

**CONSTITUTION  
OF  
NEDLANDS YACHT CLUB (INC)**

**AS ADOPTED BY THE MEMBERS IN  
JUNE 2019**

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**CONSTITUTION OF NEDLANDS YACHT CLUB (INC) AS  
ADOPTED BY THE MEMBERS IN JUNE 2019**

**1. NAME**

The name of the Club is “Nedlands Yacht Club (Inc.)”

**2. OBJECTS**

The Objects of the Club are :-

- (a) To provide and maintain facilities which encourage the sailing and racing of -
  - (i) Dinghies
  - (ii) Catamarans
  - (iii) Monohull and multihull cruisers with sails as their primary means of propulsion.
  - (iv) Sailboards
- (b) To encourage the study of seamanship and the laws and rules which apply to sailing.
- (c) To provide instruction in the art of sailing for recreation including instruction and encouragement in the procedures, rules and tactics for racing yachts and the good conduct expected of all participants in the sport of sailing, both afloat and ashore
- (d) To hold and arrange races, regattas, and competitions in sailing and to provide prizes, awards and distinctions which recognise and encourage good results.
- (e) To provide amenities and programmes which promote and encourage social interaction and enjoyment amongst members of the Club and their friends.
- (f) To affiliate with other kindred sporting clubs and associations to promote and encourage the sport of sailing generally.

**3. DEFINITIONS.**

In this Constitution and in NYC By-laws unless otherwise inconsistent with the context:

“**Act**” means the Associations Incorporation Act 2015;

“**Books**” of the Club, includes the following —

- (a) a register;
- (b) financial records, financial statements or financial reports, however compiled, recorded or stored;
- (c) a document;
- (d) any other record of information;

“**Club**” means the Nedlands Yacht Club (Inc.) at The Esplanade, Nedlands, Perth, Western Australia.

“**Constitution**” means the Rules adopted by the members of the Club at a General

Meeting convened in accordance with the then Constitution or Rules of the Club and includes any subsequent amendments to such Rules in effect.

**“Financial Records”** includes -

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes and vouchers; and
- (b) documents of prime entry; and
- (c) working papers and other documents needed to explain —
  - (i) the methods by which financial statements are prepared; and
  - (ii) adjustments to be made in preparing financial statements;

**“Financial year”** means from the first of July each year, until the following 30th of June.

**“Liquor Act”** means the Liquor Control Act 1988 (the Act”) of the State of Western Australia and includes any amendment or substitution being in force and applicable to the Club.

**“Management Committee”** means the committee of officers elected at the Annual General Meeting.

**“Managing Secretary”** means the person appointed to that position by the Management Committee of the Club or in the absence of such appointed person means any other person approved by the Management Committee to carry out the duties of Managing Secretary during the absence of the appointed Managing Secretary

**“Member’s Register”** means Register of Members.

**“Register of Members”** means a Register maintained by the Club as required by Section 53 of the Act.

**“Special Resolution”** means a resolution passed by the members at a general meeting in accordance with section 51 of the Act;

**“Subcommittee”** means a subcommittee appointed by the Management Committee.

#### 4. CLASSES OF MEMBERSHIP

(a) The Club shall consist of members divided into the following nine classes:-

- |                        |  |
|------------------------|--|
| (1) LIFE MEMBER        | A person aged 18 years or over elected under Clause 7. |
| (2) SAILING MEMBER     | A person aged 18 years or over elected under Clause 8. |
| (3) CREW MEMBER        | A person aged 18 years or over elected under Clause 8. |
| (4) NON-SAILING MEMBER | A person aged 18 years or over elected under Clause 8. |
| (5) JUNIOR MEMBER      | A person under the age of 18 years at the              |

commencement of the Financial Year elected under Clause 8.

- (6) HONORARY MEMBER A person elected under Clause 9.
- (7) PROVISIONAL MEMBER A person who is a member of a kindred water sports club or association elected under Clause 10.
- (8) SOCIAL MEMBER A person aged 18 years or over elected under Clause 8.

- (b) Members in all the classes shall enjoy the same privileges of membership except to the extent specified in Clause 4.
- (c) Members may transfer between classes at any time by applying in writing to the Managing Secretary, being granted approval by the Management Committee and paying any additional fees or subscriptions relevant for the change in membership class.
- (d) A Junior member who turns 18 during the financial year can complete the year as a Junior Member or elect to transfer to another class in line with Clause 4(c).

#### 5. LIMITATIONS TO MEMBERSHIP PRIVILEGES.

##### (a) NON-SAILING MEMBERS

- (i) shall not be permitted to Register a yacht with the Club.
- (ii) shall not be permitted to participate in Club sailing events except to the extent specified from time to time in By-Laws made in accordance with this Constitution.

##### (b) JUNIOR, HONORARY OR PROVISIONAL MEMBERS

- (i) shall not be eligible to move or second motions or to vote at a General Meeting of members, nor at a meeting of any Standing Committee or sub-Committee of the Club.
- (ii) shall not be eligible to nominate for election to become an Officer of the Club other than as the representative of the junior membership.

##### (c) CREW MEMBERS

- (i) shall not be permitted to Register a yacht with the Club.

##### (d) SOCIAL MEMBERS

- (i) shall not be eligible to move or second motions or to vote at a General meeting of members, nor at a meeting of any Standing Committee or Sub-Committee of the Club
- (ii) shall not be eligible to nominate for election to become an Officer of the Club.
- (iii) shall not be permitted to register a yacht with the Club.
- (iv) shall not be permitted to participate in Club sailing events except to the extent specified from time to time in By-Laws made in accordance with this Constitution.
- (v) A Social Membership expires at the end of the 12 months.

