

Hawke's Bay Navigation Safety Bylaw

2017 **Review Draft**

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Highlighted text denotes new or changed provision

Hawke's Bay Navigation Safety Bylaw 2017

1. PRELIMINARY PROVISIONS

1.1 TITLE AND COMMENCEMENT

This bylaw may be cited as the Hawke's Bay Regional Council Navigation and Safety Bylaw 2017. This bylaw shall come into force on (date to be finalised)

1.2 PURPOSE

1.2.1 The purpose of this bylaw is to:

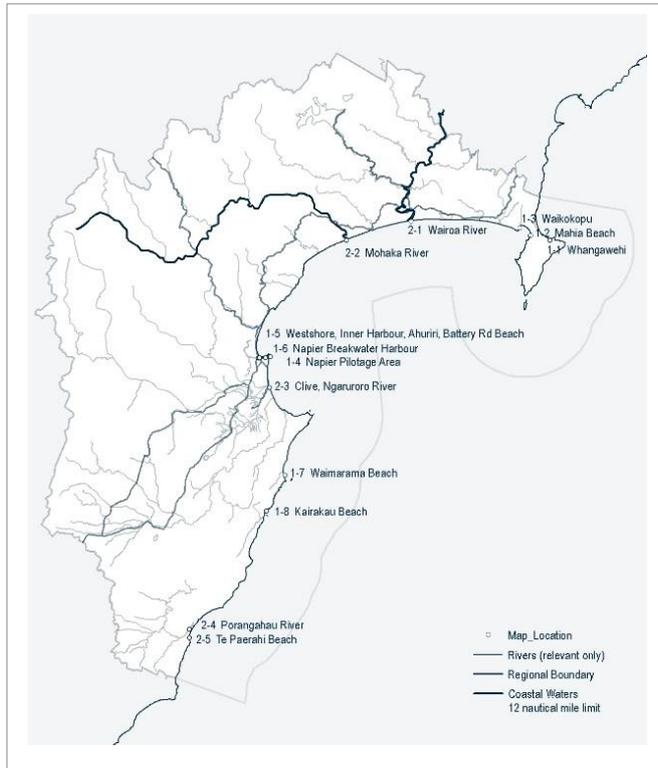
- a) regulate the control and use or management of vessels;
- b) regulate the placing and maintenance of moorings and maritime facilities;
- c) prevent nuisances arising from the use of vessels;
- d) prevent nuisances arising from the actions of persons and things on or in the water;
- e) reserve the use of any waters for specified persons or vessels;
- f) in relation to any sporting event, training activity, ceremonial or other authorised customary event -
 - i) prohibit or regulate the use of vessels;
 - ii) regulate, or authorise the organisers of an event to regulate the admission of persons to specified areas.
- g) regulate and control the use of anchorages;
- h) specify requirements for the carriage and use of personal floatation devices and buoyancy aids on recreational vessels;
- i) require the marking and identification of personal watercraft.

1.3 REVOCATION

The Hawke's Bay Regional Council Navigation Safety Bylaws 2012 are hereby revoked.

1.4 ENABLING ENACTMENT

This bylaw is made pursuant to Maritime Transport Act 1994 and any subsequent amendments.



1.5 AREAS WITHIN WHICH THIS BYLAW APPLIES

This Bylaw applies to all the waters within the Hawke's Bay Regional Council boundary as shown in Figure 1, except:

- Lake Waikaremoana
- Lake Waikareiti

Figure 1

1.6 DEFINITION OF TERMS

Access Lane	means an area designated as an access lane in Schedule 1 of this Bylaw
Accident	has the same meaning as set out in the Marine Transport Act 1994
Act	means the Maritime Transport Act 1994 and subsequent amendments.
Aid to Navigation	includes <ul style="list-style-type: none"> 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.
Aircraft	has the same meaning as in the Civil Aviation Act 1990.
Anchorage	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.
Anchoring	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.
Beacon	means a light or mark set up in a prominent position as a navigation mark or a warning to vessels.
Bunkering	means the transfer of fuel from a wharf to a vessel.
Buoy	means a float secured to the seabed serving as a navigational or location mark, or to indicate reefs, or other hazards or a mooring.
Buoyancy Aid	see Personal Flotation Device.
Class 3 Packaging Group 1 Oil products	means oil having an initial boiling point less than or equal to 35° Celsius.
Class 3 Packaging Group 2 Oil products	means oil having a flashpoint of less than 23° Celsius and an initial boiling point greater than 35° Celsius.
Class 3 Packaging Group 3 Oil products	means oil having a flashpoint equal to or greater than 23° Celsius up to and including 61° Celsius and an initial boiling point greater than 35° Celsius.
Coastal Marine Area	means the foreshore, seabed, and coastal water, and the airspace above the water; <ul style="list-style-type: none"> a) of which the seaward boundary is the outer limits of the territorial sea.

- b) of which the landward boundary is the line of Mean Low Water Springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of:
 - i) one kilometre upstream from the mouth of the river, or;
 - ii) the point upstream that is calculated by multiplying the width of the river mouth by 5.

Commercial Vessel means a vessel that is not:

- a) a pleasure craft, or;
- b) solely powered manually, or;
- c) solely powered by sail.

Council means the Hawke's Bay Regional Council (HBRC).

Craft has the same meaning as ship or vessel.

Crew means the persons employed or engaged in any capacity on board a vessel, but does not include the Master / Skipper, a pilot, or a person temporarily employed on the vessel while in port.

Director means the person who is for the time being the Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994.

Emergency Response Craft any vessel approved by the Harbourmaster for use in, emergency response and includes Police, Customs, Harbourmaster, Naval and Port Company vessels.

Enforcement Officer means a person appointed as an enforcement officer under section 33G of the Act.

Explosive means any substance, 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 Substances and New Organism Act 1996.

Flag A means flag A of the International Code of Signals (the diver's flag), a burgee (swallow-tailed) flag coloured in white and blue, with white to the mast, of not less than 600mm x 600mm.

Flag 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 600mm x 600mm.

Foreshore 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.

Gross Tonnage	means the volume of the entire vessel's enclosed spaces (from keel to funnel) measured to the outside of the hull framing.
Harbourmaster	is the person(s) appointed by the Council as Harbourmaster to exercise authority under this Bylaw and all relevant associated legislation; and includes any deputy of a Harbourmaster.
HBRC	means Hawke's Bay Regional Council
Honorary Enforcement Officer	means a person appointed as an Honorary Enforcement Officer under section 33G of the Act.
Incident	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.
Infringement Offence	means a breach of a navigation Bylaw that is specified in regulations made under this Bylaw.
Infringement Fees	means a fee imposed for breaches of this navigation bylaw.
Impede the Passage	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.
Jet Ski	means a power driven vessel that: <ul style="list-style-type: none"> a) has a fully enclosed hull, and; b) does not take on water if capsized, and; c) is designed to be operated by a person standing, sitting astride, or kneeling on it, but not sitting in it.
Kiteboarding	(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.
Length	in relation to a vessel means in relation to a vessel means the distance from the foremost part of the stem, not including any bow sprit or similar fitting to the aftermost part of the transom.
Lifejacket	see Personal Flotation Device.
Maritime Rules	means Maritime Rules made under Part 4 of the Maritime Transport Act 1994.
Master	means any person having command or charge of a vessel, but does not include a pilot who is piloting a vessel.
Moor	means: <ul style="list-style-type: none"> a) the securing of any vessel alongside a wharf or jetty; and b) the securing of any vessel to a mooring or anchor.
Mooring	means:

- 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
- b) includes any wire, rope, chain, buoy, or other device attached or connected to the weight;
- 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.

Mooring Area 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.

Nautical Chart 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.

Navigable Waters any waters whether coastal or inland which are able to be navigated; and includes harbours.

Navigate the act or process of managing or directing the course of a vessel on, through, over, or under the water.

NZS means a New Zealand Standard.

Obstruction 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.

Oil 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).

Owner has the same meaning as section 2 of the Maritime Transport Act 1994.

Paddle Craft means any ship, vessel or craft that is wholly propelled using paddles or oars or a combination of paddles and oars. This includes but is not limited to kayaks, canoes, dinghies, waka ama, and surf skis.

Personal Flotation Device any serviceable buoyancy aid (as defined in NZS 5823:2005) that is designed to be worn on the body and is certified by a recognised authority as meeting:

- a) NZS 5823:2005 or NZS 5823:2001, or NZS 5823:1989 or any subsequent NZ Standard, applicable to such buoyancy aids; or

- b) a national or international standard that the Director is satisfied substantially complies with NZS 5823:2005 or NZS 5823:2001 or NZS 5823:1989, or any subsequent NZ Standard applicable to such buoyancy aids.

Pleasure Craft

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:

- 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.
- 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.
- c) a vessel that is operated or provided by any club, incorporated society, trust or business.

Personal watercraft see Jet Ski.

Pilot

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.

Power driven vessel means any vessel propelled by machinery.

Proper Speed means speed through the water.

Public Notice means a notice in a newspaper circulating generally in the district or region to which the subject matter of the notice relates.

Recreational Craft means a vessel that is:

- a) a pleasure craft; or
- b) solely powered manually; or
- c) solely powered by sail.

Ramp means a structure that is used to launch a vessel.

Region means the Hawke's Bay Region by the Local Government (Hawke's Bay) Reorganisation Order 1989.

Reserved Area means any area defined as such under Schedules 1 and 2 (Location Specific Information) of this bylaw.

Reward 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.

River	includes a stream and any modified or artificial watercourse; but does not include any part of a river within the ebb and flow of the tide at ordinary spring tides.
River Mouth	means a straight line representing the continuation of the line of mean high water spring on each side of the river at the river outlet.
Sailboard	means any type of board that is propelled by a detachable sail apparatus and operated by a person standing on the board.
Seaplane	means a flying boat or any other aircraft designed to manoeuvre on the water, and under Maritime Rule 22 is deemed a vessel when operating on the water.
Seaworthy	in relation to any vessel means being, in the opinion of the Harbourmaster, in a fit condition of readiness to safely undertake a voyage within its designed capabilities.
Ship	means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes: <ul style="list-style-type: none"> 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.
Shore	when referring to distance from shore, means distance from the water's edge.
Skipper	means the person who is in physical control, or in command, or in charge of a vessel at any given time.
Structure	means: <ul style="list-style-type: none"> 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.
Sunrise	means the time of sunrise as stated in the New Zealand Nautical Almanac NZ204.
Sunset	means the time of sunset as stated in the New Zealand Nautical Almanac NZ204.
Support Vessel	means any vessel used for coaching, marshalling and rescue attendance for training, regattas and competitions.

Surfboard	means any type of board that is designed to be used for surf riding.
Surfriding	is defined as the water activity of a single person using a vessel propelled manually or with a paddle and designed to plane down or across the slope of a wave.
Tanker	means any vessel which: <ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> 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.
Unique Identification Number (UIN)	means a number or name or combination of numbers and letters that are assigned to a specific Jet Ski and may not be assigned to any other Jet Ski.
Underway	means that a vessel is not at anchor, or made fast to the shore, or aground.
Vessel	has the same meaning as ship.
Water-skiing	means being towed barefoot or on an object of any kind other than a vessel.
Wet Suit	means a close fitting rubber, neoprene or similar suit used by underwater divers, surfboard riders etc, to retain body heat.
Windsurfer	has the same meaning as sailboard.

