

Proposed

Marlborough District Council

Navigation Bylaw 2017

This Bylaw is made under the Local Government Act 2002 and the Maritime Transport Act 1994.

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1 – Preliminary Provisions

1.1 Title and commencement

1.1.1 This Bylaw is the Marlborough District Council Navigation Bylaw 2017.

1.1.2 This Bylaw comes into force on the day after the date that infringement regulations for this bylaw are promulgated.

1.2 Revocation

All appointments, licences, orders, consents or other similar exercise of powers under the former harbour Bylaws of the Council shall, so far as they are not inconsistent with this Bylaw, continue with like operation and effect as if they had been granted 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 - Harbour Limits

1.4 Definition of Terms

access lane	means an access lane referred to in rule 91.22(1) or an area designated as an access lane in schedule 2 of this Bylaw
accident	has the same meaning as in section 2 of the Act
Act	means the Maritime Transport Act 1994 and amendments
aircraft	has the same meaning as in section 2 of the Civil Aviation Act 1990
anchorage	means a place (enclosed or otherwise) used for anchoring vessels, whether the place is reserved for such purposes by the Council or not
anchoring	the temporary securing of a vessel to the bed of the waterway by means of an anchor, cable or other device, that is normally retrieved from the water and stored on the vessel on departure from the anchorage. In this case “temporary” means less than one week
automatic identification system (AIS)	means an operational transceiver of class A or class B that complies with the AIS standards as set by the International Maritime Organisation
buoy	means a float secured to the seabed serving as a navigation aid or location mark, or to indicate a mooring, anchor, reef or other hazard
cable	means one tenth (0.1) of a nautical mile (608 feet, 185.2 metres)

commercial vessel	has the same meaning as commercial ship as in section 2 of the Act
Council	means the Marlborough District Council
craft	has the same meaning as ship or vessel
crew	has the same meaning as in section 2 of the Act
Director	means the person who is for the time being the Director of Maritime New Zealand appointed under section 439 of the Act
Enforcement Officer	means a person appointed by the Marlborough District Council under section 33G of the Act and includes an Honorary Enforcement Officer
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
foreshore	means any land covered and uncovered by the flow and ebb of the tide at mean springs and includes any such land that forms part of the bed of a river within harbour limits
French Pass	means the narrow waterway between Reef Point on Rangitoko Ki Te Tonga/D'Urville Island and Channel Point on the mainland of the South Island and as marked on nautical charts
gross tonnage or gross tons	has the same meaning as in section 2 of the Act:
harbour	has the same meaning as in section 2 of the Act and in relation to these Bylaws means the areas bounded by the harbour limits
harbour limits	means the seaward boundary of the harbours in described in Schedule 1 of this Bylaw
Harbourmaster	is the person appointed by the Marlborough District Council as Harbourmaster under section 33D of the Act; and includes the Deputy Harbourmaster
Harbourmaster Notice	A notice published by the Harbourmaster on the Council website under the section 'Harbourmaster Notices'
hazard	has the same meaning as in section 2 of the Act
high risk area (HRA)	means an area designated by the Harbourmaster under bylaw 2.5
hot work & hot work operations	includes activities such as grinding, welding, soldering or other work involving flames or generating sparks
hours of darkness	means- (a) any period of time between sunset and sunrise

	(b) any other time when there is not sufficient daylight to render clearly visible a person, vessel or structure at a distance of 100 meters
incident	has the same meaning as in section 2 of the Act
length	in relation to a vessel means length overall
length overall	has the same meaning as Maritime Rule Part 40A
maritime facilities	includes moorings, wharves, docks, quays, marinas, areas or places where vessels are maintained, launching ramps, and other launching facilities
maritime rules	has the same meaning as in section 2 of the Act
master or skipper	means any person (except a pilot) having command or charge of a vessel
mishap	has the same meaning as in section 2 of the Act
moving prohibited zone (MPZ)	means- (a) the space of water extending 100 meters to each side of a vessel and continued at such a width to 500 meters ahead and 100 meters astern; but (b) in the waters of Picton Harbour, the distance ahead of a vessel to which the MPZ extends shall be reduced to 100 meters and the distance from the sides and the stern reduced to 50 meters
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 buoyant structure; and- (a) includes any wire, rope, buoy or other device attached to the weight or article; but (b) does not include an anchor that is removed with the vessel or buoyant 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
nautical publication	has the same meaning as in section 2 of the Act
navigate	means the act or process of managing or directing the course of a vessel on, through, over, or under the water
navigation aid	has the same meaning as section 2 of the Act
owner	has the same meaning as in section 2 of the Act
paddle craft	has the same meaning as in Maritime Rule Part 91

