

# Constitution - Outboard Boating Club of Auckland Incorporated

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## CONTENTS

1. NAME .....	1
2. DEFINITIONS AND INTERPRETATION .....	1
3. PURPOSES.....	3
4. MEMBERSHIP .....	4
5. APPLICATION FOR MEMBERSHIP .....	5
6. OBLIGATIONS AND RIGHTS OF MEMBERS .....	5
7. CANCELLATION OF MEMBERSHIP .....	5
8. SUBSCRIPTIONS AND FEES .....	6
9. COMMITTEE .....	6
10. APPOINTMENT AND REMOVAL OF COMMITTEE MEMBERS .....	8
11. MANAGEMENT OF CLUB .....	10
12. MEETINGS OF COMMITTEE .....	11
13. MEETINGS OF MEMBERS .....	13
14. NOTICE OF GENERAL MEETINGS .....	14
15. PROCEEDINGS AT GENERAL MEETINGS .....	14
16. VOTING .....	15
17. PROXIES.....	16
18. ACCOUNTS AND FINANCES .....	16
19. AUDITOR .....	17
20. REGISTERED OFFICE .....	17
21. DISPUTE RESOLUTION .....	17
22. ACCESS TO RECORDS.....	19
23. BY-LAWS FOR GENERAL MANAGEMENT OF CLUB.....	20
24. INDEMNITY .....	20
25. METHOD OF CONTRACTING .....	20
26. COMMON SEAL .....	21
27. AMENDMENT TO CONSTITUTION .....	21
28. WINDING UP.....	22

## CONSTITUTION

### OUTBOARD BOATING CLUB OF AUCKLAND INCORPORATED

Dated: 6<sup>th</sup> May 2025

#### 1. NAME

1.1 The name of the society is the "**Outboard Boating Club Of Auckland Incorporated**" (the "**Club**").

1.2 The Committee shall not authorise a change of name of the Club without the prior approval of Members at a General Meeting. Any change of name of the Club shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the Act.

#### 2. DEFINITIONS AND INTERPRETATION

2.1 In this Constitution, unless the context requires otherwise:

"**Act**" means the Incorporated Societies Act 2022 or any Act which replaces it (including amendments to it from time to time), and any regulations made under the Act or under any Act which replaces it.

"**Annual General Meeting**" means the annual general meeting of Members, convened and conducted in accordance with this Constitution.

"**Auditor**" means the person appointed in accordance with clause 19 (Auditor), if one has been so appointed.

"**By-Laws**" means any by-laws, policies and codes of conduct created under clause 23 (By-Laws for General Management of Club).

"**Clear Days**" means complete days, excluding the first and last named days (for example, excluding the date a notice of meeting is sent to Members and the date of the meeting).

"**Committee**" means the Club's governing body, appointed in accordance with this Constitution.

"**Committee Member**" means a member of the Committee.

"**Commodore**" means the commodore of the Club, appointed in accordance with this Constitution.

"**Constitution**" means this constitution as from time to time may be altered in accordance with clause 27 (Amendment to Constitution).

"**CPI**" means the consumers price index published by Stats NZ Tauranga Aotearoa stated on the following page <https://www.stats.govt.nz/indicators/consumers-price-index-cpi> (or any successor page).

"**Financial Year**" means the financial year of the Club as set out in clause 18.4.

"**General Manager**" means the person from time to time appointed by the Committee to, and holding the office of, general manager of the Club.

"**General Meeting**" means either an Annual General Meeting or a Special General Meeting of the Club.

"**Interested**" means where a person is interested in a matter for any of the reasons set out in section 62 of the Act.

"**Joint Family Members**" has the meaning given to that term in the Appendix to this Constitution.

"**Member**" means a person properly admitted to the Club who has not ceased to be a member of the Club and "**Membership**" shall have a corresponding meaning.

"**Registered Office**" means the registered office of the Club for the time being, as determined in accordance with clause 20 (Registered Office).

"**Secretary**" means the secretary of the Club, appointed in accordance with this Constitution.

"**Special General Meeting**" means a meeting of the Members, other than an Annual General Meeting, called for a specific purpose or purposes.

"**Trading Bank**" means ANZ Bank New Zealand Limited, ASB Bank Limited, Bank of New Zealand, Kiwibank Limited and Westpac New Zealand Limited.

"**Vice-Commodore**" means the vice-commodore of the Club, appointed in accordance with this Constitution.

2.2 Unless the context otherwise requires, in this Constitution:

- (a) headings are inserted for convenience only and shall be ignored in construing any matter;
- (b) words denoting the singular number only shall include the plural and vice versa and words denoting one gender include all genders;
- (c) words denoting individuals shall include corporations and vice versa;
- (d) reference to a statute or other law includes regulations, rules, orders and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of adoption of this Constitution);
- (e) "**adjusted annually for any increase in CPI**" means the relevant amount shall be adjusted annually in accordance with the following formula, provided that the relevant amount shall not at any time be less than the original amount:

$$NA = OA \times \frac{\text{reference index}}{\text{base index}}$$

where *NA* is the new amount to apply as from the adjustment date;

OA is (i) as at the first adjustment date, the relevant amount specified at clause 18.3 of this Constitution; or (ii) as at all subsequent adjustment dates, the then-current amount;

*base index* is (i) for the first adjustment date, the CPI published as at the end of the quarter in respect of which CPI has been published most recently before the adjustment date; or (ii) for all subsequent adjustment dates shall be the reference index used at the previous adjustment date; and

*reference index* is CPI published as at the end of the quarter in respect of which CPI has been published most recently before the adjustment date;

- (f) **"arm's length"** has its ordinary meaning, or any meaning given to it in the Act;
- (g) **"written"** and **"in writing"** includes all means of reproducing words in a tangible and permanently visible form; and
- (h) any word or expression cognate with a definition in this Constitution has a meaning corresponding or construed to that definition.

