

Navigation Bylaw 2009

Statement of Proposal

Summary of Information

Marlborough District Council is seeking feedback on its proposed Navigation Bylaw 2009. Council has reviewed its Navigation Bylaws in accordance with the Local Government Act 2002 and has determined that amendments to the current Navigation Bylaw 2002 are the most appropriate method to ensure appropriate behaviour and address potential risks within Marlborough's waterways. Council has drafted the proposed bylaw in accordance with Local Government Act 2002.

A number of errors, inconsistencies and omissions have been identified that bring into question the ability to legally and effectively implement the Navigation Bylaw 2002 as it currently stands. The errors and omissions relate to a number of clauses where there was either a lack of clarity or an inconsistency with other legislation - Maritime Rules made pursuant to the Maritime Transport Act 1994. Omissions stem largely from areas where it was considered, in the interest of navigation safety, that a more formal regulatory regime was appropriate (for example, licensing of commercial operations not already subject to such regulation, licensing regime concurrent with the issuing of resource consents for moorings).

Council has recognised that a large majority of the Marlborough Sounds users do not contribute towards navigation safety, particularly in the recreational boating sector. The Function Review undertaken has reinforced the Council's statutory responsibility as a Harbour Authority and, in order to reduce the Harbour Function's dependence on General Rates, Council intends to levy the fees outlined in the Bylaw.

A full Statement of Proposal (including the draft bylaw) can be obtained by contacting Marlborough District Council on 03 520 7400, fax 03 520 7496, email to mdc@marlborough.govt.nz, via Council's website at www.marlborough.govt.nz or by mail at PO Box 443, Blenheim 7240.

If you wish to make a submission on the proposed bylaw, please provide it in writing to at PO Box 443, Blenheim 7240 or by fax to 03 520 7496 or by email to mike.porter@marlborough.govt.nz. Please include your name and postal address, and daytime phone number so that we can acknowledge your submission, and also please indicate in your submission if you wish to speak.

Submissions must be made to Council by Friday 27 March 2009. If you wish to speak to your submission, the hearing date is proposed to be approximately three weeks after the closing date. You will be contacted prior to the hearing date to arrange a time to speak.

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Introduction

The Marlborough District Council has reviewed its Navigation Bylaws in accordance with the Local Government Act 2002 and has determined that amendments to the current Navigation Bylaw 2002 are the most appropriate method to ensure appropriate behaviour and address potential risks within Marlborough's waterways.

Section 684B of the Local Government Act 1974 (LGA 1974) provides for Council to make a bylaw for navigation and safety in relation to waters within its region.

The Local Government Act 2002 (LGA 2002) requires that Council follows the special consultative procedure in reviewing its bylaws and for any resulting amendment or proposed new bylaw. This Statement of Proposal has been prepared in accordance with the requirements set out in section 86 of LGA 2002 for the adoption of the special consultative procedure.

It includes:

- the reasons for the proposal
- consideration of whether a bylaw is the most appropriate way to address the perceived problem
- whether the proposed bylaw is the most appropriate form of bylaw
- implications under the New Zealand Bill of Rights Act 1990
- a draft of the proposed Navigation Bylaw 2009.

Reason for proposal

A number of errors, inconsistencies and omissions have been identified that bring into question the ability to legally and effectively implement the Navigation Bylaw 2002 as it currently stands. The errors and omissions relate to a number of clauses where there was either a lack of clarity or an inconsistency with other legislation - Maritime Rules made pursuant to the Maritime Transport Act 1994. Omissions stem largely from areas where it was considered, in the interest of navigation safety, that a more formal regulatory regime was appropriate (for example, licensing of commercial operations not already subject to such regulation, licensing regime concurrent with the issuing of resource consents for moorings).

Council has recognised that a large majority of the Marlborough Sounds users do not contribute towards navigation safety, particularly in the recreational boating sector. The Function Review undertaken has reinforced the Council's statutory responsibility as a Harbour Authority and, in order to reduce the Harbour Function's dependence on General Rates, Council intends to levy the fees outlined in the Bylaw.

Problem Definition

Based on information and concerns known to Councillors; Council staff and members of the public, the problem has been identified as the need to ensure appropriate behaviour and address potential risks within Marlborough's waterways.

Desired Outcome

Based on the information provided and the nature of the problem, the desired outcome is the mitigation or reduction of unsafe behaviour and potential risks within Marlborough's waterways.

Identification of practicable strategies

As part of its decision making process Council is required by LGA 2002 to identify and assess all reasonably practicable strategies that could provide the desired solution. The following potential strategies could address the perceived problem:

- Option 1: Do nothing – this is not considered to be acceptable as the bylaw must be reviewed under section 158 of the Act.
- Option 2: Retaining the existing bylaw – this is not considered to be the best option as in reviewing the current Navigation Bylaws 2002, staff considered that there were major changes to the wording of the bylaw required.
- Option 3: Amending the existing bylaw – this is considered to be the best option.
- Option 4: Revoking the existing bylaw - this is again seen as unacceptable as there is a demonstrated requirement for a bylaw covering navigational safety issues.

Most appropriate form of bylaw

In drafting amendments to the bylaw, the council must determine whether the proposed amendment is the most appropriate form. Council believes it has developed the most appropriate form of amendment to the bylaw. In drafting, Council has considered the following issues:

Significance

Under LGA 2002 Council must consider the significance of an issue, decision or matter in accordance with Council's significance policy. The significance of an issue helps determine the extent of compliance with the decision-making requirements.

Legal advice is that this particular decision is unlikely to be at the high end of the significance spectrum. Staff's analysis of this issue also supports this conclusion and consequently staff have determined that this decision is not significant.

The views and preferences of the public

Council is bound to consider the views and preferences of persons likely to be effected by, or to have an interest in the proposed amendments. Potentially every resident or visitor to the Marlborough Sounds will be positively or negatively affected by the implementation of navigation bylaws.

Council's evaluation to date identified that there is support for the use of navigation and safety bylaws. Consultation and communication about the proposed amendments needs to provide opportunities for the views and preferences of all persons likely to be affected to be captured in public consultation on the proposed amendments

New Zealand Bill of Rights Act 1990

In addition to the considerations undertaken above, the proposed bylaw must meet the legal standards of reasonableness, and cannot be inconsistent with the freedoms protected and affirmed in the New Zealand Bill of Rights Act 1990. Legal advice and staff analysis have indicated that the proposed amendments to the Navigation Bylaws 2002, amended as proposed, is not inconsistent with the rights and freedoms protected by that Act.

Explanation of Bylaw Definitions

Definitions have been included to ensure ease and clarity of understanding relating to the conditions set out in the bylaw and the proposed amendments.

Public notices

Council must publicly notify the adoption of this bylaw under section 157 of LGA 2002.

Fines for breach of bylaw

A fine is the only available penalty option for breach of bylaw under section 239. The court has a general discretion to impose a fine up to the maximum amount of up to \$20,000. Under LGA 1974 the maximum penalty for breaches of bylaws was \$500, with fines predominantly set within the range of \$100-\$200.

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Marlborough District Council

Navigation Bylaw 2009

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Powers of a Harbour Master

The Local Government Act 1974 empowers a Harbour Master to undertake certain functions. For the purposes of the Bylaw, the relevant sections of the Act are reproduced below.

650C. General powers of harbourmasters and enforcement officers

- (1) A harbourmaster or enforcement officer of a regional council may at any time, for the purposes of carrying out his or her duty, enter and remain on any ship in waters within the council's region.
- (2) A harbourmaster or an enforcement officer (together with such assistants and equipment as are considered necessary) may enter and remain on any maritime facility, or on any land or property of a port company or other operator of a port facility, within the region of the council that appointed the harbourmaster for the purposes of carrying out his or her functions.
- (3) For the purpose of ensuring navigation safety, a harbourmaster or enforcement officer may give directions regulating—
 - (a) The time and manner in which any ship may enter into, depart from, lie, or navigate in those waters:
 - (b) The position, mooring, unmooring, placing, removing, securing, or unsecuring of any ship within those waters:
 - (c) The manner in which any ship within those waters, or at any maritime facility, may take in or discharge its cargo or any part of its cargo, and the manner in which cargo is secured or is being handled on a ship where there is a risk of cargo falling overboard and becoming a hazard to navigation.

650D. Harbourmaster may remove ships

- (1) For the purposes of ensuring navigation safety or enforcing navigation bylaws, a harbourmaster of a regional council may—
 - (a) Direct the master of any ship in waters within the region of the council, or lying at any maritime facility, to moor, unmoor, anchor, weigh anchor, secure, unsecure, place, or move his or her ship; and
 - (b) Cause the ship to be moored or unmoored or to be anchored or to weigh anchor or to be secured or unsecured or to be placed or removed according to the harbourmaster's directions, and employ a sufficient number of persons for the purpose.
- (2) A harbourmaster of a regional council may, in relation to any floating, submerged, or stranded object (other than one to which section 650K applies) that the harbourmaster considers is a hazard to navigation, do or cause to be done anything referred to in subsection (1)(b) (as if the object were a ship).
- (3) The expenses incurred by a harbourmaster under subsection (1) or subsection (2) are payable by the master and the owner of the ship, or by the owner of the object (as the case may be), and are recoverable as a debt due to the council.

650E. Harbourmasters and others may regulate some navigation activities

- (1) A harbourmaster of a regional council may, in the interests of navigation safety, do all or any of the following things in relation to any waters within the council's region:
 - (a) Require the person appearing to be in charge of any ship or seaplane to stop, and to give his or her name and address, on being requested to do so by the harbourmaster:
 - (b) Require any person found committing an offence against the council's navigation bylaws to give his or her name and address:
 - (c) On informing the owner of a ship or seaplane of an alleged offence against the council's navigation bylaws, and on requesting the owner to do so, require the owner to give all information in the owner's possession or obtainable by the owner which may lead to the identification of the person by whom the offence is alleged to have been committed:
 - (d) Regulate and control the traffic and navigation, and provide specially for the direct and personal control of that traffic, on any day or occasion of unusual or extraordinary traffic.
- (2) A person authorised by the council, or any member of the Police acting on the request of the harbourmaster or such an authorised person, who—
 - (a) Has received a complaint that there has been a breach of any of the council's navigation bylaws; and
 - (b) On investigation of the complaint, is of the opinion that there has been a breach of the council's navigation bylaws, —may exercise any power under subsection (1)(a) to (c).
- (3) If a harbourmaster or enforcement officer of a regional council believes on reasonable grounds that a person has committed a breach of Maritime Rules involving navigation safety, the harbourmaster or enforcement officer may exercise any power under subsection (1)(a) to (c), and those provisions apply with any necessary modifications.
- (4) No honorary enforcement officer may exercise any power under section (1)(c) or (d).

650F. Application of section 710 and other requirements

- (1) Section 710 applies in respect of every harbourmaster, enforcement officer, and honorary enforcement officer.
- (2) In addition to complying with section 710, before entering a place in the exercise of any power under any of sections 650C to 650E, a harbourmaster, enforcement officer, or honorary enforcement officer must produce the person's written warrant under section 710 to any person appearing to be in charge of the place entered—
 - (a) On entering the place (if such a person is then present); and
 - (b) At any reasonable time thereafter, if asked to do so by the person.
- (3) If there is no person appearing to be in charge of the place at any time between the time of entry and the time the harbourmaster, enforcement officer, or honorary enforcement officer leaves the place, the harbourmaster or officer must, as soon as is practicable upon leaving the place, give an occupier or person in charge of the place written notice stating that the place has been entered, and specifying the following matters:

- (a) The time and date of entry:
 - (b) The circumstances and purpose of entry:
 - (c) The name, office or position, and employer of every person entering:
 - (d) Every thing that has been seized, or that nothing has been seized, and every action taken, or that no action has been taken.
- (4) This section applies to a member of the Police who exercises any power under section 650E as if his or her warrant card or other evidence of appointment were a warrant under section 710.

650G. Offence

A person commits an offence against this Act who fails without reasonable cause to comply with a direction or requirement given or made under section 650C or section 650D or section 650E.

1 – Preliminary Provisions

1.1 Title and commencement

1. This Bylaw is cited as being the Marlborough District Council Navigation Bylaw 2009.
2. This Bylaw comes into force at midnight on xxxxxxxx 2009.

1.2 Revocation

All appointments, licenses, orders, consents or other similar exercise of powers under the former harbour bylaw of the Council shall, so far as they are not inconsistent with this bylaw, continue under the like operation and effect as if they had been exercised under the like operation and effect as if they had been exercised under the corresponding provisions of this bylaw.

1.3 Areas within which this Bylaw applies

This Bylaw applies to the areas defined in Schedule 1.1 - Harbour Limits.