person in charge of a vessel	means a person over 15 years of age who is the master or skipper of the vessel or in the absence of a master or skipper is the person navigating the vessel.
personal flotation device (PFD)	has the same meaning as in Maritime Rule Part 91
personal water craft	has the same meaning as in section 33B of the Act and includes a jet ski
Picton Harbour	means those waters which lie inside a line drawn between Wedge Point light and the Snout light
pilot	has the same meaning as section 2 of the Act
pilotage limits and pilotage areas	means those areas described in Appendix 1 of Rule 90 of the Maritime Rules that are within harbour limits
pleasure craft	has the same meaning as section 2 of the Act
power driven vessel	means any vessel propelled by machinery
public notice	means a notice published in one or more local newspapers or a Council website, or a news website
recreational craft	means a vessel that is- (a) a pleasure craft; (b) solely powered manually; (c) solely powered by sail; and (d) a personal water craft
region	means the Marlborough Region as constituted under section 110 of the Local Government Amendment Act 1992
reserved area	means an area reserved for a specified navigation safety purpose- (a) under Maritime Rule 91.22(2); or (b) by Council by this Bylaw; or (c) by the Director under Maritime Rule 91.12
reward	has the same meaning as in section 2 of the Act
safe speed	means a speed that complies with Maritime Rule 22.6 of the Maritime Rules Part 22: Collision Prevention
schedule	means and refers to any schedule contained in or annexed to this Bylaw and includes any amendment or amendments to any such schedule
seaplane	has the same meaning as in section 2 of the Act and includes an aircraft
ship	has the same meaning as in section 2 of the Act and for the purpose of this Bylaw includes a kite board, sail board, paddle board and personal water craft

shore	means any place to landward of the water's edge, and distance from the shore means distance from the water's edge
speed	in relation to the speed of a vessel, means the speed of a vessel over the ground
Stephens Island Passage	means the waters between Stephens Island and Cape Stephens and as marked on nautical charts
structure	means- (a) any building, equipment, device or other facility made by people and which is fixed to land or seabed; and (b) includes slipways, jetties, pile moorings, swing moorings, wharves, marine farms, and other objects, whether or not these are above or below the waterline of the shore; but (c) does not include a navigation aid
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)
ton	means the tonnage of a ship calculated in accordance with Maritime Rule Part 48 : Tonnage Measurement
Tory Channel	means those waters that lie- (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) all that area of water within Tory Channel bound at the seaward limit by an arc, radius 3.5 nautical miles, centred on West Head Light (41° 12.8' south, 174° 18.9' east)
Tory Channel Critical Navigation Zone	means the area contained between the following geographic positions- <i>Western Boundary:</i> A line drawn in a direction of 320° (True) from Scraggy Point Light (K4266) to the opposite shore on Arapawa Island <i>Eastern Boundary:</i> The seaward arc of a circle radius 0.6 nautical mile, centred on position 41° 12.71' south 174° 19.12' east being the point forming the intersection of a line drawn between East and West Head lights and the line of the Leading Lights
Tory Channel Reporting Arc	means the seaward arc of 3.5 nautical miles radius centred on West Head Light(41° 12.8'S 174° 19.9'E). This is the same as the seaward pilotage limit for Tory Channel

underway	means a vessel is not at anchor, or made fast to the shore, or aground
unseaworthy	means a vessel that, in the opinion of the Harbourmaster,-- (a) is not in a fit condition to navigate safely on the water; or (b) is at risk of foundering; or (c) is at a risk of breaking apart; or (d) is at risk of creating a navigation hazard, or (e) is at risk of creating an oil spill
vessel	has the same meaning as ship
waterskiing	means being towed barefoot or on an object of any kind other than a vessel

2 – Navigation Safety Requirements

2.1 Person in charge of the vessel

- 2.1.1 No vessel is permitted to be underway or making way unless a person in charge of the vessel has been nominated.
- 2.1.2 The person in charge of a vessel is responsible for the safety and wellbeing of every person on board and for the safe operation of the vessel, including the carriage and wearing of personal flotation devices by persons on board the vessel.

2.2 Personal Flotation Devices (Life jackets)

- 2.2.1 No person in charge of a recreational craft shall use it or allow it to be used, unless there are on board at the time of use, and in a readily accessible location, sufficient personal flotation devices of an appropriate size for each person on board.
- 2.2.2 Every person on board a recreational craft that is 6 metres or less in length overall must wear a properly secured personal flotation device of an appropriate size for that person while the craft is underway.
- 2.2.3 Except when otherwise directed by the Harbourmaster or an enforcement officer, 2.2.1 and 2.2.2 shall not apply to a person who-
 - (a) is exempted from the application of the Maritime Rules Part 91 by the Director under section 47 of the Act ; or
 - (b) is exempted by Council under Rule 91.4(5) of the Maritime Rules Part 91; or
 - (c) meets the exclusions in Rule 91.4(2) to (10)of the Maritime Rules Part 91.

