

# 1 Preliminary Provisions

## 1.1 Title and commencement

1.1.1 These Bylaws are the Hawke's Bay Regional Council Navigation Safety Bylaws 2007.

1.1.2 These Bylaws come into force on 1 December 2007.

## 1.2 Areas within which these Bylaws apply

These Bylaws apply to all waters within the Hawke's Bay Regional Council boundary as shown in Figure 1 except:

- Lake Waikaremoana
- Lake Waikareiti.

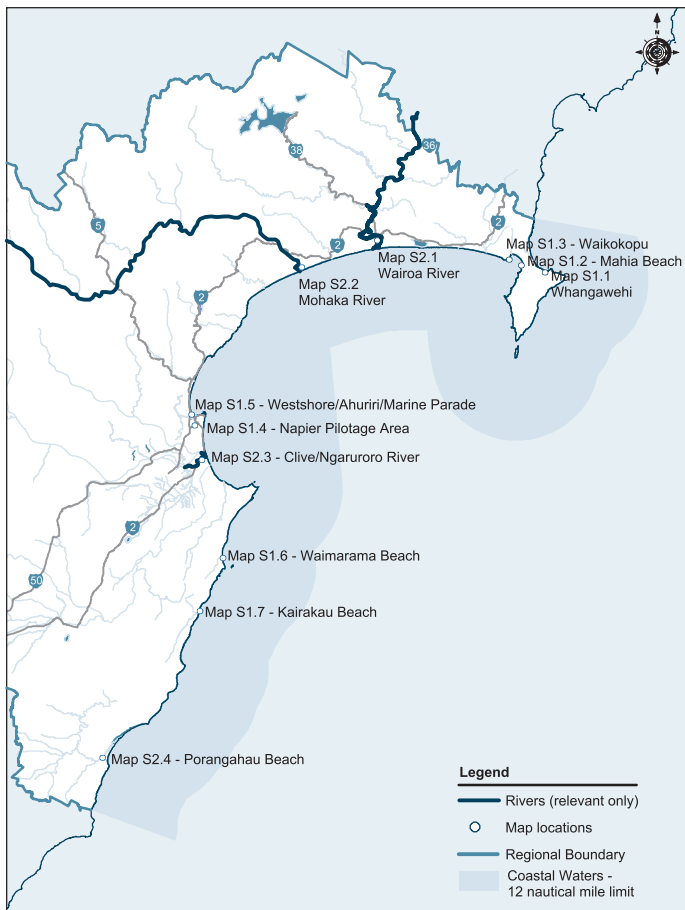


Figure 1 Bylaw Area

## 1.3 Definition of terms

In these bylaws, unless the context otherwise requires:

<b>Access Lane</b>	means an area designated as an access lane in Schedule 1 of these bylaws.
<b>Accident</b>	means an occurrence that involves a vessel and in which: (a) a person is seriously harmed as a result of: (i) being on the vessel; or (ii) direct contact with any part of the vessel, including any part that has become detached from the vessel; or (iii) direct exposure to the wash of the vessel or interaction (other than direct contact) between two vessels; or (iv) being involved in the salvage of any vessel except where the injuries are self inflicted or inflicted by other persons, or when injuries are to stowaways hiding outside areas normally available to passengers and crew; or (b) the vessel sustains damage or structural failure that: (i) adversely affects the structural strength, performance, or seaworthiness of the vessel; or (ii) would normally require major repair or replacement of the affected component; or (iii) poses a threat to the safety of people on board the vessel; or (c) there is a complete or partial failure of machinery or equipment that affects the seaworthiness of the vessel; or (d) there is a loss of, or damage to, or movement of, or change in the state of, the cargo of the vessel which poses a risk to the vessel or other vessels; or (e) there is a significant loss of, or significant damage to, property (not being the cargo carried by the vessel) or the property of any person (whether or not on board the vessel), whether or not the loss or damage arises from an interaction between two vessels; or (f) there is a loss of escape of any substance or thing that: (i) may result or has resulted, in serious harm to any person; or (ii) may pose a risk, or has resulted in damage to the vessel or other vessels; or (iii) may pose a risk, or has resulted in any damage to any property (whether or not on board the vessel); or (g) a person is lost at sea (whether or not subsequently found) or is missing; or (h) the vessel is foundering, capsizing, being abandoned, stranding, missing, or has foundered, capsized, been abandoned, stranded, been in a collision, or has a major fire on board.
<b>Act</b>	means the Local Government Act 1974
<b>Aid to Navigation</b>	includes: (a) any lightship and any floating or other light exhibited for the guidance of ships; (b) any description of fog signal not carried on a vessel; (c) all marks and signs in aid of marine navigation; (d) any electronic, radio or other aid of marine navigation not carried on board any ship
<b>Aircraft</b>	has the same meaning as in the Civil Aviation Act 1990
<b>Anchorage</b>	in relation to vessels, means a place (enclosed or otherwise) normally used for the anchoring of vessels to the bed of the waterway, whether the place is reserved for such purposes by the Council or not
<b>Anchoring</b>	means the temporary securing of a vessel to the bed of the waterway by means of an anchor, cable or other device, that is normally removed with the vessel when it leaves the site or anchorage
<b>Beacon</b>	means a light or mark set up in a prominent position as a navigation mark or a warning to vessels
<b>Buoy</b>	means a float secured to the seabed serving as a navigation or locational mark, or to indicate reefs, other hazards or a mooring
<b>Buoyancy aid</b>	Means: (a) a buoyancy aid as defined in NZ standard 5823:1989 or NZ standard 5823:2001 or any subsequent NZ standard, or (b) a buoyancy aid that the Director is satisfied substantially complies with the standard prescribed in subclause (a) above and that provides a minimum of 53 newtons buoyancy.
<b>Class 3 packaging group I oil products</b>	means oil having an initial boiling point less than or equal to 35 degrees centigrade
<b>Class 3 packaging group II oil products</b>	means oil having a flashpoint of less than 23 degrees centigrade and an initial boiling point greater than 35 degrees centigrade

<b>Class 3 packaging group III oil products</b>	means oil having a flashpoint equal to or greater than 23 degrees centigrade up to and including 61 degrees centigrade and an initial boiling point greater than 35 degrees centigrade
<b>Coastal marine area</b>	means the foreshore, seabed, and coastal water, and the airspace above the water: <ul style="list-style-type: none"> <li>(a) of which the seaward boundary is the outer limits of the territorial sea</li> <li>(b) of which the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of; <ul style="list-style-type: none"> <li>(i) one kilometre upstream from the mouth of the river; or</li> <li>(ii) the point upstream that is calculated by multiplying the width of river mouth by 5</li> </ul> </li> </ul>
<b>Commercial vessel</b>	means a vessel that is not - <ul style="list-style-type: none"> <li>(a) A pleasure craft; or</li> <li>(b) Solely powered manually; or</li> <li>(c) Solely powered by sail.</li> </ul>
<b>Council</b>	means the Hawke's Bay Regional Council as constituted under the Act.
<b>Craft</b>	has the same meaning as ship or vessel
<b>Crew</b>	means the persons employed or engaged in any capacity on board a vessel, but does not include the master, a pilot, or a person temporarily employed on the vessel while in port
<b>Director</b>	means the person who is for the time being the Director of Maritime New Zealand under Section 439 of the Maritime Transport Act 1994
<b>Emergency response Craft</b>	any vessel approved by the Harbourmaster for use in emergency response and includes Police, Customs, Harbourmaster, Naval and port company vessels
<b>Enforcement Officer</b>	means a person appointed as an enforcement officer under section 650B of the Act
<b>Explosive</b>	means any substance or mixture or combination of substances which in its normal state is capable either of decomposition at such rapid rate as to result in an explosion or of producing a pyrotechnic effect. Substances included within this definition can be more fully found in the Hazardous Substance and New Organism Act 1996
<b>Flag A</b>	means Flag A of the International Code of Signals (the divers flag), a burgee (swallow-tailed) flag coloured in white and blue, with white to the mast, of not less than 600 mm by 600 mm
<b>Flag B</b>	means flag B of the international code of signals, a burgee (swallow tailed) flag coloured in red, or a rigid replica, of not less than 600 mm by 600 mm
<b>Foreshore</b>	means any land covered and uncovered by the flow and ebb of the tide at mean springs and, in relation to any such land that forms part of the bed of a river, but does not include any area that is not part of the coastal marine area
<b>Gross tonnage</b>	means the volume of all the vessels enclosed spaces (from keel to funnel) measured to the outside of the hull framing
<b>Harbourmaster</b>	is the person(s) appointed by the Hawke's Bay Regional Council as Harbourmaster to exercise authority under these Bylaws and all relevant associated legislation; and includes any deputy of a Harbourmaster
<b>Honorary Enforcement Officer</b>	means a person appointed as an Honorary Enforcement Officer under section 650B of the Act
<b>Incident</b>	means any occurrence, other than an accident that is associated with the operation of a vessel and affects or could affect the safety of the operation
<b>Impede the Passage</b>	means to cause a vessel, whether by action or inaction on the part of another vessel, to alter course, alter speed or stop, or to prepare to do so when she would have otherwise not done so (also known as kite surfing) means using a controllable kite to pull the rider through the water on a small surfboard, a wakeboard, or a kiteboard
<b>Kiteboarding</b>	
<b>Length</b>	in relation to a vessel, means overall length
<b>Maritime Rules</b>	means Maritime Rules made under section 36 of the Maritime Transport Act 1994
<b>Master</b>	means any person having command or charge of a vessel, but does not include a pilot who is piloting the vessel
<b>Moor</b>	means: <ul style="list-style-type: none"> <li>(a) the securing of any vessel alongside a wharf or jetty and</li> <li>(b) the securing of any vessel to a mooring or anchor</li> </ul>
<b>Mooring</b>	means: <ul style="list-style-type: none"> <li>(a) any weight or article placed in or on the foreshore or the bed of a waterway for the purpose of permanently securing a vessel, raft, aircraft, or floating structure; and</li> <li>(b) includes any wire, rope, chain, buoy, or other device attached or connected to the weight;</li> </ul>