1.4 Definition of Terms

accident

means:

- (a) an occurrence that involves a vessel and in which a person is seriously harmed as a result of-
 - (i) being on the vessel; or
 - (ii) direct contact with any part of the vessel, including any part that has become detached from the vessel; or
 - (iii) direct exposure to the wash of the vessel or interaction (other than direct contact) between two vessels; or
 - (iv) being involved in the salvage of any vessel except where the injuries are self inflicted or inflicted by other persons, or when injuries are to stowaways hiding outside areas normally available to passengers and crew; or
- (b) the vessel sustains damage or structural failure that-
 - (i) adversely affects the structural strength, performance, or seaworthiness of the vessel; or
 - (ii) would normally require major repair or replacement of the affected component; or
 - (iii) poses a threat to the safety of people on board the vessel; or
- (c) there is a complete or partial failure of machinery or equipment that affects the seaworthiness of the vessel; or
- (d) there is a loss of, or damage to, or movement of, or change in the state of, the cargo of the vessel which poses a risk to the vessel or other vessels; or
- (e) there is a significant loss of, or significant damage to, property (not being the cargo carried by the vessel) or the property of any person (whether or not on board the vessel),

	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- <ul style="list-style-type: none"> (i) may result or has resulted, in serious harm to any person; or (ii) may pose a risk, or has resulted in damage to the vessel or other vessels; or (iii) may pose a risk, or has resulted in any damage to any property (whether or not on board the vessel); or
	(g) a person is lost at sea (whether or not subsequently found) or is missing; or
	(h) the vessel is foundering, capsizing, being abandoned, stranding, missing, or has foundered, capsized, been abandoned, stranded, been in a collision, or has a major fire on board.
Act	means the Local Government Act 1974 and amendments.
aid to navigation	includes any lightship and any floating or other light exhibited for- <ul style="list-style-type: none"> (a) guidance for vessels; (b) any description of fog signal not carried on a vessel; (c) all marks and signs in aid of marine navigation; (d) any electronic, radio or other aid of marine navigation not carried on board any vessel.
aircraft	has the same meaning as in the Civil Aviation Act 1990.
anchorage	in relation to vessels means the place (enclosed or otherwise) used for the anchorage of vessels to the bed of the waterway, whether the place is reserved for such purposes 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 she leaves the anchorage.
automatic location communicator	means a device that complies with the appropriate standards and requirements specified by the Council and notified to the owners and/or masters of vessels to which these bylaws apply. Class A and Class B AIS transponders meet the appropriate standard.
beacon	means a light or mark set up in prominent position as a navigation mark or a warning to vessels.
buoy	means a float secured to the seabed serving as a navigation or locational mark, or to indicate reefs, other hazard, or a mooring .
buoyancy aid	means- <ul style="list-style-type: none"> (a) a buoyancy aid as defined in NZ Standard 5823:1989 or NZ Standard 5823:2001, or any subsequent NZ Standard; or (b) a buoyancy aid that the Director is satisfied substantially complies with the standard described in subclause (a) above

	and that provides a minimum of 53 newtons of buoyancy.
cable	means one tenth (0.1) of a nautical mile (608 feet, 185.2 metres).
coastal marine area	means the foreshore, seabed, and coastal water and airspace above the water of which- <ul style="list-style-type: none"> (a) the seaward boundary is the outer limits of the territorial sea; (b) the landward boundary is the line of mean high water springs, except that where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of- <ul style="list-style-type: none"> (i) one kilometre upstream from the mouth of the river; or (ii) the point upstream that is calculated by multiplying the width of the river by 5.
commercial vessel	has the same meaning as commercial ship as in the Maritime Transport Act 1994.
Council	means the Marlborough District Council as constituted under Part 2 of the Local Government Amendment Act 1992 and the Local Government Act 2002.
craft	has the same meaning as ship or vessel.
crew	means the persons employed or engaged in any capacity on board a vessel, but does not include the master or pilot or a person temporarily employed on the vessel while in a harbour.
dangerous goods	means- <ul style="list-style-type: none"> (a) any substance in packaged form or in solid form in bulk, listed and classified according to its hazard in the International Maritime Dangerous Goods Code (IMDG Code); and (b) any harmful substance; and (c) empty receptacles that have been used for substances specified in paragraph (a) of this definition, unless the receptacles have been cleaned, subsequently dried and where appropriate, gas freed; but (d) does not include goods forming part of the equipment or stores of the vessel in which they are carried.
derelict	means a vessel that is abandoned at sea, or deserted or abandoned by an owner.
Director	means the person who is for the time being the Director Maritime New Zealand under section 439 of the Maritime Transport Act 1994.
emergency response craft	means any vessel approved by the Harbour Master for use in emergency response and includes Police, Customs, Harbour Master naval and port company vessels.
enforcement officer	means a person appointed by the Marlborough District Council under section 650B(1) of the Act.

explosive	means any substance or mixture or combination of substances which in its normal state is capable either of decomposition at such rapid rate as to result in an explosion or of producing a pyrotechnic effect. Substances included within this definition can be more fully found in the Hazardous Substances and New Organisms Act 1996.
flag A	means flag A of the International Code of Signals (the diver's flag) being a 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 the flag B of the International Code of Signals being a swallow tailed flag, or a rigid equivalent, coloured in red, of not less than 600mm by 600mm.
foreshore	means any land covered and uncovered by the flow and ebb of the tide at mean springs and, in relation to any such land that forms part of the bed of a river, but does not include any area that is not part of the coastal marine area.
gross tonnage	means the volume of all the vessel's enclosed spaces (from keel to funnel) measured to the outside of the hull framing.
harbour limits	means the seaward boundary of the region's harbour in which the Council exercises jurisdiction in accordance with the provisions of the Act. A written description of harbour limits can be found in Schedule 1.1 of these Bylaws.
Harbour Master	is the person appointed by the Marlborough District Council as Harbour Master to exercise authority under these Bylaws and all relevant associated legislation; and includes any deputy Harbour Master.
headland	means a promontory of land that extends out into the water from a land mass, and may include a single promontory or two promontories forming a bay.
Honorary Enforcement Officer	means a persons appointed by the Marlborough District Council under section 650B(2) of the Act.
hot work	means welding or flame cutting operations.
hours of darkness	means- <ul style="list-style-type: none"> (a) any period of time between half an hour after sunset on one day and half an hour before sunrise on the next day; or (b) any other time when there is not sufficient daylight to render clearly visible a person, vessel or structure at a distance of 100 m.
impede the passage	means to cause a vessel, whether by action or inaction on the part of another vessel, to alter course, alter speed, or stop, or to prepare to do so when she would have otherwise not done so.
incident	means any occurrence, other than an accident, that is associated with the operation of a vessel and affects or could affect the safety of operation.

infringement fee	in relation to an infringement offence means the infringement fee prescribed for that offence by regulation made under section 699A(2) of the Act.
infringement offence	means a breach of a navigation bylaw that is specified in regulations made under section 699A(2) of the Act as an infringement offence for the purposes of these Bylaws.
in sight	in relation to vessels being in sight of one another means when one vessel can be visually observed from another.
kiteboarding (also known as kite surfing)	means using a controllable kite to pull the rider through the water on a small surfboard, a wakeboard, or a kiteboard.
length	in relation to a vessel means overall length.
maritime facilities	includes moorings, wharves, docks, quays, marinas, areas or places where vessels are maintained, launching ramps, and other launching facilities.
Maritime Rules	means Maritime Rules made under section 36 of the Maritime Transport Act 1994.
master	means any person having command or charge of a vessel, but does not include a pilot who is piloting the vessel.
moor	means- <ul style="list-style-type: none"> (a) the securing of any vessel alongside a wharf or jetty by means of suitable mooring ropes; or (b) the securing of any vessel to a mooring or anchor.
mooring	means any weight or article placed in or on the bed of the waters of the region for the purpose of securing a vessel or floating structure; and- <ul style="list-style-type: none"> (a) includes any wire, rope, buoy or other device attached to the weight; but (b) does not include an anchor that is removed with the vessel or floating structure when it leaves an anchorage.
mooring area	means the area from time to time established by the Council as a mooring management area under the Resource Management Act 1991, where vessel moorings may be placed; but does not include an anchorage.
nautical chart	a map of a sea area showing on it any coastlines, rocks and dangers to vessels etc. within the area covered and also showing the positions of navigation aids and other prominent features.
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.
obstruction	means an object, equipment, structure, vessel or person positioned,

	whether in the water or not, so as to restrict or prevent navigation of a vessel or cause a hazard to people on a vessel.
oil	means petroleum in any form, including crude oil, fuel oil, sludge, oil refuse, and includes spirit produced from oil and mixed with water and refined products (within the meaning of section 222 of the Maritime Transport Act 1994).
owner	<ul style="list-style-type: none"> (a) in relation to a vessel registered in New Zealand under the Ship Registration Act 1992, means the registered owner of the vessel; or (b) in relation to a vessel registered in any place outside New Zealand, means the registered owner of the vessel; or (c) in relation to a fishing vessel, other than one to which paragraph (a) or (b) of this definition applies, has the same meaning as owner as defined in the Fisheries Act 1996; or (d) in relation to a vessel to which paragraphs (a), (b), or (c) of this definition applies, where, by virtue of any charter of demise charter or for any other reason, the registered owner is not responsible for the management of the vessel, includes the charterer or other person who is for the time being so responsible; or (e) in relation to an unregistered vessel or registered vessel that does not have a registered owner, means the person who is for the time being responsible for the management of the vessel; and (f) in relation to any maritime facility includes the licence or consent holder.
person in charge	in relation to any vessel, means the master.
personal flotation device (PFD)	<p>means any buoyancy aid that is designed to be worn on the body that meets-</p> <ul style="list-style-type: none"> (a) a standard in NZ Standard 5823:2001 applicable to such buoyancy aids (b) a national or international standard that the Director is satisfied substantially complies with a standard in NZ Standard 5823:2001 applicable to such buoyancy aids.
personal water craft (PWC)	<p>means a power driven vessel that-</p> <ul style="list-style-type: none"> (a) has a fully enclosed hull; and (b) does not take on water if capsized; and (c) is designed to be operated by a person standing, sitting astride, or kneeling on it but not seated in it.
Picton Harbour	means those waters which lie inside a line drawn between the geographic points known as Wedge Point and The Snout.
pilot	in relation to any vessel means any person not being the master or member of the crew of the vessel who has the conduct of the vessel.
pilotage limits	compulsory-

	(a) Queen Charlotte Sound Pilotage District- means all those waters contained within Queen Charlotte Sound and Tory Channel having as their seaward boundary a straight line drawn in a direction of 303° (T) from high water mark at Paparoa Point on Arapawa Island (41° 06' .96 south 174° 20' .92 east) to the high water mark on the opposite shore of the mainland (41° 04' .46 south 174° 15' .8 east) and a circle of radius one (1) nautical mile centred on West Head Light (K4262) Tory Channel.
	(b) Pelorus Sound, Admiralty Bay and French Pass Pilotage District- means all those waters contained within Pelorus Sound having as their seaward boundary in the north as a straight line drawn in a direction of 353° (T) from high water mark at Alligator Head (40° 58' .1 south 174° 09' .3 east) to high water mark at Sentinel Rock (40° 53' .9 south 174° 08' .6 east) thence in a direction of 277° (T) to high water mark at Bonne Point, D'Urville Island (40°51' .6 south 173° 54' .8 east) and in the south a straight line drawn in a direction of 005° (T) from high water mark at Okuri Point (40° 58' .4 south 173° 46' .0 east) to high water mark at Sauvage Point, D'Urville Island (40° 56' .5 south 173° 46' .2 east).
pleasure craft	means a vessel that is used exclusively for the owner's pleasure or as the owner's residence, and is not offered or used for hire or reward; but does not include- (a) a vessel that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment or other establishment or business; or (b) a vessel that is used on any voyage of pleasure if it is normally used or intended to be normally used as a fishing vessel or for the carriage of passengers or cargo for hire or reward; or (c) a vessel that is operated or provided by any club, incorporated society, trust or business.
power driven vessel	means any vessel propelled by machinery.
proper speed	means speed through the water.
public notice	means a notice in a newspaper circulating generally in the district or region to which the subject matter of the notice relates.
Queen Charlotte Sound	means those waters which lie inside a line drawn between- (a) the geographic points known as Cape Jackson and Cape Koamaru; and (b) the geographic points known as East Head and West Head Tory Channel.
recreational craft	means a vessel that is- (a) a pleasure craft; or (b) solely powered manually; or