2.3 Minimum age for operating powered vessels

- 2.3.1 No person under the age of 15 years shall propel or navigate, a power driven vessel that is capable of a speed exceeding 10 knots unless he or she is under the direct supervision of a person 15 years of age and over. The supervising person must be within immediate reach of the controls and must be the designated person in charge of the vessel.
- 2.3.2 The owner or person in charge of a power driven vessel that is capable of a speed exceeding 10 knots must not allow any person who is under the age of 15 years to propel or navigate that vessel except when complying with the requirements of 2.3.1
- 2.3.3 Clauses 2.3.1 and 2.3.2 shall not apply in respect of any person who has a written exemption from the Harbourmaster.
- 2.3.4 Clauses 2.3.1 and 2.3.2 shall not apply to any person or vessel exempted from compliance with Maritime Rule 91.5.

2.4 Speed of Vessels

- 2.4.1 No person shall, without reasonable excuse, propel or navigate a vessel (including a vessel towing a person or an object) at a speed exceeding five (5) knots within-
- (a) 50 metres of any other vessel, raft, personal water craft, or person in the water; or
 - (b) 200 metres of the shore or of any structure; or
 - (c) 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals (diver's flag)
 - (d) an area designated as high risk as per section 2.5
- 2.4.2 No person shall propel or navigate a powered vessel at a 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.
- 2.4.3 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 speed exceeding five (5) knots in any circumstances specified in clause 2.5.1 of this Bylaw.
- 2.4.4 Except when otherwise directed by the Harbourmaster or an enforcement officer, bylaws 2.4.1, 2.4.2 and 2.4.3 shall not apply to a person who-
- (a) is exempted from the application of the Maritime Rules Part 91.6 by the Director under section 47 of the Act; or
 - (b) meets an exclusion in Rule 91.6(5) or (6) of the Maritime Rules Part 91.
- 2.4.5 No person shall navigate any vessel at a speed or in a manner that may endanger lives of, or cause injuries to any person(s).
- 2.4.6 Nothing in this Bylaw shall prevent a person operating a vessel at a safe speed.

2.5 High Risk Areas

- 2.5.1 To ensure navigation safety, the Harbourmaster may from time to time, designate a certain area of the harbour as a High Risk Area. A schedule of active high risk areas will be published as a Harbourmaster's Notice.
- 2.5.2 High Risk Areas will be marked by yellow buoys displaying the text 5 knots max speed and marked with a yellow light. The light characteristics will be published in the Harbourmaster's Notice as at 2.5.1.
- 2.5.3 No vessel may exceed a speed of 5 knots when navigating in a High Risk Area.

2.6 Wake

- 2.6.1 Subject to Bylaw 2.4, every person who propels or navigates a recreational craft must ensure that its wake does not cause unnecessary danger or risk of damage to other vessels, or structures or harm to other persons.

2.7 Means of communication

- 2.7.1 The person in charge of a vessel shall ensure that there is at least one means of communication on board the vessel that-
- (a) enables direct communication with a person on land from anywhere the vessel is intending to operate; and
 - (b) has sufficient power to operate for the actual duration of the voyage.

2.8 Vessels to be Identified

- 2.8.1 No person in charge of a recreational craft shall use it or allow it to be used, unless it is marked with an identifying name or number displayed above the waterline on each side of the vessel. The identifying name or number must-
- (a) consist of letters of the Roman alphabet or numbers that are not the vessel's brand, make or model; and
 - (b) be distinct to that vessel; and
 - (c) be a minimum height of 90 millimetres and be distinguishable to the naked eye by day from a distance of at least 50 metres.
- 2.8.2 This requirement does not apply to a vessel, which is-
- (a) solely powered by oars or paddles; or
 - (b) taking part in an organised event approved by the Harbourmaster.
- 2.8.3 Vessels referred to in bylaw 2.8.2 must be marked with the current owner's name and contact details somewhere on the vessel.

2.9 Personal water craft to be Marked and Identified

- 2.9.1 Every person in charge of a personal water craft not used for commercial purposes must ensure that the craft is marked with a unique number, approved by the Harbourmaster, on each side of the craft. The numbering shall be a minimum height of 90 millimetres and clearly visible to the naked eye by day from a distance of at least 50 metres.
- 2.9.2 Every user of the personal watercraft referred to in 2.9.1 must ensure that the number specified in 2.9.1 is registered with the Harbourmaster, together with the name and address of the owner of the craft.

2.10 Overloading and stability

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

2.11 Collision prevention

- 2.11.1 No person shall operate any vessel in breach of Maritime Rule Part 22 (Collision Prevention) made under the Maritime Transport Act 1994.

