

**CONSTITUTION**  
**OF**  
**THE CANTERBURY YACHTING ASSOCIATION INCORPORATED**

**Draft Copy**  
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# The Canterbury Yachting Association Incorporated Constitution

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## Canterbury Yachting Association Incorporated

### Here after referred to as the Association or by the abbreviation CYA Constitution

#### 1. Definitions and interpretation

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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.

**Association** means a group of Clubs and Class representatives with an interest in yachting that meets the requirement for membership set out in clause 4 - 4.6

**Bylaws** means any bylaws, policies, regulations and codes of CYA made under clause 14..

**Casual Vacancy** is a vacancy which arises when an Executive Member [or the President, Secretary or Treasurer] does not serve their full term of office.

**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

**CYA Executive** means the Canterbury Yachting Association inc's elected Flag Officers, which comprises of the President, Vice President, Secretary and Treasurer.

**Diversity, Equity and Inclusion** means ensuring fair and equitable opportunities are available to everyone to participate in sport and recreation irrespective of age, ability, ethnicity, gender, national origin, race, religion, sexual orientation, beliefs, or socio-economic status.

**General Meeting** means an AGM or SGM of CYA.

**Interested** has the meaning given in section 62 of the Act.

**Interpretation:** Unless the context otherwise requires:

- (a) Words referring to the singular include the plural and vice versa.
- (b) Clause headings are for reference only.
- (c) Expressions referring to writing include references to words visibly represented, copied, or reproduced, including by email.
- (d) 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.

- (e) 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.
- (f) All periods of time or notice exclude the days on which they are given.

**Matter** has the meaning given in section 62(4) of the Act.

**Member** means each organization or individual who for the time being is a member of CYA and includes all classes of members described in clause 4.4.

**National organization** means Yachting New Zealand (YNZ) Incorporated.

**Officer** means an Executive Member and any natural person occupying a position in CYA that allows the person to exercise significant influence over the management or administration of CYA.

**Ordinary Resolution** means a resolution passed by a majority of votes cast.

**President** means the person in the highest-ranking management position appointed as Chair under this Constitution.

**Purposes** means the purposes of CYA described in clause -1919468256.

**Region** means the geographical area as determined by CYA to be the region represented by CYA and within which the primary base of activities of CYA is located and is at the date of adoption of this Constitution, Greater Canterbury and the West Coast of the South Island.

**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 at an SGM.

**Working Day** has the meaning given to that term under the Legislation Act 2019 and excludes the day observed as the anniversary in Christchurch.

**Year** means the financial year of the association which shall extend from the 1<sup>st</sup> day of May in any year until the last day of April in the succeeding year.

- 1.2 **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) Members if sent to the address set out in their Contact Details;
  - (b) CYA if sent to secretary@cya.org.nz or by post to CYA's registered office set out on the Register of Incorporated Societies.

- 1.3 **Receipt of notices:** A notice is deemed to have been received:

- (a) if given by post, when left at the address of that party or five Business Days after being put in the post; or
- (b) 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" auto-reply 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. **Details of CYA**

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- 2.1 **Name:** The name of the society is Canterbury Yachting Association Incorporated / Inc (CYA).
- 2.2 **Charitable status:** CYA does not hold Charitable status.
- 2.3 **Status:** CYA is the Regional Association for Yachting in Canterbury and related activities in the Region and is bound by and observes the rules of YNZ and International Sailing conventions.
- 2.4 **Registered office:** The registered office of CYA is at the place the Executive holds it's regular monthly meetings.
- 2.5 **Contact person:** At its first meeting following an AGM, the Executive 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 Executive must advise the Registrar of Incorporated Societies of any change in the contact person or their Contact Details.

## 3. **Purpose and powers**

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**Purpose: The purpose of CYA is:**

- The encouragement, co-ordination and administration of yachting in Canterbury
- To foster and encourage water safety, boat design and yacht racing
- To affiliate with any national or regional body having similar or complementary objects
- To acquire, control and develop such real and personal property including any limited rights or interest therein, as may be considered advisable for the provision or maintenance of yachting facilities in the Canterbury District and of anything reasonably incidental thereto.
- To borrow and raise money for any of the objects aforesaid and to secure the repayment thereof in such manner as may be deemed advisable including the mortgage or charge of the whole or any part of the property of the Association
- To make representations to Parliament or any Committee set up thereby or commission of enquiry or to any local body or authority on any matter relating to yachting or water safety and to operate with any of the aforesaid
- To do all such things as are incidental or conducive to the attainment of any of the above objects
- To consider and settle disputes between any members of the Association when requested by both parties to do so.