## 6. PATRON AND VICE-PATRONS

- (a) The Club may invite a distinguished person to be its Patron and upon acceptance, such person shall enjoy all the privileges of an Honorary Member of the Club.
- (b) The Club may invite one or more distinguished persons to be Vice-Patron/s and upon acceptance each such person shall enjoy the privileges of an Honorary Member of the Club. The elected Mayor of the City of Nedlands may be invited to be one of the Vice-Patrons, if that person has not already accepted and become the Patron.
- (c) Should the position of Patron become vacant for any reason, or should the Management Committee of the Club from time to time deem it desirable for the Club to fill a vacancy in, or add to, its list of Vice-Patrons, the Management Committee shall nominate, in a "Motion on Notice" to a General Meeting of members, a distinguished person whom the Management Committee recommends be invited to fill such vacancy or be added to the list of Vice-Patrons as the case may be. In the case where the proposed Vice-Patron is the Mayor of the City of Nedlands, no "Motion of Notice" or General Meeting is required.
- (d) Voting on a "Motion on Notice" to invite a nominated person to become Patron or a Vice-Patron of the Club shall be by secret ballot and the motion carried only if approved by 75% or more of the votes of members present and eligible to vote.

## 7. ELECTION OF LIFE MEMBERS

- (a) A person who is deemed by the majority of the Management Committee to have rendered outstanding service to the Club may be nominated as a Life Member by "Motion on Notice" to a General Meeting of members.
- (b) The election of a Life Member shall be by secret ballot and shall only be carried if approved by the votes of no less than 75% of the members present and eligible to vote at that meeting.
- (c) Any member of the Management Committee may propose that a named person be nominated for election as a Life Member by giving written notice of their proposal to the Managing Secretary no less than 7 days prior to a meeting of the Management Committee.
- (d) Following their election, a Life Member shall be exempt from paying any further annual membership subscriptions.

## 8. ELECTION OF SAILING; CREW; NON-SAILING, SOCIAL AND JUNIOR MEMBERS

- (a) A reference in this Clause to "member" includes "Sailing Member"; "Crew Member"; "Non-sailing Member" and "Junior Member".
- (b) A member shall be elected by majority vote of the Management Committee taken no less than 7 days after the posting of each candidate's name on the Club Notice board.
- (c) A candidate for membership shall complete an "Application for Membership" which shall be in writing, in a form determined by the Management Committee from time to time and that Application form shall contain the following information and declaration:

- (i) the full name and address and occupation of the candidate,
  - (ii) the class of membership for which the candidate is applying and the sailing Section of the Club with which they will most readily identify.
  - (iii) a declaration that upon election to the Club the member agrees to be bound by the provisions of the NYC Constitution and By-Laws.
- (d) Each Application for Membership shall be signed by the candidate and countersigned by two members being Life, Sailing, Crew or Non- sailing members signing as Nominator and Secunder of the Application.
- (e) A completed Application for Membership shall be sent to the Managing Secretary and shall be accompanied by all or such proportion of the entrance fee (if any), then payable for the relevant class or type of membership, as specified in the By-Laws from time to time. If a candidate's Application for Membership is not successful, the amount of the entrance fee paid shall be refunded.
- (f) The Managing Secretary shall ensure that the Application for Membership is correct in detail and shall cause a notice to be posted on the Club Noticeboard advising all details of the Application.
- (g) At the next meeting of the Management Committee held no less than 7 days after the posting of this notice, the Application for Membership shall be voted on and if it receives a majority vote of those present the candidate shall be declared elected and eligible to enjoy the privileges of membership subject to payment of the annual subscription due in accordance with this Constitution at the rate specified in the By-Laws.

#### 9. ELECTION OF HONORARY MEMBERS

- (a) The following persons shall be eligible for election as Honorary Members of the Club by the Management Committee:
- (i) The Flag Officers of kindred yacht clubs.
  - (ii) Other distinguished persons who may wish to visit the Club.
- (b) The period of Honorary Membership under the preceding sub-Clause shall not exceed one year and may be for such lesser period as is determined by the Management Committee in each case.
- (c) A candidate for membership under provisions of Clause 8 of this Constitution, whose completed Application for Membership has been received by the Managing Secretary or endorsed by a Flag Officer as having been received by the Club but whose Application has not yet been voted on by the Management Committee, is eligible for Honorary Membership pending the processing of such Application.

#### 10. ELECTION OF PROVISIONAL MEMBERS

- (a) The Management Committee may make arrangements with other kindred yacht clubs for members of those kindred yacht clubs to join the Club as Provisional Members.
- (b) A candidate for Provisional Membership shall complete an Application for Membership in the form outlined in Clause 8 hereof, supported by a certificate signed by a proper Officer of the kindred yacht club verifying their class or type of membership and their

current financial status with that club.

- (c) An Application for Membership as a Provisional Member shall be processed in accordance with the procedure outlined in Clause 8 hereof and if elected the Provisional Member shall be due for such fees and subscriptions as are determined by the Management Committee in each case.
- (d) Provisional Membership when granted, shall terminate on the next following 30th day of June but may be renewed on an annual basis by the Management Committee following Application in writing from any Provisional Member, verification of their financial status at the kindred yacht club and payment of such fees and subscriptions as the Management Committee shall determine.

#### 11. ELECTION OF TEMPORARY MEMBERS.

A person who is on any day visiting a Club (the "Host Club" as a member or official of another Club – that is to engage in a pre-arranged event with the host club conducted for the purposes of one of the host club's principal objects; or that is to hold a pre- arranged function at the host club involving the use of the host club's sporting facilities, may, for the purposes of this Act, be taken to be a person who is accorded temporary membership of the host club on that day in accordance with rules approved by the Director.

#### 12. REGISTER OF MEMBERS

The Club shall keep a register of members in respect of members. The register shall be kept current secure and available in line with the requirements of the Act.