2 GENERAL MATTERS

2.1 DUTIES AND OFFENCES

2.1.1 Compliance with this bylaw does not remove the duty to comply with the requirements of the Maritime Transport Act 1994.

2.1.2 The Harbourmaster may use its power under the Act, the Resource Management Act (including the Resource Management (Marine Pollution) Regulation's 1998) and other maritime rules to enforce this bylaw.

2.1.3 For the purpose of ensuring maritime safety or enforcing navigation bylaws and regulations, and rules under the Act relating to maritime safety:

- a) the Council may appoint enforcement officers and honorary enforcement officers.
- b) enforcement officers, and constables, may exercise the powers of a harbourmaster set out in section 33F (1)a), b), h) and i) of the Act.
- c) enforcement officers, and constables, may exercise the powers set out in section 33F (1)c) if authorised to do so by the Council.
- d) honorary enforcement officers may exercise the powers set out in section 33F (1)g) and h) of the Act.

2.1.4 Every Master of a vessel is responsible for the safety and wellbeing of all people on board and for the safe operation of their vessel, and shall comply with the duties of a Master set out in section 19 of Act.

2.1.5 Every person commits an offence against this bylaw who:

- a) does not comply with the provisions of this bylaw;
- b) prevents a harbourmaster, enforcement officer or an honorary enforcement officer from carrying out their statutory functions or duties under this bylaw;
- c) refuses to give information in accordance with sections 178 and 245 of the Local Government Act 2002 or the Act when directed to do so by a harbourmaster, enforcement officer or an honorary enforcement officer or knowingly gives incorrect information; or
- d) fails to comply with an instruction given to that person by a harbourmaster, an enforcement officer, honorary enforcement officer, or the Police.

2.1.6 Every person who:

- a) commits an infringement offence, set out in the regulations created under the Act is liable to an infringement fee prescribed in those regulations;
- b) breaches a provision of the bylaw commits an offence against the Act and will be liable under the Act;
- c) commits an offence against the Act will be liable under the Act;
- d) breaches a maritime rule which is included as an offence under the Act will be liable under the Act; and
- e) commits an offence against the Resource Management Act 1991 will be liable under the Resource Management Act 1991.

2.2 PERSONAL FLOTATION DEVICES

2.2.1 No person in charge of a recreational craft shall use it or allow it to be used unless there are on board at the time of use, and in a readily accessible location, sufficient personal flotation devices of an appropriate size for each person on board.

2.2.2 Personal flotation devices must be worn at all times on all craft of 6 metres or less and all paddle craft when the craft is underway or preparing to become underway.

2.2.3 If instructed to do so by the master / skipper, every person on board a vessel greater than 6 metres in length shall wear a properly secured personal flotation device of an appropriate size to securely fit each person.

2.2.4 Every master / skipper of a vessel greater than 6 metres in length shall ensure that, every person on board wears a properly secured personal flotation device of an appropriate size to securely fit that person, whenever there is any risk to the safety of the people on board, including, circumstances such as tides, river flows, visibility, rough seas, adverse weather, during surf launching or recovery and any emergencies or other situations which may cause danger or a risk to the safety of any person on board the vessel.

2.2.5 Clause 2.2.1, 2.2.2 and 2.2.8 shall not apply to:

- a) any surfboard or similar unpowered craft; and
- b) any sailboarder, kite boarder or windsurfer, if a wetsuit is worn at all times; and

- c) a diver on a boat of 6 metres or less in length overall that is used for recreational diving within 5 miles of shore, if a full body dive suit is worn at all times; and
- d) a person training for or participating in a sporting event, if the training or the event is supervised in accordance with the safety system of a sporting organisation approved by the Harbourmaster under this bylaw(s), or the Director under Maritime Rule 91.4(3); and
- e) a member of a visiting foreign water sports team, if the person carries or wears a personal flotation device that is approved by the competent authority for use in that person's country of residence; and
- f) any stand up paddle boarder, while physically involved in riding breaking waves, provided the paddle boarder is attached to the board by means of a leg rope.

2.2.6 The following approvals may be directed:

- a) the Harbourmaster may approve a sporting organisation for the purposes of clause 2.2.5d) if that organisation has in place a safety system that the Harbourmaster is satisfied provides an equivalent level of safety to the carriage or wearing of personal flotation devices.
- b) the Director, under Maritime Rule 91.4(3), may approve a national sporting organisation for the purposes of clause 2.2.5d) if that organisation has in place a safety system that the Director is satisfied provides an equivalent level of safety to the carriage or wearing of personal flotation devices.

2.2.7 Subject to clause 2.2.8, clauses 2.2.1 and 2.2.2 shall not apply in respect of any sporting event, training activity or ceremonial event if a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational craft, and the recreational craft or support vessel, or both, carry personal flotation devices or buoyancy aids of an appropriate size for each person on board the recreational craft.

2.2.8 Clauses 2.2.1, 2.2.2 and 2.2.4 shall not apply in respect of any sporting event, training activity, ceremonial event, or other organised recreational activity if the Harbourmaster has granted an exemption in writing. A Harbourmaster may grant an exemption for a specified period if it is satisfied that adequate safety precautions are made for rescuing any person participating in the event or activity.

2.2.9 No person in charge of a vessel shall use it to tow any person and no person shall cause himself or herself to be towed by any vessel, unless the person being towed wears a properly secured personal flotation device of an appropriate size for that person.

2.2.10 Clause 2.2.9 shall not apply to a person:

- a) training for any trick water-skiing element of a sporting event administered by a national sporting organisation approved under clause 2.2.6 or Maritime Rule 91.4(3); or
- b) participating in a sporting event that is administered by a national sporting organisation approved under clause 2.2.6 or Maritime Rule 91.4(3).

Advisory Note: It is strongly recommended that a personal flotation device be worn over the top of all other garments as this aids in recovery from the water in the event of an incident.

2.3 SWIMMING OR DIVING AROUND WHARVES

2.3.1 No person shall jump, dive, swim or undertake other related activities, from;

- a) any commercial jetty, wharf, or quay which is in regular use for the berthing and unberthing of vessels, or
- b) within 50 metres of the structures listed in 2.3.1 a), or
- c) within any designated anchorage or mooring area, or
- d) within any navigational channel; or
- e) any other such areas in the navigable waters of the region as the Harbourmaster may from time to time determine, unless the person does so in accordance with the prior written consent of the Harbourmaster.

2.3.2 The Harbourmaster may consent subject to such conditions as the Harbourmaster considers appropriate in the interests of navigational safety.

2.4 USE OF VESSEL ENGINE AROUND WHARVES, RAMPS

2.4.1 No person shall operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading or unloading at any ramp or boat trailer, in such a way that it may damage any property, scour the bed of the ramp or waterway, or injure any person. However, this sub-clause does not preclude the use of the propulsion system for the safe berthing or unberthing of any vessel at a wharf.

2.4.2 In addition to the requirements of clause 2.4.1, a master/skipper of a commercial vessel in the Port of Napier Breakwater Harbour shall ensure that a crew member shall:

- a) be stationed both forward and aft on any vessel while that vessel is lying at any wharf and about to test or testing a propulsion system; and
- b) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested.
- c) notify the Harbourmaster and Port of Napier Limited Breakwater Harbour Security prior to the engines being tested.

2.5 VESSELS WHICH ARE NOT SEAWORTHY

2.5.1 The Master, Skipper and any owner of every vessel anchored or moored in any waters in the region must keep the vessel in a seaworthy condition at all times, unless the Harbourmaster has given prior written approval for it to be anchored or moored in a condition which is not seaworthy and subject to such conditions that the Harbourmaster may determine appropriate to ensure navigational safety.

2.5.2 If any vessel is a navigational hazard by reason of it not being seaworthy:

- a) the Harbourmaster or Enforcement Officer may give a direction to the Master, Skipper and/or owner of that ship to move the vessel to an alternative location or remove it from the waters of the region within a reasonable time specified in the direction. Such direction may be given by any means of communication and subsequently supported by a written direction; and
- b) where the Master, Skipper and/or owner of a vessel fails to move that vessel in accordance with such direction given by the Harbourmaster or the Enforcement Officer, the Harbourmaster or Enforcement Officer may move that vessel to a position where it is no longer a hazard or remove it from the water. Costs incurred will be recovered from the owner of the vessel as a debt due to Council; and
- c) the Master, Skipper and/or owner and berth owner are jointly and severally responsible for ensuring the direction is complied with.

2.5.3 No person shall operate any vessel that is not seaworthy except to comply with the directions under this bylaw of the Harbourmaster to move that vessel to an alternative location. However, in the event of an emergency or an accident at sea, the person in charge of the vessel shall proceed to a safe area immediately.

2.6 SEAPLANES

2.6.1 No person navigating a vessel shall impede a seaplane in the process of landing or taking off.

2.6.2 No person shall take off, land or attempt to take off or land any seaplane or other aircraft, except in an emergency, in any area, other than areas reserved for that purpose, without the prior written permission of the Harbourmaster. Written application must be received by the Harbourmaster not less than 48 hours before the proposed landing or taking off.

2.7 VESSELS TO BE ADEQUATELY MOORED OR SECURED

2.7.1 No person shall anchor or moor a vessel in any navigable water in a manner that it may break free, drag anchor or cause a navigational safety hazard.

2.7.2 No person shall cut, break, unlawfully release or destroy:

- a) the mooring or anchor of any vessel; or
- b) the fastening securing any vessel lying in a dock or at or near a wharf or landing place.

2.7.3 The Owner or Master of a vessel berthed at a wharf, or at anchor, must ensure that it is securely moored at all times and, if required by the Harbourmaster, maintain a person on board to keep a watch.

2.7.4 The Owner or Master of an unattended vessel berthed at West Quay or the Iron Pot, which is accessible to the public, must ensure the vessel's moorings are secured using a system acceptable to the Harbourmaster or Enforcement Officer, to prevent the release of mooring lines by unauthorised persons.

2.7.5 When a vessel is moored alongside a wharf or other landing place, the Owner or Master must ensure that an adequate and safe means of access for authorised persons to the vessel is provided, properly installed, secured and adjusted to suit all tidal conditions.

2.8 PROHIBITED AND RESTRICTED ANCHORAGES

2.8.1 Except in emergencies no person may anchor or moor any vessel within any prohibited anchorage.

2.8.2 No person shall anchor a vessel so as to:

- a) obstruct the passage of other vessels or obstruct the approach to any commercial wharf, pier or jetty; or

- b) create a hazard to other vessels at anchor; or
- c) create a safety hazard for other recreational craft, swimmers or water users.

2.8.3 No person shall anchor any vessel in the shaded areas shown on maps 1.1, 1.2, 1.3, 1.5, 1.6, 1.7, 1.8 and 2.3 listed in Schedules 1 and 2 (Location Specific Information) without the prior permission of the Harbourmaster.

