



CRUISING YACHT CLUB OF SA INC

CONSTITUTION

(Incorporating amendments made 23 September 2021)

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PART ONE – NAME OBJECTS AND POWERS**1. Name**

The name of the Club shall be The Cruising Yacht Club of South Australia Inc (in this document called “the Club”).

2. Objects

The objects for which the Club is formed are:

- 2.1 to encourage and promote within the greater community the sports of yachting, fishing, power boating, sea and ocean cruising and such other sports and games as the Club may consider appropriate;
- 2.2 to encourage competitive yachting by the support and promotion of competitive racing including regattas and the giving of prizes and by any other means which may from time to time be determined by the Club;
- 2.3 to provide, develop and maintain mooring and hardstanding facilities as the Club may determine from time to time and to grant licences to occupy such mooring and hardstanding facilities to Senior Members, Life Members and Berth Licensees of the Club and to accept surrenders of such licences;
- 2.4 to provide and maintain club houses and other buildings and any other things, facilities and services which the Club may from time to time decide upon to encourage such sports and for the use, benefit and enjoyment of the Club members and the public; and
- 2.5 to provide education coaching and youth development programs to encourage participation and achievement in such sports.

3. Powers

To carry out its object the Club shall have power:

- 3.1 to acquire, hold, deal with and dispose of, any real or personal property;
- 3.2 to administer any property on trust;
- 3.3 to open and operate accounts with an approved deposit taking institution;
- 3.4 to invest its monies:
 - 3.4.1 in any security in which trust monies may by Act of Parliament be invested; or
 - 3.4.2 in any other manner authorised by this document;
- 3.5 to borrow money upon such terms and conditions as the Club thinks fit;

- 3.6 to give such security for the discharge of liabilities incurred by the Club as the Club thinks fit;
- 3.7 to appoint agents to transact any business of the Club on its behalf; and
- 3.8 to enter into any other contract it considers necessary or desirable.

4. Additional Powers

Without limiting the powers of the Club in Clause 3 and to further carry out its objects, the Club shall have the following additional powers:

- 4.1 to establish, maintain and operate one or more special purpose funds on terms authorised by this document or on terms and conditions as the Board thinks fit;
- 4.2 to attain any of the objects of the Club by entering into any arrangement with or by co-operating with or by entering into a joint venture with any person, body corporate, trust, statutory or other authority or Government and to apply for and obtain from any Government or authority any rights, privileges, concessions, leases, permits and licences which the Club may consider necessary or convenient and to carry out, exercise, and comply with any such arrangements, rights, privileges, concessions, leases, permits and licences;
- 4.3 to invest and deal with the money of the Club in such manner as may from time to time be thought fit and to take or otherwise acquire and hold shares, debentures or other securities;
- 4.4 to lend and advance money or give credit to any person or incorporated body and to guarantee and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or incorporated body and to secure or undertake in any way the repayment of monies lent or advances to or the liabilities incurred by any person or incorporated body or otherwise to assist any person or incorporated body;
- 4.5 to borrow or raise money in such manner as the Board may think fit and to secure the repayment of the same or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Club in any way and to issue perpetual or other debentures charged upon any or all of the Club's property both present and future and to purchase, redeem, accept the release of or pay off any such securities;
- 4.6 to purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any rights or privileges which the Board may think necessary or convenient and in particular any land, buildings, easements, machinery and plant;
- 4.7 to draw, make, accept, endorse, discount, execute and issue promissory notes, bill of exchange, bills of lading or other negotiable or transferable interests;

- 4.8 to apply for, promote and obtain any statute, order, regulation or other authorisation or enactment which may seem calculated directly or indirectly to benefit the Club, and to oppose any bills, proceedings or applications which may seem calculated directly or indirectly to prejudice the Club's interests;
- 4.9 to sell, manage, develop, exchange, lease, dispose of, provide services using, turn to account or otherwise deal with all or any part of the property and rights of the Club;
- 4.10 to apply for, obtain and renew from time to time a licence or licences, a permit or permits, an authorisation or authorisations, a consent or consents or any one or more of them under the *Liquor Licensing Act 1997* or any other law or laws for the time being in force in the State of South Australia relating to the supply of intoxicating liquor; and
- 4.11 to do all such other things as are incidental or conducive to the attainment of these objects.

PART TWO –MEMBERS

5. Classes of Members

5.1 The Club shall consist of the following classes of members:

- 5.1.1 Senior Members;
- 5.1.2 General Members;
- 5.1.3 Racing Members;
- 5.1.4 Associate Members;
- 5.1.5 Youth Members;
- 5.1.6 Life Members;
- 5.1.7 Honorary Members;
- 5.1.8 Temporary Members;
- 5.1.9 Casual Members;
- 5.1.10 Corporate Members;
- 5.1.11 Berth Licensees;
- 5.1.12 Affiliated Club Members;
- 5.1.13 Social Members;

who shall have the rights, powers, obligations and liabilities set out in this document, or subject thereto, as determined by the Board.

- 5.2 The Board may from time to time declare separate categories within a class of members and subject to this document and the rights, powers, obligations and liabilities of that class of members shall declare additional rights, powers, obligations and liabilities for that category of members.
- 5.3 If the Board declares a Family category for Senior Members, General Members, or Racing Members which entitles such member to nominate an Associate Member and Youth Member, such Associate Member or Youth Member shall cease to be a member when the Senior Member, Member or Racing Member ceases to be such a member.

6. Classes of Members and Their Rights

6.1 Voting Rights

Senior Members and Life Members shall be the only classes of members to have voting rights at any general meeting of the Club.

6.2 Privileges of Each Class of Membership

In addition to the matters set out in this document, the Board may from time to time determine the privileges to be enjoyed by each class of members. The General Manager will put a schedule of these privileges before the Board annually for approval. These privileges may include but not be limited to gate access, charge accounts, discounts, and other ancillary privileges.

6.3 Senior Members

Senior Members shall be persons who have:

6.3.1 been elected as Senior Members, and

6.3.2 attained the age of 18 years.

6.4 General Members

General Members shall be persons who have been elected as General Members and have attained the age of 18 years.

6.5 Racing Members

Racing Members shall be persons who have attained the age of eighteen (18) years and who crew vessels taking part in events conducted by the Racing Association.

6.6 Associate Members

Associate Members shall be the spouse of a Senior Member, a Life Member, a General Member or a Racing Member, but shall not be a person who crews a vessel or vessels taking part in events conducted by the Racing Association.

6.7 Youth Members

Youth Members shall be persons under the age of 30 years.

6.8 Life Members

6.8.1 Prior to the Annual General Meeting in each year the Board may nominate not more than two persons over the age of eighteen (18) years for Life Membership by reason of exceptional services to the Club.

6.8.2 Notice of such nomination shall be conspicuously displayed on the Club premises for at least fourteen (14) days prior to the Annual General Meeting.

6.8.3 The person or persons so nominated shall become a Life Member upon a resolution to that effect being carried by two thirds of the Members present and entitled to vote at the Annual General Meeting.

6.8.4 Life Members shall not pay any annual subscription but otherwise shall have the same rights as a Senior Member.

6.9 Honorary Members

6.9.1 The Board may from time to time grant Honorary Membership of the Club to any person. Subject to this document the qualifications required for and the conditions applicable to the position of Honorary Member shall be as decided by the Board from time to time.