- In construing the foregoing objects, the construction of any clause shall not be construed or restricted by reference to any other clause.
  - (a) be a member of Yachting New Zealand for the Region,
  - (b) lead the promotion, development and administration of sailing within the Region and to do so in a manner that is consistent with the requirements of YNZ and member Clubs and class associations, mainly as an amateur sport for the well-being, benefit and recreation of the general public,
  - (c) support and assist its Members to deliver [sport/recreation/water] safety in the Region,
  - (d) promote opportunities and facilities to enable, assist and enhance the participation, enjoyment and performance in sailing and related water sports in the Region,
  - (e) lead, promote and enable Diversity, Equity and Inclusion across the whole organization, including governance of CYA and participation in [sport/recreation/water] safety,
  - (f) promote, develop and co-ordinate [sport/recreation] competitions in the Region and nationally,
  - (g) publish and enforce the rules of international sailing in the Region in a manner consistent with the requirements of World Sailing,
  - (h) protect the integrity of sailing and CYA by developing and enforcing standards of conduct, ethical behaviour and implementing good governance in the Region,
  - (i) be the regional body in the Region to promote, develop, foster and administer sailing for the health, well-being and benefit of the general public in New Zealand/Aotearoa,
  - (j) promote the highest possible standards for operational procedures, competence and equipment for sailing in the Region,
  - (k) facilitate training for Coaches, Judges, Umpires and Race officers in the Region,
  - (l) work collaboratively and co-operatively with other bodies and organisations concerned with sailing in the Region,
  - (m) facilitate communication and cooperation between member clubs and class associations wherever possible, and where appropriate support the establishment of multi-purpose sailing / sporting hubs for the benefit of all members Clubs and Class Associations,
  - (n) bring sport and recreation organisations together so that they can benefit from each other's skills, capability and experience,
  - (o) build, develop, manage, lease, retrofit, rent and/or own facilities in its own right; provide sustainable infrastructure that emphasises the sharing of flexible and fit-for-purpose spaces ensuring fun and wellbeing for the community.

- 3.2 **Tikanga:** This Constitution shall be interpreted as having regard to tikanga, kawa, culture and practices where practicable.
- 3.3 **Capacity and powers:** CYA 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 constitution of YNZ, the Act, any other legislation, and the general law.

#### 4. **Members**

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- 4.1 Full membership shall be available to those Clubs in the Canterbury District (other than those defined in sub clause (b) below) who are financial members of Yachting New Zealand and have signed an application for incorporation into the Association.
- (b) Clubs that are financial members of Yachting New Zealand and are situated more than 32 kilometres in a direct line from Cathedra Square, Christchurch may elect to become Country Members and therefore avail themselves of the Country Membership fee structure and voting rights.
- 4.2 **Application:** An application to become a Member (**Application**) must be on the form required by CYA. All Applications are decided upon by the executive at a monthly meeting which may accept or decline an Application in its absolute discretion. A club, organization, or person becomes a member, when their Application has been accepted and they have [paid the required membership fees] and satisfied any other preconditions prescribed by CYA.
- 4.3 **Member consent:** A person or entity consents to become a member by submitting an Application form to the organisation and paying annual fees, unless otherwise specified in this Constitution.
- 4.4 **Members:** The Members of CYA are Clubs, Squadrons and Class Associations and any other categories of member as the Executive determines who have completed the membership application process and meet the criteria described above.
- 4.5 **Clubs:** A Club that wishes to be a member must make an application under clause 4.1. In addition to the obligations as a member under clause 4.7, each Club that is a member will:
- (a) administer, promote, and develop [sport/recreation & seamanship] in the Club in a manner that is consistent with the purposes, within this Constitution and any Bylaws of CYA and YNZ,
  - (b) maintain registration as an incorporated society under the Incorporated Societies Act 2022,
  - (c) ensure its constitution is not inconsistent with this Constitution, provide CYA with a copy of its constitution and all proposed amendments to it. The Executive may require a Club to amend its constitution if it, or any proposed amendment, is inconsistent or in conflict with this Constitution,
  - (d) maintain an updated register of members and, on request, provide CYA with access to that register, in compliance with NZ privacy laws, where the information is required for specific Canterbury Yachting purposes.

- (e) lead, promote and enable Diversity, Equity and Inclusion across the whole Club including governance of the Club and participation in sailing,
- (f) act in good faith with loyalty to CYA to ensure the maintenance and enhancement of CYA and Yachting, and its reputation.

4.6 **Honorary Life Members:** Life Membership may be granted in recognition and appreciation of outstanding service by an individual to CYA. Any Member may nominate an individual to become a Life Member by giving notice to the Executive setting out the grounds for the nomination. The Executive 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 a Life Member by a Resolution at a General Meeting. A person consents to becoming a Life Member on acceptance of their life membership. Life Members have the right to attend meeting and to speak, but do not have the right to vote unless they are representing a Club as the Club Delegate. Life members do not pay any ongoing membership fees to CYA.