	(c) solely powered by sail.
region	means the Marlborough Region as constituted under section 110 of the Local Government Amendment Act 1992.
reserved area	means any area defined as such under these Bylaws in Part 3.9 and further defined by words and maps in Schedule 4 of these Bylaws.
reward	means the payment to or for the benefit of the owner or master of a vessel, of a contribution towards the expenses of a voyage by or on behalf of persons; but does not include payment of any contribution by part owners of the vessel or by persons engaged as bona fide crew members.
sailboard	means any type of board that is propelled by a detachable sail apparatus and operated by a person(s) standing on the board.
schedule	means and refers to any schedule contained in or annexed to these Bylaws and/or refer to any amendment or amendments to any such schedule.
seaplane	means a flying boat or any other aircraft designed to manoeuvre on the water and under Maritime Rule Part 22, is deemed to be a vessel when operating on the water.
seaworthy	in relation to any vessel means being in all respects in a fit condition or readiness to undertake a sea voyage.
ship	means every description of boat or craft used in navigation whether or not it has any means of propulsion; and includes- <ul style="list-style-type: none"> (a) a barge, lighter, or other like ship; or (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; or (c) a submarine or other submersible.
shore	means any place to landward of the water's edge, and distance from the shore means distance from the water's edge.
small craft	means any vessel of less than 20 metres in overall length or a seaplane which is less than 20 metres in overall length and is operating on the water.
structure	means- <ul style="list-style-type: none"> (a) any building, equipment, device or other facility made by people and which is fixed to land or seabed; and (b) includes slipways, jetties, pile moorings, swing moorings, wharves, marine farms, and other objects, whether or not these are above or below the waterline of the foreshore; but (c) does not include aids to navigation.
sunrise	means the time of sunrise as stated in the New Zealand Nautical Almanac (NZ 204).

sunset	means the time of sunset as stated in the New Zealand Nautical Almanac (NZ 204).
support vessel	means any vessel used for coaching, marshalling, and rescue attendance for training, regattas and competitions.
surfboard	means any type of board that is designed for surf riding.
Tory Channel	means those waters that lie- <ul style="list-style-type: none"> (a) south of a line drawn from the geographic point known as Dieffenbach Point in a direction of 090° True to the shore of Arapawa Island; and (b) inside a line drawn between the geographic points known as East Head and West Head.
under way	means a vessel is not at anchor, or made fast to the shore, or aground.
vessel	has the same meaning as ship.
wreck	includes- <ul style="list-style-type: none"> (a) any vessel or aircraft which is abandoned, stranded, or in distress, or any equipment or cargo or other articles belonging to or separated from such vessel or aircraft; and (b) any derelict vessel; and (c) shipping containers and property lost overboard or similarly separated from a vessel, other than cargo lost in the course of its unloading or discharge from the vessel while the vessel is in port.
waterskiing	means being towed barefoot or on an object of any kind other than a vessel.
windsurfing	means using a board with a sail or sails designed to be operated by a person standing upright on the board.

2 – General Matters

2.1. Personal Flotation Devices

1. No person in charge of a recreational craft shall use it 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. Clauses 2.1.1 and 2.1.6 shall not apply to-
 - (a) any surfboard or similar unpowered craft; and
 - (b) any sailboarder, kiteboarder, or windsurfer, if a wetsuit is worn at all times; and
 - (c) a diver on a boat of 6 metres or less in length overall that is used for recreational diving within 5 nautical miles of the shore, if a full body dive suit is worn at all times; and
 - (d) a person training for or participating in a sporting event, if the training or the event is supervised in accordance with the safety system of the sporting organisation approved by the Harbour Master under these bylaws, or the Director under Maritime Rule Part 91.4(3); and
 - (e) a member of a visiting foreign watersports team, if the person carries or wears a personal flotation device that is approved by the competent authority for use in that person's country of residence.
3. In relation to clause 2.1.2(d) above-
 - (a) the Harbour Master may approve a sporting organisation for the purposes of clause 2.1.2 (d) if that organisation has in place a safety system that the Harbour Master is satisfied provides an equivalent level of safety to the carriage or wearing of personal flotation devices.
 - (b) the Director, under Maritime Rule Part 91.4 (3), may approve a national sporting organisation for the purposes of clause 2.1.2 (d) if that organisation has in place a safety system that the Director is satisfied provides an equivalent level of safety to the carriage or wearing of personal flotation devices.
4. Subject to clause 2.1.5, clause 2.1.1 shall not apply in respect of any sporting event, training activity, or ceremonial event if a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational craft, and the recreational craft or support vessel, or both, carry personal flotation devices or buoyancy aids of an appropriate size for each person on board the recreational craft.
5. Clauses 2.1.1 and 2.1.6 shall not apply in respect of any sporting event, training activity, ceremonial event, or other organised recreational activity if the Harbour Master with jurisdiction for the applicable region has granted an exemption in writing. The Harbour Master may grant an exemption for a specified period if he/she is satisfied that adequate safety precautions are made for any person participating in the event or activity.
6. Despite clause 2.1.4, no person in charge of a recreational craft may use that craft in circumstances where tides, river flows, visibility, rough seas, adverse weather, emergency or other situations cause danger or a risk to the safety of persons on board, unless every person on board is wearing properly secured personal flotation device of an appropriate size for that person.
7. No person in charge of a vessel shall use it to tow any person, and no person shall cause himself or herself to be towed by any vessel, unless the person being towed wears a properly secured personal flotation device of an appropriate size for that person.
8. Clause 2.1.7 shall not apply to that person when-

- (a) training for any trick waterskiing element of a sporting event administered by a national sporting organisation approved under clause 2.1.3, or Maritime Rule Part 91.4(4); or
- (b) participating in a sporting event that is administered by a national sporting organisation approved under clause 2.1.3 or Maritime Rule Part 91.4(3).

2.2. Swimming and diving around wharves

1. No person shall dive, jump, swim or undertake other related activities, from:
 - (a) any commercial jetty, wharf, or quay which is in regular use for berthing and unberthing of vessels; or
 - (b) within 50 metres of the structures listed in 2.2.1 (a); or
 - (c) within any designated anchorage or mooring area; or
 - (d) within any navigation channel; or
 - (e) any such areas in the navigable waters of the region as the Harbour Master may from time to time determine, unless the person does so in accordance with the prior written consent of the Harbour Master.
2. The Harbour Master may issue an exemption to clause 2.2.1, subject to such conditions as the Harbour Master considers appropriate, in the interests of navigation.

2.3. Use of vessel engine around wharves, ramps

1. No person shall operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading to or from a boat trailer at any launching ramp, in such a way that it may damage any property, scour the bed of the waters, or injure any person. This clause does not preclude the use of the propulsion system for the safe berthing or unberthing of any vessel at a wharf
2. In addition to the requirements of clause 2.3.1, a master of a commercial vessel shall ensure that a crew member shall:
 - (a) be stationed forward and aft on any vessel while that vessel is lying at any wharf and about to test, or testing the main engine system; and
 - (b) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested; and
 - (c) notify and seek permission from the Harbour Master prior to the engines being tested.

2.4. Vessels which are not seaworthy

1. The master of every vessel anchored or moored in any waters in the region must keep the vessel in a seaworthy condition at all times, unless the Harbour Master or Enforcement Officer has given prior written approval for it to be anchored or moored in a condition which is not seaworthy and subject to such conditions that the Harbour Master or Enforcement Officer may determine appropriate to ensure navigation safety.
2. If any vessel is a navigation hazard by reason of it being derelict or not being seaworthy

- (a) the Harbour Master or Enforcement Officer may give a direction to the owner of that vessel to move the vessel to an alternative location or remove it from the waters of the region within a reasonable time specified in the direction. Such direction may be given by any means of communication and subsequently supported by a written direction; and
 - (b) where the owner of a vessel fails to move that vessel in accordance with such direction given by the Harbour Master or Enforcement Officer, the Harbour Master or Enforcement Officer may move that vessel to a position where it is no longer a hazard or remove it from the water. Costs incurred will be recovered from the owner of the vessel as a debt due to Council. The owner and master are jointly and severally responsible for ensuring the direction is complied with.
3. No person may operate any vessel that is not seaworthy except to comply with the directions under this Bylaw of the Harbour Master or an Enforcement Officer to move that vessel to an alternative location. However, in the event of an emergency or an accident at sea, the person in charge of the vessel shall proceed to a safe area immediately.

2.5. Seaplanes

1. No person navigating a vessel may impede a seaplane in the process of landing or taking off.
2. No person shall take off, land, or attempt to take off or land any seaplane or other aircraft, except in an emergency, in any area, other than the areas reserved for that purpose, without the prior written permission of the Harbour Master. Written application must be received by the Harbour Master not less than 48 hours before the proposed landing or taking off.

2.6. Vessels to be adequately moored or secured

1. The master of every vessel must ensure that his or her vessel is adequately moored while secured to any maritime facility.
2. No person may cut, break, destroy or unlawfully detach;
 - (a) the mooring of any vessel; or
 - (b) the fastening or securing of any vessel lying in a dock or at any maritime facility.
3. The owner or master of a vessel berthed at a wharf, or at anchor, must ensure that it is securely fastened at all times and, if required by the Harbour Master, maintain a person on board to keep a watch.
4. When a vessel is moored at a maritime facility the owner or master must ensure that adequate and safe means of access to and from the vessel is provided, properly installed, secured, and adjusted to suit any tidal conditions.
5. When such means of access is provided, no person shall embark or disembark except by using such access.

2.7. Prohibited and restricted anchorages

1. Except in emergencies, no person shall anchor or moor any vessel within any prohibited anchorage area.

2. No person may anchor any vessel so as to:
 - (a) obstruct the passage of other vessels or to obstruct the approach to any wharf, pier, jetty or maritime facility which has been lawfully established; or
 - (b) create a hazard to other vessels at anchor; or
 - (c) create a safety hazard for other recreational craft, swimmers or water users.
3. No person may anchor or moor any vessel, except to a mooring for which a license or resource consent has been issued, within the prohibited anchorage areas as defined below:
 - (a) Picton Harbour all that area of water south of a line drawn from Wedge Point to The Snout, except in the defined anchorage area as outlined on Chart NZ 6153.
4. Where the Harbour Master, or any person authorised in writing by the Harbour Master to give orders under these bylaws believes on reasonable grounds that a vessel is anchored in a prohibited area, he may order the master of that vessel to remove the vessel from the area. Such order may be given by any means of communication.
5. Where the Harbour Master becomes aware that any vessel has broken adrift or is likely to break adrift from a maritime facility or anchor and is endangering or likely to endanger navigation, he or she shall, as soon as is practicable, and having regard to all the circumstances, cause that vessel to be safely secured. The Harbour Master is entitled to recover from the master or owner of that vessel any expenses incurred under this Bylaw.
6. No liability shall attach itself to the Harbour Master or the Council by reason of any accident which may occur to any vessel in carrying out the provisions of these Bylaws.

2.8. Obstructions

1. No person may obstruct the navigation of any waterway or the access to any wharf, landing place, boat ramp, slipway, navigation channel, or mooring without the prior written permission of the Harbour Master.
2. No person shall place any obstruction, including any vessel, fishing apparatus, in the waterway, that is liable to:
 - (a) restrict navigation; or
 - (b) cause or have the potential to cause, injury or death to any person; or
 - (c) cause damage to any vessel or any property
3. No person shall leave equipment, stabilisers, booms, cranes, davits or other equipment extending over the side of a vessel so as to cause a hazard to any other vessel

2.9. Notification of collisions and accidents

1. The master of any vessel that:
 - (a) has been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded in any waterway; or

- (b) by any reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or give rise to danger to other vessels or property; or
- (c) in any manner gives rise to an obstruction; or
- (d) causes damage to any aid to navigation or structure or to anything on the structure;

must, as well as complying with any accident reporting requirements of the Maritime Transport Act 1994, as soon as is practicable report the occurrence to the Harbour Master and, within 48 hours, provide the Harbour Master with full written details of the occurrence

2. The report required under clause 2.9.1 must include:
 - (a) a full description of any injury to any persons and their names and addresses; and
 - (b) a full description of any damage to vessels or structures; and
 - (c) the name(s), address(es) of person(s) in charge of the vessel at the time of the collision or accident
3. If an incident described in clause 2.9.1 involves damage to a vessel that affects or is likely to affect her seaworthiness, the master may not move the vessel except:
 - (a) to clear the main navigational channel or to moor or anchor in safety; or
 - (b) in accordance with the directions of the Harbour Master.

2.10. Aids to navigation

1. No person may tie a vessel to any aid to navigation without the prior written permission of:
 - (a) the Harbour Master if the aid to navigation is operated by a local authority or port company; or
 - (b) the Director if the aid to navigation is operated by Maritime New Zealand.
2. No person may damage, remove, deface or otherwise interfere with any aid to navigation erected by, or duly authorised by, the Harbour Master as an aid to navigation or warning.
3. No person may erect, maintain or display any beacon, light, mark, buoy or other device which may be used or mistaken as a recognised aid to navigation without the written permission of the Harbour Master and the Director of Maritime Safety.

2.11. Sound and light signals

1. No person shall fit or use any flashing lights, sirens or other sound or light signals not prescribed in Maritime Rules for that vessel, without the written permission of the Harbour Master.
2. No person shall use blue flashing lights and/or sirens other than Police, Customs, Harbour Master or other enforcement vessels authorised by the Harbour Master.