2.8.4 No person shall anchor any vessel, so as to impede the safe passage of any other vessel which cannot deviate from its course because of constraints of draft and/or manoeuvrability.

2.8.5 Clause 2.8.3 shall not apply to dinghy sailing support vessels when temporarily anchored between Pandora Bridge and Napier City Council's Meeanee Finger Wharf No. 1.

2.9 OBSTRUCTIONS

2.9.1 No person shall obstruct the navigation of any waterway or the access to any wharf, landing place, boat ramp, slipway, navigation channel or mooring without the prior written permission of the Harbourmaster.

2.9.2 No person shall place any obstruction, including any vessel, or fishing apparatus, in any waterway, that is liable to:

- a) restrict navigation; or
- b) cause or have potential to cause, injury or death to any person; or
- c) cause damage to any vessel or any property.

2.9.3 No person shall leave equipment, stabilizers, booms, cranes, davits or other equipment extending over the side of a vessel so as to cause a hazard to any other vessel.

2.9.4 Any obstructions placed in contravention of sub clauses 2.9.2 or 2.9.3 may be removed by a Harbourmaster or Enforcement Officer and may subsequently be disposed of or sold, with any monies obtained kept to defer expenses.

2.10 LIABILITY OF HBRC

2.10.1 Hawke's Bay Regional Council is not liable for:

- a) any damage to a vessel which have not been securely moored;.
- b) any damage to a vessel tied to a mooring whether the damage is caused by a third party, a storm, natural disaster or adverse event, natural processes or by any other cause.

- c) any damage to a vessel that the Harbourmaster secures or removes under this bylaw.

2.11 NOTIFICATION OF COLLISIONS OR ACCIDENTS

2.11.1 The Master of any vessel must within 48 hours provide to the Harbourmaster a full written report if that vessel has:

- a) been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded in any waterway; or
- b) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property; or
- c) in any manner gives rise to an obstruction; or
- d) causes any damage to any navigation aid or structure or to anything on the structure.

2.11.2 The Master must also comply with any accident reporting requirements of the Act.

2.11.2 A report under clause 2.11.1 must include:

- a) a full description of any injury to persons and their names and their addresses; and
- b) a full description of any damage to vessels or structures; and
- c) the name(s) and address(es) of person(s) in charge of the vessel
- d) time and date of the occurrence; and
- e) an outline of the events relating to the occurrence.

2.11.3 If an incident described in clause 2.11.2 involves damage to a vessel that affects or is likely to affect its seaworthiness, the Master may not move the vessel except:

- a) to clear the main navigational channel or to moor or anchor in safety; or
- b) in accordance with the directions of the Harbourmaster.

2.12 AIDS TO NAVIGATION

2.12.1 No person shall secure their vessel to any aid to navigation without the prior permission of the Harbourmaster.

2.12.2 No person shall damage, remove, deface or otherwise interfere with any aid to navigation erected by, or duly authorised by, the Harbourmaster as an aid to navigation, or warning.

2.12.3 No person shall tie a vessel to any aid to navigation without the written permission of;

- a) the Harbourmaster if the aid to navigation is operated by a local authority or port company; or
- b) the Director if the aid to navigation is operated by Maritime New Zealand.

2.12.4 No person shall erect, maintain or display any aid to navigation or other device which may be used or mistaken as a recognised aid to navigation without the written permission of the Harbourmaster and Director.

2.13 SOUND AND LIGHT SIGNALS

2.13.1 No person shall fit or use any flashing lights, sirens or other sound or light signals not prescribed in a maritime rule for that vessel, without the written permission of the Harbourmaster.

2.13.2 The use of blue flashing lights and/or sirens is restricted to Police, Customs, Harbourmaster or other enforcement vessels authorised by the Harbourmaster

2.13.3 The use of purple flashing lights is for the use of an emergency response craft, authorised by the Harbourmaster, to identify itself to a vessel or aircraft involved in a response.

2.13.4 A vessel authorised to use purple flashing lights by the Harbourmaster shall only display them when:

- a) the use is required to assist the location of a vessel or person in need of assistance; or
- b) the use is required to assist the identification of the vessel to an aircraft involved in an incident.

2.13.5 The lights may not be used when travelling to, from or during an incident, and imply no status or privilege to that vessel. Any vessel so authorised by this clause must observe speed limits set in clause 3.2 at all times.

2.13.6 No person may blow or sound the whistle, siren or horn of a vessel unless it is being used as a navigation safety signal or for the testing of equipment.

2.13.7 Sub-clause 2.13.6 shall not apply to horns, whistles or sirens used for the purposes of a sporting event, or a celebration event, provided they are used in locations where there will be no confusion to any other skipper about the navigation safety signal being sent.

2.14 MEANS OF COMMUNICATION

2.14.1 Every master/ skipper navigating outside the landward boundary of the Coastal Marine Area shall carry on board their vessel at least one means of communications that:

- a) has the ability to communicate with a land based person from any area where the vessel is intended to be operated;
- b) has sufficient coverage and power to operate for the actual duration of the voyage; and
- c) if the vessel is 6 metres or less in length, is either waterproof or is carried in a waterproof bag or container.

2.15 VISIBILITY OF KAYAKS AND PADDLE CRAFT

2.15.1 Every person operating a kayak or paddle craft of less than 7 metres shall use one of the following methods to enhance its visibility to other vessels.

By day

- Using brightly coloured paddles
- Ensuring that the kayak or paddle craft is brightly coloured.
- Wearing a brightly coloured PFD or paddle jacket;
- Exhibiting a brightly coloured flag on a small mast.

At night

- Showing an all-round white light or flashing white light that is visible in all directions for a minimum of 100 metres.

2.15.2 Sub-clause 2.15.1 shall not apply to a tender used solely for accessing a moored vessel where access does not cross a main channel as shown on Map 1.5.

2.16 IDENTIFICATION OF VESSELS

2.16.1 The Master and owner of a vessel, which includes a jet ski shall ensure the vessel is marked with its name or similar identifying marks. This shall be displayed on each side of the vessel. The number or name shall be a minimum height of 90 millimetres and each character shall be legible.

2.16.2 Clause 2.16.1 shall not apply to non-mechanically powered vessels of less than 6 metres in length. Such vessels should be marked with a number or name, or the owners name or contact details somewhere on the vessel's hull.

2.17 REGISTRATION OF PERSONAL WATERCRAFT

2.17.1 Every personal watercraft used in or on the water must be registered with:

- (a) the Hawke's Bay Regional Harbourmaster: or
- (b) any other regional council that also registers personal watercraft.

2.17.2 The registration must be completed to the satisfaction of the Hawke's Bay Regional Harbourmaster and include:

- (a) at least the name and address of the owner; and
- (b) the identification details of the personal watercraft, including the unique identification number.

2.17.3 If the ownership of a personal watercraft registered with the Harbourmaster changes, the new owner may not use the personal watercraft or allow it to be used on the water until notice of the change of ownership is given to the Harbourmaster or any agent authorised to accept changes of ownership on behalf of the Harbourmaster. An online form for registration and change of ownership can be obtained by emailing: harbourmaster@hbrc.govt.nz

Advisory Note: The Hawke's Bay Regional Council Bylaw 2017 requires that all Jetskis are to be registered. This registration is a one off, and once the personal watercraft is registered in one region, it is able to be used in other regions.

3. OPERATING REQUIREMENTS

3.1 MINIMUM AGE FOR OPERATING POWERED VESSELS

- 3.1.1 No person under the age of 15 years shall be in charge of, or propel or navigate, a power driven vessel that is capable of a proper speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 years who is within immediate reach of the controls, and is not the lookout person as provided for in clause 3.3.
- 3.1.2 The owner of a power driven vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to be in charge of or propel or navigate that vessel, unless he or she is under the direct supervision of a person over the age of 15 years who is within immediate reach of the controls.
- 3.1.3 Clause 3.1.1 and 3.1.2 does not apply in respect of any person who has a written exemption from the Harbourmaster issued in accordance with a navigation bylaw, or by the Director under Maritime Rule 91.5(4).
- 3.1.4 The Harbourmaster may issue an exemption in accordance with these bylaws that is valid for any specified place or places to a person under the age of 15 years for transport, training, competitions or other sporting events, if the Harbourmaster considers that the person:
- (a) is competent to propel or navigate a power driven vessel at a proper speed exceeding 10 knots; and
 - (b) is aware of relevant navigation safety rules and navigation bylaws; and
 - (c) will be under adequate supervision during the proposed activity or activities.

3.2 SPEED OF VESSELS

- 3.2.1 No person shall, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a proper speed exceeding 5 knots:
- a) within 50 metres of any other vessel, raft, or person in the water; or
 - b) within either 200 metres of the shore or of any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure; or
 - c) within 200 metres of any vessel, structure or raft that is flying Flag A of the International Code of Signals (diver's flag).

- 3.2.2 No person shall propel or navigate a powered vessel at a proper speed exceeding 5 knots while any person has any portion of his or her body extending over the fore part, bow, or side of that vessel.
- 3.2.3 No person shall cause himself or herself to be towed by a vessel (whether or not on a water ski, aquaplane, or other similar object) at a proper speed exceeding 5 knots in any circumstances specified in Clause 3.2.1 of this bylaw.
- 3.2.4 No person in charge of a vessel shall permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that water ski or similar object, unless the person has taken adequate measures to ensure that the dropped ski or similar object is clearly visible to other water users.
- 3.2.5 Clause 3.2.1 a) shall not apply to:
- a) a vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
 - b) a vessel powered by sail in relation to any other vessel powered by sail, while the vessels are participating in a yacht race or training administered by
 - i) a club affiliated to Yachting New Zealand; or
 - ii) a non-profit organisation involved in sail training or racing; or
 - c) a craft training for or participating in competitive rowing or paddling; or
 - d) a tug, pilot vessel, Harbourmaster vessel, emergency response craft or police vessel, if the vessel's duties cannot be performed in compliance with this clause; or
 - e) a vessel operating in accordance with a speed uplifting established under:
 - i) Schedules 1 and 2 (Location Specific Information) of these bylaws.
 - ii) Clauses 3.5, 3.8 or 3.9 of these bylaws.
- 3.2.6 Clause 3.2.1. b) shall not apply to:
- a) a vessel operating in an access lane or a reserved area for the purpose for which the access lane or reserved area was declared;
 - b) a vessel operating in accordance with a speed uplifting established under
 - i) Schedules 1 and 2 (Location Specific Information) of these bylaws.

- ii) Clause 3.5, 3.8 or 3.9 of these bylaws
 - c) a vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
 - d) a craft training for or participating in competitive rowing or paddling; or
 - e) a tug, pilot vessel, Harbourmaster vessel, emergency response craft or police vessel when the vessel's duties cannot be performed in compliance with this clause.
- 3.2.7 Notwithstanding sub-clauses 3.2.1– 3.2.5, every person who propels or navigates any vessel must ensure that its wake does not cause unnecessary danger or risk of damage to other vessels, persons or structures.
- 3.2.8 Clauses 3.2.1 and 3.2.2 shall not apply to a rescue craft operated by members of Surf Lifesaving New Zealand or Hawke's Bay Coastguard, while undertaking rescue operations or while it is being operated under supervision in accordance with an inflatable rescue boat training programme approved by the Director or a Coastguard training programme.