4.7 **Member rights and obligations:** Members acknowledge and agree that:

- (a) they are bound by, and will comply with, this Constitution and the Bylaws, and to the extent they apply, the rules, procedures or policies of Yachting New Zealand and International Sailing.
- (b) they are subject to the jurisdiction of CYA,
- (c) they are entitled to all rights and entitlements granted by this Constitution or as determined by the Executive,
- (d) to receive, or continue to receive or exercise member rights, members must meet all the member requirements set out in this Constitution and the Bylaws or as otherwise set by the Executive, including payment of any membership or other fees within the required time period,
- (e) if members (Clubs groups or individuals) fail to comply with sub-clause (d) the Executive may terminate their membership, but the Member continues to be bound by this Constitution,
- (f) they do not have any rights of ownership of, or the automatic right to use, the CYA's property,  
and
- (g) they will promote the interests and Purposes of CYA and must not do anything to bring CYA into disrepute.

4.8 **Suspension of Member:** If a Member is, or may be, in breach under clause 4.7, and the Executive believes it is in the best interests of CYA to do so, the Executive may suspend the Member until final determination of the matter under the dispute resolution process applicable to the matter. Before invoking any such suspension, the Member must be given notice of the suspension.

4.9 **Suspension of Member rights:** Unless otherwise determined by the Executive, while a Member is suspended the Member is not entitled to attend, speak or vote at a General Meeting, or to any other rights or entitlements as a Member and is not

entitled to continue to hold office in any position within CYA until such time as the alleged breach is resolved or determined.

4.10 **Ceasing to be Member:** A Member ceases to be a Member:

- (a) if an individual on death, or if a body corporate on liquidation.
- (b) by giving notice to the Executive of their resignation.
- (c) if their membership is terminated under clause 4.7(e).
- (d) if their membership is terminated following a dispute resolution process or such other process set out or referred to in this Constitution.

4.11 **Consequences of ceasing to be a Member:**

A Member who ceases to be a Member:

- (a) remains responsible to pay all their outstanding membership and other fees to CYA,
- (b) must return all of the CYA's property if required,
- (c) ceases to be entitled to any rights of a Member.

4.12 fees are determined at the annual AGM and are split into the following categories:

- Full member Club category
- Country Club member category
- Associate (Class Association) category

Membership fees are set using the Senior Equivalent membership model. ie

4.13 **Full Membership (Clubs):**

*Total subscription income for the Club from the previous year, divided by the Net Senior Subscription value equals the Adult Senior Equivalent membership number.*

The Senior Equivalent number is multiplied by the Associations Levy for the coming year to determine the Levies the Club is to pay to CYA.

4.14 **Country Membership Fees:**

Country Club membership fees shall be half of the full membership fee described in (4.13) above.

4.15 **Member register:** The Executive 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 Association of any change to their contact details. The Membership register will be updated as soon as practicable after the Executive becomes aware of changes of the information recorded in the Member register. The Executive will keep a record of those who have ceased to be a member within the previous 7 years and the date on which they ceased to be a member.

## 5. General Meetings

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- 5.1 **AGM:** An AGM must be held once a year at the time, date and place as the Executive decides, but not more than 6 months after the balance date of CYA and not more than 15 months after the previous AGM.
- 5.2 **Notice of AGM:** The Executive will give members at least 28 days' notice of an AGM. Notice will be forwarded to member clubs, associate members and delegates in addition to posting on CYA's website.
- 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 Executive'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 Executive Members,
  - (d) the appointment or announcement of any Appointed Executive Member,
  - (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 (in writing) of any proposed motions and other items of business to be discussed at the CYA at least 14 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 14 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 or unanimous vote to discuss any other items.
- 5.6 **Calling of SGM:** The Executive must call a SGM if it receives a written request stating the purpose of the SGM from the Executive itself (3 x Flag Officers); or by 50% of Members.
- 5.7 **Notice of SGM:** Members must be given at least 14 days' notice of the SGM, unless the Executive, 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 meeting:** A General Meeting may be held by a quorum of people being assembled at the time and place appointed for the meeting, participating by audio link, audio-visual link or other electronic communication or by a combination of those methods.
- 5.9 **Quorum:** No business may occur at any General Meeting unless a quorum is present at the meeting's start time. The quorum for a General Meeting is 6 full Club members who are entitled to vote, including Members present by casting votes by electronic means [or by proxy]. The quorum must always be present during the 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 President chairs General Meetings. If that person is unavailable, an Executive Member (appointed by the Executive) will preside. In the absence of both of those persons, the Members present will elect a person to chair the General Meeting.
- 5.13 **Omissions and 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 the giving of 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 two-thirds of votes cast, is obtained in favour of the motion to proceed.
- 5.14 **Attendance:** Members and any other persons invited by the Executive are eligible to attend and speak at General Meetings.
- 5.15 **Voting:** The voting entitlement for each Member eligible to vote is as follows:
- |                     |                                     |         |
|---------------------|-------------------------------------|---------|
| ➤ Full member with  | 1-200 equivalent senior members     | 2 Votes |
| ➤ Full member with  | 201 – 30 senior equivalent members  | 3 votes |
| ➤ Full member with  | 300 upwards equivalent members      | 4 votes |
| ➤ Country members   |                                     | 1 vote  |
| ➤ Associate members | (Squadrons, Owners Association etc) | 1 vote  |
- Patrons, Past Presidents and other ex officio members such as sub-committee Chairpersons shall have the right to attend and to speak at meetings, but no voting rights unless they are representing a Club or Association as a Delegate.