6.9.2 A person appointed as an Honorary Member shall not be entitled to vote at any general meetings of the Club or to hold any office.

6.9.3 Appointment as an Honorary Member may be terminated at any time by the Board without giving any reason for such action.

6.9.4 Honorary Members shall not pay any annual subscriptions.

6.10 Temporary Members

Temporary Members shall be members and officials of kindred yachting, boating or sailing clubs affiliated with the Australian Yachting Federation or the International Yacht Racing Union engaged in any regatta or yachting series organised by the Club and shall be members for the period of a regatta or yachting series. A Temporary Member shall not be entitled to introduce a visitor to the Club premises. Temporary Members are admitted at the discretion and under terms as determined by the General Manager.

6.11 Casual Members

6.11.1 Casual Members shall:

- (a) be members for such term (not exceeding three calendar months) as may be determined by the Board; and
- (b) the Board shall from time to time determine the circumstances and terms under which Casual Members are admitted.

6.12 Corporate Members

The Board may from time to time grant Corporate Membership of the Club to any organisation or corporation, and in doing so specify the rights, obligations, and liabilities of such membership.

6.13 Berth Licensees

6.13.1 A Berth Licensee is typically an entity (i.e. non-natural person) listed as the berth owner for the benefit of a Senior Member and shall have a Sponsoring Senior Member who shall have such rights and obligations as the Board determines.

6.13.2 If the Sponsoring Senior Member ceases to be a Senior Member of the Club or ceases to be the sponsor of such Berth Licensee, then the Berth Licensee shall cease to be a member of the Club unless the Berth Licensee shall immediately appoint another Senior Member to be its or their Sponsoring Senior Member.

6.14 Affiliated Club Members

The Board may from time to time grant Affiliated Club Membership of the Club to members of any other club or association (whether in or out of the State of South Australia) whose members share similar interests with the Club and its members. Affiliated Club Membership shall have such rights, powers, obligations and liabilities as determined by the Board but always excluding any voting rights at any general meeting of the Club. In determining such matters, the Board may have regard to any reciprocal rights, powers, obligations and liabilities that may be offered to and incurred by Club members with such other club or association.

6.15 Social Members

Social Members shall be persons who have been admitted into the Club by the General Manager who have an interest in supporting the Club and its Objects and which members shall have such rights, obligations and liabilities as determined by the Board.

7. Admission of Members

7.1 Every candidate applying for admission to any class of membership (other than Life Member, Honorary Member, Temporary Member, Casual Member, Affiliated Club Member or Social Member) shall be proposed by a Senior Member and seconded by another Senior Member both of whom shall be personally acquainted with the candidate and shall vouch for his or

her fitness for membership. If the applicant is unable to provide a Senior Member as a proposer and seconder of the application, a minimum of two referees may be considered as an alternative.

- 7.2 Applications must be on the forms provided by the Club and must be signed by the proposer and seconder.
- 7.3 The candidate must also sign the application, giving all particulars required by the Club and undertaking to be bound, if elected by this document and by laws of the Club.
- 7.4 Applicants for Casual Membership must sign the application giving all particulars required by the Club and undertaking to be bound, if elected, by this document and by laws of the Club.
- 7.5 Applications shall be submitted to the General Manager. The Board may delegate the admission of Temporary Members, Casual Members, Affiliated Club Members and Social Members to the General Manager.
- 7.6 Subject to Clause 7.5 the General Manager shall place before the Board, at the next convenient Board Meeting after the application has been received, a list of applications for admission to any class of membership (other than applications for Senior Membership) and the Board shall either at that meeting or at a subsequent meeting review the list of applications.
- 7.7 The General Manager shall within four weeks of receiving an application for Senior Membership (including a transfer from any other category of membership).
 - 7.7.1 post and keep posted for at least 14 days before the election on the notice board in the Club house, and
 - 7.7.2 send by post, email or other electronic means to each Senior Member of the Club the name and address of each candidate for Senior Membership and the name of his or her proposer and seconder.
 - 7.7.3 The General Manager shall submit every proposal for Senior Membership to the Board at the next meeting following the expiration of 4 weeks from the date the notice is sent to each Senior Member pursuant to Clause 7.7.2 and at such meeting the Board shall consider the application of the candidate. The Board shall either at that meeting at a subsequent meeting admit or reject the candidate.
 - 7.7.4 The admission of a candidate as a member of the class applied for shall be determined by a majority of the members of the Board present and voting and if so desired by any member of the Board the voting shall be by ballot. A record shall be kept by the General Manager of the number of Board Members voting.

7.7.5 The General Manager shall send immediately to each newly admitted member (other than a Casual Member or a Temporary Member).

- (a) written notice of his or her admission, and
- (b) a copy of this document.

7.7.6 The newly admitted member shall become a member of the Club upon payment of his or her entrance fee and first subscription.

8. Entrance Fees and Subscriptions

8.1 The Board shall determine from time to time the entrance fee and annual subscriptions payable by each class of members (other than Life Members and Honorary Members). The Board may determine from time to time the scale of fees payable by the different categories of members within each class of members.

8.2 The Board may determine in respect of any annual subscriptions of any financial year and in respect of any class of members and / or categories of members within any class of members that such subscriptions be payable in instalments at times fixed by the Board and notified in writing to the members concerned (includes by posting a prominent notice in an area of the Club-house accessible to members).

8.3 Except to the extent the Board has otherwise determined under Clause 8.2, all annual subscriptions shall be payable in advance on 1st June in each year.

8.4 A member whose annual subscription or instalment thereof is at least 30 days overdue shall be notified thereof in writing and if the money overdue is not paid within 30 days after such notice was sent the Board may suspend the member's use of the Club-house or any other privileges of the Club as long as the money is unpaid.

8.5 The Board may terminate the membership of any member if that member:

8.5.1 fails to pay their annual subscription or instalment thereof for at least 60 days after due; or

8.5.2 on at least 2 occasions in any 12 months was at least 30 days overdue in paying an instalment of their annual subscription,

provided that the Board may at any time thereafter when there is a vacancy in the Club membership re-admit the former member upon receiving an explanation satisfactory to the Board and payment of all annual subscription as accrued against the former member up to the date of the termination and unpaid.

