



**Deacons**

**Constitution of**

# **Townsville Motor Boat & Yacht Club Limited ACN 009 782 567**

**(adopted and approved by special resolution of a meeting  
of members of the company held at the Townsville Motor  
Boat and Yacht Club on 24 June 2007 and amended 22  
July 2008 and amended 23 June 2009 and amended 22  
June 2010)**

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**Townsville Motor Boat & Yacht Club Limited**  
ACN 009 782 567

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*Corporations Act 2001*

Company limited by guarantee

## **Constitution**

of

**Townsville Motor Boat & Yacht Club Limited**  
ACN 009 782 567

trading as Townsville Yacht Club [added AGM 23 June 2009]

## **Introduction**

### **1. Replaceable rules excluded**

1.1 The replaceable rules contained in the Act do not apply to the Company.

### **2. Definitions and interpretation**

#### **2.1 Definitions**

In this constitution:

- (1) **Act** means the *Corporations Act 2001* and includes any amendment or re-enactment of it or any legislation passed in substitution for it;
- (2) **business day** means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place where the Company has its registered office;
- (3) **Company** means Townsville Motor Boat & Yacht Club Limited ACN 009 782 567;
- (4) **directors** means the directors for the time being of the Company or the directors assembled as a board;
- (5) **Foundation Members** means the persons who consented to be members on the registration of the Company; and
- (6) **Returning Officer** means the officer referred to in rule 48;

- (7) **secretary** means the secretary referred to in rule 37 and any other person appointed to perform the duties of a secretary of the Company; and
- (8) **Yachting Australia** means Yachting Australia Inc of 16 Atchison Street, St Leonards NSW 2064.
- (9) **Member** – for the purposes of this constitution the term “member” shall include any corporate entity of which the elected member is a director and principal shareholder [added AGM 22 July 2008].

## 2.2 Interpretation

- (1) Reference to:
  - (a) one gender includes the others;
  - (b) the singular includes the plural and the plural includes the singular; and
  - (c) a person includes a body corporate.
- (2) Except so far as the contrary intention appears in this constitution:
  - (a) an expression has in this constitution the same meaning as in the Act; and
  - (b) if an expression is given different meanings for the purposes of different provisions of the Act, the expression has, in a provision of this constitution that deals with a matter dealt with by a particular provision of the Act, the same meaning as in that provision of the Act.
- (3) “Including” and similar expressions are not words of limitation.
- (4) Headings and any table of contents or index are for convenience only and do not form part of this constitution or affect its interpretation.

## 3. Objects

- 3.1 The objects for which the Company is established are to do all things appropriate to facilitate, for the people of North Queensland, recreational boating activities in a club atmosphere, and, without limitation, these include specific objects:
  - (1) to promote the recreation of boating and other allied pastimes and sports, to promote and protect the interests of boat owners and otherwise to encourage social activities between members of the Company;

- (2) to establish, maintain and conduct a clubhouse, marina and other conveniences for the accommodation and benefit of members of the Company, and to furnish and maintain the same and to permit the same to be used by the members of the Company and their friends, either gratuitously or upon such terms as will be determined upon by the directors, and to supply such members or persons with such accommodation, conveniences, commodities, food, drinks, refreshments and things as the directors may think fit and otherwise to afford to the members and their friends all the usual privileges, advantages, conveniences and accommodation of a Company;
- (3) to adopt all necessary means for making known the objects and advantages of the Company in its capacity as a club, as may seem expedient, and in particular by advertising in the press, by circulars, purchase and exhibition of works of art of interest, cinematograph films, or otherwise by the publication of books and periodicals, and by granting prizes, rewards and donations, and also to create and maintain a library in any premises for the time being used by the Company as a clubhouse or meeting place devoted to yacht and motor boat literature and otherwise as the directors decide;
- (4) to purchase, take on lease, or in exchange, hire or otherwise acquire any real and personal property, effects, rights or privileges, chattels, machinery and appliances, and to deal with the same in any manner whatever, and in particular to acquire any land or interest in land, buildings, easements, jetties, wharves and other marine facilities, machinery, plant, furniture and stock-in-trade;
- (5) to sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with all or part of the property and rights of the Company;
- (6) to purchase, hire, make or provide and maintain and to sell or otherwise dispose of all kinds of furniture, plate, linen, glass, books, papers, periodicals, stationary, billiard tables, card games, tools, implements, machines, utensils and other things required or which may be conveniently used in connection with the clubhouse and other premises of the Company by persons frequenting or using the same whether members of the Company or not;
- (7) to sell or dispose of the undertaking of the company on any part thereof for such consideration as the Company may think fit, and in particular for shares, debentures or securities of and other company having objects altogether or in part similar of those of this Company;
- (8) to hire and employ all classes of persons considered necessary for the purposes of the Company and to pay to them and to other

persons in return for services rendered to the Company salaries, wages, gratuities and pensions;

- (9) to apply for, promote and obtain an Act of Parliament charter, privilege, concession, licence or authorisation of and government, state or municipality, provisional order or licence of the Licensing Commission under the *Liquor Act* (Qld) 1992 or any other Act in substitution for it, or other authority for enabling the Company to carry any of its objects to effect or for extending any of the objects of the Company or for effecting any modification of the constitution of the Company or for any other purpose which may seem expedient, and to oppose any proceedings or applications which may seem calculated, directly or indirectly, to prejudice the interests of the Company;
- (10) to establish, promote or assist in the establishing or promoting and to subscribe to or become a member of any other association or club whose objects are similar or in part similar to the objects of the Company or the establishment of promotion of which may be beneficial to the Company, provided that no subscription be paid to any such other association or club out of the funds of the Company except bona fide to further the objects of the Company;
- (11) to support and subscribe to any charitable or public body and any institution, society or club which may be for the benefit of the Company or its employees to give pensions, gratuities, Christmas boxes or charitable aid to any person who may have served such persons; to make payments towards insurance; and to form and contribute to provident and benefit funds for the benefit of any persons employed by the Company;
- (12) to invest and deal with the monies of the Company not immediately required upon such securities and in such manner as may from time to time be determined;
- (13) to borrow or raise and give security for money by the issue of or upon bonds, debentures, debenture stock, unsecured notes, bills of exchange, promissory notes or other obligations or securities of the Company or by mortgage or charge upon all or any part of the property of the Company or without security and upon such terms as to priority or otherwise as the Company thinks fit;
- (14) to let or lease or hire the whole or any part of the real and personal property of the Company on such terms and for such purposes as the Company shall determine;
- (15) to draw, accept and make, and to endorse discount and negotiate bills of exchange and promissory notes and other negotiable instruments;

- (16) to take part or assist in the promotion or control of boating or any similar aquatic sport or pastime and to arrange for the representation of the Company in or upon any corporation or body concerned with the promotion or control of boating or any other similar aquatic sport or pastime;
- (17) to advance and lend money to such persons and on such terms and upon such security as may be thought expedient or without taking any security therefore, and in particular to members and others having dealings with the Company, and to guarantee on satisfactory security the performance of contracts by any such persons;
- (18) to unite and amalgamate with or absorb any person or persons or company or companies or partnership or partnerships or any club or other body having objects or carrying on any business which this Company has or is authorised to carry on or possessed of property suitable for the purposes of this Company;
- (19) to enter into any arrangement with any government or authority, supreme, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them, and to obtain from any such government or authority any rights, privileges or concessions;
- (20) to do all such other lawful things as may appear to be incidental or conducive to the attainment of the above objects or any of them; and
- (21) to undertake and execute any trusts which the undertaken thereof may seem desirable, and either gratuitously or otherwise.

3.2 This constitution will be deemed to be the Rules of the Company in its role as a club for the purpose of the *Liquor Act* (Qld) 1992.

3.3 In the interpretation of this rule the meaning of any of the Company's objects will not be restricted by reference to any other object or by the juxtaposition of two or more objects and that in the event of any ambiguity this rule shall be construed in such a way as to widen and not to restrict the powers of the Company.

#### **4. Powers**

*[compare section 124]*

4.1 The Company has all the powers of an individual and a body corporate necessary to achieve its objects, but does not have the power to issue shares.

4.2 Despite rule 4.1 the powers of the Company are ancillary to and exercisable only to pursue the objects of the Company set out in rule 3.

- 4.3 Changes to this Constitution may only be made if approved by a majority of berth owner members present, either personally or by proxy, at a general or special meeting of the Company [adder AGM 23 June 2009]

## **5. Application of income and property**

*[compare sections 125 and 150]*

- 5.1 The income and property of the Company, from wherever it is derived, must be applied solely towards the promotion of the objects of the Company set out in rule 3.

## **6. No distribution to members**

*[compare section 150]*

- 6.1 No portion of the income or property of the Company may be paid directly or indirectly, by way of dividend, bonus or otherwise to the members of the Company.
- 6.2 Rule 6.1 does not prevent:
- (1) the payment in good faith of remuneration to any officer, servant or member of the Company in return for any services actually rendered to the Company or for goods supplied in the ordinary and usual way of business;
  - (2) the payment of interest at a commercial rate on money borrowed from any member of the Company;
  - (3) the payment of reasonable and proper rent by the Company to a member of the Company for premises leased by the member to the Company;
  - (4) the reimbursement of expenses incurred by any member on behalf of the Company;
  - (5) Money and or property paid or given to a member as a prize for a legitimate raffle, lucky draw or competition.

## **7. Limited liability**

- 7.1 The liability of the members is limited.

## **8. Guarantee**

*[compare section 117]*

- 8.1 Every member of the Company undertakes to contribute an amount not exceeding \$25 to the property of the Company in the event of its being

wound up while the member is a member or within 1 year after the member ceases to be a member, if required for payment:

- (1) of the debts and liabilities of the Company (contracted before the member ceases to be a member);
- (2) of the costs, charges and expenses of winding up; and
- (3) for the adjustment of the rights of the contributories among themselves.

## **Membership**

### **9. Number of members**

9.1 The number of members for which the Company proposes to be registered is 2500 but the directors may at any time register an increase in the number of members.