3.3 LOOKOUTS ON VESSEL USED FOR WATER SKIING AND TOWING

- 3.3.1 No person in charge of a vessel shall use it to tow any person at a speed exceeding 5 knots unless at least one other person is on board who is -
- a) 10 years of age or older; and
 - b) responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.
- 3.3.2 No person shall cause himself or herself to be towed by any vessel at a speed exceeding 5 knots unless at least one other person is on board who is –
- a) 10 years of age or older; and
 - b) responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.

Advisory Note – '3 to Ski' should always be the case.

3.4 WATER SKIING OR TOWING BETWEEN SUNSET AND SUNRISE

- 3.4.1 No person shall operate, between sunset and sunrise, a vessel that is towing any person on water skis, an aquaplane, surfboard, or similar object, or who is barefoot skiing, or who is on a paraglider or similar object.

3.4.2 No person may cause himself or herself to be towed in the circumstances described in clause 3.4.1.

3.5 ACCESS LANES

3.5.1 Hawke's Bay Regional Council may, from time to time and by Public Notice, declare that a specified area or areas of any harbour shall be an access lane for the purpose of high-speed access to and from the shore.

3.6 CONDUCT IN ACCESS LANES

3.6.1 No person shall propel, navigate, or manoeuvre a vessel in an access lane for the purpose for which it is declared except by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.

3.6.2 No person shall:

- a) while being towed by a vessel in an access lane, cause himself or herself or any water ski, aquaplane or other similar object, on or by which he or she is being towed; or
- b) cause any object that is being towed by a vessel in an access lane to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.

3.6.3 No person within an access lane shall proceed in a manner that is dangerous in relation to any vessel or other person in the access lane.

3.6.4 No person shall obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.

3.6.5 If one or more persons are using an access lane for the purpose for which it is declared, no person may enter, remain in or use the lane for any other purpose.

3.6.6 The access lanes to which this bylaw applies are those prescribed in Schedule 1(Location Specific Information).

3.7 MARKING OF ACCESS LANES

3.7.1 Every access lane must be demarcated by:

- a) orange posts with horizontal black bands on shore; and
- b) if the access lane is marked at its outer edge, it shall be marked by orange buoys with black bands; and
- c) an adequate sign or signs in the vicinity of the access lane that declare the purpose of that lane.

3.8 RESERVED AREAS

3.8.1 The Council, on application or of its own mind, may from time to time, by Public Notice, and in the interests of navigational safety, reserve any specified area for a specific purpose. Such notification may for the purpose of hydrometric surveys be conducted by the Council and consist of signs erected at all access points on the length of the river to be surveyed.

3.8.2 A reservation under this bylaw may be made on such conditions, and for such period or periods, as Council may specify in the notice.

3.8.3 Every area that is reserved under this bylaw shall be indicated by notice boards that are prominently displayed on the land at the extremities of the area.

3.9 RESERVED AREAS FOR SPECIAL EVENTS

3.9.1 Any person intending to conduct a race, speed trial, competition or other organized water activity in any area to which this Bylaw applies may apply to the Harbourmaster to:

- a) temporarily suspend the application of Clause 3.2 in part or in total in that area for the purposes of facilitating the event.
- b) temporarily reserve the area for the purpose of that activity.

3.9.2 Where the Harbourmaster is satisfied that the application may be granted without endangering the public, he or she may grant the application accordingly, for a period not exceeding 10 days and on such conditions as he or she may specify.

3.9.3 No grant of an application shall have effect unless, not less than 7 days nor more than 14 days before the commencement of the activity, a public notice is given specifying the period of the activity and details of the suspension or reserved area.

3.9.4 When for any reason the provisions of Clause 3.9.3 cannot be complied with, the person organising the specified water activity shall provide to the Harbourmaster in

writing, as early as possible prior to the commencement of the event, a detailed plan of how the area is to be managed during the event. The Harbourmaster may grant the application if satisfied that the management plan provides adequate protection for the public.

- 3.9.5 The Council may recover, from the applicant, all actual and reasonable costs associated with the application, including any monitoring and advertising.

3.10 CONDUCT IN RESERVED AREAS

- 3.10.1 No person may obstruct any other person while that other person is using a reserved area for the purpose for which it is reserved.
- 3.10.2 If any person is using a reserved area for the purpose for which it is reserved, no other person shall enter the reserved area other than to use it for the purpose for which it is reserved.
- 3.10.3 Nothing in Clause 3.10.1 or 3.10.2 prohibits the use of emergency response craft within a reserved area.
- 3.10.4 The reserved areas to which these bylaws apply are those prescribed in Schedules 1 and 2 (Location Specific Information), or those notified in accordance with Clauses 3.8.1 or 3.9.3.

3.11 MARKING OF RESERVED AREAS

- 3.11.1 Adequate signs shall be provided in the vicinity of a reserved area that:
- a) define the area; and
 - b) declare the purpose for which the area has been reserved.
- 3.11.2 If the area is demarcated on shore, it is marked by black posts with white horizontal bands.
- 3.11.3 If the reserved area is marked at sea it is marked by black buoys with white bands.
- 3.11.4 Nothing in this Clause applies to reserved areas for special events made in accordance with Clause 3.9.

3.12 COLLISION PREVENTION

- 3.12.1 No person shall operate any vessel in breach of Maritime Rules Part 22 (Collision Prevention), made under the Act.
- 3.12.2 Every person commits an offence against this bylaw, who being required by an Enforcement Officer to do anything under clause 3.12.1 of this bylaw, fails to comply with that requirement as soon as is reasonably possible.

3.13 DUTY OF MASTER OF A VESSEL UNDER 500 GROSS TONNAGE

3.13.1 The Master of a vessel under 500 gross tonnage must not allow the vessel to impede the navigation of any vessel of 500 gross tonnage or more when that vessel is navigating with a pilot on board, being led by a pilot, or being navigated by a Pilot Exempt Master within the Napier Pilotage Area (as prescribed in Map 1.4 Schedule 1).

3.14 MOVING PROHIBITED ZONE

3.14.1 A moving prohibited zone extending to 100m astern and to each side of a vessel, and continued at such width to 500m ahead shall exist around any vessel of 500 gross tonnage or greater, when that vessel is under pilotage within the Napier Pilotage Area.

3.14.2 The Master or person in charge of a vessel under 500 gross tonnage shall not navigate their vessel within the moving prohibited zone of any vessel under pilotage within the Napier Pilotage Area.

3.14.3 Clause 3.14.1 does not relieve the Master of a vessel of 500 gross tonnage or greater, of the duty to comply with the provisions of Maritime Rule Part 22 (Collision Prevention), made under the Act, other than when navigating within the provisions of Clause 3.13.1.

3.14.4 The provisions of clause 3.14.2 shall not apply to a vessel having prior written authority from the Harbourmaster to enter such zone.

3.15 DIVE OPERATIONS

3.15.1 The Master of every vessel from which dive operations are in progress must ensure that flag A is displayed in such a manner that it can be clearly identified by the watch keeper of another vessel at a distance in excess of 200 metres.

3.15.2 Every person diving from a vessel must ensure that flag A is displayed in such a manner that it can be clearly identified by the watchkeeper of another vessel at a distance of 200 metres.

4. TANKERS, HAZARDOUS CARGOES, HAZARDOUS WORKS AND DANGEROUS MATERIALS

4.1 VESSELS CARRYING EXPLOSIVES

- 4.1.1 The Master of any vessel in any port, harbour, roadstead, or anchorage having on board or intending to load explosives must hoist on the ship the flag B of the International Code by day and a red light by night.
- 4.1.2 The Master of any vessel in any port, harbour, roadstead or anchorage, or the pilot, must not allow that vessel to approach within 200 metres of any other vessel that is carrying or loading explosives, except:
- a) with the permission of the Harbourmaster; or
 - b) for the purpose of loading or unloading that other vessel; or
 - c) for the purpose of rendering assistance to that other vessel in an emergency.
- 4.1.3 The Master of any vessel carrying explosives in any port, harbour, roadstead, or anchorage, or the pilot, must not allow that vessel to approach within 200 metres of any other vessel, except:
- a) with the permission of the Harbourmaster; or
 - b) for the purpose of loading or unloading that other vessel; or
 - c) for the purpose of rendering assistance to that other vessel in an emergency.
- 4.1.4 Nothing in Clause 4.1.1, 4.1.2 and 4.1.3 applies to any vessel which:
- a) is carrying not more than 27 kilograms of explosives; or
 - b) is carrying no explosives other than explosives of Class 1.4S as defined in the IMDG Code or fireworks of Class 1.3G, 1.4G and 1.4S as defined in the IMDG Code.

4.2 SIGNALS TO BE DISPLAYED BY OIL TANKERS

- 4.2.1 On or immediately before the arrival in port of any vessel carrying bulk oil cargo, and so long as the vessel remains in port, the master must display by day a red Flag B of the International Code of Signals, and by night a red light at the masthead or where it can best be seen from all directions.

4.3 DUTIES OF MASTER WHILE TANKER IS IN PORT

- 4.3.1 While in port, the Master of an oil tanker must operate in accordance with the current edition of the International Safety Guide for Oil Tankers and Terminals (ISGOTT).

4.3.2 The Master must:

- a) berth or moor the tanker only at such wharf or place as specified for bulk oil discharges, or as otherwise permitted in writing by the Harbourmaster; and
- b) keep the tanks containing Class 3 packing groups I and II oil cargo securely closed, except when opened for loading or discharging; and
- c) in the case of a vessel carrying a cargo of bulk oil, unless exempted by the Harbourmaster, ensure that sufficient motive power is available at all times to enable the vessel to be moved from the berth in case of fire or other emergency.

4.4 OIL TANKERS NOT TO LIE CLOSE TO OTHER VESSELS

- 4.4.1 The Master of a tanker must ensure that, except for the purpose of transshipment, the tanker does not lie within 30 metres of another vessel, unless the consent of the Harbourmaster has first been obtained in writing.

4.5 HOT WORK OPERATIONS

- 4.5.1 Within the Napier Pilotage Area, the master of every vessel on board which, or on the hull of which, it is proposed to carry out welding or flame-cutting operations in or from any position must obtain a Hot Work Permit no less than two hours before commencing the work.
- 4.5.2 The Master of the vessel must ensure that, before any welding operations are commenced, precautions are taken for the detection, prevention, and extinguishing of fire on board vessel or elsewhere during the welding operations and that the requirements of the Hot Work Permit are met. Provision must be made for the continuance of the precautions until the operations are completed.
- 4.5.3 Despite clauses 4.5.1 and 4.5.2, the Harbourmaster may exempt from compliance with those provisions the Master of a vessel lying at any vessel-repairing establishment.
- 4.5.4 If in any case the Harbourmaster is not satisfied that adequate precautions have been taken, the Harbourmaster may forbid the operations to be commenced or continued until he or she is so satisfied or has caused such precautions to be taken as he or she thinks necessary.

