



# AGENDA

**Ordinary meeting of the**

## **Planning and Regulatory Committee**

**Thursday 22 August 2019**

**Commencing at conclusion of ordinary Committee meeting -  
Deliberation on submissions to the Navigation Safety Bylaw  
Review**

**Council Chamber  
Civic House  
110 Trafalgar Street, Nelson**

**Pat Dougherty  
Chief Executive**

Membership: Councillor Brian McGurk (Presiding Co-Chairperson), Her Worship the Mayor Rachel Reese (Co-Chairperson), Councillors Luke Acland, Ian Barker, Bill Dahlberg, Kate Fulton, Stuart Walker and Ms Glenice Paine

Quorum: 4

Nelson City Council Disclaimer

Please note that the contents of these Council and Committee Agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision.

Guidelines for councillors attending the meeting, who are not members of the Committee, as set out in Standing Order 12.1:

- All councillors, whether or not they are members of the Committee, may attend Committee meetings
- At the discretion of the Chair, councillors who are not Committee members may speak, or ask questions about a matter.
- Only Committee members may vote on any matter before the Committee

It is good practice for both Committee members and non-Committee members to declare any interests in items on the agenda. They should withdraw from the room for discussion and voting on any of these items.

**1. Apologies**

An apology has been received from Ms G Paine

**2. Confirmation of Order of Business**

**3. Interests**

3.1 Updates to the Interests Register

3.2 Identify any conflicts of interest in the agenda

**4. Public Forum**

**5. Chairperson's Report**

**6. Confirmation of minutes**

**6 - 10**

Document number R10419

Recommendation

***That the Planning and Regulatory Committee***

- 1. Confirms the minutes of the meeting of the Planning and Regulatory Committee, held on 6 August 2019 (Attachment A2240370), as a true and correct record.***

**7. Deliberations on the proposed Navigation Safety Bylaw**

**11 - 111**

Document number R10384

Recommendation

***That the Planning and Regulatory Committee***

- 1. Receives the report Deliberations on the proposed Navigation Safety Bylaw (R10384)***

Item 6: Confirmation of minutes

***and its attachments (A2233850 and A2233942).***

Recommendation to Council

***That the Council***

***1. Approves the amendments to the Proposed Navigation Safety Bylaw shown in Attachment 1 (A2233850), noting the following changes:***

- a) Update provision 1.1 to reference the correct legislation and date of the amended Bylaw coming into force;***
- b) Change definitions in 1.3 to:***
  - refer to correct legislation (under Enforcement Officer and Harbourmaster),***
  - correct standards and terms under the Lifejacket definition,***
  - add "entity" under the Marina Supervisor definition,***
  - add a definition for Novel Craft,***
  - add stand up paddle boards to the Paddle Craft definition;***
  - amend the Recreational Vessel definition to exclude vessels used for hire or reward and include novel craft,***
  - delete stand up paddle board from the Surf Board definition, and***
  - delete "used in navigation" term under the Vessel definition;***
- c) Include an exemption in 2.5 for vessels working on or under wharves;***
- d) Require written permission from the Harbourmaster for obstructions in 2.6 a);***
- e) Amend 2.7 to ensure lifejackets or personal floatation devices are on board recreational vessels and every person on a recreational vessel or novel craft less than six metres in***



Item 6: Confirmation of minutes

***length must wear the lifejacket. Amend and simplify the exemptions to include paddle craft in shallow waters, divers wearing a wetsuit/drysuit (unless underway), people sleeping below deck at anchor and any other exemption or exclusion under Maritime Rules Part 91;***

- f) Amend wording in 2.8 and 2.9 to improve certainty;***
- g) Delete reference to speed for the lookout requirement in 2.11;***
- h) Amend 2.16 c) to require marker buoys are labelled or marked with the owner's contact details;***
- i) Amend 2.19 to include the ability of the Harbourmaster to declare specified areas of the harbour closed for navigation safety purposes;***
- j) Amend 2.20 to clarify red light use outcomes;***
- k) Change the words "in the vicinity" in 2.21 b) to "within 50 metres";***
- l) Amend 2.26 for clarity in a), include a requirement to register the vessel details except for Yachting New Zealand and affiliated clubs and when using the trailer's registration number in c), delete "non-mechanically powered" in clause d) and consequential deletion of clause e);***
- m) Add provision 2.27 to require a person in charge be identified and responsible for the safe operation of the vessel and the safety of people on board;***
- n) Add provision 2.28 to require forms of communication on board the vessel;***
- o) Add provision 2.29 on vessel load and stability;***
- p) Delete provision 3.3 on alcohol consumption;***
- q) Amend 3.11 to add that the person in charge of an unseaworthy vessel must comply with***

Item 6: Confirmation of minutes

***conditions imposed by the Harbourmaster or Marina Supervisor;***

- r) Change the word "cleaning" to "inspecting" in 3.22;***
  - s) Amend 4.1 to include grinding operations in relation to hot work permits;***
  - t) Delete duplicated provisions 4.2 c) to e) and 4.4;***
  - u) Add provision 5.7 for the cruise ship anchoring area;***
  - v) Changes to provision 6.1 to include the ability to apply for multiple events within one year in one application, to identify that on approval of the application the details of the activity will be displayed on the Council website and included in a Navigation Safety Notice and consequently delete 6.1 f);***
  - w) Add a Navigation Safety Officer position in 6.9;***
  - x) Amend maps 3,4 and 6 and add map 7;***
  - y) Amend Appendix 1 to reflect regulations;***
  - z) Delete Appendices 2 – 6 and change associated references to refer to Council's website.***
- 2. Agrees the amendments do not give rise to any implications under the New Zealand Bill of Rights Act 1990 and the amended Navigation Safety Bylaw is the most appropriate form of Bylaw; and***
  - 3. Adopts the Navigation Safety Bylaw as amended and appended to this report as Attachment 1 (A2233850); and***
  - 4. Determines that the Navigation Safety Bylaw will take effect from 1 October 2019.***



---

**Minutes of a meeting of the Planning and Regulatory Committee**

**Held in the Council Chamber, Civic House, 110 Trafalgar Street, Nelson**

**On Tuesday 6 August 2019, commencing at 9.01a.m. - to hear submissions to the Navigation Safety Bylaw Review**

---

**Present:** Councillor B McGurk (Presiding Co-Chairperson), Her Worship the Mayor Reese (Co-Chairperson), Councillors L Acland, I Barker, B Dahlberg, K Fulton and S Walker

**In Attendance:** Councillors M Courtney, M Lawrey and M Rutledge, Acting Group Manager Environmental Management (M Heale) and Governance Adviser (E Stephenson)

**Apology:** Ms G Paine

**1. Apologies**

Resolved PR/2019/033

***That the Planning and Regulatory Committee***

***1. Receives and accepts an apology from Ms G Paine.***

McGurk/Barker

Carried

**2. Confirmation of Order of Business**

There was no change to the order of business.

**3. Interests**

There were no updates to the Interests Register, and no interests with items on the agenda were declared.

**4. Public Forum**

There was no public forum.

**5. Hearing of Submissions to the Review of the Navigation Safety Bylaw 2012 (No 218)**

Document number R10396, agenda pages 4 - 49 refer.

Attendance: Councillor Fulton entered the meeting at 9.05a.m.

**5.1 Rob Greenaway #20474**

Mr Rob Greenaway spoke to his submission. He said that he felt that it was unfortunate that Councils developed navigation safety bylaws separately and that they should be done at a national level. He felt that consistency across catchment areas was sensible. Mr Greenaway questioned whether there was a structural reason that consistency could not be achieved across the top of the South and said that he felt that the Minister of Transport should be pushing this issue.

In response to questions, Mr Greenaway said that he would be nervous about making changes to the bylaw without sitting down immediately to see how Tasman and Marlborough felt about those changes. He felt that a complete review should be undertaken now. He reiterated the need for consistency.

**5.2 Waikato Regional Council - Richard Barnett - Harbourmaster #20565**

Mr Richard Barnett provided a PowerPoint presentation and spoke to the key issues of the submission, which focused on boat safety in recreational boating, particularly the wearing of life jackets, and appropriate communication devices.

Mr Barnett answered questions regarding standardisation of rules and bylaws and the wearing of life jackets. He noted the reluctance of central government to make wearing life jackets compulsory and that it was a political process.

**Attachments**

- 1 A2238829 - Richard Barnett PowerPoint presentation

**5.3 Tasman Bay Cruising Club – Andrew Harding #20569**

Mr Andrew Harding spoke to the Club's submission. He noted that he had 50 to 60 years' experience on boats, and was the Commodore of the Tasman Bay Cruising Club. Mr Harding spoke of concerns with the laying of markers for yacht racing, and said that club members were asking what the problem was and what was driving this aspect of the bylaw. He felt there had been no issues with markers, which were set in a triangle shape for two to three hours for racing and then removed. The markers were

## Item 6: Confirmation of 6 August 2019 minutes

### Planning and Regulatory Committee Minutes - 6 August 2019

easily seen, and not there overnight. He questioned why it should be necessary to report to the Harbourmaster every time they were put into the water. The Club's submission suggested an annual consultation, with the Harbourmaster being provided with the racing programme for the year, noting that the programme was weather dependent.

Mr Harding answered questions regarding the markers and clarified that the main problem was having to ask the Harbourmaster for permission to lay buoys at the time. He suggested providing a monthly programme and a weekly email to the Harbourmaster.

Attendance: Councillor Acland left the meeting at 9.34a.m.

A suggestion was made that the bylaw specify periods of time for marker buoys, with permission being required for those being there for longer than a specified period of time. It was clarified that there were a significant number of different navigation buoys as part of the international system, these were significantly different from the racing buoys.

#### 5.4 Yachting New Zealand - Ian Gardiner #20592

Mr Ian Gardiner tabled an updated submission, provided a PowerPoint presentation and spoke to the submission. He noted that Yachting New Zealand (YNZ) was supportive of:

- the wearing of lifejackets, but not when on a pontoon, suggesting the addition of '*while underway*'
- two forms of communication to be carried on vessels

YNZ was not supportive of:

- the registering of boats, as there were other systems in place
- the placing of marker buoys requiring the permission of the Harbourmaster, suggesting simplification of the wording
- the changes relating to towing

Attendance: Councillor Acland returned to the meeting at 9.43a.m.

Mr Gardiner answered questions regarding skipper discretion and the addition of the words '*while underway*', towing rules, boat length and vessel registration.

#### Attachments

- 1 A2239558 - additional tabled information
- 2 A2239085 - Ian Gardiner PowerPoint presentation

Members listed the information that they would like officers to provide to assist with deliberations. This information was circulated to officers separately.

## Item 6: Confirmation of 6 August 2019 minutes

Planning and Regulatory Committee Minutes - 6 August 2019

There being no further business the meeting ended at 9.58a.m.

Confirmed as a correct record of proceedings:

\_\_\_\_\_ Chairperson \_\_\_\_\_ Date

---

## **Deliberations on the proposed Navigation Safety Bylaw**

---

### **1. Purpose of Report**

- 1.1 To provide information to assist the Committee in deliberating on the proposed Navigation Safety Bylaw (the Bylaw).

### **2. Summary**

- 2.1 The Council needs to:
- (a) either amend the Bylaw or decide not to make changes;
  - (b) determine that any amendments to the Bylaw are within the scope of the Special Consultative Procedure; and
  - (c) set out the reasons for any decisions and convey these to submitters.

### **3. Recommendation**

***That the Planning and Regulatory Committee***

- 1. Receives the report Deliberations on the proposed Navigation Safety Bylaw (R10384) and its attachments (A2233850 and A2233942).***

Recommendation to Council

***That the Council***

- 1. Approves the amendments to the Proposed Navigation Safety Bylaw shown in Attachment 1 (A2233850), noting the following changes:***

Item 7: Deliberations on the proposed Navigation Safety Bylaw

- a) Update provision 1.1 to reference the correct legislation and date of the amended Bylaw coming into force;**
- b) Change definitions in 1.3 to:**
  - **refer to correct legislation (under Enforcement Officer and Harbourmaster),**
  - **correct standards and terms under the Lifejacket definition,**
  - **add "entity" under the Marina Supervisor definition,**
  - **add a definition for Novel Craft,**
  - **add stand up paddle boards to the Paddle Craft definition;**
  - **amend the Recreational Vessel definition to exclude vessels used for hire or reward and include novel craft,**
  - **delete stand up paddle board from the Surf Board definition, and**
  - **delete "used in navigation" term under the Vessel definition;**
- c) Include an exemption in 2.5 for vessels working on or under wharves;**
- d) Require written permission from the Harbourmaster for obstructions in 2.6 a);**
- e) Amend 2.7 to ensure lifejackets or personal floatation devices are on board recreational vessels and every person on a recreational vessel or novel craft less than six metres in length must wear the lifejacket. Amend and simplify the exemptions to include paddle craft in shallow waters, divers wearing a wetsuit/drysuit (unless underway), people sleeping below deck at anchor and any other exemption or exclusion under Maritime Rules Part 91;**
- f) Amend wording in 2.8 and 2.9 to improve certainty;**



- g) Delete reference to speed for the lookout requirement in 2.11;***
- h) Amend 2.16 c) to require marker buoys are labelled or marked with the owner's contact details;***
- i) Amend 2.19 to include the ability of the Harbourmaster to declare specified areas of the harbour closed for navigation safety purposes;***
- j) Amend 2.20 to clarify red light use outcomes;***
- k) Change the words "in the vicinity" in 2.21 b) to "within 50 metres";***
- l) Amend 2.26 for clarity in a), include a requirement to register the vessel details except for Yachting New Zealand and affiliated clubs and when using the trailer's registration number in c), delete "non-mechanically powered" in clause d) and consequential deletion of clause e);***
- m) Add provision 2.27 to require a person in charge be identified and responsible for the safe operation of the vessel and the safety of people on board;***
- n) Add provision 2.28 to require forms of communication on board the vessel;***
- o) Add provision 2.29 on vessel load and stability;***
- p) Delete provision 3.3 on alcohol consumption;***
- q) Amend 3.11 to add that the person in charge of an unseaworthy vessel must comply with conditions imposed by the Harbourmaster or Marina Supervisor;***
- r) Change the word "cleaning" to "inspecting" in 3.22;***
- s) Amend 4.1 to include grinding operations in relation to hot work permits;***

- t) Delete duplicated provisions 4.2 c) to e) and 4.4;***
  - u) Add provision 5.7 for the cruise ship anchoring area;***
  - v) Changes to provision 6.1 to include the ability to apply for multiple events within one year in one application, to identify that on approval of the application the details of the activity will be displayed on the Council website and included in a Navigation Safety Notice and consequently delete 6.1 f);***
  - w) Add a Navigation Safety Officer position in 6.9;***
  - x) Amend maps 3,4 and 6 and add map 7;***
  - y) Amend Appendix 1 to reflect regulations;***
  - z) Delete Appendices 2 – 6 and change associated references to refer to Council's website.***
- 2. Agrees the amendments do not give rise to any implications under the New Zealand Bill of Rights Act 1990 and the amended Navigation Safety Bylaw is the most appropriate form of Bylaw; and***
  - 3. Adopts the Navigation Safety Bylaw as amended and appended to this report as Attachment 1 (A2233850); and***
  - 4. Determines that the Navigation Safety Bylaw will take effect from 1 October 2019.***

#### **4. Background**

- 4.1 Section 155 of the Local Government Act 2002 (LGA) requires Council to determine whether amendment, revocation or replacement of the bylaw is the most appropriate way to address any perceived problems arising from the review and, if so, whether the proposed changes are the most appropriate form of the bylaw and give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).

## Item 7: Deliberations on the proposed Navigation Safety Bylaw

- 4.2 On 28 May 2019, the Planning and Regulatory Committee received the Navigation Safety Bylaw review report R10159. A summary of the Committee's recommendations to Council were that:
- Amendments to the Bylaw are the most appropriate way of addressing the navigation safety problems identified by the review; and
  - The proposed amendments are the most appropriate form of bylaw and do not give rise to any implications under the NZBORA; and
  - The Statement of Proposal be adopted and the special consultative procedure commence with the consultation period to run from 21 June to 24 July.
- 4.3 On 20 June 2019, the Council approved all recommendations of the Planning and Regulatory Committee.

## 5. Discussion

- 5.1 Council officers have considered whether the proposed changes give rise to any implications under the NZBORA. A bylaw is considered an appropriate way of managing a range of water based activities to minimise harm to people and property. The Navigation Safety Bylaw seeks to protect life (that is consistent with section 8 of the NZBORA) and enable the safe movement of vessels. The Bylaw controls the speed and priority of movements in areas where potential conflict and harm can occur (such as transiting through the Cut). While this could be considered a restriction of freedom of movement under section 18 of the NZBORA, the limitations are designed to restrict people's movement and behaviour as little as is reasonably required to protect life and property. The proposed limitations are therefore considered reasonable and justified under the NZBORA.
- 5.2 The proposed changes to the Bylaw were open for submissions from 21 June to 24 July 2019. Ten submissions were received. The full submissions are found in Attachment 2 (A2233942). A summary of the submissions and discussion of the issues raised follows.

### Summary of submissions

- 5.3 Three submissions support all of the proposed changes – 20391, 20433 and 20478. Mr Fletcher (20433) also identifies that:
- enforcement should be educational in the first instance;
  - questions if the placing of a marker buoy is a temporary placement and there should be a season long approval for organisations such as yacht clubs;
  - people should be encouraged to join Tasman Bay radio VHF; and

## Item 7: Deliberations on the proposed Navigation Safety Bylaw

- reasons to close areas of the harbour need to be more clearly defined to ensure the limitation is not due to commercial requirements.
- 5.4 The Harbourmasters do have an educative approach to enforcing the Bylaw and only infringe activities that have a high safety risk or are repeat offenders. Reasons to close an area of the harbour are varied but are always to prevent a potential clash of activities and to promote safety. Reasons will be given in the public notice. Other suggestions are consistent with the Harbourmasters' views.
- 5.5 Two submissions (20465 and 20474) seek that no changes be made to the Bylaw until there are national or regionally consistent rules. Mr Greenaway (20474) provides examples of inconsistencies and identifies boating destinations in the region.
- 5.6 The Harbourmasters Special Interest Group has been urging central government to change national regulations to provide consistency with current safety best practices. In the interim council bylaws are being updated when they are reviewed to better align with current safety best practices. The timing of the updating of the bylaws is varied so there will be inconsistencies until all bylaws are reviewed. It is considered better to promote a higher safety standard through the Bylaw review now rather than wait years for other bylaws and regulations to do the same.
- 5.7 The issues raised in the remaining five submissions are summarised in the table below:

Submitter #	Bylaw clause #	Issue	Outcome sought	Staff comment
<b>20445</b> <b>Diving Services NZ Ltd</b>	2.5	Exclusion zone of 50m from wharves and berthed vessels	Exemption for vessels working on wharves	Current exemptions apply to vessels assisting other vessels. Agree the exemption should also include vessels working on or under wharves
	6.4	What is the definition of significant fouling?		An existing footnote provides the definition
	2.7	Requirement for divers to wear lifejackets	Exemption to include divers wearing	Agree divers should be exempt from wearing lifejackets when

Item 7: Deliberations on the proposed Navigation Safety Bylaw

			wetsuits/ drysuits	diving but should wear life jackets while in transit or underway
<b>20461</b> <b>D Mathieson</b>		That the building next to the boat ramp be used as a Nelson Marine Safety Centre	The vacant building be used to display safety signs, fishing regulations and contact details for further marine related information. It could be a venue for safety training and be operated as a non-profit activity.	The submission does not relate to the Navigation Safety Bylaw but the suggestions can be considered by Council's facilities staff.
<b>20565</b> <b>Waikato Regional Council</b>	2.7d)	Supports the proposed change on wearing life jackets	Suggest adding the wording "while underway" so people sleeping on a small yacht at anchor will not be caught by the requirement	Agree that people sleeping below deck should not be required to wear a lifejacket but people fishing or otherwise at anchor should still be wearing their lifejacket
	2.8 – 2.16, 2.18 – 2.23, 2.26, 2.28, 3.11, 3.22, 6.1, 6.2	Support these provisions		
	3.16, 3.17, 3.20, 3.21, 6.3, 6.4	Not strictly navigation safety provisions	Would more usefully be considered under the RMA	All provisions to be reviewed once Nelson Plan and Marina licensing provisions are also reviewed
<b>20569</b> <b>Tasman Bay Cruising Club</b>	2.16	The placement of marker buoys requires permission from the harbour master	Clause c) should be split in two with clause e) only referring to d). The process for	Agree that the process to obtain permission should be clear but this information could be on our website

## Item 7: Deliberations on the proposed Navigation Safety Bylaw

			obtaining permission of the harbourmaster is included in the Bylaw to provide certainty for organisations planning events. Suggest an Aquatic licence process.	to enable more flexibility to update the process when required. Note the placement of buoys associated with an event authorised under 6.1 will be authorised through that process and does not need to have a separate authorisation under this provision as per clause d).
	6.1	Events are limited to a timeframe of 10 days and require advertising	Change 6.1 to provide for an annual Aquatic licence	Agree to clarify this clause that can apply for multiple events over a season or annual timeframe. The advertising provision can be satisfied by notices on Councils website identifying the reserved areas and the issuing of a Navigation Safety Notice. This means that clause f) enabling the recovery of advertising costs from the applicant can be deleted.
	2.21 b)	The term "vicinity" lacks definition when using sound signals for events	Define vicinity	Agree. The term "vicinity" be changed to "within 50m"
	2.7d)	Typo	issix should be "is six"	Agree.
	2.24	Need to clarify in this section the type of licence should	Change licence to vessel licence	Disagree as there is no need to create an Aquatic licence system

Item 7: Deliberations on the proposed Navigation Safety Bylaw

		Aquatic licences be utilised		with changes proposed to 6.1 as identified above.
	2.27 a) and b)	Identification of the person in charge is vague and puts undue responsibility on the person. Not consistent with the Health and Safety at work Act 2015 that holds all participants responsible for their own and others safety	Delete?	Maritime NZ rules and various other Bylaw provisions refer to a person in charge of a vessel. This provision is to emphasise those in control of the vessel should have the appropriate knowledge to ensure the safety of people on board who may not have this knowledge.
<b>20592</b> <b>Yachting NZ</b>	2.7	Generally support, suggest additional exemptions	Exempt a person below deck from wearing a lifejacket unless expressly instructed to by the person in charge of the vessel  Person in charge of the vessel can expressly authorise any person on board to not wear a lifejacket	Disagree. Not all people in charge of a vessel have had sufficient training to inform decisions on when to wear lifejackets. The weather can change without warning and already wearing the lifejacket ensures it is not forgotten when things get rough. Modern lifejackets are light and comfortable so there is no reason not to wear them (unless sleeping).
	2.26 c)	Generally support	Include Yachting NZ affiliated club's vessels identification number	Agree as long as information on the owners is shared when requested.
	2.26 e)	Exemption for identification of a mechanically	Raise the 4m to 6m	Agree, this will be consistent with

## Item 7: Deliberations on the proposed Navigation Safety Bylaw

		powered vessel less than 4m not consistent with other areas of the country		the length of non-powered vessels.
	2.16 c)	Placement of marker buoys should not impact on yacht club operations	Simplify wording to "No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigational aid and/or which may be mistaken as a navigational aid or warning, without the prior written approval of the harbourmaster."	Disagree. This effectively deletes the requirement to have the marker buoy labelled and clearly visible for those buoys that do not need the permission of the harbourmaster to place. If the buoy becomes adrift and is not labelled there is no means to identify the owner. As per clause d) yacht club operations will be authorised through provision 6.1 and do not require additional authorisation.
	2.28	Means of communication	Support the exemption clause	

## 6. Options

- 6.1 The preferred option is option 1 that includes all proposed amendments as stated in the Statement of Proposal plus additional changes in 5.7 above. Other options are to adopt the proposed Bylaw without further changes as a result of the submissions (option 2) or to keep the Bylaw unchanged (option 3).