### **10. Membership**

10.1 The members of the Company are

- (1) the Foundation Members; and
- (2) any other persons the directors admit to membership in accordance with this constitution.

### **11. Categories of membership**

11.1 The categories of membership are:

- (1) ordinary members;
- (2) junior members;
- (3) life members; and
- (4) honorary members.
- (5) berth owner members (available only to persons who, either directly or through any corporate entity of which that person is a director and principal shareholder, holds a sub-lease from the Club for a marina berth and are otherwise an ordinary member of the Club, and [added AGM 23 June 2009]

(6) social member, available to any person of not less than 18 years of age and who has an interest in the objects of the Club. [added AGM 23 June 2009]

11.2 Additional categories of members, if recommended by the directors, may be created at any time by the members in general meeting.

11.3 Any member who participates in any capacity, in any yacht sailing race organised by or on behalf of the Company, must be a financial member of Yachting Australia.

## **12. Townsville Cruising Yacht Club**

12.1 The Townsville Cruising Yacht Club (**TCYC**) is a subsidiary of the Company whose primary function is to organise, on behalf of the Company, sailing activities including racing and social events for members of the Company

12.2 The TCYC will be managed by a committee of members of the Company consisting of a Sailing Captain, Sailing Vice Captain and Sailing Rear Captain, treasurer and secretary, (the office bearers) who shall be elected annually at an annual general meeting of the TCYC ( such AGM to be held on a date nominated by the committee in November of each year and notice of that AGM shall be posted on the Club Notice Board not less than 14 days before that meeting) and one director of the Company appointed annually by the Board of the Company.

12.3 Any member of the Company who is also a member of Yachting Australia will be eligible for election to the committee of TCYC and eligible to vote at the annual general meeting of TCYC for the election of office bearers of the committee and other general business of TCYC.

12.4 The TCYC will charge, as the committee consider appropriate, nomination fees for race entry, and apply that money and any other money raised by TCYC for the benefit of sailing activities for members of the Company as the committee considers appropriate, and for that purpose shall operate a bank account in the name of TCYC and otherwise hold property acquired by TCYC however, such funds and property shall at all times remain the property of the Company but shall only be used for the purposes of the TCYC until otherwise resolved by the members of the Company.

12.5 The committee of TCYC will meet as frequently as that committee considers appropriate.

12.6 The committee of TCYC may co-opt other members of the Company to serve on the committee as the committee considers appropriate.

12.7 No member of the committee will be liable for the act, neglect or default of any other committee member or for joining in any act or for any loss, expense or damage which arises in the execution of the duties of

committee person unless it arises through his or her own dishonesty or unlawful conduct.

12.8 The board of the Company will have a right to veto any decision of the committee of the TCYC.

### **13. Application for ordinary membership**

13.1 Any individual who:

- (1) is not less than 18 years of age at the date of application; and
- (2) who is of good repute; and
- (3) professes an interest in boating;

may upon application, and agreeing to be bound by this Constitution, be admitted to ordinary membership of the Company.

### **13A Application for berth owner membership**

13A.1 Any ordinary member of the Club who either directly or indirectly through any corporate entity of which that person is a director and principal shareholder, holds a sub-lease from the Club for a marina berth shall automatically become a "berth owner member" and remain a "berth owner member" so long as that person remains the sub-lessee of a marina berth from the Club.

13A.2 A berth owner member shall pay the same annual subscription as an ordinary member.

[13A added AGM 23 June 2009]

### **13B Application for social membership**

13B.1 Any person who:

- (4) is not less than 18 years of age at the date of application; and
- (5) is of good repute; and
- (6) who professes an interest in the objects of the Club

may upon application and agreeing to be bound by this Constitution, be admitted to membership of the Company.

13B.2 The annual subscription for social membership shall be \$20.00 including GST, until the directors otherwise resolve.

[13B added AGM 23 June 2009]

#### **14. Application for junior membership**

14.1 Any individual who:

- (1) is under the age of 18 years; and
- (2) is otherwise eligible for admission as a member;

may upon application, and agreeing to be bound by this Constitution, be admitted to junior membership of the Company.

14.2 Despite anything in this constitution to the contrary, a junior member:

- (1) has no right to receive notices of, or to attend and be heard at any general meeting; but
- (2) has the right to introduce visitors to the Company as if they were an ordinary member.

14.3 Junior members' use of the Company's facilities is restricted by the provisions of the *Liquor Act* (Qld) 1992.

14.4 Junior members are only entitled to take part in such sporting activity or competition conducted by the Company as shall be determined by the directors from time to time.

#### **15. Form of application**

15.1 An application for membership must be:

- (1) in writing in a form approved by the directors;
- (2) signed by the applicant;
- (3) signed by the proposer and seconder, each of whom must be members; and
- (4) accompanied by any other documents or evidence as to qualification for the type of membership applied for which the directors require.

- 15.2 An application form must be accompanied by:
- (1) an application fee, if any, determined in accordance with rule 21.1; and
  - (2) the annual subscription, determined in accordance with rule 22.

## **16. Admission to membership**

- 16.1 The directors must consider an application for membership as soon as practicable after its receipt and determine, in their discretion, the admission or rejection of the applicant.
- 16.2 The directors need give no reason for the rejection of an application.
- 16.3 If an application for membership is rejected the application fee, if any, and the annual subscription must be refunded to the applicant.
- 16.4 If an applicant is accepted for membership:
- (1) the secretary must notify the applicant of admission in the form of a receipt for the application fee, if any, and annual subscription or in any other form the directors determine; and
  - (2) the name and details of the member must be entered in the register of members.

## **17. Notification by members**

- 17.1 Each member must promptly notify the secretary in writing of any change in their qualification to be a member of the Company.

## **18. Life membership**

- 18.1 If, in the opinion of the directors, a member has made over a period of years a significant contribution to the Company, the directors may nominate the member as a life member of the Company.
- 18.2 To be nominated, members must have been an ordinary member for not less than 10 years.
- 18.3 A member nominated under rule 18.1 becomes a life member of the Company on the nomination being approved by an ordinary resolution of members at a general meeting by a 75% majority.
- 18.4 A life member has all the rights and privileges of membership and is otherwise subject to this constitution.

- 18.5 The Company in general meeting, on the recommendation of the directors, may make provision for the granting to members of life membership (**paid life membership**) on payment of an amount recommended by the directors, and approved by the Company in general meeting, as a reasonable equivalent of payment in advance of an annual subscription over a period of years.
- 18.6 If the Company provides for paid life membership it is open to any member, and the amount to be paid is the same for any member, whatever the member's age.
- 18.7 The Company in general meeting may, on the recommendation of the directors, remove the provision for paid life membership, or change the amount to be paid for it, but this does not affect the rights of members who were granted paid life membership while the provision was in force.

## **19. Honorary membership**

- 19.1 If, in the opinion of the directors, a person, not being a member of the Company, ought to be an honorary member, the directors may nominate that person as an honorary member of the Company.
- 19.2 Persons must be over the age of 18 years to be nominated.
- 19.3 Honorary members can be elected to this form of membership by the directors for a limited period and upon any terms and subject to any regulations as the directors may deem advisable, with out payment of any subscription, provided that the person has one or more of the following qualifications:
- (1) that they are the manager or member of any visiting overseas, interstate or country sporting body for the duration of the visit of the body;
  - (2) that they are a person visiting the Company premises for the purpose of participating in a sport or competition being conducted by the Company, which sport or competition is part of a recognised competition in which the Company is participating;
  - (3) that they are a prominent citizen or sportsperson visiting the Company premises for some special occasion; or
  - (4) that they are a visiting owner or crew of a vessel leasing a marina pen, providing their stay is no longer than 3 months.
- 19.4 No honorary member is entitled to:
- (1) hold any office in the Company;

(2) receive notice of and attend or vote at any meeting of the members; nor

(3) the right to introduce visitors to the Company.

19.5 Honorary members are only entitled to take part in sporting activity or competition conducted by the Company as is determined by the directors from time to time.

19.6 The membership of any honorary members in the Company may be terminated at any time by a resolution of the directors or by direction of the president or any director without assigning any reason.

## **20. Register of members**

*[compare sections 168 and 169]*

20.1 A register of members of the Company must be kept by the secretary in accordance with the Act.

20.2 The following must be entered in the register of members in respect of each member:

(1) the full name of the member;

(2) the member's occupation if provided;

(3) the residential address, facsimile number and electronic mail address, if any, of the member;

(4) the category of membership;

(5) the date of admission to and cessation of membership;

(6) the date of last payment of the member's annual subscription;

(7) particulars of the member's craft; and

(8) such other information as the directors require.

20.3 Each member must notify the secretary in writing of any change in that person's name, address, facsimile number or electronic mail address within 1 month after the change.

## **Application fee and annual subscription**

### **21. Application fee**

- 21.1 The application fee payable by each applicant for membership is the sum the directors determine for each category of membership.
- 21.2 No application fee is payable by any honorary member.

### **22. Annual subscription**

- 22.1 The annual subscription payable by a member of the Company is the sum the directors determine.
- 22.2 Until the directors otherwise resolves the annual subscription:
  - (1) for an ordinary member is \$132.00 including GST(except where the ordinary member has been granted family membership under rule 12.2 in which case the annual subscription fee will be equivalent to an ordinary member's annual subscription plus an additional 25%);
  - (2) for an associate member is \$22.00 including GST;
  - (3) for a junior member is \$22.00 including GST;
  - (4) for a temporary member \$10.00 including GST per week;
  - (5) for a country member 50% of ordinary membership
  - (6) for a pensioner member is \$11.00 including GST.
- 22.3 All annual subscriptions are due and payable in advance on 31 March in each year except ordinary membership which is payable half yearly in advance.
- 22.4 If a person is admitted to membership of the Company during the months of October to March inclusive the directors may reduce the annual subscription payable by the applicant in any manner they see fit.
- 22.5 No annual subscription is payable by any life member or honorary member.

