



**BUCKLANDS BEACH
YACHT CLUB**

CONSTITUTION

OF

BUCKLANDS BEACH YACHT CLUB INCORPORATED

**Buckland's Beach Yacht Club
Constitution**

Contents

1	DEFINITIONS AND INTERPRETATION	2
2	CLUB DETAILS.....	4
3	PURPOSE AND POWERS	4
4	MEMBERS	4
5	GENERAL MEETINGS	9
6	BOARD.....	11
7	BOARD MEETINGS.....	15
8	STANDING COMMITTEES.....	16
9	OFFICERS' DUTIES	17
10	INTERESTS	17
11	PATRONS	18
12	EXECUTIVE OFFICERS.....	18
13	FINANCES	19
14	LAWYER(S)	20
15	NO PERSONAL BENEFIT	20
16	AMENDMENTS.....	20
17	DISPUTE RESOLUTION	21
18	LIQUIDATION AND REMOVAL	23
19	TRANSITION.....	23

Buckland's Beach Yacht Club Constitution

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Constitution, unless the context requires otherwise, the following words and phrases have the following meanings:

- **Act** means the Incorporated Societies Act 2022, including any amendments, and any regulations made under that Act.
- **AGM or Annual General Meeting** means a meeting of the Members held once a year convened under this Constitution.
- **Board** means the Club's governing body.
- **Board Member** means any person elected to one of the positions of the Board.
- **Boat** means a vessel propelled by sail or other power, used for pleasure purposes.
- **Casual Vacancy** is a vacancy which arises when a Board Member does not serve their full term of office.
- **Club** means the Bucklands Beach Yacht Club.
- **Constitution** means this Constitution, including any amendments and any schedules to this Constitution.
- **Contact Details** means a physical or an electronic address and a telephone number.
- **Flag Officer** means the Commodore, Vice Commodore and Rear Commodores.
- **General Manager** means the person in the highest-ranking management position in the Club.
- **General Meeting** means an Annual General Meeting (AGM) or a Special General Meeting (SGM) of the Club.
- **Interested** has the meaning given in section 62 of the Act. An officer is interested in a matter if the officer:
 - a) May obtain a financial benefit or otherwise gain or lose from the matter; or
 - b) is the spouse, civil union partner, de facto partner, child, parent, grandparent, grandchild, sibling, nephew, niece, uncle, aunt, or first cousin of a person who may obtain a financial benefit or otherwise gain or lose from the matter; or
 - c) may have a financial interest or other personal interest in a person to whom the matter relates; or
 - d) is a partner, director, Officer, Board Member, or trustee of a person who may have a financial interest or other personal interest in a person to whom the matter relates; or
 - e) is interested in the matter because society's constitution so provides.

However, an Officer is not interested in a matter if any of the matters set out in section 62(2) and (3) of the act apply.

- **Matter** has the meaning given in section 62(4) of the Act.
- **Member** means each person who for the time being is a Member of the Club and includes all classes of Members described in Rule 4.5.
- **Officer** means a Board Member and any natural person occupying a position in the Club that allows the person to exercise significant influence over the management or administration of the Club.
- **Ordinary Resolution** means a resolution passed by a majority of votes cast.

- **Patron** means a person appointed as a patron of the Bucklands Beach Yacht Club.
- **Regulations** means any Regulations, policies, regulations and codes of the Club made under Rule (6.1b).
- **Rules** means these rules.
- **Standing Committee**; there are 5 standing committees of the Club, Keeler, Centreboard, Powerboat, House and Marina as described in Rule 8.
- **SGM or Special General Meeting** means a meeting of the Members, other than an AGM, called for a specific purpose or purposes.
- **Special Resolution** means a resolution passed by a 75% majority of votes cast.
- **Working Day** has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in Auckland.

1.2 Interpretation

Unless the context otherwise requires:

- Words referring to the singular include the plural and vice versa.
- Rule headings are for reference only.
- Expressions referring to writing include references to words visibly represented, copied, or reproduced, including by email.
- Reference to a person includes any other entity or association recognised by law and vice versa and any reference to a particular entity includes a reference to that entity's successors.
- A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- All periods of time or notice exclude the days on which they are given.
- A reference to a day means any calendar day and is not restricted to Working Days.

1.3 Notices

Subject to any other notice requirements in this Constitution, any notice or other communication given under this Constitution must be in writing and will be given to:

- A Member if delivered by hand to the Member or sent to the address set out in their Contact Details.
- The Club if sent to reception@bbyc.org.nz or by post to the Club's registered office set out on the Register of Incorporated Societies.

1.4 Receipt of Notices

A notice is deemed to have been received:

- If delivered by hand, at the time of delivery.
- If given by post, when left at the address of that party or ten working days after being put in the post.
- If given by email, upon production of a physical copy of the email detailing the time and the date the email was sent (provided that the sender does not receive any "out of office" autoreply or other indication of non-receipt).

Provided that any notice or communication received or deemed received after 5pm on a Working Day, or on a day which is not a Working Day, will be deemed not to have been received until the next Working Day.

2 CLUB DETAILS

2.1 Name

The name of the Club is Bucklands Beach Yacht Club Incorporated.

2.2 Contact person

At its first Board meeting following an AGM, the Board must appoint or reappoint at least one, and a maximum of three, persons to be the contact person, subject to those persons meeting the eligibility criteria set out in the Act. The Board must advise the Registrar of Incorporated Societies of any change in the contact person or their Contact Details.

2.3 Registered office

The registered office of the Club is at the place described as such in the register established under the Act. The Board may change the registered office and shall provide notice of any change in compliance with the Act.

3 PURPOSE AND POWERS

3.1 Purpose

The purposes of the Club will be the encouragement of recreational boating generally in all its forms mainly as an amateur sport; the promotion of all purposes connected with aquatics including racing, cruising, and all forms of boating recreation; the promotion of seamanship, safety and aquatic education; the promotion of social activities associated with any of these purposes; and all activities incidental or conducive to the attainment of any of these purposes.