- (a) The register of members will contain at the very least, the following Member details.
  - (i) Full name and occupation.
  - (ii) The latest mailing or email address as advised to the Club.
  - (iii) The Class of membership
  - (iv) The sailing Section of the Club with which the member most readily identifies.
  - (v) The date on which membership was conferred.
- (b) Upon request to the Managing Secretary, a member is able to inspect the Books of the Association at such time and place as is mutually convenient to the Club and the Member.
  - (i) In respect of the Register of Members, the Managing Secretary shall, within a reasonable amount of time, provide the member with a copy from the Register of Members containing only the member's name and last known mailing address as advised to the Managing Secretary from time to time.
  - (ii) The Member may make a copy of details from the Member Register but has no right to remove the Register for that purpose.
  - (iii) The Club may charge a reasonable fee to the Member for providing a copy of the Member Register, the amount to be determined by the Management Committee from time to time.
  - (iv) A Member must not disclose the information on the Member Register and the



Management Committee may require the member to sign a statutory declaration setting out the purpose for which the copy is required and declaring that the purpose is connected with the affairs of the Club. The Members Register must not be used:

1. To gain access to information that a Member has deliberately denied them (that is, in the case of social, family or legal differences or disputes);
  2. To contact or send material to The Club or a Member for the purpose of advertising for political, religious, charitable or commercial purposes, or
  3. For any other purpose unless the use of the information is approved by the Committee and for a purpose:
    - a. That is directly connected with the affairs of The Club; or
    - b. Related to the provision of the information to the Commissioner in accordance with a requirement of the Act.
- (c) Residential, postal or email address; or information by means of which contact can be made with the member, can be nominated for the members register.

#### 13. PROVISION OF LIQUOR

- (a) No liquor shall be sold or supplied to any juvenile (i.e. a person under the age of 18)
- (b) No liquor shall be sold or supplied for consumption elsewhere than on the club premises unless such liquor is removed from the premises of the club by or on the instructions from the member purchasing the same.
- (c) No payment or part payment to any secretary, treasurer, manager or other officer or servant of the club shall be made by way of commission or allowance from or upon the receipts of the club for liquor.
- (d) No stranger shall be permitted to use the club premises and no member or other person shall admit any stranger to use the club premises for the purpose of consuming liquor.
- (e) The club shall only be open for the sale of liquor during such hours (within the hours permitted under the Act) as the committee shall from time to time determine.
- (f) No liquor shall be sold or disposed of on Christmas Day, Good Friday or before noon on ANZAC Day except as permitted under the provision of the Act."

#### 14. MEMBER'S GUESTS

Members may introduce guests to the club at any time provided that:

- (a) At such times as permitted by the Liquor Act and subject always to that Act and to this Constitution a member may introduce guests to the Club provided that a member shall not introduce as a guest, a person whom the Management

Committee has determined, or may determine from time to time, is not eligible to be a guest of the Club.

- (b) A guest shall not be supplied with liquor in the Club premises except on invitation and in the company of that member.
- (c) A guest shall be supplied with liquor to be consumed on the club premises only.
- (d) The member introducing the guest shall be responsible for the proper conduct of that guest whilst on the club premises.
- (e) Any person who has been refused membership of the Club or who is under the suspension or expulsion from the Club shall not be admitted as a guest of any member of the Club.
- (f) A member may, at their expense, and with the approval of the Management Committee, Supply liquor to guests, without limitation as to number, at a function held by or on behalf of that member, at the Club premises.

#### 15. WHEN MEMBERSHIP CEASES

- (a) A person ceases to be a member when any of the following takes place —
  - (i) for a member who is an individual, the individual dies;
  - (ii) for a member who is a body corporate, the body corporate is wound up;
  - (iii) the member resigns from the Club under Clause 16;
  - (iv) the member is expelled from the Club under Clause 17;
- (b) The Managing secretary must keep a record, for at least one year after a person ceases to be a member, of —
  - (i) the date on which the person ceased to be a member; and
  - (ii) the reason why the person ceased to be a member.

#### 16. RESIGNATIONS

A member wishing to resign from the Club shall give notice in writing to the Managing Secretary to that effect and upon giving the said notice the member shall cease to be a member but shall remain liable to the Club for all outstanding fees, subscriptions, charges and levies properly made in accordance with this Constitution and incurred as a consequence of membership of the Club and/or use of services and facilities provided by the Club at rates determined in accordance with this Constitution and any By-Laws made pursuant thereto.

#### 17. MISCONDUCT OF MEMBERS - CENSURE, SUSPENSION, EXPULSION.

- (a) If any member fails to comply with the provisions of this Constitution or the By-Laws or engages in conduct which in the opinion of the Management Committee is prejudicial to or unbecoming of a member of the Club, the Management Committee may by notice in writing require the member to show cause why they should not be expelled, suspended or censured as the Management Committee may think fit.

- (b) Such notice shall specify the nature of the failure to comply with the Constitution or By-Laws or the conduct the Management Committee considers to be prejudicial to or unbecoming of a member of the Club and shall further state that the member shall be required on a date to be specified in the notice to appear before the Flag Officers of the Club and to offer such explanation or defence as the member thinks fit. The member may within a period of one month from the date of service of the notice, elect to submit an explanation or defence in writing to the Flag Officers in lieu of personal appearance.
- (c) If, after the expiration of one month from the date of service of the notice, the member has failed to appear or give written explanation or defence, the Flag Officers shall report their findings to the Management Committee which may exonerate or expel, suspend or censure the member as it sees fit.
- (d) Any member who is expelled or suspended pursuant to Clause 17 and who may feel aggrieved by that decision of the Management Committee may, by notice in writing to the Commodore or Managing Secretary within one month of the date of the decision, appeal against such a decision. Such notice shall state the grounds of the appeal and such appeal shall be heard at a duly convened meeting of the Management Committee following the expiration of one month from the date of lodgement of the Notice of Appeal. Until the hearing of any such appeal the appellant shall remain suspended from all privileges of membership.
- (e) Notwithstanding Clause 19 (b) of this constitution a quorum of the Management Committee for the purposes of expulsion of a member shall be the whole Management Committee save those granted Leave of Absence and a motion to expel a member shall require a ballot of the members of the Management Committee.
- (f) A ballot for the expulsion of a member shall not be declared should the vote of two members of the Management Committee be against the motion.