## **23. Unpaid annual subscriptions**

23.1 If:

- (1) the annual subscription of a member remains unpaid for 2 months after it becomes payable; and
- (2) a notice of default is given to the member following a resolution of the directors to do this;

the member ceases to be entitled to any of the rights or privileges of membership but these may be reinstated on payment of all arrears if the directors see fit.

## **24. Calls**

24.1 The Directors may make a levy upon members for funds to be used for some special need of the Company if the Company approves in general meeting.

24.2 The following notices must specify the purpose to which the funds levied are to be applied:

- (1) notice of convening the general meeting to sanction the levy; and
- (2) notice of the levy given to the members after approval.

## **Cessation of membership**

### **25. Resignation**

25.1 A member may resign from membership of the Company by giving written notice to the secretary.

25.2 The resignation of a member takes effect on the date of receipt of the notice of resignation or any later date provided in the notice.

25.3 The member remains liable for all obligations and liabilities of membership due and unpaid at the date of resignation, including obligations under rule 8.1.

### **26. Failure to pay**

26.1 If a member has not paid all arrears of annual subscriptions under rule 22 or, if paid, the member's rights and privileges are not reinstated:

- (1) the member remains liable for all the obligations and liabilities of membership until the expiration of 6 months after the date of notification under rule 23.1(2); and
- (2) the member ceases to be a member and member's name must be removed from the register of members at the expiration of the 6 month period.

## **27. Cessation of membership**

27.1 A member who is an individual ceases to be a member:

- (1) on the death of the member;
- (2) if the member is expelled under rule 28; or
- (3) if the member ceases to be a member under rule 30.1(2).

27.2 A member ceases to be a member if the member becomes bankrupt or makes any assignment for the benefit of or composition with the member's creditors. The member may be re-admitted as a member by submission to election by a ballot if the member presents a Certificate of Discharge or release from creditors.

27.3 A life member or an honorary member ceases to be a member:

- (1) if the member ceases to be a member in accordance with rule 27.1(1) or 31.1(2); or
- (2) if the directors, for any reason, request in writing the resignation of the member and the member does not resign within 2 months after the request is sent.

## **28. Disciplining members**

28.1 If any member:

- (1) wilfully refuses or neglects to comply with the provisions of this constitution;
- (2) is guilty of any conduct which, in the opinion of the directors, is unbecoming of a member or prejudicial to the interest of the Company;
- (3) has been convicted of a crime;
- (4) has been expelled, disqualified or suspended by any recognised club; or

- (5) has not correctly disclosed particulars required or set out in the application for membership;

the directors may resolve to censure, fine, suspend or expel the member from the Company and, in the case of expulsion, to remove the member's name from the register of members.

- 28.2 In exercising their powers under rule 28.1 the directors must not fine a member an amount exceeding the annual subscription of an ordinary member (whether or not the member is liable to pay an annual subscription).
- 28.3 At least 1 week before the meeting of the directors at which a resolution of the nature referred to in rule 28.1 is passed the directors must give to the member notice of:
  - (1) the meeting;
  - (2) what is alleged against the member; and
  - (3) the intended resolution.
- 28.4 At the meeting and before the passing of the resolution, the member must have an opportunity of giving orally or in writing any explanation or defence the member sees fit.
- 28.5 A member may, by notice in writing lodged with the secretary at least 24 hours before the time for holding the meeting at which the resolution is to be considered by the directors, elect to have the question dealt with by the Company in general meeting and in that event, a general meeting of the Company must be called for that purpose.
- 28.6 If at the meeting a resolution to the same effect as the resolution which was to be considered by the directors is passed by a majority of 2/3 of those present and voting (and the vote must be taken by secret ballot), the member concerned must be punished in the manner resolved and in the case of a resolution for expulsion the member is expelled and the member's name must be removed from the register of members.
- 28.7 If any member ceases to be a member under rule 28.6, the directors may reinstate the member and restore the name of that member to the register of members upon and subject to any terms and conditions they see fit.
- 28.8 Directors may suspend membership for a period of up to 14 days without complying with the obligations in rules 31.3 to 31.7. During this 14 day period, the member:
  - (1) forfeits all rights under this constitution;
  - (2) remains liable for all debts and liabilities to the Company; and

- (3) must pay any fines imposed prior to removal of the suspension.

## **29. Effect of cessation of membership**

- 29.1 If any member ceases to be a member under this constitution, the member remains liable to pay to the Company for any money which, at the time of the member ceasing to be a member, the member owes to the Company on any account and for any sum not exceeding \$25 for which the member is liable under rule 8 of this constitution.

## **Visitors**

### **30. Member's rights and responsibilities regarding visitors**

- 30.1 A visitor accompanied by a member may on being vouched for in the manner the directors determine, have use of the premises and the property of the Company.
- 30.2 A visitor must enter the following details and sign the visitor book;
  - (1) the date of introduction;
  - (2) the name and address of the visitor; and
  - (3) the occupation of the visitor
- 30.3 Visitors to the Company, as guests of members, must remain in the company of the member whilst in the premises of the Company and admission will be subject to the following restrictions:
  - (1) admittance may be refused at the discretion of a director or other responsible person on the Company staff to whom such power has been delegated by the directors;
  - (2) admittance of visitors must only be permitted at the times specified in the Company's by-laws; and
  - (3) no person under the age of 18 years may be served with liquor.
- 30.4 Members must be responsible for the conduct of any visitors they may introduce and no person may be introduced as a visitor:
  - (1) whose name has previously been removed from the register;
  - (2) who has been refused admission to membership of the Company within the last 6 months;

- (3) who has previously been expelled from membership of the Company; or
- (4) who has visited the Company 6 times in the last 12 months.

## **Appointment of directors**

### **31. Number of directors**

*[compare section 201A]*

- 31.1 The number of the directors shall be no less than 6 and no more than 13 inclusive of ex officio directors “of whom 6, if the number of directors be 8 or less, and otherwise a majority of 3 of the number, if the number be more than 8, shall be berth owner members” [added AGM 23 June 2009]
- 31.2 The Company in general meeting may by resolution increase or reduce the number of directors referred to in rule 31.1 but the number may not be reduced below 6.

### **32. Directors’ qualifications**

- 32.1 No person may be a director unless that person is an ordinary member or a life member (which includes a paid life member) of the Company.

### **33. Election of directors**

*[compare section 201E and replaceable rule 201G]*

- 33.1 The directors are elected at each annual general meeting of the Company.
- 33.2 The office bearers and 3 directors must be elected annually at the annual general meeting and will hold office until they resign or cease to be a member of the Company or until the appointment of their respective successors.
- 33.3 The Commodore on his/her retirement will become the Rear Commodore and will be entitled to attend all directors meetings in an advisory capacity for the 12 months following their retirement.
- 33.4 The office bearers will be elected for a period of not less than 1 year and the other directors for a period of not less than 2 years.
- 33.5 Directors may hold office until the next annual general meeting 2 years after their election when they must retire. They will then be eligible for re-election.

### **34. Nomination for election**

34.1 Each candidate for election as a director must:

- (1) be proposed by an ordinary member; and
- (2) be seconded by another ordinary member;

both of which members must be current financial members of the Company at the time of nomination.

34.2 No ordinary member may propose more than 1 person as a candidate but may second more than 1 nomination.

34.3 A nomination of a candidate for election must:

- (1) be in writing;
- (2) be signed by the candidate; and
- (3) be signed by the proposer and seconder.

34.4 A nomination of a candidate for election must be received at the registered office of the Company not later than 5pm on the day which is 45 days prior to the annual general meeting at which the candidate seeks election.

34.5 A list of the candidates' names in alphabetical order together with the proposers' and seconders' names must be sent to members with the notice of the annual general meeting.

### **35. Election procedure – directors**

35.1 If the number of candidates for election as directors is equal to or less than the number of vacancies on the board, the chair of the annual general meeting must declare those candidates to be duly elected as directors.

35.2 If the number of candidates for election as directors is greater than the number of vacancies on the board, a ballot must be held for the election of the candidates.

35.3 If a ballot is required, balloting lists must be prepared listing the names of the candidates only in alphabetical order.

35.4 At the annual general meeting each person entitled to vote and voting on the ballot may vote for a number of candidates equal to the number of vacancies.

- 35.5 The candidates receiving the greatest number of votes cast in their favour must be declared by the chair of the meeting to be elected as directors.
- 35.6 If an equality of votes would otherwise prevent the successful candidate for a vacancy from being determined, the chair, prior to the declaration of the result of the ballot, in addition to his or her deliberative vote (if any) is entitled to a casting vote, except that if the chair:
- (1) does not exercise a casting vote; or
  - (2) is one of the candidates who received the same number of votes;
- then the names of the candidates who received the same number of votes must be put to a further ballot immediately.
- 35.7 There is not a vacancy for the purpose of this rule 35 (or rules 40 or 41) because the number of directors is less than the maximum allowed under rule 31.1. There is a vacancy only if the number of directors is less than the number elected at the previous annual general meeting (adjusted for any increase under rule 40.1).

### **36. Time appointment or retirement takes effect**

- 36.1 Directors who are appointed at a meeting of members take office immediately after the end of the meeting.
- 36.2 Directors who retire at a meeting of members continue to hold office until the end of the meeting.

### **37. Office bearers**

- 37.1 “Only berth owner members may be office bearers of the Company” [added AGM 23 June 2009]. The office bearers of the Company are *ex officio* directors and consist of:
- (1) the Commodore;
  - (2) the Senior Vice Commodore;
  - (3) the Rear Commodore;
  - (4) the treasurer; and
  - (5) the secretary.

**38. Eligibility and nomination – office bearers**

- 38.1 Except for the secretary, only directors may be office bearers. Any director is eligible for election to any office bearer position.
- 38.2 Each director standing for election as an office bearer must be proposed by another director.
- 38.3 If a director stands for election for more than 1 position as an office bearer separate nominations must be received in respect of each position.
- 38.4 A nomination may be:
- (1) in writing, received by the secretary not less than 24 hours prior to the board meeting at which the election is to take place and signed by the candidate and the proposer; or
  - (2) made orally at the meeting, provided that the candidate is present and consents to the nomination.