- 5.16 **Voting by electronic means:** Voting by electronic means is permitted.
- 5.17 **Voting by proxy:** Proxy voting is permitted. The chair of the General Meeting must receive notice of the proxy signed by the Member prior to the start of the meeting. The form of the proxy is: *I [insert name] of [insert address] being a member of CYA appoint [insert name of proxy] as my proxy to speak [and vote] for me at the General Meeting to be held on [insert date] and at any adjournment of that General Meeting. I direct my proxy to vote in the following manner [insert resolutions and whether the proxy is to vote for or against].*
- 5.18 **Conduct of voting:** Voting is conducted by voice 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 60% of Members or as otherwise required under this Constitution. A majority of more than 50% of votes is required to pass a normal resolution or to elect an officer at an AGM.
- 5.19 **Minutes:** Minutes must be kept of all General Meetings.
- 5.20 **Resolution:** An Ordinary Resolution of Members at a General Meeting is sufficient to pass a resolution, except as specified in the Act or this Constitution.
- 5.21 **Resolution passed in lieu of meeting:** A resolution in writing signed or consented to by email or other electronic means by 75% of eligible members with voting rights is required and is valid as if it had been passed at a General Meeting provided the requirements under sections 89 to 92 of the Act are complied with. Any resolution may consist of several documents in the same form each signed by one or more Members.

## 6. **Executive**

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- 6.1 **Functions and powers:** Subject to any modifications, exceptions, or limitations contained in the Act or in this Constitution the Executive must manage, direct or supervise the operation and affairs of CYA and has all the powers necessary for managing, and for directing and supervising the management of, the operation and affairs of CYA.
- 6.2 **Composition:** The Executive consists of:
- (a) President, Vice President, Immediate Past President, Secretary and Treasurer.
- 6.3 **Election and appointment of Executive Members:** Executive Members can be both appointed and elected as follows:
- (a) Elections of the Elected Executive Members at the AGM will take place as follows:
- (i) those nominees who have the highest number of votes in their favour to fit the number of vacant positions are declared elected;
- (ii) 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;
- (iii) if there is only one nominee for a vacant position, that person is declared to be elected without the need for a vote.

#### 6.4 **Appointment Panel:**

- (a) There will be an Executive Appointment Panel (**Appointment Panel**) comprising of the following people (each a **Panel Member**):
- (i) the President, The Secretary and the Treasurer.
  - (ii) a nominee who is independent of CYA and is experienced in governance and the functions and appointment process of Executive members in New Zealand, as determined by the Executive;
  - (iii) a nominee who is independent of the Executive and has an interest and understanding of [sport/recreation/play] in New Zealand, as determined by the Executive,

and the Appointment Panel must be diverse and inclusive and as a minimum must always have diversity of gender among its people.

- (b) A person will not be eligible to be a Panel Member or remain as a Panel Member if any of the circumstances listed in the sub-clause headed "**Disqualification**" have occurred or occur.
- (c) If the Executive as a whole has been removed, resigns en masse, or does not have a quorum and is unable to appoint the Appointments Panel, it will be appointed by Sport New Zealand Ihi Aotearoa.
- (d) The convenor of the Appointment Panel is the person who is the Chair or the Executive member referred to in category (i) of the composition of the Appointment Panel above.
- (e) Panel Members remain in office for the period necessary to fulfil their responsibilities in relation to each vacancy of a Executive Member for which the Appointment Panel was established. A person is not eligible to serve on the Appointment Panel following the fifth anniversary of their first appointment to the Appointment Panel.
- (f) The Appointment Panel is independent of the Executive and is responsible for:
  - (i) advertising, identifying and inviting suitable candidates to apply for appointment as an Appointed Executive Member;
  - (ii) receiving and assessing applications from candidates for appointment as Appointed Executive Members, including undertaking such enquiries and holding interviews and meetings as it sees fit;
  - (iii) deciding the candidates to be appointed as Appointed Executive Members;
  - (iv) receiving and assessing applications from candidates for election as Elected Executive Members at an AGM, including undertaking such enquiries and holding interviews and meetings as it sees fit;
  - (v) recommending to the Members at, or prior to, an AGM at which any vacancy in the positions of Elected Executive Member arises, the applicant(s) whom the Appointment Panel considers would best suit the positions.