**Option 1: Adopt the proposed amended Bylaw to include all changes as publicly notified and subject to further amendments arising from the consideration of submissions as detailed in Attachment 1 (A2233850)**

Advantages

- The amendments improve the clarity and intent of Bylaw provisions without adversely affecting safety



## Item 7: Deliberations on the proposed Navigation Safety Bylaw

	<ul style="list-style-type: none"> <li>The amendments provide practical solutions for particular activities without increasing risk</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>The public is unaware of the further amendments arising from submissions and may have submitted on them</li> </ul>
<b>Option 2: Adopt the Bylaw as proposed</b>	
Advantages	<ul style="list-style-type: none"> <li>The public is aware of all changes</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>Some clauses are not clear or practical or unnecessarily increase requirements for specific activities as identified through the submissions</li> </ul>
<b>Option 3: Decide not to change the Bylaw</b>	
Advantages	<ul style="list-style-type: none"> <li>No staff time required to amend the Bylaw</li> </ul>
Risks and Disadvantages	<ul style="list-style-type: none"> <li>Some Bylaw provisions are not fit for purpose or they remain unclear or they are not consistent with Maritime rules and national safety campaigns</li> </ul>

## 7. Conclusion

- 7.1 The recommendation is to amend the proposed Bylaw to include the changes identified in option 1 above and then adopt the amended bylaw to take effect from 1 October 2019.

## 8. Next Steps

- 8.1 In reaching a decision regarding the proposed amended Bylaw the Council needs to:
- Determine the proposed amended Bylaw is the most appropriate form of bylaw and does not give rise to any implications under the NZBORA and;
  - Set out the reasons for any decisions and convey these to submitters (section 82(1)(f) Local Government Act 2002): "That persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions..."
- 8.2 The proposed amendments to the Bylaw are all within the scope of the Special Consultative Procedure. If the Council accepts the recommended option to adopt the Bylaw with amendments then the following are presented as potential reasons for the decision:

#### Item 7: Deliberations on the proposed Navigation Safety Bylaw

- to improve consistency with current national safety campaigns and best practices;
- the additional exemptions provide practical outcomes for specific activities;
- to avoid unnecessary complication and/or duplication of processes;
- to better clarify the provisions; and
- the associated safety risk of the changes are sufficiently low.

**Author: Mandy Bishop, Manager Consents and Compliance**

#### **Attachments**

Attachment 1: A2233850 Proposed amendments to the Navigation Safety Bylaw [↓](#)

Attachment 2: A2233942 Submissions on the proposed Navigation Safety Bylaw [↓](#)

<b>Important considerations for decision making</b>
<b>1. Fit with Purpose of Local Government</b>  Navigation safety is the responsibility of regional councils and the recommendations in this report support the performance of the Harbourmaster duties to ensure public safety.
<b>2. Consistency with Community Outcomes and Council Policy</b>  Enhancing navigation safety ensures the Community Outcome of having access to a range of social, education and recreational facilities and activities namely high quality water sport activities. It also ensures the safe operation of Port activities that support our region having an innovative and sustainable economy.
<b>3. Risk</b>  Council is responsible for ensuring navigation safety on our navigable waters. There is a moderate risk in not updating and amending the Navigation Bylaw in accordance with current national provisions and safety advice. The recommendations seek to enhance safety and reduce risk to people involved in water activities. Reducing the potential for accidents also reduces the risk to the environment from pollution. The risk in amending the Navigation Bylaw as proposed is some people may resent the changes even though they are designed for their own safety.
<b>4. Financial impact</b>  The recommendations will require staff time to administer the proposed changes but this is expected to be accommodated within existing resources.
<b>5. Degree of significance and level of engagement</b>  This matter is of medium significance because proposed changes will impact on a number of recreational sea and river activities. Consultation occurred in the form of a special consultative procedure.
<b>6. Inclusion of Māori in the decision making process</b>  No engagement with Māori has been undertaken in preparing this report.
<b>7. Delegations</b>  The Planning and Regulatory Committee has the following delegations to consider  <i>Areas of Responsibility:</i>

## Item 7: Deliberations on the proposed Navigation Safety Bylaw

- *Considering maritime and harbour safety control matters*
- *Bylaws*

### *Powers to:*

- *Hear and deliberate on submissions to proposed changes to the Bylaw*

### *Powers to Recommend:*

- *The statement of proposal for Bylaw consultation*
- *Final decisions on any Bylaw changes*

Attachment 1: Proposed amendments to the Navigation Safety Bylaw 2012  
(No.218)



# NELSON CITY COUNCIL NAVIGATION SAFETY BYLAW 2012

**(No 218)**

**October ~~2012~~2019**

Date of Council passing the bylaw resolution	
The date the bylaw came into effect	1 October 2019
The bylaw that was amended, revoked or revoked and replaced	Navigation Safety Bylaw (No 218) 2012
Bylaw review by date	1 October 2029
Bylaw expiry date	1 October 2031

<b>1. PRELIMINARY PROVISIONS</b>	<b>3</b>
1.1 TITLE AND COMMENCEMENT	3
1.2 AREAS WITHIN WHICH THIS BYLAW APPLIES	3
1.3 DEFINITION OF TERMS	3
<b>2. OPERATION OF VESSELS</b>	<b>13</b>
2.1 REPORTING PROCEDURES	13
2.2 HARBOUR RECREATIONAL ZONING	14
2.3 MOVING PROHIBITED ZONE/TOTAL EXCLUSION ZONE	15
2.4 HARBOUR TRANSIT LANE	15
2.5 EXCLUSION ZONE AROUND VESSELS AT WHARVES	16
2.6 OBSTRUCTIONS	16
2.7 LIFEJACKETS	16
2.8 MINIMUM AGE FOR OPERATING POWERED VESSELS	19
2.9 SPEED OF VESSELS	19
2.10 WAKE OR WASH	21
2.11 LOOKOUTS ON VESSELS USED FOR WATER SKIING AND TOWING ANY PERSON	21
2.12 WATER SKIING OR TOWING BETWEEN SUNSET AND SUNRISE	21
2.13 CONDUCT IN ACCESS LANES	21
2.14 RESERVED AREAS	22
2.15 PROHIBITED ANCHORAGES	22
2.16 DAMAGE TO NAVIGATIONAL AIDS	23
2.17 DISTANCE FROM OIL TANKERS AND OTHER VESSELS SHOWING FLAG B	23
2.18 RIVER SAFETY RULES	23
2.19 COLLISION PREVENTION	24
2.20 FLAGS AND SIGNALS	24
2.21 VESSELS NOT TO SOUND WHISTLES	24
2.22 USE OF DISTRESS SIGNALS	25
2.23 SEAPLANES	25
2.24 VESSELS TO BE LICENSED	25
2.25 VESSELS TO CARRY NAVIGATIONAL CHARTS AND EQUIPMENT	26
2.26 VESSELS TO BE IDENTIFIED	27
<b>3. MOORINGS, BERTHS, MARINA AND OTHER STRUCTURES</b>	<b>28</b>
3.1 MOORINGS	28
3.2 CONTROL OF MARINA	28
3.3 ALCOHOL	29
3.4 FEES AND CHARGES	29
3.5 BERTHS	29
3.6 VISITING VESSELS	29
3.7 SHARING OF BERTHS	30
3.8 COMMERCIAL VESSELS IN THE MARINA	30
3.9 REMOVAL FROM A BERTH, MOORING OR ANCHORAGE.	30
3.10 PERSON ON BOARD TO ENSURE VESSEL BERTHED SAFELY	30
3.11 VESSELS TO BE SEAWORTHY OR REMOVED	31
3.12 ALTERATION OF BERTH	31
3.13 DAMAGE TO MOORING OR BERTH	31
3.14 FISHING	31
3.15 USE OF VESSEL ENGINE AROUND WHARVES, RAMPS AND MARINAS	31
3.16 NUISANCE	32
3.17 LIVING ON BOARD	32
3.18 SAFETY IN THE MARINA	32
3.19 REPAIR GRID	34

3.20	USE OF LANDING STAGES	34
3.21	USE OF BOAT RAMPS	34
3.22	SWIMMING OR DIVING AROUND WHARVES OR MOORINGS	34
<b>4.</b>	<b>COMMERCIAL OPERATIONS INCLUDING, HAZARDOUS CARGOES, HAZARDOUS WORKS AND DANGEROUS MATERIALS</b>	<b>35</b>
4.1	HOT WORK OPERATIONS	35
4.2	EXPLOSIVES ANCHORAGE	35
4.3	SIGNALS TO BE DISPLAYED BY ANY VESSEL TAKING IN OR DISCHARGING OR CARRYING DANGEROUS GOODS	36
4.4	DISTANCE FROM VESSELS SHOWING FLAG B	36
4.5	DUTIES OF MASTER WHILE TANKER IS IN PORT	36
4.6	LOADING OR DISCHARGE OF CARGO	37
<b>5.</b>	<b>PILOTAGE</b>	<b>37</b>
5.1	COMPULSORY PILOTAGE	37
5.2	PILOTAGE FEE	37
5.3	USE OF PILOTAGE EXEMPTION CERTIFICATES	38
5.4	EXPENSES OF PILOT DETAINED ON BOARD	38
5.5	COMPLAINTS AGAINST PILOTS	38
5.6	ACCIDENTS OCCURRING TO VESSEL IN CHARGE OF PILOT	38
<b>6.</b>	<b>GENERAL</b>	<b>38</b>
6.1	SPECIAL OR TEMPORARY EVENTS	38
6.2	NOTIFICATION OF COLLISIONS OR ACCIDENTS	39
6.3	DISCHARGE OF POLLUTANTS, LITTER AND RUBBISH	40
6.4	FOULED VESSELS	41
6.5	APPLICATION TO MASTER/OWNER	41
6.6	PENALTIES, OFFENCES AND INFRINGEMENTS	41
6.7	SERVING OF INFRINGEMENT NOTICES	41
6.8	GENERAL DEFENCE	42
6.9	APPOINTMENT OF HARBOURMASTER, ENFORCEMENT OFFICERS AND MARINA SUPERVISOR	42
<b>7.</b>	<b>MAPS</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
MAP 1	WATERS WITHIN THE NELSON REGION	43
MAP 2	WATERS WITHIN THE NELSON HARBOUR	44
MAP 3	NELSON HARBOUR PRIORITY ACTIVITY AREAS	45
MAP 4	NELSON MARINA	46
MAP 5	TAHUNANUI BEACH RECREATION AREAS	47
MAP 6	MONACO ACTIVITY AREAS	48
<b>8.</b>	<b>APPENDICES</b>	<b>43</b>
APPENDIX 1	PENALTIES, OFFENCES AND INFRINGEMENTS	50
APPENDIX 2	APPLICATION FOR RESOURCE CONSENT (RAD 830960)	
APPENDIX 3	NOTICE OF TRANSFER OF RESOURCE CONSENT TO ANOTHER PERSON (RAD 1052901)	
APPENDIX 4	LIVEABOARD APPLICATION (RAD 931958)	
APPENDIX 5	HOT WORK PERMIT (RAD 1239193)	
APPENDIX 6	SCHEDULE OF FEES AND CHARGES – MARINA	

## **1. Preliminary Provisions**

### **1.1 Title and Commencement**

This Bylaw shall be known as the Nelson City Council ('the Council') Navigation Safety Bylaw ~~2012-2019~~ (No 218).

This Bylaw is made ~~under s684B of the Local Government Act 1974, pursuant to sections 33M and 33R of the Maritime Transport Act 1994 and sections~~ 145 and s239 of the Local Government Act 2002.

This Bylaw ~~came will come~~ into force on 1 ~~December-October 2012~~2019.

All appointments, licences and other exercise of powers under the former Navigation Safety Bylaw 2012 shall, so far as they are consistent with this Bylaw, continue with like operation and effect as if they had been granted under the corresponding provisions of this Bylaw.

### **1.2 Areas within which this Bylaw applies**

This Bylaw applies to all navigable waters within the region as shown on Map 1 including the Nelson Haven inside the Boulder Bank, and all navigable rivers.

### **1.3 Definition of terms**

In this Bylaw, unless the context otherwise requires:

#### **Access lane**

Means any area of water identified on the maps as set aside to provide access to a specified reserved area.

#### **Accident**

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 contact with any accessory attached to a vessel, but not part of the vessel; or
  - iv) Direct exposure to the wash of the vessel or interaction (other than direct contact) between two vessels; or
  - v) 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 the 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 or 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 vessel; or
  - iii) May pose a risk, or has resulted in 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 had a major fire on board:

### **Anchorage**

Means a place (enclosed or otherwise) used for the anchoring of vessels, whether the place is reserved for such purpose by the Council or not.

### **Anchoring**

Means the 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.

### **Berth**

Means any structure erected and maintained for the permanent or temporary mooring of any vessel and includes any berth, pile or other structure provided for the mooring of vessels within any marina, or other reserved area.

### **Body board**

Means a short foam or inflatable board, also known as a boogie board, designed to be ridden in a prone or kneeling position and not to be ridden standing up.

**Buoy**

Means an anchored float serving as a navigation or location mark, or to indicate a mooring, reef or other hazard.

**Buoyancy aid**

Means:

- i) a buoyancy aid as defined in NZ Standard 5823:2005; or
- ii) a buoyancy aid that the Director is satisfied substantially complies with the standard prescribed in paragraph (i) and that provides a minimum of 53 newtons of buoyancy.

**Chief Executive**

Means the person for the time being appointed to the position or exercising the powers and authorities of the Chief Executive of the Council.

**Class 3.1 oil products**

Means oil having an initial boiling point of less than 35 degrees Centigrade and a flashpoint below -18 degrees Centigrade; and includes motor spirit, aviation spirit, benzene, benzol, methylated spirits, and low-flash distillate.

**Class 3.2 oil products**

Means oil having a flashpoint below 23 degrees Centigrade; and includes kerosene and burning oil, and also such alcohols and crude oils as have such a flashpoint.

**Class 3.3 oil products**

Means oil having a flashpoint from 23 degrees Centigrade up to and including 61 degrees Centigrade and an initial boiling point greater than 35 degrees Centigrade.

**Commercial Raft**

Means a raft that is not a pleasure craft.

**Commercial vessel**

Means a vessel that is not:

- i) a pleasure craft; or
- ii) solely powered manually; or
- iii) solely powered by sail; or

- iv) a vessel operated by a Yachting NZ affiliated yacht club within Nelson Harbour in support of a club event or promotion for that Club.

**Commercial Wharf**

Means any wharf, jetty or other berthing structure located within the Port Nelson operational area.

**Council**

Means the Nelson City Council, and any committee or person who has been delegated authority to exercise any powers or discretion vested in the Council pursuant to this Bylaw.

**Crew**

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.

**Dangerous goods**

Means any substance, in packaged form or in solid form in bulk, listed and classified according to its hazards in the International Maritime Dangerous Goods (IMDG) Code.

**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.

**Distress Signal**

Means a distress signal as prescribed in Maritime Rule Part 23.<sup>1</sup>

**Dredged Channel**

Means the maintained depth of the outer approach and inner harbour channels.

**Emergency Service Vessels**

Means vessels operated by Coastguard New Zealand and Nelson Surf Lifesaving Club or any other vessel designated for the time being as an emergency service vessel by the Harbourmaster or any vessel owned or commandeered by and for the use of the New Zealand Police.

**Enforcement Officer**

Means a person appointed as an Enforcement Officer under [Section 650B of the Local Government Act 1974](#) [section 33G of the Maritime Transport](#)

<sup>1</sup> Refer to Maritime New Zealand:  
[http://www.maritimenz.govt.nz/Rules/List-of-all-rules/List-of-rules.asp#navigation\\_safety](http://www.maritimenz.govt.nz/Rules/List-of-all-rules/List-of-rules.asp#navigation_safety)

[Act 1994](#), or under section 177 of the Local Government Act 2002, and includes an honorary Enforcement Officer.

**Fairway Beacon**

Means the north cardinal mark which is located in position 41°14.0'S, 173°14.2'E".

**Flag A**

Means Flag A (Divers Flag) of the International Code of Signals, a burgee (swallow-tailed) flag or a rigid equivalent, coloured in white and blue, with white to the mast, of not less than 600mm by 600mm.

**Flag B**

Means Flag B (taking on or discharging explosives) of the International Code of Signals, a burgee (swallow-tailed) flag or a rigid equivalent, coloured in red, of not less than 600mm by 600mm.

**Harbour**

Means Nelson Harbour as defined in an Order-in-Council published in "The New Zealand Gazette" dated the sixth day of December, 1934, at page 4128: identified on Map 2.

Note: The seaward limit of the Harbour is the arc of a circle radius 5 miles centred on the eastern extremity of Rabbit Island (41 degrees 17 minutes South; 173 degrees 12 minutes East).

**Harbourmaster**

Means the person(s) appointed by the Council as Harbourmaster under section ~~650B of the Local Government Act 1974~~[33D of the Maritime Transport Act 1994](#) and includes any Deputy Harbourmaster.

**Harbour transit lane**

Means that area of the harbour defined within clause 2.4 and identified on Map 3 of this Bylaw as the preferred route for small commercial and recreational vessels between the Maitai Channel and The Cut.

**Infringement offence**

Means an offence of a type provided for by s259(a) of the Local Government Act 2002 and specified in Regulations made by Order in Council.

**Kite Board**

Has the same meaning as Sail Board.

**Length**

In relation to a vessel, means overall length.

### **Lifejacket/[Personal Floatation Device](#)**

Means any serviceable buoyancy aid that is designed to be worn on the body and that is certified by a recognised authority as meeting:

- i) type 401, 402, 403, 404, 405 or 408 in NZ standard 5823:~~2005~~[1989](#) or [NZ Standard 5823:2001](#) or [type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005](#)
- ii) a national or international standard that the Director is satisfied substantially complies with the standards in (i) above.