**39. Election procedure – office bearers**

- 39.1 The election of the office bearers is held in the order in which the positions are listed in rule 37.1.
- 39.2 If there is only 1 candidate for election to any office bearer position that person is declared elected to that position.
- 39.3 If there is more than 1 candidate for election to any office bearer position a ballot must be held among the candidates. The candidate receiving the greatest number of votes cast in his or her favour is declared elected to that position.
- 39.4 In the case of an equality of votes in respect of any position a further ballot must be held immediately but if there is still an equality of votes the successful candidate must be determined by lot.
- 39.5 If a director is elected to a position as office bearer then his or her nomination, if any, for any other position must be treated as withdrawn before the election is held in respect of the other position or positions.
- 39.6 Subject to this rule 39 a ballot is conducted in the manner the directors determine.

## **Appointment of directors between AGMs**

### **40. Casual vacancies and additional directors**

*[compare replaceable rules 201G and 201H]*

- 40.1 The Company in general meeting may by resolution and the directors may at any time appoint a person qualified to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors does not at any time exceed the number fixed in accordance with this constitution.
- 40.2 Any director appointed under rule 40.1 holds office until the termination of the next annual general meeting of the Company and is then eligible for re-election.

### **41. Insufficient directors**

*[compare replaceable rule 201H]*

- 41.1 In the event of a vacancy in the office of a director, the remaining directors may act, but if the number of remaining directors is not sufficient to constitute a quorum at a meeting of directors, they may act only for the purpose of increasing the number of directors to a number sufficient to constitute a quorum or convening a general meeting of the Company.

## **Alternate directors**

*[compare replaceable rule 201K]*

### **42. Appointment**

- 42.1 A director may appoint any person approved by a majority of the other directors to act as an alternate director in place of the appointing director for a meeting or for a specified period.
- 42.2 An alternate director is not taken into account for the purpose of rule 31.

### **43. Rights and powers of alternate director**

- 43.1 An alternate director is entitled to notice of meetings of the directors and, if the appointor is not present at a meeting, is entitled to attend and vote in his or her stead.
- 43.2 When an alternate director exercises the director's powers, the exercise of the power is just as effective as if the powers were exercised by the director.

#### **44. Suspension or revocation of appointment**

- 44.1 A director may revoke or suspend the appointment of an alternate director appointed by him or her.
- 44.2 The directors may suspend or remove an alternate director by resolution after giving the appointor reasonable notice of their intention to do so.

#### **45. Form of appointment, suspension or revocation**

- 45.1 Every notice of appointment, revocation or suspension under rules 42 or 44 must be in writing and a copy must be given to the Company. The notice may be given by facsimile.

#### **46. Termination of appointment**

- 46.1 The appointment of an alternate director automatically terminates:
- (1) if the appointor ceases to hold office as director;
  - (2) on any event which causes a director to vacate the office of director; or
  - (3) if the alternate director resigns from the appointment by written notice left at the registered office of the Company.

#### **47. Power to act as alternate for more than 1 director**

- 47.1 A director or any other person may act as alternate director to represent more than 1 director.

### **Returning Officers**

#### **48. Appointment**

- 48.1 Directors must appoint a Returning Officer at the directors' meeting in April of each year.
- 48.2 The Returning Officer must not be a member of the Company.

#### **49. Rights and powers of Returning Officer**

- 49.1 The Returning Officer is responsible to the directors for the preparation and scrutiny of the election of office bearers.

49.2 The Returning Officer must:

- (1) at 10pm on the evening of the 8<sup>th</sup> day prior to the AGM:
  - (a) record nominations held by the secretary;
  - (b) declare the nominations closed; and
  - (c) ensure that any withdrawal of nominations is bona fide;
- (2) on the night of the AGM:
  - (a) have a current membership list of financial members available;
  - (b) restrict entry to the AGM to individuals able to show proof of membership and holders of proxies on behalf of financial members;
- (3) where necessary, issue ballot papers to each member and proxy holder present so that:
  - (a) separate ballot papers for each agenda item and nomination will be used;
  - (b) ballot papers are marked with the member's number so that the member may be consulted if an irregularity is found;
  - (c) the numbered ballot paper is only to be made available to the Returning Officer and is destroyed on declaration of the result;
- (4) have ballot papers collected and counted under the scrutiny of the chief accounting officer or other impartial person accepted by the members present; and
- (5) declare the result of the ballot.

## **Powers of directors**

### **50. Validation of acts of directors and secretaries**

*[compare sections 201M and 204E]*

- 50.1 The acts of a director or secretary of the Company are valid despite any defect that may afterwards be discovered in his or her appointment or qualification.
- 50.2 Where a person whose office as director of the Company is vacated under a provision of the Act purports to do an act as a director of the Company,

that act is as valid, in relation to a person dealing with the Company in good faith and for value and without actual knowledge of the matter because of which the office was vacated, as if the office had not been vacated.

## **51. General business management**

*[compare replaceable rule 198A]*

- 51.1 The business of the Company is to be managed by or under the direction of the directors.
- 51.2 The directors may exercise all the powers of the Company except any powers that the Act or this constitution requires the Company to exercise in general meeting.
- 51.3 A rule made or resolution passed by the Company in general meeting does not invalidate any prior act of the directors which would have been valid if that rule or resolution had not been made or passed.
- 51.4 The directors may pay all expenses incurred in promoting and forming the Company.

## **52. Borrowing powers**

- 52.1 Without limiting the generality of rule 51, but subject to rule 6, the directors may exercise all the powers of the Company to borrow money, to charge any property or business of the Company and to issue debentures or give any other security for a debt, liability or obligation of the Company or of any other person.
- 52.2 The directors must not borrow amounts totalling in all at any time more than \$250,000.00 in any 1 year without sanction of a general meeting.

## **53. Appointment of attorney**

- 53.1 The directors may appoint any person or persons to be the attorney or attorneys of the Company for the purposes, with the powers and discretions (being powers and discretions vested in or exercisable by the directors), for the period and subject to the conditions they see fit.
- 53.2 A power of attorney may contain the provisions for the protection and convenience of persons dealing with the attorney that the directors see fit and may also authorise the attorney to delegate all or any of the powers and discretions vested in the attorney.

## **54. Negotiable instruments**

*[compare replaceable rule 198B]*

- 54.1 Any 2 directors may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- 54.2 The directors may determine that a negotiable instrument, including a class of negotiable instrument, may be signed, drawn, accepted, endorsed or otherwise executed in a different way.

## **55. Invitation by directors**

- 55.1 The directors have the power to invite any distinguished citizen of the State of Queensland to be a patron of the Company.
- 55.2 The patron may, but does not need to be, a member of the Company.
- 55.3 If the patron is not a member, the patron is deemed to be an honorary member for the period during which they are a patron.

## **Executive officer**

*[compare replaceable rule 201J]*

## **56. Power to appoint**

- 56.1 The directors may appoint any person, to the position of executive officer for the period and on the terms (including as to remuneration) the directors see fit.

## **57. Not a member of the board**

- 57.1 The executive officer, unless he is otherwise a director of the Company, is not a member of the board of the Company but may attend meetings of the directors except where the directors otherwise request.

## **58. Powers**

- 58.1 The directors may, upon terms and conditions and with any restrictions they see fit, confer on an executive officer any of the powers that the directors can exercise.
- 58.2 Any powers so conferred may be concurrent with, or to the exclusion of, the powers of the directors.

## **59. Withdrawal of appointment or powers**

59.1 The directors may revoke or vary:

- (1) an appointment; or
- (2) any of the powers conferred on an executive officer.

## **60. Temporary appointments**

60.1 If an executive officer becomes incapable of acting in that capacity the directors may appoint any other person, to act temporarily as executive officer.

## **Committees of directors**

### **61. Committees of directors**

*[compare replaceable rule 198D]*

61.1 The directors may delegate any of their powers to a committee of directors.

61.2 A committee must exercise the powers delegated to it in accordance with any directions of the directors. The effect of the committee exercising a power in this way is the same as if the directors exercised it.

61.3 The meetings and proceedings of any committee consisting of 2 or more directors are governed by the provisions in this constitution regulating the meetings and proceedings of the directors.

## **Removal and resignation of directors**

### **62. Removal of directors**

*[compare section 203D]*

62.1 Subject to the Act the Company may by resolution remove a director from office.

### **63. Resignation of director**

*[replaceable rule 203A]*

63.1 A director may resign as a director of the Company by giving a written notice of resignation to the Company at its registered office.

## **64. Vacation of office of director**

*[compare section 206B]*

- 64.1 In addition to any other circumstances in which the office of a director becomes vacant under the Act, the office of a director becomes vacant if the director:
- (1) becomes bankrupt or suspends payment or compounds with his or her creditors;
  - (2) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (3) is not present (either personally or by an alternate director) at 3 consecutive meetings of directors without special leave of absence from the directors and the directors declare his or her seat to be vacant;
  - (4) ceases to be qualified as a director under rule 32;
  - (5) becomes disqualified from being a director under the Act or any order made under the Act;
  - (6) is removed from office in accordance with rule 62; or
  - (7) resigns from office in accordance with rule 63.

## **Directors' interests**

### **65. Prohibition on being present or voting**

*[compare section 195]*

- 65.1 Except where permitted by the Act a director who has a material personal interest in a matter that is being considered at a meeting of directors:
- (1) must not be counted in a quorum;
  - (2) must not vote on the matter; and
  - (3) must not be present while the matter is being considered at the meeting.
- 65.2 If a director who has a material personal interest in a matter that is being considered at a meeting of the directors is not prohibited by the Act from being present at the meeting and voting, the director may be present, be counted in the quorum and may be heard but may not vote on the matter.

