



Statement of Proposal

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

**This document constitutes a
Statement of Proposal under sections 83(1)(a) and 86 of the
Local Government Act 2002**

Nelson City Council's proposed changes to its Navigation Safety Bylaw

The Nelson City Council (Council) has reviewed its Navigation Safety Bylaw 2012 (No.218) (the Bylaw) and proposes to amend it. The Council would like to know what you think of the proposed changes. The purpose of the bylaw is to ensure the safety of all users of Nelson's navigable waterways – the coastal waters and rivers.

1. Introduction

Since the Bylaw came into effect on 1 December 2012 the most relevant maritime rules, Part 91 Navigation Safety Rules made under the Maritime Transport Act 1994, have been amended three times. Maritime New Zealand safety campaigns have also joined forces with Harbourmaster activities in the country to educate and enforce consistent safety messaging.

The current Bylaw includes provisions that need changing to reflect current best practice to ensure the safety of people using the sea and rivers and to reduce the conflicts between different activities. The Bylaw also duplicates provisions from other instruments and can be streamlined to provide clearer navigation safety requirements.

2. Proposal

The Council is proposing to enhance safety by requiring:

- a) All people on board a vessel six metres or less in length to wear an appropriately sized lifejacket (some exemptions apply, see clause 2.7 d));
- b) The registration of recreational vessels with the owners name and contact details (some exemptions apply, see clause 2.26 c));
- c) People wanting to place a marker buoy to obtain the permission of the Harbourmaster and clearly label the buoy (clause 2.16 c));
- d) A person to be nominated as the person in charge of a vessel (clause 2.27);
- e) Two forms of communication to be carried on vessels with an exemption for non-powered vessels less than six metres in length (clause 2.28);
- f) Vessels not to be overloaded or unstable (clause 2.29); and
- g) A lookout to be provided when a vessel is towing a person at all speeds (clause 2.11).

Council is proposing the Harbourmaster be able to close areas of the harbour to enhance navigation safety where there are likely to be clashes with other activities (clause 2.9).

The inclusion of a land-based Navigation Safety Officer position to assist the Harbourmaster with safety checks is also proposed (clause 6.9 e).

Clause 3.3 relating to alcohol consumption is proposed to be deleted to be consistent with gazetted regulations.

Clause 3.22 is proposed to be amended to replace the word “cleaning” with “inspecting” to be consistent with the Resource Management Act that does not permit a discharge of a contaminant to water.

Priority activities identified in maps are proposed to be updated to reflect what can safely occur in the area and to be better aligned with the actual markers for these areas. The water ski/wake boarding/biscuiting area in Map 3 is proposed to be deleted. Map 4 is updated to identify all of the marina area. The skiing/jet skiing area in Map 6 is proposed to be amended to match the markers on land. A new Map 7 for a cruise ship anchoring area is proposed to be added but other activities can occur in this area when it is not required for this purpose.

Appendix 1 is proposed to amend all words and terms to be the same as national regulations. Appendices 2-6 are proposed to be deleted to remove forms and fee schedules that are out of date and are available on Council’s website.

All other aspects of the Bylaw are to be retained. A draft of the Bylaw as proposed to be amended, showing full details of the proposed changes, is contained in Attachment 1.

3. Reasons for the Proposal

The recommended changes seek to enhance safety by:

- a) Requiring all persons to wear lifejackets in vessels six metres or less in length.

Safety checks conducted by the Harbourmaster revealed only about a third of skippers have completed a day skipper or boat masters course. The current Bylaw provisions mean passengers rely on the judgement of skippers to decide when to wear a lifejacket. Approximately 82% of all drowning deaths involve males who underestimate the risks of not wearing a lifejacket and overestimate their level of competence (NZ Safer Boating Forum).

The wearing of lifejackets all of the time has been the key message in recent Maritime New Zealand safer boating campaigns and around nine regional or district councils already have a bylaw requiring the wearing of a lifejacket at all times on recreational vessels six metres or less in length. Most drownings in boating accidents involve craft under six metres and most accidents occur suddenly with no warning (Maritime NZ website).

Not wearing a lifejacket is the leading risk factor for boating fatalities. Two thirds of those who die in recreational boating accidents each year could have been saved had they been wearing a lifejacket (NZ Safer Boating Forum). Safety checks conducted by Nelson’s Deputy Harbourmaster has found nearly all vessels carry lifejackets but in some weeks the percentage of people wearing the lifejackets has been as low as 68%.

Current exemptions to wearing lifejackets remain. These include:

- kite surfers wearing wetsuits;
- surfers with a leg or waist rope; and

- events or activities where there is a support vessel carrying personal floatation devices in the immediate vicinity.