3. A purple flashing light, for use on an emergency response craft for the purpose of identifying itself to a vessel or aircraft involved in a response shall be authorised in writing by the Harbour Master.
4. Any vessel authorised to use purple flashing lights by the Harbour Master shall only display them when:
 - (a) the use is required to assist the location of a vessel or person in need of assistance; or
 - (b) the use is required to assist in the identification of the vessel to an aircraft involved in an incident.
5. The lights may not be used when the vessel is underway at a speed in excess of 12 knots, and neither imply nor grant status or privilege to that vessel. Any use of the purple lights should be for a short period of time. A vessel authorised by this clause must observe clause 3.2 (speed) at all times.
6. No person may blow or sound, or cause to be blown or sounded, the whistle, siren or horn of a vessel, within any harbour area, except as a navigation safety signal. However, nothing in these bylaws precludes the testing of such a whistle, siren, or horn before the vessel leaves the wharf, or for maintenance purposes.

2.12. Timber and logs

1. No person, except with the written permission of the Harbour Master, may tow, moor, place or leave any log in any tidal water within the region.
2. The master of every vessel engaged in loading, discharging or carrying of logs shall ensure that any log or logs which are lost overboard during the loading, discharging or carrying of logs are retrieved as soon as possible so that such log or logs do not become a hazard to navigation.
3. On completion of loading the master, in observing clause 2.12.2 above, will, prior to departure, cause a report to be delivered to the Harbour Master detailing the logs lost over board and the action taken to retrieve them.
4. Where the master of any vessel fails to observe the requirements of 2.12.2 the Harbour Master may cause such log or logs to be retrieved. Any costs involved in such operation shall be recoverable from the owner of that vessel as a debt to Council.

2.13. Discharge of Firearms

1. No person may discharge a firearm on board any vessel except as provided for in Maritime Rule Part 23 – Operating Procedures and Training, Appendix 3, Distress Signals, without prior written permission from the Harbour Master.

3 – Operating Requirements – all vessels

3.1. Minimum age for operating powered vessels

1. No person under the age of 15 years shall be in charge of, or propel or navigate, a power driven vessel that is capable of a proper speed exceeding 10 knots unless he or she is under the direct supervision of a person over 15 years who is within immediate reach of the controls, and is not the lookout person as provided for in clause 3.4.
2. The owner of a power driven vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to be in charge of or navigate that vessel, unless he or she is under the direct supervision of a person over the age of 15 years who is within immediate reach of the controls
3. Clauses 3.1.1 and 3.1.2 do not apply in respect of any person who has a written exemption from the Harbour Master issued in accordance with a these Bylaws , or by the Director under Maritime Rule Part 91.4
4. The Harbour Master may issue an exemption in accordance with this part of the Bylaws that is valid for any specified place or places to a person under the age of 15 years for transport, training, competitions, or other sporting events, if the Harbour Master considers that the person:
 - (a) is competent to propel or navigate a power driven vessel at a proper speed exceeding 10 knots; and
 - (b) is aware of the relevant navigation safety rules and navigation bylaws; and
 - (c) will be under adequate supervision during the proposed activity or activities.

3.2. Speed of vessels

1. No person shall, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a proper speed exceeding five (5) knots within:
 - (a) 50 metres of any other vessel, raft or person in the water; or
 - (b) either 200 metres from the shore or any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure; or
 - (c) 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (diver's flag).
2. No person shall propel or navigate a powered vessel at a proper speed exceeding 5 knots while any person has any portion of his or her body extending over the fore part, bow or side of that vessel.
3. No person shall cause himself or herself to be towed by a vessel (whether or not on a waterski, aquaplane, or similar other object) at a proper speed exceeding five (5) knots in any circumstances specified in clause 3.2.1 of these bylaws.
4. No person in charge of a vessel shall permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally, or otherwise) any waterski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that waterski or similar

object, unless the person has taken measures adequate to ensure the dropped ski or similar object is clearly visible to other water users.

5. Clause 3.2.1 (a) shall not apply to:
 - (a) a vessel over 500 gross tonnage, if the vessel cannot be safely operated in compliance with this clause; or
 - (b) a vessel powered by sail in relation to any other vessel powered by sail, while the vessels are participating in a yacht race or training administered by:
 - (i) a club affiliated to Yachting New Zealand; or
 - (ii) a non-profit organisation involved in sail training or racing.
 - (c) a craft training for or participating in competitive rowing or paddling; or
 - (d) a tug, pilot vessel, Harbour Master vessel, emergency response craft, or police vessel, if the vessel's duties cannot be performed in compliance with this clause; or
 - (e) a vessel operating in accordance with a speed uplifting established under:
 - (i) schedule 4 (Location Specific Information); or
 - (ii) clause 3.5, 3.8 or 3.9 of these bylaws.
6. Clause 3.2.1(b) shall not apply to:
 - (a) a vessel operating in an access lane or a reserved area for the purpose for which the access lane or reserved area was declared; or
 - (b) a vessel operating under a speed uplifting established under:
 - (i) schedule 4 (Location Specific Information) of these bylaws; or
 - (ii) clause 3.5, 3.8, or 3.9 of these bylaws.
 - (c) a vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
 - (d) a craft training for or participating in competitive rowing or paddling; or
 - (e) a tug, pilot vessel, Harbour Master vessel, emergency response craft, or police vessel when the vessel's duties cannot be performed in compliance with this clause.
7. Any person navigating or in control of any vessel shall navigate such vessel with all due care and caution and at a speed and manner as not to endanger lives of, or cause injuries to any person(s).

3.3. Vessels to be Identified

1. The Master and owner of a vessel not subject to Maritime Rules shall ensure that his or her vessel is marked with its name or similar identifying marks. This shall be displayed on each side of the vessel and be clearly visible to a person 50 metres away

Note: this proposed clause requires vessels to be identifiable. This may be achieved by use of a name, VHF radio callsign etc. The purpose of clause is to make a vessel distinct from a similar design of vessel

3.4. Lookouts on vessels used for water skiing and towing

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

3.5. Water skiing or towing between sunset and sunrise

1. No person shall operate, between sunset and sunrise, a vessel that is towing any person on water skis, an aquaplane, surfboard, or other similar object, or who is barefoot skiing, or who is on a paraglider or similar object. (the times for sunset and sunrise can be found in a current edition of the New Zealand Nautical Almanac).
2. No person may cause himself or herself to be towed in the circumstances described in Clause 3.4.1.

3.6. Access lanes

1. The Council may, from time to time, by Public Notice, declare that a specific area of the harbour shall be an access lane for the purpose of high speed access to and from the shore.

3.7. Conduct in access lanes

1. No person shall propel or navigate, or manoeuvre a vessel in an access lane for the purpose for which it is declared except by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.
2. The requirement to use the starboard (right) side of the access lane as described in 3.6.1 shall not apply to the access lane established on the eastern side of Kumutoto Bay where, due to the nature of the bay, the port (left) side of the access lane shall be used in stead.
3. No person shall:
 - (a) while being towed by a vessel in an access lane, cause himself or herself or any water ski, aquaplane, or other similar object, on or by which he or she is being towed; or

- (b) cause any object that is being towed by a vessel in an access lane to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.
- 4. The requirement set out in 3.7.3 (b) shall not apply to the access lane in Kumutoto Bay east, where, instead, the provisions of 3.7.2 shall apply.
- 5. No person within an access lane shall proceed in a manner that is dangerous in relation to any vessel or other person in the access lane.
- 6. No person shall obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.
- 7. If one or more persons are using an access lane for the purpose for which it was declared, no person may enter, remain, or use the lane for any other purpose.
- 8. The access lanes to which this part of the bylaws applies are those described in Schedule 4(Location Specific Information).

3.8. Marking of access lanes

- 1. Every access must be demarcated by:
 - (a) two orange post with horizontal black bands in line on shore on each side of the access lane; and
 - (b) if the access lane is marked at its outer edge, it shall be marked by orange buoys with black bands; and
 - (c) adequate signage in the vicinity of the access lane that declares the purpose of that lane.

3.9. Reserved areas

- 1. The Council, on application, or of its own mind, may from time to time, by Public Notice, and in the interests of navigation safety, reserve any specified area for a specific purpose.
- 2. A reservation under this Clause of the Bylaws may be made on such conditions and for such period or periods of time, as the Council may specify in the Notice.
- 3. Every area reserved under this Clause of the Bylaws shall be indicated by notice boards that are prominently displayed on the land at the extremities of the area.

3.10. Reserved areas for special events

- 1. Any person intending to conduct a race, speed trial, competition, or other organised water activity in any area to which these bylaws apply must apply to the Harbour Master to:
 - (a) temporarily suspend the application of Clause 3.2 in part or in total in that area for the purposes for facilitating the event; and
 - (b) temporarily reserve the area for the purpose of that activity.
- 2. Where the Harbour Master is satisfied that the application may be granted without endangering the public, the Harbour Master may grant the application accordingly, for a

period not exceeding 10 days and on such conditions as the Harbour Master may specify.

3. No grant of application shall have effect unless, not less than 7 days nor more than 14 days before the commencement of the activity, a public notice is given specifying the period of the activity and the details of the suspension or reserved area.
4. The Council may recover, from the applicant, all actual and reasonable costs associated with the application, including any monitoring and advertising.

3.11. Conduct in reserved areas

1. No person may obstruct any other person while that other person is using a reserved area for the purpose for which it is reserved.
2. If any person is using a reserved area for the purpose for which it is reserved, no other persons shall enter or remain in or use the area for any other purpose, unless otherwise stated in schedule 4 (Location Specific Information)
3. Nothing in Clauses 3.10.1 and 3.10.2 prohibits the use of emergency response craft within a reserved area.
4. The reserved areas to which these clauses of the Bylaws apply are those prescribed in schedule 4 (Location Specific Information), or those notified in accordance with Clauses 3.9.1 or 3.9.3.

3.12. Marking of reserved areas

1. Adequate signs shall be provided in the vicinity of a reserved area that:
 - (a) define the area; and
 - (b) declare the purpose for which the area has been reserved.
2. If the area is demarcated on shore, it is marked by black posts with white horizontal bands.
3. If the reserved area is marked at sea, it is marked by black buoys with white bands.
4. Nothing in this Clause applies to reserved area for special events granted in accordance with Clause 3.10.

3.13. Collision prevention

1. No person shall operate any vessel in breach of Maritime Rule Part 22 (Collision Prevention) made under the Maritime Transport Act 1994.
2. Every vessel shall display navigation lights appropriate for its length and occupation as set out in Maritime Rule Part 22 (Collision Prevention) between the hours of sunset and sunrise and at times of restricted visibility.
3. The Harbour Master, Enforcement Officer, or Honorary Enforcement Officer may direct any vessel to take any action they deem necessary for compliance with Maritime Rule Part 22 (collision Prevention), made under the Maritime Transport Act 1994
4. Every person commits an offence against these bylaws who, being required by the Harbour Master, Enforcement Officer, or Honorary Enforcement Officer under clause

3.13.1 of these bylaws to do anything, fails to comply with that requirement as soon as is reasonably possible

5. Any commercial and/or passenger carrying high speed vessel either operating under the Code of Safety for Dynamically Supported Craft and/or the High-speed Craft or any similar code or a vessel which is capable of operating at a speed of greater than 25 knots, shall when navigating within harbour limits at a speed greater than 25 knots display, where it can best be seen, an all round YELLOW flashing light, visible for at least six (6) nautical miles, between the hours of sunset and sunrise and at times of reduced visibility.
6. For the purpose of this Bylaw, the term 'flashing light' shall have the same meaning as defined in Maritime Rule Part 22 – Collision Prevention

3.14. Duty of master of a vessel under 500 gross tonnage

1. The master of a vessel under 500 gross tonnage must not allow his or her vessel to impede the navigation of any vessel of 500 gross tonnage or more if the vessels are operating in the designated Pilotage areas as defined by these bylaws in Schedule 1.2, or in the inner harbour of Picton and Shakespeare Bay.

3.15. Moving prohibited zone

1. A moving prohibited zone extending to 500 metres ahead and 50 metres on each side and continued at such width to 50 metres astern of a vessel of 500 gross tonnage or greater, when that vessel is within the pilotage area as defined by these bylaws in Schedule 1.2.
2. The person in charge of any vessel less than 500 gross tonnage shall not navigate his or her vessel within the moving prohibited zone of any vessel navigating within the pilotage area as defined by these bylaws in Schedule 1.2.
3. The provision of clause 3.15.2 shall not apply:
 - (a) to vessels having prior written authority from the Harbour Master; or
 - (b) within the inner harbour of Picton and Shakespeare Bay, where, due to the nature of these area compliance may be impossible. In such cases, the requirements of clause 3.13 and clause 3.14 shall apply.

3.16. Dive Operations

1. The master of every vessel from which dive operations are in progress must ensure that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper or lookout from another vessel at a distance in excess of 200 metres.
2. Every person diving from a vessel must ensure that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper or lookout of another vessel at a distance in excess of 200 metres.
3. Dimensions for Flag A shall not be less than 600mm by 600mm.