[Note: any future changes to the Maritime Rule Part 91 definition of a personal floatation device shall be deemed to become the lifejacket/personal floatation device definition under this Bylaw.](#)

### **Marina**

Means that area of the Harbour defined in Map 4.

### **Marina Supervisor**

Means the person [or entity](#) appointed by the Council as Marina Supervisor for the Marina or any other person who may be appointed by the Council to act for and on behalf of the Marina Supervisor.

### **Marine and Coastal Area**

- a) means the area that is bounded by:
  - i) on the landward side, by the line of mean high water spring; and
  - ii) on the seaward side, by the outer limits of the territorial sea; and
- b) includes the beds of rivers that are part of the coastal marine area (within the meaning of the Resource Management Act 1991) and for the Maitai River this area is up to the point shown on Map 3; and
- c) includes the airspace above, and the water space (but not the water) above, the areas described in paragraphs a) and b); and
- d) includes the subsoil, bedrock, and other matter under the areas described in paragraphs a) and b).

### **Maritime rule**

Means a rule made under the Maritime Transport Act 1994.

### **Marked Channel**

Means the area between the Port Beacons on one side and the Starboard Beacons and Wharf Structures on the other side.

**Master**

Means any person having command or charge of a vessel, but does not include a pilot who is piloting the vessel, and in the case of a vessel undergoing maintenance or repair includes the person who at any relevant time has control of the place of work.

**Mean high water spring**

Means the average of each pair of successive high waters during that period of about 24 hours in each semi-lunation (approximately 14 days), when the range of tides is greatest.

**Mile**

Means a standard nautical mile of 1852 metres.

**Mooring**

- i) means any weight or article placed in or on the Marine and Coastal Area or the bed of navigable waters for the purpose of securing a vessel, raft, aircraft, or floating construction/object; and includes any wire, rope, buoy, or other device attached or connected to the weight or article;
- ii) but does not include an anchor that is normally removed with the vessel, raft, aircraft, or floating structure when it leaves the anchorage.

**Mooring area**

Means any area from time to time set aside by the Council as a mooring management area, where moorings meeting the standards set out in Appendix 1 may be placed; but does not include an anchorage.

**Navigable waters**

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

**Navigate**

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

**Nelson Harbour**

Means that area of coastal waters within the Nelson region shown in Map 2 that is landside of the pilotage limit line and the Nelson City boundary and includes all the waters of Nelson Haven and Waimea Inlet within the City boundary.

**Nelson pilotage area**

Means that area described in Maritime Rule Part 90, being that area bounded by the seaward arc of a circle radius 3 miles, centred on the

Boulder Bank old lighthouse (41°15.3' S, 173°15.9' E) and shown in Map 2.

### **Novel Craft**

Means any vessel that falls outside other definitions within this bylaw and includes a fliteboard (a mechanically propelled stand up paddle board capable of speeds over 5 knots).

### **Oar craft**

Means a vessel powered solely by the vessel's occupants(s) using oars with a fulcrum provided by rowlocks, thole pins, crutches or like arrangement and includes rowing and surf boats.

### **Oil**

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).

### **Owner**

- i) in relation to a vessel, means the registered owner of the vessel, or where the registered owner is not responsible for the management of the vessel, or the vessel is unregistered or does not have a registered owner, means the charterer or other person who is for the time being, responsible for the management of the vessel; and
- ii) in relation to any dock, wharf, quay, or slipway, includes a lessee of the dock, wharf, quay, or slipway.

### **Paddle craft**

Means a vessel powered solely by the vessel's occupant(s) using a single or double bladed paddle without the aid of a fulcrum provided by rowlocks, thole pins, crutches or like arrangements; and includes kayaks, surf skis, ~~and~~ waka ama and stand up paddle boards.

### **Person in charge of a vessel**

Means the master.

### **Pilot**

In relation to any vessel, means any person not being the master or a member of crew of a vessel who has the conduct of that vessel.

### **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:

- i) 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;
- ii) a vessel that is used on any voyage for 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;
- iii) a vessel that is operated or provided by any club, incorporated society, trust, or business.

#### **Port Nelson Operational Area**

Means that area of the harbour which is taken up by berths or wharves under the operational control of Port Nelson Ltd, or any other commercial operation, and includes the slipway basin, and slipway and the fishing wharf which parallels Vickerman Street.

#### **Proper speed**

Means speed through the water.

#### **Public notice**

Means a notice published in a newspaper circulating generally in the Nelson region.

#### **Recreational Vessel**

Means a vessel that is not offered or used for hire or reward and is:

- i) a pleasure or novel craft; or
- ii) a vessel solely powered manually; or
- iii) a vessel solely powered by sail.

#### **Region**

Means the territorial area of Nelson City as defined within Part 2 Schedule 2 to the Local Government Act 2002.

#### **Repair grid**

Means the piles identified on Map 4, "the Repair Grid" as a site where vessels may be moored on a temporary basis for the purpose of repair.

#### **Reserved area**

Means a permanently reserved area, as shown on any map appended to this Bylaw, which has been set aside for a specified navigation safety purpose, and any area temporarily reserved under Clause 6.1(a)(ii) 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 any person; but does not include payment of any contributions by part owners of the vessel or by persons engaged as bona fide crew members.

**Sail board**

Means any type of board which is propelled on water by the wind via a detachable sail apparatus and which is operated by a person sitting or standing on the board, and includes kite boards and wind surfers.

**Seaplane**

Means a flying boat or any other aircraft designed to manoeuvre on the water, and which is capable of landing on and taking off from the water.

**Seaworthy**

Means being in a fit condition or readiness to safely undertake a sea voyage.

**Shore**

When referring to distance from shore, means distance from the water's edge.

**Surf board** ~~Stand-up paddle board~~

Means any type of board designed to be ridden in a standing position, must include use of a leg rope.

**Structure**

- i) Means any building, equipment, device, or other facility made by people and which is fixed to land; and
- ii) includes such things as slipways, jetties, pile moorings, swing moorings, rafts, wharves, marine farms and other like objects whether these are above or below the waterline;
- iii) but does not include navigation buoys.

**Sunrise**

The time of sunrise as stated in the New Zealand Nautical Almanac, NZ 204 for Nelson.

**Sunset**

The time of sunset as stated in the New Zealand Nautical Almanac, NZ 204 for Nelson.

### **Tanker**

Means any vessel which is specially constructed, or has a compartment or compartments specially constructed, for the carriage in bulk of oil products of any class; and 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
- iii) includes any tanker designed for the carriage of bulk liquid hazardous substances.

### **Vessel**

Means every description of boat or vessel ~~used in navigation,~~ whether or not it has any means of propulsion, and includes:

- i) a barge, lighter, or other like vessel;
- ii) a hovercraft or other thing deriving full or partial support in the atmosphere for the reaction or air against the surface of the water which it generates;
- iii) a submarine or other submersible; or
- iv) a seaplane while it is on the surface of the water.

### **Waters**

Means all navigable waters within the Nelson region.

### **Waterskiing**

Means to tow, or cause or allow to be towed, behind any vessel, any person barefoot, or on water ski(s), aquaplane, surf board, inflatable device, paraglider or any similar object. 'Water skier' and 'to water ski' shall have commensurate meanings.

### **Wind surfer**

Has the same meaning as Sail Board.

## **2. Operation of vessels**

### **2.1 Reporting procedures**

- a) The master of any vessel of 20 metres or more in length or any tug engaged in towing shall report to Nelson Harbour Radio on VHF channel 12 indicating their intentions and requesting information of other movements in the following instances:
  - i) at least ten minutes prior to departure from any berth, mooring or anchorage;

- ii) at least ten minutes prior to shifting from one berth, mooring or anchorage to another;
  - iii) at least 30 minutes prior to entering The Cut inbound or at least 30 minutes prior to passing the Fairway Beacon if using the outer dredged channel inbound;
  - iv) at least one hour prior to arrival at the pilot station for vessels requiring a pilot; or
  - v) the master of any vessel carrying Dangerous Goods shall declare the type and quantity of goods being carried to the Harbourmaster prior to entering The Cut.
- b) The master of any vessel of 20 metres or more in length or any tug engaged in towing shall make a position report to Nelson Harbour Radio on VHF channel 12 upon passing the Fairway Beacon inbound or outbound.

## **2.2 Harbour recreational zoning**

- a) Certain areas of the harbour are set aside or zoned for specified predominant recreational purposes (priority activities) as indicated on Maps 3, 5 and 6.
- i) Rowing, Waka zones
  - ii) Water Ski, Biscuiting and Wake boarding zone
  - iii) Sailing, Swimming/Non-motorised activity zone
  - iv) Tahunanui Beach swimming only zone
- b) These zones do not give those undertaking the specified priority activity sole right of use in those zones, however, when the specified priority activity is being undertaken other harbour users should act appropriately in that zone.
- c) When the specified priority activity is undertaken in these zones other harbour users should if possible avoid entering the zones and avoid the creation of excessive wake in the areas adjacent to the zones.
- d) When any of the specified priority activities are being undertaken in this zone other harbour users, in particular swimmers and kayakers, should avoid entering the zone.
- e) When any of the specified priority activities are being undertaken in this zone other harbour users, in particular motorised vessel users, should, when proceeding through the zone, proceed at an appropriate speed and maintain a proper lookout for small vessels, kayaks and persons swimming in the water.
- f) The zone inside the area marked by the black buoys to the north of Tahunanui Beach is a swimming only zone. Non-motorised vessels may traverse the area using the access lane at the eastern end of the marked area in order to access or to launch from the beach. Sail boards and motorised vessels, except for Emergency Service vessels, are excluded from the swimming zones.

### **2.3 Moving Prohibited Zone/Total Exclusion Zone**

- a) A Moving Prohibited Zone extending to 100m astern and 100m to each side of a vessel, and continued at such width to 500m ahead, following the line of the buoyed channel when changing course, is reserved around any vessel of 3000 gross registered tonnage (grt)<sup>2</sup> or greater, when that vessel is underway within the Nelson pilotage area.
- b) When navigating within a marked channel, the Moving Prohibited Zone to the side of the vessel is reduced to the width of the marked channel and the zone ahead of the vessel shall follow the line of the marked channel.
- c) The area indicated on Map 3 in the vicinity of The Cut will become a Total Exclusion Zone upon the passage of a vessel in excess of 3000 grt in that area. At such times no vessel other than those assisting the vessel over 3000 grt, as directed by the pilot or pilot exempt master, shall enter the Total Exclusion Zone.
- d) No person shall navigate their vessel within the Moving Prohibited Zone of any vessel of 3000 grt or greater, within the Nelson pilotage area.
- e) The provisions of sub-clause c) and d) of this section shall not apply to any vessel having authority from the Harbourmaster or the Pilot or the pilot exempt master, of the vessel in respect of which the zone exists, to enter a Total Exclusion Zone or Moving Prohibited Zone.
- f) In the context of this Clause, a tug and barge shall be considered as a single vessel.

### **2.4 Harbour Transit Lane**

- a) A Harbour Transit Lane is established bounded by a line joining red port hand marks no's 12, 9, 8, 7, 6, and 5, being 100m in width extending into the Maitai Channel, and the maintained depth harbour channel, and The Cut as depicted on Map 3.
- b) When the Total Exclusion Zone established under clause 2.3 c) is NOT in effect the Transit Lane shall extend past beacons No's 4, 3, 2, and 1 and out through The Cut as shown on Map 3.
- c) When the Total Exclusion Zone is in effect all outbound vessels shall remain inside beacon 5 until the Moving Prohibited Zone vessel has passed beacon 5 inbound or beacon 3 outbound.
- d) When the Total Exclusion Zone is in effect all inbound vessels shall wait to the north of a transit line between the Approach Beacon and beacon 1; or wait to the south of an imaginary line continuing from the line of the breakwater and the Starboard hand beacons, until the Moving Prohibited Zone vessel is past and clear of The Cut.
- e) The master of any vessel using the Harbour Transit Lane shall ensure that the vessel keeps to the starboard side of the lane and

---

<sup>2</sup> Vessels of 3000 grt are the largest fishing vessels that call here.

travels at a speed which minimises the wake created by the vessel and which otherwise is appropriate to the activity in the lane.<sup>3</sup>

- f) The use of this Harbour Transit Lane shall not relieve the master of any vessel of the obligation to comply with clause 2.19 of this Bylaw.

## **2.5 Exclusion zone around vessels at wharves**

- a) All vessels are required to remain outside of a rectangular area measuring 50m from the wharf face and extending 50m ahead of the bow and 50m astern of the stern of any vessel lying at a wharf whether such vessel at the wharf is working cargo or not.
- b) Sub-clause a) does not apply to:
  - i) any vessel assisting the berthing or unberthing of the vessel, and
  - ii) any vessel engaged in pilot, cargo or bunker transfer operations, and
  - iii) any vessel carrying out or assisting with the maintenance of berthed vessels, and
  - iv) any vessel authorised to be working on or under a wharf.

## **2.6 Obstructions**

- a) No person may, except in an emergency, obstruct the navigation of any navigable waters or the access to any wharf, landing place, boat ramp, slipway, or mooring without the prior written permission of the Harbourmaster.
- b) No person may place any obstruction, including any fishing apparatus, in any navigable waters, that has the potential to:
  - i) restrict navigation; or
  - ii) cause loss of life or injury to any person; or
  - iii) cause damage to any vessel or any property.
- c) No person being the master, or otherwise in charge, of any vessel less than 500 gross registered tonnage shall impede the navigation of any vessel greater than 500 gross registered tonnage. Impede shall include any action or inaction which requires the master or person in charge of the vessel greater than 500 gross registered tonnage to take avoiding action.

## **2.7 Lifejackets/Personal Floatation Devices**

- a) No person in charge of a recreational vessel may use it ~~or allow it to be used unless it carries~~ there are on board at the time of use, and

<sup>3</sup> The speed limit in the lane is not restricted within 200m of shore or of any structure, but remains 5 knots when within 50m of any other vessel. Slow vessels are requested to position themselves so as to least obstruct any faster vessel who may wish to overtake.

- in a readily accessible location, sufficient lifejackets/personal floatation devices of an appropriate size for each person on board.
- b) No person in charge of a vessel may use it to tow any person, and no person may cause himself or herself to be towed by a vessel, unless the person being towed wears a properly secured life jacket/personal floatation device of an appropriate size for that person.
- c) Sub-clause b) does not apply to:
- i) persons training for any trick water skiing element of a sporting event administered by a national sporting organisation approved by the Director; or
  - ii) persons participating in a sporting event that is administered by a national sporting organisation approved by the Director.
- ~~d) The person in charge of a recreational vessel or novel craft that is less than six metres or less in length shall ensure that every person shall wear an appropriately sized and properly secured lifejacket or personal floatation device, unless:~~
- ~~i) the person in charge of that vessel has expressly given permission for lifejackets not to be worn; and~~
- ~~ii) d) the person in charge of that vessel considers that conditions are such that there is no significant risk to the safety of any person through not wearing a lifejacket.~~
- e) No person in charge of a recreational vessel or novel craft may use that vessel, or allow it to be used, in circumstances where:
- i) tides, river flows, rough seas; or
  - ii) adverse weather, adverse visibility or emergencies
- cause a danger or a risk to the safety of persons on board, unless each person on board is wearing a lifejacket or personal floatation device appropriate to each person on board.
- f) Except when otherwise directed by the Harbourmaster or an enforcement officer, Sub-clauses a), d) and e) shall not apply to:
- i) any surf boarder or user of a similar un-powered vessel or paddle craft involved in riding waves or is paddling between the Tahunanui beach and the black buoys, provided the person is attached to a board by means of a leg or waist rope;
  - ii) any sail boarder, kite boarder or wind surfer, if a wetsuit or buoyancy vest is worn at all times;
  - iii) a diver wearing a wetsuit or drysuit unless in transit or underway where a lifejacket or personal floatation device is to be worn;

iv) a diver on a vessel of six metres or less in length that is used for recreational diving within five miles of the shore, if a full body suit is worn at all times;

iii)v) a person sleeping below deck and the vessel is at anchor, berthed or moored;

iv)vi) a person training for or participating in a sport event, if the training or the event is supervised in accordance with the safety system of a national sporting organisation approved by the Director;

Note: The Director may approve a national sporting organisation 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 lifejackets.

v)vii) a member of a visiting foreign water sports team, if the person carries or wears a lifejacket that is approved by the competent authority for use in that foreign water sports team's country any other exemption or exclusion under Maritime Rules Part 91;

vi) a commercial raft;

g) Sub-clause a) and e) shall not apply in respect of any sporting event, training activity or ceremonial event if:

i) a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational vessel and the recreational vessel or support vessel, or both, carry lifejackets or buoyancy aids appropriate for each person on board the recreational vessel; or

ii) the Harbourmaster has granted an exemption in writing for the specified period if he or she is satisfied that adequate safety precautions are made for rescuing any person participating in the event or activity.

h) For the purposes of sub-clauses a) and e), in the case of a paddle vessel, a life jacket shall include a buoyancy aid not certified by a recognised authority, provided that buoyancy aid:

i) meets type 406 of New Zealand Standard NZS 5823:2005 as demonstrated by prototype testing, except that the device is not required to:

(a) be tested for resistance to petroleum

(b) meet the colour requirements

and

ii) is manufactured in accordance with a quality system acceptable to the Director that ensures product conformity to that standard; and



~~iii) is legibly and indelibly marked in block letters not less than 6mm high "MARITIME PRODUCT CONFORMING TO THE REQUIREMENTS OF MARITIME RULES PART 91. RESTRICTED USE: PADDLE CRAFT APPLICATIONS ONLY".~~

~~i) In the case of a paddle craft, a serviceable buoyancy aid not certified by a recognised authority and not meeting the requirements of sub-clause 2.7 may be used for the purposes of sub-clauses a) and e) until 1 October 2014.~~

## **2.8 Minimum age for operating powered vessels**

- a) The owner of a powered 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, operate or navigate that vessel without direct supervision by a person over the age of 15 who is in immediate reach of the controls.
- b) No person under the age of 15 years may shall be in charge of, operate or navigate a powered 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 who is in immediate reach of the controls.
- c) Sub-clauses a) and b) does not apply to any person who has a written exemption from the Harbourmaster. Written exemptions may be given for training, competitions or other sporting events.
- d) The Harbourmaster, when considering whether or not to grant such an exemption, shall have regard to the competence of the person, the level of supervision, and the awareness of that person of all relevant navigation safety matters.

## **2.9 Speed of vessels**

- a) Subject to clause 2.9 f) no person may operate or navigate any vessel (including a vessel towing a person or some-an object) at a proper speed exceeding five knots:
  - i) within 50 metres of any other vessel, floating structure, or person in the water; or
  - ii) 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
  - iii) within 200 metres of any vessel or floating structure that is flying Flag A (divers flag); or
  - iv) within 200 metres of any area set aside or zoned by the Harbourmaster for specified activities; or
  - v) when knowingly or deliberately approaching within 200 metres of a marine mammal.
  - vi) within any zone set aside as a five knot zone or as a swimming area.



- b) Notwithstanding sub-clause a) no person shall operate or navigate a vessel in any marina at a proper speed exceeding three knots, including between any berths or "fingers".
- c) No person may operate or navigate a powered vessel at a proper speed exceeding five knots while any person is sitting at or on the fore part or bow of that vessel with any portion of their body extending over the fore part, bow, or side of that vessel.
- d) No person may cause or allow himself or herself to be towed by a vessel (whether or not on a water ski, aquaplane, or other towed object) at a proper speed exceeding five knots in any circumstances specified in any of paragraphs i) to vi) of sub-clause a).
- e) No person in charge of a vessel may permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or other object which may cause danger to any other person or vessel, without first taking action to recover it.

Sub-clauses a) to d) do not apply to:

- i) a commercial vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
  - ii) a vessel solely powered by sail participating in a yacht race or training or coaching administered by a club affiliated to Yachting New Zealand, or a non-profit organisation involved in sail training or racing; with the exception of sub-clause a) iii) which will continue to apply; or
  - iii) a wind surfer or kite boarder north of the channel markers (port hand beacons) that define the main channel; or
  - iv) a vessel used in training for or participating in competitive rowing or paddling; or
  - v) a tug, pilot vessel, emergency service vessel, Harbourmaster vessel or police vessel when the vessel's duties cannot be performed in compliance with sub-clauses a) to e); or
  - vi) any vessel legitimately using any area, zone or transit lane which is set aside for the purposes of allowing vessels, or vessels towing water skis, aquaplanes, or other similar objects, to travel at a proper speed exceeding five knots; or
  - vii) any vessel using any access lane or transit lane unless the purpose of the access lane or transit lane specifically requires a proper speed not exceeding five knots.
- f) Neither sub-clause a) ii) nor sub-clause c) shall apply to a vessel operated by a surf lifesaving club affiliated to Surf Lifesaving New Zealand, where that vessel is being operated in accordance with an Inflatable Rescue Vessel training procedure that has been approved by the Director.