In addition to current exemptions an exemption for paddle craft riding waves or paddling between Tahunanui beach and the black buoys is proposed.

- b) The registration of recreational vessels enables quick access to the owner's name and contact details in emergency situations. It also better enables the enforcement of the Bylaw provisions. People identifying their vessel with their trailer's registration number will not need to separately register their vessel. Yachts registered with Yachting New Zealand will not need to separately register their yacht. Other vessel identification names or numbers will need to be registered along with the owner's name and contact details. There is no fee for this registration. Non-powered vessels less than six metres in length and powered vessels less than four metres in length are not required to register the vessel but must have the owner's name and contact details marked on the vessel.
- c) Obtaining permission from the Harbourmaster for the placement of a marker buoy ensures the location of the buoy does not cause confusion with other aids to navigation. Ensuring the buoy is clearly labelled and visible prevents the buoy becoming a hazard to navigation should its location change in storms.
- d) Identifying a person to be in charge of the vessel reinforces the responsibilities of ensuring the safety of every person on board the vessel and for the safe operation of the vessel. Safety checks conducted by the Harbourmaster show only 35% of people having completed a day skipper or boat master course. Nationwide evidence has shown boats involved in accidents have been under equipped with skippers lacking basic knowledge of key boating safety rules.
- e) Carrying two forms of communication appropriate for the area the vessel is operating in, with one being able to operate when in the water and within reach at all times, better enables assistance to reach that vessel when needed. Most accidents happen without warning and adequate communication available to anyone being able to raise the alarm will ensure assistance is provided as quickly as possible. Non-powered vessels less than six metres in length only need to carry at least one form of distress communication such as a flare, whistle or phone.
- f) The stability of a vessel is impacted by the position of loads and the quantity of loads. Unstable vessels can quickly overturn or become swamped.
- g) Currently the Bylaw requires a person to act as a lookout when a vessel is towing a person and exceeds a speed of 5 knots. It is proposed that a lookout be provided at all times a person is being towed regardless of the speed to ensure the operator of the vessel is aware of any mishap occurring to that person being towed as soon as possible.

The management of all activities within the harbour at times requires the separation of conflicting activities. Enabling the Harbourmaster to temporarily close areas of the harbour after giving public notice ensures that activity does not clash with other organized activities in that particular area.

The management of water activities can be further enhanced by enabling volunteers with suitable experience to act as Navigation Safety Officers to assist with the education of people prior to going out on the water.

The removal of the clause relating to alcohol and amendments to Appendix 1 ensure consistency with the Maritime Transport (Infringement Fees for Offences – Nelson City Council Navigation Safety Bylaw 2012) Regulations 2015.

The identified priority areas manage potential conflicting activities and these are proposed to be updated to reflect current activities. The water ski area in Map 3 is proposed to be deleted as this area is too small and would clash with the rowing activities that occur there now. The skiing/jet skiing area in Map 6 is proposed to be updated to match the markers on the shore. Identifying a cruise ship anchoring area provides for this activity yet also enables other activities to occur in the area when not required for cruise ships.

Proposed administrative changes make the Bylaw more consistent with national provisions, refer to Council's website for the most up to date forms, fees and information and delete clauses that are repeats of earlier clauses or are covered by other statutes. This streamlines the Bylaw for improved clarity.

4. Legal considerations

Council has identified some bylaw clauses are inconsistent with national safety campaigns and some terms are inconsistent with national regulation. Council considers that amendment of the Bylaw is the most appropriate way to address these problems.

Council considers the specific amendments proposed to address the problems identified in the review are the most appropriate form of bylaw.

Council has also considered whether the proposed changes give rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA). The Navigation Safety Bylaw seeks to protect life (that is consistent with section 8 of the NZBORA) and enable the safe movement of vessels. The Bylaw controls the speed and priority of movements in areas where potential conflict and harm can occur (such as transiting through the Cut). While this could be considered a restriction of freedom of movement under section 18 of the NZBORA, the limitations are designed to restrict people's movement and behaviour as little as is reasonably required to protect life and property. The proposed limitations are therefore considered reasonable and justified under the NZBORA.

5. Submissions

A submission form is included at the end of this document. Anyone may make a submission about any aspect of the proposed amendments to the Bylaw. The entire Bylaw is open for consultation as well as any matters relevant to the Bylaw that people wish to raise as part of this consultation process. Council, in making its decision, will take account of all submissions made.

All submissions, including the name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request

that your contact details be kept private and explain why it is necessary to protect your privacy. Council will not accept any anonymous submissions.