- (g) In determining the Appointed Executive Members, [and recommending persons to be Elected Executive Members] the Appointment Panel will do so based on merit and will consider the following factors about the candidate and the Executive as a whole:
  - (i) prior experience as a director, trustee, officer or experience in any other governance role;
  - (ii) knowledge of, and experience in water sports organisations generally;
  - (iii) understanding of the legal, regulatory, fiduciary and ethical obligations of Executive Members;
  - (iv) the desire for conflicts of interest on the Executive to be minimised;
  - (v) the desire for a wide range of knowledge, skills, and experience on the Executive; and
  - (vi) the desire for diversity and inclusion on the Executive.
- (h) No Panel Member may seek to become a Executive Member while a Panel Member.
- (i) Unless otherwise set out in this Constitution, the Appointment Panel may decide its own process.
- (j) The quorum for a meeting of the Appointment Panel is three Panel Members.
- (k) Any decision of the Appointment Panel regarding the appointment of Appointed Executive Members and the persons to be recommended as Elected Executive Members must be [insert e.g. unanimous if panel consists of 3 people, or at least 75% if panel consists of 4 people].
- (l) All information received by the Appointment Panel and its discussions must be kept confidential except to the extent required by law. Panel Members must notify the convenor of any potential conflict of interest in considering any candidate. If the convenor considers it appropriate to do so, they may require that Panel Member to vacate their position. If the convenor considers they may have a potential conflict of interest, they must notify the other Panel Members and the Executive. If the Executive considers it appropriate to do so, it may require that convenor to vacate their position.
- (m) The Executive may remove any Panel Member if the Executive considers, in its sole discretion, that:
  - (i) that Panel Member has a conflict of interest which has not been satisfactorily resolved to the satisfaction of the Executive; or
  - (ii) there are circumstances which may give rise to a question of actual or apparent bias in the Appointment Panel's composition and/or process.
- (n) Before removing any Panel Member, the Executive must:
  - (i) notify that Panel Member of its proposal to remove them;

- (ii) give that Panel Member and the other Panel Members the opportunity to make submissions on the proposed removal and the opportunity to be heard.
- (o) Any vacancy in the Appointment Panel will be replaced by the person or organisation that appointed the Panel Member for which the vacancy arises.

6.5 **Qualification:** Every Executive Member must, in writing:

- (a) consent to be a Executive Member; and
- (b) certify that they are not disqualified from being elected, appointed or holding office as a Executive Member by this Constitution or under section 47 of the Act.

6.6 **Disqualification:** The following persons are disqualified from being elected, [appointed] or holding office as an Executive Member, [or in the case of a Panel Member, from being or remaining as a Panel Member]:

- (a) A person who is an employee of, or independent contractor to CYA.
- (b) A person who is disqualified from being elected, [appointed] or holding office as a Executive Member under section 47 of Act;
- (c) A person who has been removed as a Executive Member following a process under this Constitution or any Bylaw.

If an existing Executive Member becomes or holds any position in (a) or (b) above then upon appointment to such a position, they are deemed to have vacated their office as an Executive Member. If any of the circumstances listed in (c) above clause occur to an existing Executive 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.

6.7 **Term of office:** The term of office for all Executive Members is [2] years, expiring at the end of the relevant AGM. An Executive Member may be re-elected or reappointed to the Executive for a maximum of [2] consecutive terms of office. Prior to each AGM, the Executive will advise the Appointment Panel of the schedule of rotation and the vacancies arising in Executive Member positions at the AGM. The term of any period served to fill a Casual Vacancy is disregarded for the purposes of calculating the total term served.

6.8 **Appointed Executive Member vacancy:** If a Casual Vacancy of an Appointed Executive Member arises:

- (a) six (6) months or more after the last AGM, the remaining Executive Members may:
  - (i) refer the appointment to the Appointment Panel to fill with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable;
  - (ii) appoint a person of their choice to fill the Casual Vacancy; or

- (iii) leave the Casual Vacancy unfilled until the next AGM;
- (b) less than six (6) months after the last AGM, the remaining Executive Members must refer the appointment to the Appointment Panel to fill with such modifications as to timing and process as it considers appropriate to fill the Casual Vacancy as soon as reasonably practicable.

A person appointed to fill a Casual Vacancy of an Appointed Executive Member continues until the expiry of the term of the person they replace.

6.9 **Elected Executive Member vacancy:** If a Casual Vacancy of an Elected Executive Member arises, the remaining Executive Members may:

- (a) appoint a person of their choice to fill the Casual Vacancy until the expiry of the term of the person they replace,
- (b) appoint a person of their choice to fill the Casual Vacancy only until the next AGM, at which a person is elected to fill the remainder of the term of the Casual Vacancy,
- (c) 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.