2.3 Nothing in this Constitution authorises the Club to do anything which contravenes or is inconsistent with the Act or any other legislation.

### 3. PURPOSES

3.1 The primary purposes of the Club are to:

- (a) develop and encourage a high standard of safe boating practices;
- (b) promote the sport of amateur boating and fishing;
- (c) provide a medium for the exchange of boating information and advance the interests of boat owners;
- (d) stimulate a greater interest in recreational boating and fishing and develop camaraderie amongst boating enthusiasts;
- (e) develop and maintain facilities for boat owners including clubrooms, boat storage, launch and retrieve facilities, washdown and cleaning facilities, fishing facilities, and marina;
- (f) promote and participate in the conservation of the coastal environment for the benefit of present and future generations; and
- (g) generally undertake activities, and establish and maintain facilities, which may be deemed expedient, or which may be directly or indirectly incidental or ancillary to the purposes of the Club.

3.2 The Club must not operate for the purpose of, or with the effect of:

- (a) any Member of the Club deriving any personal financial gain from Membership of the Club, other than as may be permitted by law;

(b) returning all or part of any surplus generated by the Club's operations to Members, in money or in kind; or

(c) conferring any kind of ownership in the Club's assets on Members,

but the Club will not operate for the financial gain of Members simply if the Club:

(d) engages in trade;

(e) reimburses a Member for reasonable expenses legitimately incurred on behalf of the Club or while pursuing the Club's purposes;

(f) provides benefits to members of the public or of a class of the public and those persons include Members or their families;

(g) pays a Member a salary or wages or other payments for services on arm's length terms;

(h) enters into any other transaction with a Member on arm's length terms;

(i) provides a Member with incidental benefits (for example, trophies, prizes or discounts on products or services including discounted food and beverages) in accordance with the purposes of the Club; or

(j) does any other act expressly set out in section 24 of the Act.

#### **4. MEMBERSHIP**

4.1 The Club shall maintain the minimum number of Members required by the Act.

4.2 As at the date of adoption of this Constitution, the classes of Membership of the Club comprise:

(a) Ordinary Members;

(b) Associate Members;

(c) Honorary Members;

(d) Life Members;

(e) 25 Year Members;

(f) Joint Family Members; and

(g) such other classes of Club membership as may from time to time be approved by the Executive Committee.

4.3 The different classes of Membership, the method by which the Members are admitted to different classes of Membership and the rights, privileges and duties of each class of Membership shall be determined by the Committee from time to time, and specified in the By-Laws. These details shall be recorded in the Club's records and notice of any changes determined by the committee shall be published in the Club's bulletin or magazine.

## **5. APPLICATION FOR MEMBERSHIP**

5.1 An applicant for Membership must:

- (a) complete an application form in the form approved by the Committee from time to time;
- (b) supply any other information the Committee requires; and
- (c) comply with the By-Laws regarding joining the Club.

5.2 The Committee has absolute discretion whether or not to accept an application for Membership.

5.3 The Committee must advise the applicant of its decision, but is not required to provide reasons for that decision. If the application is approved, the applicant shall become a Member upon payment of the required subscriptions and fees.

5.4 The Committee shall ensure that an up-to-date register of Members is kept, recording for each Member their name, contact details, the date they became a Member, and any other information required by this Constitution or prescribed by the Act. Members shall advise the Club of any changes to their details.

## **6. OBLIGATIONS AND RIGHTS OF MEMBERS**

6.1 Membership does not confer on any Member any right, title, or interest (legal or equitable) in the property of the Club.

6.2 All Members shall:

- (a) conform to this Constitution and the By-Laws; and
- (b) promote the interests and purposes of the Club and not do anything to bring the Club into disrepute.

6.3 A Member is only entitled to exercise the rights of Membership afforded to that Member's class of Membership if all that Member's subscriptions and any other fees have been paid to the Club by the due date.

6.4 No Member is liable for an obligation of the Club by reason only of being a Member.

## **7. CANCELLATION OF MEMBERSHIP**

7.1 A Member ceases to be a Member:

- (a) on death;
- (b) by resignation from Membership by written notice as specified in the By-Laws;
- (c) if determined by the Committee for non-payment of subscriptions or fees in accordance with clause 8.2; or

(d) on termination of a Member's Membership under this Constitution.

7.2 A person who ceases to be a Member:

- (a) remains liable to pay all subscriptions and other fees due until the end of the then current Financial Year (and shall not be entitled to a refund of any subscription or additional fees paid to the Club);
- (b) shall cease to hold themselves out as a Member;
- (c) shall return to the Club all material provided to Members by the Club (including any membership certificate, badges, handbooks and manuals); and
- (d) shall cease to be entitled to any of the rights of a Member.

7.3 Any former Member may apply for re-admission in the manner prescribed for new applicants, and may be re-admitted by resolution of the Committee.

## **8. SUBSCRIPTIONS AND FEES**

8.1 The annual subscription and any other fees for each class of Membership for the following Financial Year shall be fixed by the Committee and, if any increase exceeds the higher of:

- (a) the increase in CPI since that annual subscription or fee (as applicable) was last fixed by the Committee; or
- (b) 3% of the annual subscription or fee (as applicable) which is proposed to be increased,

approved by resolution of Members at a General Meeting. The Committee shall determine the date for payment of the annual subscription and other fees, including whether payments can be made periodically.