Submissions can be made:

Online at nelson.govt.nz

By post to Nelson City Council, PO Box 645, Nelson 7040

By dropping off to Civic House, 110 Trafalgar Street, Nelson

Submissions must be received no later than 4pm Wednesday 24 July 2019.

Any person who wishes to speak to the Council in support of their submission will be given the opportunity to address the Council at hearings on Tuesday 6 August 2019.

ATTACHMENTS

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

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(No.218)



NELSON CITY COUNCIL NAVIGATION SAFETY BYLAW 2012

(No 218)

October 2019

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

1. PRELIMINARY PROVISIONS	2
1.1 TITLE AND COMMENCEMENT	2
1.2 AREAS WITHIN WHICH THIS BYLAW APPLIES	3
1.3 DEFINITION OF TERMS	3
2. OPERATION OF VESSELS	13
2.1 REPORTING PROCEDURES	13
2.2 HARBOUR RECREATIONAL ZONING	14
2.3 MOVING PROHIBITED ZONE/TOTAL EXCLUSION ZONE	15
2.4 HARBOUR TRANSIT LANE	15
2.5 EXCLUSION ZONE AROUND VESSELS AT WHARVES	16
2.6 OBSTRUCTIONS	16
2.7 LIFEJACKETS	16
2.8 MINIMUM AGE FOR OPERATING POWERED VESSELS	18
2.9 SPEED OF VESSELS	18
2.10 WAKE OR WASH	20
2.11 LOOKOUTS ON VESSELS USED FOR WATER SKIING AND TOWING ANY PERSON	20
2.12 WATER SKIING OR TOWING BETWEEN SUNSET AND SUNRISE	20
2.13 CONDUCT IN ACCESS LANES	20
2.14 RESERVED AREAS	21
2.15 PROHIBITED ANCHORAGES	21
2.16 DAMAGE TO NAVIGATIONAL AIDS	22
2.17 DISTANCE FROM OIL TANKERS AND OTHER VESSELS SHOWING FLAG B	22
2.18 RIVER SAFETY RULES	22
2.19 COLLISION PREVENTION	23
2.20 FLAGS AND SIGNALS	23
2.21 VESSELS NOT TO SOUND WHISTLES	23
2.22 USE OF DISTRESS SIGNALS	24
2.23 SEAPLANES	24
2.24 VESSELS TO BE LICENSED	24
2.25 VESSELS TO CARRY NAVIGATIONAL CHARTS AND EQUIPMENT	25
2.26 VESSELS TO BE IDENTIFIED	26
3. MOORINGS, BERTHS, MARINA AND OTHER STRUCTURES	27
3.1 MOORINGS	27
3.2 CONTROL OF MARINA	27
3.3 ALCOHOL	27
3.4 FEES AND CHARGES	28
3.5 BERTHS	28
3.6 VISITING VESSELS	28
3.7 SHARING OF BERTHS	29
3.8 COMMERCIAL VESSELS IN THE MARINA	29
3.9 REMOVAL FROM A BERTH, MOORING OR ANCHORAGE.	29
3.10 PERSON ON BOARD TO ENSURE VESSEL BERTHED SAFELY	29
3.11 VESSELS TO BE SEAWORTHY OR REMOVED	29
3.12 ALTERATION OF BERTH	30
3.13 DAMAGE TO MOORING OR BERTH	30
3.14 FISHING	30
3.15 USE OF VESSEL ENGINE AROUND WHARVES, RAMPS AND MARINAS	30
3.16 NUISANCE	31
3.17 LIVING ON BOARD	31
3.18 SAFETY IN THE MARINA	31
3.19 REPAIR GRID	32