3.2 Be a member of Yachting New Zealand.

3.3 Capacity & Powers

The Club has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any activity, do any act, or enter into any transaction, subject to this Constitution, the Act, any other legislation, and the general law.

4 MEMBERS

4.1 Application

An application to become a member must be in the written form required by the Board and made to the secretary. It shall be signed by the intending member and by two financial members of the Club entitled to vote and to whom the intending member is personally acquainted.

4.2 All applications are decided by the Board, which may accept or decline an application in its absolute discretion. A person becomes a member when their application has been accepted, and they have paid the required membership fees and satisfied any other preconditions.

4.3 In all categories except those to which admission is required by election, or by admission by a flag officer or by transfer from junior or intermediate membership, the following rules must be followed:

- a) The application must be accompanied by the then current nomination fee and subscription, provided that no nomination fee shall be payable by a junior or family (junior) or intermediate member applying to transfer to senior membership, a person

applying to transfer to intermediate membership from junior or family (junior) membership, by a person applying for junior membership, by a person applying for senior membership who is already part of a family membership or “senior member plus partner”, or by any person applying for visiting membership.

- b) The details of the applicant as supplied in the application form are to be posted on a prominent notice board in the Club premises for not less than 10 working days before the application is determined by the Board (the nomination period).
- c) After the nomination period, the Board shall vote concerning the admission of the applicant. The applicant shall be admitted upon a simple majority vote of the Board. The application may be adjourned from time to time for the purpose of making enquiries concerning the eligibility or desirability of the intending member.
- d) A candidate who has been unsuccessful shall not be put up again for election until a period of six months has elapsed since rejection and a candidate who has twice been rejected shall not be eligible for future nomination.
- e) No person who has been struck off the membership role for non-payment of subscription fees or dues shall be eligible for re-election until such have been paid in full.
- f) A person rejoining the Club may at the discretion of the Board have payment of the nomination fee waived.
- g) A duly registered junior or family (junior) member may apply to become an intermediate or senior member on attaining 18 years of age, and a duly registered intermediate member may apply to become a senior member on attaining 25 years of age, by applying in writing to the Board and paying the balance of the current year's intermediate / senior membership fee as the case may be (in proportion to the months remaining in the financial year). The Board shall vote on the application as soon as possible after its receipt.
- h) All candidates for membership shall satisfy the Board that they are boating persons or are sufficiently interested in boating.
- i) Any Member wishing to resign from the Club shall give notice in writing to the Board to that effect and pay all arrears due up to date of such notice.

4.4 **Member Consent**

A person or entity shall be deemed to consent to become a member by submitting an application to the Club and paying all fees unless otherwise specified in this Constitution.

4.5 **Descriptions of Membership Classes**

a) **Veteran Members**

These shall be persons who have attained the age of 60 years on the first day of the relevant financial year and who at that time shall have been members (not including sponsor / Corporate or visitor membership) for a continuous period of not less than 20 years. Veteran members shall pay a fee structure of 40% of the senior membership.

b) **Veteran Membership with Partner**

These shall be persons who qualify for veteran membership in the above terms together with their spouse or partner residing with them. In the event of a dissolution of marriage or a termination of a partnership, each spouse or partner shall be responsible for their own membership, and privileges of membership shall be suspended until such time as they shall jointly advise which of them is to retain the veteran membership having the benefit of subscription already paid, and which of

them will obtain veteran membership in his or her own right on the terms described in these rules.

c) **Senior Members**

These shall be persons 25 years of age or over on the first day of the relevant financial year, duly elected to the Club in accordance with these rules or duly transferred from junior or intermediate membership in accordance with these rules.

d) **Senior Membership with Partner**

These shall be persons who qualify for senior membership in the above terms together with their spouse or partner residing with them. In the event of a dissolution of marriage or a termination of a partnership, each spouse or partner shall be responsible for their own membership, and privileges of membership shall be suspended until such time as they shall jointly advise which of them is to retain the senior membership having the benefit of subscription already paid, and which of them will obtain senior membership in his or her own right on the terms described in these rules.

e) **Family Membership**

These shall be a parent or two parents and their children under 18 years of age on the first day of the relevant financial year, general qualifications otherwise as for senior membership.

f) **Country Membership**

These shall be persons elected to membership, generally qualifying as senior members, but residing more than 150km by direct route from the Club premises at Half Moon Bay, or at a lesser distance if expressly approved in any individual case by the Board.

g) **Overseas Member**

These shall be persons generally qualifying as senior members and have been currently residing overseas continuously for a period in excess of 15 months.

h) **Honorary Life Members**

Persons who have performed outstanding service to the Club or have brought it great honour may be elected by the Club as an Honorary Life member in a general meeting. Any Member may nominate an individual to become an Honorary Life Member by giving notice to the Board setting out the grounds for the nomination. The Board must then determine whether the nomination should be forwarded to a General Meeting for determination by the Members. A person may only be elected as an Honorary Life Member by a Special Resolution at a General Meeting. A person consents to becoming an Honorary Life Member on acceptance of their Honorary life membership. Such election shall be carried by a minimum of 75% of the members present at such general meeting voting personally or by written vote as described in 5.15. Such membership shall be for the life of the member elected and shall carry full voting privileges and shall be without payment of any subscription.

i) **Honorary Members**

Persons elected by the Club in general meeting in recognition of services to the Club who will be honorary members of the Club for the forthcoming financial year, with full voting rights, but without payment of subscription. Such election shall be carried by a 75% majority of the members present at the general meeting. The honorary member may be further nominated and eligible for re-election as an honorary member at the subsequent Annual General Meeting.

j) **Life Members**

These shall be persons who pay a single subscription for life which may be fixed

from time to time by the Club in a general meeting. If the life member is married at the time of taking such life membership, the benefit of the membership shall endure for the widow or widower during his or her life.

k) **Corporate Members**

Corporate members shall be duly incorporated bodies, partnerships or sole traders and may be admitted as corporate members and shall have the privileges set by the Board after acceptance to membership.

l) **Sponsor Members**

These shall be members who are duly incorporated bodies, partnerships or sole traders and will be known as sponsors members. Privileges of these memberships shall be as set by the Board.

m) **Intermediate Members**

These shall be persons aged not less than 18 years or more than 25 years on the first day of the relevant financial year accepted in accordance with these rules.

n) **Junior Membership**

These shall be persons under 18 years of age on the first day of the relevant financial year, accepted in accordance with these rules.

o) **Visitors**

These shall be persons with an interest in boating who may at the discretion of a flag officer exercised in writing be given temporary privileges of membership (but not including voting) on such terms as may be offered by that flag officer.