#### 18. GENERAL MEETINGS OF MEMBERS

- (a) A General Meeting of members may be called at any time by the Managing Secretary at the direction of the Commodore or the Management Committee or upon a requisition signed by no less than 10% of members from the classes of Life, Sailing, Crew or Non-sailing members.
- (b) All General Meetings of members shall be held at the Clubhouse and in the case of a Meeting called upon a valid requisition of members, shall be held within 42 days of receipt of that requisition by the Managing Secretary.
- (c) The Notice calling a General Meeting shall specify the business to be discussed at that Meeting and only the items of business specified in the Notice, shall be discussed at that Meeting.
- (d) Items of business to be included in the Notice calling a General Meeting (including an

Annual General Meeting) shall be notified to the Managing Secretary in writing no less than 21 days prior to the date of the meeting and shall be in the form of a "Motion on Notice". Such "Motion on Notice" may be proposed by the Management Committee or by any member eligible to vote at a General Meeting provided that a "Motion on Notice" proposed by a member shall be not accepted for inclusion in the Notice for the meeting unless endorsed by at least five other members, eligible to vote.

- (e) The Managing Secretary shall post the Notice of Meeting on the Club Noticeboard and in addition, no less than 14 days prior to the date on which the Meeting is called, shall give a copy of that Notice to each member by emailing it to the address showing in the Register of Members at the date of that Notice. The Notice of Meeting shall be posted on the NYC website no less than 14 days prior to the date of the Meeting.
- (f) A Notice of Meeting shall be deemed to have been properly given if it is included in a copy of the Club publication "Mainsheet" which is mailed or emailed, no less than 14 days prior to the date of the meeting, to the address of each member as shown in the Register of Members at the date of that Notice.
- (g) Fifteen members present and entitled to vote at any General Meeting shall constitute a quorum. If a quorum is not present within 15 minutes of the time appointed for a meeting, that meeting, not being an Annual General Meeting, shall lapse.
- (h) If a quorum is not present within 15 minutes of the time appointed for an Annual General Meeting the meeting shall be adjourned to reconvene 7 days later at the same time and if a quorum is not present within 15 minutes of the time appointed for that reconvened meeting the members present shall constitute a quorum to transact the business in the Notice of Meeting.
- (i) A Notice posted on the Club Noticeboard that an Annual General Meeting has been adjourned and will be reconvened 7 days after its scheduled date, shall be deemed sufficient notice to all members of that fact.
- (j) Each General Meeting shall be chaired by the most senior Flag Officer present and in the absence of the Flag Officers the members present shall elect one of their number to be Chairperson.
- (k) Only members from the classes of Life, Sailing, Crew and Non-sailing membership, present at the Meeting, shall be entitled to vote except that a member eligible to vote, who normally resides in excess of 50 kilometres from the Club or is on business outside this radius on the date of the Meeting, may appoint a proxy by notice in writing to the Secretary at least 24 hours prior to the Meeting.
- (l) A member deemed "unfinancial" at the date of any General Meeting may not cast a valid vote at that meeting.

## 19. ANNUAL GENERAL MEETING

- (a) The General Meeting of the Club designated as the "Annual General Meeting" shall be held within four months of the end of the Association's financial year and at a time determined by the Management Committee in accordance with this Constitution.
- (b) The purpose of and order of business of an Annual General Meeting shall be:-

- (i) To receive and if thought fit adopt the minutes of the previous Annual General Meeting and the minutes of any General Meetings held since that previous Annual General Meeting.
  - (ii) To receive and if thought fit adopt the report of the Management Committee.
  - (iii) To receive and if thought fit adopt the Balance Sheet and Profit and Loss Accounts for the Club's financial year ending on the preceding 30th June.
  - (iv) To receive and if thought fit adopt the Treasurer's Report and the Auditor's Report.
  - (v) To elect the Officers of the Club for the ensuing year and those Officers shall comprise a Commodore, a Vice-Commodore, a minimum of two and maximum of three Rear-Commodores, a Treasurer and a minimum of three and a maximum of ten Committee members. Only members who are Sailing members, or Crew Members or Non-sailing members of the Club shall be eligible for election to Office in the Club.
  - (vi) To transact such other business as is brought forward and of which proper notice was given in the Notice for that Meeting.
  - (vii) If applicable, to appoint or remove an auditor or reviewer of the club in accordance with the Act.
- (c) Business to be included in the Notice under the previous sub-Clause shall be notified to the Managing Secretary in accordance with sub-clause (d) of Clause 18 of this Constitution.
- (d) Prior to the 15th May each year the Management Committee shall:
- (i) Fix the date and time of the Annual General Meeting for that year and appoint a Returning Officer.
  - (ii) Cause a Preliminary Notice of such meeting to be prepared in the form of the First Schedule to this Constitution which Preliminary Notice, together with a Nomination Form in the form of the Second Schedule to this Constitution all be emailed to each member not later than the 7th June and posted on the NYC website.
- (e) Nominations for the Offices of Commodore; Vice-Commodore; a minimum of two and a maximum of three Rear Commodores; a Treasurer, and a minimum of three and a maximum of ten Committee members in the form of the Second Schedule to this Constitution, shall be forwarded to the Returning Officer not later than 17th June. An eligible member may nominate for more than one Office except that a member who is appointed auditor may not nominate for any other office.
- (f) No less than 7 days prior to the date fixed for the Annual General Meeting the Managing Secretary shall give notice to each member in the form of the Third Schedule to this Constitution. Only the names of members whose eligibility to nominate for Office has been verified by the Managing Secretary, shall be included in that notice.
- (g) At the Annual General Meeting the Officers of the Club shall be elected in the following order, Commodore; Vice-Commodore; a minimum of two and a maximum of three Rear Commodores; a Treasurer and a minimum of three and a maximum of 10 Committee members.
- (h) Should the number of nominations for any Office exceed the maximum number required

for that Office a secret ballot shall be conducted and the result notified by the Returning Officer in writing to the Chairperson who shall declare elected, the member (or if more than one is required for that office, those members) receiving the majority of the votes cast.