4 – Operating Requirements – commercial vessels, masters and pilots

4.1. Directions for Transiting Queen Charlotte Sound

1. In addition to the radio calling requirements as set out in Clause 4.2 'Tory Channel' the following shall apply:
 - (a) The master of every commercial vessel shall, prior to entering Queen Charlotte Sound limits, call 'Picton Harbour Radio' on marine VHF Channel 19 and report the intention of the vessel to enter harbour limits as described in Schedule 1.1. Such vessels shall maintain a listening watch on marine VHF Channel 19 whilst within harbour limits.
 - (b) The master of every commercial vessel, when making the call to Picton Harbour Radio as required by Clause 4.1.1 (a) above, will advise Picton Harbour Radio whether the vessel is carrying dangerous goods.
 - (c) For the purposes of these Bylaws, that part of Queen Charlotte Sound forming Tory Channel, from Dieffenbach Point to East Head, shall be deemed to be a narrow channel in accordance with Maritime Rule Part 22.9 – Collision Prevention, Narrow Channels - and the provisions of that rule shall apply.
 - (d) The Master of every vessel shall keep as far to the sides of navigable channels as is practicable.

4.2. Tory Channel

1. In relation to Tory Channel-
 - (a) Vessels of 100 gross tonnage or more may only use Tory Channel with the prior permission of the Harbour Master. Such permission is dependant on, but not limited to, the known traffic density in the channel and prevailing weather conditions at the time of transit.
 - (b) For the purposes of this Bylaw, the gross tonnage of any tug involved in towing a barge or another vessel shall be the sum (total) gross tonnage of both the tug and barge or vessel being towed.
2. The requirements of clause 4.2.1 (a) shall not apply to vessels where the master is exempt from pilotage by law.
3. The pilot or master (if pilot exempt) of every vessel, whether inward bound or outward bound shall broadcast, or cause to have broadcast, on Channel 19 VHF, an initial radio message addressed to 'All Ships', giving warning of transit of the eastern entrance to Tory Channel as set out below:
 - (a) For vessels operating at a proper speed of 15 knots or greater:
 - (i) not less than 10 minutes before the vessel reaches the points specified in 4.2.3 (a) (ii) or (iii):
 - (ii) for an outward bound vessel the line drawn in a direction of 320° (T) from Scraggy Point Light (K4266); or

- (iii) for an inward bound vessel that point forming the intersection of the line of the Leading Lights and the seaward arc of a circle, radius 0.6 nautical mile, centred on West Head Light (K 4262); and
 - (iv) in addition to the requirements of 4.2.3 (a) (ii) or(iii) the broadcast will also include the time the vessel is expected to be abeam of East Head Light (K4265);
 - (v) the area contained within the boundaries described in 4.2.3 (a) (ii) and (iii) is identified as the Tory Channel Entrance Controlled Navigation Zone and is shown in Schedule 8.
 - (vi) This message may be repeated, if practicable, on marine VHF Channels 16 and 63.
- (b) For vessels operating at a proper speed of less than 15 knots
- (i) For inward bound vessels:

When on an arc of 3 nautical miles to seaward centred on East Head Light (K4265) make a broadcast on channel 19 VHF advising of the intention to transit Tory Channel inward bound and providing the ETA at the Controlled Navigation Zone boundary as well as at East Head at the vessel's anticipated speed. Subsequent broadcasts, confirming or amending ETA is to be made at intervals not exceeding 10 minutes.
 - (ii) For outward bound vessels:

When abeam of Te Uira Karapa (Clay Point) light East (K4267.1), make a broadcast on Channel 19 VHF advising all vessels of the intention to transit Tory Channel outward bound and providing the ETA at the controlled Navigation Zone boundary as well as East Head, at the vessel's anticipated speed. Subsequent broadcasts, confirming or amending ETA is to be made at intervals not exceeding 10 minutes.

The above broadcasts may be repeated, if practicable, on marine VHF Channels 16 and 63

Any significant changes in ETA must be promulgated to all vessels

4. All vessels, entering or leaving the eastern entrance to Tory Channel, whether in sight of one another or not, are required to establish radio contact with any other vessel which is likely to be approaching the eastern entrance to Tory Channel at approximately the same time.
5. Where two vessels of 500 gross tonnage or more are likely to pass each other in the vicinity of the eastern entrance to Tory Channel, the outward bound vessel shall have priority and the inward bound vessel shall wait clear of the entrance until the outward bound vessel is clear.
6. The requirements of clause 4.2.5 shall not apply where the pilot or master (if pilot exempt) of the outward bound vessel has advised the pilot or master (if pilot exempt) of the inward bound vessel to proceed inwards.
7. In observing clauses 4.2.5 and 4.2.6 only one vessel at any one time is permitted to navigate within the Tory Channel Entrance Controlled Navigation Zone as is shown in Schedule 8.

8. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more when inward bound through the eastern entrance to Tory Channel, must ensure that his or her vessel is on the line of the leading lights when 0.5 nautical mile south-east of a line joining East Head light (K4265) and West Head light (K4262) [Approx. position $41^{\circ} 13'.05$ south $174^{\circ} 19'.62$ east].
9. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more, when outward bound through the eastern entrance to Tory Channel must ensure that he or she maintains his or her vessel on the line of the leading lights until 0.5 nautical miles south-east of a line joining East Head light (K4265) and West Head light (K4262) [Approx. position $41^{\circ} 13'.05$ south $174^{\circ} 19'.62$ east].
10. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more when inward bound through the eastern entrance to Tory Channel is prohibited from overtaking another vessel of 500 gross tonnage or more in the approaches to the eastern entrance of Tory Channel if it is apparent that the overtaking manoeuvre cannot be completed in sufficient time for the overtaking vessel to be on the line of the leading lights as set out in 4.2.8.
11. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more whether inward bound or outward bound through the eastern entrance to Tory Channel, is prohibited from overtaking another vessel of 500 gross tonnage or more in the area between a line drawn in a direction of $320^{\circ}(T)$ from Scraggy Point light (K4266) and the point south-east of the position as set out in 4.2.9.
12. The master of every vessel of less than 500 gross tonnage, in observing the requirements of this Part of the bylaw is not permitted to impede the passage of vessels of 500 gross tonnage or more.

Cautionary note

Failure to receive radio communication should not be construed by any vessel as confirmation that the eastern entrance to Tory Channel is clear. The eastern entrance to Tory Channel should be approached with due caution at all times.

4.3. Distances off Salient Points

1. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more must observe the distances off salient points in Tory Channel and Queen Charlotte Sound as set out in the table below:

Bearing & Distance From	Minimum	Maximum
Mabel Island Light	090° x 1.0 cable (185.2m)	090° x 1.6 cables (296.3m)
Picton Point Light	344° x 2.8 cables (518.5m)	323° x 5.2 cables (963m)
Allports Island Light	164° x 1.2 cables (222.2m) minimum	
Double Point	347° x 2.5 cables (463m)	346° x 4.5 cables (833m)

Dieffenbach Point Light	355° x 2.5 cables (463m)	000° x 4.5 cables (833m)
Dieffenbach Point Light	063° x 2.5 cables (463m)	060° x 4.6 cables (851.9m)
Ruamoko West (Heaphy)	230° x 1.4 cables (259.2m)	240° x 3.8 cables (703.7m)
Ruamoko East (Heaphy)	183.5° x 1.4 cables (259.2m)	214° x 3.2 cables (592.6m)
Arrowsmith Point Light	348° x 1.5 cables (277.8m)	352° x 2.5 cables (463m)
Te Uira-Karapa West (Clay)	159° x 1.4 cables (259.2m)	169° x 2.8 cables (518.5m)
Te Uira-Karapa East (Clay)	137° x 1.4 cables (259.2m)	139° x 2.8 cables (518.5m)
Scraggy Point Light	320° x 1.6 cables (296.3m)	320° x 3.6 cables (666.7m)

Explanatory note: the table indicates maximum and minimum distances of the relevant points of land. These maxima and minima delineate the area within which vessels should be navigating. They do not represent way-points for course lines.

2. No vessel of 500 gross tonnage or more is to pass or overtake another vessel of 500 gross tonnage or more between the hours of sunset and sunrise in Picton Harbour, south of 41° 16'.16 south.
3. At times of restricted visibility (as defined in Maritime Rule, Part 22 – Collision Prevention) only one vessel of 500 gross tonnage or more is permitted to navigate in Picton Harbour south of 41°16'.16 south at any one time.
4. The pilot or master (if pilot exempt) of every vessel of 500 gross tonnage or more must navigate his or her vessel at a proper speed not exceeding 12 knots in Picton Harbour when south of 41° 16'.16 south.

4.4. General Requirements

1. The master of every commercial vessel shall ensure, when navigating within harbour limits, that:
 - (a) automatic steering 'pilot' devices, if fitted, are not to be used, unless a helmsman is standing by, to take over manual steering immediately on this being required, in the immediate vicinity of the helm or wheel; and
 - (b) use of automated navigation systems that act on their own (e.g. linked to GPS or DGPS receivers) without immediate preceding direction of the Master is prohibited; and
 - (c) the main engines are to be immediately available for reducing speed, stopping or going astern at all times without delay; and.

- (d) anchors are immediately available for letting go in an emergency and capable of being used without power; and
 - (e) all navigational aids, including but not limited to radar and depth recording devices, if fitted are to be in continuous operation and fully utilised.
2. Every licensed pilot shall lodge with the Harbour Master:
 - (a) a copy of the Pilotage Passage Plan; and
 - (b) a copy of the information exchange card for every act of pilotage performed; and
 - (c) must ensure that any permanent changes to his or her pilotage passage plan is communicated to the Harbour Master in writing, prior to implementation.
 3. The master of every vessel which is pilot exempt shall lodge with the Harbour Master:
 - (a) a copy of the current passage plan for the whole of the voyage which occurs within defined pilotage limits; and
 - (b) must ensure that any permanent changes to the passage plan referred to in 4.4.3 (a) are communicated to the Harbour Master in writing prior to implementation.
 4. The master of every commercial vessel while navigating within harbour limits shall ensure that sufficient trained personnel are tasked with monitoring the vessel's progress and implementation of the agreed on passage plan.
 5. When navigating within harbour limits all vessels of 6 metres in length and above shall carry and consult a current copy of the appropriate nautical charts (or approved electronic equivalent).

4.5. Reporting procedures within Queen Charlotte Sound

1. The master of any commercial vessel of 20 metres or more in length or any tug engaged in towing shall, at least ten (10) minutes prior to departure, call Picton Harbour Radio on marine VHF Channel 19 to report his or her intentions, obtain information of known vessel movements and obtain current weather conditions.
2. The master of every commercial vessel of 20 metres or more in length or any tug engaged in towing shall, as soon as practicable, call 'Picton Harbour Radio' on marine VHF Channel 19 and report that his or her vessel has cleared the berth or anchorage and is underway.
3. The master of every commercial vessel of 20 metres or more in length or any tug engaged in towing shall advise 'Picton Harbour Radio' on marine VHF Channel 19 when secured at a different berth or anchorage, or when to seaward of harbour limits when outward bound.
4. The master and/or owner of every commercial vessel operating within the area to which these Bylaws apply is required to carry an automatic location communicator.
5. The master of every vessel required to carry an automatic location communicator under this Bylaw must ensure that:
 - (a) the automatic location communicator carried in accordance with this Bylaw transmits such information in accordance with the standards and requirements specified by the Council and in accordance with the manufacturers specifications.

- (b) the automatic location communicator carried on board in accordance with this bylaw operates continuously when the vessel is navigating within the area to which these Bylaws apply.
- 6. For the purposes of this clause of the Bylaws, vessels of 300 gross tonnage or more are, by International Convention, required to carry Class A AIS Transponders. The carriage of a Class A AIS transponder will be deemed to meet the requirements of clause 4.5.6 (a) and (b) of these Bylaws.
- 7. All other vessels that are not required to meet the International Convention set out in Part 4.5.8 shall be required to carry a Class B AIS Transponder to meet the requirements of clause 4.5.6 (a) and (b) of these Bylaws.

4.6. Radio reporting for vessels taking part in organised events within Queen Charlotte Sound

- 1. When a group of vessels is taking part in an organised event, the controlling officer of that event must advise 'Picton Harbour Radio' of the approximate number of vessels involved, location and duration of the event and the radio channel being used.

4.7. Hazardous Cargoes, Hazardous Works and Dangerous Goods

- 1. Vessels Carrying Explosives:

The master of any vessel at a maritime facility or at anchor within harbour limits having on board or intending to load explosives must hoist on the vessel the International Code Flag 'B' by day and a red light by night.