### **2.10 Wake or wash**

Notwithstanding clause 2.9 of this Bylaw every person who operates or navigates a vessel must ensure that the wake or the wash of that vessel does not cause damage or risk of damage to other vessels or place in danger any other vessel, person or structure, or break against the shore in any marina, or other enclosed anchorage, mooring, or berthing area.

### **2.11 Lookouts on vessels used for water skiing and towing any person**

- a) No person in charge of a vessel may use it, or allow it to be used, to tow any person ~~at a speed exceeding five knots,~~ unless at least one additional person is on board to act as a "lookout" to be responsible for immediately notifying the person operating or navigating the vessel of any mishap that occurs to the person who is being towed.
- b) No person may cause or allow himself or herself to be towed by or from any vessel unless at least one additional person is on board to act as a "lookout" to be responsible for immediately notifying the person operating or navigating the vessel of any mishap that occurs to that person being towed.
- c) No person who is under the age of 10 years shall be permitted to act as the lookout as required by sub-clauses a) and b).

### **2.12 Water skiing or towing between sunset and sunrise**

- a) No person may operate, between sunset and sunrise, a vessel that is towing any person, whether that person is on water skis, aquaplane, or similar object, or who is barefoot skiing or who is on a paraglider or similar object.
- b) No person may allow himself or herself to be towed in the circumstances described in sub-clause a) between sunset and sunrise.

### **2.13 Conduct in access lanes**

- a) No person may in any access lane, operate, navigate, or manoeuvre a vessel except by the most direct route through the access lane and on that side of the access lane that lies to the starboard or right hand side of the vessel.
- b) No person may, while being towed by a vessel in any access lane in which skiing or towing is permitted, cause himself or herself or any water ski, aquaplane or other object, on or by which he or she is being towed, or cause any object that is being towed by a vessel in any 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 or right hand side of the vessel.
- c) No person within an access lane may operate or navigate any vessel in a manner that is dangerous in relation to any other vessel or other person in the access lane.
- d) No person may obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.

- e) No person may use an access lane for any purpose other than the purpose for which it has been declared while it is being used by any person for the purpose for which it was declared.

#### **2.14 Reserved areas**

- a) The Council may, from time to time, by resolution publicly notified, set aside any area as a reserved area for any special purpose which it considers should be provided for, and in the case of:
  - i) A permanent reserved area, mark such area on shore, by pairs of posts in transit. These posts will be white with black horizontal bands.
  - ii) A reserved area marked at sea; mark such area by black buoys with white vertical stripes.
- b) No person may obstruct any other person while that other person is using a reserved area for the purpose for which it has been reserved.
- c) If one or more persons are using a 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) Notwithstanding sub-clause a):
  - i) A Surf Life Saving New Zealand Patrol Captain, may, from time to time, subject to subclause ii), set aside areas of beaches as flagged areas for the purposes of swimming and body boarding only.
  - ii) Flagged swimming areas on beaches shall consist of two red/yellow flags forming the area boundary. These flags shall meet NZ Standard NZS8690:2003-5.1 Design of flags and 5.2 Use of flags.
  - iii) No person may carry out any activity other than the activities for which the area has been flagged. This shall not prevent Surf Life Saving or other rescue services operating in this area in case of an emergency.
  - iv) The areas which may be subject to be flagged areas signifying swimming only areas are detailed on Map 5.

#### **2.15 Prohibited anchorages**

- a) No person may, except in an emergency, anchor any vessel in any navigable waters so as to obstruct the passage of other vessels or obstruct the approach to any wharf, pier, jetty or mooring.
- b) No person may, except in any emergency, anchor or moor any vessel within any of the following prohibited anchorages:
  - i) within 20 metres of any dredged channel;
  - ii) within the Marina Area shown on Map 4;

- iii) within 50 metres of any underwater power or telephone cable<sup>4</sup>;
- iv) within any dredged area set aside for construction;
- v) within the path of any vessel entering or leaving the harbour.
- vi) within the Harbour Transit Lane shown on Map 3, and the Wharf Exclusion Zone (clause 2.5).

#### **2.16** ~~Damage to navigational aids~~Aids to navigation

- a) No person may tie a vessel to any buoy, beacon, marker, or other device or structure erected as a navigation aid or warning without the prior permission of the Harbourmaster, unless such is necessary to avoid damage to or loss of any vessel, or injury to any person.
- b) No person may damage, remove, deface or otherwise interfere with any buoy, beacon, marker, or other device or structure erected as a navigation aid or warning.
- c) No person may erect, maintain or display any beacon, buoy or other device which may be used as or mistaken for a recognised navigation aid without the written permission of the Harbourmaster and the Director. No person shall place a marker buoy in any waters of the Harbour unless that buoy is clearly labelled and indelibly marked or fitted with a permanent tag showing the owners name and contact details and is at least 50% afloat or otherwise clearly visible.
- d) Provided that nothing in sub-clause c) shall apply in respect of any buoys or other devices which are erected or installed in conjunction with any temporary or special event or other activity which is being undertaken with the approval of the Harbourmaster.

#### **2.17** Distance from oil tankers and other vessels showing Flag B

Where possible the master of any vessel, or the pilot, must not allow that vessel to approach within 200 metres of an oil tanker or any other vessel that is showing Flag B by day or an all round red light by night.

#### **2.18** River safety rules

Any person in charge of any vessel which is navigating any river must:

- a) Ensure that the vessel keeps to the starboard (right) side of the river channel; and
- b) If navigating a vessel upstream give way to any vessel proceeding downstream; and
- c) Not operate the vessel on the river unless river and weather conditions permit safe operation of the vessel.

---

<sup>4</sup> Such cables are marked on shore at both ends with an unlit white triangular beacon.

### 2.19 Collision prevention

No person may operate any vessel in breach of Maritime Rule Part 22: Collision Prevention made under the Maritime Transport Act 1994.<sup>5</sup>

In the interest of navigation safety, the Harbourmaster may, on reasonable grounds, declare specified areas of the harbour closed. Such closure will be effective on the day after public notice of the closure is given.

### 2.20 Flags and Signals

#### a) Explosive Cargo

- i) The master of any vessel having on board, or who intends to load or unload, 27kg or more of explosives in the harbour must display on the vessel Flag B by day and an all round red light by night at the masthead or where it can be best seen by night.
- ii) On or immediately before the arrival in port of any tanker and for so long as the tanker remains in port, the master must display by day Flag B and by night an all round red light at the masthead or where it can best be seen ~~from all directions~~by night.

#### b) Dive Operations

- i) The Master of every vessel from which diver 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.
- ii) 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 watch keeper of another vessel at a distance in excess of 200 metres.

### 2.21 Vessels not to sound whistles

- a) No person may blow or sound, or cause to be blown or sounded, the whistle, siren or horn of a vessel, within any Nelson harbour area, except:
  - i) as a navigation safety signal; or
  - ii) for the testing of such a whistle, siren or horn before the vessel leaves any wharf.
- b) Sound signals that are associated with sailing activities are permitted and not considered a vessel whistle or horn. Such activities or sound signals are not to be made ~~in the vicinity~~within 50 metres of commercial vessels greater than 40m in overall length.

<sup>5</sup> Refer to Maritime New Zealand:  
[http://www.maritimenz.govt.nz/Rules/List-of-all-rules/List-of-rules.asp#navigation\\_safety](http://www.maritimenz.govt.nz/Rules/List-of-all-rules/List-of-rules.asp#navigation_safety)

#### **2.22 Use of distress signals**

- a) No person shall make a distress signal, or cause or permit a distress signal to be made, unless that person is satisfied that:
  - i) the vessel that is on the water (or any person from that vessel) to which the person belongs is in serious and imminent danger and requires immediate assistance; or
  - ii) another vessel (or any person from that vessel) is in serious and imminent danger and they cannot make the signal and requires immediate assistance.
- b) A person must not use any signal which may be confused with distress signals unless in distress.
- c) The Director may, for the purpose of allowing instruction in the use of distress signals, authorise in writing the making of distress signals at such times and places, and subject to such other conditions, as the Director thinks fit.

#### **2.23 Seaplanes**

- a) No person navigating a vessel may impede a seaplane in the process of landing or taking off.
- b) No person may, except in an emergency, take-off, land or attempt to take-off or land any seaplane within the Harbour without the permission of the Harbourmaster.

#### **2.24 Vessels to be licensed**

- a) No person shall operate a commercial service, whether scheduled, non-scheduled, or offering rental vessels, without first obtaining from Council a licence to do so. Council may, at its discretion, waive this requirement.
- b) No such licence will be issued if the Harbourmaster is of the opinion that the operation is likely to:
  - i) diminish the level of safety for other activities in the vicinity;
  - ii) cause congestion, or jostling for position, or any other unsafe practice, at points of embarkation/disembarkation or at any place en route.
- c) No licence shall be issued by Council unless any authorisation required under any other Act or Regulations in relation to the vessel, its equipment or its manning has been obtained and is currently valid.
- d) No licence issued by Council will remain valid beyond the expiry date of any authorisation given under other legislation relating to the vessel, its equipment or its manning.
- e) For any class of vessel or master for which no authorisation is required under other legislation, written application must be made to Council to establish the seaworthiness of the vessel, the adequacy of its safety equipment, the competence of its operator, and the overall safety of the proposed operation. Additional

professional advice may be sought by the Council, the cost of which will be recovered from the applicant.

- f) A commercial operation licence and licence fee does not convey any mooring, berthage or landing rights, or other concession. Separate authorisation is required for these.
- g) Every licence issued by the Council under this Bylaw shall apply only to the vessel(s) and operator(s) named in the licence, and only to the operation described in the licence: the licence is not transferable.
- h) Every licence issued by the Council must be available for inspection at any time by the Harbourmaster, or an Enforcement Officer or Safe Boating Advisor, or any prospective client of the operation.
- i) A licence may be cancelled if its terms and conditions are breached. There will be no refund of fees if a licence is cancelled.
- j) The terms and conditions of any commercial vessel licence issued by the Council may include, but are not limited to:
  - i) defining points of embarkation/disembarkation;
  - ii) defining the area or route of operations;
  - iii) limiting the number of passengers or quantity of freight;
  - iv) whether the operation is limited to daylight hours, or by weather conditions;
  - v) in the case of rental vessels, whether a rescue craft must be in attendance or not;
  - vi) specifying safety equipment;
  - vii) in the case of rental vessels, specifying what level of instruction must be given to hirers;
  - viii) requiring a number or name or other distinctive marking to be displayed on the vessel to the satisfaction of the Harbourmaster;
  - ix) in the case of small paddle-powered vessels such as kayaks or waka, requiring the vessel to show a brightly coloured flag or paddle blades to enhance visibility when underway to the satisfaction of the Harbourmaster;
  - x) in the case of small paddle-powered vessels such as kayaks or waka, requiring the hull of the vessel to be of a colour that contrasts with the marine environment to enhance visibility when underway to the satisfaction of the Harbourmaster.

#### **2.25 Vessels to carry navigational charts and equipment**

- a) Every vessel shall have on board appropriate means of navigating safely at all times for any intended voyage.
- b) Operators or users of paddle craft while on the water should use and display visibility aids appropriate to the weather conditions such as flags, high visibility vests or hats, or lights.



## 2.26 Vessels to be identified

- a) The ~~master~~person in charge and owner of any vessel shall ensure the vessel is marked with its name or ~~similar identifying marks~~number displayed above the waterline on each side of the vessel.
- b) The number or name shall be a minimum height of 90 millimetres and each character shall be legible.

Provided in the case of any sailing vessel affiliated to Yachting New Zealand, the Rules of that organisation, which state: "Yachts shall clearly display in legible characters at least 50mm, but preferably at least 100mm, in size their registered name and sail number," may apply.

- ~~c) Where the identifying name or number is not a Yachting New Zealand or Yachting New Zealand affiliated club registration or the vessel's trailer registration, the name or number must be registered with Nelson City Council together with the name and contact details of the owner of the vessel.~~
- ~~e)d) Sub-clause a) shall not apply to non-mechanically-powered vessels of less than six metres in length. However such vessels shall be marked with a name, or the owner's name or and contact details, somewhere on the vessel.~~
- ~~d) Sub-clause a) shall not apply to mechanically-powered vessels of less than four metres in length. However such vessels shall be marked with a name, or the owner's name or contact details, somewhere on the vessel.~~

## 2.27 Person in charge

- ~~a) No vessel is permitted to be underway or making way unless a person in charge of the vessel has been identified.~~
- ~~b) The person on charge of the vessel is responsible for the safety and wellbeing of every person on board and for the safe operation of the vessel, including the wearing and carriage of personal floatation devices by persons on board the vessel in accordance with clause 2.7.~~

## 2.28 Means of communication

~~The person in charge of a vessel shall ensure that there is at least two forms of communication on board the vessel that:~~

- ~~a) Enables direct communication with other persons at sea or on land from anywhere the vessel is intending to operate;~~
- ~~b) Has sufficient power to operate for the actual duration of the voyage; and~~
- ~~c) At least one form of communication can operate when in water or is in a waterproof container and within immediate reach at all times.~~
- ~~d) Non-powered vessels less than six meters in length are exempted from clauses a) to c) above provided at least one form of distress communications is carried (for example a flare, whistle or a phone).~~



### **2.29 Overloading and stability**

No person may operate a vessel that in the opinion of the Harbourmaster is overloaded or loaded in a manner that presents a risk to the stability of the vessel.

## **3. Moorings, berths, marina and other structures**

### **3.1 Moorings**

- a) No person may place any mooring in any navigable waters covered by this Bylaw, whether in a mooring area or not, unless a coastal permit under the Resource Management Act 1991 has been granted for that purpose by the Council (refer to [Appendix 2 Council's website for an](#) application form).
- b) The Harbourmaster may, on instruction from the Council, remove or authorise the removal of any unauthorised mooring and all costs of so doing will be a debt to the Council by the owner of the mooring, or if they are unknown, the owner of the vessel using the mooring.
- c) No person may transfer their interest in any mooring without the Council approving such a transfer under the Resource Management Act 1991 (refer to [Appendix 3 Council's website for an](#) application form).
- d) No person shall allow the use of a mooring held under a coastal permit in their name for a length of vessel that is not provided for by the conditions of that permit.
- e) No person shall use a mooring for a length of vessel that is not provided for by the conditions of the relevant coastal permit.
- f) The Harbourmaster may remove to a safe mooring or berth any unauthorised vessel that occupies a mooring that is not consented for that length of vessel. The costs of such action will be at the vessel owner's expense.
- g) No person may anchor any vessel so as to obstruct the use of any mooring, unless they are holders of a coastal permit to use that mooring.
- h) Any owner of a mooring held ~~by~~<sup>under</sup> a coastal permit intending to leave a mooring vacant or unattended for a period in excess of six months shall advise the Harbourmaster.
- i) Where the owner of a mooring has left it vacant or unattended for a period in excess of six months without advising the Harbourmaster, the Harbourmaster may deem that the mooring is no longer required, in which case he may arrange for the mooring to be removed at the owner's expense.

### **3.2 Control of Marina**

All persons in, on or using the Marina and every vessel in the Marina shall obey the orders and directions of the Marina Supervisor.

### **3.3 Alcohol**

~~No person shall consume liquor within the Marina except on vessels or premises where the consumption of liquor is permitted by law.~~*Deleted*

### **3.4 Fees and charges**

- a) The fees and charges specified ~~in Appendix 6 and at [http://www.nelsoncitycouncil.co.nz/marina-fees-and-forms/on Council's website for marina fees](http://www.nelsoncitycouncil.co.nz/marina-fees-and-forms/on-Council's-website-for-marina-fees)~~ for functions undertaken by the Council under this Bylaw must be paid on demand by the specified person to the Council.
- b) The Council may, by resolution, amend these fees and charges.
- c) The fees and charges specified exclude GST and are maximum charges. The Council may on application reduce such charges when in its opinion special circumstances warrant a lesser charge being made.

### **3.5 Berths**

- a) No person shall use or occupy any berth in any Marina or other reserved area without first obtaining from the Council a licence permitting that person to use or occupy such berth.
- b) No person shall use or occupy any berth except as may have been allocated and with the vessel specified in the licence.  
  
Provided that with the consent of the Council, which consent may be subject to any new or changed conditions, the holder of a licence in respect of a berth may occupy the berth with a vessel other than that specified in the licence.
- c) No person shall transfer, sublet or otherwise dispose of their interest in a licence or any interest they may have in a berth except to the Council.
- d) Every person holding a licence issued pursuant to this Bylaw in respect of any berth shall notify the Council in writing of any change to their address or other contact details.
- e) Every person to whom a licence has been issued in respect of any berth shall comply with the terms of such licence.
- f) Where any person fails to comply with the terms of the licence or with the provisions of this Bylaw relating to the berth and who continues the failure to comply after being provided with a reasonable opportunity to remedy the non-compliance, the Council may cancel the licence and remove the vessel which is the subject of the licence, from the berth. The cost of such removal shall be a debt due by the licence holder to the Council.

### **3.6 Visiting vessels**

- a) No person shall use or occupy a berth which has been set aside by the Council within any marina or other reserved area for visiting vessels except with the consent of the Marina Supervisor and then only on such terms and conditions including payment of any fee set

by the Council, and for such duration as specified by the Marina Supervisor.

- b) The owner or master of any visiting vessel shall not anchor or moor such vessel in any prohibited anchorage area identified in Clause 2.15 of this Bylaw.

### **3.7 Sharing of berths**

No person shall tie a vessel to any other berthed vessel except in such area or areas which may have been set aside by the Council for that purpose.

### **3.8 Commercial vessels in the Marina**

No person shall, without the consent of the Marina Supervisor, use or permit to be used any berth within the Marina to berth a commercial fishing vessel, work vessel or other commercial vessel.

### **3.9 Removal from a berth, mooring or anchorage.**

- a) The Council may at any time require the master or owner of any vessel to vacate any anchorage, berth or mooring either on a temporary basis or for the remainder of the term of any licence or coastal permit and to take up another anchorage, berth or mooring.
- b) In the case of a re-location for the remainder of a permit or licence term the Council shall ensure that the new berth or mooring is of a size suitable for, and accessible to, the vessel.
- c) The Marina Supervisor or Harbourmaster may, in the event of an emergency, require any person to remove a vessel from any berth, mooring or anchorage, or they may remove or cause to be removed any vessel from such berth, mooring or anchorage.
- d) The Council shall not be liable to pay any compensation in respect of any requirement or removal or relocation of a vessel affected pursuant to this clause.
- e) The Harbourmaster or Marina Supervisor may require any person to move a vessel which is berthed, moored or anchored in contravention of this Bylaw, to another berth, mooring or anchorage. Any person who refuses to comply with such a requirement commits an offence.

### **3.10 Person on board to ensure vessel berthed safely**

- a) The owner or master of a vessel berthed at any wharf, dock or other landing place must ensure that it is securely fastened at all times and, if required by the Harbourmaster or Marina Supervisor, must maintain a person on board to keep watch.
- b) When a vessel is berthed at or alongside a wharf, dock or other landing place, the owner or master must ensure that adequate and safe means of access to the vessel is provided, properly installed, secured, and adjusted to suit all tidal conditions.

### **3.11 Vessels to be seaworthy or removed**

- a) The ~~master~~person in charge and owner of any vessel anchored or moored in any waters, or berthed at any berth, must keep the vessel in a seaworthy condition at all times, unless the Harbourmaster or Marina Supervisor has given prior written approval for it to be anchored, moored, or berthed in an un-seaworthy state. The owner and person in charge of the exempted vessel must comply with any and all conditions imposed by the Harbourmaster or Marina Supervisor to ensure maritime safety
- b) If any vessel is a hazard to navigation by reason of it being un-seaworthy;
  - i) the Harbourmaster may give a written direction to the owner and/or masterperson in charge of the vessel to move it to an alternative location, or to remove it from the waters within a reasonable time specified in the direction; and
  - ii) The owner and masterperson in charge are jointly and severally responsible for ensuring the direction is complied with.
- c) If the owner or master of the vessel fails to move the vessel in accordance with a direction given under sub-clause b), the Harbourmaster may cause that vessel to be moved to a position where it is no longer a hazard, or remove it from the water. The costs incurred may be recovered from the owner, masterperson in charge, or agent of the vessel as a debt due to the Council.

### **3.12 Alteration of Berth**

No person shall alter or modify any structure or thing associated with or forming part of any berth (excluding fendering and mooring lines) without the permission of the Harbourmaster or Marina Supervisor.

### **3.13 Damage to mooring or berth**

All damage, excluding normal wear and tear, to a public mooring or any berth, or any part of any public mooring or berth, shall be made good by the person causing or responsible for such damage. The cost of making good such damage shall be determined by the Council.

### **3.14 Fishing**

No person shall fish in any part of the Marina in contravention of any direction given by the Marina Supervisor from time to time either generally or as to any particular part or parts of the Marina or as to any particular time or times.