9. Retirement and Death of Members

- 9.1 A member may retire from membership at any time by giving the General Manager written notice thereof.
- 9.2 A member retiring under this Clause shall remain liable for all liabilities and debts which he or she has incurred or owes the Club at the time of retirement including any unpaid subscription for the then current year.
- 9.3 When a Senior Member retires from membership:
- 9.3.1 he or she shall forthwith cease to be entitled to hold the combined assets comprising units in the Unit Trust and the licence to use a marina berth or the licence to use a hardstanding berth;
- 9.3.2 he or she shall within the three months of the date of his retirement or such longer period as the Board may allow sell the combined asset or assets which he holds to another Senior Member, Life Member or Berth Licensee of the Club;
- 9.3.3 he or she shall continue to become liable for any further fees and charges due to the Club including subscriptions for any subsequent years for as long as they continue to hold any combined assets comprising units in the Unit Trust;
- 9.3.4 the Board may appoint the Club's solicitor and/or other suitably qualified professional to sell the combined asset or combined assets on the retiring Member's behalf in exercise of the power of sale contained in the marina or hardstanding licence if the Senior Member does not sell the combined asset or combined assets as required by Clause 9.3.2; and
- 9.3.5 the Club may obtain a valuation from a licensed valuer of the combined asset or combined assets, at the cost and expense of the retiring Member to assist in determining the price at which the combined asset or combined assets may be sold.
- 9.4 On the death of a Senior Member holding a combined asset or combined assets:
- 9.4.1 his or hers personal representatives shall have three months or such longer period as the Board may allow in which to transfer the combined asset or assets to a Senior Member, Life Member or Berth Licensee of the Club or to sell the combined asset or assets to another Senior Member, Life Member or Berth Licensee of the Club;
- 9.4.2 if the personal representatives have not effected a transfer or sale of the combined asset or combined assets within the three month period or within such longer period as the Board may allow, then either:

(a) the personal representative shall apply to become a Senior Member or Senior Members of the Club; or

(b) :

(i) the Board may appoint the Club's solicitor and/or other suitably qualified professional to sell the combined asset or combined assets on the personal representative' behalf in exercise of the power of sale contained in the marina or hardstanding licence; and

(ii) the Club may obtain a valuation from a licensed valuer of the combined asset or assets at the cost and expense of the personal representatives to assist in determining the price at which the combined asset or assets may be sold.

9.4.3 where the Board allows a period longer than three months for the sale of any combined asset or assets under this Clause 9, the personal representatives will be liable for all further fees and charges incurred including subscriptions for any subsequent years.

9.5 Where the Club arranges for the sale of a combined asset under this Clause 9, it shall be entitled to deduct from the sale price all amounts and fees accrued due to the Club at the date of sale.

9.6 For the avoidance of doubt, the estate of a deceased member shall remain liable for all liabilities and debts which the member had incurred or owed the Club at the time of death including any unpaid subscription for the then current year.

10. Disciplinary Action

10.1 On joining the Club every member shall for all purposes be deemed to have undertaken to comply with this document or any amendment thereto from time to time in force.

10.2 Any breach of this document or by-laws by a member (in this Clause 10 called "the Member") or any conduct determined by the Board to be unworthy of a member shall render a member liable for disciplinary action whether such behaviour occurs on the Club premises or as a member of the Club outside Club premises.

10.3 If a complaint is received by the Board concerning a Member, the Board shall determine the nature of the complaint and:

10.3.1 if the Board considers that such complaint should be investigated by the Club:

- (a) the Board shall appoint a committee of 4 members of the Club (in this Clause 10 called “the Committee”) other than the member making the complaint and the Member. The General Manager shall be a member of the Committee unless the President otherwise directs. The Board shall also nominate one of the Committee as its Chairperson.
 - (b) The Committee must inquire into the alleged conduct of the Member and report to the Board as soon as practicable.
 - (c) The Committee will make a copy of the information it receives available to the Member before reporting to the Board and will submit to the Board in writing any representations the Member may make.
- 10.3.2 if the Board considers that such complaint should be investigated by the appropriate authorities, the Board shall either:
- (a) with the consent of the complainant if appropriate, refer the complaint to an appropriate authority and await its determination; or
 - (b) if the complainant does not provide consent for the complaint to be referred to an appropriate authority, take such action as the Board considers appropriate in the circumstances including, without limitation, ceasing to deal with the complaint.
- 10.4 The Board:
- 10.4.1 will appoint a time and place at which the Member may attend and make such further oral representations as the Member considers appropriate;
 - 10.4.2 will give to the Member not less than seven days written notice of such time and place; and
 - 10.4.3 can conduct such further enquiries and request further submissions as it considers appropriate.
- 10.5 At the conclusion of the representations (if any) which the Member wishes to make, the Board will consider the matter in the absence of the Member and may adjourn those considerations from time to time to such time and place as the Board thinks fit.
- 10.6 If the Board considers that the Member’s conduct:
- 10.6.1 has been a failure to comply with this document; or
 - 10.6.2 has been conduct unworthy of a member of the Club,
- the Board may determine the appropriate disciplinary action or measures to be taken.

- 10.7 The Board will notify the Member in writing of its determination. The determination may be:-
- 10.7.1 expulsion from the Club; or
 - 10.7.2 suspension from specific rights and privileges enjoyed by the Member; or
 - 10.7.3 the payment of a fine by the Member of no more than 50% of the annual membership fee for that Member, or
 - 10.7.4 such other disciplinary measures as the Board in its absolute discretion determines.
- 10.8 The expulsion, suspension or other disciplinary measure shall come into effect immediately on the Board forwarding notification of its determination to the Member.
- 10.9 If the Board determines that the Member is to be expelled or suspended from the Club or its activities, the Member shall remain liable for all amounts and fees accrued due to the Club to the date of expulsion or suspension including any unpaid subscription for the current year.
- 10.10 If the Board determines to expel the Member
- 10.10.1 any rights or claims of the Member upon the Club or its property shall immediately cease;
 - 10.10.2 the Member's entitlement to hold a licence to occupy a berth at any of the Club's marinas or to use a hardstanding berth on the Club's premises and to hold units in the Unit Trust shall immediately determine and the Club may, in accordance with Clause 9.3 sell such licence and such units on the Member's behalf in exercise of the power of sale contained in such licence.
- 10.11 If the Board determines to suspend the Member's membership or to prohibit the member's attendance upon Club property or at Club functions then any rights or claims of the Member shall to the extent of such determination cease or be suspended.
- 10.12 The Board may make alter and repeal by-laws to further detail procedures for dealing with complaints and disciplinary matters.

11. Member's Contact Details and Address For Notices

- 11.1 Each member shall promptly notify in writing the General Manager of the member's:
- 11.1.1 residential address;
 - 11.1.2 postal address;
 - 11.1.3 email address; and

11.1.4 any other address or contact details as may be requested by the General Manager from time to time,

together with any changes to those addresses.

11.2 All notices required by this document or any by-law to be sent or given to a member shall be deemed to have been duly sent or given to the member if:

11.2.1 sent to either the postal or email address last notified by the member to the General Manager;

11.2.2 delivered by hand to the member (if an individual); or

11.2.3 sent by post or delivered to the registered office of the member (if a body corporate).”

12. Bankruptcy & Insolvency & Criminal Conduct of Members

12.1 If any member:

12.1.1 becomes an insolvent under administration within the meaning of the *Corporations Act 2001* (Cth);

12.1.2 is deregistered, suffers the appointment of a provisional liquidator, suffers the appointment of a controller over any of its assets, becomes a Chapter 5 body corporate, or is the subject of a statutory demand not withdrawn, stayed or dismissed within 14 days (all within the meaning of *the Corporations Act 2001* (Cth)); or

12.1.3 is convicted of an offence involving criminal conduct and the penalty actually imposed for the offence is a term of imprisonment of at least two (2) years (irrespective of whether the custodial sentence is suspended) and all avenues of appeal have been exhausted,

the member must promptly notify the Board of the same.