6.10 **Suspension of Executive Member:** If any Executive Member is or may be the subject of an allegation, notice or charge described in the sub-clause headed “**Disqualification**” or any circumstances arise in relation to a Executive Member which are or may be of concern to the Executive, the remaining Executive Members may by Special Resolution suspend the Executive Member from the Executive and set conditions as it requires pending the final determination of the allegation, notice, charge or circumstances. Before imposing any suspension, the Executive Member must be given notice of the suspension.

6.11 **Removal of Executive Member:**

- (a) The Executive may, by Special Resolution, remove any Executive Member from the Executive before the expiry of their term of office if the Executive considers the Executive Member concerned:
  - (i) has seriously breached duties under this Constitution or the Act; or
  - (ii) is no longer a suitable person to be a Executive Member; or
  - (iii) is involved with, interested in, or otherwise closely connected to a person or activity which has or may bring CYA or sailing into disrepute or which may be prejudicial to the Purposes or the interests of CYA and/or sailing if they remain as a Executive Member.
- (b) The Executive 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 Executive Member affected by the motion must be given:

- (i) notice that a Executive meeting is to be held to discuss the motion to remove the Executive Member; and
- (ii) adequate time to prepare a response; and
- (iii) the opportunity prior to the Executive meeting to make written submissions; and
- (iv) the opportunity to be heard at the Executive meeting.

6.12 **Executive Member ceasing to hold office:** A person ceases to be a Executive Member if:

- (a) the person resigns by delivering a signed notice of resignation to the Executive,
- (b) the person is removed from office under this Constitution,
- (c) the person becomes disqualified from being an officer under section 47(3) of the Act,
- (d) the person dies.

## 7. **Executive meetings**

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- 7.1 **Calling meetings:** Executive meetings may be called at any time by the President or by [3] Executive Members, but generally the Executive meets monthly as part of the normal monthly meetings.
- 7.2 **Meeting procedure:** Except to the extent specified in the Act or this Constitution, the Executive may regulate its own procedure.
- 7.3 **Quorum:** The quorum for a Executive meeting is **[3]** Executive Members. Any Executive Member may be counted for the purposes of a quorum, participate in any Executive meeting and vote on any proposed resolution at a meeting without being physically present. This may only occur at Executive meetings by audio or audio-visual link or other electronic communication provided that all persons participating in the Executive meeting can hear each other effectively and simultaneously.
- 7.4 **Chair:** At the Association's first meeting following an AGM, The President will assume the role of Chairperson. The role of the Chair is to chair meetings of the Executive. If the Chair is unavailable, another Executive Member must be appointed by the Executive to undertake the Chair's role during the period of unavailability.
- 7.5 **Resolution in writing:** A resolution in writing signed or consented to by email or other electronic means by a majority of Executive Members is valid as if it had been passed at a Executive meeting. Any resolution may consist of several documents in the same form each signed by one or more Executive Members.

## 8. Officers' Duties

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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 CYA,
- (b) must exercise a power as an Officer for a proper purpose,
- (c) must not act, or agree to CYA 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 CYA, 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 CYA being carried on in a manner likely to create a substantial risk of serious loss to CYA's creditors or cause or allow the activities of CYA to be carried on in a manner likely to create a substantial risk of serious loss to CYA's creditors,
- (f) must not agree to CYA incurring an obligation unless the Officer believes at that time on reasonable grounds that CYA will be able to perform the obligation when it is required to do so, and
- (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 subcommittee of Officers on which the Officer did not serve in relation to matters within the Officer's or subcommittee'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.

## 9. Interests

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- 9.1 **Register of interests:** The Executive must keep a register of interest disclosures made by Officers.
- 9.2 **Duty to disclose interest:** An Officer who is Interested in a Matter relating to CYA 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 Executive, as soon as practicable

after the officer becomes aware that they are interested in the Matter and include it in the register of interests.

9.3 **Consequences of being interested:** A Executive Member who is Interested in a Matter:

- (a) must not vote or take part in a decision of the Executive relating to the Matter, unless all non-interested Executive 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 Executive Members consent;
- (c) must not take part in any Executive discussion relating to the Matter or be present at the time of the Executive decision, unless all non-interested Executive 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.

9.4 **Calling of SGM:** Despite clause 9.3, if 50% or more Executive Members are Interested in a Matter, an SGM must be called to consider and determine the Matter.

9.5 **Notice of failure to comply:** The Executive 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.

## 10. **Patrons**

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10.1 A person may be invited by the Executive to be an Honorary Patron to show their support for CYA and to help establish or maintain public credibility of CYA. A Patron is entitled to attend and speak at General Meetings but has no right to vote.

## 11. **Finances**

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11.1 **Control and management of finances:** The funds and property of CYA are controlled, invested and disposed of by the Executive, subject to this Constitution; and devoted solely to the promotion of the Purposes.

