

**CONSTITUTION**

of

**EXMOUTH YACHT CLUB**

**May 2019**

**Table of Contents**

1. Name of Club .....3

2. Objects .....3

3. Not for Profit .....3

4. Definitions .....3

5. Membership .....4

6. Application to Become a Member .....7

7. Member’s Rights .....8

8. Subscriptions.....9

9. New Members .....9

11. General Meetings – Annual General Meeting ..... 10

12. General Meetings – Special General Meeting..... 11

13. General Provisions for General Meetings ..... 12

14. General Provision..... 12

15. Election of Office Bearers ..... 13

16. The Management Committee and Conditions ..... 13

17. Ceasing to be a member of the Management Committee ..... 16

18. Powers of the Committee ..... 16

19. Role and Responsibilities of Committee Members ..... 18

20. Commodore/Chairperson ..... 19

21. Secretary ..... 19

22. Treasurer..... 20

23. Sub-Committees ..... 20

24. Auditors ..... 21

25. Alteration and Repeal of Rules..... 21

26. Suspension or Expulsion of Members ..... 21

27. Resolving Disputes ..... 23

28. Liquor Act ..... 24

29. Common Seal ..... 25

30. Dissolution of the Club ..... 25

**1. Name of Club**

- (a) The name of The Club shall be Exmouth Yacht Club (Inc.)

**2. Objects**

- (a) **The principal objects** are

(i) To establish, maintain and conduct a club for sailing and related water sports and to support the recreational, social, sporting, cultural and community dimensions of that interest. These objects include the provision of facilities for the pursuit of literary, scientific, athletic, professional and any other lawful purpose that provides benefits and enjoyment for the members of The Club and that promotes the advancement of the Exmouth region.

(ii) To provide and maintain a clubhouse and sporting amenities for the use of the members of The Club.

- (b) **Secondary object**, to maintain a club licence under the current Liquor Act and its amendments.

**3. Not for Profit**

- (a) The property and income of The Club shall be applied solely towards the promotion of the objects of The Club and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to members, except in good faith in the promotion of those objects.

**4. Definitions**

- (a) In reading this Constitution, unless the context or such otherwise indicates or requires:

(i) "Annual Meeting" means an Annual General Meeting.

(ii) "Books of the Association" means: the Register of Members; the Record of Office Holders; and The Club Constitution.

(iii) "By-Laws" means the codes of rules made and adopted by The Club in accordance with Section 18(b)(xii).

(iv) "Code of Conduct" means The Club's list of rules that set out a minimum standard of behaviour for members, and methods of dealing with conduct and behaviour issues as they arise.

(v) "Commissioner" means: the person for the time being designated as the Commissioner under section 153 of the Associations Incorporation Act.

(vi) "Committee" means the Management Committee for The Club, duly elected for the time being in accordance with this Constitution.

(vii) "Financial records" includes: invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; documents of prime entry; working papers and other documents needed to explain the methods by which financial statements are prepared; and adjustments to be made in preparing financial statements.

(viii) "Financial report" has the meaning given in Part 5 of The Act;

- (ix) "Financial statements" means the financial statements in relation to The Club required under Part 5 of The Act;
- (x) "Financial year" means from the first day of July each year, until the following 30<sup>th</sup> of June.
- (xi) "General Meeting" means a General Meeting of The Club whether Annual or Special.
- (xii) "Liquor Act" means the Liquor Control Act 1988, its amendments and any other legislation that may come into force to replace or supplement this Act, and shall form part of this Constitution.
- (xiii) "Liquor Licensed Club" means a club with a licence which authorises the sale and supply of liquor to members of the club.
- (xiv) "Liquor Licensing Authority" means the determining body that can grant a liquor licence.
- (xv) "Month" means a calendar month.
- (xvi) "Rules" is interchangeable with the word "Constitution".
- (xvii) "Sailing" includes without limitation yachting, recreational and motor boating, kite boarding and sail boarding.
- (xviii) "Special General Meeting" means a General Meeting as defined above, called in accordance with Section 12 hereunder, at which only business that has been described in the notice may be transacted.
- (xix) "Special Resolution" means a resolution passed by the members at a General Meeting in accordance with Section 51 of The Act.
- (xx) "The Act" means the Associations Incorporation Act 2015, its amendments and any other legislation that may come into force to replace or supplement this Act, and shall form part of this Constitution.
- (xxi) "The Club" means Exmouth Yacht Club Inc.
- (xxii) "The Club Premises" means all land, building and structures thereon of which The Club is the bona fide occupier.
- (xxiii) "Voting rights" means the ability for a financial member to propose or second an application for membership; move or second a motion or special motion; speak at all General Meetings; nominate for a position on the Management Committee; vote at all General meetings; and petition for a Special General Meeting.

### **5. Membership**

- (a) The Club shall keep an up to date Register of Members in respect of Ordinary, Life, Junior, Social, Corporate and Honorary members.
  - (i) This register must be continually available for inspection at The Club premises by authorised officers during opening hours.
  - (ii) Residential, postal or email address; or information by means of which contact can be made with the member, can be nominated for the Register of Members.
- (b) Membership of The Club shall consist of the following:

- (i) Ordinary Member – Persons over 18 years of age, entitled to a vote, entitled to hold office and entitled to enjoy the privileges of The Club such as participating in Sailing Races, Regattas or Training.
- (ii) Life Member – Any member who has given outstanding service to The Club may be elected to Life Membership by the members at a General Meeting of The Club.
- (iii) Junior Member – A person under the age of 18 years but shall not be entitled to hold any office or hold voting rights. Junior members can participate in Sailing Races, Regattas or Training if accompanied by an Ordinary Member or Life Member.
  - 1. This category of member does not have the authority to invite guests to The Club.
  - 2. Any Junior member on attaining the age of 18 years wishing to remain a member of The Club shall be granted the appropriate club membership and shall pay the full subscription as set down from time to time.
- (iv) Social Member – Persons interested in promoting the welfare of The Club but do not wish to participate in the management or competition activities. Social members shall not be entitled to hold any office or hold voting rights, and may not participate in Sailing Races, Regattas or Training.
- (v) Temporary Member – A person who is on any day visiting The Club as a member or an official of another club or team, or a person assisting a member or an official of another club or team to:
  - a. Engage in a pre-arranged event with The Club as per The Club's objects; or
  - b. Hold a pre-arranged function at The Club involving the use of The Club's sporting facilities.