### **3.15 Use of vessel engine around wharves, ramps and marinas**

- a) No person may operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading or unloading at any ramp, in such a way that it may damage any property, scour the bed of the navigable waters, or injure any person. Provided that this does not

preclude the use of the propulsion system for the safe berthing or unberthing of any vessel at a wharf.

- b) The master of any commercial vessel over 40m length must:
  - i) ensure that crew members are stationed both forward and aft on any vessel while that vessel is lying at any wharf and about to test or is testing a propulsion system; and
  - ii) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested; and
  - iii) notify the Harbourmaster before testing a propulsion system while that vessel is lying at any wharf.
- c) No person shall create excessive noise from the operation of any vessel in a marina.
- d) No person shall cause excessive noise by accelerating or racing the engine of any vessel while the same is stationary at any wharf, ramp, or marina.

### **3.16 Nuisance**

- a) No person shall on or about a mooring, anchorage or berth, or on or about any vessel occupying any mooring, anchorage or any berth, use abusive or improper language or commit any act, or cause any noise which is calculated to or likely to provoke or result in a breach of the peace or likely to constitute a nuisance for any other person.
- b) The holder of a licence issued pursuant to this Bylaw shall ensure that all halyards, lines, ropes, rigging and sheets on the licensee's vessel whilst berthed in the Marina are secured so that they shall not create any excessive noise.

### **3.17 Living on board**

- a) No person shall, except in accordance with the Council's "Live Aboard" or "Visitor" rules ([Appendix 4 of this Bylaw as detailed on Council's website in the Marina section](#)), live or reside on any vessel when moored or berthed in the Harbour.
- b) Sub-clause a) shall not apply to vessels visiting the harbour.
- c) The Council may from time to time, by resolution publicly notified, amend, add to or delete any of the "Live Aboard" or "Visitor" rules ~~in Appendix 4 of this Bylaw~~.
- d) The Chief Executive on the advice of the Marina Supervisor may waive compliance with any of the "Live Aboard" or "Visitor" rules in those instances where he is satisfied that strict application of the requirement would be unreasonable or cause unnecessary hardship to any person.

### **3.18 Safety in the marina**

- a) Any person berthing or tying up any vessel in any Marina shall ensure that:

- i) the vessel is properly and safely secured to whatever it is berthed or tied;
  - ii) all access ways and navigable waters are kept clear;
  - iii) the vessel is in a good and safe state of repair;
  - iv) in the event of any accidental spillage into the marina which poses a threat to any other vessel, property, wildlife or thing, immediate steps are taken to notify the Marina Supervisor and report the spill to the Nelson City Council. Immediate steps must be taken to stop any discharge of hydrocarbons or other contaminants. No steps may be taken to disperse any oil discharged to water without the Regional On Scene Commander's (Council's) explicit consent, however, the spiller may (and should) attempt to contain the spill;
  - v) the name of the vessel is clearly displayed on the vessel;
  - vi) there is on the vessel an adequate fire extinguisher or fire fighting appliance.
- b) No person shall bring into or keep in the Marina any motor spirit, petroleum products, fuel oil, liquefied petroleum gas, compressed natural gas, kerosene or goods of a similarly dangerous or similarly flammable character without the permission of the Marina Supervisor.
- Provided that nothing in this sub-clause shall prevent the bringing into the marina, or the keeping on any vessel small quantities of any of the goods mentioned in sub-clause b), in safe containers and in quantities reasonably required for the vessel's engines, stoves or similar appliances.
- c) No person shall commence or carry out any repairs, alterations or work on or to any vessel in the Marina involving welding or flame cutting operations, grinding, or the prolonged use of any other power tools, or air spray apparatus without first obtaining the permission of the Marina Supervisor, and complying with any conditions imposed by the Marina Supervisor in respect of the operations or any resource consent.
- d) Every person carrying out any repairs, alterations or other works on or to any vessel in the Marina shall ensure that such is carried out in a safe and proper manner and in accordance with the provisions of the Health and Safety in Employment Act 1992, and that no rubbish or material used in the work, or removed as part of the works is allowed to fall into the water.
- e) If the Marina Supervisor is of the opinion that any repairs, alterations or works are not being carried out in a safe and proper manner he may order that all work cease and every person carrying out such work shall thereupon cease to do so until the Marina Supervisor authorises the continuation of such work.



### **3.19 Repair grid**

- a) No person shall use or occupy, moor to, tie to, or place a vessel on the Repair Grid without first obtaining the permission of the Marina Supervisor and only then on such terms and conditions as the Marina Supervisor may impose.
- b) The primary purpose of the Repair Grid shall be the inspection and/or repair of a vessel, or the washing of the hull to remove primary fouling as agreed with the Marina Supervisor in advance and subject to the terms of any resource consent for discharge to the Marine and Coastal Area.
- c) No person shall use or occupy the Repair Grid for a period in excess of two consecutive high tides without the permission of the Marina Supervisor.

### **3.20 Use of landing stages<sup>6</sup>**

- a) No person shall use the Marina landing stages for any purpose other than for embarking or disembarking passengers or stores except with the prior approval of the Marina Supervisor and then on such conditions as the Marina Supervisor may impose.
- b) No person shall use any water supply in or around the Marina landing stages other than for domestic or culinary purposes.

### **3.21 Use of boat ramps**

- a) No person shall use any boat ramp otherwise than in accordance with any rules which the Council may from time to time, by resolution, establish and which are displayed at the ramp.
- b) No person shall use any boat ramp for the launching of any trailer boat without having first paid any fees or charges which may be fixed by the Council from time to time in respect of such use, and displaying the appropriate ticket, label, sticker or other proof of such payment in a prominent and easily seen position on the trailer or in or on the towing vehicle.

### **3.22 Swimming or diving around wharves or moorings**

No person may dive, bathe or swim within 50 metres of:

- a) Any structure in the Port Nelson Operational Area; or
- b) Any mooring area, except for the purpose of ~~cleaning~~ inspecting or maintaining the underwater parts of a vessel or the mooring; or
- c) In the waters of any Marina except for the purpose of ~~cleaning~~ inspecting or maintaining the underwater parts of a vessel; or
- d) In any other such area as the Harbourmaster may from time to time determine

unless the person does so in accordance with the prior written consent of the Harbourmaster or Marina Supervisor.

---

<sup>6</sup> Flushing of outboard engines with fresh water or vessel hose down on the boat ramp is legitimate.

#### **4. Commercial operations including, hazardous cargoes, hazardous works and dangerous materials**

##### **4.1 Hot work operations**

- a) Within the Nelson Harbour, the person carrying out the hot work and the master of every vessel on board which, or on the hull of which, it is proposed to carry out welding, grinding or flame-cutting operations in or from any position, whether on board the vessel or not, must obtain from the Harbourmaster a Hot Work Permit ~~in accordance with requirements set out in Appendix 5 of this Bylaw~~ not less than two hours before commencing the work.
- b) The person carrying out the hot work, or the master or the Chief Engineer if available, of every vessel on or in which hot work operations are proposed must ensure that, before any welding or grinding operations are commenced, precautions are taken for the detection, prevention, and extinguishing of fire on board the vessel or elsewhere while the work is undertaken, and that the requirements of the Hot Work Permit are met. Provision must be made for the continuance of the precautions until the work is completed. Monitoring of the space in which the work has taken place, and all adjacent spaces, shall continue for at least one hour after the completion of welding, grinding or flame-cutting.
- c) No person may commence hot work without having seen and understood the terms of a current Hot Work Permit for the work to be undertaken.
- d) The Harbourmaster may grant a written exemption from compliance with those provisions to the master or owner of any vessel lying at any vessel-repairing establishment or at any berth where work is being undertaken by a company whose Hot Work procedures have been approved by the Harbourmaster.
- e) No hot work shall commence until such time as the Harbourmaster is satisfied that the pre-condition requirements of a Hot Work Permit have been met in full.

##### **4.2 Explosives anchorage**

- a) The master of a vessel having on board or intending to load explosives in quantities greater than 27kg must ensure that:
  - i) the vessel remains within the explosives anchorage outside the harbour entrance to be specified on each occasion by the Harbourmaster; and
  - ii) no person loads or unloads explosives outside the explosives anchorage, unless otherwise permitted by the Harbourmaster; and
  - iii) the Harbourmaster is provided with the Dangerous Goods declaration for the explosives at least 48 hours prior to the loading or discharging. For weekend loading or discharging documentation shall be provided no later than 12 noon on the preceding Friday.



- b) Nothing in this clause shall apply to any vessel which:
  - i) is carrying less than 27kg of explosives; or
  - ii) is carrying, or intending to load, only explosives of Safety Ammunition Class 1.4S as defined under the Hazardous Substances (Classes 1 to 5 controls) Regulations 2001, or Fireworks of classes 1.3G, 1.4G or 1.4S as defined under the Hazardous Substances (Fireworks) Regulations 2001, in quantities which do not require a Hazardous Substance and New Organisms Approved Handler.
- ~~c) The master of any vessel having on board or who intends to load or unload 27kg or more of explosives in the harbour must display on the vessel Flag B by day and an all round red light by night.~~
- ~~d) On or immediately before the arrival in port of any tanker and for so long as the tanker remains in port, the master must display by day Flag B and by night an all round red light at the masthead or where it can best be seen from all directions.~~
- ~~e) Where possible the master of any vessel, or the pilot, must not allow that vessel to approach within 200 metres of an oil tanker or any other vessel that is showing Flag B by day or an all round red light by night.~~

#### **4.3 Signals to be displayed by any vessel taking in or discharging or carrying Dangerous Goods**

On or immediately before the arrival in harbour of any vessel carrying Dangerous Goods and for as long as that vessel remains in harbour, the master must display by day Flag B and by night a red light at the masthead where it can best be seen from all directions.

#### **4.4 Distance from vessels showing Flag B**

~~Where possible the master of a vessel on passage must not allow that vessel to approach within 200 meters of an oil tanker or any other vessel, while it is at anchor or underway that is showing Flag B by day or a red all round light by night. Deleted~~

#### **4.5 Duties of master while tanker is in port**

- a) 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).
- b) The master must:
  - i) berth or moor the tanker only at the Main Wharf or McGlashen Quay South or as otherwise authorised by the Harbourmaster; and
  - ii) keep the tanks containing Class 3.1 or 3.2 oil cargo securely closed, except when opened for loading or discharging; and
  - iii) 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; and

- iv) submit to the Harbourmaster a plan showing the layout of the vessel's tanks and contents, giving the products and approximate quantities that will be on board when alongside in Nelson Harbour, at least 6 hours prior to arrival.

#### **4.6 Loading or discharge of cargo**

- a) No person shall discharge, drop, or cause or allow to be discharged or to escape from any vessel, structure, or land into any navigable water within the Region any cargo, or any other thing that would or might constitute a hazard to navigation safety.
- b) Any person who so discharges, drops or causes or allows to be discharged or to escape from any vessel, structure, or land any cargo or other thing into navigable waters shall, in addition to any fine which might be imposed, be liable for the cost or recovery or removal of the said cargo or other thing from the waters.
- c) Any person who intends to load logs shall ensure that a plan has been submitted to the Harbourmaster outlining the manner of the loading and providing for the recovery of lost logs. Such plan shall also include details as to how the loading will be monitored to identify lost logs and to track them for recovery.
- d) The person overseeing the loading of logs shall notify Nelson Harbour radio immediately any log is found to be missing or observed overboard in the water, and shall repeat such notification once the log has been recovered.

### **5. Pilotage**

Maritime Rules Part 90 is the governing rule relevant to pilotage in the Port of Nelson.

#### **5.1 Compulsory Pilotage**

- a) Pilotage is compulsory within the limits of the Nelson pilotage district for all tankers irrespective of size and for all other vessels of more than 40 m overall length.
- b) In the Nelson pilotage district, the master of any such vessel of more than 40 m overall length shall, unless he holds a Pilotage Exemption Certificate suitable for that vessel, employ a pilot appointed or licensed in respect of the Harbour.

#### **5.2 Pilotage Fee**

- a) The master or owner of any vessel requiring pilotage shall be liable to pay the Council or its authorised agent any relevant fee unless the pilotage is supplied by any third party independent pilot.
- b) All outward pilotage fees shall be paid by the master or owner of the vessel to the Council or its authorised agent either before or at the time of making the application for pilotage unless the pilotage is supplied by any third party independent pilot.

### **5.3 Use of Pilotage Exemption Certificates**

- a) Where the master of a vessel holds a Pilotage Exemption Certificate in respect of the Harbour, the following provisions shall apply:
  - i) direct communication between the Master and the Nelson Harbour Radio shall be established in accordance with standard reporting procedures; and
  - ii) the master shall obtain the advice of Nelson Harbour Radio on relevant conditions and matters such as scheduled shipping movements.
- b) Notwithstanding the possession of a Pilotage Exemption Certificate, the master of any vessel shall not attempt to enter or leave the harbour until the information specified in clause 2.1 of this Bylaw has been obtained.<sup>7</sup>

### **5.4 Expenses of Pilot detained on board**

- a) If a Pilot is detained on board a vessel, whether by stress of weather, quarantine, or otherwise, there shall be payable (in addition to the pilotage fee in clause 5.2) by the master or the owner to the Council or authorised agent a charge for every day during which the pilot is absent from his/her station.
- b) If the pilot has been carried to another place, the master and the owner of the vessel shall be liable to pay to the Council or authorised agent reasonable travelling expenses incurred in returning him/her to his/her station.

### **5.5 Complaints against Pilots**

Any complaint against a pilot by the master of any vessel shall be made in writing to the Harbourmaster.

### **5.6 Accidents occurring to vessel in charge of Pilot**

Any accident occurring to a vessel that is in the charge of a pilot shall be reported immediately by the pilot in writing to the Harbourmaster.

### **5.7 Cruise ship anchoring area**

The priority activity in the area designated on Map 7 shall be for cruise ship anchoring but may be used for other purposes when not needed for this activity.

## **6. General**

### **6.1 Special or temporary events**

- a) No person shall conduct a race, speed trial, competition or other organised water activity in any area to which this Bylaw applies, unless they have:

<sup>7</sup> Refer to Maritime New Zealand, Maritime Rule Part 90  
[http://www.maritimenz.govt.nz/Rules/List-of-all-rules/List-of-rules.asp#navigation\\_safety](http://www.maritimenz.govt.nz/Rules/List-of-all-rules/List-of-rules.asp#navigation_safety)

- i) applied to the Harbourmaster to temporarily suspend the application of ~~clause 2.9 and/or any other~~ clause of this Bylaw in that area during the conduct of the race, speed trial, competition or other organised activity; and
  - ii) applied to the Harbourmaster to temporarily reserve the area for the purpose of that activity; and
  - iii) notified the Harbourmaster of the event at least 28 days in advance.
- b) The Harbourmaster may in the interest of navigational safety choose to issue a special event authorisation in the absence of an application to do so.
- c) Where the Harbourmaster is satisfied, on considering an application for single or multiple events held within one year under this Bylaw, 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 for each event, and subject to such conditions (if any) as he or she may specify.
- d) Every grant of an application under this Bylaw shall, subject to sub-clause e), have effect according to its tenor.
- e) ~~No grant~~On approval of an application under this Bylaw ~~shall have effect unless, not less than 7 days or more than 14 days before the commencement of the activity, a~~ the Harbourmaster shall arrange for a public notice is given specifying the period of the activity and details of the suspension or reserved area to be displayed on the Council website and the issuing of a Navigation Safety Notice should this be required.
- ~~f) The Harbourmaster may recover from the applicant all actual and reasonable costs incurred for the publication of a public notice under sub-clause e).~~

## **6.2 Notification of collisions or accidents**

- a) The master of any vessel that:
- i) has been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded in any waterway; or
  - ii) 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 any person, other vessels or property; or
  - iii) in any manner gives rise to an obstruction; or
  - iv) causes any damage to any navigation aid or structure or to anything on the structure;

must, as well as complying with any accident reporting requirements of sections 30 to 33 of the Maritime Transport Act 1994, as soon as practicable report the occurrence to the Harbourmaster and within 24 hours, provide the Harbourmaster with full written details of the occurrence.

- b) A report under sub-clause a) must include:
  - i) a full description of any injury to persons and their names and their addresses; and
  - ii) a full description of any damage to vessels or structures; and
  - iii) the names and addresses of persons in charge of the vessel; and
  - iv) the time and date of the occurrence; and
  - v) an outline of events relating to the occurrence.
- c) If an incident described in sub-clause a) involves damage to a vessel that makes or is likely to make it un-seaworthy the master may not move the vessel except:
  - i) to prevent the vessel from creating a hazard to navigation; or
  - ii) in accordance with the directions of the Harbourmaster, or an enforcement officer.

### **6.3 Discharge of pollutants, litter and rubbish**

- a) No person shall discharge, cast or dispose of or cause to be discharged, cast or disposed of (directly or indirectly) into any water any rubbish or other substance or liquid of an objectionable or offensive nature or which is likely to pollute, detract from or cause deterioration of the waters.
- b) No person shall in any part of the Harbour:
  - i) break or cause to be broken or throw or abandon, cast or leave, whether broken or not any glass or pottery object, tins, bottles, paper, paper wrappings, plastic bottles, bags or containers, plastic sheet, litter, rubbish, oil or other articles or thing likely to be unsightly or to cause any nuisance or danger to public health or safety; or impede or endanger the operation of any vessel.
  - ii) scale, clean or gut any fish or throw cast or leave or deposit any fish, or any portion of a fish or a carcass of any dead animal, or fowl or any vegetable matter likely to cause a nuisance, injury or danger to public health or safety.
- c) No person shall allow any material described in clauses 6.3 a) and b) above from the washing down or scrubbing of the hull of any vessel to enter any water covered by this Bylaw.

#### **6.4 Fouled vessels**

No person shall anchor, berth or moor, or allow to remain anchored, berthed or moored, within the Harbour (including within any marina) any vessel which is subject to significant fouling<sup>8</sup> with marine growth.

#### **6.5 Application to ~~master~~person in charge /owner**

- a) Where any clause in this Bylaw imposes an obligation or duty on the ~~master~~person in charge of any vessel, that obligation or duty must, in the case of a vessel that has no ~~person in charge~~master, be performed or carried out by the owner.
- b) Where any clause of this Bylaw imposes an obligation or duty on both the ~~person in charge~~master and the owner of a vessel, then, if that clause is not complied with, the ~~person in charge~~master and the owner are deemed severally to have committed an offence against this Bylaw.
- c) If any such clause is complied with by either the ~~person in charge~~master or the owner, then, for the purposes of this Bylaw, compliance by one is deemed to be compliance by the other.

#### **6.6 Penalties, offences and infringements**

- a) Any person who breaches, or fails to comply in any respect with, any provision of this Bylaw commits an offence.
- b) Any person who fails to obey a lawful order or instruction given for navigation safety purposes by the Harbourmaster commits an offence.
- c) The Harbourmaster, Deputy Harbourmaster, Enforcement Officer and Honorary Enforcement Officer may require the ~~person in charge~~master of any vessel who is found committing an offence against the Bylaw to supply their name, address and date of birth.
- d) The penalty or fine related to any offence is set out in Appendix 1 of this Bylaw.

#### **6.7 Serving of Infringement Notices**

- a) If a person is observed committing an infringement offence by the Marina Supervisor, Harbourmaster or an Enforcement Officer, or the Marina Supervisor, Harbourmaster or Enforcement Officer have reasonable cause to believe such an offence has been committed by that person, an infringement notice in respect of that offence may be served on that person.
- b) The Harbourmaster or Enforcement Officer may deliver the infringement notice (or a copy of it) to the person alleged to have committed the offence personally or by post, addressed to that person's last known place of residence or business.

---

<sup>8</sup> Significant fouling shall mean: 16-100% of visible hull surface covered by macrofouling or filamentous algae. Any remaining area often covered with slime. This is in accordance with Level of Fouling 4-5 of the NIWA biofouling scale.