- 2.11.2 A vessel under 500 gross tons must not impede the passage of any vessel with a pilot on board or, any vessel over 500 gross tons operating within a pilotage area.
- 2.11.3 A vessel under 350 gross tons must not impede the passage of any vessel with a pilot on board or, a vessel over 350 gross tons or, a tug and tow exceeding 40 metres in length, when navigating within the Troy Channel Critical Navigation Zone.
- 2.11.4 No vessel shall navigate within the Moving Prohibited Zone of a vessel over 350 gross tons operating in the Tory Channel Pilotage Area or, a vessel over 500 gross tons operating in any other pilotage area.
- 2.11.5 The provision of bylaw 2.11.4 shall not apply to pilot vessels, tugs or the Harbourmaster's patrol vessels in the course of carrying out their duties.

2.12 Sound and light signals

- 2.12.1 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 Harbourmaster.

2.13 Notification of collisions and accidents

- 2.13.1 The master, owner, or person in charge of any vessel that is involved in an accident, incident or mishap must comply with the reporting requirements sections 30 to 33 of the Maritime Transport Act 1994 and must report the accident, incident or mishap to the Harbourmaster as soon as is practicable. Such a report must be made within 48 hours of the accident, incident, or mishap occurring.
- 2.13.2 The report required under bylaw 2.13.1 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 accident, incident or mishap.

3 – Restrictions – all vessels

3.1 Vessels which are Unseaworthy

- 3.1.1 No unseaworthy vessel is permitted within the limits of the harbour whether underway, anchored, moored or secured to a maritime facility.
- 3.1.2 Except in the event of an emergency or accident at sea, no person may operate any vessel that is unseaworthy except to comply with the directions of the Harbourmaster.
- 3.1.3 No person may stay on, inhabit or live on board a vessel that is unseaworthy.
- 3.1.4 Where the navigation and maritime risk posed by an unseaworthy vessel can be effectively mitigated or managed, the Harbourmaster may exempt any vessel from complying with bylaw 3.1.1.
- 3.1.5 The owner and person in charge of an unseaworthy vessel exempted by the Harbourmaster as per bylaw 3.1.4 must comply with any and all conditions that the Harbourmaster may impose upon the vessel so as to ensure maritime safety.
- 3.1.6 Any vessel determined as unseaworthy by the Harbourmaster may be considered a hazard to navigation and removed from the water under section 33F of the Act.

3.2 Restricted Areas

- 3.2.1 No vessel may enter a Restricted Area without permission from the Harbourmaster. Restricted areas are those areas marked as restricted on Nautical Charts or determined by a Harbourmaster's Direction under section 33F of the Act.

3.3 French Pass and Cape Jackson

- 3.3.1 No vessel of 40 metres in length or more is permitted to transit French Pass or the passage that exists between Cape Jackson and Walker's Rock.

3.4 Aids to Navigation

- 3.4.1 No person may tie a vessel to any aid to navigation in the harbour without the prior written permission of the Harbourmaster.
- 3.4.2 No person may damage, remove, deface or otherwise interfere with any aid to navigation.
- 3.4.3 No person may erect or display any light, buoy or structure which may be mistaken as an aid to navigation without the written permission of the Harbourmaster.

3.5 Buoys to be Labelled and Visible

- 3.5.1 No person shall place a marker buoy in any waters of the Harbour unless that buoy is clearly and indelibly marked, or fitted with a permanent tag, showing at least one of the following-
- (a) the owner's initials and surname, and contact telephone number or address; or
 - (b) in the case of a mooring, the mooring licence number.
- 3.5.2 No person shall place a marker buoy in any waters of the Harbour unless that buoy is sufficiently buoyant to remain at least 50% afloat or otherwise clearly visible.

3.6 Discharge of Firearms

- 3.6.1 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 Harbourmaster.

3.7 Aircraft

- 3.7.1 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 any areas reserved for that purpose, without the prior written permission of the Harbourmaster. Written application must be received by the Harbourmaster not less than 48 hours before the proposed landing or taking off.

3.8 Obstructions

- 3.8.1 No person may obstruct the navigation of any waterway, navigation channel, or access to any maritime facility, without the prior written permission of the Harbourmaster.
- 3.8.2 No person shall place any obstruction, object, or thing, including any vessel or fishing apparatus, in any waterway, that is liable to-
- (a) restrict navigation; or
 - (b) adversely affect maritime safety.
- 3.8.3 In the interest of navigation safety, the Harbourmaster may, on reasonable grounds, declare specified areas of the harbour closed to fishing. Such closure will be effective on the day after public notice of the closure is given.