8.2 If any Member fails to pay the annual subscription (including any periodic payment) or any other fees by the due date for payment, the Committee has an absolute right to determine that some or all of the Member's Membership rights are suspended until all of the arrears are paid. If such arrears are not paid within such time period as determined by the Committee from time to time (but not being less than one month) of the due date for payment of the subscription or other fee, the Committee may terminate the Member's Membership (without being required to give prior notice to that Member). Nothing in this clause 8.2 shall prejudice the rights of the Club to recover any subscriptions or other fees in arrears.

## **9. COMMITTEE**

9.1 The Committee will consist of not less than eight and not more than 12 Committee Members.

9.2 All Committee Members shall:

- (a) be Members whose class of Membership entitles them to be appointed to the Committee;

- (b) not be trustees of the scheme for the establishment of a marina referred to in the Marina Scheme Deed;
  - (c) be a fit and proper person; and
  - (d) not be disqualified by this Constitution or the Act.
- 9.3 The Commodore shall be a member of, and the chair of, the Committee. The Vice-Commodore shall be the deputy-chair of the Committee.
- 9.4 The Secretary, if one has been appointed, otherwise the General Manager, shall be the contact person of the Club. Any changes in the contact person or that person's name or contact details shall be advised to the Registrar of Incorporated Societies within 20 working days of that change occurring, or the Club becoming aware of the change.
- 9.5 The Commodore will at the conclusion of their term of office (should they not be appointed for a further term) assume the position of "Immediate Past Commodore" and shall be entitled to attend and speak at meetings of the Committee as an observer for a period of one year (but shall not be entitled to vote), but shall not be a Committee Member.
- 9.6 At all times all Committee Members:
- (a) must act in good faith and in what they believe to be in the best interests of the Club;
  - (b) must exercise their powers 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 a Committee Member, 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 Committee Member 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 or to the Club's creditors, 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 or to the Club's creditors; and
  - (f) must not agree to the Club incurring an obligation unless they believe at that time on reasonable grounds that the Club will be able to perform the obligation when it is required to do so.
- 9.7 In the event a Committee Member is Interested in a matter that relates to the Club, the following procedure must be followed, provided that a failure to comply with this clause does not invalidate the proceedings of the meeting or any approvals obtained in respect of the matter:
- (a) The Committee Member must disclose the nature and extent of the Interest to the Committee as soon as practicable after becoming aware that they are Interested in

the matter ("**Matter**") and cause the Interest to be noted in the Club's interests register.

- (b) Subject to the Act and unless the Committee determines otherwise (by majority vote of those Committee Members who are not Interested in the Matter), the Committee Member:
- (i) if present, is not entitled to attend that part of any Committee meeting at which the Matter is to be considered;
  - (ii) will be included in the quorum for that part of the Committee meeting at which the Matter is to be considered;
  - (iii) must not sign any document relating to the entry into a transaction or the initiation of the Matter; and
  - (iv) may not vote on the Matter.

9.8 Committee Members shall not be entitled to any remuneration for their services as such, but they shall be entitled to reimbursement for reasonable expenditure by way of travelling and accommodation expenses and other out-of-pocket expenses incurred in connection with the business of the Club (other than attending meetings).

## **10. APPOINTMENT AND REMOVAL OF COMMITTEE MEMBERS**

10.1 Members shall elect the Commodore, Vice-Commodore, Secretary and other Committee Members at Annual General Meetings. All such elections shall be by ballot. If no nomination for the position of Secretary is received, the Committee may appoint a Secretary, should they deem it necessary and a suitable applicant is identified as part of the Committee.

10.2 The Committee Members filling the positions of Commodore and Vice-Commodore shall hold office for a term of two years, being from the date of close of the Annual General Meeting at which they are elected until the date of close of the second Annual General Meeting after their election, and may be re-elected for one further term of up to two years.

10.3 At each Annual General Meeting at least one third of the existing Committee Members (excluding the Commodore, the Vice-Commodore and any Committee Member appointed to fill a vacancy pursuant to clause 10.4) shall retire by rotation provided that:

- (a) the Commodore, the Vice-Commodore and any Committee Member appointed to fill a vacancy pursuant to clause 10.4 shall not be taken into account when determining the number of Committee Members and therefore the number of Committee Members to retire;
- (b) those to retire shall be those who have been longest in office since they were last elected. If the foregoing sentence does not establish all those to retire, the Committee shall determine the order of retirement of the remaining Committee Members required to retire;
- (c) if the number of Committee Members is not a multiple of three, those to retire shall be the number nearest to one third (rounding up);