4.6 **Member Rights & Obligations**

Members acknowledge and agree that:

- a) They are bound by, and will comply with, this Constitution and the regulations, and to the extent they apply, the rules, procedures or policies of and the code of conduct.
- b) They are bound by New Zealand's Sports Anti-Doping Rules (SADR) administered by the Sport Integrity Commission and any amendments to or replacements of SADR.
- c) They are entitled to all rights and entitlements granted by this Constitution or as determined by the Board.
- d) If they fail to comply with Rule 4.6 (a) the Board may commence a complaint process.
- e) They will promote the interests and purposes of the Club and must not do anything to bring the Club into disrepute.
- f) When they bring guests onto the Club premises, they will sign the guest in the guests' book in the main entrance of the Clubhouse, they will remain with the guests while at the Club and they will ensure that the guests observe the Club rules and regulations and maintain appropriate decorum and they are responsible for ensuring that payment is made for all the purchases their guests make.
- g) **Suspension of Member**
If a Member is, or may be, in breach under this Rule, and the Board believes it is in the best interests of the Club to do so, the Board may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before imposing any suspension, the Member must be given notice of the suspension.

4.7 **Ceasing to be a Member**

- a) A member ceases to be a member:

- i. On death.
- ii. by giving notice to the Board of their resignation, or.
- iii. if their membership is terminated following a dispute resolution under rule 17 of this Constitution.

b) **Consequences of Ceasing to be a Member**

A member who ceases to be a member:

- i. Remains responsible to pay all their outstanding membership and other fees to the Club.
- ii. must return all the Club's property if required.
- iii. ceases to be entitled to any rights of a member.

4.8 **Membership Fees**

- a) The annual subscriptions payable by the various classes of members of the Club shall be fixed at the Annual General Meeting each year. The Board may make recommendations at the Annual General Meeting as to the levels of subscription. Any increase in subscription payable across the various membership types will be determined by a percentage based on the Consumer Price Index of the previous year. If at any General Meeting the fixing of subscriptions for the ensuing year is omitted, the rates of subscription for that year shall be those prevailing in the preceding year.
- b) In the event the Board has a reason to request a greater increase than in accordance with the preceding paragraph, any greater increase must be approved at a general meeting to be operative.
- c) The subscription of any member elected after the end of the first month of the financial year shall have his/her/their subscription discounted pro rata relative to the number of full months of the financial year that have passed.
- d) Waiver of Membership Fees: The Board shall have the power in any deserving case to waive the whole or such portion of any Member's membership fees as it shall from time to time think fit.

4.9 **Nomination Fee**

- a) The Board shall have the power to fix the nomination fee from time to time. A person who resigns or otherwise ceases to be a member of the Club shall not be entitled to a refund of any nomination fee paid on joining.
- b) Any person who was previously a Member and voluntarily resigned shall not be required to pay a nomination fee on re-election, provided the candidate has on a previous occasion paid a nomination fee and the last period of Membership was not less than three years duration.

4.10 **Member Register**

The Board will keep an up-to-date Member register, which includes each Member's name, Contact Details and the date they became a member. A Member must provide notice to the Club of any change to their Contact Details. The Member register will be updated as soon as practicable after the Board becomes aware of changes in the information recorded in the Member register. The Board will keep a record of those who have ceased to be Club members within the previous 7 years and the date on which they ceased to be a member.

4.11 **Boat Register**

Each Member who owns a Boat shall inform the Club of the particulars of the Boat as the Board shall by Regulations from time to time require. Particulars shall be entered in the Club Register of Boats and no Boat shall be entitled to any of the privileges of the Club until such entry is made. Any alteration to any Boat affecting her sailing performance shall be notified to the Board, who shall note these alterations.

5 **GENERAL MEETINGS**

5.1 **AGM**

An AGM must be held once a year at a time no later than the 31 July each year, date and place as the Board decides and not more than 15 months after the previous AGM.

5.2 **Notice of AGM**

The Members must be given at least 15 working days' notice of the AGM. Notice to Members of an AGM may be given by posting on the Club's website, by circular, by email, or notice attached to a noticeboard in such prominent position in the Clubhouse, stating the object and business of such meeting. The sending of an email or where requested the posting of such notice will be deemed sufficient evidence that 15 working days' notice has been given.

5.3 **Business of AGM**

The following business will be discussed at the AGM:

- a) Confirmation of the minutes of the previous AGM;
- b) the Board's presentation of the following information during the most recently completed accounting period:
 - i. The annual report;
 - ii. the annual financial statements;
 - iii. the auditor's report to members on the financial statements audited by a qualified auditor or the review report of the financial statements;
 - iv. notice of any disclosures of conflicts of interest made by Officers including a brief summary of the Matters, or types of Matters, to which those disclosures relate.
- c) The election of the Flag Officers and other members of the Board.
- d) The election of the standing committees.
- e) Consideration of any motions proposing to amend this Constitution that have been properly submitted for consideration at the AGM.
- f) Consideration of any other items of business that have been properly submitted for consideration at the AGM.

5.4 **Notice of Proposed Motions**

Members must give notice of any proposed motions and other items of business to the Club at least 10 working days' before the date of the AGM.