## **66. Director to disclose interests**

*[compare section 191]*

- 66.1 A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company must, as soon as practicable after the relevant facts have come to the director's knowledge, declare the nature of the interest at a meeting of the directors or by written notice to the secretary of the Company.
- 66.2 A director who holds any office or possesses any property by which, whether directly or indirectly, duties or interests might be created in conflict with his or her duties or interests as director must declare at a meeting of the directors of the Company or by written notice to the secretary of the Company the fact and the nature, character and extent of the conflict.
- 66.3 For the purposes of rules 66.1 and 66.2, a director's interest or any conflict must be disregarded if it arises from or relates solely to:
- (1) a guarantee to be given by the director (or by persons including the director or by a body corporate of which the director is a member or officer) in respect of a loan to the Company; or
  - (2) the position of the director as a director of a related body corporate.

## **67. Effect of interest in contract**

*[compare replaceable rule 194]*

- 67.1 If a director has an interest in a contract or proposed contract with the Company (other than as a member), or a conflicting interest or duty in relation to any other matter being considered by the directors, and the director discloses the nature and extent of the interest or duty at a meeting of the directors or by written notice to the secretary of the Company:
- (1) the contract may be entered into; and
  - (2) if the disclosure is made before the contract is entered into:
    - (a) the director may retain benefits under the contract even though the director has an interest in the contract;
    - (b) the Company cannot avoid the contract merely because of the existence of the interest; and
    - (c) the director is not disqualified from the office of director.
- 67.2 For the purposes of rule 67.1 **contract** includes an arrangement, dealing or other transaction.

## **68. Other interests**

68.1 Without limiting rule 66 or rule 67 a director may to the extent permitted by the Act:

- (1) hold any other office or place of profit under the Company (other than the office of auditor) in conjunction with the office of director;
- (2) be interested in any operation, undertaking or business undertaken or assisted by the Company or in which the Company is or may be interested.

## **69. Extension of meaning of “Company”**

69.1 For the purposes of rules 66, 67 and 68 **Company** includes any subsidiary of the Company and any other company in which the Company or any subsidiary of the Company is or becomes a shareholder or is otherwise interested.

## **70. Other directorships and shareholdings**

70.1 A director of the Company may be or become a director, officer, employee or member of any company promoted by the Company or in which the Company may be interested as a vendor, shareholder or otherwise and is not accountable for any reasonable benefits received as a director, officer, employee or member of the other company.

70.2 Subject to the Act:

- (1) the directors of the Company may exercise the voting power conferred by the shares or other interest held by the Company in another company in favour of a resolution appointing themselves or any of them as directors or other officers of the other company;
- (2) any director of the Company may vote at a meeting of directors of the Company in favour of a resolution that the Company exercises its voting power conferred by the shares or other interest held by the Company in the other company to appoint that director as a director or other officer of the other company;
- (3) any director of the Company may be appointed as representative of the Company and may vote at a general meeting of the other company in favour of a resolution appointing that director as a director or other officer of the other company; and
- (4) a director of the Company who is also a director of the other company may vote as a director of the other company in whatever manner he or she sees fit, including voting in favour of a resolution appointing the director to any other office in the other company

and a resolution appointing any other directors of the Company as directors or other officers of the other company.

## **Remuneration of directors**

### **71. No directors' remuneration**

*[compare section 150]*

71.1 Despite rule 6.2 no director may receive any remuneration for his or her services in his or her capacity as a director of the Company.

### **72. Directors' expenses**

72.1 Despite rule 71 the Company may pay the directors' travelling and other expenses that they properly incur:

- (1) in attending directors' meetings or any meetings of committees of directors;
- (2) in attending any general meetings of the Company; and
- (3) in connection with the Company's business.

72.2 The directors must approve all payments the Company makes to its directors.

### **73. Financial benefit**

*[compare Chapter 2E - sections 207 and following]*

73.1 To the extent, if any, required by the Act, a director must ensure that the requirements of the Act are complied with in relation to any financial benefit given by the Company to the director or to any other related party of the director.

## **Secretary**

### **74. Terms of office of secretary**

*[compare replaceable rule 204F]*

74.1 A secretary of the Company holds office on the terms and conditions (including as to remuneration) that the directors determine.

## Indemnity and insurance

### **75. Indemnity**

*[compare section 199A]*

75.1 To the extent permitted by the Act, the Company indemnifies:

- (1) every person who is or has been an officer of the Company; and
- (2) where the board of directors considers it appropriate to do so, any person who is or has been an officer of a related body corporate of the Company;

against any liability incurred by that person in his or her capacity as an officer of the Company or of the related body corporate (as the case may be).

75.2 In accordance with section 199A of the Act, the Company must not indemnify a person against:

- (1) any of the following liabilities incurred as an officer of the Company:
  - (a) a liability owed to the Company or a related body corporate;
  - (b) a liability for a pecuniary penalty order under section 1317G of the Act or a compensation order under section 1317H of the Act; or
  - (c) a liability that is owed to someone other than the Company or a related body corporate and did not arise out of conduct in good faith; or
- (2) legal costs incurred in defending an action for a liability incurred as an officer of the Company if the costs are incurred:
  - (a) in defending or resisting proceedings in which the person is found to have a liability for which they could not be indemnified under rule 75.2(1);
  - (b) in defending or resisting criminal proceedings in which the person is found guilty;
  - (c) in defending or resisting proceedings brought by the Australian Securities and Investments Commission or a liquidator for a court order if the grounds for making the order are found by the Court to have been established; or
  - (d) in connection with proceedings for relief to the person under the Act in which the Court denies the relief.

Rule 75.2(2)(c) does not apply to costs incurred in responding to actions taken by the Australian Securities and Investments Commission or a liquidator as part of an investigation before commencing proceedings for a court order.

- (3) For the purposes of rule 75.2(2) the outcome of proceedings is the outcome of the proceedings and any appeal in relation to the proceedings.

75.3 An officer must:

- (1) give notice to the Company promptly on becoming aware of any Claim against the officer that may give rise to a right to be indemnified under rule 75.1;
- (2) take such action as the Company reasonably requests to avoid, dispute, resist, appeal against, compromise or defend any Claim or any adjudication of a Claim;
- (3) not make any admission of liability in respect of or settle any Claim without the prior written consent of the Company;
- (4) allow the Company or its insurers to assume the conduct, negotiation or defence of any Claim and, on request by the Company, render all reasonable assistance and co-operation to the Company or its insurers in the conduct of any Claim, including giving the Company or its insurers any document, authority or direction that the Company or its insurers may reasonably require for the prosecution or advancement of any counterclaim or cross-claim;
- (5) on request by the Company or its insurers, do everything necessary or desirable which the Company reasonably requests to enable the Company or its insurers (so far as it is possible) to be subrogated to and enjoy the benefits of the officer's rights in relation to any counterclaim or cross-claim or any claims against any third party and render such assistance as may be reasonably requested by the Company or its insurers for that purpose; and
- (6) notify any Claim to an insurer or any other person who may be liable to indemnify the officer in respect of that Claim and promptly take all reasonable steps to enforce all the officer's rights against the insurer or other person.

75.4 In rule 75.3 **Claim** means:

- (1) any writ, summons, cross-claim, counterclaim, application or other originating legal or arbitral process against an officer as an officer of the Company;

- (2) any hearing, complaint, inquiry, investigation, proceeding or application commenced or originating against an officer as an officer of the Company; or
- (3) any written or oral demand or threat that might result in the officer reasonably believing that any such process, hearing, complaint, inquiry, investigation, proceeding or application referred to in rule 75.4(1) or 75.4(2) may be initiated.

## **76. Insurance**

*[compare section 241A]*

- 76.1 The Company may pay or agree to pay a premium in respect of a contract insuring a person who is or has been an officer of the Company or a related body corporate of the Company against any liability incurred by the person as an officer of the Company or a related body corporate except a liability (other than one for legal costs) arising out of:
- (1) conduct involving a wilful breach of duty in relation to the Company; or
  - (2) a contravention of section 182 or 183 of the Act.
- 76.2 In the case of a director, any premium paid under this rule is not remuneration for the purpose of rule 71.

## **77. Director voting on contract of insurance**

*[compare section 191(2)(vi)]*

- 77.1 Despite anything in this constitution, a director is not precluded from voting in respect of any contract or proposed contract of insurance, merely because the contract insures or would insure the director against a liability incurred by the director as an officer of the Company or of a related body corporate.

## **78. Liability**

- 78.1 An officer of the Company is not liable for the act, neglect or default of any other officer or for joining in any act or for any other loss, expense or damage which arises in the execution of the duties of his or her office unless it arises through his or her own dishonesty or other unlawful conduct.

## **79. Meaning of “officer”**

- 79.1 For the purposes of rules 75, 76, 77 and 78, **officer** means a director or secretary or a member of a committee of the Company.

## Inspection of records

### 80. Rights of inspection

*[compare replaceable rule 247D and sections 173, 198F, 247A and 251B]*

- 80.1 The directors of the Company, or the Company by a resolution passed at a general meeting, may authorise a member to inspect books of the Company.
- 80.2 A member other than a director does not have the right to inspect any document of the Company, other than the minute books for the meetings of its members and for resolution of members passed without meetings, except as provided by law or authorised by the directors or by the Company in general meeting.
- 80.3 Directors have the rights of inspection and access provided by section 198F of the Act.

### 81. Confidential information

- 81.1 Except as provided by the Act, no member (not being a director) is entitled to require or receive any information concerning the business, trading or customers of the Company or any trade secret, secret process or other confidential information of or used by the Company.

## Directors' meetings

*[compare sections 248A to 248G]*

### 82. Circulating resolutions

*[compare replaceable rule 248A]*

- 82.1 The directors may pass a resolution without a directors' meeting being held if all the directors entitled to vote on the resolution (except a director absent from Queensland who has not left a facsimile number *or electronic mail address* at which he or she may be given notice or a Director unable to vote due to illness or accident) sign a document containing a statement that he or she is in favour of the resolution set out in the document.
- 82.2 Separate copies of a document may be used for signing by directors if the wording of the resolution and statement is identical in each copy.
- 82.3 The resolution is passed when the last director signs.
- 82.4 A facsimile or electronic communication addressed to or received by the Company and purporting to be signed or sent by a director for the purpose of this rule 82 must be treated as a document in writing signed by that director.