12.2 The member’s rights and privileges shall immediately be suspended upon the occurrence of an event listed in Clause 12.1 (irrespective of whether the member has notified the Board of the relevant event) and the member shall be liable to be expelled as a member by a resolution of the Board provided that:

12.2.1 at least two (2) weeks before the meeting at which such resolution is passed, the member has been given a notice of the meeting and the intended resolution for the member’s expulsion; and

12.2.2 the member (or their authorised representative) shall at such meeting and before the passing of such resolution have had an opportunity to give oral or written submissions to the Board any explanation or defence the member thinks fit.

- 12.3 If the Board determines to expel the member:
- 12.3.1 the member shall remain liable for all the amounts and fees accrued to the Club to the date of expulsion, including unpaid subscriptions for the current year;
 - 12.3.2 any rights or claims of the member upon the Club or its property shall immediately cease;
 - 12.3.3 the member's entitlement to hold a licence to occupy a berth at any of the Club's marinas or to use a hardstanding berth on the Club's premises and to hold units in the Unit Trust shall immediately determine and the Club may, in accordance with either Clause 9.3 or Clause 9.4 sell such licence and such units on the Member's behalf in exercise of the power of sale contained in such licence, as if the member had retired or died.

PART THREE - MANAGEMENT

13. Management

- 13.1 The Club shall be managed by a Board of Management (in this document called "the Board") of seven members (in this document called "Board Members") who shall:
- 13.1.1 be Senior Members of Club;
 - 13.1.2 be elected at the Annual General Meeting; and
 - 13.1.3 hold office until the next succeeding Annual General Meeting.
- 13.2 The Board shall have in addition to the powers specifically conferred on it by this document:
- 13.2.1 control of the finances of the Club;
 - 13.2.2 power to engage, control and dismiss the Club's employees; and
 - 13.2.3 all the administrative powers required to properly carry out the Club's objects in accordance with this document.

14. Election of the Board

14.1 Board Members Retire Annually

All Board Members shall retire at the Annual General Meeting each year effective as at the conclusion of such meeting but shall be eligible for re-election.

14.2 Nomination

- 14.2.1 All Candidates for election to the Board shall deliver their written nomination to the General Manager not less than twenty eight (28) days before the date on which the Annual General Meeting is to be held.
- 14.2.2 In this Clause 14 the expression "Candidate" shall mean a financial Senior Member who has been nominated in writing by a financial Senior Member (other than the Candidate), whose nomination has been seconded by another financial Senior Member (other than the Candidate) and who has verified in writing his or her acceptance of the nomination.

14.3 Election of Board by Electronic Vote (EVote)

- 14.3.1 If there are more candidates than there are vacancies to be filled, the Board may determine that the election of the Board shall occur wholly and exclusively by EVote and that all members entitled to vote in that election shall only be entitled to cast their vote by EVote (in lieu of a physical ballot paper).
- 14.3.2 If the Board determines that the election of the Board is to be undertaken by EVote in accordance with Clause 14.3.1:
- (a) the Board shall determine the method and process by which members can cast their vote by EVote (including procedures as to the form, timing and manner of giving an EVote) in order for that vote to be valid and formal in the election;
 - (b) the Board shall ensure the anonymity of the members in casting their EVote (other than to the Auditor if required) and may consult with the Auditor as required in relation to the method and process of the EVote;
 - (c) information and choices appearing in the EVote shall be similar in substance as if the vote had been conducted by physical ballot paper;
 - (d) members shall have the same number of votes under their EVote as if the vote had been conducted by physical ballot paper;
 - (e) if the election by EVote is to be conducted by poll each member entitled to vote in the election shall have the same number of votes under their EVote as if the vote had been required to be conducted under Clause 14.5 (ie. Senior Members May Require Election By Poll);
 - (f) the General Manager shall within twenty-one (21) days of the closure of the nominations notify all members entitled

to vote in the election all such information and instructions as may be necessary to enable those members to cast a valid and formal EVote in the election (in lieu of Clause 14.4.1 (i.e. General Manager to Send Ballot Papers));

- (g) at 12.00 noon on the day appointed for the Annual General Meeting, the casting of votes by EVote shall be ceased and the number of votes for each candidate shall be counted in accordance with Clause 14.10;
- (h) the General Manager shall report the final results and count of the EVote to the President or Chairperson of the Annual General Meeting at the appropriate time in that meeting;
- (i) the General Manager shall ensure that the EVote records and any audit trail of the same in relation to the election shall be retained for not less than one calendar month after the election result is announced at the Annual General Meeting and thereafter may be destroyed;
- (j) within three (3) business days of the conclusion of an AGM, the General Manager shall make available to any Senior Member who requests it all available details of the vote count, excluding anything that would contravene Clause 14.3.2(b); and
- (k) the provisions of Clause 14.4 (i.e. General Manager to Send Ballot Papers), Clause 14.7 (i.e. Member to Complete Ballot Paper and Send to Auditor), Clause 14.8 (i.e. Verification of Votes), Clause 14.9 (i.e. Counting of Votes) and Clause 14.11 (i.e. Recount of Votes) are all suspended.

14.3.3 If a member casts a valid and formal EVote in the election of the Board:

- (a) the EVote has the same effect as if the member has cast a valid and formal 'Ballot Paper' in the election at the Annual General Meeting; and
- (b) the member may not subsequently withdraw their EVote once received by the Club.

14.4 General Manager to Send Ballot Papers

14.4.1 If there are more candidates than there are vacancies to be filled, the General Manager shall within twenty-one (21) days of the closure of nominations post to every Senior Member a ballot paper together with an envelope marked "Ballot Paper".

- 14.4.2 Each ballot paper shall contain the full names of the candidates in alphabetical order and every ballot paper shall be initialled by the General Manager.
- 14.4.3 The envelope marked "Ballot Paper" shall contain a detachable counterfoil slip on which there is space for inserting the member's name, the member's address and the member's signature.
- 14.4.4 In the event of a poll the envelope marked "Ballot Paper" shall in addition to the detachable counterfoil slip contain a space for inserting the number of units which the Senior Member (or the Berth Licensee for which that Senior Member is the Sponsoring Senior Member) holds in the Cruising Yacht Club of South Australia Unit Trust (in this document called "the Unit Trust").

14.5 Senior Members May Require Election by Poll

- 14.5.1 The General Manager shall within four (4) days of the closure of nominations notify all members entitled to vote in the election that an Election is to be held and the process for requesting, if required, that it be held by Poll.
- 14.5.2 The election shall be conducted by poll if, within seven (7) days after such notification at least ten (10) financial Senior Members so require by written notice delivered to the General Manager.
- 14.5.3 Such an election shall be conducted in accordance with this document but otherwise in such manner as the President directs.

14.6 Senior Members Voting Entitlement

- 14.6.1 Every Senior Member shall be entitled to vote by marking in the squares opposite the names of the candidates the numbers 1,2,3 etc. up to the number of candidates appearing on the ballot paper. If the election is not being conducted by a poll each Senior Member shall have one vote for each Candidate voted for by that Member.
- 14.6.2 On a poll pursuant to Clause 14.5 each Senior Member shall have for each candidate for whom that member votes one vote for each unit in the Unit Trust of which that member is the Registered Holder.
- 14.6.3 On a poll the Sponsoring Senior Member of a Berth Licensee shall have, for each candidate for whom that Senior Member votes pursuant to Clause 14.5, one vote for each unit in the Unit Trust of which the Berth Licensee is the Registered Holder. The Berth Licensee Member shall not have any vote in its own right.
- 14.6.4 On a poll the number of units in the Unit Trust held by each Registered Holder shall be determined as at the date on which Ballot Papers are sent or, in the case of an EVote, the date on which the EVote instructions are sent.