5.5 **Notice of agenda**

Notice of the agenda containing the business to be discussed at the AGM must be sent to all persons entitled to attend the AGM at least 5 working days' before the date of the AGM. No additional items of business can be voted on other than those set out in the agenda, but the Members present may agree by Special Resolution to discuss any other items.

- 5.6 Calling of Special General Meeting (SGM)**
The Board must call a SGM if it receives a written request stating the purpose of the SGM from 40 Members, other than corporate, junior or visitor members. In other cases, the Board may call a SGM if a majority of the Board members vote in favour.
- 5.7 Notice of SGM**
Members must be given at least 15 working days' notice of the SGM, unless the Board, in its discretion, decides that the nature of the SGM business is of such urgency that a shorter period of notice is to be given to Members. A SGM may only consider and deal with the business specified in the request for the SGM.
- 5.8 Method of Holding a Meeting**
An Annual or Special General Meeting shall be in person unless the Board deem it necessary to hold it electronically.
- 5.9 Quorum**
No business may occur at any Annual or Special General Meeting unless a quorum is present at the meeting's start time. The quorum for an Annual or Special General Meeting is 40 Members who are entitled to vote, including Members present or by casting votes by post means. The quorum must always be present during the Annual or Special General Meeting.
- 5.10 No Quorum at AGM**
If a quorum is not met within 30 minutes of the AGM's scheduled start time, the AGM is adjourned to a day, time and place set by the chair of the AGM. If no quorum is met at the further AGM, the Members present, in person or through audio, audio visual link or other electronic communication, 15 minutes after the further AGM's scheduled start time are deemed to constitute a valid quorum.
- 5.11 No Quorum at SGM**
If a quorum is not met within 30 minutes of the scheduled start time of the SGM, the SGM is cancelled.
- 5.12 Control of General Meetings**
The Commodore chairs Annual or Special General and Board Meetings. If that person is unavailable the Vice Commodore will preside and in the absence of both of those persons, the Members present will elect a person to chair the Meeting.
- 5.13 Omissions & Irregularities**
The General Meeting and its business will not be invalidated if one or more Members do not receive notice of the meeting. The General Meeting and its business will not be invalidated by an irregularity, error or omission in notices, agendas and papers of the meeting or notice within the required time frame or the omission to give notice to all Members and any other error in the organisation of the meeting if:
- a) The chair of the meeting in their discretion determines that it is still appropriate for the meeting to proceed despite the irregularity, error, or omission; and
 - b) a motion to proceed is put to the meeting and a majority, of 75% of votes cast, is obtained in favour of the motion to proceed.
- 5.14 Attendance**
Members and any other persons invited by the Board are eligible to attend and speak at Annual or Special General Meetings.

5.15 **Voting**

A Member is entitled to exercise one vote on any motion at an Annual or Special General Meeting in person, or postal. At any such meeting in the membership category's veteran, veteran and partner, senior, senior with partner, family, country, honorary life, life, honorary, or intermediate is entitled to one vote (i.e. there will be no more than one vote per family or partnership), and voting must be in person, or by "postal vote", and shall be in writing to be lodged with the Secretary not less than 24 hours before the time fixed for the meeting and identifying clearly the issue or position being voted on and the direction in which the vote is cast.

5.16 **Postal votes**

- a) A Member with the right to vote at a General Meeting may cast a postal vote in accordance with the provisions of this Rule. A postal vote may be cast using electronic means permitted by the Board.
- b) The Secretary is authorised to receive and count postal votes at a general meeting.
- c) Postal votes must be received no less than 24 hours prior to the general meeting.
- d) If a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting must count each Member who has submitted a postal vote for or against the resolution.
- e) The Chairperson of a meeting must call for a poll on a resolution on which he or she holds sufficient postal votes that he or she believes that if a poll is taken the result may differ from that obtained on a show of hands.

5.17 **Conduct of voting**

Voting is conducted by voices, or a show of hands as determined by the chair of the meeting, unless a secret ballot is called for and approved by the chair or 40 Members or as otherwise required under this Constitution.

5.18 **Minutes**

Minutes must be kept of all Annual / Special General Meetings and Board meetings.

5.19 **Resolution**

An Ordinary Resolution of Members at an Annual or Special General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution. A resolution of members in writing cannot be passed in lieu of a General Meeting.

6 BOARD

6.1 Functions and Powers

- a) Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution the Board must manage, direct or supervise the operation and affairs of the Club and has all the powers necessary for managing, and for directing and supervising the management of, the operation of and affairs of the Club.
- b) Without limiting the general powers of management described above, the Board will have the following particular powers (provided that any power to make regulations or standing orders shall be such that they shall not be in conflict with these Rules):
 - i. The Board may appoint such special committee or committees or individuals to act in special capacities as it shall consider appropriate and may, by regulations, define, limit, extend, terminate, or vary the

- powers, duties and constitution of any such special committee or individual.
- ii. The Board may make any regulations generally for the management and operation of the Club including pertaining to any matter or object for which any special committee or individual is appointed.
 - iii. Election of a new Board shall not affect any Regulations then in force or the appointment of any sub-committee or individual unless the Board exercises its powers.
- c) The Board may change such regulations and such appointments at any time.
 - d) It shall not be necessary for a member of any special committee, or for any individual appointed under this Rule, to be a member of the Board.
 - e) A copy of all regulations for the time being in force shall be made available for inspection by any member of the Club during normal business hours, without charge.
 - f) The Board may make standing orders for the conduct of all meetings of itself or other committees or groups in the Club.
 - g) The Board may not commit the Club to any capital or un-budgeted expenditure in any one financial year, exceeding \$100,000 without the prior consent of the Club at a general meeting.
 - h) No fee simple interest in land, shall be disposed of or mortgaged, and no lease or license of land or seabed for a term or greater than three years shall be disposed of or shall be sub-leased, sub-licensed for more than 10 working days' at a time, without the prior consent of the Club in a general meeting, provided however that nothing in the rules shall restrict the power of the Club to issue substitute Berth Licences upon the surrender of existing Marina Berth Licences, pursuant to the authority contained in the Resource Consent to the Club.
 - i) Any regulation or standing orders made pursuant to these powers shall be printed immediately after they are made and displayed on a notice board in a prominent part of the Club premises of a period not less than 15 working days' commencing not less than 5 working day's from the time of the making, and thereafter shall be made available for inspection at the Club premises on demand by any member of the Club.