- 2. Hot Work Operations:

- (a) The master of any vessel at any maritime facility or at anchor within harbour limits, on board which or on the hull of which it is proposed to carry out welding or flame-cutting operations in or from any position, whether on board the vessel or not, must obtain, from the Harbour Master or Enforcement Officer, a Hot Work Permit in accordance with requirements as set out in Schedule 3 of these Bylaws, not less than two hours before commencing work.

- (b) The master of every vessel on board which or on the hull of which it is intended to carry out any welding or flame cutting operations must ensure that before any welding or flame-cutting operations are commenced, precautions are taken for the detection, prevention and extinguishing of fire on board the vessel or elsewhere during the welding or flame-cutting operations and that the requirements of the Hot Work Permit are met. Provision must be made for the continuance of the precautions until the operations are complete.

- (c) No welding or flame-cutting operations shall commence until such time as the Harbour Master or Enforcement Officer is satisfied that the requirements of the Hot Work Permit have been met in full.

- (d) The Harbour Master or Enforcement Officer may grant written exemption, as set out in the Schedule 2, Exemptions, of these Bylaws, from compliance with clauses 4.7.2 (a), (b) and (c) to a master or owner of a vessel lying at any vessel repair establishment.

- 3. Dangerous Goods:

- (a) The master of every commercial vessel shall ensure that, when loading, carrying or discharging Dangerous Goods, the requirements of Maritime Rule Part 24A are complied with at all times.

4.8. French Pass and Stephens Island Passage

1. All vessels:
 - (a) designed for the bulk carriage of oil, gas or chemical cargoes, or a vessel carrying more than 50 tonnes of explosives; or
 - (b) having a draft of water in excess of 6 metresare not permitted to transit Stephens Island Passage.
2. Vessels of 500 gross tonnage or more are not permitted to transit Stephens Island Passage unless the master and the vessel are issued with an exemption in accordance with clauses 4.8.4. and 4.8.5
3. For the purpose of this Bylaw the gross tonnage of any tug engaged in towing a barge or another vessel shall be the sum (total) gross tonnage of both the tug and barge or vessel being towed.
4. The Harbour Master may, in writing, exempt the master of every vessel to which clauses 4.8.1 and 4.8.2 apply. Any such exemption granted by the Harbour Master will be subject to such conditions and limitations as set out in Schedule 2, Exemptions. Any exemption issued in accordance with this clause shall remain valid for such period of time as is shown on the exemption document, but may be withdrawn at any time at the Harbour Master's discretion if the conditions of it being granted have been breached.
5. The Harbour Master may, in writing, exempt the vessel to which clauses 4.8.2 and 4.8.3 apply. Any such exemption granted by the Harbour Master will be subject to such conditions and limitations as set out in Schedule 2, Exemptions. Any exemption issued in accordance with this clause shall remain valid for such period of time as is shown on the exemption document, but may be withdrawn at any time at the Harbour Master's discretion if the conditions of it being granted have been breached.
6. No vessel greater than 100 gross tonnage may transit French Pass unless the vessel carries a Pilot, or the master is pilot exempt by law.
7. The master of every vessel intending to transit French Pass Stephens Island Passage shall broadcast, or cause to be broadcast a radio message addressed to 'All Ships' giving warning of the intention to transit French Pass or Stephens Island Passage not less than 10 (ten) minutes before the proposed transit. This message is to be transmitted on marine VHF channel 16 and should be repeated on marine VHF channels 01 and 65.
8. All vessels intending to transit French Pass or Stephens Island Passage, upon hearing the warning broadcast referred to in clause 4.8.6 are required to establish radio contact with the other vessel and establish if they are going to be in the area at the same time.
9. Where two vessels are likely to pass each other in the vicinity of French Pass or Stephens Island Passage, the vessel which is transiting French Pass or Stephens Island Passage in the same direction as the tidal flow shall have priority and the vessel intending to transit French Pass or Stephens Island Passage against the tidal flow shall wait clear of French Pass or Stephens Island Passage until the other vessel is clear.

4.9. Cape Jackson and Allen Strait

1. No vessel of 100 gross tonnage or more is permitted to transit through the passages that exist between Cape Jackson and Walker's Rock or through Allen Strait.

5 – Structures

5.1. Structures

1. In addition to the requirements of section 200 of the Maritime Transport Act 1994 and any conditions of a resource consent for a marine farm, every marine farm shall display such lights and radar reflectors as approved by the Harbour Master provided that such lights and radar reflectors shall be in accordance with the standards set out in the System of Buoyage and Beaconage for New Zealand, or any replacement rule, made under the Maritime Transport Act 1994.
2. The owner of every marine farm shall ensure that any lights fitted as required by clause 5.1.1 are operational at all times during the hours of darkness.
3. The Harbour Master or Enforcement Officer or a person authorised by the Harbour Master may at any time enter any structure or maritime facility for the purpose of inspecting the structure or maritime facility.
4. Where the Harbour Master or Enforcement Officer, during an inspection of any structure or maritime facility finds, or is advised by the person authorised by the Harbour Master referred to in clause 5.1.3 , that the structure or maritime facility poses a danger to navigation, he or she may issue an infringement notice.
5. The owner of any structure or maritime facility must at all times keep the structure or maritime facility in good repair, such that the structure or maritime facility does not pose a danger to navigation

6 – Administrative matters

6.1. Revocation of Bylaws

1. The following Bylaws and all amendments to those bylaws in the Marlborough Region, made under Part 39A of the Local Government 1974 are revoked:

Marlborough District Council Navigation Bylaws 2002

6.2. Suspension and exemptions from these bylaws

1. The Council may, of its own accord, or on application by any person, suspend any provisions of these bylaws or exempt an activity from any provision of these Bylaws. The suspension or exemption may be subject to conditions and have effect for the period of time that the Council considers appropriate. Any suspension or exemption made under this Part must be notified to all interested persons

6.3. Application to masters and owners

1. Where any clauses of these Bylaws impose an obligation or duty on the master of any vessel, that obligation or duty must, in the case of the vessel that has no master, be performed or carried out by the owner.
2. Where any clauses of these Bylaws impose an obligation or duty on both the master and the owner of the vessel, then, if that clause is not complied with, the master and owner are deemed severally to have committed an offence against these Bylaws. If either the master or owner complies with any such clause, then, for the purposes of these Bylaws, compliance by one is deemed to be compliance by the other

6.4. Vessels to be licensed

1. The owner of a vessel that is not subject to any Maritime Rules made under the Maritime Transport Act 1994 dealing with the operational management of the vessel must not operate that vessel for hire or reward unless it is licensed by the Harbour Master.
2. The owner of a vessel must not use that vessel for hire or reward in any area specified in Schedule 1.1 unless it is licensed by the Harbour Master.
3. The Harbour Master may issue a license in respect of clause 6.4.1 if, in the opinion of the Harbour Master, the operation is safe and the vessel is fit for the intended purpose. Such licence will be valid for a period of 12 months.
4. The Harbour Master may issue a license in respect of clause 6.4.2 if, in the opinion of the Harbour Master, the operation will not diminish the level of safety for other activities in the vicinity, or cause congestion or jostling for position or other unsafe practices, at points of embarkation/disembarkation or at any place en route.
5. Every licence issued by the Harbour Master under these bylaws shall apply only to that vessel and operator(s) named in the licence.
6. Every licence issued by the Harbour Master must be available for inspection at any time by the Harbour Master, or Enforcement Officer.

7. A licence may be cancelled if its terms and conditions are breached. There will be no refund of any applicable fees if a licence is cancelled.
8. The terms and conditions of any licence issued by the Harbour Master may include, but is not limited to:
 - (a) defining points of embarkation/disembarkation; and
 - (b) defining the area or route of operations; and
 - (c) limiting the number of passengers or quantity of freight; and
 - (d) any limitations in respect of weather or operating hours; and
 - (e) any requirements for rescue craft; and
 - (f) any requirements for safety equipment; and
 - (g) the level of instruction to be given to persons hiring or using a vessel; and
 - (h) the qualification required by the person in charge of the vessel.

6.5. Offences

1. Any person who breaches or fails to comply in any respect with any provision of these Bylaws commits an offence.

6.6. General Defence

1. It shall be a defence to any prosecution for a breach of these Bylaws if the defendant proves –
 - (a) 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) 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 6.6.1 (a) above does not apply unless, within 7 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 clause 6.6.1 (b) (i) above; and
- (ii) specifying the facts that support his or her reliance on clause 6.6.1 (b) (i) above.

6.7. Infringements

1. If a person is observed committing an infringement offence (as set out in Schedule 6, Infringement Offences, of these Bylaws) by the Harbour Master or an Enforcement Officer, or the Harbour Master 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.
2. The Harbour Master or an 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.

7 – Fees and Charges

1. The Council may fix fees and charges pursuant to section 684B(h) of the Act.
2. For the purposes of these bylaws, the following definitions apply to activities for which fees and charges may be fixed:

Movement	means an entry to or exit from harbour limits
Ferry	means a vessel over 500 gross tonnage carrying passengers between Wellington and Picton
Cruise Vessel	means a commercial vessel over 500 gross tonnage carrying passengers, that is not a ferry or water taxi
Cargo Vessel	means a vessel over 500 gross tonnage that is a commercial vessel not carrying passengers
Fishing Residential	means fishing from a commercial vessel under 500 gross tonnage that is normally moored within harbour limits at any time of year
Fishing Seasonal	means fishing from a vessel under 500 gross tonnage that is a commercial vessel and is not moored within harbour limits for more than [6 months] per year
Tug and Tow	means commercial vessels under 500 gross tonnage that are used for manoeuvring other vessels
Water Taxi	means vessels under 500 gross tonnage that are used for transporting paying passengers within harbour limits
Mussel Vessel	means a commercial vessel under 500 gross tonnage involved in the harvesting of mussels or other aquaculture activity
Barge	means a flat decked, shallow draft vessel under 500 gross tonnage, usually towed by another vessel
Commercial Charter	means vessels under 500 gross tonnage that are commercial vessels and used for charter purposes
Commercial Other	means vessels under 500 gross tonnage that are commercial vessels
Marine Farm	means an area in which aquaculture activities are carried out
Recreational	means a business or person conducting recreational activities within harbour limits on a commercial basis
Extended Anchoring	means anchoring a vessel under 500 gross tonnage within harbour limits for more than xx weeks per year
Vessel Licensing	means xx
Visit	means entering and leaving harbour limits on one occasion
3. The Fees and Charges payable for activities within harbour limits are listed in Schedule 5 of these Bylaws.

Schedule 1 – Harbour and Pilotage Limits

1.1. Harbour limits

1. The seaward limit shall be a straight line commencing at the water's edge at Cape Soucis to 40° 50' south 173° 45' east, to 40° 45' south 173° 49' east, to 40° 39'.5 south 174° 00' east, to Brothers Island (41° 06' south 174° 26'.4 east), to a position 1 nautical mile east of Cape Campbell light (41° 43'.75 south 174° 17'.9 east), then 1 nautical mile offshore to Willawa Point (41° 58'.72 south 174°03'.96 east), then to the water's edge at Willawa Point.
2. The landward boundary is the line of mean high water springs, except where that line crosses a river, the landward boundary at that point shall be whichever is the lesser of:
 - (a) 0.54 nautical mile (1000 metres) upstream from the mouth of the river; or
 - (b) the point upstream that is calculated by multiplying the width of the river mouth by five (5).

