Club (including by electronic funds transfer) up to a specified limit without requiring approval from the Committee for each item on which the funds are expended.
- (5) Notwithstanding anything to the contrary contained or implied in these Rules (or articles) the Club is hereby prohibited from making any distribution to its Members, whether in money, property or otherwise.
- (6) With the approval of the Committee, the General Manager 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.

### 69. Financial records

- (1) The Club must keep financial records that—
  - (a) correctly record and explain its transactions, financial position and performance; and
  - (b) enable financial statements to be prepared as required by the Act.
- (2) The Club must retain the financial records for 7 years after the transactions covered by the records are completed.
- (3) The Honorary Treasurer must keep in his or her custody, or under his or her control—
  - (a) the financial records for the current financial year; and
  - (b) any other financial records as authorised by the Committee.

## 70. Financial statements and auditing

- (1) For each financial year, the Committee must ensure that the requirements under the Act relating to the financial statements of the Club are met.
- (2) Without limiting sub-rule (1), those requirements include—
  - (a) the preparation of the financial statements;
  - (b) the auditing of the financial statements;
  - (c) the certification of the financial statements by the Committee;
  - (d) the submission of the financial statements to the Annual General Meeting of the Club;
  - (e) the lodgement with the Registrar of the financial statements and accompanying reports, certificates, statements and fee.
- (3) Once at least in every financial year the accounts of the Club shall be examined, and the correctness of the Working Account and Balance Sheet ascertained by one or more Auditor or Auditors, who shall be Licensed Companies' Auditors and who need not necessarily be Members of the Club.
- (4) The Auditor or Auditors shall be appointed at, and their remuneration fixed by, the General Meeting to be held in September of every year, and shall hold office for twelve months or until superseded. A person other than a retiring Auditor shall not be capable of being appointed Auditor at the General Meeting unless their nomination has been made and lodged in the same manner as nominations of candidates for the Committee.
- (5) The Committee may fill any casual vacancy in the office of Auditor, but while such vacancy continues the surviving or continuing Auditor or Auditors (if any) may act.
- (6) An Office Bearer is not eligible to be appointed Auditor of the Club.

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## PART 7 GENERAL MATTERS

### 71. Common seal

The Common Seal of the Club shall be kept in the custody of the Secretary and shall not be affixed to an instrument except by the authority of the Committee, and the affixing of the Common Seal shall be attested by the signatures either of two Members of the Committee (including Flag Officers) or one Member of the Committee and the Secretary.

### 72. Registered address

The registered address of the Club is, the premises occupied by the Clubhouse, at 253 The Esplanade, Brighton, Victoria.

### 73. Notice requirements

- (1) Any notice required to be given to a Member or a Committee Member under these Rules may be given—
  - (a) by handing the notice to the Member personally; or
  - (b) by sending it by post to the Member at the address recorded for the Member on the Register of Members; or
  - (c) by email or other electronic transmission.
- (2) Sub-rule (1) does not apply to notice given under Rule 59.
- (3) Any notice required to be given to the Club or the Committee may be given—
  - (a) by handing the notice to a Member of the Committee; or
  - (b) by sending the notice by post to the registered address; or
  - (c) by leaving the notice at the registered address; or
  - (d) if the Committee determines that it is appropriate in the circumstances—
    - (i) by email to the email address of the Club or the Secretary; or
    - (ii) by facsimile transmission to the facsimile number of the Club.
- (4) Any Member changing his address shall within 14 days of such change give notice in writing thereof to the Secretary.

### 74. Custody and inspection of books and records

- (1) Members may on request inspect free of charge—
  - (a) the Register of Members;
  - (b) the minutes of general meetings;
  - (c) subject to sub-rule (2), the financial records, books, securities and any other relevant document of the Club, including minutes of all and any Committee Meetings.
- (2) The Committee may refuse to permit a Member to inspect records of the Club that relate to confidential, personal, employment, commercial or legal matters or where to do so may be prejudicial to the interests of the Club.
- (3) The Committee must on request make copies of these Rules available to Members and applicants for membership free of charge.
- (4) Subject to sub-rule (2), a Member may make a copy of any of the other records of the Club referred to in this Rule and the Club may charge a reasonable fee for provision of a copy of such a record.
- (5) For purposes of this Rule—

‘relevant documents’ means the records and other documents, however compiled, recorded or stored, that relate to the incorporation and management of the Club and includes the following—

- (a) its membership records;
  - (b) its financial statements;
  - (c) its financial records;
  - (d) records and documents relating to transactions, dealings, business or property of the Club.
- (6) The Members' Register shall be kept open for inspection at any time by a licensing inspector, a member of the police force, a gambling and licensing inspector, the Commission, a person employed by the Commission, authorised in writing by the Commission.