14.7 Member to Complete Ballot Paper and Send to Auditor

- 14.7.1 Completed ballot papers must be placed in the envelope marked "Ballot Paper" provided for that purpose.
- 14.7.2 The Member shall write on the detachable counterfoil slip of the envelope marked "Ballot Paper" the Member's name, the Member's address and the Member's signature.
- 14.7.3 If the ballot is conducted as a poll, the Member shall write the number of units which the Member and any Berth Licensee for which the Member is the Sponsoring Senior Member hold in the Unit Trust on both the envelope marked "Ballot Paper" and on the said detachable counterfoil slip.

Ballot papers shall either:

- (a) be posted so as to reach the Auditor before 12.00 noon on the day appointed for the Annual General Meeting, or
- (b) be placed prior to that hour in a ballot box provided by the Auditor for that purpose at the Auditor's office during the fourteen (14) days preceding the Annual General Meeting.

On receipt through the post of any envelope marked "Ballot Paper" the Auditor shall place the same unopened in the ballot box.

- 14.7.4 In this Clause 14 the expression "Auditor" means the Auditor appointed pursuant to Clause 32 of this document.

14.8 Verification of Votes

- 14.8.1 After 12.00 noon on the day appointed for the Annual General Meeting, the Auditor shall open the ballot box and remove the envelopes it contains.
- 14.8.2 If the ballot is not by poll, the Auditor shall check the detachable counterfoil slip against the list of Senior Members and on being satisfied that the vote is that of a financial Senior Member shall detach the counterfoil slip.
- 14.8.3 If the ballot is by poll the auditor shall check the detachable counterfoil slip against the list of Senior Members and shall check the number of units shown on both the Ballot Paper envelope and on the detachable counterfoil slip against the list of units held by Members in the Unit Trust, and on being satisfied that;-
- (a) the vote is that of a financial Senior Member, and
- (b) the number of units shown on the Ballot Paper envelope is correct

the Auditor shall detach the counterfoil slip.

14.8.4 The envelopes shall then be thoroughly mixed before they are opened.

14.9 Counting of Votes

14.9.1 If the ballot is not by poll, the ballot papers shall immediately be counted in accordance with Clause 14.10 by the Auditor who shall report the result of the count to the President or Chairperson of the meeting.

14.9.2 If the ballot is by poll, the Auditor shall on opening any "Ballot Paper" envelopes mark on the ballot paper the number of units written on the Ballot Paper envelope containing the ballot paper, and the number of votes for each candidate shall then be counted in accordance with Clause 14.10 by the Auditor who shall report the result of the count to the President or Chairperson of the meeting.

14.9.3 The Auditor shall use such assistance from his or her staff as the Auditor considers appropriate.

14.9.4 The Auditor shall retain all ballot papers received by him for not less than one calendar month after the election result is announced at the Annual General Meeting.

14.10 Vote Counting System

14.10.1 The voting system shall be the standard preferential system as detailed in this Clause 14.10.

14.10.2 A candidate must poll an absolute majority (that is, at least 50% plus one), of all formal votes to be elected.

14.10.3 The successful candidates shall be determined by observing the procedure set out below.

(a) If, after all first preference votes have been counted, no candidate has obtained an absolute majority of all formal votes, then the candidate with the fewest number of first preference votes is excluded. That excluded candidate's second preference votes are then distributed to the remaining candidates.

(b) If after that exclusion no candidate has obtained an absolute majority of formal votes, the next remaining candidate with the fewest votes is excluded and all of the candidate's votes (i.e. first preference votes plus those votes received from the first excluded candidate) are distributed to the remaining candidates.

(c) The above process is continued until one candidate obtains an absolute majority of formal votes and is elected.

- (d) If at any exclusion, the next available preference is for a previously excluded candidate, then that preference is disregarded, and the vote is distributed to the continuing candidate for whom the next available preference is shown.
- (e) When the first candidate is elected all ballot papers are sorted back to first preference votes. Then, all ballot papers containing a first preference vote for the first elected candidate are distributed to the remaining candidates according to the second preference vote on each of them and the votes added to the number of first preference votes held by the candidate. A candidate who has obtained an absolute majority of votes is shown in the count as the second successful candidate.
- (f) If no candidate has then received an absolute majority the candidate with the fewest votes is excluded and that candidate's votes (first preference and those received from the previously elected candidate) are distributed to the next available preference among the remaining candidates. If after that exclusion no candidate has obtained an absolute majority of formal votes, the next remaining candidate with the fewest votes is excluded and all of his/her votes (i.e. first preference votes plus those votes received from the elected and excluded candidates) are distributed to the remaining candidates according to the next available preference. This process is continued until a candidate has obtained an absolute majority of votes remaining in the count. This candidate is the second elected.
- (g) After the first and second candidates have been elected all ballot papers are sorted back to first preference votes. The ballot papers containing the first preference votes of the two elected candidates are sorted to the next available preference and are distributed among the remaining nonelected candidates. A candidate who has obtained an absolute majority of votes remaining in the count shall be the third successful candidate.
- (h) If no candidate has then received an absolute majority, the candidate with the fewest votes is excluded and that candidate's votes (first preference and those received from the previously elected candidates) are distributed to the next available preference among the remaining candidates. The process mentioned in sub-paragraph (f) of this Clause 14.10.3 is continued until a candidate has obtained an absolute majority of votes remaining in the count. This candidate is the third elected.
- (i) The above process is repeated until the required number of candidates have been elected.

- (j) A ballot paper shall be informal if marked other than in accordance with Clause 14.6.1.

14.10.4 If, at any point while observing the procedure set out in Clause 14.10.3, two or more candidates receive an equal number of votes:

- (a) The candidate with the most votes from the immediately previous round shall be considered to have the most votes.
- (b) If any candidates are still considered to have an equal number of votes, each such candidate's votes from the next preceding round shall be used to break the draw or, failing that, from the round preceding that until all rounds have been exhausted.
- (c) If any candidates are still considered to have an equal number of votes, the candidate considered to have the most votes shall be determined by lot.

14.11 Recount of Votes

14.11.1 A candidate who is unsuccessful at an election may apply to the President for a recount within 14 days after the result of the election is announced at the Annual General Meeting by lodging with the General Manager a written notice to that effect.

14.11.2 Upon receipt of such a notice from an unsuccessful candidate, the President shall immediately appoint two scrutineers who shall obtain all ballot papers from the Auditor, who shall recount the ballot papers and shall certify in writing the result of the recount to the President. The result so certified by the scrutineers shall be final and binding on all Members.

15. The Board

15.1 As soon as practicable after each Annual General Meeting the Board shall elect from its members a President who shall take the chair at Board meetings, at general meetings of the Club and of marina berth licensees. The President shall hold office until the conclusion of the next succeeding Annual General Meeting but shall be eligible for re-election.

15.2 As soon as practicable after each Annual General Meeting the Board may elect from its members a Deputy President (who shall act for the President in the absence of the President) and a Treasurer both of whom shall hold office until the conclusion of the next succeeding Annual General Meeting but shall be eligible for re-election. The General Manager and all Board Members will act as Seal Holders of the Club.