- (d) so long as such Committee Members are not disqualified from being appointed or holding office as a Committee Member by this Constitution or the Act, they shall be eligible for nomination and re-election in accordance with this Constitution;
  - (e) the Commodore and the Vice-Commodore shall not retire by rotation and shall instead hold office for the two year term, and may be re-elected for one further term of up to two years (excluding any period for when they hold this office so as to fill a casual vacancy, and unless they cease to hold office prior to that date) with the intention that they retire at either the second Annual General Meeting or, if they are re-elected for one further term of two years, fourth Annual General Meeting, after their election; and
  - (f) the Committee shall consider time served by relevant Committee Members before the date of adoption of this Constitution when determining the order of retirement of Committee Members by rotation.
- 10.4 In the event of a vacancy in the position of any Committee Member, including that of the Commodore, prior to an Annual General Meeting, the Committee may fill such vacancy until the following Annual General Meeting (at which point any Committee Member appointed by the Committee to fill that casual vacancy must retire), and are then eligible for election, but must not be taken into account in determining the Committee Members who are to retire by rotation at that meeting.
- 10.5 Written nominations for the positions on the Committee (including the Commodore if the term of office of the current Commodore is to expire at the next Annual General Meeting) must be received by the Commodore (or their nominee) no later than 5.30pm on the day that is 28 Clear Days before the date of the Annual General Meeting. The Executive will notify upcoming elections in time for Candidates to meet the 28 day requirement. Nominations must be signed by the applicant and a proposer and seconder in accordance with the By-Laws, all of whom shall be Members with voting rights and whose subscriptions and any fees are not in arrears. Notice of all nominations received in accordance with this clause (and not withdrawn) shall be given in the notice of Annual General Meeting. Nothing in this clause 10.5 applies to Committee Members retiring by rotation and offering themselves for re-election.
- 10.6 Prior to election or appointment to fill a vacancy pursuant to clause 10.4, every applicant to be elected or appointed as a Committee Member must consent in writing to be a Committee Member and confirm that they are not disqualified from being appointed or holding office as a Committee Member by this Constitution or the Act.
- 10.7 If:
- (a) a Committee Member retires at an Annual General Meeting and is not re-elected at that meeting, the Committee Member shall remain in office until, and their retirement shall take effect at, the conclusion of the meeting;
  - (b) a Committee Member is removed from office by a resolution of a General Meeting, the Committee Member shall remain in office until, and their removal shall take effect at, the conclusion of the relevant meeting; or
  - (c) a person who is not already a Committee Member is appointed to fill a vacancy pursuant to clause 10.4 or elected as a Committee Member at an Annual General Meeting, that person shall take office as a Committee Member immediately after

the conclusion of the relevant meeting at which they have been appointed or elected (as the case may be).

- 10.8 A Committee Member ceases to be a Committee Member if they:
- (a) cease to be a Member;
  - (b) are removed from office by a resolution of a simple majority of votes at a General Meeting by ballot of those Members entitled to vote present in person or by proxy or by casting a postal vote or casting a vote by electronic means.
  - (c) die, or become mentally disordered or subject to a property order or personal order made under the Protection of Personal and Property Rights Act 1988;
  - (d) resign by written notice addressed to the Commodore or Vice-Commodore (in the case of the Commodore) and delivered to the Registered Office (such notice to be effective at the time when it is so received or at a later time specified in the notice);
  - (e) retire at an Annual General Meeting and are not re-elected at that meeting;
  - (f) become disqualified from being a Committee Member pursuant to the Act or this Constitution (including if they cease to be a Member of a class entitling them to be a Committee Member);
  - (g) become bankrupt or make an arrangement or composition with their creditors generally; or
  - (h) have been absent without approval of the Committee from three consecutive meetings of the Committee.
- 10.9 Each Committee Member shall, within 10 days of ceasing to hold office, return to the Club all books, papers and other property of the Club held by such former Committee Member which they received in their capacity as a Committee Member.

## **11. MANAGEMENT OF CLUB**

- 11.1 Subject to this Constitution and any resolution of any General Meeting in relation to a specific matter, the Committee has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of the Club.
- 11.2 The Committee may appoint sub-committees consisting of such persons (whether or not Members) and for such purposes as it thinks fit.
- 11.3 The Committee may delegate to a sub-committee, a Committee Member, an employee of the Club, or to any other person or persons, any one or more of its powers. For the avoidance of doubt, the Committee may delegate the day to day management of the Club and implementation of strategic initiatives approved by the Committee to the General Manager.
- 11.4 A sub-committee shall, in the exercise of the powers delegated to it, comply with any procedural or other requirements imposed on it by the Committee. Subject to any such requirements, the provisions of this Constitution relating to proceedings of Committee Members shall apply, with appropriate modification, to meetings of any sub-committees.

11.5 Subject to the Act and this Constitution (including Members' challenge rights in clause 11.6), the decisions and conduct of the Committee shall be final and binding on all Members.

11.6 A decision or action of the Committee may be challenged by 25 Members with voting rights and whose subscriptions and any fees are not in arrears by requisitioning a Special General Meeting in accordance with clause 13.2(b). Approval by three-quarters of Members entitled to vote at such Special General Meeting present in person or by proxy or by casting a postal vote or casting a vote by electronic means is required to stay or reverse any decision of the Committee. Where this right is exercised, the Committee must stay the relevant action until the outcome of the challenge is known

## **12. MEETINGS OF COMMITTEE**

12.1 A meeting of the Committee may be held either:

- (a) by a number of the Committee Members who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- (b) by means of audio, audio and visual or electronic communication by which all Committee Members participating and constituting a quorum can simultaneously hear each other throughout the meeting; or
- (c) by a combination of the methods described in sub-clauses (a) and (b) above.

12.2 Other than as prescribed by the Act and this Constitution, the Committee or any sub-committee may regulate its proceedings as it thinks fit.