### **83. Meetings of directors**

83.1 The directors may meet together for the despatch of business and adjourn and otherwise regulate their meetings as they see fit, on at least a monthly basis.

### **84. Calling directors' meetings**

*[compare replaceable rule 248C]*

84.1 A director may at any time, and a secretary must on the requisition of a director, call a meeting of the directors.

### **85. Notice of meeting**

*[compare replaceable rule 248C]*

85.1 Reasonable notice of every directors' meeting must be given to each director and alternate director except that it is not necessary to give notice of a meeting of directors to any director who:

- (1) has been given special leave of absence; or
- (2) is absent from Queensland and has not left a facsimile number or electronic mail address at which he or she may be given notice.

85.2 Any notice of a meeting of directors may be given in writing or orally, and whether by facsimile, telephone, electronic mail or any other means of communication.

### **86. Technology meeting of directors**

*[compare section 248D]*

86.1 A directors' meeting may be held using telephone or, if consented to by all directors, other technology. The consent may be a standing one. A director may only withdraw the consent within a reasonable period before the meeting.

86.2 If a directors' meeting is held using any technology and all the directors take part in the meeting, they must be treated as having consented to the use of the technology for that meeting.

86.3 The following provisions apply to a technology meeting:

- (1) each of the directors taking part in the meeting must be able to hear and be heard by each of the other directors taking part in the meeting; and
- (2) at the commencement of the meeting each director must announce his or her presence to all the other directors taking part in the meeting.

- 86.4 If the secretary is not present at a technology meeting 1 of the directors present must take minutes of the meeting.
- 86.5 A director may not leave a technology meeting by disconnecting his or her link to the meeting unless that director has previously notified the chair of the meeting.
- 86.6 A director is conclusively presumed to have been present and to have formed part of a quorum at all times during a technology meeting unless that director has previously obtained the express consent of the chair to leave the meeting.

### **87. Chairing directors' meetings**

*[compare replaceable rule 248E]*

- 87.1 The Commodore is the chair of all meetings of the directors.
- 87.2 At a meeting of directors if:
- (1) no Commodore has been elected as provided by rule 39; or
  - (2) the Commodore is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;
- the Senior Vice Commodore is the chair of the meeting, but if:
- (3) no Senior Vice Commodore has been elected as provided by rule 39; or
  - (4) the Senior Vice Commodore is not present within 10 minutes after the time appointed for the holding of the meeting or is unwilling to act;
- the directors present must elect a director present to chair the meeting.

### **88. Quorum**

*[compare replaceable rule 248F]*

- 88.1 The quorum for a directors' meeting is 6 directors entitled to vote or a greater number determined by the directors. The quorum must be present at all times during the meeting.
- 88.2 An alternate director is counted in a quorum at a meeting at which the director who appointed the alternate is not present (so long as the alternate is, under the Act relating to directors' interests, entitled to vote).

## **89. Passing of directors' resolutions**

*[compare replaceable rule 248G]*

- 89.1 A resolution of the directors must be passed by a majority of the votes cast by directors entitled to vote on the resolution.
- 89.2 The chair has a casting vote if necessary in addition to any vote he or she has as a director. The chair has a discretion both as to whether or not to use the casting vote and as to the way in which it is used.
- 89.3 A person who is an alternate director is entitled (in addition to his or her own vote if he or she is a director) to 1 vote on behalf of each director whom he or she represents as an alternate director at the meeting and who is not present at the meeting.

## **Meetings of members**

### **90. Circulating resolutions**

*[compare section 249A]*

- 90.1 This rule 90 applies to resolutions which the Act, or this constitution, requires or permits to be passed at a general meeting, except a resolution under section 329 of the Act to remove an auditor.
- 90.2 The Company may pass a resolution without a general meeting being held if all the members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.
- 90.3 Separate copies of a document may be used for signing by members if the wording of the resolution and statement is identical in each copy.
- 90.4 The resolution is passed when the last member signs.
- 90.5 If the Company receives by facsimile transmission a copy of a document referred to in this rule 90 it is entitled to assume that the copy is a true copy.

### **91. Calling of general meeting**

*[compare sections 250N, replaceable rule 249C and section 249D]*

- 91.1 A majority of directors may call a general meeting whenever they see fit.
- 91.2 Except as permitted by law, a general meeting, to be called the **annual general meeting**, must be held at least once in every calendar year.
- 91.3 Except as provided in the Act, no member or members may call a general meeting.

## **92. Amount of notice of meeting**

*[compare section 249H]*

92.1 Subject to the provisions of the Act as to short notice, at least 21 days' notice of a general meeting must be given in writing to those persons who are entitled to receive notices from the Company.

## **93. Persons entitled to notice of general meeting**

*[compare sections 249J(1) and 249K, and replaceable rule 249J(2)]*

93.1 Written notice of a meeting of the Company's members must be given individually to:

- (1) each member entitled to vote at the meeting;
- (2) each director; and
- (3) the Company's auditor.

93.2 No other person is entitled to receive notice of general meetings.

## **94. How notice is given**

*[compare sections 249J(3) and 240J(3A)]*

94.1 The Company may give the notice of meeting to a member:

- (1) personally;
- (2) by sending it by post to the address for the member in the register of members or the alternative address (if any) nominated by the member;
- (3) by sending it to the facsimile number or electronic address (if any) nominated by the member;
- (4) by sending it by other electronic means (if any) nominated by the member; or
- (5) by notifying the member in accordance with rule 94.2.

94.2 If the member nominates:

- (1) an electronic means (**nominated notification means**) by which the member may be notified that notices of meeting are available; and
- (2) an electronic means (**nominated access means**) the member may use to access notices of meeting;

the Company may give the member notice of the meeting by notifying the member (using the nominated notification means):

- (3) that the notice of meeting is available; and
- (4) how the member may use the nominated access means to access the notice of meeting.

**95. When notice is given**

*[compare replaceable rules 249J(4) and 249J(5)]*

- 95.1 A notice of meeting sent by post is taken to be given 3 days after it is posted.
- 95.2 Except as provided by rule 95.3, a notice of meeting given to a member under rule 94.1(3) is taken to be given on the business day after it is sent.
- 95.3 A notice of meeting given to a member under rule 94.1(3) is not effective if:
  - (1) in the case of service by facsimile, the Company's facsimile machine issues a transmission report that the transmission was unsuccessful;
  - (2) in the case of service by electronic mail, the Company's computer reports that delivery has failed; or
  - (3) in either case the addressee notifies the Company immediately that the notice was not fully received in a legible form.
- 95.4 A notice of meeting given to a member under rule 94.1(5) is taken to be given on the business day after the day on which the member is notified that the notice of meeting is available.
- 95.5 A certificate signed by a manager, secretary or other officer of the Company that the notice was posted or given in accordance with this rule 95 is conclusive evidence of the matter.

**96. Period of notice**

- 96.1 Subject to the Act and this constitution where a specified number of days' notice or notice extending over any period is required to be given, the day of service is excluded, and the day upon which the notice expires is included.

## **97. Contents of notice**

*[compare replaceable rule 249L]*

97.1 A notice of a general meeting must:

- (1) set out the place, date and time for the meeting;
- (2) state the general nature of the meeting's business;
- (3) if a special resolution is to be proposed at the meeting, set out an intention to propose the special resolution and state the resolution;
- (4) be worded and presented in a clear, concise and effective manner; and
- (5) contain a statement setting out the following information:
  - (a) that the member has a right to appoint a proxy; and
  - (b) that the proxy need not be a member of the Company.

## **98. Notice of adjourned meeting**

*[replaceable rule 249M]*

98.1 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for 14 days or more.

## **99. Accidental omission to give notice**

*[compare section 1322(3)]*

99.1 The accidental omission to give notice of any general meeting to or the non-receipt of the notice by any person entitled to receive notice of a general meeting under this constitution does not invalidate the proceedings at or any resolution passed at the meeting.

## **100. Postponement of general meeting**

100.1 The directors may postpone the holding of any general meeting whenever they see fit (other than a meeting requisitioned by members as provided by the Act) for not more than 42 days after the date for which it was originally called.

100.2 Whenever any meeting is postponed (as distinct from being adjourned under rule 102.3 or rule 103.3) the same period of notice of the meeting must be given to persons entitled to receive notice of a meeting as if a new meeting were being called for the date to which the original meeting is postponed.

## **101. Technology**

*[section 249S]*

101.1 The Company may hold a meeting of its members at 2 or more venues using any technology that gives the members as a whole a reasonable opportunity to participate.

## **102. Quorum**

*[compare replaceable rule 249T]*

102.1 The quorum for a meeting of the Company's members is 15 persons entitled to vote and the quorum must be present at all times during the meeting.

102.2 In determining whether a quorum is present, individuals attending as proxies, or attorneys are counted. If an individual is attending both as a member and as a proxy or, attorney, the individual is counted only once.

102.3 If a quorum is not present within 30 minutes after the time for the meeting set out in the notice of meeting:

- (1) where the meeting was called by the members or upon the requisition of members, the meeting is dissolved; or
- (2) in any other case, the meeting is adjourned to the date, time and place the directors specify. If the directors do not specify 1 or more of those things, the meeting is adjourned to:
  - (a) if the date is not specified – the same day in the next week;
  - (b) if the time is not specified – the same time; and
  - (c) if the place is not specified – the same place.

102.4 If no quorum is present at the resumed meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

## **103. Chair at general meetings**

*[compare replaceable rule 249U]*

103.1 The Commodore of the Company, if present, presides as chair at every general meeting.

103.2 Where a general meeting is held and:

- (1) there is no Commodore of the Company; or
- (2) the Commodore is not present within 30 minutes after the time appointed for the holding of the meeting or is unwilling to act;

the Senior Vice Commodore of the Company if present presides as chair of the meeting or, if the Senior Vice Commodore is not present or is unwilling to act, the directors present may appoint 1 of their number to be chair of the meeting and in default of their doing so the members present may appoint any 1 of their number to be chair of the meeting.