4.6 LOADING OR DISCHARGE OF CARGO

- 4.6.1 No person shall discharge, drop, cause or allow to be discharged or dropped, into the Regions navigable waters any cargo or anything from a vessel, wharf or land that would or may constitute a danger to navigational safety.
- 4.6.2 Any person who discharges, drops, causes or allows to be discharged, any cargo or any other material into Hawke's Bay Regional Council navigable waters that would or may constitute a danger to navigation safety shall be liable for the cost of removal.
- 4.6.3 Any person handling logs on shore or loading logs onto a vessel in the Port of Napier Limited Breakwater Harbour shall monitor the operation and immediately identify any logs lost into the water and track them until they have been removed.
- 4.6.4 Any person handling or loading logs in the Port of Napier Limited Breakwater Harbour must advise Port of Napier Limited Breakwater Harbour Security and the Harbourmaster immediately any logs are lost into the water and again when the logs have been recovered.

4.7 BULK OIL DISCHARGES

- 4.7.1 Bulk oil discharges are permitted only at such wharf or place as specified for bulk oil discharges, or as otherwise permitted in writing by the Harbourmaster.
- 4.7.2 Diesel oil may be transferred at all locations within Port of Napier Ltd, Napier Inner Harbour and other coastal locations providing that the operators adhere to their Site Marine Oil Spill (Tier 1) Contingency Plan, as required under Marine Protection Rule Part 130B.

(previously in Bylaws as Schedule 3)

5. ADMINISTRATIVE MATTERS

5.1 SUSPENSIONS AND EXEMPTIONS FROM THESE BYLAWS

5.1.1 The Council may, of its own accord or on application by any person, suspend any provision of this bylaw or exempt any activity from any provision of this bylaw.

5.1.2 The suspension or exemption may be subject to conditions and have effect for the period of time that the Council considers appropriate. Any suspension or exemption made under this clause must be notified to all interested persons as determined by the Council.

5.2 APPLICATION TO MASTER/OWNER

5.2.1 Where any clause in this bylaw imposes an obligation or duty on the Master of any vessel, that obligation or duty must, in the case of a vessel that has no master, be performed or carried out by the owner.

5.2.2 Where any clause of this bylaw imposes an obligation or duty on both the Master and the owner of a vessel, then, if that clause is not complied with, the Master and the owner are deemed severally to have committed an offence against these bylaws. If either the Master or the owner complies with any such clause then, for the purposes of this bylaw, compliance by one is deemed to be compliance by the other.

5.3 VESSELS TO BE LICENCED

5.3.1 No person shall operate a commercial vessel for hire or reward that is not subject to Maritime Rules, unless a licence, known as Navigation Safety Licence, has been authorised in writing by the Harbourmaster.

5.3.2 The Harbourmaster may issue a licence in respect of clause 5.3.1 if, in the opinion of the Harbourmaster, the operation will not diminish the level of safety for other activities in the vicinity, or cause congestion or jostling for position or other unsafe practices, at points of embarkment/ disembarkment or at any place en route. Where the Harbour Master considers there to be navigational safety matters that are not addressed by the Safe Ship Management system, the Harbourmaster can require a Navigation Safety Licence to be held by the operator.

5.3.3 No person shall operate vessel granted a Navigation Safety Licence while that licence is temporarily suspended by the Harbourmaster in terms of clause 5.3.6.

5.3.4 The Harbourmaster may, subject to the conditions specified in clause 5.3.8, grant a Navigation Safety Licence to a vessel to which clause 5.3.1 and 5.3.2. applies, which shall be renewed annually.

5.3.5 Every Navigation Safety Licence issued by the Harbourmaster shall apply only to that vessel and operator(s) named in the licence, and shall be available for inspection at any time by the Harbourmaster, or Enforcement Officers, or any prospective client of the operation.

5.3.6 The Harbourmaster may temporarily suspend or cancel a Navigation Safety Licence for such time as he or she considers necessary where, in the opinion of the Harbourmaster, the conditions of the licence have been breached.

5.3.7 A licence may be cancelled if the conditions of that licence are breached. There will be no refund of fees if a licence is cancelled.

5.3.8 The terms and conditions of any Navigation Safety Licence issued by the Harbourmaster may include, but are not limited to:

- a) defining points of embarkment/disembarkment;
- b) defining the area or route of operations;
- c) limiting the number of passengers or quantity of freight;
- d) any limitations in respect of weather or operating hours;
- e) any requirements for rescue craft;
- f) any requirements for safety equipment;
- g) the level of instruction to be given in charge of the vessel;
- h) the qualifications required by the person in charge of the vessel;
- i) defining the flow of water as required where applicable.

5.3.9 The fees for a Navigation Safety Licence are as follows:

- a) vessels under 6 metres \$100.00 per operation/per annum plus actual and reasonable costs.
- b) vessels over 6 metres \$100.00 per vessel/per annum plus actual and reasonable costs.
- c) kayaking, paddle boarding and other similar enterprises \$100.00 per operation/per annum plus actual and reasonable costs of audits/inspections.
- d) commercial activities \$100.00 per operation/ per annum plus actual and reasonable costs of audits and inspections.
- e) Goods and Services tax (GST) will be added to these charges.

5.3.10 An application form for a Navigation Safety Licence can be obtained by emailing harbourmaster@hbrc.govt.nz.

5.4 INFRINGEMENT FEES AND CHARGES

5.4.1 Fees and Charges prescribed from time to time by the Council through the Annual Plan process for functions undertaken by the Council under this bylaw shall be paid to the Council on demand. The Council may by Special Order Bylaw process, amend these Bylaws.

5.4.1 AUTHORITY TO ISSUE INFRINGEMENT NOTICES

5.4.2 Harbourmasters, Deputy Harbourmasters, authorised enforcement officers, and police officers have the authority to issue an infringement notice for offences against this Bylaw.

5.4.3 An infringement notice may be served –

- a) by delivering it, or a copy of it, personally to the person alleged to have committed the infringement offence; or
- b) by sending it, or a copy of it, by post, addressed to the person at his or her last known place of residence or business or postal address.

5.4.4 Infringement Fees

Provision	Description of offence	Fee \$
cl 2.2.1	Failing to provide sufficient and accessible personal flotation devices on recreational craft when in use	300
cl.2.2.2	Failing to wear lifejackets at all times on craft of 6 metres or less and all paddle craft when underway or preparing to become underway.	300
cl 2.2.7	Failing to ensure persons on board recreational craft wear personal flotation devices in situations of danger or risk	300
cl 2.3.1	Swimming, jumping, diving, or other activities within certain areas	100
cl 2.4.1	Operating vessel's propulsion system at wharf or ramp in a way that may damage property, scour waterway bed, or injure person	100
cl 2.4.2	Master of commercial vessel failing to comply with requirements relating to testing vessel's propulsion system	100
cl 2.5.1	Failing to keep anchored or moored vessel in seaworthy condition	200
cl 2.6.1	Impeding seaplane when it is landing or taking off	200
cl 2.7.1	Failing to adequately anchor or moor vessel in navigable waters	200

Provision	Description of offence	Fee \$
cl 2.7.2	Cutting, breaking, or destroying vessel's mooring or fastening	500
cl 2.8.1	Anchoring or mooring in prohibited anchorage	200
cl 2.8.4	Anchoring and impeding the passage of a vessel constrained by draft/manoeuvrability	200
cl 2.9.1	Obstructing navigation of any waterway or access to certain places	200
cl 2.9.2	Placing obstruction in any waters that is liable to restrict navigation or cause loss of life, injury, or damage	300
cl 2.9.3	Leaving equipment and other things extended over side of vessel so as to cause hazard	200
cl 2.11.1	Failing to notify collision, accident, or other matters to Harbour Master as required	200
cl 2.12.1	Tying up to navigation aid without authorisation	100
cl 2.22.2	Damaging, removing, defacing, or interfering with navigation aid or warning erected or authorised by Harbour Master	500
cl 2.12.4	Erecting, maintaining, or displaying without permission beacon, buoy, or other device that may be used as or mistaken for navigation aid	200
cl 2.13.1	Fitting or using non-prescribed sound or light signals without permission of Harbour Master	100
cl 2.15.1	Failure to enhance visibility of kayak and paddle craft	100
cl 2.16.1	Failure to mark vessel with identifying name or number.	200
cl 3.1.2	Owner allowing person under 15 years to operate powered vessel capable of exceeding 10 knots unless person is under direct supervision of person over 15 years who is within immediate reach of controls	200
cl 3.2.1	Exceeding speed limit in certain circumstances	200
cl 3.2.2	Propelling or navigating vessel at more than 5 knots while person has part of his or her body extending from vessel	200
cl 3.2.3	Allowing oneself to be towed by vessel at speed exceeding 5 knots in certain circumstances	200

Provision	Description of offence	Fee \$
cl 3.2.4	Person in charge of vessel continuing to tow person after person being towed drops water ski or similar object	200
cl 3.3.1	Towing person at speed in excess of 5 knots without person of appropriate age on board responsible for notifying mishaps	200
cl 3.3.2	Allowing oneself to be towed at speed in excess of 5 knots without person of appropriate age on board responsible for notifying mishaps	200
cl 3.4.1	Operating vessel towing person water skiing between sunset and sunrise	200
cl 3.4.2	Allowing oneself to be towed water skiing by vessel between sunset and sunrise	200
cl 3.6.1	Person propelling, navigating, or manoeuvring vessel in access lane failing to take most direct starboard route through access lane	100
cl 3.6.2	Person being towed through access lane causing himself or herself to travel other than by most direct route on starboard side of vessel	100
cl 3.6.3	Proceeding in access lane in manner that is dangerous to any person or vessel in access lane	200
cl 3.6.4	Obstructing another person using access lane	100
cl 3.6.5	Entering, remaining in, or using access lane for purpose other than purpose for which declared, while other persons in access lane for purpose for which it was declared	100
cl 3.10.1	Obstructing person using reserved area for purpose for which it is reserved	200
cl 3.12.1	Operating vessel in breach of Maritime Rules Part 22 (Collision Prevention)	200
cl 3.12.2	Failing to comply with the directions of an Enforcement Officer	200
cl 3.13.1	Master of vessel under 500 gross tonnage impeding navigation of vessel of 500 gross tonnage or more under pilotage in Napier pilotage area	200
cl 3.14.2	Navigating vessel under 500 gross tonnage within moving prohibited zone of vessel under pilotage in Napier pilotage area	200