Temporary Members shall not be entitled to be present at any meeting of the members of The Club, nor have any right, title or interest in or to any of the property of The Club.
- (vi) Reciprocal Member – is a visitor who is a full financial member of any like club in Western Australia or any Liquor Licensed Club located outside of Western Australia, and within Australia or New Zealand.

Reciprocal Members shall not be entitled to be present at any meeting of the members of The Club, nor have any right, title or interest in or to any of the property of The Club.
- (vii) Corporate Member – Any corporation conducting community or tourism related business in Exmouth and its surrounds, and interested in promoting the welfare of The Club through business, sponsorship or donations, but does not wish to participate in management or competition activities. The Club will only recognise the most senior Commodore, Executive, Director, Manager etc. on behalf of a Corporate Member in the Exmouth locality in respect of membership benefits.
  - 1. Such corporation through its approved identified nominee is not entitled to hold any office or hold voting rights, and may not participate in Sailing Races, Regattas or Training. It is not eligible to participate in membership draws.
  - 2. Corporate membership will be restricted at any one time to a level deemed appropriate by The Club or as may be required by the Liquor Licensing Authority.

- (viii) Honorary Member – Membership that may be granted to The Club patrons, sponsors, selected Government officers and any other such persons as the Committee may decide from time to time based on their relationship to The Club or community.
  - 1. Honorary membership will be restricted at any one time to a level deemed appropriate by the Committee or as may be suggested by the Liquor Licensing Authority.
  - 2. Honorary Members shall not be entitled to be present at any meeting of the members of The Club, unless invited by the Committee, nor have any right, title or interest in or to any of the property of The Club.
- (ix) Special Circumstances Member – any Ordinary, Life, Social or Junior Member who, through absence; illness; financial difficulties; unemployment; physical disability or other distressful circumstances is unable to pay their full subscription but desires to retain participation with The Club. The Management Committee may relieve them of part of their liability but not so as to make their total liability less than one third of the applicable subscription.
- (c) Temporary, Reciprocal and Honorary membership may be revoked by any Committee Member, including bar persons, acting in the best interests of The Club.
- (d) Cessation of Membership:
  - (i) A person ceases to be a member when any of the following takes place:
    - 1. For a member who is an individual, the individual dies;
    - 2. For a person whose title represents a corporate member, the corporation is wound up;
    - 3. The person resigns from The Club;
    - 4. The person is expelled from The Club under Section 26;
    - 5. The person ceases to be a member under Section 10(c).
  - (ii) The Secretary will keep a record on file of the date on which the person ceased to be a member; and the reason why the person ceased to be a member.
  - (iii) A member may resign from membership of The Club by giving written notice of the resignation to the Secretary:
    - 1. The resignation takes effect when the Secretary receives the notice; or if a later time is stated in the notice, at that later time.
    - 2. (i) A person who has resigned from membership of The Club remains liable for any fees that are owed to The Club (the owed amount) at the time of resignation.
      - (ii) The owed amount may be recovered by The Club in a court of competent jurisdiction as a debt due to The Club.
    - 3. Under no circumstances will a refund of fees be made to a resigning member.
- (e) Affiliate:
  - (i) An Affiliate may be formed within The Club for sporting or special interest groups.

- (ii) Any assets of the Affiliate are the assets of The Club. All monies received for Affiliates shall be paid into the Affiliate's bank account referred to in clause (e)(iv).
- (iii) All accounting, taxation, financial reporting and legal compliance responsibilities of the Affiliate shall rest with The Club.
- (iv) Affiliates shall use The Club's accounting and banking services in the following manner:
  - 1. Affiliates may have a separate bank account to The Club, but it must be on The Club's base bank account number.
  - 2. The Secretary or Treasurer of The Club and the secretary or treasurer of the Affiliate shall be joint authorities of the Affiliate's account.
  - 3. All payments on behalf of an Affiliate shall be made by bank transfer from the Affiliate's account.
  - 4. All affiliated members must also become a member of The Club including a membership fee being paid and application for membership completed.
- (v) The Committee of the Affiliate shall not do, or omit to do, anything that is likely to prejudice or not be in the best interest of The Club.
- (vi) Members of the Affiliate shall abide by the terms of this Constitution.
- (vii) Members of an Affiliate involved in any activity of or related to the Affiliate shall indemnify The Club and its representatives from any problem, direct or indirect loss or damage, claim or proceedings (including in negligence) caused or contributed to by that activity.

## **6. Application to Become a Member**

- (a) Ordinary Member – Any person desiring to become a member of The Club shall sign an application form provided and such form must bear the signatures of two members of The Club who are entitled to voting rights.
  - (i) When the application form and all subscriptions have been received, the person shall be a provisional member of the club and exercise all of the privileges of a member excluding voting rights until such time as the next Management Committee meeting.
  - (ii) At the next Management Committee meeting, the applicant will then be accepted or denied membership.
  - (iii) If membership is denied, all subscriptions shall be refunded.
- (b) No person shall be entitled to exercise any of the privileges of a member until they have paid all subscriptions due by them.
- (c) The Committee shall have the right to refuse to admit any person to membership without assigning any reason for doing so.
- (d) On the acceptance of each candidate, the Secretary shall notify the same to them, and they shall on payment of their subscription be enrolled as a member of The Club, and become entitled to the privileges and be bound by its rules and by all consequences resulting from breach or non-performance thereof, and shall thereby absolve every

person concerned in carrying out enforcing such rules from all personal responsibility or legal liability on such account.

- (e) Life Member – A member may propose another member for Life Membership to the Committee in writing giving reasons that Life Membership should be granted.
  - (i) A General Meeting may, upon a majority vote of equal to, or greater than 75%, confer Life Membership on a member who has rendered special and outstanding services to The Club.
  - (ii) The holder of a Life Membership shall be entitled to all privileges of an ordinary member, be exempt from subscriptions but shall pay any levies and capitation fees.