15.3 The Board shall hold meetings at least once in every three (3) months at such time and place as it from time to time determines, but any two (2) Board Members may call for a Board meeting at any time by giving written notice signed by each of the members convening the meeting to the

General Manager who shall forthwith convene a Board meeting at such time and place as may be convenient, but not more than one (1) calendar month after the date upon which he receives the said notice.

- 15.4 The Board may meet together either in person or (provided that all persons participating in the meeting are able to hear and be heard by all other participants) by telephone or other form of instantaneous communication for the dispatch of business and adjourn and otherwise regulate their meetings and proceedings as they think fit. Any person not present in person at any meeting, but participating in the meeting will be deemed for the purpose of this document to be present at that meeting.
- 15.5 Four (4) Board Members shall constitute a quorum.
- 15.6 If votes at a meeting of the Board are equal, the President or Chairperson of the meeting shall have a second or casting vote.
- 15.7 The General Manager or some other person appointed by the Board shall keep and enter minutes of all resolutions and proceedings of the Board in a book kept by him for that purpose.
- 15.8 If there is a casual vacancy in the office of a Board Member;-
 - 15.8.1 Between the holding of the Annual General Meeting in any year and the first day of June in the following year the Board may within one (1) month after such vacancy occurs appoint a Senior Member to fill such casual vacancy, who shall hold office until the conclusion of the next Annual General Meeting.
 - 15.8.2 on or after the 1st day of June in any year and before the holding of the Annual General Meeting in that year then the office may be left vacant until the conclusion of the next Annual General Meeting or the Board may appoint a Senior Member to fill such casual vacancy who shall hold office until the conclusion of the next Annual General Meeting”
- 15.9 Within one (1) month after there is a casual vacancy in the office of President, Treasurer or Seal Holder, the Board shall elect one of its members to fill such casual vacancy until the conclusion of the next Annual General Meeting.
- 15.10 The Board may from time to time appoint and disband committees to manage and administer such of the affairs and business of the Club as it thinks fit.
- 15.11 A resolution in writing signed by all the Board Members who are then in Australia and are eligible to vote on the resolution (being at least a quorum) is as valid and effectual as if it had been passed at a meeting of the Board held at the time when the written resolution was signed by the last eligible Board Member to sign it. A written resolution may consist of several documents in like form, each signed by one or more Board Members.

16. General Manager

- 16.1 The Board shall appoint a General Manager who shall have such duties, responsibilities, obligations and privileges as the Board from time to time determines.
- 16.2 The Board may delegate to the General Manager such of its powers as the Board determines.

17. By Laws

- 17.1 The Board may from time to time make, alter and repeal by-laws providing for and regulating the procedure for:
- 17.1.1 the nomination and election of members;
 - 17.1.2 the use of the Club house and the Club's other facilities by members;
 - 17.1.3 the holding of regattas and sailing matches;
 - 17.1.4 the good conduct of the affairs of the Club,
 - 17.1.5 dealing with disciplinary matters; and
 - 17.1.6 the associations of the Club.
- 17.2 The by-laws shall, provided they are not inconsistent with this document, be binding on all members and be construed as part of this document until they are rescinded or varied by the Board.
- 17.3 The Board may make separate by-laws relating to the use of the Club's facilities at any of the properties occupied by the Club.

18. Club Funds

- 18.1 The Treasurer shall keep the Club funds under the supervision of and in such place and manner as shall be determined by the Board.
- 18.2 The Board may expend the Club funds in such manner as it thinks fit in accordance with this document and the Club's objects.
- 18.3 No portion of the Club's funds shall be paid or disposed of by dividend, bonus or otherwise by way of profit to Club members but this document shall not prevent the payment in good faith of remuneration to any officer or employee of the Club or to any member thereof for services rendered to the Club or prevent the payment of interest on any money borrowed from a member.

19. Club Accounts

- 19.1 The financial year of the Club shall commence on the 1st day of June in each year and end on the 31st day of May next following.

- 19.2 The Board shall cause to be prepared in accordance with the requirements of the Act, audited and archived every year a statement of receipts and expenditure and a balance sheet made up to the 31st day of May.
- 19.3 Each above statement of receipts and expenditure and balance sheet (together with any other documents the Act requires be submitted to the members for the purposes of the next Annual General Meeting) shall be either:
- 19.3.1 given to members in hard copy together with the notice convening the next Annual General Meeting; or
 - 19.3.2 (where a member has agreed for the Club to send notices of meeting electronically) given to that member as an electronic copy together with the notice convening the next Annual General Meeting; and / or
 - 19.3.3 accessible from the Club's website, and members advised of that fact (together with any user name or password required for access) with the notice convening the next Annual General Meeting.

20. Indemnity

- 20.1 To the extent permitted by law, the Club shall indemnify every Board Member, every Flag Officer and every other officer of the Club and every officer of every Association of the Club against any liability incurred by them in such capacity
- 20.2 To the extent permitted by law, the Club shall indemnify every Board Member, every Flag Officer and every other officer of the Club and every officer of every Association of the Club against costs and any liability incurred by him in such capacity in defending any proceedings whether civil or criminal in which judgment is given in his favour or in which he is acquitted.

21. Common Seal

- 21.1 If and so long as the Act requires, the Club shall have a common seal on which shall be inserted the Club's name. The Club may have a common seal even when not required by the Act.
- 21.2 The Club may break alter and change the common seal from time to time.
- 21.3 The common seal shall
- 21.3.1 not be affixed to any deed, instrument or other document without the Board's prior sanction.
 - 21.3.2 be affixed in the presence of any two (2) Seal Holders who shall countersign the deed, instrument or other document to which the seal is affixed.

- 21.4 A contract or other instrument of the Club may be made, varied or terminated under common seal or in any other way section 26 of the Act or any other law may permit.

PART FOUR - MEETINGS

22. Annual General Meeting

- 22.1 An Annual General Meeting shall be held on a day in September each year at a time and place determined by the Board.
- 22.2 The business of such meeting shall be:
- 22.2.1 Receiving the reports of the Associations of the Club, the President and the Commodore;
 - 22.2.2 The consideration of the accounts;
 - 22.2.3 The election of members of the Board;
 - 22.2.4 The appointment of the auditors and the removal of the auditors (when such appointment and removal shall be required);
 - 22.2.5 Any other business determined by the Board; and
 - 22.2.6 any other business of which written notice (signed by at least two Senior Members) shall have been given to the General Manager not less than twenty-eight (28) days before the date of such meeting.

23. Extraordinary General Meeting

- 23.1 The Board may at any time convene an Extraordinary General Meeting of the Club.
- 23.2 The Board shall on the written requisition of twenty (20) Senior Members stating the business for which it is required in the form of a motion, convene within a period of one calendar month an Extraordinary General Meeting for that specific purpose.

24. Notice of General Meetings

- 24.1 The General Manager shall at least fourteen (14) days before any Annual General Meeting and at least twenty one (21) days before any Extraordinary General Meeting send to every member at his or her address in the Club books or lists a notice of such meeting stating the time when and the place where it will be held and the business that will be brought before it.
- 24.2 No business, other than business of a formal nature, shall be brought forward at any meeting unless notice of such business shall have been given in accordance with this document.