## **6.8 General Defence**

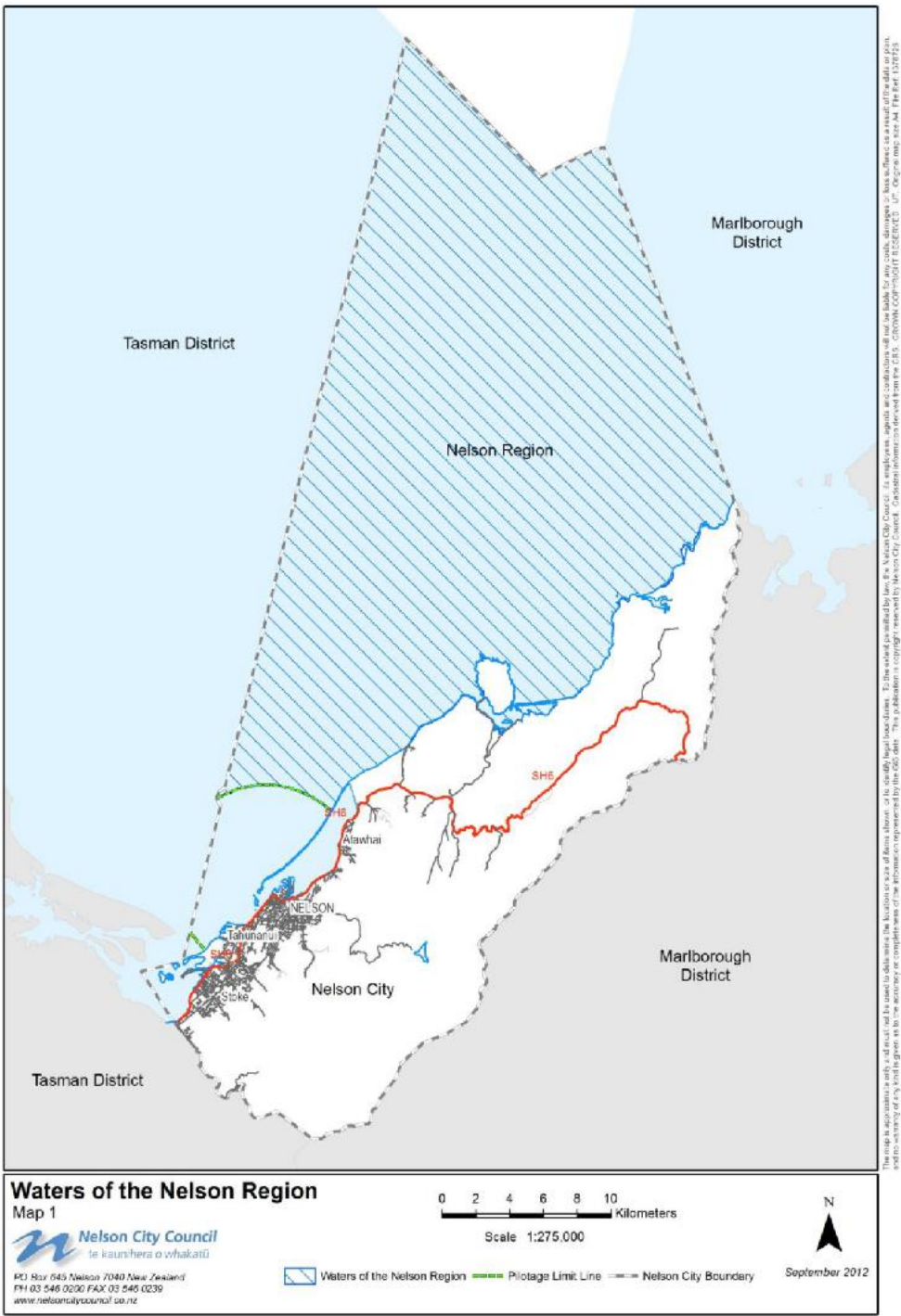
- a) It shall be a defence to any prosecution for a breach of this Bylaw if the defendant proves that:
  - i) the action or event to which the prosecution or infringement relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property; and
  - ii) the conduct of the defendant was reasonable in the circumstances; and
  - iii) the effects of the action or event were adequately mitigated by the defendant after it occurred.
- b) It shall be a defence to any prosecution for a breach of this Bylaw that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural event, mechanical failure, or sabotage, and in each case either:
  - i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and
  - ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.
- c) Except with the leave of the Court, clause 6.8 a) and 6.8 b) of this Bylaw does not apply unless, within seven days after the service of summons or within such further time as the Court may allow, the defendant delivers to the Council a written notice:
  - i) stating that he or she intends to rely on sub-clause 6.8 b) i) or 6.8 b) ii); and
  - ii) specifying the facts that support his or her reliance on clause 6.8 b) i) or 6.8 b) ii).

## **6.9 Appointment of Harbourmaster, Enforcement Officers, ~~and~~ Marina Supervisor and Navigation Safety Officer**

- a) The Council may appoint a Harbourmaster for the purpose of enforcing the provisions of this Bylaw.
- b) The Council may appoint a Deputy to the Harbourmaster or an enforcement officer for the purpose of enforcing the provisions of this Bylaw.
- c) The Council may appoint an ~~Honorary~~ Enforcement Officer for the purpose of this Bylaw.
- d) The Council may appoint an officer/individual or entity as Marina Supervisor for the purpose of enforcing this bylaw where it relates to management of the Marina.
- d)e) The Council may appoint a Navigation Safety Officer to assist with land based safety checks or advisory purposes.

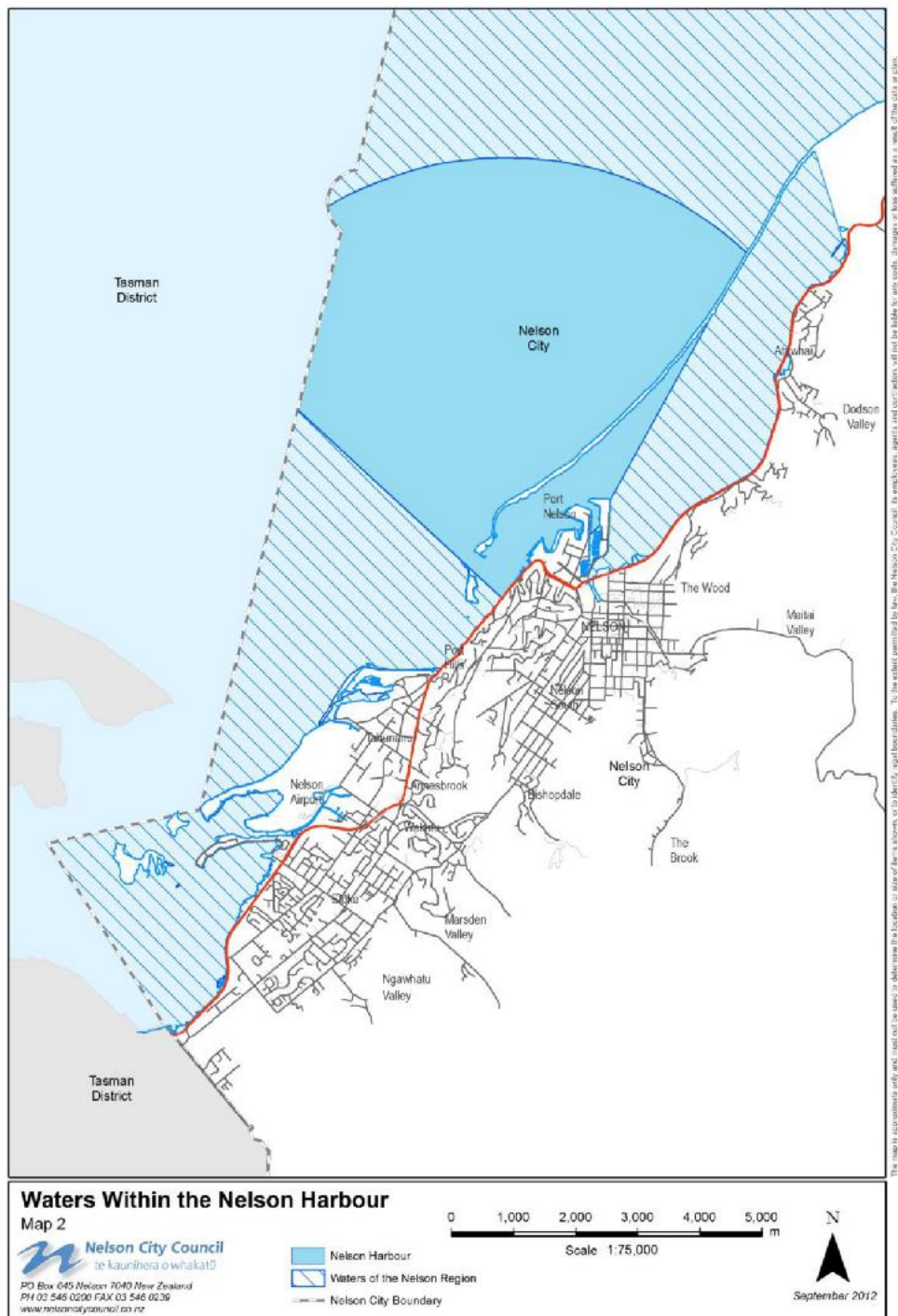
7. Maps

MAP 1 WATERS WITHIN THE NELSON REGION





## MAP 2 WATERS WITHIN THE NELSON HARBOUR







MAP 4 NELSON MARINA



**MAP 5 TAHUNANUI BEACH RECREATION AREAS**





MAP 6 MONACO ACTIVITY AREAS



MAP 7 CRUISE SHIP ANCHORING AREA



**8. APPENDICES****APPENDIX 1 PENALTIES, OFFENCES AND INFRINGEMENTS**

<b>Description of Bylaw Provision</b>	<b>Bylaw Clause Number</b>	<b>Offence Description</b>	<b>Fine</b>
Reporting procedures	2.1	<del>Failure</del> <u>Failing</u> to follow reporting procedures	\$500
Harbour recreation zones	2.2b), c), d), e)	<del>Failure</del> <u>Failing</u> to act appropriately in specified zone	\$100
Harbour recreation zones	2.2f)	Operating motorised craft within Tahunanui exclusion zone <del>without prior permission</del>	\$100
Moving prohibited zone/Total exclusion zone	2.3	<del>Failure</del> <u>Failing</u> to comply with operating requirements of zones	\$200
Harbour transit lane	2.4	<del>Failure</del> <u>Failing</u> to comply with operating requirements of lane	\$200
Exclusion Zone around vessels	2.5	<del>Failure</del> <u>Failing</u> to stay clear of exclusion zone	\$100
Obstructions	2.6a), b)	Placing an obstruction likely to restrict navigation or cause damage to vessels or property, or injury or death to any person	\$100
	2.6c)	Impeding navigation of vessel greater than <del>500gt</del> <u>500gross tonnage</u>	\$200
Lifejackets	2.7a), b)	<del>Failure</del> <u>Failing</u> to provide sufficient accessible personal flotation devices	\$100
	<u>2.7b)</u>	<u>Failing to ensure any person being towed wears an appropriate personal floatation device, or failing to wear an appropriate personal floatation device while being towed</u>	<u>\$100</u>
	2.7d), e)	<del>Failure</del> <u>Failing to ensure persons on board vessels to</u> wear personal flotation devices in accordance with requirements	\$100
Minimum age for operating powered vessels	2.8	Owner of a power-driven vessel <del>that is</del> capable of a proper speed exceeding 10 knots allowing a person <del>who is</del> under	\$100

		the age of 15 years to be in charge of, <del>or propel</del> operate, or navigate that vessel, <del>in contravention of this provision</del>	
<del>Speed of vessels</del>	2.9a) i)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 5 knots within 50 metres of another vessel, <del>floating structure</del> , or person in the water	\$200
	2.9a) ii)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 5 knots within 200 metres of <del>the</del> shore or of any structure	\$200
	2.9a) iii)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 5 knots within 200 metres of a vessel or floating structure flying <del>Flag-flag</del> A (diver's flag)	\$200
	2.9a) iv)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 5 knots within 200 metres of any area set aside or zoned	\$200
	<del>2.9a) v)</del>	<del>Exceeding 5 knots when knowingly or deliberately approaching within 200m of a marine mammal</del>	<del>\$200</del>
	2.9a) vi)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 5 knots within any zone set aside as a 5 knot zone or as a swimming area	\$200
	2.9b)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 3 knots within any marina	\$100
	2.9c)	<del>Operating or navigating a vessel at a speed e</del> Exceeding 5 knots while any person has a portion of <del>their—his or her</del> body extending <del>over the fore part, bow or side of a</del> from vessel	\$200
	2.9d)	<del>Person—a</del> Allowing <del>themselves oneself</del> to be towed by a vessel at a speed exceeding 5 knots <del>in breach of clause 2.9a) i)–vi)</del>	\$200
	2.9e)	<del>Failure—Failing</del> to recover any object dropped by any person being towed	\$100
<del>Wake or wash</del>	2.10	<del>Operation—Operating of a</del> vessel	\$100



		<del>that creates</del> <u>creating</u> damaging wake or wash	
<del>Lookouts — on vessels used for water skiing or towing — any person</del>	2.11a)	Towing a water skier or person in breach of requirements	\$100
	2.11b)	Allowing oneself to be towed by a vessel in breach of requirements	\$100
<del>Waterskiing — or towing — between sunset — and sunrise</del>	2.12a)	Towing a water skier or person in breach of requirements	\$200
	2.12b)	Allowing oneself to be towed by a vessel in breach of requirements	\$200
<del>Conduct — in access lanes</del>	2.13a), b)	Failing to manoeuvre a vessel, <u>or allowing oneself to be towed by a vessel,</u> in an access land other than <u>by</u> the most direct route <u>through</u> and on the starboard side of the access lane	\$100
	2.13c), d)	Obstructing, or creating danger to, persons or vessels making legitimate use of the access lane	\$100
	2.13e)	Undertaking an activity in an access lane other than the priority activity while the priority activity is taking place	\$100
<del>Conduct — in reserved areas</del>	2.14b)	Obstructing persons or vessels making legitimate use of <del>the a</del> reserved area	\$100
	2.14c)	Undertaking an activity in a reserved area other than the priority activity while the priority activity is taking place	\$100
<del>Prohibited anchorages</del>	2.15	Anchoring or mooring a vessel in a prohibited anchorage	\$100
<del>Damage — to navigation aids</del>	2.16a)	Tying a vessel to a navigation aid without written permission from the Harbourmaster	\$100
	2.16b)	Damaging, removing, interfering or defacing navigation aids	\$100

	2.16c)	Erecting, displaying or maintaining any beacon, <del>light, mark,</del> buoy or <del>other</del> device without <del>written</del> permission	\$100
<del>Distance from oil tankers showing Flag B</del>	2.17	<del>Failure</del> <del>Failing</del> to stay 200m clear of oil tanker or any other vessel showing flag B or an all-round red light	\$200
<del>River safety rules</del>	2.18	<del>Failure</del> <del>Failing</del> to comply with <del>operating requirements for rivers</del> river safety rules	\$100
<del>Collision prevention</del>	2.19	<del>Operating a vessel in breach of Maritime Rule Part 22 (www.maritimenz.govt.nz/rules)</del>	\$100
<del>Flags and signals</del>	2.20a)	<del>Failure</del> <del>Failing</del> to display Flag flag B during day and an all-round red light at night (explosives <del>explosive</del> cargo)	\$500
	2.20b) i)	<del>Being Master</del> <del>master</del> of a vessel from which dive operations are in progress and not <del>clearly</del> displaying flag A <del>clearly as required</del>	\$200
	2.20b) ii)	<del>Person</del> <del>d</del> <del>D</del> iving from a vessel and <del>not</del> <del>without</del> <del>clearly</del> displaying flag A <del>clearly as required</del>	\$200
<del>Vessels not to sound whistles</del>	2.21	Sounding whistle, <del>siren or horn</del> in breach of requirements	\$100
<del>Use of distress signals</del>	2.22	<del>Improper use of</del> <del>Using</del> distress signals <del>improperly</del>	\$100
<del>Seaplanes</del>	2.23a)	Impeding a seaplane from taking off or landing	\$200
	2.23b)	Operating a seaplane <del>within the harbour</del> without permission <del>in locations they are prohibited</del>	\$200
<del>Vessels to be licensed</del>	2.24	<del>Unauthorised operation</del> <del>operating</del> without <del>authorisation</del> for hire or reward a vessel <del>that is not subject to Maritime Rules</del> in breach of requirements	\$500
<del>Navigation charts and equipment</del>	2.25a)	<del>Failure</del> <del>Failing</del> to carry appropriate navigation aids	\$100

	2.25b)	<del>Failure</del> <u>Failing</u> to use and display visibility aids	\$100
<del>Vessels to be identified</del>	2.26	<del>Failure</del> <u>Failing</u> to identify vessel with appropriate markings	\$100
<del>Moorings and structures</del>	3.1d)	<del>Use</del> <u>Allowing use</u> of a mooring by unauthorised vessel	\$100
	3.1g)	Anchoring <del>of</del> a vessel <u>so</u> that <u>it</u> obstructs a mooring	\$100
Alcohol	<del>3.3</del>	<del>Unauthorised consumption of liquor</del>	<del>\$100</del>
Berths	3.5b), c)	Unauthorised use, occupation, transfer, sublet or disposal of berth	\$200
	3.5e)	Failure to comply with terms of licence	\$200
Visiting vessels	3.6a)	<del>Unauthorised occupation of</del> <u>Occupying</u> visiting vessel berth <u>without authorisation</u>	\$100
	3.6b)	Anchoring or mooring in prohibited anchorage area	\$100
<del>Sharing of berths</del>	3.7	Tying up <del>to a berthed vessel</del> <u>to a berthed vessel</u> in marina	\$100
<del>Commercial vessels in marina</del>	3.8	Use of marina berth by a commercial vessel <u>without authorisation</u>	\$200
<del>Safe berthing</del>	3.10	<del>Failure</del> <u>Failing</u> to securely fasten vessel and to ensure safe and adequate means of access	\$100
Seaworthy vessels	3.11a)	<del>Not maintain a</del> <u>Failing to maintain a</u> vessel in seaworthy condition <del>without a written permission</del>	\$200
<del>Alteration of berth</del>	3.12	<del>Unauthorised alteration or modification</del> <u>Altering or modifying berth without authorisation</u>	\$500
<del>Damage to mooring or berth</del>	3.13	<del>Failure</del> <u>Failing</u> to make good <u>any</u> damage to mooring or berth	\$200
<del>Fishing in marina</del>	3.14	<del>Failure to follow instructions</del> <u>Fishing in marina in contravention of direction by from</u> Marina Supervisor	\$50
<del>Use of vessel engine around</del>	3.15	Operating propulsion system in breach of requirements	\$100

<del>wharves and ramps</del>			
Nuisance	3.16	<del>Failure to abate</del> Creating excessive noise or public nuisance	\$100
Safety in marina	3.18a)	<del>Failure</del> Failing to maintain a safe marina environment	\$100
	3.18b)	Bringing <del>in or keeping</del> dangerous or inflammable goods <del>outside in breach of</del> requirements	\$200
	3.18c)	<del>Failure</del> Failing to obtain approvals for repairs, alterations or work <del>on or to vessel</del>	\$100
	3.18d)	<del>Failing to ensure</del> Safe means of work and proper disposal of rubbish	\$100
Repair Grid	3.19	Unauthorised use of <del>repair</del> grid or use <del>outside in breach of</del> requirements	\$100
<del>Use of landing stages</del>	3.20a)	<del>Landing or leaving</del> Goods <del>landed or left upon</del> a marina landing stage without <del>permission of</del> Marina Supervisor <del>permission</del>	\$50
	3.20b)	<del>Improper use of</del> Using water supply <del>improperly</del>	\$100
Boat ramps	3.21b)	<del>Use of ramps outside requirements</del> Failing to pay charges and fees for using any boat ramp, and failing to prominently display proof of payment on boat or towing vehicle	\$100
<del>Swimming or diving around wharves or moorings</del>	3.22	Swimming or diving within 50m of nominated structures without written consent of Harbourmaster or Marina Supervisor	\$50
<del>Hot work operations</del>	4.1a), b), c)	<del>Failure</del> Failing to obtain hot work permit from Harbourmaster	\$500
	4.1e)	<del>Failure</del> Failing to secure Harbourmaster's agreement that pre-condition requirements of a hot work permit are met in full	\$500

Explosives anchorage	4.2	<del>Failure</del> <del>Failing</del> to meet requirements <del>(explosives anchorage)</del>	\$1000
Dangerous goods-signs	4.3	<del>Failure</del> <del>Failing</del> to display Flag flag B during day and an all-round red light at night <del>(dangerous goods)</del>	\$500
Distance <del>from</del> vessels displaying Flag-B	4.4	<del>Failure</del> <del>Failing</del> to stay 200m clear of vessel showing flag B or an all-round red light	\$500
Duties of master of tanker	4.5	<del>Failure</del> <del>Failing</del> to meet requirements <del>(oil tanker in port)</del>	\$750
Loading <del>or</del> discharge <del>of</del> cargo	4.6	<del>Failure</del> <del>Failing</del> to meet requirements <del>(loading or discharge of cargo)</del>	\$750
Special <del>or</del> temporary events	6.1a	<del>Failure</del> <del>Failing</del> to obtain Harbourmaster approval prior to <del>special or temporary events</del>	\$200
	6.1c	<del>Failure</del> <del>Failing</del> to adhere to conditions of special event authorisation	\$200
Notification <del>of</del> collision <del>and</del> accidents	6.2	<del>Failure</del> <del>Failing</del> to report <del>collision or accident and moving vessel in breach of requirements</del>	\$200
Discharge <del>of</del> pollutants, litter and rubbish	6.3	<del>Failure</del> <del>Failing</del> to meet requirements <del>(pollutants, litter, and rubbish)</del>	\$100
Fouled vessels	6.4	Anchoring, berthing or mooring a vessel subject to significant <del>secondary</del> fouling with marine growth	\$750
Instructions <del>and</del> orders <del>by</del> Harbourmaster	6.6b)	<del>Failure</del> <del>Failing</del> to obey any lawful instruction or order given by <del>the</del> Harbourmaster for navigation safety purposes.	\$200
	6.6c)	<del>Failure</del> <del>Failing</del> to supply name, <del>and address, and date of birth when required</del>	\$200

- a) Every person who breaches any of the ~~following~~ provisions in Part 2 (Operation of Vessels) of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- b) Every person who breaches any of the provisions in Part 3 (Moorings, Berths, Marina and other Structures) or Part 6 (General) of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$500:

- c) Every person who breaches any provision in Part 4 (Commercial Operations) of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- d) Every person who breaches any provision of this Bylaw for which no penalty is provided for elsewhere in this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$500.