6.2 Composition of the Board

The Board consists of the Commodore, a Vice Commodore, a Rear Commodore (keeler), a Rear Commodore (centreboard), a Rear Commodore (power boat), a Rear Commodore (marina), a Rear Commodore (house), Club Captain, and three further members who shall be elected in accordance with these rules.

6.3 Qualification and Role Definitions

- a) **Qualification and Role of Commodore**
Any person nominated for the position of Commodore must be a recognised mariner and have served for not less than a full financial year on a current standing committee, or within the previous three years, as a flag officer of the Club, provided that this requirement of previous service shall not apply if no person duly qualified is nominated. It shall be the duty of the Commodore to be the chairman of the Board of the Club and generally to take command of the Club and to preside at its meetings.
- b) **Qualification and Role of Vice Commodore**
Any person nominated for the position of Vice Commodore must be a recognised mariner and have the same service qualifications as for the position of Commodore (with the same proviso). It shall be the duty of the Vice Commodore to assist the

Commodore in the discharge of their duties and to officiate in the absence of the latter.

c) **Qualification and Role of a Rear Commodore**

It shall be the duty of the five Rear Commodores to assist the Commodore and the Vice Commodore in the discharge of their duties and to officiate in their absence. Each shall represent the interests of the Standing Committee of the Club which the Annual General meeting elected them to, namely Keeler, Centreboard, Power boat, Marina and House. In addition to representing those respective interests, the Rear Commodores shall discharge their duties in the interests of the Club overall.

d) **Qualification and Role of a Club Captain**

It shall be the duty of the Club Captain to ensure the welfare of Club members.

e) **Board Nominations**

Any person nominated to one of the further positions of the Board shall have served on a standing committee of the Club for the whole of one financial year. The Board shall manage the general affairs of the Club in all respects except making any alteration to these Rules.

f) **Immediate Past Commodore**

The immediate Past Commodore may attend meetings of the Board as a non-voting consultant.

6.4 Election of the Board

- a) The Board Members are elected at an Annual General meeting as follows: the Board must call for nominations for any Board Member positions that are to be vacated at an AGM at least 15 working days' before the AGM; nominations are made in the form decided by the Board and must be received by the date set by the Board and if no date is set, at least 10 working days' before the AGM.
- b) The Board must give notice of the nominations to all Members at least 5 working days' before the AGM.
- c) At the AGM, if there are more nominees than number of positions available, the election is by secret ballot, unless otherwise decided by the Chair of the Annual or Special General Meeting and approved by a Special Resolution of Members. If a secret ballot is held, two scrutineers must be appointed at the General Meeting to count the votes.
- d) Those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected.
- e) If the number of votes for one or more nominees is equal to another nominee, a further vote will be held between the tied nominees.
- f) If there is only one nominee for a vacant position, that person is declared to be elected without the need for a vote.

6.5 Board Member Terms

a) **Obligations of a Board Member**

Every Board Member must, in writing:

- i. Consent to be a Board Member; and
- ii. certify that they are not disqualified from being elected or holding office as a Board Member by this Constitution or under section 47 of the Act.

b) **Disqualification**

The following persons are disqualified from being elected or holding office as a Board Member:

- i. A person who is an employee of, or independent contractor to, the Club.
- ii. A person who is disqualified from being elected or holding office as a Board Member under section 47 of the Act.
- iii. A person who has been removed as a Board Member following a process under this Constitution.

If an existing Board Member becomes or holds any position in (i) above then upon their appointment to such a position, they are deemed to have vacated their office as a Board Member. If any of the circumstances listed in (ii) above occur to an existing Board Member, they are deemed to have vacated their office upon the relevant authority making an order or finding against them of any of those circumstances.

c) Term of Office

The term of office for all Board Members is one year, expiring at the end of the relevant AGM. A Commodore may be re-elected to the Board for a maximum of two consecutive terms of office. The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total term served. If a Casual Vacancy arises, the remaining Board Members may:

- i. Appoint a person of their choice to fill the Casual Vacancy only until the next AGM; or
- ii. leave the Casual Vacancy unfilled until the next AGM, at which a person is elected to fill the remainder of the term of the Casual Vacancy.

d) Suspension of Board Member

If any Board Member is or may be the subject of an allegation, notice or charge described under Rule 17 or any circumstances arise in relation to a Board Member which are or may be of concern to the Board, the remaining Board members may by Special Resolution suspend the Board Member from the Board and set conditions as it requires pending the final determination of the allegation, notice, charge or circumstances. Before imposing any suspension, the Board Member must be given notice of the suspension.

6.6 Removal of a Board Member

- a) The Board may, by Special Resolution, remove any Board Member from the Board before the expiry of their term of office if the Board considers the Board Member concerned:
 - i. Has seriously breached duties under this Constitution or the Act; or
 - ii. is no longer a suitable person to be a Board Member; or
 - iii. has failed to attend three consecutive meetings without being granted a leave of absence.
- b) The Board Member who is the subject of the motion is counted for the purpose of reaching a quorum but will not participate in the vote on the motion.
- c) Before considering a motion for removal, the Board Member affected by the motion must be given:
 - i. Notice that a Board meeting is to be held to discuss the motion to remove the Board Member; and
 - ii. adequate time to prepare a response; and
 - iii. the opportunity prior to the Board meeting to make written submissions; and
 - iv. the opportunity to be heard at the Board meeting.