4 – Anchoring and Mooring

4.1 Vessels to be adequately secured

- 4.1.1 The owner and person in charge of a vessel must ensure that the vessel is adequately secured when attached to any mooring, anchor or maritime facility.
- 4.1.2 No person may unlawfully detach by any means-
 - (a) the mooring of any vessel; or
 - (b) any vessel secured to a maritime facility; or
 - (c) the anchor or anchor cable of any vessel at anchor.
- 4.1.3 No person shall leave any vessel or property in an area where it may re-float and create a navigation hazard or where it may interfere with the normal use of the waters by other persons.
- 4.1.4 No person shall leave any vessel unattended on the foreshore unless secured in an area specified for this purpose by the Council.
- 4.1.5 The requirements of bylaw 4.1.4 shall not apply to kayaks, dinghies, sailing dinghies or other such small vessels that are routinely hauled up on to the beach or foreshore by hand in the ordinary course of their active use.
- 4.1.6 When a vessel is moored at a maritime facility, the person in charge of the vessel must ensure that an adequate and safe means of access to and from the vessel is provided, properly installed, secured, and adjusted to suit any tidal conditions.
- 4.1.7 When such means of access is provided as specified in bylaw 4.1.6, no person shall embark or disembark the vessel except by using such access.

4.2 Prohibited and restricted anchorages

- 4.2.1 No person may anchor a vessel in any location that obstructs access to any maritime facility, beach, foreshore area or landing place.
- 4.2.2 No vessel may anchor in any location so as to-
 - (a) be at risk of grounding; or
 - (b) impede the safe passage of ships; or
 - (c) obstruct a natural or recognised navigational route; or
 - (d) create a hazard or be endangered by another vessel on a mooring or at anchor; or
 - (e) create a safety hazard for other vessel, swimmer or water user.
- 4.2.3 No vessel shall remain anchored within the same or proximate location for longer than one week without the prior approval of the Harbourmaster.
- 4.2.4 A vessel at anchor must display the lights and shapes as specified in Part 22 of the Maritime Rules and any additional lighting that may be specified by the Harbourmaster.

- 4.2.5 Where a vessel is not displaying the correct lights and shapes required under Bylaw 4.2.4, the Harbourmaster may place the required lights and shapes on the vessel. The person responsible for the vessel will be liable for all associated costs.
- 4.2.6 No vessel may anchor in a prohibited anchorage area without prior approval from the Harbourmaster. Prohibited anchorage areas include-
- (a) Picton Harbour; except in the defined anchorage area as outlined on Chart NZ 6153
 - (b) Within the waters bound by a circle of radius 2.5 cables centred on Perano Shoal Buoy;
 - (c) Any location for which the Harbourmaster has issued a Harbourmasters Direction under section 33F of the Act which prohibiting anchoring.
- 4.2.7 If so directed by the Harbourmaster a vessel at anchor must-
- (a) not be left unattended; and
 - (b) maintain an anchor watch; and
 - (c) move to another location.
- 4.2.8 The Harbourmaster may, at any time, move any vessel that is found to be in breach of any part of this Bylaw. The person in charge of the vessel will be liable for any costs incurred.

4.3 Moorings

- 4.3.1 No person may place, or have in place, a mooring in any waters, unless—
- (a) a resource consent has been issued for the mooring by the Council; or
 - (b) in the case of a mooring management area, a licence has been issued by the manager of the mooring management area.
- 4.3.2 Any mooring that does not comply with the requirements of bylaw 4.3.1 will be considered a hazard to navigation and may be removed under section 33F of the Act.
- 4.3.3 No person may secure a vessel to a mooring where the length of the vessel exceeds the maximum consented length of vessel for that mooring.
- 4.3.4 No person may secure a vessel to a mooring so to obstruct or prevent the mooring consent holder or licence holder from accessing or using the mooring.
- 4.3.5 Where a vessel is secured to a mooring in a manner that does not comply with the requirements of bylaws 4.3.3 or 4.3.4, it will be considered a hazard to navigation and may be removed under section 33F of the Act.

5 – Activities and Events

5.1 Swimming and diving around wharves

- 5.1.1 No person shall dive, jump, swim or undertake other related activities, from-
- (a) the commercial jetties, wharves, or quays specified in a Harbourmasters Notice; or
 - (b) within 50 metres of the structures specified in bylaw 5.1.1(a); or
 - (c) within any designated anchorage or mooring area; or
 - (d) within any navigation channel; or
 - (e) any such areas in the harbour as the Harbourmaster may from time to time determine.
- 5.1.2 The Harbourmaster may issue an exemption to bylaw 5.1.1, subject to such conditions as the Harbourmaster considers appropriate, in the interests of navigation safety.