### **7. Member's Rights**

- (a) The rights and privileges of every member shall be personal and shall not be in any manner transferable by their own act or through any other person on their behalf or by operation of law.
- (b) Only Ordinary Members and Life Members shall be entitled to voting rights. Junior, Temporary, Reciprocal, Social, Special Circumstance, Honorary and Corporate Members shall not be entitled to voting rights.
- (c) Employees – members who are employees of The Club are entitled to all the rights and privileges of membership excluding those rights concerned with the selection, election and holding of office with The Club.
- (d) All members, upon successful registration, will be supplied with an electronic copy of The Club Constitution or will be directed to obtain a copy of The Club Constitution from The Club's website.
- (e) Upon acceptance to membership, all members agree to be bound by The Club Code of Conduct.
  - (i) Guests – Ordinary, Social, Corporate and Life Members shall be at liberty to invite guests to The Club, but the number of guests shall not exceed the maximum number as contained in Section 48(4)(b) of the Liquor Act. A guest may attend the club a maximum of 3 times before they must apply for membership.
- (f) Ordinary, Social, Corporate and Life Members may hold private family and business functions without limit to number of guests, providing that the sale of liquor shall be:
  - (i) ancillary to a meal supplied at The Club by or on behalf of The Club to the member and to each of the guests of that member being guests of whose attendance was given prior notice to The Club; or
  - (ii) to the member, for consumption by the guests of that member at a function held by or on behalf of that member at The Club
- (g) Functions – Ordinary, Social, Corporate and Life Members are entitled to host functions on The Club premises after written application for said function has been considered and approved by the Committee.
  - (i) The Secretary or Function Manager will furnish the applicant with a written copy of Club rules relating to functions after the application has been approved and any additional conditions and restrictions it shall see fit.



- (h) Upon request, a member is able to inspect the Books of the Association at such time and place as is mutually convenient to The Club and the member.
  - (i) A member must contact the Secretary to request an inspection of the Register of Members.
  - (ii) The member may make a copy of details from the Register of Members but has no right to remove the Register for that purpose.
  - (iii) A member may make a request in writing for a copy of the Register of Members.
  - (iv) The Club may charge a reasonable fee to the member for providing a copy of the Register of Members, the amount to be determined by the Committee from time to time.
  - (v) A member must not use or disclose the information on the Register of Members:
    - 1. To gain access to information that a member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
    - 2. To contact, send material to The Club or a member for the purpose of advertising for political, religious, charitable or commercial purposes, or
    - 3. For any other purpose unless the use of the information is approved by the Committee and for a purpose:
      - a. That is directly connected with the affairs of The Club; or
      - b. Related to the provision of the information to the Commissioner in accordance with a requirement of the Act.
  - (vi) The Committee may require a member who requests a copy of the Register of Members to provide a statutory declaration setting out the purpose of the request and declaring that the purpose is connected with the affairs of The Club.

### **8. Subscriptions**

- (a) The nomination fee and annual subscription of The Club shall be set by majority vote of the Committee prior to the commencement of the financial year.
- (b) Notice of the fees and subscriptions shall be notified to the members via The Club notice board and website.
- (c) All subscriptions are due from the first day of July and are payable in advance, on or before 31<sup>st</sup> August provided that:
  - (i) the Committee shall not declare a member un-financial if at least half of the subscription is paid by 31<sup>st</sup> August in the current year; and
  - (ii) the balance of the subscription is paid by 30<sup>th</sup> September in the current year

### **9. New Members**

- (a) Subscriptions must be paid within two weeks of acceptance and shall be paid as follows:
  - (i) If accepted between 1 July and 30 September – Full annual subscription
  - (ii) If accepted between 1 October and 31 December – 75% annual subscription
  - (iii) If accepted between 1 January and 31 March – 50% annual subscription

- (iv) If accepted between 1 April and 30 June – 25% annual subscription

#### **10. Liability for Subscription**

- (a) Any existing financial member who does not notify the Secretary in writing before the date of the Annual Meeting of his or her withdrawal from The Club shall be liable for the subscription for the current club year.
- (b) The Committee shall have the power by resolution to remove from the roll of members the name of any new member who fails to pay his or her subscription within two weeks from the date of his or her acceptance.
- (c) Any member whose subscription is in arrears after 30<sup>th</sup> September in each year shall cease to be a member, subject to Section 10(c).
- (d) A member who is considered by the Management Committee to be going through a genuine hardship may be eligible for consideration for their membership category to be converted to Special Circumstance membership as per Section 5(b)(ix).

#### **11. General Meetings – Annual General Meeting**

- (a) The Annual General Meeting of members shall be held every calendar year within six months after the end of The Club's financial year, with the Committee to determine the date, time and place.
- (b) All Notices of Motion for consideration at the Annual Meeting must be handed to the Secretary in writing by 5pm no less than fourteen (14) days prior to the date set for said meeting.
- (c) Notice of the meeting (including date, time and location) and agenda items, including wording of Notices of Motion or proposed resolutions, must be posted on The Club notice board for seven (7) days before the date of the meeting for all members to read. If the resolution is intended to be proposed as a special resolution this will also be stated in the notice with the wording of the proposed special resolution.
- (d) Members who have provided an email address will also be emailed a copy of the notice of the meeting, agenda items and any Notices of Motion.
- (e) The quorum at an Annual Meeting will be constituted by ten (10) financial members or ten percent (10%) of the financial members eligible to vote, whichever is the lesser.
- (f) In the case of insufficient members to form a quorum being present after 30 minutes following the advertised start time for an Annual Meeting, said meeting will be automatically adjourned to re-convene at the same time within fourteen (14) days and shall proceed with or without a quorum.
- (g) The Chairman of the meeting shall be The Club Commodore or if not available a person nominated and elected by the members present.
- (h) Only members with voting rights, as per the Constitution, will be permitted to vote on matters at the Annual Meeting. Each individual financial member with a voting right shall have one vote.
- (i) The Chairperson shall have a deliberate vote and shall decide all questions of order unless otherwise provided by these rules.