12.3 A Committee Member may convene a meeting of the Committee by giving notice in accordance with clause 12.4.

12.4 The following provisions apply in relation to meetings of the Committee except where otherwise agreed by all Committee Members in relation to any particular meeting or meetings:

- (a) Not less than five days' notice of a meeting shall be given to each Committee Member (other than a Committee Member who has waived that right).
- (b) Notice to a Committee Member of a meeting may be:
  - (i) given to the Committee Member in person, by telephone or other oral communication;
  - (ii) delivered to the Committee Member;
  - (iii) posted to the address given by the Committee Member to the Club for such purpose; or
  - (iv) sent by electronic means in accordance with any request made by the Committee Member from time to time for such purpose.
- (c) A notice of meeting shall:
  - (i) specify the date, time and place of the meeting;

- (ii) in the case of a meeting by means of audio, audio and visual, or electronic communication, specify the manner in which each Committee Member may participate in the proceedings of the meeting; and
  - (iii) give an indication of the matters to be discussed, in sufficient detail to enable a reasonable Committee Member to appreciate the general import of the matters, unless this is already known to all the Committee Members or is impracticable in any particular circumstances.
- (d) A notice of meeting given to a Committee Member pursuant to this clause is deemed to be given:
- (i) in the case of oral communication, at the time of notification;
  - (ii) in the case of delivery, by handing the notice to the Committee Member or by delivery of the notice to the address of the Committee Member;
  - (iii) in the case of posting, five days after it is posted (which, for avoidance of doubt, means that a notice of meeting given by posting must be given not less than 10 days prior to the meeting of the Committee to comply with clause 12.4(a)); and
  - (iv) in the case of electronic means, at the time of transmission.
- (e) If all reasonable efforts have been made to give notice of a meeting to a Committee Member in accordance with this clause 12.4 but the Committee Member cannot be contacted, notice of the meeting shall be deemed to have been duly given to that Committee Member.

- 12.5 An irregularity in the giving of notice of a meeting is waived if each of the Committee Members either attend the meeting without protest as to the irregularity or agree (whether before, during or after the meeting) to the waiver.
- 12.6 A quorum for a meeting of the Committee is a majority of the Committee Members. No matter may be considered at a meeting of the Committee if a quorum is not present.
- 12.7 Every Committee Member has one vote. The chairperson does not have a casting vote. A resolution of the Committee is passed if it is agreed to by all Committee Members present without dissent, or if a majority of the votes cast on it are in favour of the resolution. A Committee Member present at a meeting of the Committee is presumed to have agreed to, and to have voted in favour of, a resolution of the Committee unless they expressly dissent from or vote against, or expressly abstain from voting on, the resolution at the meeting.
- 12.8 A resolution in writing signed or assented to by all Committee Members is as valid and effective as if passed at a meeting of the Committee duly convened and held. Any such resolution may consist of several documents (including electronic communication such as email) in similar form, each signed or assented to by one or more Committee Members (whose assent may be given by electronic communication, including by email). A copy of any such resolution shall be entered in the Club's records.
- 12.9 The Committee shall ensure that minutes are kept of all proceedings at meetings of Members and of the Committee and any sub-committees. Minutes which have been signed as correct by the chairperson of the meeting are prima facie evidence of the proceedings.

- 12.10 If the Commodore is present at a Committee meeting, they shall chair the meeting, unless or except to the extent that the Commodore considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting. If, at any meeting of the Committee, the Commodore is not present within 15 minutes after the time appointed for the commencement of the meeting, or considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting the Vice-Commodore shall act as chairperson of that meeting otherwise those Committee Members who are present may elect one of their number to chair the meeting or that part of the meeting which relates to the particular business, as the case may require.

### **13. MEETINGS OF MEMBERS**

- 13.1 Subject to clause 15.3 and consistent with any requirements in the Act, the Annual General Meeting of Members of the Club shall be held no later than four months after the end of the Financial Year in each year at a time and place to be determined by the Committee. The Committee must, at each Annual General Meeting, present the information required under the Act.
- 13.2 A Special General Meeting:
- (a) may be called by the Committee at any time; and
  - (b) shall be called by the Committee on the written request of Members with voting rights and whose subscriptions and any fees are not in arrears who number not less than 25 Members. Any resolution or written request must set out the matters to be determined at the Special Meeting including the text of any resolution to be moved at such Special Meeting.
- 13.3 Resolutions may not be passed by the Committee in lieu of a General Meeting under section 89 of the Act.
- 13.4 Each General Meeting shall be held at such time and place as the Committee appoints.
- 13.5 Subject to clause 13.6, a General Meeting may be held by a number of Members (present in person or by proxy), who constitute a quorum:
- (a) being assembled together at the place, date and time appointed for the meeting; or
  - (b) participating in the meeting by means of audio, audio and visual, or electronic communication; or
  - (c) by a combination of both of the methods described in sub-clauses (a) and (b) above.

For the avoidance of doubt, a Member or a Member's proxy participating in a General Meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

- 13.6 A Member, or the Member's proxy, may participate in a General Meeting by means of audio, audio and visual, or electronic communication if:

- (a) the Committee approves those means; and
- (b) the Member or proxy complies with any conditions imposed by the Committee in relation to the use of those means (including, for example, conditions relating to the identity of the Member or proxy).

#### **14. NOTICE OF GENERAL MEETINGS**

- 14.1 Written notice of the time and place of a General Meeting shall be provided to every Member entitled to receive notice of the meeting and be sent to the Auditor (if any), not less than seven Clear Days before the meeting. It shall be sufficient to provide notice of a General Meeting to Members by post and/or email (or other electronic means).
- 14.2 A notice of meeting shall state:
- (a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Member to form a reasoned judgment in relation to it;
  - (b) the text of any resolutions to be submitted to the meeting; and
  - (c) if the meeting is one at which a Member or Members will be elected to the Committee, a list of nominees and the information about them that has been provided.
- 14.3 The accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, any person, does not invalidate the proceedings at the General Meeting to which the notice relates.
- 14.4 If a General Meeting is adjourned for less than 21 days it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting which is adjourned. In any other case, notice of the adjourned meeting shall be given in accordance with clause 14.1.