- (i) The name of a member elected to any Office shall be immediately withdrawn from the list of candidates for any other Office for which that member may have nominated.
- (j) Should the number of nominations for any Office be equal to the number required for that Office then the Chairperson shall declare the candidate(s) for that Office elected without a ballot being taken.
- (k) The Officers elected at the Annual General Meeting shall constitute the Management Committee of the Club and shall hold Office from the close of that meeting to the close of the next Annual General Meeting unless an office becomes vacant under the provisions of Clause 20 (c) of this Constitution.
- (l) The Flag Officers of the Club shall be the Commodore; the Vice-Commodore, a minimum of two and maximum of three Rear-Commodores.

## 20. MANAGEMENT COMMITTEE

- (a) The business and management of the affairs of the Club shall be under the control of the Management Committee elected at the Annual General Meeting.
- (b) Meetings of the Management Committee, for which a quorum shall be five including at least one Flag Officer, shall be held at least once every two months and shall be chaired by the most senior Flag Officer present who shall have casting vote as well as a deliberative vote at that meeting.
- (c) The Office of any member of the Management Committee shall become vacant if that member:
  - (i) Dies.
  - (ii) Gives written notice of resignation from the Management Committee.
  - (iii) Is deemed "unfinancial" as a member of the Club under this Constitution.
  - (iv) Resigns or is expelled as a member of the Club.
  - (v) Fails to attend three consecutive meetings of the Management Committee without leave of absence having been previously granted.
  - (vi) Is removed from Office by the decision of a General Meeting of members called in accordance with this Constitution.
  - (vii) becomes disqualified from holding a position as a result of bankruptcy or conviction of a relevant criminal offence or breach of duties, as detailed in the Schedule 2 declaration.
- (d) The Management Committee may appoint any eligible member to fill a vacancy on the Management Committee for the unexpired term of that Committee.

## 21. POWERS AND RESPONSIBILITIES OF THE MANAGEMENT COMMITTEE.

- (a) The Management Committee shall be responsible for all policy matters and the approval of an annual budget and for the purpose shall do all such acts or things as it deems

necessary for the good and effective conduct of the Club's affairs.

- (b) Without limiting the generality of the powers conferred in the preceding sub-Clause or elsewhere in this Constitution the Management Committee may :-
- (i) Acquire, hold, or dispose of, by way of purchase, sale, gift, lease, hire, letting, sub-letting or renting, any real or personal property of the Club upon such terms as it shall think fit.
  - (ii) Build, alter or demolish any building on any property for the time being under the control of the Club.
  - (iii) Lend or borrow money on such security or without security and on such terms as it shall think fit.
  - (iv) Open and operate accounts at any Bank, Building Society or Licenced Financial Institution.
  - (v) Hire, maintain, suspend or dismiss any staff on such terms as it may see fit.
  - (vi) Enter into contracts for the improvement or maintenance of the Club's assets.
  - (vii) Appropriate such funds as it shall think fit for the provision of prizes or for the conduct of sailing regattas or for social events.
  - (viii) Impose, vary or remove from time to time a limit on the number of members of the Club or of any class of member of the Club.
  - (ix) Apply for, hold, renew or surrender a Licence or a Permit under the Liquor act.
  - (x) Associate or Affiliate the Club with any other body with similar objects for such purposes as it thinks fit.
  - (xi) Make, amend or rescind By-Laws to give effect to this Constitution including By- Laws which fix, from time to time, the entrance fees and subscriptions for membership of the Club and the charges to be paid for the use of any services or facilities provided by the Club.
  - (xii) Institute, conduct, defend, compound or abandon any legal proceedings by or against the Club or otherwise concerning the affairs of the Club and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the Club.
  - (xiii) Appoint a Management Executive Committee and delegate to that Committee the powers and responsibility for day-to-day running of the Club, including the financial affairs of the Club, within the policy and budget determined by the Management Committee from time to time.
  - (xiv) Establish, alter, appoint and supervise such Standing Committees or sub-Committees as the Management Committee from time to time deems necessary for the good conduct of the affairs of the Club and to make such By-Laws for the control and operations of such Standing Committees or sub-Committees as the Management Committee thinks fit.

## 22. MANAGEMENT EXECUTIVE COMMITTEE

- (a) A Management Executive Committee appointed under Sub-Clause (xiii) of Clause 21 of this Constitution shall comprise the Commodore, the Vice-Commodore, one Rear

Commodore, the Treasurer and one Committee member.

- (b) The Management Executive Committee shall meet as required or as directed by the Commodore and shall be chaired by the most senior Flag Officer present.
- (c) The quorum for a meeting of the Management Executive Committee shall be 3 one of whom shall be a Flag Officer.
- (d) The Management Executive Committee may use electronic means to conduct their meetings when deemed appropriate.

## 23. ENTRANCE FEES AND SUBSCRIPTIONS

- (a) Members shall pay such entrance fees and subscriptions as are specified in the By-Laws of the Club as amended from time to time by the Management Committee provided that Life Members and Honorary Members shall not be required to pay any entrance fee or annual subscription.
- (b) Annual subscriptions shall become due on the first day of July each year.
- (c) A member must pay the annual membership fee to the Managing Secretary, or another party authorised by the Management Committee to accept payments.
- (d) If a person who has ceased to be a member under sub clause (c) offers to pay the annual membership fee after the period referred to in that sub clause has expired: -
  - (i) the committee may, at its discretion, accept that payment, and
  - (ii) if the payment is accepted, the person's membership is reinstated
  - (iii) additional overdue fees at an amount set by the Management Committee from time to time, may be added to the account.
- (e) Members who fail to pay their annual subscriptions by the 21st July in any year shall be deemed "Unfinancial" and shall remain so until their annual subscription is paid in full.
- (f) A new member joining the Club after 31st December in any year shall pay the portion only of the annual subscription as is specified in the By-Laws for members joining after that date. That subscription shall be due 7 days after the person has been elected a member and if not paid within 21 days of becoming due, that member shall be deemed "Unfinancial".
- (g) Within 7 days of any member being deemed "Unfinancial" the Managing Secretary shall contact the member at the address showing in the Register of Members and provide an account stating the amount owing; that it is overdue and that the member is deemed to be "Unfinancial" pursuant to the Constitution of the Club. Until the overdue amount has been paid in full, that member shall be ineligible to enjoy the privileges of membership including:
  - (i) Maintaining a boat on a Register of yachts eligible to sail in Club events.
  - (ii) Rigging, storing or mooring a boat on the Club's premises.
  - (iii) Participating in any sailing event or social event conducted by the Club.
  - (iv) Voting at any General Meeting of members or at any meeting of a Standing Committee or sub-Committee of the Club.
  - (v) Entering the Clubhouse or other premises of the Club.
- (h) The Management Committee may, from time to time, post the names of members



deemed "Unfinancial", on the Club Noticeboard.

