

Harbourmaster's Direction for Tory Channel / Kura Te Au

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Foreword

The Marlborough District Council has adopted the New Zealand Port and Harbour Marine Safety Code (the Code) and applies the principles described within the code to marine operations on the region's waters.

The movement of vessels within the Marlborough Harbour is subject to control and direction by the Harbourmaster. This Direction sets a number of control measures that are applicable across the region, or a specific area or operation, to enable the adequate implementation of the code.

The purpose of this Direction is to enhance the regulatory framework in place in Marlborough to ensure maritime safety.

1. Preamble

- 1.1 For the purpose of mitigating risks to maritime safety and controlling the safe operation of vessels in the region's waters, including, particularly, port areas and harbours, the Harbourmaster directs that vessel and related maritime activities shall be conducted in accordance with the applications, purposes and requirements of this Direction.
- 1.2 This Direction is made pursuant to:
 1. Section 33F of the Maritime Transport Act 1994 (the Act); and
 2. Section 48 and section 60A(2) of the Maritime Transport Act 1994, as delegated by the director to the Harbourmaster under section 444(2) of the Act and consented by the Minister of Transport under section 444(4) of the Act; and
 3. the Marlborough District Council Navigation Bylaw 2023 (the Bylaw).

2. Application

- 2.1 This Direction applies to vessels over 350 GRT operating in Tory Channel / Kura Te Au.

3. Variation

- 3.1 The Harbourmaster may, upon written application, vary the rules in this Direction for a vessel or specific class of vessels. This will be done on a case-by-case basis, and only where the overall standards of maritime safety are not, in the opinion of the Harbourmaster, diminished.

4. Liability

- 4.1. The Council shall not, in any case, be responsible for any loss or damage arising from the negligence of the Master or crew of any vessel to which this Direction applies, or for any loss, damage or incident involving the vessel.

5. Interpretation

- 5.1. To avoid doubt, compliance with this Direction does not remove the need to comply with all other applicable Acts, regulations, Bylaws, and rules of law.
- 5.2. With the exception of the expressions and terms defined in the table below or, unless the context requires another meaning, a term or expression used in this Direction that is defined in the Act, a New Zealand Maritime Rule or the Bylaw, has the meaning given by the Act or Maritime Rule or the Bylaw.
- 5.3. In this Direction, unless the context otherwise requires:

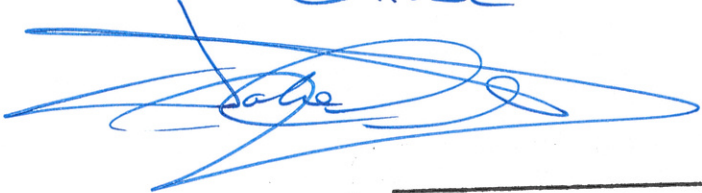
Bylaw	means the Marlborough District Council Navigation Bylaw
Gross tonnage (GRT)	means the gross tonnage of a ship determined under Maritime Rules Part 48 or the tonnage measurement rules contained in Annex 1 of the International Convention on Tonnage Measurements of Ships 1969
Marlborough Harbour	means the seaward boundary of the Harbour limits as described in the Marlborough District Council Navigation Bylaw
LOA	means length overall
Tory Channel / Kura Te Au	All that area of water within Tory Channel / Kura Te Au bound at the seaward limit by the arc of a circle, radius 3.5 miles, centred on West Head Light (41°12.8'S, 174°18.9'E) and south of a line from Dieffenbach Point in a direction 090 degrees true to the shore of Arapaoa Island at the western end of Tory Channel / Kura Te Au.
Vessel	means the same as "ship" as defined in Section 2 of the Act