103.3 The chair must adjourn a meeting of the Company's members if the members present with a majority of votes at the meeting agree or direct that the chair must do so.

#### **104. Business at adjourned meetings**

*[replaceable rule 249W(2)]*

104.1 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

#### **105. Conduct of Meetings**

105.1 The following rules of debate must be observed at all meetings held in connection with the Company:

- (1) any members desiring to propose a motion or amendment or to discuss any matter under consideration, must rise and address the chair;
- (2) the right of speaking on any subject will belong to the member who first rises to address the chair;
- (3) subject to rule 109 (6), no member will speak more than once upon any motion or amendment without the consent of the meeting;
- (4) any member proposing or seconding a resolution will be held to have spoken;
- (5) when 2 or more members rise together the chair will call upon the members who, in the chair's opinion, rose first in their place;
- (6) the mover of any resolution must have the right to reply;
- (7) no further discussion will be allowed after the mover has replied;
- (8) no member when speaking will be interrupted unless called to order, when the member will sit down, and the member calling to order will be heard in support of their point, and the chair may either hear further discussion or decide at that stage but the point must be decided before the debate is resumed;

- (9) dissent from the chair's ruling must be seconded but only the mover of the motion of dissent will have the right of speaking in support thereof;
- (10) the chair will have the right of stating the reasons for the ruling and the motion of dissent will then be put;
- (11) any motion or amendment not seconded will not be further debated, but will lapse;
- (12) the question having been proposed may be amended by leaving out, substitution, or adding words;
- (13) when amendments have been put and lost, the original motion will be put;
- (14) the chair will put the question to a meeting in a distinct and audible voice;
- (15) the question being put will be resolved in the affirmative or negative by a show of hands, unless a division be demanded;
- (16) a ballot shall be taken if five of those present will demand it;
- (17) no member will speak on any motion after the same has been put by the chair;
- (18) when the chair rises during a debate, the member then speaking or proposing to speak will sit down so that the chair will be heard without interruption;
- (19) in debates, the mover will be allowed 10 minutes for speaking in support of a motion, subsequent speakers 5 minutes each, and the mover, 5 minutes in reply; and
- (20) the meeting will have power by majority vote to extend the time for any speaker.

## **Proxies and body corporate representatives**

### **106. Who can appoint a proxy**

*[compare mandatory rule 249X]*

- 106.1 A member who is entitled to attend and cast a vote at a meeting of the Company's members may appoint an individual or a body corporate as the member's proxy to attend and vote for the member at the meeting. The proxy need not be a member.

## **107. Rights of proxies**

*[compare section 249Y]*

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

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

107.2 If a proxy is only for a single meeting it may be used at any postponement or adjournment of that meeting, unless the proxy states otherwise.

107.3 A proxy's authority to speak and vote for a member at a meeting is suspended while the member is present at the meeting.

107.4 A proxy may be revoked at any time by notice in writing to the Company.

## **108. When proxy form must be sent to all members**

*[section 249Z]*

108.1 If the Company sends a member a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

- (1) if the member requested the form or list – the Company must send the form or list to all members who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or
- (2) otherwise – the Company must send the form or list to all its members entitled to appoint a proxy to attend and vote at the meeting.

## **109. Appointing a proxy**

*[compare section 250A and Corporations Regulations 2001 reg 2G.2.01]*

109.1 An appointment of a proxy is valid if it is signed or otherwise electronically authenticated (as referred to in regulation 2G.2.01 of the *Corporations Regulations 2001*, and in rules 109.2 and 109.3) by the member making the appointment and contains the following information:

- (1) the member's name and address;
- (2) the Company's name;
- (3) the proxy's name or the name of the office held by the proxy; and

- (4) the meetings at which the appointment may be used.

An appointment may be a standing one.

109.2 An electronically authenticated appointment of a proxy must in addition to rule 109.1:

- (1) include a method of identifying the member; and
- (2) include an indication of the member's approval of the information communicated.

109.3 If the electronically authenticated appointment of a proxy is done through either email or internet-based voting:

- (1) the member must be identified by personal details such as the member's name, personal address and date of birth; and
- (2) the member's approval must be communicated by a form of security protection (for example, the entering of a confidential identification number such as a shareholder registration number or holder identification number).

109.4 An undated appointment is taken to have been dated on the day it is given to the Company.

109.5 An appointment may specify the way the proxy is to vote on a particular resolution. If it does:

- (1) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way;
- (2) if the proxy has 2 or more appointments that specify different ways to vote on the resolution – the proxy must not vote on a show of hands;
- (3) if the proxy is the chair – the proxy must vote on a poll, and must vote that way; and
- (4) if the proxy is not the chair – the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.

If a proxy is also a member, this rule 109.5 does not affect the way that the person can cast any votes the person holds as a member.

109.6 An appointment does not have to be witnessed.

109.7 A later appointment revokes an earlier one if both appointments could not be validly exercised at the meeting.

## **110. Form of proxy sent out by Company**

110.1 A form of proxy sent out by the Company may be in a form determined by the directors but must:

- (1) enable the member to specify the manner in which the proxy must vote in respect of a particular resolution; and
- (2) leave a blank for the member to fill in the name of the person primarily appointed as proxy.

110.2 The form may provide that if the member leaves it blank as to the person primarily appointed as proxy or if the person or persons named as proxy fails or fail to attend, the chair of the meeting is appointed proxy.

110.3 Despite rule 110.1 an instrument appointing a proxy may be in the following form or in a form that is as similar to the following form as the circumstances allow:

### **Townsville Motor Boat & Yacht Club Limited**

**ACN 009 782 567**

I/We, \_\_\_\_\_ of \_\_\_\_\_, being a member, appoint \_\_\_\_\_ of \_\_\_\_\_ or, in his or her absence, \_\_\_\_\_ of \_\_\_\_\_ as my/our proxy to vote for me/us on my/our behalf at the \*annual general/\*general meeting of the company to be held on \_\_\_\_\_ and at any adjournment of that meeting.

† This form is to be used \*in favour of/\*against the resolution.

Signed on \_\_\_\_\_ .

\* Strike out whichever is not desired.

† To be inserted if desired.

## **111. Receipt of proxy documents**

*[compare section 250B]*

111.1 For an appointment of a proxy for a meeting of the Company's members to be effective, the following documents must be received by the Company at least 48 hours before the meeting:

- (1) the proxy's appointment; and

- (2) if the appointment is signed or otherwise authenticated by the appointor's attorney – the authority under which the appointment was signed or authenticated or a certified copy of the authority.

111.2 If a meeting of the Company's members has been adjourned, an appointment and any authority received by the Company at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.

111.3 The Company receives an appointment or authority:

- (1) when it is received at any of the following:
  - (a) the Company's registered office;
  - (b) a facsimile number at the Company's registered office; or
  - (c) a place, facsimile number or electronic mail address specified for the purpose in the notice of meeting; or
- (2) if the notice of meeting specifies other electronic means by which a member may give the document – when the document given by those means is received by the Company and complies with rules 109.2 and 109.3.

111.4 An appointment of a proxy is ineffective if:

- (1) the Company receives either or both the appointment or authority at a fax number or electronic address; and
- (2) a requirement (if any) in the notice of meeting that:
  - (a) the transmission be verified in a way specified in the notice; or
  - (b) the proxy produce the appointment and authority (if any) at the meeting;

is not complied with.

## **112. Validity of proxy vote**

*[section 250C(1) and compare replaceable rule 250C(2)]*

112.1 A proxy who is not entitled to vote on a resolution as a member may vote as a proxy for another member who can vote if the appointment specifies the way the proxy is to vote on the resolution and the proxy votes that way.

112.2 A vote cast by a proxy is valid although, before the proxy votes:

- (1) the appointing member dies;

- (2) the member is mentally incapacitated;
- (3) the member revokes the proxy's appointment; or
- (4) the member revokes the authority under which the proxy was appointed by a 3<sup>rd</sup> party;

unless the Company receives written notice of that event before the start or resumption of the meeting at which the proxy votes.

### **113. Attorney of member**

113.1 An attorney for a member may do whatever the member could do personally as a member, but if the attorney is to vote at a meeting of members or a class of members the instrument conferring the power of attorney or a certified copy of it must be produced to the Company at least 48 hours before the meeting, in the same way as the appointment of a proxy.

## **Voting at meetings of members**

### **114. How vote may be exercised**

114.1 Subject to rules 115 and 116 at any general meeting of members, each ordinary member and each life member present has 1 vote on a show of hands and on a poll.

114.2 The vote may be exercised in person or by proxy or attorney.

### **115. Voting disqualification**

A member is not entitled to vote at a general meeting if the annual subscription of the member is more than 1 month in arrears at the date of the meeting or the postponed or adjourned meeting.

### **116. Objections to right to vote**

*[compare replaceable rule 250G]*

116.1 A challenge to a right to vote at a meeting of members:

- (1) may only be made at the meeting; and
- (2) must be determined by the chair, whose decision is final.

116.2 A vote not disallowed following the challenge is valid for all purposes.

### **117. How voting is carried out**

*[compare replaceable rule 250J and section 251A]*

- 117.1 A resolution put to the vote at a meeting of the Company's members must be decided on a show of hands unless a poll is demanded.
- 117.2 On a show of hands, a declaration by the chair is conclusive evidence of the result. Neither the chair nor the minutes need to state the number or proportion of the votes recorded in favour or against.
- 117.3 Unless otherwise required by this constitution or the Act, all resolutions of the Company are ordinary resolutions which are resolutions passed by more than 50% of the votes cast by members entitled to vote on the resolutions.

### **118. Matters on which a poll may be demanded**

*[compare section 250K]*

- 118.1 A poll may be demanded on any resolution.
- 118.2 A demand for a poll may be withdrawn.