11.2 **Balance date:** CYA's balance date is 30 April or on the date as the Executive decides.

11.3 **[Audit or review] of financial statements:** CYA's financial statements must be [audited/reviewed] each year and the [audited or reviewed] financial statements must be submitted to the AGM. The [auditor or reviewer] will be appointed by the Executive.

11.4 **No personal benefit:** The Officers and Members may not receive any distribution of profit or income from CYA. This does not prevent Officers or Members:

- (a) Receiving Honoraria and or 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 CYA in respect of payments or transactions between it and them, their direct family or any associated entity. [Guidance: This clause is required by the IRD for sports clubs and charities seeking an income tax exemption. See [IRD Guidance](#).]

#### 11.5 **Bank Account**

The association shall hold such bank accounts as deemed necessary by the executive. All payments are to be authorized by the Treasurer and at least one other member of the Executive.

#### 11.6 **Honoraria and Expenses**

The Association may at the Annual General Meeting or at a Special General Meeting determine the value of honoraria to be paid to the Secretary, Treasurer and the President. Such honoraria are paid to recompense the Officers for direct and indirect expenses incurred in the execution of their duties.

### 12. **Indemnity and insurance**

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- 12.1 CYA indemnifies its current and former Officers, Members and employees as permitted by section 96 of the Act.
- 12.2 With the prior approval of its Executive, CYA may effect insurance for its current and former Officers, Members and employees as permitted by section 97 of the Act.
- 12.3 CYA is authorised to indemnify an Officer under section 96 of the Act or effect insurance for an Officer under section 97 of the Act for the following matters:
  - (a) liability (other than criminal liability) for a failure to comply with a duty under sections 54 to 61 of the Act or any other duty imposed on the Officer in their capacity as an Officer; and
  - (b) costs incurred by the Officer for any claim or proceeding relating to that liability.

### 13. **Amendments**

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- 13.1 **Amendments:** This Constitution may only be amended or replaced by Special Resolution of members at a General Meeting and such resolutions would need a 75% majority vote in favour of the resolution to result in the resolution being adopted.
- 13.2 **No amendment:** No addition to, deletion from or alteration of this Constitution may be made which would allow personal pecuniary profits to any individuals.
- 13.3 **Minor effect or technical alteration:** If an amendment to this Constitution would have no more than a minor effect or is to correct errors or makes similar technical

alterations, then the Executive may give notice of the amendment to every Member stating the text of the amendment and the right of Members to object to the amendment. If the Executive does not receive any objections from Members within 20 Working Days after the date on which the notice is sent, or any longer period of time that the Executive decides, then the Executive may make that amendment. If it does receive an objection, then the Executive may not make the amendment.

#### **14. Bylaws**

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The Executive may make and amend Bylaws for the conduct and control of CYA's activities and codes of conduct applicable to Members. Any Bylaw must be consistent with the Purposes, the constitution of Yachting New Zealand, the Act and any other laws. All Bylaws are binding on CYA and the Members. The making, amendment, revocation, or replacement of a Bylaw is not an amendment of this Constitution.

#### **15. Dispute Resolution**

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The following disputes procedures are designed to enable and facilitate the fair, prompt and efficient resolution of grievances and complaints. All Club and Class Representatives, along with the CYA executive (President, Vice President, Secretary and Treasurer), and all individuals representing groups affiliated with CYA are obliged to comply with these procedures to resolve grievances and complaints and to cooperate to resolve disputes efficiently, fairly and with minimum disruption to CYA's activities.

**15.1** Any grievance by a Member, and any complaint by anyone, is to be lodged by the complainant, in writing with the President or Secretary, who should pass the complaint on to the Committee for consideration. If the President is party to the complaint, then the complaint should be lodged with the Vice-President or .

**15.2** The complainant raising a grievance or complaint and the Committee must consider and discuss whether a grievance or complaint may best be resolved through informal discussions, mediation or arbitration. Where mediation or arbitration is agreed on, the parties will sign a suitable mediation or arbitration agreement.

**15.3.** The Committee may

- (a) Appoint a subcommittee to deal with the issue.
- (b) Refer the issue to an external arbitrator, tribunal or external visitor, so long as minimum standards of natural justice are satisfied.
- (c) The Committee, subcommittee or person considering any grievance or complaint is referred to in the balance of this Policy as the "decision-maker".

**15.4** The decision-maker shall

- (a) Consider whether to investigate and deal with the issue.
- (b) May decline to do so (if the decision-maker is satisfied the complainant has insufficient interest in the matter or otherwise lacks standing to raise it; the matter is trivial or does not appear to disclose material misconduct, the matter raised appears to be without foundation or there is no apparent evidence to support it, or the conduct, incident event or issue has already been investigated and dealt with by The Club.