- (i) In the event of a tied vote, the Chairperson shall exercise a casting vote in the negative.
- (ii) An Absentee vote may be accepted provided the apology of the financial member eligible to vote has been recorded prior to the commencement of the General Meeting.
- (j) The order of business at the Annual Meeting shall be as follows:
  - (i) Reading notice of meeting.
  - (ii) Reading minutes of the last Annual Meeting and any other General Meeting not yet confirmed and confirming or amending same.
  - (iii) Reading Commodore's Report, discussion and adoption or otherwise.
  - (iv) Reading Statement of Accounts and Balance Sheet to be received or otherwise.
  - (v) Election of Management Committee.
  - (vi) Election of Club Auditor.
  - (vii) Vote of thanks to the outgoing Committee.
  - (viii) Special Business of which Notice of Motion has been given.
  - (ix) Other Business.

## **12. General Meetings – Special General Meeting**

- (a) The Management Committee may at any time call a Special General Meeting.
- (b) A Special General Meeting shall also be called by the Committee on a requisition signed by no less than ten percent (10%) of members with voting rights, stating in detail the purpose of the meeting.
- (c) Notice of the meeting (including date, time and location) and agenda items, including wording of Notices of Motion or proposed resolutions, must be posted on The Club notice board for fourteen (14) days before the date of the meeting for all members to read. If the resolution is intended to be proposed as a special resolution this will also be stated in the notice with the wording of the proposed special resolution.
- (d) Members who have provided an email address will also be emailed a copy of the notice of the meeting, agenda items and any Notices of Motion.
- (e) Only business of which notice shall have been given as above, or in accordance with these rules, shall be transacted at a Special General Meeting.
- (f) Ten (10) financial members or ten percent (10%) of the financial members eligible to vote, whichever is the lesser, shall form a quorum.
- (g) In the case of insufficient members to form a quorum being present after 30 minutes following the advertised start time for a Special General Meeting, said meeting will be automatically adjourned to re-convene at the same time within fourteen (14) days and shall proceed with or without a quorum.
- (h) Only members with voting rights, as per the Constitution will be permitted to vote on matters at the Special General Meeting. Each individual financial member with a voting right shall have one vote.

- (i) The Chairperson shall have a deliberate vote and shall decide all questions of order unless otherwise provided by these rules.
  - (i) In the event of a tied vote, the Chairperson shall exercise a casting vote in the negative.
  - (ii) An Absentee vote may be accepted provided the apology of the financial member eligible to vote has been recorded prior to the commencement of the General Meeting.

### **13. General Provisions for General Meetings**

- (a) General Meetings may take place:
  - (i) where the members are physically present together; or
  - (ii) where the members are able to communicate by using any technology that reasonably allows the member to participate fully in discussions as they happen in the General Meeting and in making any decisions, provided that the participation of the member in the General Meeting must be made known to all other members.
- (b) A member who participates in a meeting as set out in Section 13(a)(ii):
  - (i) is deemed to be present at the General Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum until the Member notifies the other members that he or she is no longer taking part in the General Meeting.

### **14. General Provision**

- (a) No member shall be entitled to take any legal action against The Club, other than a claim following Committee approval of a written quotation for goods sold and delivered and services rendered, and must conform to the decisions of the Committee and in the case of an appeal, to the decision of the General Meeting to which he or she may appeal.
- (b) These rules shall be the rules of The Club and shall be binding on members.
- (c) Correct accounts and books shall be kept showing the financial affairs of The Club and the particulars usually shown in books of accounts of a like nature.
- (d) No liquor shall be sold or supplied for consumption other than on The Club's premises, as per The Club's restricted club licence.
- (e) The clubhouse and other club facilities are to be provided and maintained from the joint funds of The Club and no person shall be entitled under these rules to derive any benefit or advantage from The Club which is not shared equally by every member thereof.
- (f) Section 14(e) does not prevent:
  - (i) the payment in good faith of remuneration to any officer, employee or member in return for any services actually rendered to The Club or for goods supplied in the ordinary and usual course of business;
  - (ii) the payment of interest at a rate not exceeding the prevailing market rate published by the Reserve Bank of Australia as the "Cash Rate Target" from time to time on money borrowed from any Member;

- (iii) the payment of reasonable and proper rent by The Club to a member for premises leased by the member to The Club; or
- (iv) the reimbursement of expenses incurred by any member or any Committee Member on behalf of The Club.
- (v) the reimbursement of a Committee Member's travelling and other expenses as properly incurred:
  - 1. in attending Committee Meetings or sub-committee meetings;
  - 2. in attending any General Meetings of The Club; and
  - 3. in connection with The Club's business.
- (vi) The payment of an honorarium to Committee Members as determined by members by special resolution at an Annual or Special General meeting.

### **15. Election of Office Bearers**

- (a) The management of The Club shall be vested in a Management Committee consisting of a maximum of 10 committee persons elected for a one (1) year term.
- (b) The annual election of officers shall be by ballot at each Annual Meeting in the presence of the returning officer and two scrutineers elected by the members present at such meeting.
  - (i) Members unable to attend the meeting may lodge a vote on The Club approved ballot paper with the Secretary at least two (2) days prior to the meeting, having also recorded and signed an apology for the meeting on an outer sealed envelope that contains the sealed ballot paper.
    - 1. This approved ballot paper must be distributed directly to the member by the Secretary.
  - (ii) All other votes shall be cast at the Annual Meeting.
- (c) Nominations for individual positions on the Management Committee must be in writing signed by the proposer and nominee and must be in the hands of the Secretary by 5pm not less than seven (7) days before the Annual General Meeting.
- (d) The nominations shall be exhibited on the notice board and electronically posted at least three (3) days prior to the said meeting.
- (e) In case no more than the required number of officers shall be nominated, those so nominated shall be declared elected.
- (f) If there shall be insufficient nominations to fill the whole of the vacancies of the list of officers, those nominated shall be declared elected and shall have power to fill the vacancies and any casual vacancies that may occur.