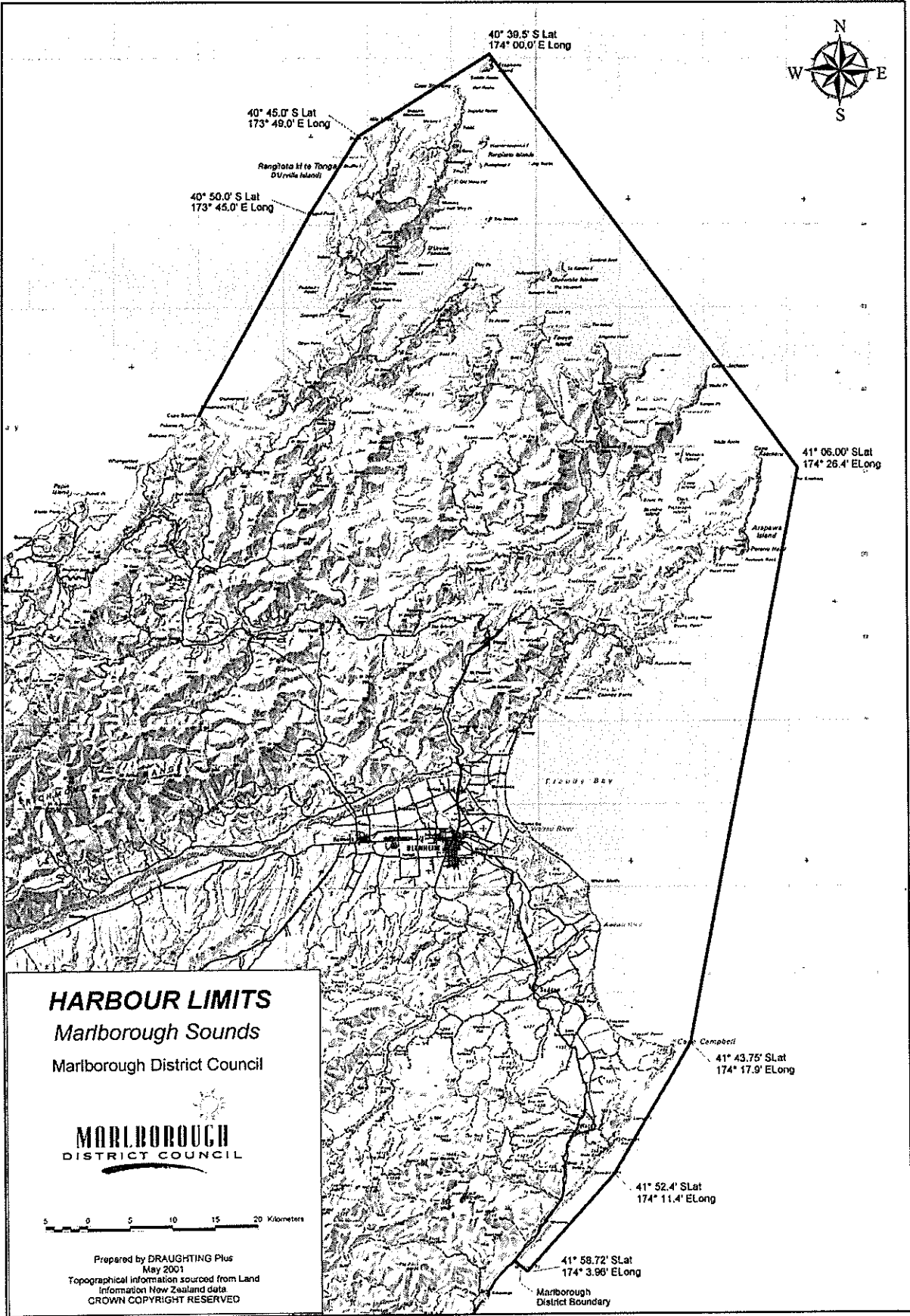
1.2. Pilotage limits

1. Queen Charlotte Sound Pilotage District

Means all those waters contained within Queen Charlotte Sound and Tory Channel having as their seaward boundary a straight line drawn in a direction of 303° (T) from high water mark at Paparoa Point on Arapawa Island (41° 06'.96 south 174° 20'.92 east) to the high water mark on the opposite shore of the mainland (41° 04'.46 south 174° 15'.8 east) and a circle of radius one (1) nautical mile centred on West Head Light (K4262) Tory Channel.

2. Pelorus Sound, Admiralty Bay and French Pass Pilotage District

Means all those waters contained within Pelorus Sound having as their seaward boundary in the north as a straight line drawn in a direction of 353° (T) from high water mark at Alligator Head (40° 58'.1 south 174° 09'.3 east) to high water mark at Sentinel Rock (40° 53'.9 south 174° 08'.6 east) thence in a direction of 277° (T) to high water mark at Bonne Point, D'Urville Island (40°51'.6 south 173° 54'.8 east) and in the south a straight line drawn in a direction of 005° (T) from high water mark at Okuri Point (40° 58'.4 south 173° 46'.0 east) to high water mark at Sauvage Point, D'Urville Island (40° 56'.5 south 173° 46'.2 east).



Schedule 2 – Exemptions

2.1. Personal Flotation Devices

1. The Harbour Master may exempt, in writing, the person in charge of a pleasure craft from carrying personal flotation devices as required by clause 2.1.1 of these Bylaws provided a support craft remains in the immediate vicinity of the pleasure craft and the support craft carries flotation devices of an appropriate size and standard (as set out in 'Definitions') for each person on board the support craft and the pleasure craft.
2. Any written exemption granted under the clause above shall be subject to such conditions as the Harbour Master considers appropriate in the interests of navigation and safety and for such period as the exemption specifies.
3. Any person in charge of a pleasure craft wishing to be exempted from carrying flotation devices as outlined above should apply, in writing, to the Harbour Master.

2.2. Minimum Age for operating powered craft

1. The Harbour Master may, in writing, exempt a person who is under the age of fifteen (15) years for the purposes of operating a powered craft that is capable of a proper speed exceeding 10 knots. (refer clause 3.1).
2. Applications for written exemptions may be given for training, competitions or other sporting events.
3. The Harbour Master, when considering whether or not to grant such an exemption shall have regard to the competence of the person, the level of supervision, and awareness of other relevant navigation safety matters.
4. Any Exemption granted under this clause shall be valid for such period as noted on the letter of Exemption.

2.3. Hot Work Permits

1. Where any vessel is alongside any vessel repairing facility, the master or owner may apply, in writing, to the Harbour Master for an exemption for a Hot Work Permit as set out in clause 4.7.2 subsections (a) – (d) of these Bylaws.
2. In applying for an Exemption under this clause, the master must demonstrate that all necessary precautions and requirements have been met and continue to be met while the Hot Work is in progress.

2.4. Stephens Island Passage Exemption Provisions

1. The Harbour Master may, in writing, and on application exempt the master of every vessel of 500 gross tonnage or more and every vessel of 500 gross tonnage or more from the requirements of clause 4.8 (2) & (3) provided that:
 - (a) the master produces documented evidence that he or she has made at least four successful transits of French Pass or Stephens Island Passage in both directions whilst under the supervision of an exempt master. At least one transit in each direction shall be completed during the hours of darkness and all transits to have been completed within the 12 months immediately preceding the application for an exemption; and

- (b) the applicant must, to the satisfaction of the Harbour Master, have the necessary experience, local knowledge and ability to transit French Pass or Stephens Island Passage. The Harbour Master may consult with others when assessing a candidate's application.
- (c) on being granted an exemption, the master shall exercise the exemption a minimum of four times per year. Failure to provide the required information that an exemption has been exercised in accordance with this clause will automatically revoke the exemption.
- (d) masters shall report all navigational incidents in French Pass or Stephens Island Passage to the Harbour Master, whether damage or injury occurs or not. Failure to report will result in the exemption being revoked.
- (e) applications are to be submitted on the form(s) provided for that purpose.
- (f) no fees shall be charged for the exemption.
- (g) masters employed on vessels using French Pass or Stephens Island Passage at the time of promulgation of these bylaws will, on production of proof satisfactory to the Harbour Master that they have completed the required transits in the twelve (12) months immediately prior to the coming into force of these bylaws, be issued with an Exemption as of right.
- (h) where an exemption is sought for a vessel of 500 gross tonnes or more, masters must produce the vessel's particulars which include, but may not be limited to,:
 - (i) type and power of main engine
 - (ii) number of propellers
 - (iii) type of rudder
 - (iv) bow thrusters
 - (v) beam
 - (vi) length

Schedule 3 – Forms

3.1. Uplifting of Bylaws

3.2. Hot Work Permit

Application for Use of Harbour Waters

Wehereby
apply to the Marlborough District Council for permission to use harbour waters as specified below:

Date of Event:
Time Required:
Location:
Purpose:
Contact person: **Tel No.**
Address:
.....

Other Relevant Information
.....
.....

Application fee of \$50.00 is enclosed

Signed:

Date:

Hot Work Permit

Permit No.

Not for use on Tankers / Pipeline

Under Part 3.9 (2) of the Navigation Safety Bylaws, permission is hereby given for Gas Cutting/Burning/Welding (electric/gas) to be carried out in the said locations:

.....

 on board the vessel at berth

Subject to the following conditions:

1. All combustible materials within surrounding areas removed or made safe.
2. No flammable liquids, vapours, gases or dusts present.
3. Suitable Fire Extinguishers/hoses provided onsite and fully operational.
4. Operator knows how to use fire equipment.
5. Operator knows how and where to raise fire alarm.
6. An inspection of the surroundings of the work area/s is carried out at least one hour after hot work is completed.
7. Other specified conditions:

.....

Gas Free Certificate Yes / No Issued
 by:.....

I / We agree with the above conditions and will ensure that they are complied with for the duration of this permit.

Signed:

For the Vessel Position Date.....

For the Contractor..... Position Date.....

Permit Issued By Position Date.....

This permit is valid FromHrs Date..... 'til.....Hrs Date.....

This Permit Must Be Displayed at Work Area

If more than one work area, original to be kept in Ships Office / Wheel house and a duplicate copy to be displayed at each work area.

Schedule 4 – Access Lanes

4.1. Reserved Area - Water Skiing, December to Easter

Swimming Areas

Picton Foreshore	Picton	Swimming Raft
Picton East Shore	Shelly Beach	Marker buoys, 2 large navigation buoys with lights
Waikawa Bay east	Waikawa Bay	Marker buoys and swimming raft

Water Ski Access Lanes

Ski Lane	Location	Marking / Notice
Bottle Bay	Grove Arm	4 orange and black transit markers 1 Notice
Cherry Bay	Ruakaka Bay	4 black and orange transit markers 1 Notice
Davies Bay Umungata Bay	Grove Arm	4 black and orange transit markers 1 Notice
Kumutoto Bay	Queen Charlotte Sound	4 black and orange transit markers 1 Notice
Momorangi Bay	Grove Arm	4 black and orange transit markers 1 Notice
Ngakuta Bay	Grove Arm	4 Black and orange transit markers 1 Notice

Ski Lane	Location	Marking / Notice
Te Mahia	Kenepuru Sound	4 Black and orange transit markers 1 Notice

Schedule 5 – Fees and Charges

5.1. Table of fees and charges

Category	Fee
Vessels Greater than 500 GT	
RoRo ferries	\$0.0045 per gross tonnage and \$0.05 per passenger capacity per movement
Cruise Vessels	\$20 per metre per visit
Cargo Vessels	\$0.30 per Gross Tonnage per visit
Vessels less than 500 GT	
Fishing residential	\$115 per metre per annum
Fishing seasonal	\$9.63 per metre per month
Tugs and Barges	\$9.63 per meter per month
Water taxis	\$115 per metre per annum
Marine farm vessels	\$115 per metre per annum
Residential Barges	\$115 per metre per annum
Commercial Charter vessels	\$115 per metre per annum
Commercial other	\$115 per metre per annum
Marine Farms	\$95 per annum
Recreational vessels	\$2.44 per day
Hot Work Permits	\$50 per permit
Pilotage Exemption Examination	\$350 per examination
Pilotage License Examination	Actual costs
Extended Anchoring	\$0.005 per gross tonnage per week or part thereof
Vessel Licensing	\$200 per annum

Schedule 6 – Infringement Offences and Fees

Bylaw Provision		Offence Description		Proposed Fine
2.1	Personal Flotation Devices	1., 6., 7.	Failure to carry PFD's as required.	\$200
		7.	Failure to wear PFD's in accordance with requirements.	\$200
2.2	Swimming and diving around wharves	1.(a)	Diving, jumping or swimming without permission where the following is breached: (a) from any commercial jetty, wharf, or quay which is in regular use for berthing and unberthing of vessels; (b) within 50 metres of the structures listed in 2.2.1 (a); (c) within any designated anchorage or mooring area; (d) within any navigation channel; (e) from any such areas in the navigable waters of the region as the Harbour Master may from time to time determine.	\$200
2.3	Use of vessel engine around wharves, ramps	1.	Operating propulsion system in breach of requirements.	\$200
2.4	Vessels which are not seaworthy	1., 2., 3.	Not maintaining a vessel in a seaworthy condition without written permission	\$200
2.5	Seaplanes	1.	Impeding a seaplane in the process of taking off or landing.	\$200
		2.	Operating a seaplane on the region's waters without a written permit.	\$200
2.6	Vessels to be adequately moored or secured	1.	Not adequately mooring a vessel while secured to any maritime facility.	\$200
		2.	No person may cut, break destroy or unlawfully detach: (a) the mooring of any vessel; (b) the fastening or securing of any vessel lying in a dock or at any maritime facility.	\$200
		3.	Not securely fastening at all times when berthed at a wharf or at anchor, and, if required by the Harbour Master, not maintaining a person on board to keep a watch.	\$200
		4., 5.	Not ensuring an adequate and safe means of access to and from a vessel whilst moored at a maritime facility nor embarking or disembarking by using such access.	\$200