5.2 Lookouts on vessels used for water skiing and towing

- 5.2.1 No person in charge of a vessel shall use it to tow any person at a 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 the vessel of any mishap that occurs to the person who is being towed.
- 5.2.2 No person shall cause himself or herself to be towed by a vessel a 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 the vessel of any mishap that occurs to the person who is being towed

5.3 Water skiing or towing between sunset and sunrise

- 5.3.1 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.

5.4 Access lanes

- 5.4.1 Council may, by resolution, publicly notified, 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.
- 5.4.2 Access lanes will be marked in accordance with Maritime Rule 91.11

5.5 Conduct in access lanes

- 5.5.1 Any person using an access lane for the purpose for which it is declared must comply with the requirements of Maritime Rule 91.10 except-
- (a) the requirement to use the starboard side of the access lane as described in Maritime Rule 91.10.1 shall not apply when using the access lane in Kumutoto Bay east, where, due to the nature of the bay, the port (left) side of the access lane must be used instead; and
 - (b) the requirement to travel on that side of the access lane that lies to the starboard side of the vessel as described in Maritime Rule 91.10.2 shall not apply and instead, the requirement is to travel on that side of the access lane that lies to port of the vessel.
- 5.5.2 The access lanes to which this part of the Bylaws applies include those described in Schedule 2 of this Bylaw.

5.6 Events

- 5.6.1 Any person intending to conduct an event such as race, speed trial, competition, or other organised water activity in any area to which this Bylaw applies must make an application to the Harbourmaster or to the Director under Rule 91.19 of the Maritime Rules Part 91.
- 5.6.2 In approving an event application the Harbourmaster may-
- (a) temporarily suspend in part or in total any clause of this Bylaw within the event area for the purposes for facilitating the event; and
 - (b) apply any conditions necessary to ensure maritime safety.
- 5.6.3 The Harbourmaster may recover from the applicant all actual and reasonable costs associated with the application, including any cost incurred by the Harbourmaster for assessment monitoring or notification of the event.

5.7 Reserved areas

- 5.7.1 Council may, by resolution, publicly notified, and in the interests of navigation safety, reserve any specified area for a specific purpose.
- 5.7.2 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 public notice.
- 5.7.3 Areas reserved for swimming must, in addition to the requirements of bylaw 5.7.1, be published as a Harbourmaster's Notice.

5.8 Marking of Reserved Areas

- 5.8.1 Reserved areas will be marked according to the instructions of the Harbourmaster and recorded in relevant public notices.

5.9 Dive Operations

- 5.9.1 The master or person in charge of any 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.
- 5.9.2 Every person diving from a vessel must ensure that Flag A is displayed in such a manner that it can be clearly identified by crew members of another vessel at a distance in excess of 200 metres.
- 5.9.3 Dimensions for Flag A shall not be less than 600mm by 600mm.

5.10 Hot Work

- 5.10.1 The person in charge of a recreational craft must, before any hot work operations are commenced, obtain the written approval of the owner or manager of the facility at which the operations are to be conducted.
- 5.10.2 The person in charge of a recreational craft must ensure that before any hot work operations commence all precautions are taken to ensure detection, prevention, and extinguishing of fire on board the craft or elsewhere, as a result of hot work operations. Provision must be made for the continuance of the precautions until the operations are complete.
- 5.10.3 The Harbourmaster or an enforcement officer may attend any craft or maritime facility on which hot work is due to commence or is underway in order to evaluate compliance with this Bylaw.
- 5.10.4 The person conducting the hot work or the person in charge of the craft will be liable for any reasonable costs incurred by the Harbourmaster in undertaking the provision of bylaw 5.10.3.
- 5.10.5 In any case where the Harbourmaster is not satisfied adequate precautions have been taken, the Harbourmaster may forbid any hot work operations to commence, or continue, until he or she is satisfied adequate precautions have been taken.

6 – Radio Reporting Requirements

6.1 Tory Channel

- 6.1.1 Every vessel transiting the eastern entrance to Tory Channel whether inbound or outbound must maintain a listening watch on VHF channel 18 at all times within the Tory Channel Critical Navigation Zone.
- 6.1.2 A vessel over 100 gross tons or 20 meters in length must not navigate in the Tory Channel unless an AIS transponder is fitted to the vessel. The AIS transponder must be operational at all times while the vessel is navigating within the main part of the channel.
- 6.1.3 Where a recreational craft intending to transit the eastern entrance to Tory Channel makes an 'all ships' call to advise other vessels of its presence, the 'all ships' radio call must be made in the same format as that prescribed for commercial vessels by a Harbourmaster's Direction.

6.2 French Pass and Stephens Island Passage

- 6.2.1 Every vessel intending to transit French Pass or Stephens Island Passage must maintain a listening watch on VHF channel 16 from 10 minutes before the transit until 10 minutes after the transit is complete.
- 6.2.2 Where a recreational craft intending to transit French Pass or Stephens Island Passage makes an 'all ships' call to advise other vessels of its presence, the 'all ships' radio call must be made in the same format as that prescribed for commercial vessels by a Harbourmaster's Direction made under section 33F of the Act.