### **16. The Management Committee and Conditions**

- (a) The Management Committee shall consist of:
  - (i) Commodore
  - (ii) Vice Commodore
  - (iii) Rear Commodore(s) of Sail and/or Power

- (iv) Secretary
  - (v) Treasurer
  - (vi) Bar Manager
  - (vii) Committee Members – up to three.
- (b) The Executive positions on the Management Committee shall be Commodore, Vice Commodore, Secretary, Treasurer and any other as determined by the full Committee.
- (c) The Manager of The Club may attend all Committee Meetings to give their report and then leave at the discretion of the Committee.
- (d) The quorum at all Committee Meetings shall be five (5) members.
- (e) Committee Meetings may take place:
- (i) where the Committee Members are physically present together; or
  - (ii) where the Committee Members are able to communicate by using any technology that reasonably allows the Committee Member to participate fully in discussions as they happen in the Committee Meeting and in making decisions, provided that the participation of the Committee Member in the Committee Meeting must be made known to all other Members.
- (f) A Committee Member who participates in a meeting as set out in Section 16(e)(ii):
- (i) is deemed to be present at the Committee Meeting; and
  - (ii) continues to be present at the meeting for the purposes of establishing a quorum, until the Committee Member notifies the other Committee Members that he or she is no longer taking part in the Committee Meeting.
- (g) The Committee may pass a resolution outside a Committee Meeting if:
- (i) Identical copies of a document are circulated to each Committee Member detailing:
    - 1. Motion
    - 2. Mover
    - 3. Seconder
  - (ii) The document shall be circulated:
    - 1. By email to address on Register of Members
    - 2. In person
  - (iii) All Committee Members shall:
    - 1. Return circulated document through email or in person, indicating acceptance or rejection of the motion; or
    - 2. Reply to email, quoting the motion and indicating acceptance or rejection of the motion.
  - (iv) Taken together, all signed copies of the document will constitute the same document.
  - (v) The resolution shall be decided by a majority vote after all Committee Members have cast a vote under Section 16(g)(iii).

- (h) Committee Meetings shall be held monthly.
  - (i) Special Meetings may be called by the Commodore, Secretary or on the request of three members of the Committee.
  - (j) The distribution of Committee Meetings minutes shall be by email.
  - (k) All members, or other guests, may attend Committee Meetings if invited by the Committee but the person shall not have any right to comment without invitation, or vote on any matter, or to be provided with copies of any agenda, minutes of meetings, or documents presented to such meetings.
  - (l) No member of the Committee shall be held to have resigned his/her seat until his/her resignation, in writing, has been accepted by the Committee.
  - (m) Committee Vacancies
    - (i) Any vacancy occurring in the Committee as per Section 17 may be filled at a meeting of the Committee when a member may be elected to fill such a vacancy until the next election provided the member elected at such Committee meeting shall hold office in the place of, and upon the same terms and conditions as their predecessor, had the latter continued in the office.
    - (ii) In the vacancy of the Commodore then the Vice Commodore shall become Commodore.
    - (iii) A casual vacancy of Vice Commodore shall be filled by the Committee from a member of the Management Committee.
    - (iv) If vacancies in the Management Committee result in the number of Committee Members being less than the number fixed under Section 16(d), the continuing Committee Members may act to only:
      - 1. increase the number of members on the Committee to the number required for a quorum; or
      - 2. convene a General Meeting of The Club.
- Voting outside of meetings will only be allowed for the election of office bearers as detailed in Section 15.*
- (n) The Commodore shall preside at all meetings of the Committee of The Club and, in his or her absence the Vice Commodore.
    - (i) Should neither be present, the meeting shall elect a Chairperson.
  - (o) All resolutions of the Committee shall be decided by a majority vote of all those present.
    - (i) The Commodore or Chairperson shall have a deliberate vote.
    - (ii) In the event of a tied vote, the Commodore or Chairperson shall exercise a casting vote in the negative. The Chairperson will refer the matter for further discussion at another meeting.
  - (p) The Commodore or in his or her absence, the Vice Commodore shall be authorised to speak on behalf of The Club.
  - (q) Any act performed by the Committee, a Sub-committee or a person acting as a Committee Member is deemed to be valid even if the act was performed when:

- (i) there was a defect in the appointment of a Committee Member, sub-committee or person holding a subsidiary office; or
- (ii) a Committee Member, a sub-committee member or a person holding a subsidiary office was disqualified from being a Committee/sub-committee member as per Section 19(g) or 19(h) as a result of bankruptcy or conviction of a relevant criminal offence.

#### **17. Ceasing to be a member of the Management Committee**

- (a) A casual vacancy occurs in the office of a Committee Member and that office becomes vacant if the Committee Member:
  - (i) dies;
  - (ii) ceases to be a member;
  - (iii) becomes disqualified from holding a position under Section 19(g) or 19(h) as a result of bankruptcy or conviction of a relevant criminal offence;
  - (iv) becomes permanently incapacitated by mental or physical ill-health;
  - (v) resigns from office under Section 16(l);
  - (vi) is absent from more than:
    - 1. three consecutive Committee Meetings without a good reason; or
    - 2. three Committee Meetings in the same Financial Year without tendering an apology to the person presiding at each of those Committee Meetings,
  - (vii) is removed from office by resolution at a General Meeting of The Club if a majority of the Members present and with voting rights at the meeting vote in favour of the removal.
    - 1. The Committee Member who faces removal from the Committee must be given a full and fair opportunity at the General Meeting to decide the proposed resolution, to state his or her case as to why the Member should not be removed from his or her position on the Committee.
    - 2. If all Committee Members are removed by resolution at a General Meeting, the members must, at the same General Meeting, elect an interim Committee.
    - 3. The interim Committee must, within two months, convene a General Meeting of The Club for the purpose of electing a new Committee.

#### **18. Powers of the Committee**

- (a) The business of The Club shall be managed by the Committee who may exercise all powers of The Club, except those required to be exercised by The Club at a General Meeting.
- (b) Without prejudice to the powers conferred by the last preceding rule, the Committee shall, subject to the by-laws, have power to do the following things:
  - (i) To purchase or otherwise acquire any books, newsletters or periodicals and dispose of them as it may see fit.