6.7 Board Member Ceasing to Hold Office

A person ceases to be a Board Member if:

- a) Their term expires.
- b) The person resigns by delivering a signed notice of resignation to the Board.
- c) The person is removed from office under this Constitution.
- d) The person becomes disqualified from being an officer under section 47(3) of the Act.
- e) The person dies.
- f) The person ceases to be a member of the Club.

7 BOARD MEETINGS

7.1 Calling Meetings

Board meetings may be called at any time by any Board Member, but generally the Board meets monthly.

7.2 Meeting Procedure

Except to the extent specified in the Act or this Constitution, the Board may regulate its own procedure.

7.3 Quorum

The quorum for a Board meeting is five Board Members. Any Board Member may be counted for the purposes of a quorum, participate in any and vote on any proposed resolution at a Board meeting without being physically present. This may only occur at Board meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Board meeting can hear each other effectively and simultaneously.

7.4 Chair

The Commodore will Chair Board meetings. If that person is unavailable the Vice Commodore will preside and in the absence of both of those persons, the Members present will elect a person to chair the Meeting.

7.5 Voting

Each Board Member has one vote. Voting is by voices or on request of any Board Member by a show of hands or by a ballot. Postal votes are not permitted. Voting by electronic means is permitted. If there is an equality of votes, the Chair does not have a casting vote.

7.6 Resolution in Writing

A resolution in writing signed or consented to by email or other electronic means by a majority of Board Members is valid as if it had been passed at a Board meeting. Any resolution may consist of several documents in the same form each signed by one or more Board Members.

7.7 If any member of the Board or of any standing committee or of any appointed special committee shall fail to attend three consecutive meetings without forwarding an apology that is acceptable to the meetings not attended, his or her seat may be declared vacant.

7.8 The Board shall meet regularly and in no case less than monthly. It may be summoned at any time by a Board Member. The quorum for its meetings shall be 5.

- 7.9 Immediately after each Annual General Meeting the Board shall appoint a time and place for the first meeting of each standing committee, at which time and place each committee shall elect a chairman, a vice chairman, and a secretary.
- 7.10 Recommendations from standing committees shall be considered by the Board as soon as it is able. The Board may adopt, modify, or refuse to adopt the recommendations. The Board's decision shall be final.

8 STANDING COMMITTEES

8.1 The standing committees of the Club are:

- a) Keeler Committee.
- b) Centreboard Committee.
- c) Powerboat Committee.
- d) Marina Committee.
- e) House Committee.

8.2 Standing Committee Membership

The Commodore and Vice Commodore shall be "ex officio" members of the standing committees. Each standing committee shall comprise no less than three nor more than 10 members.

8.3 Nominations for Standing Committee Membership

Nominations for membership of the standing committees must be received by the secretary not less than 15 working days before the AGM. Each nomination must be signed by 2 financial members other than the nominee, with consent to nomination endorsed by the nominee who must also be financial. The Board must give notice of the nominations to all Members at least 10 working days before the AGM.

8.4 Voting at Standing Committee Meetings

A member of a standing committee together with the "ex officio" members shall be entitled to one vote at a standing committee meeting.

8.5 Terms of Reference

Terms of reference for each standing committee are:

- a) The keeler committee shall oversee mid-week racing, winter racing, cruising, women's racing, regattas, blue water racing, Friday racing and special sailing events, and make recommendations to the Board.
- b) The centreboard committee shall oversee centreboard sailing, board sailing and training, and make recommendations to the Board.
- c) The powerboat committee shall oversee launch and power, haulout, fishing, diving, cruising and model yachts, and make recommendations to the Board.
- d) The marina committee shall make recommendations to the Board relating to all aspects of the marina.
- e) The house committee shall oversee social event activities and make recommendations to the Board.

- f) Standing committees shall keep minutes and make recommendations to the Board. The Board may from time to time (if it sees fit) issue standing orders regulating the meetings of standing committees.
- g) Each standing committee shall consider all recommendations received at its next meeting, and through its minutes shall convey the recommendations to the Board either with the addition of its endorsement or its own modified or difference recommendation.

9 OFFICERS' DUTIES

9.1 An officer:

- a) When exercising powers or performing duties as an Officer, must act in good faith and in what the Officer believes to be the best interests of the Club.
- b) Must exercise a power as an Officer for a proper purpose.
- c) Must not act, or agree to the Club acting, in a manner that contravenes the Act or this Constitution.
- d) When exercising powers or performing duties as an Officer, must exercise the care and diligence that a reasonable person with the same responsibilities would exercise in the same circumstances, taking into account, but without limitation the nature of the Club, the nature of the decision and the position of the Officer and the nature of the responsibilities undertaken by them.
- e) Must not agree to the activities of the Club being carried on in a manner likely to create a substantial risk of serious loss to the Club's creditors or cause or allow the activities of the Club to be carried on in a manner likely to create a substantial risk of serious loss to the Club's creditors.
- f) Must not agree to the Club incurring an obligation unless the Officer believes at that time on reasonable grounds that the Club will be able to perform the obligation when it is required to do so.
- g) When exercising powers or performing duties as an Officer, may rely on reports, statements, and financial data and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
 - i. An employee whom the Officer believes on reasonable grounds to be reliable and competent in relation to the matters concerned.
 - ii. A professional adviser or expert in relation to matters that the officer believes on reasonable grounds to be within the person's professional or expert competence; or
 - iii. any other Officer or Board of Officers on which the Officer did not serve in relation to matters within the Officer's or Board's designated authority, if the Officer, acts in good faith, makes proper inquiry where the need for inquiry is indicated by the circumstances, and has no knowledge that the reliance is unwarranted.

10 INTERESTS

10.1 Register of Interests

The Board must keep a register of interest disclosures made by Officers.

10.2 **Duty to Disclose Interest**

An Officer who is interested in a Matter relating to the Club must disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified) to the Board, as soon as practicable after the Officer becomes aware that they are interested in the Matter and include it in the register of interests.