Bylaw	Provision		Offence Description	Proposed Fine
2.7	Prohibited and restricted anchorages	1.	Anchoring in a prohibited anchorage as defined by bylaw.	\$200
		2.	Anchoring so as to obstruct the approach to any maritime facility lawfully established or creating a hazard to other vessels at anchor or creating a safety hazard for other recreational craft, swimmers or water users.	\$200
		3.	Anchoring or mooring, except to a mooring for which a license or resource consent has been issued, within the prohibited anchorage areas as defined in the bylaw.	\$200
2.8	Obstructions	1.	Obstructing the navigation of any waterway or the access to any wharf, landing place, boat ramp, slipway, navigation channel, or mooring without the prior written permission of the Harbour Master.	\$200
		2.	Placing any obstruction, including any vessel, fishing apparatus, in the waterway, that is liable to restrict navigation; or cause or have the potential to cause, injury or death to any person; or cause damage to any vessel or any property.	\$200
		3.	Leaving equipment, stabilisers, booms, cranes, davits or other equipment extending over the side of a vessel so as to cause a hazard to any other vessel	\$200
2.9	Notification of collisions and accidents	1.	Failure to report accidents or collisions	\$200
2.10	Aids to navigation	1.	Tying up to a navigation aid without prior written permission from the Harbour Master	\$200
		2.	Damaging, removing or defacing navigation aids	\$200
		3.	Erecting, displaying or maintaining any beacon, light, mark, buoy or device which may be mistaken for a navigation aid	\$200
2.11	Sound and light signals	1.	Fitting or using any flashing lights, sirens or other sound or light signals without the written permission of the Harbour Master.	\$200
		2.	Using blue flashing lights and/or sirens other than Police, Customs, Harbour Master or as authorised by the Harbour Master.	\$200
		6.	Blowing or sounding, or cause to be blown or sounded, the whistle, siren or horn of a vessel, within any harbour area, except as a navigation safety signal.	\$200

Bylaw	Provision		Offence Description	Proposed Fine
2.12	Timber and logs	1.	Towing, mooring, placing or leaving a log without written permission in any tidal water	\$200
2.13	Discharge of Firearms	1.	Discharging of firearms in breach of requirement	\$200
3.1	Minimum age for operating powered vessels	1.	No person under the age of 15 years shall be in charge of, or propel or navigate, a power driven vessel that is capable of a proper speed exceeding 10 knots unless he or she is under the direct supervision of a person over 15 years who is within immediate reach of the controls, and is not the lookout person as provided for in clause 3.4	\$200
		2.	Owner of powered pleasure craft capable of speeds greater than 10 knots allowing person under age of 15 years to navigate that pleasure craft in contravention with this sub-clause	\$200
3.2	Speed of vessels	1.	<p>Navigating a vessel (including a vessel towing a person or an object) at a proper speed exceeding five (5) knots within:</p> <p>(a) 50 metres of any other vessel, raft or person in the water;</p> <p>(b) either 200 metres from the shore or any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure;</p> <p>(c) 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (diver's flag).</p>	\$200
		2.	Navigating a powered vessel at a proper speed exceeding 5 knots while any person has any portion of his or her body extending over the fore part, bow or side of that vessel	\$200
		3.	Allowing himself or herself to be towed by a vessel (whether or not on a waterski, aquaplane, or similar other object) at a proper speed exceeding five (5) knots in any circumstances specified in clause 3.2.1 of these bylaws	\$200
		4.	Allowing the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally, or otherwise) any waterski or similar object which may cause danger to any other person or vessel, without first taking appropriate action to immediately recover that waterski or similar object, unless the person has taken measures adequate to ensure the dropped ski or similar object is clearly visible to other water users	\$200

Bylaw	Provision		Offence Description	Proposed Fine
3.2	Speed of vessels	7.	Not navigating a vessel with all due care and caution and at a speed and manner as not to endanger lives of or cause injuries to any person(s)	\$200
3.3	Vessels to be Identified	1.	Master and owner of a vessel not subject to Maritime Rules not ensuring that his or her vessel is marked with its name or similar identifying marks.	\$200
3.4	Lookouts on vessels used for water skiing and towing	1.	No person in charge of any vessel may use it to tow any person at a proper speed exceeding five (5) knots unless at least one other person is on board who is 10 years of age or older; and responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.	\$200
		2.	Person causing or allowing himself or herself to be towed by a vessel a proper speed exceeding five (5) knots unless at least one other person is on board who is 10 years of age or older; and responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.	\$200
3.5	Water skiing or towing between sunset and sunrise	1.	No person may operate a vessel towing any person between the hours of sunset and sunrise	\$200
		2.	Person allowing himself or herself to be towed between the hours of sunset and sunrise	\$200
3.7	Conduct in access lanes	1.	No person shall propel or navigate, or manoeuvre a vessel in an access lane except by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.	\$200
		3.	No person shall while being towed by a vessel in an access lane, cause himself or herself or any water ski, aquaplane, or other similar object, on or by which he or she is being towed; or cause any object that is being towed by a vessel in an access lane to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel.	\$200
		5.	No person within an access lane shall proceed in a manner that is dangerous in relation to any vessel or other person in the access lane.	\$200
		6.	No person shall obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.	\$200

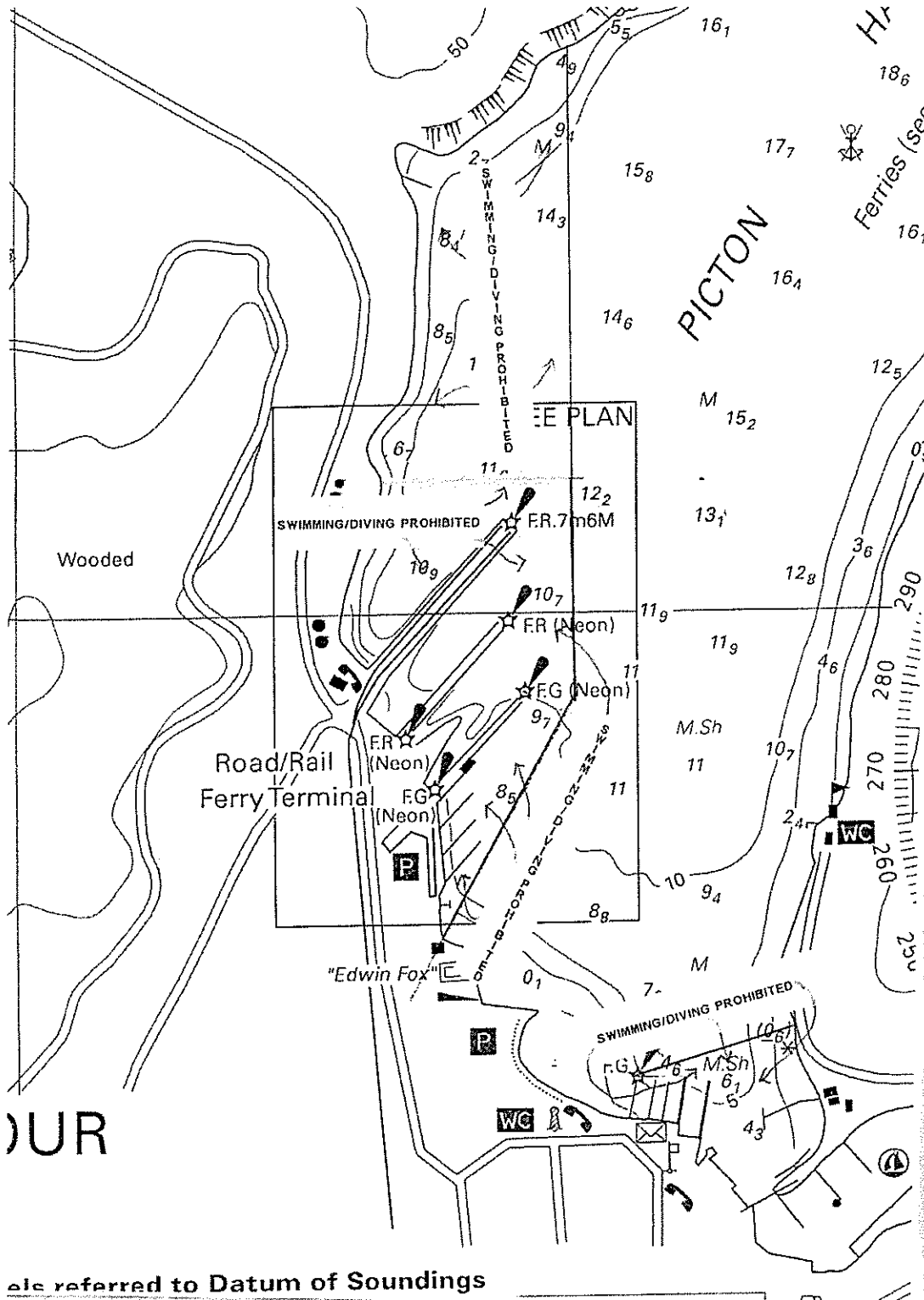
Bylaw	Provision		Offence Description	Proposed Fine
3.10	Reserved areas for special events	1.	Failure to obtain written permission for special events	\$200
3.11	Conduct in reserved areas	1.	Person obstructing any other person while that other person is using a reserved area for the purpose for which it is reserved.	\$200
		2.	Entering or remaining in or use any reserved area for any other purpose, unless otherwise stated in schedule 4.	\$200
3.13	Collision prevention	1.	No person shall operate any vessel in breach of Maritime Rule Part 22 (Collision Prevention) made under the Maritime Transport Act 1994.	\$200
		2.	Vessel not displaying navigation lights appropriate for its length and occupation as set out in Maritime Rule Part 22 (Collision Prevention) between the hours of sunset and sunrise and at times of restricted visibility.	\$200
		5.	Failure of any commercial and/or passenger carrying high speed vessel either operating under the Code of Safety for Dynamically Supported Craft and/or the High-speed Craft or any similar code or a vessel which is capable of operating at a speed of greater than 25 knots, when navigating within harbour limits at a speed greater than 25 knots display, where it can best be seen, an all round YELLOW flashing light, visible for at least six (6) nautical miles, between the hours of sunset and sunrise and at times of reduced visibility.	\$200
3.14	Duty of master of a vessel under 500 gross tonnage	1.	Master of a vessel under 500 gross tonnage allowing his or her vessel to impede the navigation of any vessel of 500 gross tonnage or more if the vessels are operating in the designated Pilotage areas as defined by these bylaws in Schedule 1.2, or in the inner harbour of Picton and Shakespeare Bay.	\$200
3.15	Moving prohibited zone	2.	Person in charge of any vessel less than 500 gross tonnage navigating his or her vessel within the moving prohibited zone of any vessel navigating within the pilotage area as defined by these bylaws in Schedule 1.2	\$200

Bylaw	Provision		Offence Description	Proposed Fine
3.16	Dive Operations	1.	Master of every vessel from which dive operations are in progress not ensuring that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper or lookout from another vessel at a distance in excess of 200 metres.	\$200
		2.	Person(s) diving from a vessel not ensuring that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper or lookout of another vessel at a distance in excess of 200 metres.	\$200
4.1	Directions for Transiting Queen Charlotte Sound	1.(a)	Failure to, prior to entering Queen Charlotte Sound limits, calling 'Picton Harbour Radio' on marine VHF Channel 19 and report the intention of the vessel to enter harbour limits as described in Schedule 1.1.	\$200
		1.(b)	Failure to, when making the call to Picton Harbour Radio as required by Clause 4.1.1 (a) above, advise Picton Harbour Radio whether the vessel is carrying dangerous goods.	\$200
4.2	Tory Channel	1.(a)	Vessels of 100 gross tonnage or more using Tory Channel without the prior permission of the Harbour Master.	\$200
		3.	Failure to, whether inward bound or outward bound, broadcast, or cause to have broadcast, on Channel 19 VHF, an initial radio message addressed to 'All Ships', giving warning of transit of the eastern entrance to Tory Channel as set out in the bylaw.	\$200
		4.	Failure to when entering or leaving the eastern entrance to Tory Channel, whether in sight of one another or not, establishing radio contact with any other vessel which is likely to be approaching the eastern entrance to Tory Channel at approximately the same time.	\$200
		12.	Vessels of less than 500 gross tonnage impeding the passage of vessels of 500 gross tonnage or more.	\$200
4.3	Distances off Salient Points	1.	Not observing the distances off salient points in Tory Channel and Queen Charlotte Sound as set out in the bylaw.	\$200
4.4	General Requirements	5.	Failure for vessels 6 metres or more in length to carry and consult a current copy of the appropriate nautical chart.	\$200

Bylaw	Provision		Offence Description	Proposed Fine
4.5	Reporting procedures within Queen Charlotte Sound	5.	Failure to carry an automatic location communicator.	\$200
4.7	Hazardous Cargoes, Hazardous Works and Dangerous Goods	2.(a)	Master not obtaining a Hot Work Permit not less than two (2) hours before commencing work.	\$200
		2.(c)	Master permitting hot work operations to commence before Harbour Master is satisfied that requirements of a Hot Work permit are met in full.	\$200
5.1	Structures	2.	Inoperative marine farm lights	\$200 per inoperative light
		4., 5.	Other dangers to navigation	\$200
6.4	Vessels to be licensed	1.	Operating a vessel for hire or reward unless it is licensed by the Harbour Master.	\$200

Schedule 7

7.1 Areas around Commercial Wharves where Swimming or Diving is Prohibited



7.2 Shakespeare Bay