- (ii) To determine from time to time the conditions on which and time when, members may use the property of The Club or any part or parts thereof, and when and under what conditions the premises of The Club or any part or parts thereof, shall be used by members.
- (iii) To determine what person, if any, not being members of The Club shall be permitted to use the premises of The Club or any part or parts thereof and during what time and under what conditions and when and at what times and places and under what conditions such persons shall be supplied with refreshments and accommodation.
- (iv) To appoint any other officials or servants of The Club and to remove them as occasions may require at their discretion and to define their respective duties. Persons appointed to paid positions shall be engaged under a contract, award or classification of work in the Registered and Licensed Clubs Award (2010) and its amendments, or the Cleaning Services Award (2010) and its amendments.
- (v) To delegate, subject to such conditions as it thinks fit any of its powers to sub committees consisting of such members of the Committee and other members of The Club co-opted for the purpose as it may determine and to make such regulations as to the proceedings of such sub committees as may be thought desirable.
- (vi) To regulate and control their own meeting and the transaction of business.
- (vii) To reimburse expenses of any servant of The Club for faithful and diligent service as deemed fit.
- (viii) In accordance with the Constitution, to suspend, or expel any member.
- (ix) To enter into or accept any lease or tenancy of the premises where on The Club shall conduct its affairs or of any furniture, goods and effects, which may be required for the use of The Club on such terms and on such conditions as The Club may deem expedient.
- (x) To take and defend all legal proceedings by or on behalf of The Club and to appoint all necessary Attorneys for any such purpose.
- (xi) To borrow, raise or secure the payment of money, and to sell and dispose of the assets of The Club up to \$1,000.00.
- (xii) To make, alter and repeal by-laws not inconsistent with these rules regulating the use and management of The Club premises, the admission of members and the conduct of The Club and its affairs generally.
- (xiii) To do and perform any other act, matters and things in connection with or relative to the management of The Club as shall not by these rules require to be done by The Club in General Meetings.
- (xiv) To appoint such number of delegates to sporting bodies and associations with which The Club may from time to time be affiliated as may be required by the rules thereof and such delegates shall hold office in accordance with the rules of such sporting bodies and associations respectively.
- (xv) Every member of the Committee shall be indemnified against any loss, expenses or liability incurred by reason of any act or deed performed by him/her in good faith on behalf of the Committee and the Committee may use the funds of The Club for

any such purpose required, together with any reasonable expenses incidental to Committee activities.

## **19. Role and Responsibilities of Committee Members**

### **(a) Obligations of the Committee**

- (i) The Committee must take all reasonable steps to ensure The Club complies with its obligations under the Act and these Rules.

### **(b) Responsibilities of Committee Members**

- (i) A Committee Member must exercise his or her powers and discharge his or her duties with a degree of care and diligence that a reasonable person would exercise in the circumstances.

- (ii) A Committee Member must exercise his or her powers and discharge his or her duties in good faith in the best interests of The Club and for a proper purpose.

- (iii) A Committee Member or former Committee Member must not improperly use information obtained because he or she is a Committee Member to:

1. gain an advantage for himself or herself or another person; or
2. cause detriment to The Club.

- (iv) A Committee Member or former Committee Member must not improperly use his or her position to:

1. gain an advantage for himself or herself or another person; or
2. cause detriment to The Club.

### **(c) A Committee Member having any material personal interest, i.e.: financial or non-financial interests, in a matter being considered at a Committee Meeting must:**

- (i) as soon as he or she becomes aware of that interest, disclose the nature and extent of his or her interest to the Committee;
- (ii) disclose the nature and extent of the interest at the next General Meeting of The Club; and
- (iii) not be present while the matter is being considered at the Committee Meeting or vote on the matter.

### **(d) Section 19(c) does not apply in respect of a material personal interest that:**

- (i) exists only because the Committee Member belongs to a class of persons for whose benefit The Club is established; or
- (ii) the Committee Member has in common with all, or a substantial proportion of, the members of The Club.

### **(e) The Secretary must record every disclosure made by a Committee Member under Section 19(c) in the minutes of the Committee Meeting at which the disclosure is made.**

- (f) No Committee Member shall make any public statement or comment or cause to be published any words or article concerning the conduct of The Club unless the person is authorised by the Committee to do so and such authority is recorded in the minutes of the Committee Meeting.

- (g) No person shall be entitled to hold a position on the Committee if the person has been convicted of, or imprisoned in the previous five years for:
- (i) an indictable offence in relation to the promotion, formation or management of a body corporate;
  - (ii) an offence involving fraud or dishonesty punishable by imprisonment for a period of not less than three months; or
  - (iii) an offence under Part 4 Division 3 or section 127 of the Act;
- unless the person has obtained the consent of the Commissioner.

- (h) No person shall be entitled to hold a position on the Committee if the person is, according to the Interpretation Act section 13D, a bankrupt or a person whose affairs are under insolvency laws unless the person has obtained the consent of the Commissioner.

As soon as is practicable after a person has ceased to be a member of the Management Committee of The Club, all relevant documents, records as defined in By-Law 1 and security items (including passwords and keys) must be delivered to a member of the Management Committee of The Club.

- (i) The roles, responsibilities and duties of each Management Committee position are defined in By-Law 2.

## **20. Commodore/Chairperson**

- (a) The Commodore/Chairperson:
- (i) must consult with the Secretary regarding the business to be conducted at each Committee Meeting and each General Meeting
  - (ii) may convene special meetings of the Committee under Section 16(i)
  - (iii) may preside over Committee Meetings under Section 16(n)
  - (iv) may preside over General Meetings under Sections 11 and 12; and
  - (v) must ensure that the minutes of a General Meeting or Committee Meeting are reviewed and signed as correct.
- (b) The roles and responsibilities of the Commodore are further defined in By-Law 2(a).

## **21. Secretary**

- (a) The Secretary must:
- (i) co-ordinate the correspondence of The Club
  - (ii) consult with the Commodore/Chairperson about all business to be conducted at meetings and convene General Meetings and Committee Meetings, including preparing the notices of meetings and of the business to be conducted at each meeting;
  - (iii) maintain the Register of Members including the email, street, postal address or information by means of which contact can be made of each member;
  - (iv) update the Register within 28 days of new members, members resigning, members suspended/expelled and in the latter case, include date in which member ceases and reasons for cessation of membership.