- 24.3 The General Manager shall at least thirty-five (35) days before any Annual General Meeting inform members of the timing of the meeting and the requirements for lodging any other business and submitting nominations for election to the Board.

25. Quorum & Procedure at General Meetings

- 25.1 To constitute a quorum at a general meeting at least 20 members entitled to vote at the meeting at the time notice of the meeting is given must be present in person.
- 25.2 At all meetings, the chair shall be taken by the President for the time being or in his absence, the Deputy President, or in his absence the Treasurer, or in his absence as otherwise determined by the meeting.
- 25.3 Every question, unless otherwise expressly provided by this document or the Act shall be decided by a majority of votes, and if there is an equality of votes, the Chairperson shall have a second or casting vote.
- 25.4 Every financial Senior Member shall have one (1) vote. A member entitled to vote and absent from the meeting may vote by proxy who shall be another financial Senior Member present at the meeting.
- 25.5 Written notice of the appointment of a proxy shall be given to the General Manager:-
- 25.5.1 if the meeting shall commence after 5.00p.m. on any day, by 5.00p.m. on the day of the meeting for which the proxy is appointed.
- 25.5.2 if the meeting shall commence at 5.00p.m. or before that time on any day, by 5.00p.m. on the day preceding the meeting for which the proxy is appointed.
- 25.6 Each proxy shall indicate the proxy giver's voting intention or specifically allow an undirected proxy.
- 25.7 Subject to any contrary express terms of an appointment, a proxy may vote at a general meeting:
- 25.7.1 on any amendment moved to any proposed resolutions at the meeting, and on any motion that any proposed resolutions not be put or any similar motion; and
- 25.7.2 on any procedural motion put to the meeting.

26. Chairperson's Declaration Decisive

At any meeting unless a poll is demanded by ten (10) members entitled to vote a declaration by the Chairperson that a resolution has been carried or carried by a particular majority or lost or not carried by a particular majority shall be conclusive.

27. Regulations for a Poll

- 27.1 If a poll is demanded by any ten (10) members entitled to vote at that meeting it shall be taken in such manner as the Chairperson directs and the result of the poll as declared by the Chairperson shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 27.2 Subject to Clause 27.3 on a poll each member entitled to vote shall have one (1) vote for each unit in the Unit Trust of which that member is the Registered Holder.
- 27.3 On a poll the Sponsoring Senior Member of a Berth Licensee shall have one (1) vote of each unit in the Unit Trust of which that Berth Licensee is the Registered Holder. The Berth Licensee shall not have any vote.

PART FIVE - BERTHS**28. Marina And Hardstanding Berths**

- 28.1 A Senior Member, a Life Member or a Berth Licensee may purchase a combined asset comprising:
- 28.1.1 a licence from the Club to use a marina or hardstanding berth or berths at one or more of the Club's marinas and hardstanding areas and
- 28.1.2 units in the Unit Trust.
- 28.2 Such licences shall be for such term, at such maintenance or other fees and upon such terms and conditions as the Board in its absolute discretion determines.
- 28.3 Without limiting the generality of Clause 28.2, the Board may determine to grant licences for different terms, at different maintenance and other fees and on different terms and conditions for each of its marinas and hardstanding areas.
- 28.4 Such combined assets shall be transferable to another Senior Member, Life Member or Berth Licensee.
- 28.5 The Board may require that its consent be obtained before any such combined assets is transferred to another Senior Member, Life Member or Berth Licensee and may grant its consent subject to such conditions as the Board in its absolute discretion deems fit.
- 28.6 No person or company shall take up or hold a licence to occupy a marina or hardstanding berth at any of the Club's marinas or hold units in the Unit Trust unless he or she is a Senior Member, or a Life Member or it is a Berth Licensee of the Club.
- 28.7

- 28.7.1 Where two or more persons purchase a combined asset comprising units in the Unit Trust and the licence to use a marina berth or the licence to use a hardstanding berth, all such persons must be members of the Club and at least one of such persons must be a Senior Member of the Club.
- 28.7.2 If none of such persons is a Senior Member of the Club or if the person who is a Senior Member ceases to be a Senior Member, and no other purchaser is or becomes a Senior Member of the Club, then such persons shall immediately or within such longer period as the Board may allow sell the combined asset or assets which they hold to another Senior Member, Life Member or Berth Licensee of the Club
- 28.7.3 If the purchasers fail to sell the combined asset or combined assets, the Club may, in accordance with Clause 9.3 sell such licence and such units on the member's behalf in exercise of the power of sale contained in such licence.

29. Ownership of Units in the Unit Trust

No

- 29.1 Senior Member;
- 29.2 Life Member;
- 29.3 Berth Licensee; or
- 29.4 Senior Member and the Berth Licensee sponsored by that Senior Member shall at any time hold more than 2.5 per cent of the issued units in the Unit Trust

PART SIX – ASSOCIATIONS AND FLAG OFFICERS

30. Associations

- 30.1 The Board may from time to time declare any group of members of the Club which carries on or conducts for the time being any activity referred to in Clause 2 or other activity which the Board for the purpose of this Clause approves to be an Association of the Club.
- 30.2 Each such Association and its constituents shall be subject to the directions of the Board in all matters (including finance and sponsorship) and shall comply with all by laws made by the Board.
- 30.3 Subject to Clause 30.2 each such Association shall have its own internal organisation and regulations as determined by its own management and subsequently approved by the Board.
- 30.4 The Board may at any time declare that an Association of the Club shall cease to be an Association of the Club after a date appointed by the Board

or that the office holders of an Association shall cease to hold office after a date appointed by the Board.

- 30.5 Without limiting the generality of the foregoing the Board may declare:-
- 30.5.1 the holders of all marina berths to be an Association of the Club;
 - 30.5.2 the holders of marina berths at each of the Club's marinas to be Associations of the Club; or
 - 30.5.3 the holders of hardstanding berths to be an Association of the Club.

31. Flag Officers

- 31.1 The Board may appoint Flag Officers consisting of a Commodore, Vice Commodore and one or more Rear Commodores.
- 31.2 The Board shall appoint a Commodore who shall hold office at the pleasure of the Board and who shall have the right to be present at and to address, but unless he is otherwise entitled, not vote at any meeting of
- 31.3 the Board, the Club or Associations of the Club.
- 31.4 The Board may appoint a Vice Commodore who shall hold office at the pleasure of the Board and shall in the Commodore's absence, have the right to be present at and address but unless he is otherwise entitled, not vote at any meeting of the Board, or Associations of the Club.
- 31.5 The Board may appoint one or more Rear Commodores who shall hold office at the Board's pleasure. In the absence of the Commodore or Vice Commodore, a Rear Commodore nominated by the Commodore shall have the right to be present at and to address, but unless he is otherwise entitled, not vote at any meeting of the Board or Associations of the Club.
- 31.6 The Flag Officers shall be Senior Members or Life Members of the Club.
- 31.7 Any additional titles of any Rear Commodore or Rear Commodores may be designated by the Board from time to time.
- 31.8 A Board Member can not be appointed a Flag Officer of the Club and a Flag Officer can not be appointed to fill a casual vacancy on the Board. A Flag Officer shall resign as a Flag Officer before contesting any election for members of the Board.