10.3 **Consequences of Being Interested**

A Board Member who is interested in a Matter:

- a) Must not vote or take part in a decision of the Board relating to the Matter, unless all non-interested Board Members consent.
- b) Must not sign any document relating to the entry into a transaction or the initiation of the Matter, unless all non-interested Board Members consent.
- c) Must not take part in any Board discussion relating to the Matter or be present at the time of the Board decision, unless all non-interested Board Members consent.
- d) May be counted for the purpose of determining whether there is a quorum at any meeting at which the Matter is considered.

10.4 **Calling of SGM**

Despite Rule 10.3 (c), if 50% or more Board Members are Interested in a Matter, a SGM must be called to consider and determine the Matter.

10.5 **Notice of Failure to Comply**

The Board must notify members of a failure to comply with section 63 or 64 of the Act, and of any transactions affected, as soon as practicable after becoming aware of the failure.

11 **PATRONS**

- 11.1 A person may be invited by the Board to be a Patron to show their support for the Club and to help establish or maintain the public credibility of the Club. A Patron is entitled to attend and speak at Annual or Special Meetings but has no right to vote.

12 **EXECUTIVE OFFICERS**

- 12.1 There shall be three senior management positions in the Club, these three positions being, General Manager, Secretary and Treasurer called collectively "the executive officers". Persons hired to fill these positions shall be engaged on written contracts of employment provided however that in the event that any of the executive officers accept appointment on an honorary basis, it shall not be a requirement of these rules that they be engaged pursuant to a contract of employment. The executive officers shall carry out such duties as the elected members of the Board determine from time to time.

- 12.2 Boards shall appoint a General Manager, Secretary and Treasurer:

12.3 a) **Role of the General Manager**

The Board may engage a General Manager. The General Manager is under the direction of the Board and is responsible for the day-to-day management of the Club under this Constitution and the regulations and within any delegated authority from the Board. The General Manager shall attend Board meetings when required by the Board but has no voting rights.

12.3 b) **Role of the Secretary**

The Secretary will:

- i. attend to all correspondence and keep minutes of General Meetings and Board meetings and ensure that any standing committee keeps minutes; and
- ii. keep all records and generally perform all the secretarial work of the Club. With the written approval of the Board these tasks may be varied or delegated but the Secretary remains responsible for their performance.

12.3 c) **Role of the Treasurer**

The Treasurer shall be responsible for all monies received by the Club and under the direction of the Board financial transactions and prepare the Financial Statements as at the end of the Club's financial year.

12.4 The Board may combine all or some of the above appointments.

12.5 The General Manager, Secretary and Treasurer shall attend Board or other key Club meetings when required by the Board.

13 **FINANCES**

13.1 **Control and management of finances**

The funds and property of the Club are controlled, invested and disposed of by the Board, subject to this Constitution and devoted solely to the promotion of the purposes of the Club set out in Rule 3.

13.2 **Balance date**

The Club's balance date is 30 April or on the date as the Board decides.

13.3 **Audit of financial statements**

The Club's financial statements must be audited each year, and the audited financial statements must be submitted to the AGM. The auditor will be appointed by the Annual General Meeting. The Auditor will provide an audit report in accordance with International Standards on Auditing (NZ).

13.4 The Board shall cause proper books of account to be kept which shall give a full, accurate, and timely picture of the financial affairs of the Club.

13.5 The books of account shall be kept at the office of the Club and shall be open to inspection of any financial members of the Club at reasonable times.

13.6 All monies received by or on behalf of the Club shall be paid forthwith into the bank account nominated or approved by the Board of the Club from time to time and shall be entered in the books of the Club as soon as received.

13.7 The treasurer shall provide the Board at each of its meetings with a report entailing income and expenditure for the previous month, cash and investment position, expenditure and income forecasting for the ensuing month, Statement of financial position, and position relative to budget.

- 13.8 At every Annual General Meeting the treasurer shall present a statement of the income and expenditure and a balance sheet for the previous financial year, together with a budget for the ensuing year and any recommendations of the finance committee relating to that budget.
- 13.9 At the end of each financial year the accounts of the Club shall be audited by the Club's Auditor(s). The auditor shall provide a certificate concerning the accounts, for the Annual General Meeting. The Board may require the accounts of the Club to be audited at any other time during the financial year.
- 13.10 The auditor shall be a chartered accountant, or a firm of chartered accountants appointed at the Annual General Meeting of the Club. Such auditor(s) shall be paid such remuneration as the Board may from time-to-time fix (whether globally in respect of audit attendances over a period of time, or in relation to individual tasks assigned from time to time, or a combination of these).
- 13.11 **Seal**
The Board shall provide for the safe custody of the Club Seal which shall only be used by the authority of the Board and any instrument to which the Seal is affixed shall be signed by any two flag officers.

14 LAWYER(S)

- 14.1 The Club lawyer shall be an individual or a firm of lawyers appointed at the Annual General Meeting of the Club. Such lawyer(s) may be paid such remuneration as the Board may from time-to-time fix (whether globally or in respect of legal advice or action).

15 NO PERSONAL BENEFIT

- 15.1 The Officers and Members may not receive any distributions of profit or income from the Club. This does not prevent Officers or Members:
- a) Receiving reimbursement of actual and reasonable expenses incurred; or
 - b) entering into any transactions with the organisation for goods or services supplied to or from them, which are at arms' length, relative to what would occur between unrelated parties;
- Provided no Officer or Member is allowed to influence any such decision made by the Club in respect of payments or transactions between it and them, their direct family or any associated entity.

16 AMENDMENTS

- 16.1 This Constitution may only be amended or replaced by a Special Resolution of members at an Annual or Special Meeting. No motion affecting these rules which has been duly considered shall be brought forward again during the same financial year, unless by consent of the Board.
- 16.2 No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.
- 16.3 No amendment shall be made to this Rule, or to Rule 19.