Submission Summary

Navigation Safety Bylaw - Submission #20391

Mr Greg Bate

Moana  
Nelson 7011

Speaker? False

Department	Subject	Opinion	Summary
NCC - Environmental Management	Navigation Safety Bylaw		My comments are in the context of being the owner of a sea kayak. I support all proposals in relation to this activity. Thank you, Greg

## Submission Summary

Navigation Safety Bylaw - Submission #20433

**Mr Justin Fletcher**

Stepneyville  
Nelson 7010

Speaker? False

Department	Subject	Opinion	Summary
NCC - Environmental Management	Navigation Safety Bylaw		<p>All people on board a vessel six metres or less in length to wear an appropriately sized lifejacket - agreed with this change, what is the intended funding of the enforcement of this bylaw? Penalty should not be punitive in the first instance but educational/statistical.</p> <p>The registration of recreational vessels with the owners name and contact details- agree but how is this enforced? visiting vessels?</p> <p>People wanting to place a marker buoy to obtain the permission of the Harbourmaster and clearly label the buoy - i take it this is a temporary placement? need to define the area, probably the port channel zone? Organisations such as yacht clubs which lay bouys regularly should have a season long license to lay bouys rather than have to contact harbourmaster on every occasion.</p> <p>A person to be nominated as the person in charge of a vessel - agree</p> <p>Two forms of communication to be carried on vessels with an exemption for nonpowered vessels less than six metres in length - agree - encourage joining tasman bay radio VHF</p> <p>other items can be just common sense in a info flyer</p> <p>Reason for close areas of harbour needs to be more clearly defined with parameters, again how</p>

Printed: 03/07/2019 12:03



			<p>will this be controlled. Council need to ensure the use of the harbour and waterways are not limited unnecessarily due to commerical requirements</p> <p>Council needs to carry out these changes in a positive non punitive manner, be information based rather than inforcement.</p>
--	--	--	---



Name: Bruce Lines  
 Organisation represented: (if applicable) Diving Services NZ Ltd  
 Address: [REDACTED] Port Nelson  
 Email: [REDACTED] Tel: [REDACTED]

**Public Information:** All submissions (including the names and contact details of submitters) are public information and will be available to the public and media in various reports and formats including on the Nelson City Council website. Personal information will also be used for administration relating to the subject matter of submissions. Submitters have the right to access and correct any personal information included in any reports, information or submissions.

Submission comments:
2.5 Exclusion zone around vessels at wharves
Need to add exemption for vessels working on wharfs (within 50mtrs)
6.4
What is the defanation of significant fouling?
Exemptions to wearing lifejackets needs to inclue divers wearing wetsuits/drysuits

Submissions can be made:

- Online at **nelson.govt.nz**
- By post to **Proposed changes to the Nelson City Council  
Navigation Safety Bylaw, PO Box 645, Nelson 7010**
- By dropping off to **Civic House, 110 Trafalgar Street, Nelson**

## Submission Summary

### Navigation Safety Bylaw - Submission #20461

**Dallas MATHIESON**  
Manager Nelson Marine Safety Centre

Nelson 7010

Speaker? False

Department	Subject	Opinion	Summary
NCC - Environmental Management	Navigation Safety Bylaw		<p>I wish to propose to the Nelson City Council that we use the Council owned building next to the boat ramp at port Nelson for the purpose of a Nelson Marine Safety Centre.</p> <p>The Building is roadside with large windows to the front and a fenced courtyard. I believe that it is in an ideal location to advise marine users about marine safety before they launch their vessels.</p> <p>The empty building i believe has been unused for approximately one year. It would be good to use it to help people. I propose that we make large safety signs to be displayed both inside and on the perimeter fence to advise about marine safety, fishing regulations and contact details for emergency services and further marine advice.</p> <p>I propose that the Nelson Marine Safety Centre could on occasion rent the building for purposes such as first aid and marine safety training. This would be a non-profit making business, as any money made would be either given back to the Nelson City Council to help cover costs or used to purchase life jackets to be given away.</p> <p>I do not wish for The Nelson Marine Safety Centre to be a shop.</p> <p>Dallas Mathieson Nelson Marine Safety Centre.</p>

Printed: 08/07/2019 08:30

## Submission Summary

Navigation Safety Bylaw - Submission #20465

**Mr Adrian Parlane**

Stoke  
Nelson 7011

Speaker? False

Department	Subject	Opinion	Summary
NCC - Environmental Management	Navigation Safety Bylaw		No changes be made to the 2012 bylaw until a national set of primary navigation rules has been agreed. The inconsistency of rules is ludicrous and makes life very confusing for vessels passing from one jurisdiction to another.

Printed: 08/07/2019 08:32

20474-1

**Nelson City Navigational safety bylaw review 2019**

**Submission**

**Rob Greenaway**

**Monday, 8 July 2019**

**Introduction**

---

My submission includes both general comments about the application of navigation safety bylaws nationally, and specific issues with the proposed changes to the 2012 bylaw.

**Navigation safety bylaws nationally**

---

Earlier this year I sailed around the North Island, and needed to comply with 12 different sets of marine recreation rules set by 12 different councils with regional functions. To be sure I was following regional navigation safety bylaws I would have needed to read 12 different sets of rules about how I should, for example, name my boat, use flotation devices, maintain my boat in a seaworthy condition, deal with the local harbour master, and how I should comply with biosecurity rules, amongst many other things.

Consider the marine participation patterns for boaties using the Nelson Marina and Akersten Street boatramp as indicated by the *2017 Nelson Marina, Wait-list and Akersten Street Boat Ramp Survey*. Figure 14 of that report, shown in my Attachment 1, indicates marine destinations for marina berth holders for 2016, and Figure 27 shows the same data for ramp users. Each Figure indicates that many – if not most – local boaties will need to comply with at least three different sets of navigation safety bylaws – Nelson, Tasman and Marlborough. It defies logic to assume that boaties will read all three, and, harder still, that they will adjust their behaviour as they move across the harbour limits (especially considering how relatively small Nelson's marine region is).

It's remarkable that, in a small nation with a high participation rate in marine recreation, each regional council (plus Taupo District and QLDC – even Lake Dunstan has its own set of rules) operates unique sets of navigation safety bylaws. For the most common issues, such as the use of flotation devices, most bylaws say almost the same thing, but use quite different wording. In other cases, such as the requirement to name a boat, there can be huge variation. In Tasman I do not need to show a name on my vessel, while it is necessary in Nelson (see Attachment 1 for a brief comparison of boat identification rules for five random councils with regional functions, just as an example).

Alarmingly, we are currently in the throes of developing another layer of different regional rules applying to marine biosecurity. I appreciate that, for example, Auckland, Northland, Waikato and the Bay of Plenty Toi Moana are considering a consistent approach for their areas.<sup>1</sup> By comparison, there is as much recreational boat traffic between Wellington, Marlborough, Tasman and Nelson; and without some regional coordination (at least) we have the potential for a very confusing array of different regulations (not assisted by marinas, such as those administered by Port Marlborough, developing their own additional biosecurity rules).

---

<sup>1</sup> See: <https://www.bionet.nz/control/marine-pests/marinepests/>

20474-1

When regulations cannot be understood, they fail.

My main submission is that no council with regional functions should independently review their navigation safety bylaw until harbour masters nationally have agreed on a set of consistent rules for all common issues, based, in the first, on the national Maritime Rules. Every set of navigation safety bylaws should have a common and identical primary section applying to, for example, boat identification, flotation devices, seaworthiness, speed, wakes, seaplanes, minimum ages and so on. Each can then have a second section which identifies any regional variations or additions to those national rules. The latter should only apply to truly local issues, such as pilotage, activity areas and living aboard.

I realise that this could be considered a big ask, but it is timely and essential. The need for consultation at the regional level to develop and approve bylaws is not an impediment to national consistency. The current Nelson bylaw review only strengthens the argument to cease the tinkering which only expands national inconsistencies.

At the least, there should be one set of such consistent rules for Nelson, Tasman and Marlborough (considering we share Tasman Bay), and with Wellington also since their boaties are a key user group for Marlborough. However, the effort to gain consistency for these four areas would only marginally increase in comparison to creating a nationally consistent set of bylaws.

#### Summary

My submission, considering national consistency, is that:

- No changes be made to the 2012 bylaw until the three Councils of Marlborough, Tasman and Nelson have agreed on a set of consistent primary navigation rules; **or, better still**
- No changes be made to the 2012 bylaw until the four Councils of Marlborough, Tasman, Nelson and Wellington have agreed on a set of consistent primary navigation rules; **or even better still**
- No changes be made to the 2012 bylaw until a national set of primary navigation rules has been agreed.

#### Specific issues

---

##### Flotation devices

Three different rules apply in Tasman Bay for the use of flotation devices:

*Tasman 2015*

##### 3.1 Use of Personal Floatation Devices (PFDs) (Rule 91.4 [of the Maritime Rules])

3.1.1 For the avoidance of doubt, situations to which the provisions of Rule 91.4(6) (PFDs must be worn) apply under this bylaw include (but are not limited to) –

- (a) when a motorised vessel is being navigated at speeds in excess of 10 knots in any river
- (b) when crossing any bar
- (c) when a vessel is being navigated at speeds in excess of ten knots during darkness or restricted visibility.

20474-1

(d) when operating any vessel that lacks a substantially enclosed helming position at speeds in excess of 30 knots.

(e) when operating at speeds in excess of 10 knots where there is limited room to manoeuvre (such as in a water-ski lane or narrow channel).

*Marlborough 2017*

2.2 Personal Flotation Devices (Life jackets)

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 Every person on board a recreational craft that is 6 metres or less in length overall must wear a properly secured personal flotation device of an appropriate size for that person while the craft is underway.

2.2.3 Except when otherwise directed by the Harbourmaster or an enforcement officer, 2.2.1 and 2.2.2 shall not apply to a person who-

(a) is exempted from the application of the Maritime Rules Part 91 by the Director under section 47 of the Act; or

(b) is exempted by Council under Rule 91.4(5) of the Maritime Rules Part 91; or

(c) meets the exclusions in Rule 91.4(2) to (10) of the Maritime Rules Part 91.

And that currently in operation, and proposed, for Nelson, which is again substantially different.

There is no logic to this inconsistency. One consistent rule should apply.

**Registration of recreation vessels**

Three different rules apply in Tasman Bay for the registration of recreation vessels. Note that the registration and naming of personal watercraft is often a different issue in navigation bylaws and is very inconsistent nationally:

*Tasman 2015*

None.

*Marlborough 2017*

2.8 Vessels to be Identified

2.8.1 No person in charge of a recreational craft shall use it or allow it to be used, unless it is marked with an identifying name or number displayed above the waterline on each side of the vessel. The identifying name or number must-

(a) consist of letters of the Roman alphabet or numbers that are not the vessel's brand, make or model; and

(b) be distinct to that vessel; and

(c) be a minimum height of 90 millimetres and be distinguishable to the naked eye by day from a distance of at least 50 metres.

20474-1

2.8.2 This requirement does not apply to a vessel, which is-

- (a) solely powered by oars or paddles; or
- (b) taking part in an organised event approved by the Harbourmaster.

2.8.3 Vessels referred to in bylaw 2.8.2 must be marked with the current owner's name and contact details somewhere on the vessel.

And that currently in operation, and proposed, for Nelson, which is again substantially different.

There is no logic to this inconsistency. One consistent rule should apply.

There is also no reference to how amended clause 2.26c will apply to visiting vessels and how their skippers are expected to know of the requirement to register their vessel. However, I support the need for a harbour master to be able to contact boat owners, and a registry would be useful.<sup>2</sup>

#### **Marker Buoys**

Note the three different rules which apply in Tasman Bay for marker buoys. This one is quite confusing as it relates to both navigation aids and, for example, naming buoys used for fishing:

*Tasman 2015*

3.8.2 Buoys to be labelled and visible

(a) No person shall place a marker buoy in any waters of the District unless that buoy is clearly and indelibly marked, or fitted with a tag, showing at least one of the following;

(i) the owner's initials and surname, and contact telephone number or address; or

(ii) In the case of fishing apparatus markers, as required by the Fisheries Act 1996; or

(iii) In the case of a mooring or other structure authorised in accordance with the Tasman Resource Management Plan, with the coastal permit or mooring licence number and maximum length of vessel permitted to use the mooring, or otherwise as specified by Council for that mooring or other structure.

(b) No person shall place a marker buoy in any waters of the District unless that buoy is sufficiently buoyant to remain at least 50% afloat or otherwise clearly visible in all anticipated tidal conditions.

(c) Any buoy, and/or any apparatus, item or structure marked by a buoy that has been placed in breach of 3.8.2(a) or (b) may be removed by or on behalf of the Harbourmaster, or appropriately labelled, or replaced with a compliant buoy as the case may be, and any costs incurred in so doing shall be a debt due to Council.

(d) Any buoy and any apparatus, item or structure removed pursuant to 3.8.2(c) may be temporarily marked with the letters "TDC" and relocated to a suitable place, or removed from

---

<sup>2</sup> See the following two items for where a boat owner registry would be useful.

<https://www.stuff.co.nz/auckland/113486084/abandoned-boats-costing-auckland-ratepayers-thousands-of-dollars-annually>

<https://www.stuff.co.nz/auckland/local-news/northland/99330978/sell-boats-before-abandoning--nrc?rm=m>



20474-1

the water and stored for a minimum of 28 days, and Council shall be entitled to charge a reasonable fee for any such storage.

(e) Where any fishing apparatus is removed pursuant to subclause (c), the Harbourmaster shall advise the Ministry for Primary Industries of the date, time and location of removal and a description of the apparatus.

And

3.9.3 No person may erect, maintain or display any beacon, light, mark, buoy or other device which may be used or mistaken as an aid to navigation without the approval of the Harbourmaster

*Marlborough 2017*

#### 3.4 Aids to Navigation

3.4.1 No person may tie a vessel to any aid to navigation in the harbour without the prior written permission of the Harbourmaster.

3.4.2 No person may damage, remove, deface or otherwise interfere with any aid to navigation.

3.4.3 No person may erect or display any light, buoy or structure which may be mistaken as an aid to navigation without the written permission of the Harbourmaster.

#### 3.5 Buoys to be Labelled and Visible

3.5.1 No person shall place a marker buoy in any waters of the Harbour unless that buoy is clearly and indelibly marked, or fitted with a permanent tag, showing at least one of the following-

(a) the owner's initials and surname, and contact telephone number or address; or

(b) in the case of a mooring, the mooring licence number.

3.5.2 No person shall place a marker buoy in any waters of the Harbour unless that buoy is sufficiently buoyant to remain at least 50% afloat or otherwise clearly visible.

And that currently in operation, and proposed, for Nelson, which is again substantially different, and which combines rules which are separated in Tasman and Marlborough.

There is no logic to this inconsistency. One (or two) consistent rules should apply.

#### **The remaining proposed amendments**

The same issues identified above apply to all the proposed amendments – they are all regionally inconsistent. Possibly the only locally relevant proposal in this review for Nelson relates to the appointment of a land-based Navigation Safety Officer, although the ability to do this should be enacted at a national level.

My submission on each is as above: There is no logic to this inconsistency. Consistent rules should apply at least at the super-regional level, if not nationally.

20474-1

**Hearing**

---

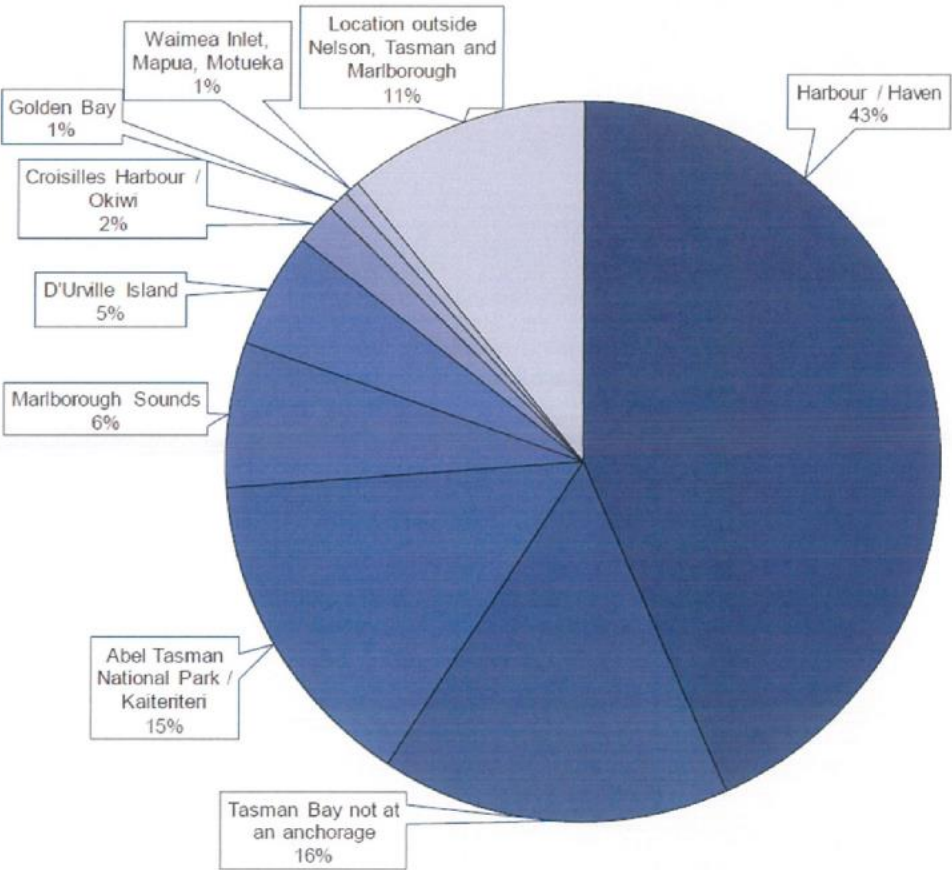
I wish to be heard in relation to my submission. I will give a brief summary of my points and will ask three questions:

- As an example, should there be three different naming conventions for vessels in Tasman Bay?
- Is national inconsistency in navigation safety bylaws an inevitable consequence of the structures under which they are prepared?
- If there is a structural issue, how can this be addressed?
- If there is no structural issue, what is the process by which national consistency can be achieved?