Provision	Description of offence	Fee \$
cl 3.14.3	Operating vessel in breach of Maritime Rule part 22 (Collision Prevention)	200
cl 3.15.1	Failing to display appropriate flag while diving operations in progress	200
cl 3.15.2	Diving without ensuring that appropriate flag is displayed	200
cl 4.1.1	Having on board or intending to load explosives without hoisting appropriate flag or light	200
cl 4.3	Master's failure to comply with prescribed duties while a tanker is in port.	500
cl 4.5.1	Failing to obtain hot work permit as required	200
cl 4.5.2	Failing to take certain precautions before welding operations commence	200
cl 4.6.3	Failure to comply with requirements when cargo or anything enters HBRC waters	300
cl 4.6.4	Failure to notify Security and Harbourmaster when logs lost into water.	300
cl 5.3.1	Operating vessel for hire or reward without commercial vessel licence if vessel not subject to maritime rules under Maritime Transport Act 1994	200
Sch 1.4.1	Failing to comply with certain navigational requirements while in Napier pilotage area	200
Sch 1.5 c)	Entering, remaining in, or using area designated for surfriding for another purpose	100
Sch 1.5 d)	Failing to comply with wave rules in surfriding reserved area	100
Sch 1.5 e)	Bathing in reserved area if not necessary as part of activity for which area is reserved	100
Sch 1.5 f)	Anchoring vessel or setting net, line, or crayfish pots in designated access lane, reserved area, inner harbour, or harbour's approach channel	200
Sch 1.5 g)	Unauthorised powered vessel in the Ahuriri Estuary upstream of Pandora Bridge	100

Provision	Description of offence	Fee \$
Sch 1.5 h)	Unauthorised air activities in the Napier pilotage area	100
Sch 1.5 i)	Entering bathing reserved area with motorised vessel	100
Sch 1.6.1	Failing to comply with requirements relating to entering, moving within, or leaving breakwater harbour	200
Sch 1.6.2	Anchoring vessel or setting net, line, or crayfish pots in breakwater harbour or breakwater harbour approach channel	200
Sch 2.1	Propelling or navigating vessel at speed exceeding 5 knots within 5 metres of Wairoa River bank	100
Sch 2.3 (Area C)	Failing to comply with speed restrictions or not travelling in an anticlockwise direction in Ngaruroro and Clive Rivers	200
Sch 2.3 (Area D)	Using motorised vessel or exceeding speed limit in Clive River upstream of Clive River Bridge to 75 metres downstream of bridge.	100
Sch 2.3 (Area E)	Exceeding speed restrictions in Ngaruroro River in areas not covered by uplifting.	100
Sch 2.3 (Area F)	Exceeding speed restrictions in Ngaruroro River during duck shooting season or whitebaiting season	100
Sch 2.4 b)	Vessel entering bathing reserved area	100
Sch 2.4 c)	Jet ski operating in prohibited area	100
Sch 2.5	Vessel entering bathing and surfing reserved area	100
Sch 2.6	Person who is permitted to propel or navigate vessel at speed exceeding 5 knots doing so in manner likely to endanger or unduly annoy other water users	200
Sch 2.7	Person in charge of vessel on river— failing to keep to starboard or to give way to vessel coming downstream: operating vessel in unsafe river and weather conditions	300

SCHEDULE 1: COASTAL WATERS – LOCATION SPECIFIC INFORMATION

Location specific schedules and maps for speed up-liftings, reserved areas and access lanes in coastal waters and associated harbours have been prepared for the following areas (from north to south).

Any clauses contained in these schedules shall be read in conjunction with all other clauses in this bylaw.

S1.1 WHANGAWEHI

The following provisions apply to Whangawehi:

- (a) an access lane has been designated for the launching and operation of powered vessel as shown in Map 1.1.



Map 1.1 Whangawehi Beach

S1.2 MAHIA BEACH

The following provisions apply to Mahia Beach:

- a) An access lane has been designated for the launching and operation of powered vessels as shown in Map 1.2, except that no person may propel or navigate a vessel (including a vessel towing a person or some object) at a proper speed exceeding 5 knots).

Map 1.2 Mahia Beach



S1.3 WAIKOKOPU

The following provisions apply to Waikokopu:

- a) an access lane has been designated for the launching and operation of powered vessel as shown in Map 1.3.

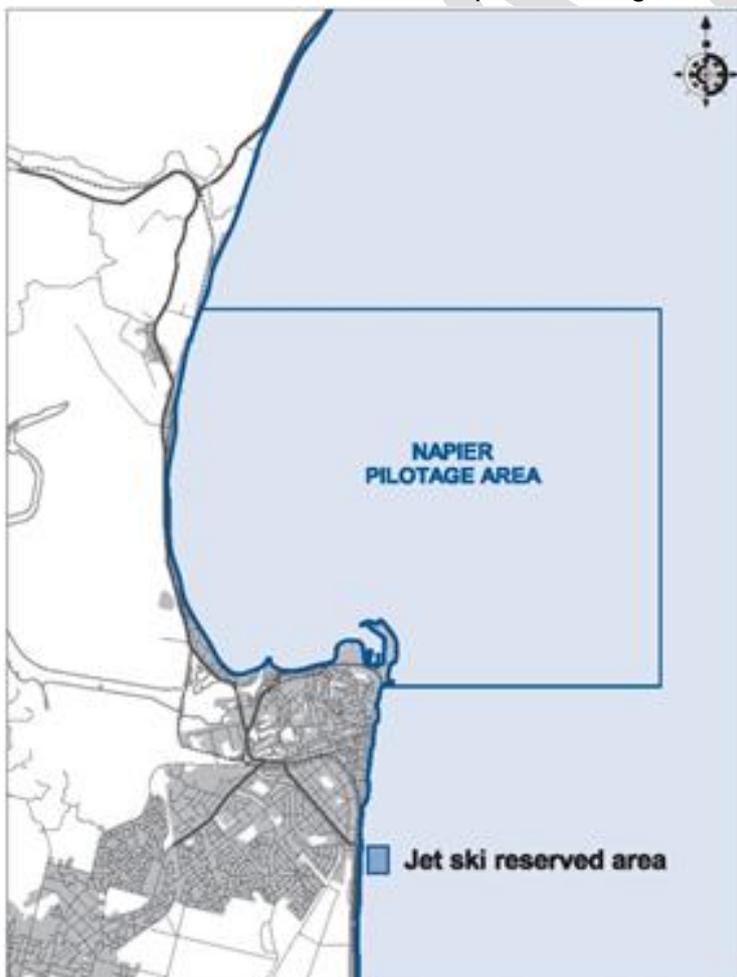
Map 1.3 Waikokopu

S1.4 NAPIER PILOTAGE AREA (as defined in Chart NZ 5612, Napier Roads)

The area comprising all port waters between latitudes 39°25'S and 39°29'S to W of longitude 176°59'E.

S1.4.1 General directions for navigating in Napier Pilotage Area as shown in Map 1.4:

- a) The Master shall ensure that while within Napier Pilotage Area:
 - i) automatic-steering “pilot” devices are not used, unless a helmsman is standing by in the immediate vicinity of the helm or wheel, otherwise the vessel is to be in the hand-steering mode; and
 - ii) main engines are immediately available for reducing speed, stopping or going astern at all times without delay; and
 - (iii) anchors are immediately available for use in an emergency, and capable of being used without power; and
 - (iv) all information from aids to navigation and charts is fully monitored.
- b) While within Napier Pilotage Area all aids to navigation on board vessels, including but not limited to A.I.S, radar and depth recording devices, are to be in continuous operation and fully utilised.



- c) The number of persons on the bridge of the vessel shall be sufficient to enable compliance with sub clause a)i).

S1.4.2 Duties of persons in charge of motor boats, yachts, launches, etc within Napier Pilotage Area

- a) The Master of every vessel under 500 gross tons must not impede the navigation of any vessel of 500 gross tonnage or more when that vessel is navigating under pilotage within the Napier Pilotage Area.

S1.5 WESTSHORE, INNER HARBOUR, AHURIRI & BATTERY ROAD BEACH

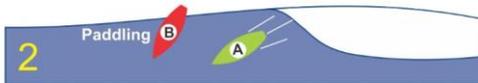
The following provisions apply to the Westshore/Inner Harbour/Ahuriri and Battery Road Beach areas:

- a) Reserved areas have been designated for the operation of personal watercraft and swimming as shown in Map 1.5.
- b) Access lanes have been designated for the launching and operation of sail boarders as shown in Map 1.5.
- c) Reserved areas have been designated for surf-riding as shown in Map 1.5 (see surf-riding definition *page 9*). If any person is using the surf-riding reserved area for the purpose for which it is reserved, no person may enter, remain in or use the area for any other purpose.
- d) Users of the Surf-riding Reserved Area shall adhere with the Wave Rules set out on page 42.
- e) No person shall bathe in the Reserved Areas except where the activity is a necessary part of the activity for which the area is reserved, or the area is not being used for the activity for which the area is reserved.
- f) There shall be no anchoring, set nets, set lines or crayfish pots in any designated access lane or reserved areas or the Inner Harbour and its Approach Channel as shown in Map 1.5 except as provided in clause 2.7.5.
- g) There shall be no powered vessels in the Ahuriri Estuary upstream of the Pandora Bridge as shown in Map 1.5, except as authorised in the Regional Coastal Plan.
- h) There shall be no kite surfing, paragliding or other activity involving the presence of people/equipment in the air, in the Napier Pilotage Area as shown in Map 1.5, unless approved by the Napier Air Traffic Control.
- i) The area designated at Battery Road Beach as shown on Map 1.5 is reserved for swimming only. Motorised vessels are not permitted to enter the area between the buoys and the shore at any time, unless authorised by the Harbourmaster or an Enforcement officer.

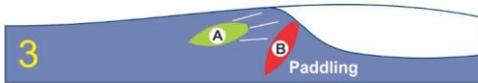
WAVE RULES



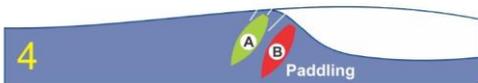
1 Surfer A is nearer the shoulder and has right of way. B must give way to A. If B does catch the wave he/she is "DROPPING IN" on surfer A.



2 Surfer A has right of way. B must give way to A who has already caught the wave.



3 Surfer B is not entitled to catch the wave that is already caught and being ridden by surfer A.



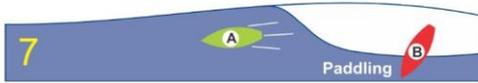
4 Surfer A, having already caught the wave, has right of way over surfer B.



5 Surfer B's progress toward the unbroken wall has halted. Surfer A is then entitled to take-off.



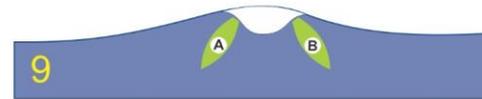
6 Surfer A, riding in or in front of the white water toward the unbroken shoulder has right of way. Surfer B must not take-off.



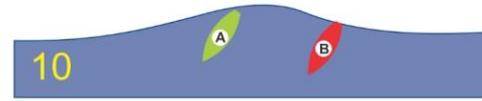
7 Surfer B, attempting to take-off in a broken section of a wave, has no entitlement to the shoulder occupied by surfer A.



8 Surfer A wipes-out. Surfer B may then catch the wave.



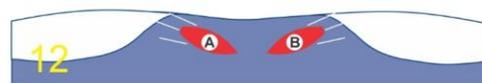
9 Surfer A has right of way on the right hand shoulder. Surfer B has right of way on the left hand shoulder.