- (v) maintain the record of office holders of The Club.
    - 1. Committee Members may nominate a business address, post office box address or email address to be used in the record in place of their personal address;
  - (vi) ensure the safe custody of the Books, with the exception of the Accounting Records, of The Club;
  - (vii) keep full and correct minutes of Committee Meetings for approval at the next Management Committee meeting, which will then be stored electronically and distributed via email;
  - (viii) keep full and correct minutes of General Meetings, which will be distributed to all members within fourteen (14) days of the General Meeting via email or post, and will be tabled for adoption at the next General Meeting; and
  - (ix) perform any other duties as are imposed by these Rules or The Club on the Secretary/Manager.
- (b) The Secretary may delegate one or more tasks to one or more Club members as required.
- (c) The roles and responsibilities of the Secretary are further defined in By-Law 2(b).

## **22. Treasurer**

- (a) The Treasurer must:
- (i) ensure all moneys payable to The Club are collected, and that receipts are issued for those moneys in the name of The Club;
  - (ii) ensure the payment of all moneys referred to in Section 22(a)(i) into the account or accounts of The Club as the Committee may from time to time direct;
  - (iii) ensure timely payments from the funds of The Club with the authority of a General Meeting or of the Committee, with all cheques, drafts, bills of exchange, promissory notes and other negotiable instruments of the Association signed by two (2) Committee Members.
  - (iv) ensure that The Club complies with the account keeping requirements in Part 5 of the Act;
  - (v) ensure the safe custody of the Financial Records of The Club and any other relevant records of The Club;
  - (vi) perform any other duties as are imposed by these Rules or The Club on the Treasurer.
- (b) The roles and responsibilities of the Treasurer are further defined in By-Law 2(c).

## **23. Sub-Committees**

- (a) The Committee may delegate any of its delegable powers to Sub-Committees consisting of such Ordinary Members as it thinks fit.
- (b) Such Sub-Committee must report to and be responsible to the Committee.

- (c) No act of any Sub-Committee shall be binding on the Committee or Club until ratified by the Committee.
- (d) The Chair must be an existing member of the Committee.
- (e) Any member of the Committee may attend a Sub-Committee Meeting.
- (f) A Guest may attend a Sub-Committee meeting if invited by the Sub-Committee.

#### **24. Auditors**

- (a) There shall be an Auditor, not a member of the Committee, who shall be elected at the Annual General Meeting.
- (b) The Auditor shall be independent to The Club.
- (c) Such Auditor shall audit the accounts and have power at any time to call for all books, papers, accounts, etc. relating to the affairs of The Club.
- (d) The Auditor shall be entitled to receive such remuneration as the Committee may determine from time to time.
- (e) If any casual vacancy occurs in the office of any Auditor appointed by The Club, the Committee will fill the appointment until the next Annual General Meeting.

#### **25. Alteration and Repeal of Rules**

- (a) No repeals of any existing Rules and no new Rules or alteration, amendments or suspensions of a Rule shall be valid unless a special resolution is carried by a 75% majority of members present and with voting rights at a General or Special General Meeting and by otherwise complying with Part 3 Division 2 of the Act.
- (b) Notices of motions to repeal, alter or suspend any Rule shall be given to the Secretary at least twenty-one (21) days preceding the Annual or Special General Meeting at which the motion shall be presented. The Secretary shall exhibit the proposal on The Club notice board at least fourteen (14) days prior to such meeting.
- (c) Within one month after the making of any amendment or addition to the Rules of The Club, passed by special resolution, the Management Committee shall submit the required documents to the Commissioner. No effect will be given to the amendments without the approval of the Commissioner.

#### **26. Suspension or Expulsion of Members**

- (a) The Committee shall have the power to reprimand, suspend or expel any member of The Club.
- (b) The Commodore, Committee or Approved Manager in receiving a complaint from the Approved Manager or Approved Bar Staff, of a member's behaviour which is considered a serious breach of the Liquor Act or acceptable member behaviour or where police involvement is required, may suspend a member for a period of time until disciplinary action under Section 26(f) can be taken.
- (c) The Committee is required to exempt any member of that Committee from hearing a charge in which he or she has an interest.

- (d) If a responding member or a representative of the responding member does not attend within 30 minutes of the time stated on the hearing notice, the hearing may start without that member or his or her representative and determination will be made at the hearing, with no recourse from the member.
- (e) The Committee shall apply the power to reprimand, suspend or expel any member of The Club who:
  - (i) fail in the observance or commit any breach of any rule of The Club, members Code of Conduct, or any by-law of The Club or of any order or direction of the Management Committee or of any General Meeting; and/or
  - (ii) in the sole judgement of the Committee have been guilty of any act, conducted matter or thing calculated to bring discredit on The Club or its members, or to impair or affect the enjoyment of The Club by other members
- (f) Any member charged with misconduct as above shall be furnished with a written copy of the charge and summoned before the Committee with no less than seven (7) days' notice.
  - (i) The Committee shall after hearing the accuser and accused and taking such evidence as they may consider proper, if they find the charge proved, inflict a penalty of suspension from all or any of the privileges of membership.
  - (ii) If the Committee consider that on a charge of gross misconduct suspension as above is insufficient, they may call on the member to resign, and if he or she neglects to resign within ten (10) days they may declare him or her to be expelled.
  - (iii) If a Member is suspended or expelled under Section 26(f)(i) or 26(f)(ii), the person may appeal the Committee's decision through a Special General Meeting by giving written notice to the Secretary within fourteen (14) days of receiving notice of the Committee's decision under Section 26(f)(i) or 26(f)(ii).
- (g) Members are not permitted to have legal representation attend any disciplinary matters, but may bring another member to act in a support capacity only.
- (h) If a member's membership is suspended under Section 26(f)(i), the Secretary must record in the Register:
  - (i) the name of the member that has been suspended from membership;
  - (ii) the date on which the suspension takes effect; and
  - (iii) the length of the suspension as determined by the Committee under Section 26(f)(i)
- (i) During the period a member's membership is suspended, the member —
  - (i) loses any rights (including voting rights) arising as a result of membership;
  - (ii) is not entitled to a refund, rebate, relief or credit for membership fees paid to The Club; and
  - (iii) cannot attend the club as a Guest of a member, unless prior written authorisation is received by the Management Committee.
- (j) Upon the expiry of the period of a Member's suspension, the Secretary must record in the Register that the member is no longer suspended.
- (k) If the Committee's decision to suspend or expel a member is revoked under these Rules, any act performed by the Committee or members in a General Meeting during the period that the member was suspended or expelled from membership under Section 26(f), is

deemed to be valid, notwithstanding the member's inability to exercise their rights or privileges of membership, including voting rights, during that period.

