

**APPEAL "A" CLASS NATIONALS – RACE 7 - 8 JANUARY 2015**

**LAKE COOTHARABA SAILING CLUB**

**FINDING**

1. There was a procedural error in the handling of the initial hearing against the Race Committee.
2. The facts found in the initial hearing do not support the conclusion.

The decision of the Protest Committee is over-turned and Race 7 of the A Class Nationals is to be re-instated and scored as per the finish sheet.

**PROCEDURAL ERROR**

1. The Protest Committee failed to identify that a boat cannot lodge a protest against the Race Committee; it may only seek redress; (RRS 60.1);
2. This failure led to the Protest Committee failing to identify that all competitors in the fleet would be affected by any decision and therefore became parties to the hearing (RRS 63.3 a);
3. This consequently led to a failure under RRS 64.2 and a subsequent failure under RRS 66 to properly address a request to re-open the hearing;

**CONCLUSION AND RULES QUOTED**

1. The word 'Upheld' is not a conclusion it is a decision;
2. The Rule quoted under the conclusion was inconsistent with a finding by a protest committee.
  - a. The Protest Committee cited RRS 32.1 (e) as the only rule applicable in their conclusion;
  - b. The Race Committee chose not to abandon the race at the time under RRS 32.1 (e), and the Protest Committee erred in using this Rule as the basis for their conclusion.
  - c. As a minimum the Protest Committee should have cited RRS 62.1 and 64.2; however this omission needs to be considered as an effect of the procedural error.
3. As there is no appropriate conclusion the Appeal Panel took into account the facts found as to whether they supported the decision.

**FACTS FOUND**

1. The fact found that there was a 40 degree wind-shift as boats rounded the mark did not support a conclusion consistent with abandoning the race after boats had finished;
2. The fact found that the race was shortened because of fading breeze did not support a conclusion consistent with abandoning a race after boats had finished;
3. The fact found that boats rounded both bottom marks did not support a conclusion consistent with abandoning a race after boats had finished; more so it supported a view that boats had a choice of bottom marks to round and made their own choice as to which mark to round.

## **RECOMMENDATION**

1. Whilst it is not standard procedure for an Appeal Committee to make recommendations in this case it is felt appropriate to suggest the following course of action:
  - a. Lake Cootharaba Sailing Club send prospective protest committee members to a Yachting Australia Club Judges course at the first available opportunity;
  - b. When Lake Cootharaba Sailing Club hosts a National level event they seek the services of an experienced State or National Judge to assist their protest committee until such time as they have their own State or National level officials; and
  - c. Members of any protest committee make themselves familiar with the differences between a Protest and a Request for Redress.

## **APPEAL PANEL**

Richard Matterson (IJ) - Chairman

Ross Chisholm (NJ)

Mark Gallagher (NJ)

Nev Willis (NJ)