7 – Structures

7.1 Structures

- 7.1.1 In addition to the requirements of section 200 of the Maritime Transport Act 1994, and to any conditions of a resource consent for a marine farm, every marine farm must display and maintain such lights and radar reflectors that meet the standards set out in the Maritime New Zealand New Zealand's System of Buoys and Beacons, .
- 7.1.2 The owner of every marine farm shall ensure that any lights fitted as required by bylaw 7.1.1 are operational at all times during the hours of darkness.
- 7.1.3 The Harbourmaster or an enforcement officer or other person authorised by the Harbourmaster, may at any time enter any structure or maritime facility for the purpose of inspecting the structure or maritime facility.
- 7.1.4 Where the Harbourmaster or enforcement officer, during an inspection of any structure or maritime facility finds, or is advised by the person authorised by the Harbourmaster in bylaw 7.1.3 that the structure or maritime facility poses a danger to navigation, he or she may issue an infringement notice.
- 7.1.5 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.

8 – Administrative Matters

8.1 Revocation of Bylaws

8.1.1 The Marlborough District Council Navigation Bylaws 2009 are revoked.

8.2 Suspension and exemptions from this Bylaw

8.2.1 The Council may, of its own accord, or on application by any person, suspend any provisions of this Bylaw or exempt an activity from any provision of this Bylaw. 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.

8.3 Application to masters and owners

8.3.1 Where any clauses of this Bylaw impose an obligation or duty on the master or person in charge 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.

8.3.2 Where any clauses of this Bylaw impose an obligation or duty on the master, the person in charge and the owner of the vessel, then, if that clause is not complied with, the master, the person in charge and the owner are deemed severally to have committed an offence against this Bylaw. If either the master, person in charge or owner complies with any such clause, then, for the purposes of this Bylaw, compliance by one is deemed to be compliance by the other.

9 – Fees and Charges

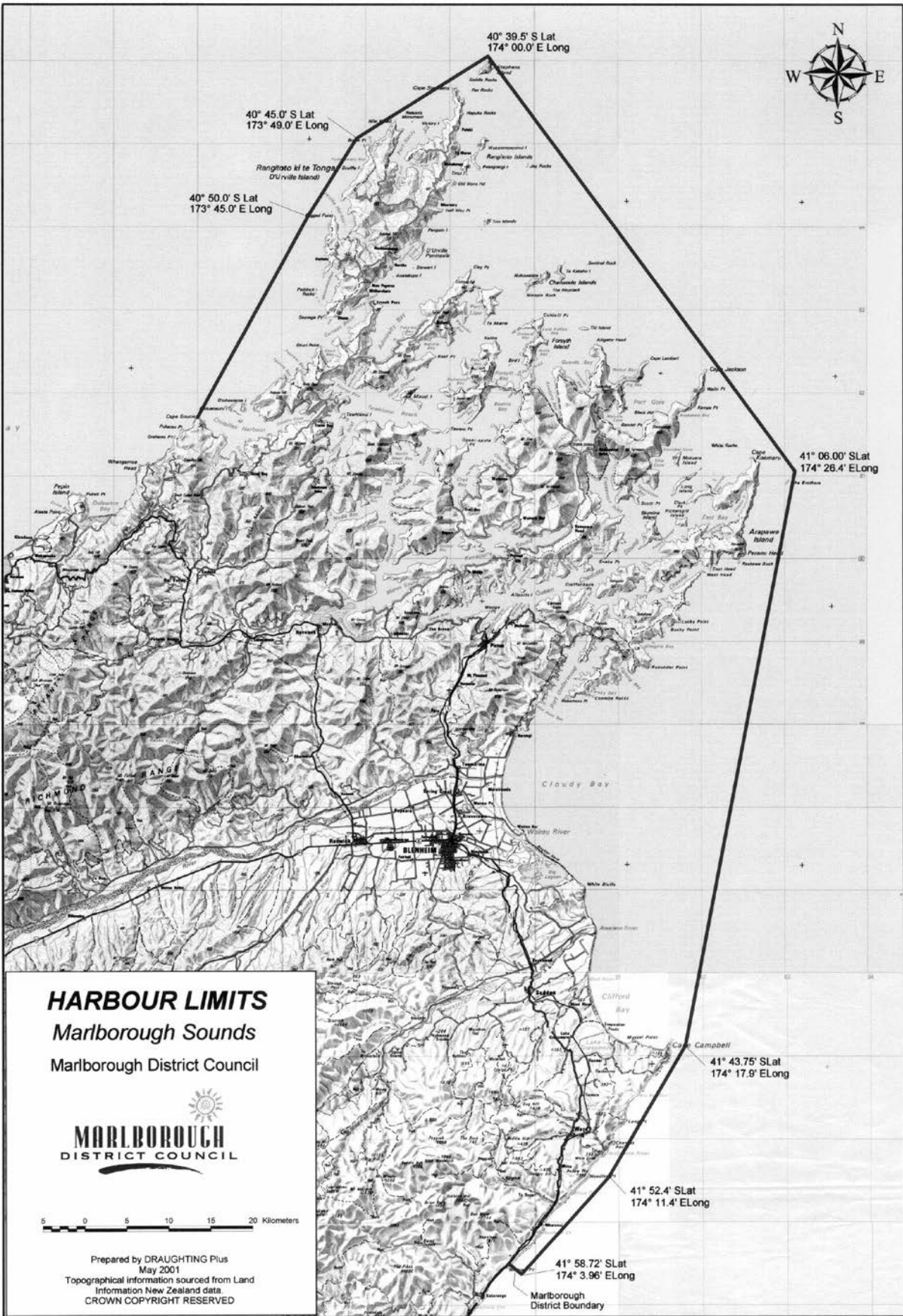
- 9.1 Council may from time to time, by resolution, publicly notified, set fees and charges for any activity undertaken under this bylaw.
- 9.2 The current fees and charges payable for activities are listed in Schedule 3 of these Bylaws. For the avoidance of doubt, these fees and charges may be amended from time to time by Council under clause 9.1.
- 9.3 The following definitions apply to the activities described in Schedule 3:

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
Other Vessel	means any vessel of a size requiring a pilot, commercial or private, that is not a cruise vessel or a cargo vessel as defined in this part.
Hot Work Audit	Means attending a vessel and inspecting the hot work operation on-board and relevant documentation.
Extended Anchoring	means anchoring a vessel under 500 gross tonnage within harbour limits for more than one continuous week per year
Visit	means entering and leaving harbour limits on one occasion
Required lights and shapes	Means reliable high quality LED lights

Schedule 1 – Harbour and Pilotage Limits

Harbour limits

1. The seaward limit shall be a straight line commencing at the water's edge at Cape Soucis to $40^{\circ} 50'$ south $173^{\circ} 45'$ east, to $40^{\circ} 45'$ south $173^{\circ} 49'$ east, to $40^{\circ} 39.5'$ south $174^{\circ} 00'$ east, to Brothers Island ($41^{\circ} 06'$ south $174^{\circ} 26.4'$ east), to a position 1 nautical mile east of Cape Campbell light ($41^{\circ} 43.75'$ south $174^{\circ} 17.9'$ east), then 1 nautical mile offshore to Willawa Point ($41^{\circ} 58.72'$ south $174^{\circ} 03.96'$ 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)



Schedule 2 – Existing Access Lanes

Water Ski Access Lanes

Ski Lane	Location	Marking / Notice
Bottle Bay	Grove Arm	4 black and orange transit markers 1 Notice
Ngakuta Bay	Grove Arm	4 black and orange transit markers 1 Notice
Umungata Bay - known as Davies Bay	Grove Arm	4 black and orange transit markers 1 Notice
Kumutoto Bay	Queen Charlotte Sound	4 black and orange transit markers 1 Notice
Kaipakirikiri Bay	Queen Charlotte Sound	4 black and orange transit markers 1 Notice
Cherry Bay - within Ruakaka Bay	Queen Charlotte Sound	4 black and orange transit markers 1 Notice
Te Mahia	Kenepuru Sound	4 black and orange transit markers 1 Notice

Schedule 3 – Fees and Charges

Table of fees and charges (GST exclusive)

Category	Fee
Cruise Vessels (scenic cruising only)	\$25 per metre per visit
Cargo Vessels per visit*	\$0.45 per Gross Tonnage
Other Vessel per visit*	\$0.50 per Gross Tonnage
Hot Work Permit or Hot Work Audit	Actual time of staff member with a minimum of \$50
Pilotage Exemption Examination	\$950 per Examination
Pilotage License Examination	Actual Costs
Extended Anchoring (in addition to the appropriate per visit charge)	\$0.005 per Gross Tonnage per week or part thereof
Harbourmasters Navigation Lights	\$100 per week or part thereof per light
Staff Time	
Harbourmaster	\$236 per hour
Deputy Harbourmaster	\$153 per hour
Maritime Officer	\$128 per hour
Administrator	\$100 per hour
Vessel Time	
Resolution	\$460 per hour – includes two crew
Astrolabe	\$390 per hour – includes two crew

The fees and charges set out above are GST exclusive

* Not applied to vessel calling at Port Marlborough facilities