#### **15. PROCEEDINGS AT GENERAL MEETINGS**

- 15.1 Subject to clause 15.3, no business shall be transacted at any General Meeting of the Club unless a quorum is present.
- 15.2 A quorum shall be not less than 25 Members entitled to vote, present (in person or by proxy) in accordance with clause 13.5.
- 15.3 If, within 30 minutes from the time appointed for the holding of a General Meeting, a quorum is not present:
- (a) if the meeting was convened upon written request by Members, it shall be dissolved and any written request to consider the same or a substantially similar resolution received within six months of the date of such adjourned meeting shall not be effective; or
  - (b) in any other case, the General Meeting shall be adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and place, as the Committee shall determine. If at such adjourned meeting a

quorum is not present within 30 minutes from the time appointed for holding the meeting, the Members present shall be a quorum.

- 15.4 If the Commodore is present at a General Meeting, they shall chair the meeting, unless or except to the extent that the Commodore considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting. If, at any General Meeting, the Commodore is not present within 15 minutes after the time appointed for the commencement of the meeting, or considers it not proper or desirable to act as chairperson, either in relation to the entire meeting or in relation to any particular business to be considered at the meeting the Vice-Commodore shall act as chairperson otherwise the Committee Members present may elect one of their number to chair the meeting or that part of the meeting which relates to the particular business, as the case may require, or if no Committee Member is willing to so act as chairperson, the Members present may choose one of their number to chair the meeting or the relevant part of the meeting.
- 15.5 The chairperson may, with the consent of a meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the General Meeting from time to time and from place to place, but no business may be transacted at an adjourned meeting other than the business left unfinished at the relevant meeting.

## **16. VOTING**

- 16.1 The chairperson shall determine whether resolutions under this Constitution (other than resolutions relating to clauses 10.1, 10.8, 11.6, 18.3 and 27.1) are to be put to the vote of a General Meeting by voice, a show of hands or by some other means (including electronic means).
- 16.2 Resolutions relating to clauses 10.1, 10.8, 11.6, 18.3 and 27.1 shall be by ballot of those Members entitled to vote present in person or by proxy or by casting a postal vote or casting a vote by electronic means. The Committee shall appoint a returning officer for each resolution conducted by ballot who shall calculate and report the result to the chairperson of the meeting after the ballot has concluded. The ballot may be conducted electronically.
- 16.3 Subject to clauses 16.1 and 16.2, a Member may exercise the right to vote either in person or by proxy or by casting a postal vote or casting a vote by electronic means. Subject to clause 16.5 and to any restrictions on that Member's class of Membership, each Member present at a General Meeting of the Club shall be entitled to one vote.
- 16.4 Where a Member is entitled to exercise the right to vote at a Meeting by casting a postal vote or casting a vote by electronic means, they may do so in the manner prescribed by the Committee in the notice of meeting.
- 16.5 Unless all annual subscriptions and additional fees payable by any Member to the Club have been paid in full, such Member shall not be entitled to vote at any General Meeting, whether in their own right or as a proxy for another person, and any vote cast by such Member in breach of this clause 16.5 shall not be valid.
- 16.6 A resolution shall be passed by a majority of votes of those Members entitled to vote and voting on the question, unless otherwise set out in this Constitution or required by the Act. The chairperson of a General Meeting is not entitled to a casting vote.

16.7 A declaration by the chairperson that a resolution of Members has been carried by the requisite majority or lost shall be conclusive evidence of the fact without further proof of the number or proportion of votes recorded in favour of or against such resolution.

## **17. PROXIES**

17.1 A Member may appoint a proxy to vote on behalf of the Member at a General Meeting. Subject to clause 16.5, the proxy is entitled to attend and be heard at the meeting as if the proxy were the Member.

17.2 A proxy shall be appointed by written notice signed by, or in the case of an electronic notice sent by, the appointing Member and the notice shall state whether the appointment is for a particular meeting or for a specified term.

17.3 A proxy must be:

- (a) the chairperson; or
- (b) a Member with voting rights and whose subscriptions and any fees are not in arrears.

17.4 No appointment of a proxy is effective in relation to a meeting unless a copy of the notice of appointment is received by the Club in the manner prescribed by the Committee in the notice of meeting.

## **18. ACCOUNTS AND FINANCES**

18.1 All Club funds shall be held in a bank account or accounts approved by the Committee and in the name of the Club. The Committee shall from time to time decide the manner in which such account or accounts shall be operated. All monies received by the Club shall be deposited in the Club bank account or accounts.

18.2 The funds of the Club must be used to further the purposes of the Club as the Committee decides or as approved at a General Meeting. Without limiting the foregoing, the Club may:

- (a) use its funds to pay the costs and expenses to advance or carry out its purposes, and to employ or contract with such people as may be appropriate; and
- (b) invest its funds with any Trading Bank.

18.3 The Committee shall not cause the Club to enter into any transaction of the nature listed below unless the entry into that transaction is approved by a three-quarter majority of Members present (in person or by proxy) at a General Meeting:

- (a) capital expenditure on one item, or a series of related items, exceeding \$100,000 (adjusted annually for any increase in CPI); and
- (b) entry into any contract (or a related series of contracts) which will involve expending or receiving an aggregate sum in excess of \$100,000 (adjusted annually for any increase in CPI).

The Club shall also have the power to give security over any property real or personal belonging to the Club for the repayment of such money, and the interest on such money, as approved by a three-quarter majority of Members present (in person or by proxy) at a General Meeting.