#### 75. Winding up and cancellation

If upon the winding up or dissolution of the Club, there remains after satisfaction of all its debts and liabilities any property whatsoever, the same shall not be paid to or distributed amongst the Members of the Club, but shall be given or transferred to some other institution having purposes similar to the purposes of the Club, and which shall prohibit the distribution of its income and property amongst its Members to an extent at least as great as it imposed on the Club, such organisation to be determined by the Members of the Club at or before the time of dissolution and in default thereof by such Judge of the Supreme Court of Victoria as may have, or acquire, jurisdiction in the matter.

#### 76. Alteration of Rules

- (1) Any Member wishing to propose an alteration of or an addition to the Club Rules, or By-laws must give notice thereof in writing at a General or Special General Meeting and move the proposed alteration or addition at the next General or Special General Meeting held not less than twenty-one days after the date of the meeting at which such notice was given. A three-quarters majority of votes shall be necessary to carry the motion and such three-quarters majority shall be not less than fifteen votes.
- (2) The Secretary shall within 28 days after the alteration was passed by special resolution lodge with the Registrar of Consumer Affairs Victoria an application for approval of the alteration to the Rules, accompanied by a copy of the notice of the special resolution(s) setting out the particulars of the alteration(s), a declaration signed by at least 2 Members of the Committee to the effect that the special resolution(s) was(were) passed in accordance with the Associations Incorporation Reform Act 2012, a consolidated copy of the Rules that clearly shows the alteration(s), and the prescribed fee.
- (3) If the application is made in accordance with the requirements of subsections 50(3) and (4) of the Associations Incorporation Reform Act 2012, then the Registrar must approve the alteration(s). If the Registrar approves the alteration(s), the Registrar must be given written notice of approval to the association.
- (4) Every new Member shall immediately upon paying their Entrance Fee and Annual Subscription be supplied (by post or otherwise) with a copy of the then existing Club Rules and By-laws.
- (5) A notice advising a new Club Rule or By-Law or alteration of existing Club Rule or By-Law shall as soon as practicable after the passing, making or rescission thereof be sent or given by post or otherwise to each and every Member, and shall also be placed on the Notice Board of the Club.

#### 77. The Club Official Insignia

##### *Club Flags*

- (1) The Club Flag shall be the Blue Ensign of Her Majesty's Fleet, and the Burgee a Blue Flag with a White St. George's Cross, having the crown surmounting the Royal Cypher of the ruling monarch in the centre of the Cross.
- (2) The Blue Ensign may only be worn by a yacht having an Admiralty Warrant therefore and the Burgee must always be worn in conjunction with it. The Commodore's Flag shall be the Burgee swallow-tailed; the Vice-Commodore's Flag shall be the Burgee swallow-tailed with a White Ball in the upper head quarter; and the Rear Commodore's Flag shall be the Burgee swallow-tailed with two White Balls in the upper head quarter. A Past Commodore's Flag shall be the Burgee swallow-tailed with a St. Andrew's Cross in the upper head quarter. A Club Captain's Flag shall be the Burgee swallow-tailed with an anchor in the upper head quarter.

##### *Burgee*

- (3) Club Burgees shall be at least 30 cm in the hoist and 60 cm in the fly. No Member shall, under any pretence whatsoever, hoist the Club Burgee on board any vessel, yacht or boat not on the Yacht or Supplementary Register. This Rule does not apply to boats or dinghies belonging to the Club or to yachts or vessels made use of by the Club for regattas or other special occasions.

##### *Officers' Flags*

- (4) Officers' and Past Commodores' flags shall be at least 30 cm in the hoist and 45 cm in the fly. No Officers' or Past Commodores' flags shall be worn on any yacht or other boat unless such Officer or Past Commodore be on board, and the flag shall be struck and the Club Burgee hoisted in its place as soon as the Officer or Past Commodore leaves the yacht, unless it be his or her intention to return before sunset the same day. When two or more Flag Officers of the Club are on board the same yacht, the flag of the Senior Officer shall be worn.

##### *Club Badge*

- (5) The Club Badge shall be a gold anchor encircled by a belt surmounted by the crown used on the Royal Cypher of the ruling monarch.