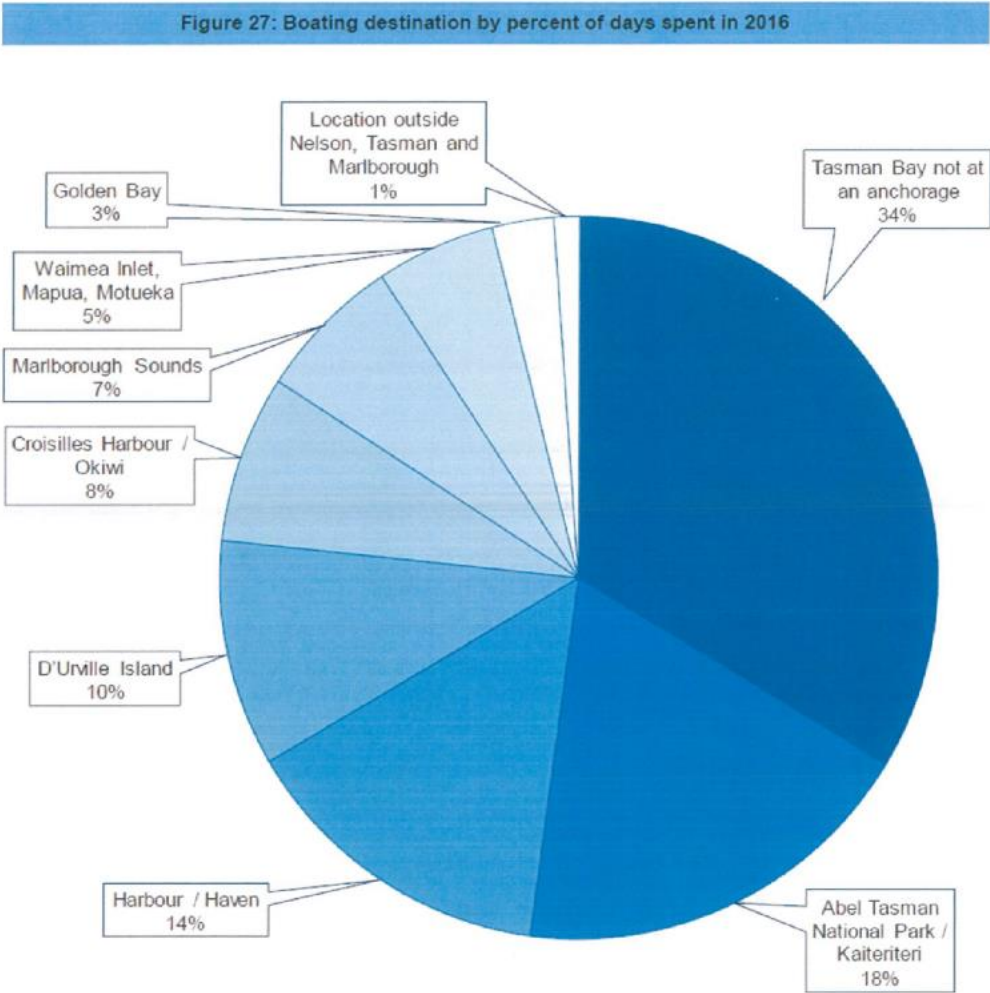
20474-1

Attachment 1

Figure 14: Boating destination by percent of days spent in 2016



20474-1



20474-1

**Comparison of naming requirements – five regions:****BOP 2017**

Naming of Vessels. The master of a vessel not subject to clause 5.4 shall ensure that the vessel is clearly marked with a name or number, consisting of a minimum of two letters or numbers, which must not be a vessel's brand, make or model. The name and number must be of a contrasting colour that is legible from a distance of 50 metres, with a minimum height of 90 millimetres and each digit having a minimum width of 80 millimetres, or compliant with a national sporting body standard.

5.5.2 Clause 5.5.1 does not apply to: (a) non-power driven vessels of 6 metres or less in length; or (b) power driven vessels of 4 metres or less in length. [NOTE: Any vessel exempted under clause 5.5.2 should be clearly marked somewhere accessible on or in the vessel, with the owners name and contact details to assist in identifying and returning lost or stolen vessels.]

**Auckland 2014**

Vessels to be identified (1) A person must not use a vessel on navigable waters unless it displays a name, consisting of letters the Roman alphabet or numbers that are not the vessel's brand, make or model, and that is distinct to that vessel. (2) Subject to clause (3), this clause does not apply to: (a) non-mechanically powered vessels of less than six metres in length; and (b) power driven vessels of less than four metres in length. (3) Non-mechanically powered vessels and power driven vessels referred to in subclause (2) must be marked with the current owner's name and contact details somewhere on the vessel. (4) The name, identification mark or number referred to in subclauses (1) must be displayed above the waterline on each side of the vessel by the person in charge of the vessel. The minimum height of the name, identifying mark or identification number is 90 millimetres and it must be legible by day from a distance of at least 50 metres.

**Northland 2017**

No requirement

**Nelson 2012**

Vessels to be identified a) The master and owner of any vessel shall ensure the vessel is marked with its name or similar identifying marks on each side of the vessel. b) The number or name shall be a minimum height of 90 millimetres and each character shall be legible. Provided in the case of any sailing vessel affiliated to Yachting New Zealand, the Rules of that organisation, which state: "Yachts shall clearly display in legible characters at least 50mm, but preferably at least 100mm, in size their registered name and sail number," may apply. c) Sub-clause a) shall not apply to non-mechanically powered vessels of less than six metres in length. However such vessels shall be marked with a name, or the owner's name or contact details, somewhere on the vessel. d) Sub-clause a) shall not apply to mechanically powered vessels of less than four metres in length. However such vessels shall be marked with a name, or the owner's name or contact details, somewhere on the vessel.

**Tasman 2015**

No requirement

Note that there are different rules also for identifying and registering personal watercraft.

20478-1



27/06/2019

#### **NAVIGATIONAL SAFETY BYLAW**

Nelson Youth Council supports and sees the importance and the impact involved with the proposed changes to the Navigational Safety Bylaw. We believe that these changes will ensure the safety of anyone using Nelson's waterways. We do believe these proposed changes will help educate and inform people using our waterways. Nelson Youth Council believes all members on the vessel need to wear an adequate life jacket and is especially crucial to improve safety, as it makes sure that if an accident were to happen on the water that the risk of drowning is significantly decreased, as most accidents will occur without any warning. These proposed changes at first may seem daunting, but we believe in the long run they will ultimately improve and change the statistics of accidents on Nelson's waterways to something we can be proud of.

We do not wish to speak to our submission.

Yours sincerely

Hailey Potts  
Cassie Hagan  
Alex Hunter  
Nico Frizzell  
Emma Edwards  
Ruby Heslop  
Holly Goulter  
Grier Rollinson  
Alexandra Lile  
Ryan Martyn  
**Nelson Youth Councillors**

Hamish Smith  
Theo Wheatley  
Emma Barnes-Wetere  
Zoë Jurgeleit  
Leila Challenger  
Nathan Dunn  
Jessica Hamilton  
Ollie Ransom  
Anna Sawyer

Submission Summary

Navigation Safety Bylaw – Submission #20565

**Mr Richard Barnett**  
Team Leader, Maritime Services (Harbourmaster) Waikato Regional Council  
  
richard.barnett@waikatoregion.govt.nz  
  
Private Bag 3038 Waikato Mail Centre  
Hamilton 3240  
  
07 859 0556  
07 859 0556  
  
Speaker? True

Department	Subject	Opinion	Summary
NCC - Environmental Management	Navigation Safety Bylaw		Please see attached.
NCC - Environmental Management	Navigation Safety Bylaw		In addition to our earlier submission The council supports: clause 2.28, the carriage of appropriate means of communication

20565-1

**Waikato Regional Council Submission on the Nelson City Council's proposed Navigation Safety Bylaw, 2019**

Thank you for the opportunity to submit.

The Waikato Regional Council (WRC) supports the draft bylaw rule 2.7 d)

We recognise that wearing a lifejacket while boating is the singularly most important safety measure that can be taken.

The wearing of PFDs, and most recently wearing PFDs all of the time, has been the key message in Maritime New Zealand's series of safer boating campaigns. The introduction of a legal requirement to do so will reinforce the safety messaging to date.

The Regional Council Chief Executives' Forum supports the introduction of a single maritime rule for PFDs, and nine regional/district councils already have a bylaw that requires the wearing of PFDs at all times on recreational vessels six metres or less in length.

Wearing of life jackets is further endorsed by:

**Maritime NZ website** (<http://www.maritimenz.govt.nz/Recreational-Boating/Lifejackets/Lifejackets.asp>)

- "Why wear a lifejacket?"
- "Most drownings in boating accidents involve craft under 6 metres. All on board boats under 6 metres should wear a lifejacket.....Most accidents occur suddenly with no warning...."

**NZ Safer Boating Forum** (<https://www.maritimenz.govt.nz/Publications-and-forms/Recreational-boating/SBF-fact-sheet-lifejackets.pdf>)

"FACT SHEET: LIFEJACKETS"

**Lifejackets are life savers.**

Research commissioned by Maritime New Zealand (MNZ) shows that:

- people who wear lifejackets on the water are more likely to survive if something goes wrong.
- not wearing a lifejacket is the leading risk factor for boating fatalities.

The other key risks are:

- Not carrying communications, not checking the weather, and drinking alcohol.
- Skippers are also responsible for the operation of their craft, and their own and passengers safety.
- Two-thirds of those who die in recreational boating accidents each year could have been saved had they been wearing a lifejacket. *Source: NPBSF 2006*
- Men aged 30-60 are over-represented in recreational boating fatalities. "The main reasons lifejackets weren't worn was people downplaying the personal risk of not wearing one and they are seen as being uncomfortable." *Source: IPSOS 2015*
- Everyone on board a boat less than 6 metres should wear a lifejacket at all times. Most accidents occur suddenly, with no warning – there may be no time to grab a lifejacket, and it is extremely difficult to put on a lifejacket in the water.
- Many boats down less than 200 metres from shore.

**NZ Safer Boating Forum and Maritime New Zealand position**

- Lifejackets should be worn – not stowed under seats or forward in the cabin. In case of a capsized or other emergency a lifejacket is no good unless it's being worn.

---

Doc # 14725533



20565-1

- Everyone on the water should wear lifejackets at all times. This is aimed at reducing the number of boating fatalities and encouraging a behaviour change by boaties, to wear their lifejackets rather than just carrying them.
- MNZ's "Lifejackets for Life" advertising campaign, styled on TV cop shows from the 1980s, targets men and sends the deadly message that if boaties don't wear a lifejacket they are risking their lives.

**Minutes of the NZSBF meeting 3 October 2013**

Item 17: International Lifejacket Principles

Maritime NZ became a founding signatory to the International Lifejacket Principles at the Marine13 conference in Sydney May 2013. (<http://www.lifejacketwear.com/en>)

(a) The Principles

(i) *Organisations<sup>1</sup> which are signatories to the International Lifejacket<sup>2</sup> Wear Principles agree to the following:*

- We recognise the fundamental role the wearing of lifejackets plays in the safeguarding of life for water users;
- We recognise the importance of promoting the wearing of lifejackets when boating;

**Minutes of the NZSBF meeting 1 October 2015**

"The forum again endorsed its support for lifejackets to be worn at all times in small boats"

Action item – "MNZ and regional councils to work together to try to develop a consistent approach to mandatory lifejacket wearing across the country."

Nine regional/district councils (Northland, Waikato, Taupo, Hawkes Bay, Wellington, (Marlborough), Canterbury, Queenstown, Southland) already have a bylaw that requires the wearing of PFDs on recreational vessels 6 metres or less in length.

The New Zealand Safer Boating Forum's Recreational Boating Summer Safety Report (2016), suggests that statistics from the 2014/15 summer period continues a common theme across the wider water safety sector. Approximately 82 percent of all drowning deaths involve males who underestimate the risks associated with the conditions, and overestimate their levels of competence.

There is wide support from boating safety organisations for a mandatory requirement. Mandatory PFD wearing on small boats has been recommended in media commentary on recreational boating incidents, Coroners' reports and by Maritime New Zealand in advice to previous Ministers of Transport.

Views from recreational users appear to support mandatory wearing. Current attitudes toward mandatory wearing among recreational boat users, and among the general public, are predominantly positive. A recent Research New Zealand survey found that:

just over three-quarters of all recreational vessel users (76 percent) believe it is very important that adults should wear PFDs the entire time they are on the water among recreational users with small vessels, 62 percent believe it is important that adults wear PFDs the entire time they are on the water.

20565-1

Minutes of the NZSBF meeting 19 March 2017

The forum confirmed, by vote, its position that “the wearing of lifejackets is mandatory on vessels 6 metres and less while underway”.

Further, we respectively suggest that Nelson City Council add the wording “**while underway**” to 2.7 d). Not only would it be better aligned with other bylaws it quietens any protest where one might claim it could be argued that one would need to be wearing a PFD when asleep below the deck in a small yacht at anchor.

The Waikato Regional Council supports the draft bylaw rule

- 2.8 to 2.16
- 2.18 to 2.23
- 2.26
- 3.11
- 3.22
- 6.1
- 6.2

We suggest that clauses 3.16, 3.17, 3.20, 3.21, 6.3 and 6.4 are not strictly concerned with maritime safety and would more usefully be considered under the RMA, the district and/or coastal plan rather than the navigation safety bylaw.



**Submission Form**  
**Proposed changes to the Nelson City Council Navigation**  
**Safety Bylaw**

Name: .....  
 Organisation represented: (if applicable)..... Tasman Bay Cruising Club  
 Address: ..... Port Nelson 7043  
 Email: ..... Tel: .....

Do you wish to speak at the hearing? Yes / No.

**The Hearing is scheduled for Tuesday 6 August 2019.** *If you do not circle either, we will assume you do not wish to be heard. If you wish to present your submission at the hearing in Te Reo Māori or New Zealand sign language please include this information in your submission.*

**Public Information:** All submissions (including the names and contact details of submitters) are public information and will be available to the public and media in various reports and formats including on the Nelson City Council website. Personal information will also be used for administration relating to the subject matter of submissions. Submitters have the right to access and correct any personal information included in any reports, information or submissions.

[illegible]

Please attach additional sheets if needed.

Submissions can be made:

- Online at **nelson.govt.nz**
- By post to **Proposed changes to the Nelson City Council  
Navigation Safety Bylaw, PO Box 645, Nelson 7010**
- By dropping off to **Civic House, 110 Trafalgar Street, Nelson**

20569-1

## **TBCC Submission in regard to:**

### **Proposed changes to the Navigation Safety Bylaw 2012 (No.218)**

The Tasman Bay Cruising Club (TBCC) strongly recommends some specific improvements to the proposed Navigation Safety Bylaw 2012 (No.218)

More generally TBCC supports the proposed changes to the Navigation Safety Bylaw 2012 (No.218) but has some suggestions and recommendations to clarify the intended or unintended impact of the changes on the activities of organised sporting clubs.

Tasman Bay Cruising Club conducts yacht racing as part of its organised activities and utilises the Nelson Harbour and the wider Tasman Bay to do so. To organise races TBCC places marked buoys as turning marks for yachts as part of the course. TBCC uses a start line from the Nelson Yacht Club on Wednesdays during summer.

TBCC organises more than fifty race events over a twelve month period, many following an identical format.

The club organises activities from time to time to bring visiting yachts to the region. Often more than 30 boats and 150 people are taking part in these activities.

The club has in excess of 300 members

The changes recommended are as follows:

We refer specifically to 2.16

For clarity 2.16 c) would be better split into two clauses and the existing clause d) should become e), and refer to d).

#### 2.16 Aids to navigation

- a) No person may tie a vessel to any buoy, beacon, marker, or other device or structure erected as a navigation aid or warning without the prior permission of the Harbourmaster, unless such is necessary to avoid damage to or loss of any vessel, or injury to any person.
- b) No person may damage, remove, deface or otherwise interfere with any buoy, beacon, marker, or other device or structure erected as a navigation aid or warning.
- c) No person may erect, maintain or display any beacon, buoy or other device which may be used as or mistaken for a recognised navigation aid without the written permission of the Harbourmaster and the Director.
- d) No person shall place a marker buoy in any waters of the Harbour unless that buoy is clearly labelled and indelibly marked or fitted with

20569-1

a permanent tag showing the owners name and contact details and is at least 50% afloat or otherwise clearly visible.

- e) Provided that nothing in sub-clause d) shall apply in respect of any buoys or other devices which are erected or installed in conjunction with any temporary or special event or other activity which is being undertaken with the approval of the Harbourmaster.

TBCC recommends that a process for obtaining the permission of the Harbour Master alluded to in 2.16 e) and possibly in 6.1 is included in the By Law to provide certainty for organisations planning events often twelve to eighteen months in advance. In some jurisdictions this would be referred to as an Aquatic Activities licence with such a licence providing the Harbour Master and the Organisation an opportunity to plan and agree the requirements. The licence would include the nature of the events, the areas of the harbour and surrounding waters that will be used and the contact details for the organisers.

6.1 is impacted by this suggestion as it limits the time frames for licences to 10 days c) and requires advertising e). Changes to 6.1 are recommended to provide for an annual Aquatic Licence.

2.21 b) prohibits the use of sound signals associated with sailing activities in the vicinity of vessels over 40m in length. TBCC submits that "vicinity" lacks definition and, given the 400m distance between Nelson Yacht Club and the main wharf, could possibly result in misinterpretation.

#### Other Comments

2.7 d) contains a typo "issix" – should be "is six"

2.24 a) For clarity the word "vessel" should be inserted in 2.24 a) and possible all subclauses in 2.24

2.24

- a) No such vessel licence will be issued if the Harbourmaster is of the opinion that the operation is likely to:

2.27 a) – Person in Charge – The identification of the person in charge is particularly vague and the clause seems no purpose other than to set up the following clause.

2.27 b) – This clause puts undue responsibility on the person in charge and does not sit well with the intent of the Health and Safety at Work Act 2015 which holds all participants responsible for their own and others safety.

TBCC is concerned that the by law supports the ongoing community use of the waters of Nelson without undue or onerous requirements, while ensuring the safety of all users. The changes to provide for an annual approval from the

20569-1

Harbour Master for the activities organised by clubs such as TBCC are important to our members.



20592-1



## Proposed changes to the Navigation Safety Bylaw 2012

Submission by:  
Yachting New Zealand.  
4 Fred Thomas Drive,  
Takapuna,  
Auckland.

Contact details:  
RSO Ian Gardiner  
[iangardiner@yachtingnz.org.nz](mailto:iangardiner@yachtingnz.org.nz) Phone: 02102939182

We are happy for our contact details to be made public.

We wish to be heard in support of this submission.





20592-1

## **Yachting New Zealand**

Yachting New Zealand (YNZ) is the national sports organisation (NSO) which represents 31,000 members in 120 yacht clubs from Taipa in the north to Bluff in the south – also affiliated are 50 class associations and 40 maritime associations. Many boaties are involved in both power and sail driven activities.

Yachting New Zealand is recognised as the spokes group for boaties, not just sailors. YNZ lobbies to ensure continued freedom of navigation in the coastal marine area and unimpeded access to sheltered bays for both enjoyment and safety of all groups of marine based recreation and sports.

Yachting New Zealand advocates for projects that will add value and enhance yachting and boating and the coastal environment we enjoy.

As a NSO an important function is the supporting and building of clubs and capacity to enhance their roles in the community.

Marine based recreation and sport is an important part of New Zealand Society. The focus of many of these activities for the Nelson region is Nelson Harbor and area controlled under the Nelson City Council's bylaws. Nelson Harbor and the surrounding area due to its geographical location in the South Island and weather patterns make it a hub for the competitive sailing in the South Island and one of the preferred locations for National events in the South.

20592-1

### **Matters of Interest to YNZ**

The matters contained in the proposed changes to the Navigation Safety Bylaw 2012 of utmost interest to YNZ include:

- A. All people on board a vessel six metres or less in length to wear appropriately sized life-jacket.
- B. Registration of recreational vessels.
- C. People wanting to place marker buoys to obtain permission of the Harbourmaster.
- D. Two forms of communication to be carried on vessels.

20592-1

**Item A.**

**All people on board a vessel six metres or less in length to wear appropriately sized life-jacket.**

- Yachting New Zealand generally supports this clause, the six-meter rule is generally in line with other areas in the country.
- Yachting New Zealand would like the following clauses considered as it relates to other circumstances.
  - Does not apply to a person who is below deck of the vessel unless expressly instructed to wear a personal flotation device by the person in charge of the vessel.
  - Does not apply if the person in charge of the vessel, after assessing all circumstances and determining there would be no reduction in safety, expressly authorises any person on board to not wear a personal flotation device.

**Item B.**

**Registration of recreational vessels.**

- Yachting New Zealand generally supports this clause.
- Clause 2.26 c, Yachting New Zealand would like the inclusion of the “Yachting New Zealand Affiliated Club’s vessels identification number”, in the list of recognised vessel registrations. (As several Yachting New Zealand affiliated clubs have an approved safety system approved by MNZ and including parts of the MOSS regulations exempted and administered by Yachting New Zealand, this suggested change would allow systems currently in place to comply with the proposed bylaw changes.)
- Clause 2.26 e, Yachting New Zealand would like this to be raised from 4 metres to 6 metres. (This would bring it in line with other areas of the country, keep consistency with other areas of the bylaws where it uses 6 metres as the criteria and encompasses the majority of Yacht Club RIB support craft.)

20592-1

**Item C.**

**People wanting to place marker buoys to obtain permission of the Harbourmaster.**

- Yachting New Zealand is concerned that for existing yacht clubs conducting operations as they have done on the harbour for many years, that the changes should not impact on their continual day to day operations. (Clubs operate training and racing on the majority of days / evenings during the 7 months of summer, and the way the proposed bylaw is written would heavily impact on their operations.)
- Yacht club racing / training operation rely on the use of racecourse temporary marks and this is a normal part of operations. As these are significantly different to navigation marks, we request these are treated differently.
- Yachting New Zealand suggests the wording to be simplified to “No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigational aid and / or which may be mistaken as a navigational aid or warning, without the prior written approval from the Harbourmaster. (This is generally acceptable in other regions around the country, allows clubs to continue to conduct business as has been the practice

**Section D.**

**Two forms of communication to be carried on vessels.**

Yachting New Zealand generally supports this clause with the following comments.

- “Vessels” as defined in the definitions of the bylaws includes all small sailing craft.
- The exemption clause 2.28 allowing the carrying of a whistle as a means of communication is acceptable to Yachting New Zealand.