### **119. When a poll is effectively demanded**

*[compare section 250L]*

- 119.1 At a meeting of the Company's members, a poll may be demanded by:
- (1) at least 3 members entitled to vote on the resolution; or
  - (2) the chair.
- 119.2 The poll may be demanded:
- (1) before a vote is taken;
  - (2) before the voting results on a show of hands are declared; or
  - (3) immediately after the voting results on a show of hands are declared.

### **120. When and how polls must be taken**

*[compare replaceable rule 250M]*

- 120.1 A poll demanded on a matter other than the election of a chair or the question of an adjournment must be taken when and in the manner the chair directs.
- 120.2 A poll on the election of a chair or on the question of an adjournment must be taken immediately.

- 120.3 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded.
- 120.4 The result of the poll is the resolution of the meeting at which the poll was demanded.

### **121. Chair's casting vote**

*[compare replaceable rule 250E(3)]*

- 121.1 In the case of an equality of votes, whether on a show of hands or on a poll, the chair of the meeting has a casting vote in addition to any vote he or she may have in his or her capacity as a member or proxy.
- 121.2 The chair has a discretion both as to use of the casting vote and as to the way in which it is used.

## **Annual general meeting**

*[compare section 250N]*

### **122. Business of an annual general meeting**

*[compare sections 250R, 250S and 250T]*

- 122.1 The business of an annual general meeting may include any of the following, even if not referred to in the notice of meeting:
- (1) the consideration of the annual financial report, directors' report and auditor's report;
  - (2) the election of directors;
  - (3) the appointment of the auditor; and
  - (4) the fixing of the auditor's remuneration.

All other business transacted at an annual general meeting and all business transacted at any other general meeting is special business.

- 122.2 The business of the annual general meeting also includes any other business which under this constitution or the Act ought to be transacted at an annual general meeting.
- 122.3 The chair of the annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask questions about or make comments on the management of the Company.
- 122.4 If the Company's auditor or the auditor's representative is at the meeting, the chair of an annual general meeting must allow a reasonable opportunity for the members as a whole at the meeting to ask the auditor

or that representative questions relevant to the conduct of the audit and the preparation and content of the auditor's report.

### **123. Resolutions proposed by members**

*[compare sections 249N and 249O]*

123.1 A member may not at any meeting move any resolution relating to special business unless:

- (1) members with at least 5% of the votes that may be cast on the resolution have given the Company notice of the resolution or the requirements of section 249N of the Act have otherwise been satisfied, and 2 months notice has elapsed since the notice was given; or
- (2) the resolution has previously been approved by the directors.

## **Minutes**

### **124. Minutes to be kept**

*[compare section 251A]*

124.1 The directors must keep minute books in which they record within 1 month:

- (1) proceedings and resolutions of meetings of the Company's members;
- (2) proceedings and resolutions of directors' meetings (including meetings of a committee of directors);
- (3) resolutions passed by members without a meeting; and
- (4) resolutions passed by directors without a meeting.

124.2 The directors must ensure that minutes of a meeting are signed within a reasonable time after the meeting by 1 of the following:

- (1) the chair of the meeting; or
- (2) the chair of the next meeting.

124.3 The directors must ensure that minutes of the passing of a resolution without a meeting are signed by a director within a reasonable time after the resolution is passed.

124.4 Without limiting rule 124.1 the directors must record in the minute books:

- (1) all appointments of officers;

- (2) the names of the directors and alternate directors present at all meetings of directors and the Company;
- (3) in the case of a technology meeting, the nature of the technology; and
- (4) all other matters required by the Act to be recorded in the minute books, including each notice and standing notice given by a director of a material personal interest.

## **Accounts, audit and records**

### **125. Accounts**

*[compare sections 285-297, 314-317]*

- 125.1 The directors must cause proper accounting and other records to be kept in accordance with the Act.
- 125.2 The directors must distribute copies of every profit and loss account, balance sheet and statement of cash flows (including every document required by law to be attached to them) as required by the Act.

### **126. Audit**

*[compare sections 301, 327-331]*

- 126.1 A registered company auditor must be appointed.
- 126.2 The remuneration of the auditor must be fixed and the auditor's duties regulated in accordance with the Act.

## **Execution of documents**

### **127. Common seal**

- 127.1 The Company may, but need not, have a common seal.

### **128. Use of common seal**

*[compare sections 127(2) and 129(6)]*

- 128.1 If the Company has a common seal the directors must provide for its safe custody.
- 128.2 The common seal may not be fixed to any document except by the authority of a resolution of the directors or of a committee of the directors duly authorised by the directors.

128.3 The Company executes a document with its common seal if the fixing of the seal is witnessed by:

- (1) 2 directors of the Company; or
- (2) a director and a company secretary of the Company.

### **129. Execution of documents without common seal**

*[compare sections 127(1) and 129(5)]*

129.1 The Company may execute a document without using a common seal if the document is signed by:

- (1) 2 directors of the Company; or
- (2) a director and a company secretary of the Company.

### **130. Execution of document as a deed**

*[compare section 127(3)]*

130.1 The Company may execute a document as a deed if the document is expressed to be executed as a deed and is executed in accordance with rule 128 or rule 129.

### **131. Execution – general**

*[compare sections 129(5), 129(6) and 127(4)]*

131.1 The same person may not sign in the dual capacities of director and secretary.

131.2 A director may sign any document as director, with or without the common seal, although the document relates to a contract, arrangement, dealing or other transaction in which he or she is interested and his or her signature complies with the requirements of this constitution as to execution despite his or her interest.

131.3 Rules 128 and 129 do not limit the ways in which the directors may authorise documents (including deeds) to be executed on behalf of the Company.

## **Inadvertent omissions**

### **132. Formalities omitted**

*[compare section 1322]*

132.1 If some formality required by this constitution is inadvertently omitted or is not carried out the omission does not invalidate anything, including any

resolution, which but for the omission would have been valid unless it is proved to the satisfaction of the directors that the omission has directly prejudiced any member financially. The decision of the directors is final and binding on all members.

## **Alterations**

### **133. Alterations**

133.1 If the Company is approved as a public benevolent institution by the Australian Taxation Office, the Australian Taxation Office must be notified in writing of any alterations to this constitution.

## **Winding up**

### **134. Winding up**

134.1 If upon the winding up or dissolution of the Company any property remains, after satisfaction of all its debts and liabilities, that property must not be paid to or distributed among the members of the Company but must be given or transferred to some other institution or institutions determined by the members of the Company at or before the time of dissolution which has similar objects to the Company and which prohibits the distribution of its income and property among its members.

134.2 If the members do not make the necessary determination under rule 134.1, the Company may apply to the Supreme Court to determine the institution or institutions.

## **Liquor Licensing**

### **135. Liquor licensing requirements of the Company**

135.1 If these rules or any of the rules, regulations and by-laws made by the authority of the constitution are at any time amended or altered, copies of the amendments or alteration certified as correct under the hands of the secretary will be forwarded to the Licensing Commission and to the District Inspector within 14 days after the amendments or alterations have been made.

135.2 A register of members of the Company must be kept on the Company's premises.

135.3 No liquor will be sold or supplied to any person under the age of 18 years.

- 135.4 The Company will be open for the reception of members between the hours as the directors may from time to time determine, subject to the provisions of the *Liquor Act* (Qld) 1992.

## **Miscellaneous**

### **136. Additional members and office holders rights and responsibilities**

- 136.1 No member may give any money, fee or gratuity or other gift or any tip to any employee of the Company in any circumstances whatsoever except in the course of a general collection approved by the directors. Any breach of this rule may in the discretion of the directors be deemed conduct unbecoming to a member, prejudicial to the interests of the Company and dealt with by the directors accordingly.
- 136.2 All members are to pay their bills monthly for every expense they incur in the Company. Any member whose account will remain unpaid for 3 months after the month in which the account was incurred must, if the directors so determine, be required to pay an additional amount of 10% on the accounts as long as the sum remains unpaid.
- 136.3 If a member neglects to pay an account with the Company (other than entrance fee and subscriptions fee), the directors may direct the secretary to apply in writing to the member for payment of the amount and, if the member neglects to pay the amount owing within such time as the Company may fix, the member may be debarred from using the Company's facilities or incurring any further debt therein and the secretary will intimate in writing to the member that the member is so debarred. Upon payment of the account, together with interest, the member may be restored to the member's full privileges as a member of the Company.
- 136.4 All complaints must be stated in a letter addressed to the secretary and signed by the member complaining. The letter will be laid before the Company at the next meeting, and to such complaints an answer will be sent by letter from the secretary. No member will make a complaint in any other manner or personally reprimand any employee of the Company.
- 136.5 Payment or part payment of any secretary or other officer or employee of the Company will not be made by way of commission or allowance from or upon the receipt of the Company for liquor sold or supplied or from any other source whatsoever.

## Flag

### 137. Company's flags, burgee and badges

- 137.1 The Company's flags, burgees and badges will be those adopted by the Townsville Motor Boat Club & Yacht Club Limited immediately prior to the registration of this Company as a company.
- 137.2 The Company's flags, burgees and badges may be altered, discontinued or others adopted in lieu of or in addition to by the directors upon a resolution in that behalf of the members in a general meeting provided that any such resolution must be by 75% majority of members present at any such meeting.
- 137.3 No members will permit any Company burgee, flag, or badge to be worn by the member's boat unless the member is in command and will not leave on board or permit it to be used by any other person any such emblem whilst the member's boat is in use by a person other than a member.
- 137.4 No office bearer will under any circumstances permit the member's flag to be worn by the member's boat whilst it is not in his personal command.

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Murray Whitehead  
Director  
24 June 2007

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Colin Anthony White  
Director  
24 June 2007

Amendments added 22 July 2008

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Murray Whitehead  
Director  
22 July 2008

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Colin Anthony White  
Director  
22 July 2008

Further amendments added 23 June 2009

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Murray Whitehead  
Director  
23 June 2009

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Colin Anthony White  
Director  
23 June 2009

Further amendments made 22 June 2010

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Murray Whitehead  
Director  
22 June 2010

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Colin Anthony White  
Director  
22 June 2010