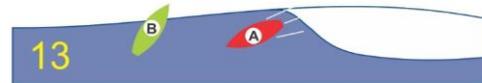
10 Where there is a clearly rideable left and right shoulder, surfer B is not entitled to cross under the peak to the shoulder already occupied by surfer A.



11 Surfer A may cross under the peak to the unoccupied right-hand shoulder. The left-hand shoulder then becomes available for other surfers to catch.



12 Both Surfers are entitled to ride the unbroken wave section but neither has right of way. Both are responsible for avoiding a collision



13 Surfer A, riding the wave, must avoid surfer B who is either stationary or paddling out. Surfer B must make every effort to remove themselves from the predominant line of the break.



Wave Rules – 1.5 d) Westshore/Ahuriri Surf-riding Area

S1.6 BREAKWATER HARBOUR

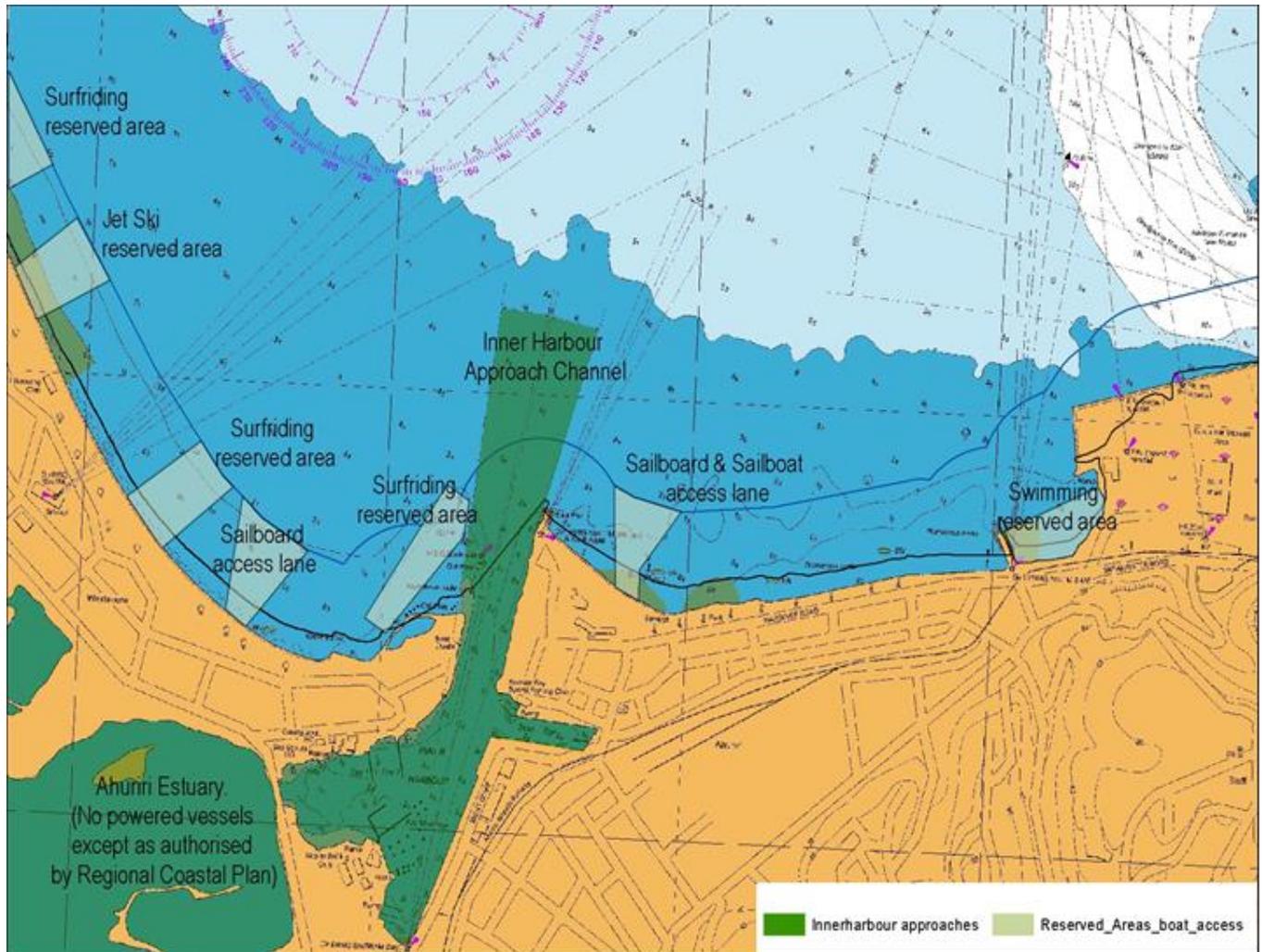
The following provisions apply to the Port of Napier Limited Breakwater Harbour:

S1.6.1 **Radio Clearance Requirements** for Breakwater Harbour and Breakwater Harbour Approach Channels.

- a) At least ten minutes prior to planned departure from, or arrival to, or shift within the Breakwater Harbour, the master of any vessel other than a piloted vessel, shall call "Napier Harbour Radio" on marine VHF radio to report their intentions, and to obtain clearance or otherwise before proceeding.
- b) The Master of any vessel, other than a piloted vessel, shall advise "Napier Harbour Radio" on marine VHF radio when secured at a different berth within the Breakwater harbour.
- c) No vessel other than those approved by Port of Napier Harbour Control shall enter the Breakwater Harbour when a vessel is manoeuvring in the harbour or the approach channel.
- d) VHF radio listening watch shall be kept by all commercial vessels on Channel 16 at all times when under way within the Napier Pilotage Area.

S1.6.2 Restricted Activities

- a) There shall be no anchoring, set nets, set lines or crayfish pots in the Breakwater Harbour and Breakwater Harbour Approach Channels as shown in Map 1.6.



Map 1.5 Westshore / Inner Harbour / Ahuriri and Battery Road Beach



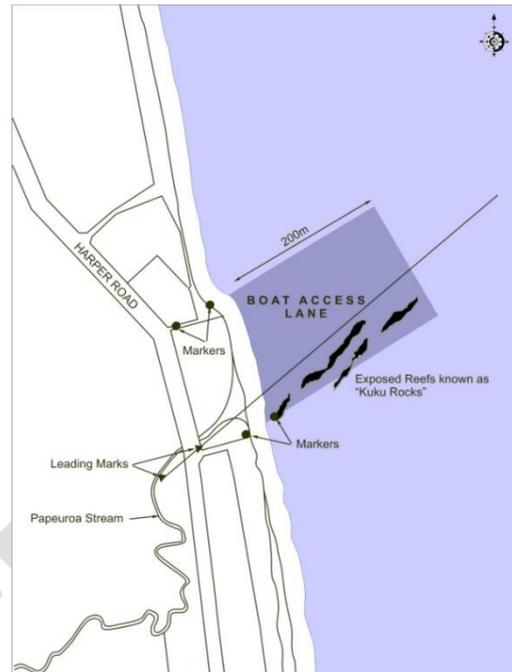
Map 1.6 Napier Breakwater Harbour and Approaches

S1.7 WAIMARAMA BEACH

The following provisions apply to Waimarama Beach:

- (a) an access lane has been designated for the launching and operation of powered vessel as shown in Map 1.7.

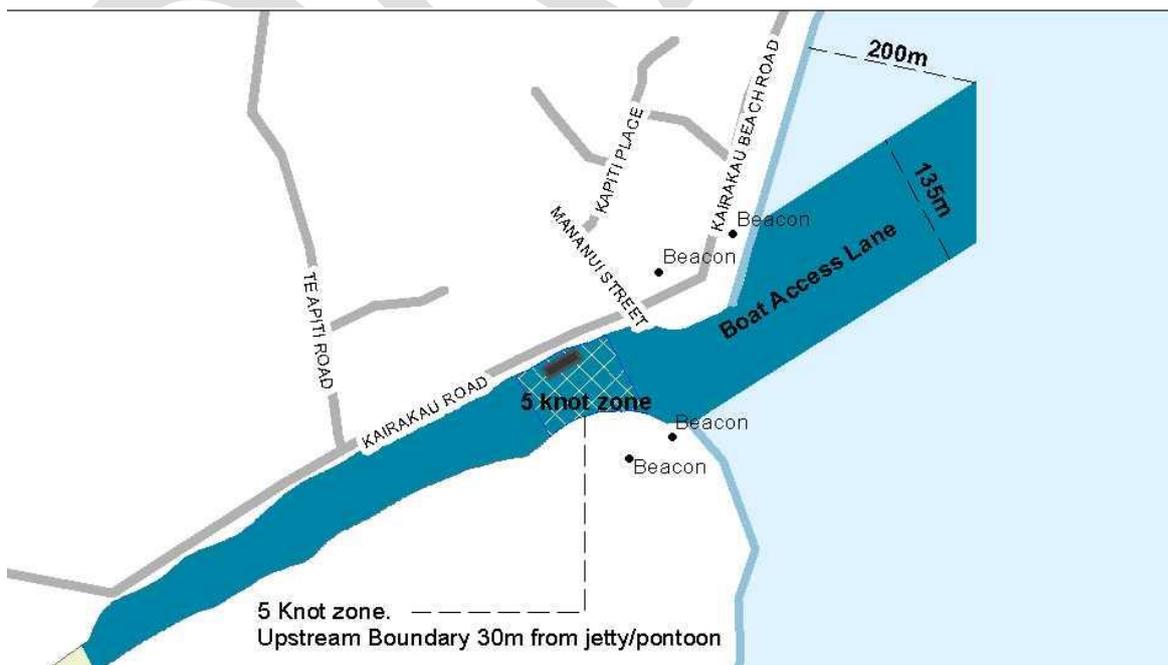
Map 1.7 Waimarama Beach



S1.8 KAIRAKAU BEACH

The following provisions apply to Kairakau Beach and Kairakau River:

- a) an access lane has been designated for the launching and operation of powered vessels as shown in Map 1.8.
- b) a 5 knot area has been designated on Kairakau River for passive water activities as shown in Map 1.8.
- c) speed restrictions have been uplifted on Kairakau River as shown in Map 1.8.