PART SEVEN - GENERAL

32. Auditors

The Auditor of the accounts of the Club shall be a duly qualified auditor or auditors who shall be appointed by ordinary resolution of Members entitled to vote at an Annual General Meeting.

33. Sailing

- 33.1 The Board may arrange such regattas and sailing events on such terms as it thinks fit from time to time and use Club funds for the provision of suitable prizes for such regattas and events.
- 33.2 All regattas and sailing matches conducted by the Club shall be conducted in accordance with the sailing rules of the International Sailing Federation (ISAF) as adopted from time to time by Yachting Australia Inc. or any successor body with such modifications or prescriptions as may be prescribed by Yachting South Australia and any sailing instructions published by the Club.
- 33.3 The Board may delegate all or any of its powers under this Clause 33 to an Association of the Club.

34. Amendment of this Document

This document may be added to, repealed, varied or amended by a resolution at any Annual General Meeting or Extraordinary General Meeting duly summoned for the purpose provided that no such resolution shall be deemed to have passed unless it is carried by a majority of at least two-thirds of those members present and voting thereon at such meeting or voting by proxy.

35. Dissolution of the Club

- 35.1 The Club may be wound up in accordance with the Act.
- 35.2 If on a winding up there is a surplus after the payment of all liabilities of the Club, the Board may pay such surplus to any tax exempt body being a yachting club or other sporting club or charity.

36. Interpretation

In this document unless the context otherwise requires:

- 36.1 **Act** means the Associations Incorporation Act 1985 as amended from time to time.
- 36.2 **Auditor** means the Auditor appointed pursuant to Clause 32.
- 36.3 **Board** has its meaning in Clause 13.1.
- 36.4 **Board Members** has its meaning in Clause 13.1.
- 36.5 **EVote** means a vote for the election of the Board at an Annual General Meeting, delivered to the Club by such means (including via internet or other electronic means and using a 3rd party provider) as approved by the Board.
- 36.6 **Ramp Trust** means CYC Ramp Trust constituted by deed of trust dated 26 November 1991 made between Kym Albert Weir (as settlor) and CYC Ramp Pty Ltd (as trustee).

- 36.7 **Senior Member** has its meaning in Clause 6.3.
- 36.8 **spouse** includes in relation to an individual, another individual who lives with the individual on a genuine domestic basis in a relationship as a couple.
- 36.9 **Unit Trust** means The Cruising Yacht Club of South Australia Unit Trust constituted by deed of trust dated 15 March 1984 made between Sir Bruce Roy Macklin (as founder) and CYC (S.A.) Management Pty Ltd (as trustee).
- 36.10 The singular includes the plural and vice versa.
- 36.11 Any one gender includes all other genders.
- 36.12 Reference to a person includes a body politic or corporate, an individual and a partnership and vice versa.
- 36.13 Reference to “personal representative/s’ means the executor of the will or administrator of the estate of a deceased person, the trustee of the estate of a person under legal disability, the trustee of the estate of a bankrupt, the person who holds an enduring power of attorney granted by a person, or a liquidator, receiver, controller or administrator of a body corporate.
- 36.14 Another grammatical form of a defined expression has a corresponding meaning.
- 36.15 A member, including a Senior Member, will be considered ‘financial’ provided there are no monies owed to the Club by that member which monies have been in arrears for more than 60 days of their due date.

PART EIGHT– SPECIAL PROVISIONS

37. CYCSA Sinking Fund (Marina Berths & Associated Infrastructure)

- 37.1 Upon the Club's receipt of the Initial Sum and indefinitely thereafter a special purpose fund is established having the name “CYCSA Sinking Fund (Marina Berths & Associated Infrastructure)” (and for the purposes of this Clause 37, called the **Fund**).
- 37.2 The net proceeds from sale of land by Ramp Trust by contract dated on or about 23 February 2018 distributed or to be distributed to the Club as beneficiary of Ramp Trust must be credited to the Fund as the initial sum (and for the purposes of this Clause 37, called the **Initial Sum**).
- 37.3 Monies at any time standing to the credit of the Fund may be invested and reinvested in any investments selected by the Board.
- 37.4 Earnings on investment of the Fund must be credited to the Fund.
- 37.5 The Fund may only be used to defray costs and expenses of repairing, renovating, replacing or improving marina berths and associated

infrastructure including to the slipway, crane, crane wharf and hard stand area, and with prior approval of the Board.

- 37.6 The Board will require a funding proposal be prepared for the Board detailing the proposed costs and expenses, the expense of which may be reimbursed from the Fund if the funding proposal is approved by the Board.
- 37.7 The Fund may be used for any other purpose with prior approval of both:
- 37.7.1 a resolution of the Board for which at least four (4) Board Members voted in favour; and
- 37.7.2 a resolution of the members for which at least two thirds of Senior Members voting voted in favour,
- where such resolutions were passed within 120 days of each other.
- 37.8 The Fund may be debited with usual account-keeping fees and charges imposed by a bank or investment manager with whom the Fund is kept.
- 37.9 Despite Clause 34 (Amendment of this Document), this Clause 37 may only be modified or repealed by special resolution of the members for which at least two thirds of Senior Members voting voted in favour.

38. Liquor Licensing Act

- 38.1 This document (including any amendments and any by laws made under Clause 17) shall be construed subject to the provisions of the *Liquor Licensing Act 1997* and any law or laws for the time being in force in South Australia relating to the supply of intoxicating liquor.
- 38.2 If any of this document (including any amendments and any by laws made under Clause 17) is inconsistent with that Act, it shall be deemed to be invalid.
- 38.3 No liquor shall be sold or supplied to any person under eighteen (18) years of age.
- 38.4 No person under the age of eighteen (18) years (not being a child of a licensee or of a manager of the licensed premises) shall be employed to sell, supply or serve liquor.

39. Transitional Provisions

- 39.1 Without limiting the generality of the powers granted to the Board by this document, the Board may enter into such agreements or arrangements as the Board shall see fit with Paradise Development (Investment) Pty Ltd ACN 008 108 398 (in this Clause called "the Developer") in relation to the acquisition of the right to occupy the Pt Vincent Marina including (but without limiting the generality of the foregoing):-
- 39.1.1 the grant of licences to occupy marina berths at that marina to Senior Members, Life Members or Berth Licensees of the Club;

- 39.1.2 the terms upon which the Club is to be reimbursed for its expense, time and effort of and incidental to such grants of licences (which terms may be different to those applying to other members of the Club);
 - 39.1.3 the maintenance fee which is to be paid by the Developer for such of the berths as have not at any time been sold to a Senior Member, Life Member or Berth Licensee of the Club;
 - 39.1.4 the terms upon which the Developer shall become a Berth Licensee of the Club and the votes which the Developer may exercise on a poll in accordance with this document;
 - 39.1.5 The terms upon which a berth licensed to the Developer and which at that time has not been sold, can be leased to another Senior Member of the Club; and
 - 39.1.6 The diminishing of the Developer's interest in the Pt Vincent marina, until all licences to occupy marina berths at that marina are granted to Senior Members, Life Members or Berth Licensees of the Club other than the Developer.
- 39.2 This Clause 39 is a transitional provision and shall cease to form part of this document when the licence to occupy the final marina berth to be licensed shall have been executed by the Club and by the licensee thereof.