	(c) but does not include an anchor that is normally removed with the vessel, raft, aircraft, or floating structure when it leaves the site or anchorage
<b>Mooring Area</b>	means the area from time to time designated by the Council as a mooring management area under the Resource Management Act 1991, where vessel moorings may be placed; but does not include an anchorage
<b>Nautical Chart</b>	a map of a sea area showing on it any coastlines, rocks and dangers to vessels etc. within the area covered and also showing the positions of aids to navigation and other prominent features
<b>Navigable Waters</b>	means any waters whether coastal or inland which are able to be navigated; and includes harbours
<b>Navigate</b>	means the act or process of managing or directing the course of a vessel on, through, over, or under the water.
<b>Obstruction</b>	means an object, equipment, structure, vessel or person positioned, whether in the water or not, so as to restrict or prevent navigation of a vessel or cause a hazard to people on a vessel
<b>Oil</b>	means petroleum in any form including crude oil, fuel oil, sludge, oil refuse; and includes spirit produced from oil and oil mixed with water and refined products (within the meaning of section 222 of the Maritime Transport Act 1994)
<b>Owner</b>	includes: <ul style="list-style-type: none"> <li>(a) in relation to a vessel, the agent of the owner and also a charterer; and</li> <li>(b) in relation to any dock, wharf, quay, or slipway, includes a leasee or consent holder of the dock, wharf, quay, or slipway; or</li> <li>(c) in relation to a fishing vessel; other than one to which paragraph (a) or (b) of this definition applies, means the person registered as owner under section 57 of the Fisheries act 1983; or</li> <li>(d) in relation to a vessel to which paragraph (a) or paragraph (b) or paragraph (c) of this definition applies, where, by virtue of any charter or demise or for any other reason, the registered owner is not responsible for the management of the vessel, includes the charterer or other person who is for the time being so responsible; or</li> <li>(e) in relation to an unregistered vessel or a registered vessel that does not have a registered owner, means the person who is for the time being responsible for the management of the vessel</li> </ul>
<b>Personal Flotation Device</b>	means any buoyancy aid that is designed to be worn on the body that meets: <ul style="list-style-type: none"> <li>(a) a standard in New Zealand, standard 5823:2001 applicable to such buoyancy aids</li> <li>(b) a national or international standard that the Director of Maritime Safety is satisfied substantially complies with a standard in New Zealand standard 5823:2001 applicable to such buoyancy aids</li> </ul>
<b>Pilot</b>	in relation to any vessel, means any person not being the master or a member of the crew of the vessel who has the conduct of the vessel
<b>Pleasure Craft</b>	means a vessel that is used exclusively for the owner's pleasure or as the owner's residence, and is not offered or used for hire or reward; but does not include: <ul style="list-style-type: none"> <li>(a) a vessel that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment or other establishment or business</li> <li>(b) a vessel that is used on any voyage of pleasure if it is normally used or intended to be normally used as a fishing vessel or for the carriage of passengers or cargo for hire or reward</li> <li>(c) a vessel that is operated or provided by any club, incorporated society, trust or business</li> </ul>
<b>Personal Water Craft</b>	means a power driven vessel that: <ul style="list-style-type: none"> <li>(a) has a fully enclosed hull; and</li> <li>(b) does not take on water if capsized</li> <li>(c) is designed to be operated by a person standing, sitting astride, or kneeling on it but not seated in it</li> </ul>
<b>Pilot</b>	in relation to any ship means any person not being the master or a member of the crew of the ship who has the conduct of the ship
<b>Power Driven Vessel</b>	means any vessel propelled by machinery
<b>Proper Speed</b>	means speed through the water
<b>Public Notice</b>	means a notice in a newspaper circulating generally in the district or region to which the subject matter of the notice relates