6. Tory Channel / Kura Te Au

6.1 Limits on large vessels operating within Tory Channel / Kura Te Au

- 6.1.1 No vessel of greater than 187m LOA shall navigate within the bounds of the Tory Channel / Kura Te Au.
- 6.1.2 Any vessel greater than 350 GRT that intends to navigate within the bounds of the Tory Channel / Kura Te Au shall in addition to any requirements of the Act, Maritime Rules, or the Bylaw:
- a) Complete the risk-based process appended to this direction; and
 - b) The process must be completed to the satisfaction of the Harbourmaster.
- 6.1.3 No vessel that this direction applies to shall navigate within Tory Channel / Kura Te Au without the following;
- a) Twin independent propulsion
 - b) Twin independent steering system
- 6.1.4 Any vessel with deficient or inoperative navigation or manoeuvring equipment may not enter into the bounds of the Tory Channel / Kura Te Au between the Seaward limit of the Critical Navigation Zone (CNZ) and Dieffenbach Point without prior permission of the Harbourmaster.
- a) In granting such permission the Harbourmaster may give a direction as to the manner in which such vessel navigates within Tory Channel / Kura Te Au. Such Direction may specify requirements on wind limits, predicted current and tidal strengths, or any other such requirements as may be deemed necessary by the Harbourmaster.
- 6.1.5 An outbound vessel that suffers a deficiency, inoperative navigation equipment or defect to manoeuvring equipment, may continue a passage to a safe position outside of the Tory Channel / Kura Te Au boundaries at the Master's discretion. This may be either a return to Queen Charlotte Sound or a continuation of the passage to sea.
- 6.1.6 The Master of a vessel within Tory Channel / Kura Te Au that suffers a deficiency, inoperative navigation equipment or defect to manoeuvring equipment shall notify the Harbourmaster once safe to do so, but before continuing the transit of Tory Channel / Kura Te Au.
- 6.1.7 Section 6.1.2 of this direction does not apply to the following vessels:
- a) Kaitaki IMO 9107942
 - b) Kaiarahi IMO 9147291
 - c) Aratere IMO 9174828
 - d) Connemara IMO 9349760
 - e) Strait Feronia IMO 9136022
 - f) Otakou Number 8803721
- 6.1.8 Should any of the vessels identified in section 6.1.7 report or experience any significant navigation or manoeuvring equipment deficiency, then that vessel may be required to provide information and enter into a risk-based process before being permitted to resume any transit of Tory Channel / Kura Te Au.
- 6.1.9 Significant navigation or manoeuvring deficiency shall include, but not be limited to, any loss of propulsion, loss of position, loss of critical bridge equipment, loss of critical machinery.

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By: JAKE OLIVER


Harbourmaster
Marlborough District Council

Appendix 1 – Risk based process for the introduction of a vessel over 350 GRT into Tory Channel / Kura Te Au.

The risk based process for the introduction of a new vessel over 350 GRT into Tory Channel / Kura Te Au is outlined below.

This process is structured to use guiding principles, clear workstreams, and outcomes to provide clarity to an operation that proposes to introduce a new vessel into Tory Channel / Kura Te Au.

Key Principles

The key principles to be used to achieve the framework's aims are:

- Risk based decision making, informed by data and science.
- Proactive identification and implementation (where appropriate) of international best practices.
- Compliance with the Maritime Transport Act and Maritime rules including part 90 (pilotage).
- Commitment to continuous improvement, and environmental protection.
- Transparency between parties.
- For the parties involved to properly resource the workstreams to ensure consistency and effectiveness.

Depending on the operation intended, the Harbourmaster may engage with the operator to identify other key principles for the process.

Stakeholders

Stakeholders in the process are those defined as parties with a professional connection or relationship to the workstreams detailed above. Not all stakeholders will be engaged for every workstream. Decisions on which stakeholders are engaged will be determined by the Harbourmaster.

The Harbourmaster will engage with the company wishing to introduce the new vessel to Tory Channel / Kura Te Au to identify the appropriate stakeholders. The final decision on engagement and which stakeholders are engaged with shall be the decision of the Harbourmaster.