- (i) Nothing in this Clause contained shall preclude the Club from recovering any unpaid fees or subscriptions from a member or former member by appropriate legal proceedings.

#### 24. CHARGES AND LEVIES

- (a) Members shall pay such charges for services and facilities provided by the Club as is determined by the Management Committee from time to time and specified in the By-Laws.
- (b) Special levies may from time to time be imposed upon and shall be payable by members of the Club provided that :-
  - (i) no levy shall be payable by a Life Member, Honorary Member or Junior Member.
  - (ii) the amount and terms of payment and the class or classes of member liable to pay any Special levy, shall have been approved as a "Motion on Notice" at a General Meeting of members.

#### 25. PAYMENT OF MONEYS DUE

- (a) An Account for any Charges or Levies properly raised in accordance with Clause 24 of this Constitution shall be due from the date on which that account is raised.
- (b) An Account which has not been paid in full within 30 days from when that Account was first raised, shall be deemed an "Overdue Account".
- (c) Overdue Accounts will incur overdue fees at the rate of 3% per month or portion of a month calculated from the date on which that Account is deemed an "Overdue Account".
- (d) The Club may take appropriate legal proceedings to recover any "Overdue Account". The cost of these actions, along with the overdue fees, will be added to the "Overdue Account".

#### 26. APPOINTMENT OF MANAGING SECRETARY

- (a) The Management Committee from time to time, shall appoint a person as Managing Secretary on such terms and for such remuneration as it shall think fit, to carry out the duties of the Managing Secretary pursuant to this Constitution.
- (b) In addition to such other duties as may be determined by the Management Committee, it shall be the duty of the Managing Secretary:
  - (i) to keep a true record of all General Meetings of the Club and of meetings of the Management Committee and any Standing Committees established by the Management Committee from time to time.
  - (ii) to receive all moneys paid to the Club and to pay the same into Bank accounts in the name of the Club and to make payments from those Bank accounts for all expenditure properly incurred by the Club in the operation of its affairs and to keep a complete record of all receipts and payments in proper accounts fully posted up at all times to the satisfaction of the Treasurer

- (iii) to maintain a "Register of Members" of the Club in accordance with Clause 12 of this constitution.
  - (iv) To maintain the "Register of Boats" specified in this Constitution.
  - (v) To notify all candidates for membership of their election or otherwise.
  - (vi) To give the Notices required by and in accordance with, this Constitution, including the Notices to members who are deemed "Unfinancial" or whose debt to the Club has become an "Overdue Account".
  - (vii) to exercise general supervision of the Club premises and property.
  - (viii) to record the current status of a member's financial dues to the Club.
- (c) A Managing Secretary of the Club shall be entitled to all the privileges of an Honorary Member during such time as the appointment of Managing Secretary is held.

## 27. DUTIES OF TREASURER.

- (a) It shall be the duty of the Treasurer elected at the Annual General Meeting :-
- (i) to ensure that the Club complies with the relevant requirements of Part 5 of the Act.
  - (ii) to ensure that all moneys due to the Club are recovered and that all payments made from the Club's funds have been properly approved and recorded.
  - (iii) to report upon the Club's current financial position at each meeting of the Management Committee, or each meeting of the Management Executive Committee if one has been appointed, and to advise of default in payments to the Club being moneys due by way of annual subscription or otherwise.
  - (iv) coordinating the preparation of the Club's financial report before submission to the Club's Annual General Meeting
  - (v) to provide assistance required by an auditor or reviewer conducting an audit or review of the Club's financial statements and or financial report under Part 5 Division 5 of the Act

## 28. AUDITOR AND AUDIT

- (a) An auditor or reviewer shall be nominated by the Management Committee at a nominal fee to audit prepared accounts for presentation at the AGM.
- (b) Any person, firm or company, properly qualified in that capacity, may be appointed as auditor of the Club and once appointed, shall be eligible for re-appointment.
- (c) An individual member appointed as auditor, or who is a member or employee of a firm or company that is the Club auditor, shall not be a member of the Management Committee.

## 29. CUSTODY OF BOOKS AND SECURITIES

- (a) Subject to subclause (b), the books and securities of the Club must be kept in the Managing Secretary's custody or under the Managing Secretary's control.
- (b) The financial records and, as applicable, the financial statements or financial report of the Club must be kept in the Treasurer's custody or the custody of an employee of the club nominated by the Treasurer.

- (c) Subclause (a) and (b) have effect except as otherwise decided by the Management Committee.
- (d) The books of the club must be retained for at least 7 years.

### 30. COMMON SEAL

- (a) The Common Seal of the Club shall be kept in the custody of the Managing Secretary.
- (b) The Common Seal may only be affixed to any writing or document pursuant to a resolution of the Management Committee and in the presence of two Flag Officers of the Club who shall each sign as witnesses to the affixing of the Common Seal.