<b>Recreational Craft</b>	means a vessel that is: (a) a pleasure craft; or (b) solely powered manually; or (c) solely powered by sail
<b>Region</b>	means the Hawke's Bay region as constituted under the Local Government Act 1974
<b>Reserved Area</b>	means any area defined as such under Schedule 3 (Location Specific Information) of these Bylaws
<b>Reward</b>	means the payment to or for the benefit of the owner or master of a vessel, of a contribution towards the expenses of a voyage by or on behalf of persons; but does not include payment of any contributions by part owners of the vessel or by persons engaged as bona fide crew members
<b>Sailboard</b>	means any type of board that is propelled by a detachable sail apparatus and operated by a person standing on the board
<b>Seaplane</b>	means a flying boat or any other aircraft designed to manoeuvre on the water, and under Maritime Rule 22 is deemed to be a vessel when operating on the water
<b>Seaworthy</b>	in relation to any vessel means being in a fit condition or readiness to safely undertake a sea voyage
<b>Ship</b>	means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes: (a) a barge, lighter, or other like vessel (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates (c) a submarine or other submersible
<b>Shore Structure</b>	when referring to distance from shore, means distance from the waters edge means: (a) any building, equipment, device, or other facility made by people and which is fixed to land or seabed; and (b) includes slipways, jetties, pile moorings, swing moorings, rafts, wharves, marine farms, and other objects whether or not these are above or below the waterline of the foreshore; but (c) does not include aids to navigation
<b>Sunrise</b>	means the time of sunrise as stated in the New Zealand nautical Almanac NZ204
<b>Sunset</b>	means the time of sunset as stated in the New Zealand nautical Almanac NZ204
<b>Support vessel</b>	means any vessel used for coaching, marshalling and rescue attendance for training, regattas and competitions
<b>Surfboard</b>	means any type of board that is designed to be used for surf riding
<b>Tanker</b>	means any vessel which: (a) is specially constructed, or has a compartment or compartments specially constructed, for the carriage in bulk of oil products of any class; and (b) either: (i) has on board or is about to take on board a cargo the whole or any part of which consists of Class 3.1, 3.2 or 3.3 oil products in bulk; or (ii) has discharged any cargo consisting of any such oil products in bulk, but the holds, tanks, and compartment of which have not been rendered or certified gas-free and includes any tanker designed for carriage of bulk liquid harmful substances
<b>Underway</b>	means that a vessel is not at anchor, or made fast to the shore, or aground
<b>Vessel</b>	has the same meaning as ship
<b>Waterskiing</b>	means being towed barefoot or on an object of any kind other than a vessel
<b>Windsurfer</b>	has same meaning as sailboard