Gateways for progress

Gateways will be used to monitor progress through the workstreams. Each workstream must be fully completed before progress is made through the gateway and onto the next workstream.

Reviews are to be conducted by the Harbourmaster or party appointed by the Harbourmaster.

The Harbourmaster intends, once gateways have been passed to, if necessary, circle back to previous items for updates and clarification if it is relevant to the process. It is not intended that by circling back that this will stop the currently active workstream unless there is a significant material change.

1. Workstream 1 (Data gathering)

- a. Ship data; Including but not limited to: Ship particulars, wake height and wake energy calculations and hydrodynamic data, manoeuvring information, a digital twin of the ship sufficient for use in a simulator of the Harbourmaster's choosing, Examples of any similar or related designs already in use elsewhere in the world, especially if those vessels are using novel / new equipment or sub systems.
- b. Timeline for introduction, including build timeline (if applicable), delivery to NZ and expected first sailing.
- c. Safety cases produced to pre-check expected safety critical equipment and systems, and safety critical safety management systems.
- d. Develop risk assessments for hazards and emergencies: Tory Channel / Kura Te Au specific and an overarching Marlborough risk assessment.
- e. The operator's introduction plan (how do they plan to train staff, simulations, how much will be done with simulation before the vessel arrives)
- f. A draft PEC training and proficiency plan, to a standard suitable for approval, for the new vessels.

2. Gateway 1

- a. Has all data requested above been supplied to MDC and other Stakeholders?
- b. Has a safety case been produced and internally reviewed?
- c. Are risk assessments reviewed and agreed to be satisfactory?
- d. Has a comprehensive introduction plan been developed, submitted, and reviewed?

3. Workstream 2 – Independent external review of the Safety Case.

4. Gateway 2 – Has the Safety Case been reviewed and found satisfactory?

5. Workstream 3 (Undertake Engagement)

- a. Commence engagement with appropriate identified stakeholders.

6. Gateway 3 – Has engagement been completed?

- a. Review of all feedback and responses to issues requested from the operator.
- b. Responses received from operator and provided to original submitter.

7. Workstream 4 – Develop operation introduction criteria.

- a. Identify criteria that the vessel will be measured against for workstream 5.

8. Workstream 5 – Introduce new vessel through the Northern Entrance.

9. Gateway 5 – Monitoring phase

- a. Is the introduction plan functioning as expected?
- b. If yes – proceed to BAU.
- c. If no – circle back and implement changes.

10. Workstream 6 – Further data analysis

- a. Gather real world data on ship manoeuvring and characteristics.
- b. Update ship simulator models

11. Gateway 6 – Confirmation model updates have been applied.

12. Workstream 7 – Assurance

- a. Reviews of Transit Analyst data.
- b. Confirmed compliance with the Common Passage Plan
- c. Reporting of findings to Council and Operators.

13. Gateway 7 – Do operations meet objectives.

Outcomes

The outcomes for this plan are:

- A common operating picture for users of the region.
- Contribution to and development of a Tory Channel / Kura Te Au Operational Plan.
- Contribution to and development of a Marlborough Sounds Operational Plan.
- Emergency and risk management plans and strategies.
- Safety case framework for the introduction of the new vessel to the Marlborough Sounds.
- Develop further outcomes from the workstreams of areas that are required to be addressed.
- Commercial shipping variation to the Navigation Safety Bylaw. The bylaw work will be run separately and in accordance with the requirements for making a bylaw.

To achieve these desired outcomes, the Harbourmaster will:

- Identify all the relevant stakeholders.
- Establish appropriate timelines for progress.
- Make this document visible to MDC and wider stakeholders.
- Determine hazards and risks and evaluate risk tolerance.
- Ensure feedback is appropriately captured and responded to.
- Consult with other industry experts and peers for comments and reviews.
- Then determine the final approach to be implemented to achieve best practicable navigation safety standards for operations within Marlborough.