## **27. Resolving Disputes**

### **(a) Disputes Arising under the Rules**

- (i) Section 27(a) applies to:
  - 1. Disputes between Members; and
  - 2. Disputes between The Club and one or more Members that arise under the Rules or relate to the Rules of The Club. This does not include disciplinary matters undertaken with club members, which are covered only under Section 26 of The Club Constitution.
- (ii) The parties to a dispute must attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.
- (iii) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this Rule by giving written notice to the Secretary of the parties to, and details of, the dispute.
- (iv) The Secretary must convene a Committee Meeting within twenty-eight (28) days after the Secretary receives notice of the dispute under Section 27(a)(iii) for the Committee to determine the dispute.
- (v) At the Committee Meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases orally, in writing or both.
- (vi) The Secretary must inform the parties to the dispute of the Committee's decision and the reasons for the decision within seven (7) days after the Committee Meeting referred to in Section 27(a)(v).
- (vii) If any party to the dispute is dissatisfied with the decision of the Committee they may elect to initiate further dispute resolution procedures as set out in the Rules.

### **(b) Mediation**

- (i) Section 27(b) applies:
  - 1. where a person is dissatisfied with a decision made by the Committee under Section 26(f) or Section 27(a) or
  - 2. where a dispute arises between a Member or more than one Member and The Club and any party to the dispute elects not to have the matter determined by the Committee.
- (ii) Where the dispute relates to a proposal for the suspension or expulsion of a Member this Rule does not apply until the procedure under Section 26(f) in respect of the proposed suspension or expulsion has been completed.
- (iii) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Section 27(a)(ii), or a party to the dispute is dissatisfied with a decision made by the Committee under Section 27(a)(vii) a party to a dispute may:

1. Provide written notice to the Secretary of the parties to, and the details of, the dispute;
  2. Agree to, or request the appointment of, a mediator.
- (iv) Party, or parties requesting the mediation must pay the costs of the mediation.
- (v) The mediator must be:
1. a person chosen by agreement between the parties; or
  2. in the absence of agreement:
    - a. if the dispute is between a member and another member – a person appointed by the Committee; or
    - b. if the dispute is between a member or more than one member and The Club, the Committee or a Committee Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.
- (vi) A member can be a mediator, but the mediator cannot be a member who is a party to the dispute.
- (vii) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (viii) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least fourteen (14) days before the mediation session.
- (ix) The mediator, in conducting the mediation, must:
1. give the parties to the mediation process every opportunity to be heard;
  2. allow all parties to consider any written statement submitted by any party; and
  3. ensure that procedural fairness is accorded to the parties to the dispute throughout the mediation process.
- (x) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.
- (c) Inability to Resolve Disputes**
- (i) If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law, at their own expense.
- (d) Disputes during Sailing Events**
- (i) The handling of all disputes occurring during a sailing event will be referred to the current Australian Sailing Blue e-Book Racing Rules of Sailing, and Special Regulations Part 2 for Off the Beach Boats.

## 28. Liquor Act



- (a) The Club shall ensure a Duty Manager is on the licensed premises for the purposes of observing liquor licensing requirements and regulations, as required under the Liquor Act.
- (b) The Club shall be open for sale of liquor during such hours as The Committee shall from time to time determine and as permitted under the Liquor Act.
- (c) No liquor shall be sold or supplied to any juvenile.
- (d) The club may allow visitors onto the premises, as per the requirements of the Liquor Act.
  - (i) Visitors shall not be entitled to be present at any meeting of the members of The Club, nor have any right, title or interest in or to any of the property of The Club.
  - (ii) Any club official, including bar persons, acting on the best interests of The Club may ask a visitor to leave The Club's premises.
  - (iii) an up-to-date register of visitors must be continually available for inspection at The Club premises by authorised officers.

### **29. Common Seal**

- (a) The Club shall have a Common Seal, which shall be kept in the custody of the Secretary and shall not be affixed to any document except by the authority of the Committee and in the presence of one member of the Committee.
- (b) Any document to which the Common Seal is affixed shall be countersigned by the Secretary or an officer appointed by the Committee for that purpose.
- (c) The Club may execute a document without using a Common Seal if the document is signed by any two Committee Members.

### **30. Dissolution of the Club**

- (a) The Club may cease its activities and have its incorporation cancelled in accordance with Part 10 of the Act:
  - (i) after the Committee has determined the association is able to pay or meet its debts and liabilities; and
  - (ii) the members resolve by Special Resolution that The Club will:
    1. apply to the Commissioner for cancellation of its incorporation; or
    2. appoint a liquidator to wind up its affairs
- (b) The Club must be wound up in accordance with Part 9 of the Act if:
  - (i) the Committee has determined the association is unable to pay or meet its debts and liabilities; or
  - (ii) is party to any current legal proceedings; or
  - (iii) has any other outstanding legal obligations.
- (c) Upon cancellation of The Club, the surplus property must only be distributed to one or more of the following:
  - (i) an incorporated association under the Act;
  - (ii) a body corporate that at the time of the distribution is the holder of a licence under the charitable collections legislation in Western Australia;

- (iii) a company limited by guarantee that is registered as mentioned in section 150 of the Corporations Act 2001 (Cwth);
- (iv) a company holding a licence that continues in force under section 151 of the Corporations Act 2001 (Cwth);
- (v) a body corporate that:
  - 1. is a member or former member of The Club; and
  - 2. at the time the surplus property is distributed, has rules that prevent the property being distributed to its members;
- (vi) a trustee for a body corporate referred to in Section 30(c)(v); or
- (vii) a co-operative registered under the Co-operatives Act 2009 that, at the time of the distribution, is a non-distributing co-operative as defined in that Act.