**15.5** Where the decision-maker decides to investigate and deal with a grievance or complaint, the following steps shall be taken

- (a) The complainant and the member complained against must be advised of all details of the grievance.
- (b) The member or representative who is the subject of the grievance must be given adequate time to prepare a response.
- (c) The complainant and the member / representative or affiliated Club which is the subject of the grievance must be given an adequate opportunity to be heard, either in writing or at an oral hearing if the decision-maker considers that an oral hearing is required.
- (d) Any oral hearing shall be held by the decision-maker, and/or any written statement or submissions shall be considered by the decision-maker.

**15.6** A member may not make a decision on or participate as a decision-maker regarding a grievance or complaint if two or more Committee members or the decision-maker considers that there are reasonable grounds to infer that the person may not approach the grievance or complaint impartially or without a predetermined view.

**15.7** The decision-maker may

- (a) Dismiss a grievance or complaint.
- (b) Uphold a grievance and make such directions as the decision-maker thinks appropriate (with which the Representative / Club or Organisation or members shall comply with).
- (c) Uphold a complaint and
  - (i) Reprimand or admonish the representative / Club or member
  - (ii) Suspend the member / Club or representative from membership for a specified period.
  - (iii) Terminate the representative / Club or member's membership.

(d) Order the complainant (if a member) or the member complained against to meet any of CYA's reasonable costs in dealing with a complaint.

**15.8** The following may appeal any decisions made under Clause 13.7 of this Policy

(a) A member / Club or representative or former member / Club or representative disciplined as a result of a misconduct complaint who is dissatisfied with the finding, penalty or both.

(b) The person who raised a grievance or complaint and is dissatisfied with the result.

**15.9** An application for appeal must be received in writing by the President. If the President is party to the complaint, then the appeal should be lodged with the Vice-President or Secretary. Any appeal must be received within 10 clear days of the appellant being notified of the decision. The appeal must

(a) Set out the decision appealed from, whether the appellant objects to all or only part of the decision (and if only part, which part), and what decision or remedy the appellant seeks instead.

(b) Provide the appellant's submissions on appeal, setting out why the appellant says the decision(s) made are wrong and should change.

(c) Include copies of documents that the appellant says are relevant to the case.

**15.10** An independent person with knowledge and experience in dispute resolution, incorporated societies and, if possible, CYA, will be appointed by the Committee from time to time as an Appeal Adjudicator.

**15.11** The Appeal Adjudicator will deal with each appeal unless personally unavailable or they withdraw to avoid any issue of bias, in which event the Committee shall appoint a substitute.

**15.12** Unless the Appeal Adjudicator considers that there is special reason requiring an oral hearing of an appeal, the appeal will be dealt with on the papers. Papers may include any papers from the original consideration or the complaint or grievance, plus submission from the appellant and CYA. The decision-maker will provide reasons for their decision as provided to the member / Club or representative but will not report separately to the Appeal Adjudicator.

**15.13** The Appeal Adjudicator may hold a short hearing if they consider that there is special reason to do so, and that an oral hearing is essential to resolve the appeal. The

Appeal Adjudicator may request the appellant and a representative of the Committee to attend, make submissions and answer any questions.

**15.14** The Appeal Adjudicator will make a decision on the appeal and notify the appellant and the Committee, in writing. The Appeal Adjudicator will give reasons with the decision. The available decisions include

- (a) Appeal not upheld.
- (b) Appeal not upheld, but recommendations made to the Committee on procedure or other matters.
- (c) Appeal upheld, wholly or partially, with any remedies amended or replaced as required.
- (d) Appeal upheld in whole or part, some or all matters referred back to the decision-maker for consideration or appropriate remedies or other actions.

**15.15** Except where a matter is referred back to the decision-maker, the decision of the Appeal Adjudicator is final.

## **16. Liquidation and removal**

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**16.1 Notice:** The Executive must give notice to all Members at least 20 Working Days in advance of a proposed motion:

- (a) to appoint a liquidator,
- (b) to remove CYA from the Register of Incorporated Societies; or
- (c) for the distribution of CYA'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.

**Special resolution:** Any resolution for a motion set out in clauses (a) to (c) must be passed by an Ordinary or a Special meeting Resolution of Members.

**16.2 Surplus assets:** The surplus assets of the CYA, after the payment of all costs, debts and liabilities, must be disposed of to **Member Clubs** or organisation(s) with charitable status] or any other not-for-profit entity [which are exclusively charitable and] that shares similar purposes to the CYA.

## **17. Matters not provided for**

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If any matter arises that, in the opinion of the Executive, is not provided for in this Constitution or any Bylaws, or if any dispute arises out of the interpretation of this Constitution or the Bylaws, the matter or dispute will be determined by the Executive.

## 18. **Transition**

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- 18.1 This Constitution is to be proposed at the 2025 CYA Annual General Meeting (Tuesday 17 June 2025) and once voted on and if accepted by the meeting will come into immediate effect.