### 31. MAINSHEET

- (a) The Management Committee shall periodically publish a magazine called "Mainsheet".
- (b) At least one issue of "Mainsheet" shall be published quarterly throughout the year.
- (c) The subscription to "Mainsheet" shall be determined by the Management Committee from time to time and for members may be included with, or additional to, their annual membership subscription.
- (d) Any Notice which is required to be given to all members pursuant to this Constitution, shall be deemed to have been properly given if included in an issue of "Mainsheet" forwarded by electronic means or by pre-paid mail to a member at the appropriate address showing in the Club's Register of Members
- (e) Where two or more members of the same family reside together and share a common mailing address, one copy only of each issue of "Mainsheet" shall be forwarded by electronic means or by pre-paid mail, addressed to the member whose name appears first in the Club's Register of Members and that single copy shall be deemed to be a proper means for the Club to give all those members sharing that common address, the notices required by this Constitution to be given to all members.

### 32. REGISTER OF BOATS

- (a) In this Clause the term "boat" shall mean any yacht, catamaran, cruiser, cruiser tender or powered boat which is eligible under this Constitution to be sailed from, or stored at, the Club and which a member of the Club has requested be included on the Club's "Register of Boats".
- (b) The Club shall establish a "Register of Boats" in which the Managing Secretary shall record the following information to be provided and up-dated annually by all members who own or skipper a boat sailing or stored at the Club.
  - (i) The name(s) of the owner and if the boat is skippered by another member, the name of that member.
  - (ii) The name of the boat, its Class, Sail number or other identification and if applicable, the appropriate authority for boat registrations, registration number.
  - (iii) The storage location for any boat stored on Club premises including the River lease and the current status of payment for annual storage fees for that location, at the rate specified in the By-Laws made pursuant to this Constitution

- (c) Members shall pay an annual Registration Fee to maintain a boat on the Club's "Register of Boats".
- (d) Only fully financial members of the Club shall be eligible to have a boat on the Club's "Register of Boats" and only boats on that Register shall be eligible to start in any sailing event conducted by the Club, or to be stored on Club premises.

### 33. RACING

The sailing and racing rules for the Club are as per NYC By Laws Section 7 Clause 7.9 Rules of Racing.

### 34. NOT FOR PROFIT ORGANISATION

- (a) The property and income of the Club must be applied solely towards the promotion of the objects or purposes of the Club and no part of that property or income may be paid or otherwise distributed, directly or indirectly, to any member, except in good faith in the promotion of those objects or purposes.
- (b) A payment may be made to a member out of the funds of the Club only if it is authorised under clause 34(c).
- (c) A payment to a member out of the funds of the Club is authorised if it is —
  - (i) the payment in good faith to the member or as reasonable remuneration for any services provided to the Club, or for goods supplied to the Club, in the ordinary course of business; or
  - (ii) the payment of interest, on money borrowed by the Club from the member, at a rate not greater than the cash rate published from time to time by the Reserve Bank of Australia; or
  - (iii) the payment of reasonable rent to the member for property leased by the member to the Club; or
  - (iv) the reimbursement of reasonable expenses properly incurred by the member on behalf of the Club.

### 35. INDEMNITY AND EXCLUSION OF LIABILITY

- (a) Every officer, auditor or servant of the Club shall be indemnified out of the property of the Club against any liability incurred in their capacity as officer, auditor or servant in defending any proceedings, whether civil or criminal, in which judgment is given in their favour or in which they are acquitted, or in connection with any application in relation to any such proceedings in which relief is granted them by the Court.
- (b) No action at the instance of any member or former member of the Club shall lie against the Club, nor shall any such action lie against any officer or servant of the Club arising from the carrying out in good faith of their duties as an officer or servant of the Club and

the provisions of this Clause may be pleaded in bar of any proceedings instituted against such officer or servant by any such member or former member.

### 36. ALTERATION TO THIS CONSTITUTION

- (a) This Constitution may be altered, amended, added to, rescinded or revoked in whole or in part, by "Motion on Notice" or "Special Resolution" at any General Meeting of the Club called or convened in accordance with the provisions of this Constitution provided that no such alteration, amendment, addition, rescission or revocation shall be deemed to have effect unless it is approved by no less than 75% of the members present and eligible to vote at that meeting and until it has been subsequently approved by the appropriate government bodies under the provisions of the Liquor Act.
- (b) Within one month of the passing of a Special Resolution altering this Constitution the Managing Secretary shall lodge certified copies of the altered Constitution with the appropriate government bodies.
- (c) No alteration to this Constitution shall take effect until written approval of the altered Constitution has been received from the appropriate government bodies.

### 37. TRANSITIONAL

All previous acts, appointments, contracts, subscription accounts, levies or charges made, which are legal and binding under a former Constitution of the Club shall remain in force until this Constitution has been approved by the appropriate authorities as required by the Act.

### 38. DISPUTE RESOLUTION

- (a) Disputes Arising under the Rules
  - (i) Clause 38(a) (a) applies to:
    - 1) Disputes between Members; and
    - 2) Disputes between The Club and one or more Members that arise under the rules or relate to the rules of The Club. This does not include disciplinary matters undertaken with club members, which are covered only under Clause 17 of this constitution.
  - (ii) The parties to a dispute must attempt to resolve the dispute between themselves within fourteen (14) days of the dispute coming to the attention of each party.
  - (iii) If the parties are unable to resolve the dispute, any party to the dispute may initiate a procedure under this rule by giving written notice to the Managing Secretary of the parties to, and details of, the dispute.
  - (iv) The Managing Secretary must notify the Management Executive Committee within 7 days after the Managing Secretary receives notice of the dispute under Clause 38(a)(iii). The matter is to be tabled at the next scheduled meeting of the Management Committee to determine the dispute.
  - (v) At the Management Committee meeting to determine the dispute, all parties to the dispute must be given a full and fair opportunity to state their respective cases

orally, in writing or both.

(vi) The Managing Secretary must inform the parties to the dispute of the Management Committee's decision and the reasons for the decision within seven (7) days after the Management Committee meeting referred to in Clause 38(a)(v).

(vii) If any party to the dispute is dissatisfied with the decision of the Management Committee, they may elect to initiate further dispute resolution procedures as set out in the Rules.