- 18.4 The financial year of the Club shall commence and end on the dates set out in the By-Laws from time to time ("**Financial Year**"). The Club's balance date shall be the end date of the Financial Year.
- 18.5 The Committee shall cause financial statements for the Club to be kept. The financial statements shall be presented at monthly intervals to the Committee or on request by a Committee Member.
- 18.6 The financial statements shall be presented to the Members at each Annual General Meeting following approval by the Committee.
- 18.7 A proposed budget of itemised revenue and expenses for the new Financial Year should be presented to and approved by the Committee prior to the commencement of the Financial Year. Following approval, the Committee shall present the budget to the Members of the Society at the Annual General Meeting. For the avoidance of doubt, the Members are not required to approve the budget at that Annual General Meeting.

## **19. AUDITOR**

- 19.1 This clause 19 applies if:
- (a) an auditor is required by the Act or any other legislation; or
  - (b) the Members at an Annual General Meeting resolve to appoint an auditor.
- 19.2 The Auditor, who shall be a member of Chartered Accountants Australia and New Zealand, shall be appointed and shall hold office until they resign or are replaced at an Annual General Meeting. The Auditor may or may not be a Member but shall not be a member of the Committee.
- 19.3 The Committee shall have power to fill any temporary vacancy in the office of the Auditor, for the balance of the period remaining.
- 19.4 The Auditor shall be paid such fee as may be fixed at the Annual General Meeting or the Annual General Meeting may authorise the Committee to fix the Auditor's fee.

## **20. REGISTERED OFFICE**

- 20.1 The location of the Registered Office of the Club shall be at such place in New Zealand as the Committee from time to time determines. Changes to the Registered Office shall be notified to the Registrar of Incorporated Societies in a form and as required by the Act.

## **21. DISPUTE RESOLUTION**

- 21.1 The Committee must consider a complaint, or institute a disciplinary procedure, regarding alleged misconduct of a Member. Members can raise with the Committee a grievance that a

Member (or Members) has against another Member or Members (in their capacity as a Member) or the Club.

- 21.2 The Committee must, as soon as is reasonably practicable after receiving a complaint or grievance investigate, report, and/or make a decision on the matter. The Committee may refer a complaint or grievance to a sub-committee or an external person to investigate the matter.
- 21.3 Despite clause 21.2, the Committee may decide not to proceed further with a matter if the committee determines that:
- (a) the matter is trivial;
  - (b) the matter does not appear to disclose, in the case of a complaint, any material misconduct or, in the case of grievance, any material damage to a Member's rights or interests;
  - (c) the complaint or grievance appears to be without foundation or there is no apparent evidence to support it;
  - (d) the person who makes the complaint or brings the grievance has an insignificant interest in the matter; or
  - (e) the conduct, incident, event, or issue has already been investigated and dealt with by or on behalf of the Club.
- 21.4 If the complaint or grievance is in relation to a Member, the Member shall be fairly advised of all allegations concerning them, with sufficient details and time given to enable them to prepare a response. The Member who is the subject of the complaint or grievance and the person raising the complaint or grievance have a right to be heard before the complaint or procedure is resolved or any outcome is determined.
- 21.5 An oral hearing of a complaint or grievance will be held if the Committee decides that an oral hearing is necessary or is otherwise desirable.
- 21.6 A person may not act as a decision maker in relation to a complaint or grievance if two or more Committee Members or a complaints sub-committee consider that there are reasonable grounds to believe that the person may not be impartial or able to consider the matter without a predetermined view.
- 21.7 Having completed the inquiry, if the Member is found to be at fault, the Committee may either:
- (a) reprimand the Member and/or suspend the Member for any period not exceeding six calendar months. The Member disciplined under this clause 21.7(a) shall have the right of appeal to a Special General Meeting; or
  - (b) revoke their Membership.

The decision of the Committee is binding and final.

## **22. ACCESS TO RECORDS**

- 22.1 A Committee Member may access the register of Members in performance of the Committee Member's duties or the exercise of their powers.
- 22.2 With reasonable notice and at reasonable times, the Committee shall make the register of Members available for inspection by Members as required by the Act or to the extent that Members have consented to access being granted to information about themselves on the register.
- 22.3 The Committee shall ensure that at all times an up-to-date register of the Interests disclosed by Committee Members is maintained.
- 22.4 A Member may at any time make a written request to the Club for information held by the Club. The request must specify the information sought in sufficient detail to enable the information to be identified.
- 22.5 The Club must, within a reasonable time after receiving the request:
- (a) provide the information;
  - (b) agree to provide the information within a specified period;
  - (c) agree to provide the information within a specified period if the Member pays a reasonable charge to the Club (which must be specified and explained) to meet the cost of providing the information; or
  - (d) refuse to provide the information, specifying the reasons for the refusal.
- 22.6 Without limiting the reasons for which the Club may refuse to provide information, the Club may refuse to provide the information if:
- (a) withholding the information is necessary to protect the privacy of natural persons, including that of deceased natural persons;
  - (b) the disclosure of the information will, or will be likely to, prejudice the commercial position of the Club or of any of its Members;
  - (c) the disclosure of the information will, or will be likely to, prejudice the financial or commercial position of any other person, whether or not that person supplied the information to the Club;
  - (d) withholding the information is necessary to maintain legal professional privilege;
  - (e) the disclosure of the information will, or will be likely to, breach any legislation;
  - (f) the burden to the Club in responding to the request is substantially disproportionate to any benefit that the Member (or any other person) will or may receive from the disclosure of the information; or
  - (g) the request for information is frivolous or vexatious.