17 DISPUTE RESOLUTION

17.1 How a complaint is made:

- a) A Member or an Officer may make a complaint by giving to the Board a notice in writing that:
 - i. states that the Member or Officer is starting a procedure for resolving a dispute in accordance with the Club's Constitution; and
 - ii. sets out the allegation to which the dispute relates and whom the allegation is against; and
 - iii. sets out any other information reasonably required by the Club.
- b) The Club may make a complaint involving an allegation against a Member or an Officer by giving to the Member or Officer a notice in writing that
 - i. states that the Club is starting a procedure for resolving a dispute in accordance with the Club's Constitution; and
 - ii. sets out the allegation to which the dispute relates.
- c) The information given under Rule 17.1 (a) (ii) or Rule 17.1 (b) (ii) must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.
- d) A complaint may be made in any other reasonable manner permitted by the Club's Constitution.

17.2 Person who makes complaint has the right to be heard:

A Member or an Officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.

- a) If the Club makes a complaint:
 - i. the Club has a right to be heard before the complaint is resolved or any outcome is determined; and
 - ii. an Officer or Member of the Board may exercise that right on behalf of the Club.
- b) Without limiting the manner in which the Member, Officer, or Club may be given the right to be heard, they must be taken to have been given the right if—
 - i. they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held) and
 - ii. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - iii. the Member's, Officer's, or Club's written statement or submissions (if any) are considered by the decision maker.

17.3 Person who is subject of the complaint has the right to be heard:

- a) This Rule applies if a complaint involves an allegation that a Member, an Officer, or the Club (the respondent):
 - i. has engaged in misconduct;
 - ii. has breached, or is likely to breach, a duty under the Club's Constitution or Regulations or the Act; or
 - iii. has damaged the rights or interests of a Member or the rights or interests of members generally.

- b) The respondent has a right to be heard before the complaint is resolved or any outcome is determined.
- c) If the respondent is the Club, an Officer or Member of the Board may exercise the right on behalf of the Club.
- d) Without limiting the manner in which a respondent may be given a right to be heard, a respondent must be taken to have been given the right if:
 - i. the respondent is fairly advised of all allegations concerning the respondent, with sufficient details and time given to enable the respondent to prepare a response; and
 - ii. the respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
 - iii. an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
 - iv. an oral hearing (if any) is held before the decision maker; and
 - v. the respondent's written statement or submissions (if any) are considered by the decision maker.

17.4 Investigating & Determining Dispute

- a) The Club must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with its Constitution, ensure that the dispute is investigated and determined.
- b) Disputes must be dealt with under the Constitution in a fair, efficient, and effective manner.

17.5 Club may decide not to proceed further with complaint:

Despite Rule 17.4, the Club may decide not to proceed further with a complaint if:

- a) the complaint is trivial; or
- b) the complaint does not appear to disclose or involve any allegation of the following kind:
 - i. that a Member or an Officer has engaged in material misconduct;
 - ii. that a Member, an Officer, or the Club has materially breached, or is likely to materially breach, a duty under the Club's Constitution or Regulation or the Act;
 - iii. that a Member's rights or interests or members' rights or interests generally have been materially damaged.
- c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- d) the person who makes the complaint has an insignificant interest in the matter; or
- e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under the Constitution; or
- f) there has been an undue delay in making the complaint.

17.6 Club may refer complaint:

- a) The Club may refer a complaint to—
 - i. a sub-committee or an external person to investigate and report; or
 - ii. a sub-committee or an external person to investigate and make a decision.

- b) The Club may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation).

17.7 **Decision Makers**

A person may not act as a decision maker in relation to a complaint if 2 or more members of the Board consider that there are reasonable grounds to believe that the person may not be—impartial, including by reference to the definition of a “Conflict of Interest” under the Racing Rules of Sailing; or able to consider the matter without a predetermined view.

18 **LIQUIDATION AND REMOVAL**

18.1 **Winding Up**

The Club shall be dissolved if:

- a) The number of Members shall be reduced to fewer than 50.
- b) A majority of 75% of the Members for the time being entitled to vote at a General Meeting called for the purpose to resolve to dissolve the Club.

18.2 **Notice**

The Board must give notice to all Members at least 20 Working Days of a proposed motion:

- a) To appoint a liquidator; or
- b) to remove the Club from the Register of Incorporated Societies; or
- c) for the distribution of the Club’s surplus assets.

The notice must comply with section 228 of the Act and include details of the General Meeting at which the proposed motion is to be considered.

18.3 **Special Resolution**

Any resolution for a motion set out in Rules 19.2 (a) to (c) must be passed by a Special Resolution of Members.

18.4 **Surplus Assets**

Upon winding up of the Club all surplus assets after payment of all costs, debts and liabilities shall be disposed of in such manner as shall be resolved by a majority of the Members entitled to vote at a General Meeting confirming the winding up, by being paid, transferred or delivered to such other association, Club or institution having purposes the same or similar to those of the Club as an addition to the funds of such an association, Club or institution.

18.5 **Matters Not Provided For**

If any matter arises that, in the opinion of the Board, is not provided for in this Constitution or any Regulations, or if any dispute arises out of the interpretation of this Constitution or the Regulations, the matter or dispute will be determined by the Board. The decision of the Board on the interpretation or construction of any Rule or Regulation and on any matter not covered by the Rules shall be final.

19 **TRANSITION**

- 19.1 This Rule applies to facilitate transition of the Club from the previous Rules to this Constitution. If this Rule is inconsistent with any other Rule in this Constitution, this clause applies to the extent of the inconsistency and the other Rule will not.

19.2 Power of Board During Transition Period

Subject to the Act, the Board may amend any requirement for and/or the date by which this Constitution requires anything to be done. This Rule applies for one year and is solely to enable flexibility in the transition of the Club from the previous Rules to this Constitution and to correct any unintended consequences occurring through different wording being used.

19.3 Transition of Board Members

- a) Every current Flag Officer and Board Member appointed under the previous Rules shall be deemed to be appointed under this Constitution.
- b) The number of terms served under the previous Rules count towards any maximum number of terms in this Constitution.