(b) Mediation

(i) Clause 38(b) applies:

- 1) where a person is dissatisfied with a decision made by the Committee under Clause 17 or Clause 38(a) or
- 2) where a dispute arises between a Member or more than one Member and The Club and any party to the dispute elects not to have the matter determined by the Committee.

(ii) Where the dispute relates to a proposal for the suspension or expulsion of a Member this rule does not apply until the procedure under Clause 17 in respect of the proposed suspension or expulsion has been completed.

(iii) If the parties to a dispute are unable to resolve the dispute between themselves within the time required by Clause 38(a)(ii)(ii), or a party to the dispute is dissatisfied with a decision made by the Committee under Clause 38(a)(vii) a party to a dispute may:

- 1) Provide written notice to the Managing Secretary of the parties to, and the details of, the dispute;
- 2) Agree to, or request the appointment of, a mediator.

(iv) Party, or parties requesting the mediation must pay the costs of the mediation.

(v) The mediator must be:

- 1) a person chosen by agreement between the parties; or
- 2) in the absence of agreement:
  - a. if the dispute is between a Member and another Member – a person appointed by the Committee; or
  - b. if the dispute is between a Member or more than one Member and The Club, the Committee or a Committee Member then an independent person who is a mediator appointed to, or employed with, a not for profit organisation.

(vi) A Member can be a mediator, but the mediator cannot be a Member who is a party to the dispute.

(vii) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.

(viii) The parties are to exchange written statements of the issues that are in dispute between them and supply copies to the mediator at least five (5) days before the mediation session.

(ix) The mediator, in conducting the mediation, must:

- 1) give the parties to the mediation process every opportunity to be heard;
  - 2) allow all parties to consider any written statement submitted by any party;  
and
  - 3) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process.
- (x) The mediator must not determine the dispute and the mediation must be confidential. Information provided by the parties in the course of the mediation cannot be used in any other legal proceedings that may take place in relation to the dispute.
- (c) Inability to resolve disputes
- (i) If a dispute cannot be resolved under the procedures set out in the Rules, any party to the dispute may apply to the State Administrative Tribunal to determine the dispute in accordance with the Act or otherwise at law.

### 39. DISSOLUTION OF THE CLUB

- (a) A motion to wind up the Club shall be in the form of a "Motion on Notice" at a General Meeting of members, called in accord with the provisions of this Constitution and at which the motion to wind up the Club shall be the sole item of business discussed.
- (b) The motion to wind up the Club shall only be deemed to be carried if no less than 75% of the members present and eligible to vote cast their votes in favour of the motion.
- (c) Following a decision at a General Meeting to wind up the Club, if any property of the Club remains after satisfaction of its debts and liabilities and the costs, charges and expenses of that winding-up, the Management Committee shall be empowered and responsible to negotiate the transfer of the residual property to another Association in Western Australia with similar Objects to the Club and incorporated under The Act 2015, or to distribute the net proceeds from winding-up for charitable purposes.

**FIRST SCHEDULE**

**NEDLANDS YACHT CLUB (INC)**

**PRELIMINARY NOTICE OF ANNUAL GENERAL MEETING.**

In accordance with Clause 19 of the Constitution, Preliminary Notice is hereby given that the Annual General Meeting of the Club will be held at Nedlands Yacht Club, The Esplanade, Nedlands on *<date of meeting>* at 7.30pm.

Nominations for the Office of Commodore, Vice-Commodore; a minimum of two and a maximum of three Rear Commodores; Treasurer; a minimum of three and a maximum of six Committee for the ensuing year, the form of the Second Schedule to this Constitution, are to be addressed to the Returning Officer, c/o Nedlands Yacht Club, PO Box 3205, Nedlands WA 6909, not later than 17th day of May next.

Nominees shall be Life Members or Sailing Members or Non-Sailing Members of the Club and may nominate for any number of Offices. The Offices will be filled in the order above and on election of a nominee to any Office their nomination for any other Office will be automatically withdrawn.

A "Notice of Motion" intended to be moved at the meeting shall be forwarded in writing to reach the Secretary not later than the 17th day of May next.

Signed:.....

Office:.....Managing Secretary



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**SECOND SCHEDULE NEDLANDS  
YACHT CLUB (INC) NOMINATION  
FORM**

We, the undersigned, being Life Members or Sailing Members or Non-Sailing Members of the Club, do hereby nominate and second respectively:-

..... for the Office of .....

(print name of nominee)

Signed by nominator..... Seconded by.....

I.....the nominee herein, do hereby accept this nomination. and declare that I am not:

- an undischarged bankrupt or a person whose affairs are under insolvency laws
- a person convicted of an indictable offence in connection with the promotion, formation or management of a body corporate
- a person convicted of an offence involving fraud or dishonesty punishable on conviction by 3 months or more imprisonment
- a person convicted of a breach of any of the following duties in the new law - care and diligence, good faith and proper purpose, use of position, use of information or the incurring of debt (i.e. insolvent trading)

Signed by the nominee .....on...../...../.....



**THIRD SCHEDULE**

**NEDLANDS YACHT CLUB (INC)**

**NOTICE OF ANNUAL GENERAL MEETING.**

The Annual General Meeting of the Members of the Club will be held :-

at (place)

on (date)

Commencing at (time).

**BUSINESS.**

1. To receive and adopt the Minutes of the previous Annual General meeting.
2. To receive and adopt the Report of the Management Committee.
3. To receive and adopt Reports from the Treasurer and the Auditor concerning the Financial Accounts of the Club, including a Balance Sheet and Profit & Loss Statement for the year ended the previous 30<sup>th</sup> of June.
4. To elect the Officers of the Club for the ensuing year, the election being in the following order :-
  - Commodore
  - Vice-Commodore
  - A minimum of two and a maximum of three Rear-Commodores
  - Treasurer
  - A minimum of three and a maximum of six Committee Members
5. To consider and resolve any "Motion on Notice" submitted in accord with Clause 18 of the Constitution.
6. Closure of meeting.

Signed .....

Position \_\_\_\_\_