22.7 If the Club requires the Member to pay a charge for the information, the Member may withdraw the request, and must be treated as having done so unless, within 10 days after receiving notification of the charge, the Member pays the charge.

22.8 Nothing in this Constitution limits Information Privacy Principle 6 of the Privacy Act 2020.

### **23. BY-LAWS FOR GENERAL MANAGEMENT OF CLUB**

23.1 The Committee may from time to time make and amend By-Laws, and policies in relation to the Club and codes of conduct applicable to Members and non-members provided that no such By-Laws are inconsistent with the Act, any other legislation or this Constitution. In the case of any conflict between this Constitution and the By-Laws, this Constitution shall prevail.

23.2 Any By-Laws made by the Committee shall be recorded in a book kept for that purpose and notice of such By-Laws shall from time to time be published in the Club's bulletin or magazine.

### **24. INDEMNITY**

24.1 To the extent permitted by the Act, each Committee Member of the Club shall be indemnified by the Club against all damages and costs (including legal costs) for which any such Committee Member may be, or become, liable to any third party as a result of or in connection with any act or omission performed or made whilst acting on behalf of and with the authority, express or implied, of the Committee, except if such act or omission was wilful misconduct or fraudulent.

24.2 To the extent permitted by the Act, the Club may indemnify any employee of the Club against all damages and costs (including legal costs) for which any such employee may be, or become, liable to any third party as a result of or in connection with any act or omission performed or made in the course of, and within the scope of their employment by the Club, except if such act or omission was wilful misconduct or fraudulent.

24.3 Subject to the requirements of the Act, the Club may effect and/or procure insurance for itself and each Committee Member and employee of the Club (whether past or present) in respect of any cost, claim, expense, loss or liability incurred in connection with any act or omission in his or her capacity as a Committee Member or employee of the Club, or otherwise as the Committee may determine.

### **25. METHOD OF CONTRACTING**

25.1 Subject to clause 18.3 and the delegations of authority of the Club from time to time, an obligation or contract may be entered into by the Club as follows:

- (a) prior to re-registration of the Club as an Incorporated Society under the Act, an obligation or contract which is required by law to be by deed shall be signed under the common seal of the Club in accordance with clause 26.2;

- (b) upon and following re-registration of the Club as an Incorporated Society under the Act, an obligation or contract which is required by law to be by deed may be signed on behalf of the Club in writing by:
  - (i) two of more Committee Members; or
  - (ii) one or more attorneys of the Club appointed in accordance with section 124 of the Act;
- (c) an obligation or contract which is required by law to be in writing, and any other written obligation or contract which is to be entered into by the Club, may be signed on behalf of the Club by a person acting under the express or implied authority of the Club;
- (d) any other obligation or contract may be entered into on behalf of the Club in writing or orally by a person acting under the express or implied authority of the Club.

The authority of persons to sign obligations or contracts on behalf of the Club shall be determined by the Committee. For the avoidance of doubt, clauses 25.1(c) and 25.1(d) shall apply both prior to and upon the Club re-registering as an Incorporated Society under the Act.

## **26. COMMON SEAL**

- 26.1 The common seal of the Club shall be kept at the Registered Office of the Club and in the custody of the Commodore (or their nominee).
- 26.2 The common seal shall only be affixed to a document:
  - (a) by resolution of the Committee and in the presence of two Committee Members; or
  - (b) by such other means as the Committee may resolve from time to time.

## **27. AMENDMENT TO CONSTITUTION**

- 27.1 The Club may amend or replace this Constitution at a General Meeting by resolution of a majority of Members entitled to vote and in attendance by person or proxy. Notice of the General Meeting at which the proposed amendment or replacement is to be considered shall be given to Members in accordance with this Constitution.
- 27.2 If an amendment or replacement of this Constitution is approved at a General Meeting, it shall be notified to the Registrar of Incorporated Societies in the form and manner specified in the Act for registration, and shall take effect from the date of acceptance by the Registrar of Incorporated Societies.
- 27.3 No addition to or alteration of clause 3 (Purposes) or clause 28 (Winding Up) shall be approved without first obtaining the Commissioner of Inland Revenue's approval.

## **28. WINDING UP**

- 28.1 The Club may be wound up, liquidated or removed from the Register of Incorporated Societies in accordance with the Act.
- 28.2 The Committee shall give notice to all Members of the proposed motion to wind up the Club or remove it from the Register of Incorporated Societies, and of the General Meeting at which any such proposal is to be considered. The notice shall include the reasons for the proposal and any recommendations from the Committee in respect of such proposal.
- 28.3 Any resolution to wind up the Club or remove it from the Register of Incorporated Societies must be passed by a three-quarter majority of Members entitled to vote and in attendance by person or proxy in accordance with clause 13.5.
- 28.4 If the Club is wound up, liquidated or removed from the Register of Incorporated Societies, no distribution shall be made to any Member, past or present. Upon the liquidation, winding up, or removal from the Register of Incorporated Societies of the Club, its surplus assets shall, after payment of all liabilities, be disposed of to some not-for-profit entity having similar purposes as the Club. However, on the Club winding up by resolution under clause 28.3, the Club may approve a different distribution to another not-for-profit entity as the General Meeting may decide, provided that the Club complies with this Constitution and the Act in all other respects.

**THE COMMON SEAL OF OUTBOARD  
BOATING CLUB OF AUCKLAND  
INCORPORATED**

was affixed in the presence of:

\_\_\_\_\_  
Signature of Authorised Signatory

\_\_\_\_\_  
Signature of Authorised Signatory

\_\_\_\_\_  
Name of Authorised Signatory

\_\_\_\_\_  
Name of Authorised Signatory