Map 1.8 Kairakau Beach

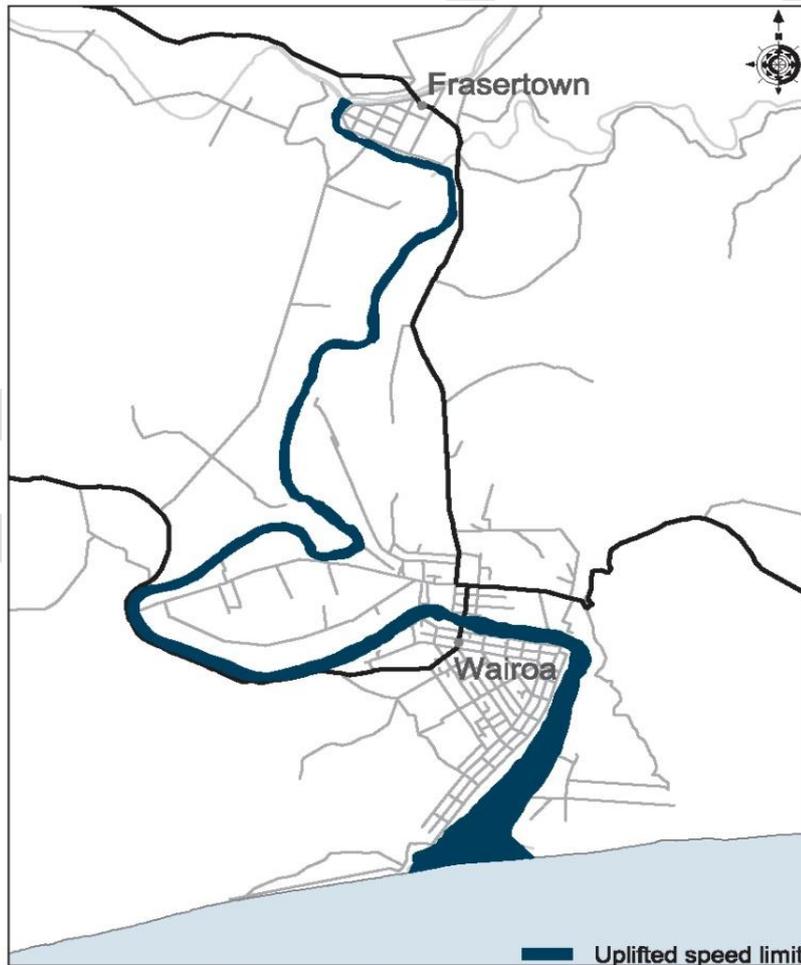
SCHEDULE 2: INLAND WATERS – LOCATION SPECIFIC INFORMATION

Location specific schedules and maps for inland waters (rivers and lakes) for speed upliftings and reserved areas have been prepared for the following areas (from north to south). Any clauses contained in these schedules shall be read in conjunction with all other clauses in this Bylaw.

S2.1 WAIROA RIVER

The following provisions apply to the Wairoa River from the confluence of the Waiau River to the sea, as shown in Map 2.1:

- a) speed restrictions specified in clause 3.2 do not apply except that:
 - i) no person may propel or navigate a vessel (including a vessel towing a person or some object) at a proper speed exceeding 5 knots within 5 metres of a river bank.



Map 2.1 Wairoa River

S2.2 MOHAKA RIVER

The following provisions apply to the Mohaka River from Pakatutu Bridge to the sea as shown in Map 2.2:

- a) speed restrictions specified in clause 3.2 do not apply.



Map 2.2 Mohaka River

S2.3 CLIVE AND NGARURORO RIVERS

Note: Rules for speed restrictions (5 knots) start on page 21.

Area A - Non- Restricted Area

The following provisions apply to the area from the confluence of the Ngaruroro River with the Clive River, and from the point at which Muddy Creek enters the Clive River to the sea as shown in Map 2.3:

- (a) speed restrictions specified in clause 3.2 do not apply.

Area B - Safety Buffer Area

The following provisions apply to the area from the point at which Muddy Creek enters the Clive River to a line 50 metres upstream of that point as shown in Map 2.3:

- a) the use of this area is primarily for the passage of vessels between Areas A and C.
- b) speed restrictions specified in clause 3.2 do not apply.

Area C - Regulated Area

The following provisions apply to the area of the Clive River from a line 50 metres upstream of the point at which Muddy Creek enters the Clive River to 75 metres downstream of the Clive River Bridge as shown in Map 2.3.

- a) speed restrictions specified in clause 3.2 do not apply between the hours of 7.30am and 8.00pm on Tuesdays, Thursdays, Fridays and Saturdays;
- b) speed restrictions specified in clause 3.2 do not apply between the hours of 12 noon and 8.00pm on Sundays;
- c) speed restrictions specified in clause 3.2 do not apply between the hours of sunrise and 5.00pm on Mondays and Wednesdays;
- d) Motorised vessels shall travel in an anti-clockwise direction, keeping the centre clear for non-motorised vessels.

Area D - Rowing Area

The following provisions apply to the area of the Clive River upstream of the Clive River Bridge and for a distance of 75 metres downstream of the bridge:

- a) A reserved area for use by non-motorised vessel solely powered manually and associated support vessel (powered or unpowered) as shown in Map 2.3.
- b) No person may propel or navigate a powered vessel in the reserved area (including a vessel towing a person or some object) at a proper speed exceeding 5 knots, except as may be required under a).

Area E - Passive Water Activity Area

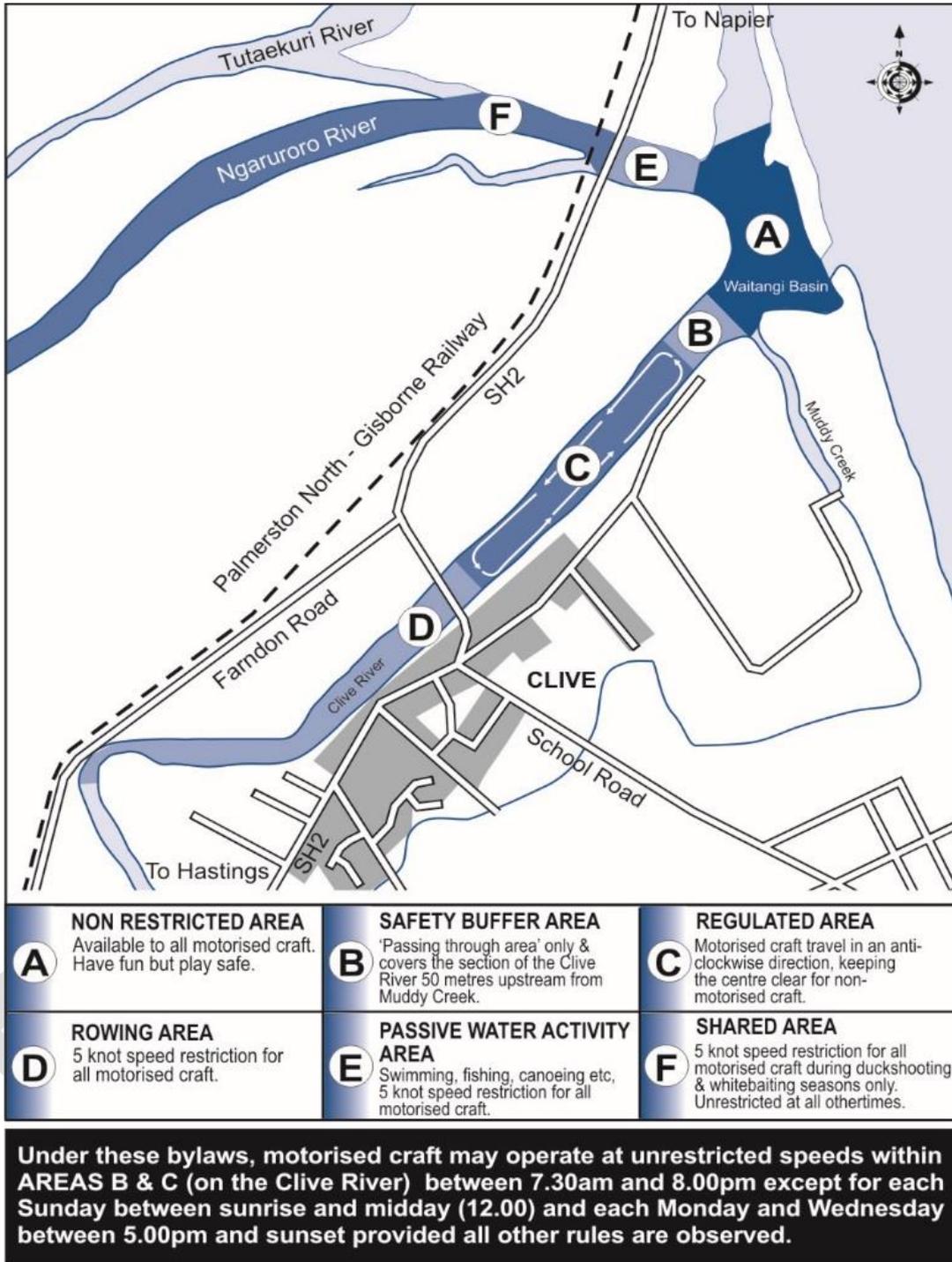
The following provisions apply to the Ngaruroro River from its confluence with the Clive River to the SH2 bridge as shown in Map 2.3:

- a) speed restrictions specified in clause 3.2 do apply.

Area F-Shared Area

The following provisions apply to the Ngaruroro River from the confluence of the Taruarau River to the SH 2 Bridge as shown in Map 2.3:

- a) speed restrictions specified in clause 3.2 do not apply except that
 - i) No person may propel or navigate a vessel (including a vessel towing a person or some object) at a proper speed exceeding 5 knots from 1 May to 30 June (duck shooting season) and 15 August to 30 November (white-baiting season) from the SH 2 bridge to the Chesterhope Bridge.



Map 2.3 Clive and Ngaruroro Rivers

S2.4 PORANGAHAU RIVER

The following provisions apply to the Porangahau River:

- (a) speed restrictions specified in clause 3.2.1 a) and b) do not apply to the Porangahau River.
- (b) a reserved area has been designated for bathing (passive water activities) from 30 metres downstream of the Beach Road bridge on the northern bank and along a line parallel with the bridge from the water's edge, to the opposite bank. Powered vessels are restricted to a speed of not more than 5 knots in this area.
- (c) water skiers towed by boat or jet ski should conduct their activities downstream from this demarcation line.
- (d) jet skiing is only permitted from 30 metres downstream of the Beach Road bridge to the sea as shown in Map 2.4.
- (e) vessels launched from the shore should travel 30 metres downstream of the Beach Road bridge before exceeding speeds in excess of 5 knots.



Map 2.4 Porangahau River

S2.5 TE PAERAHI BEACH

The following provisions apply to Te Paerahi Beach as shown on Map 2.5.

- a) An area has been designated for mixed bathing and surfing extending from a position 20 metres north of the changing sheds for a distance of 200 metres to the south and extending 200 metres out to sea from mean low water springs as shown on Map 2.5. Launching, retrieving and navigating of vessels are prohibited in this area at all times unless authorised by the Harbourmaster. Vehicles traversing this area on the beach must not exceed 5 kilometres an hour at any time.



Map 2.5 Te Paerahi Beach

S2.6 GENERAL PROVISION FOR RIVERS WITH SPEED UPLIFTINGS

Any person who is permitted to propel or navigate a vessel at a proper speed exceeding 5 knots as a result of a speed uplifting specified in Clauses 2.1 to 2.4 shall not do so in a manner that is likely to endanger or unduly annoy any person who is:

- (a) on, in or using the water; or
- (b) fishing or undertaking recreational activity in the vicinity of the vessel.

S2.7 RIVER SAFETY RULES

Any person in charge of a vessel on a river must:

- (a) ensure that the vessel keeps to the starboard (right) side of the river channel; and
- (b) if going upstream, give way to any vessel coming downstream; and
- (c) not operate the vessel unless river and weather conditions permit safe operation of the vessel.