3.20	USE OF LANDING STAGES	33
3.21	USE OF BOAT RAMPS	33
3.22	SWIMMING OR DIVING AROUND WHARVES OR MOORINGS	33
4.	COMMERCIAL OPERATIONS INCLUDING, HAZARDOUS CARGOES, HAZARDOUS WORKS AND DANGEROUS MATERIALS	33
4.1	HOT WORK OPERATIONS	33
4.2	EXPLOSIVES ANCHORAGE	34
4.3	SIGNALS TO BE DISPLAYED BY ANY VESSEL TAKING IN OR DISCHARGING OR CARRYING DANGEROUS GOODS	34
4.4	DISTANCE FROM VESSELS SHOWING FLAG B	35
4.5	DUTIES OF MASTER WHILE TANKER IS IN PORT	35
4.6	LOADING OR DISCHARGE OF CARGO	35
5.	PILOTAGE	35
5.1	COMPULSORY PILOTAGE	36
5.2	PILOTAGE FEE	36
5.3	USE OF PILOTAGE EXEMPTION CERTIFICATES	36
5.4	EXPENSES OF PILOT DETAINED ON BOARD	36
5.5	COMPLAINTS AGAINST PILOTS	36
5.6	ACCIDENTS OCCURRING TO VESSEL IN CHARGE OF PILOT	37
6.	GENERAL	37
6.1	SPECIAL OR TEMPORARY EVENTS	37
6.2	NOTIFICATION OF COLLISIONS OR ACCIDENTS	37
6.3	DISCHARGE OF POLLUTANTS, LITTER AND RUBBISH	38
6.4	FOULED VESSELS	39
6.5	APPLICATION TO MASTER/OWNER	39
6.6	PENALTIES, OFFENCES AND INFRINGEMENTS	39
6.7	SERVING OF INFRINGEMENT NOTICES	39
6.8	GENERAL DEFENCE	40
6.9	APPOINTMENT OF HARBOURMASTER, ENFORCEMENT OFFICERS AND MARINA SUPERVISOR	40
7.	MAPS	ERROR! BOOKMARK NOT DEFINED.
MAP 1	WATERS WITHIN THE NELSON REGION	42
MAP 2	WATERS WITHIN THE NELSON HARBOUR	43
MAP 3	NELSON HARBOUR PRIORITY ACTIVITY AREAS	44
MAP 4	NELSON MARINA	45
MAP 5	TAHUNANUI BEACH RECREATION AREAS	46
MAP 6	MONACO ACTIVITY AREAS	47
8.	APPENDICES	42
APPENDIX 1	PENALTIES, OFFENCES AND INFRINGEMENTS	49

1. Preliminary Provisions

1.1 Title and Commencement

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

This Bylaw is made pursuant to sections 33M and 33R of the Maritime Transport Act 1994 and sections 145 and 239 of the Local Government Act 2002.

This Bylaw will come into force on 1 October 2019.

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

1.2 Areas within which this Bylaw applies

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

1.3 Definition of terms

In this Bylaw, unless the context otherwise requires:

Access lane

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

Accident

Means an occurrence that involves a vessel and in which:

- a) A person is seriously harmed as a result of
 - i) Being on the vessel; or
 - ii) Direct contact with any part of the vessel, including any part that has become detached from the vessel; or
 - iii) Direct contact with any accessory attached to a vessel, but not part of the vessel; or
 - iv) Direct exposure to the wash of the vessel or interaction (other than direct contact) between two vessels; or
 - v) Being involved in the salvage of any vessel; except where the injuries are self-inflicted or inflicted by other persons, or when injuries are to stowaways hiding outside the areas normally available to passengers and crew; or
- b) The vessel sustains damage or structural failure that:
 - i) Adversely affects the structural strength, performance, or seaworthiness of the vessel; or
 - ii) Would normally require major repair or replacement of the affected component; or
 - iii) Poses a threat to the safety of people on board the vessel; or
- c) There is a complete or partial failure of machinery or equipment that affects the seaworthiness of the vessel; or

- d) There is a loss of, or damage to, or movement of, or change in the state of, the cargo of the vessel which poses a risk to the vessel or other vessels; or
- e) There is a significant loss of, or significant damage to, property (not being the cargo carried by the vessel) or the property of any person (whether or not on board the vessel), whether or not the loss or damage arises from an interaction between two vessels; or
- f) There is a loss or escape of any substance or thing that:
 - i) May result, or has resulted, in serious harm to any person; or
 - ii) May pose a risk, or has resulted in damage, to the vessel or other vessel; or
 - iii) May pose a risk, or has resulted in damage, to any property (whether or not on board the vessel); or
- g) A person is lost at sea (whether or not subsequently found) or is missing; or
- h) The vessel is foundering, capsizing, being abandoned, stranding, missing, or has foundered, capsized, been abandoned, stranded, been in a collision, or has had a major fire on board:

Anchorage

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

Anchoring

Means the securing of a vessel to the bed of the waterway by means of an anchor, cable or other device, that is normally removed with the vessel when it leaves the site or anchorage.

Beacon

Means a light or mark set up in a prominent position as a navigation mark or a warning to vessels.

Berth

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

Body board

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

Buoy

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

Buoyancy aid

Means:

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

Chief Executive

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

Class 3.1 oil products

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

Class 3.2 oil products

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

Class 3.3 oil products

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

Commercial Raft

Means a raft that is not a pleasure craft.

Commercial vessel

Means a vessel that is not:

- i) a pleasure craft; or
- ii) solely powered manually; or
- iii) solely powered by sail; or
- iv) a vessel operated by a Yachting NZ affiliated yacht club within Nelson Harbour in support of a club event or promotion for that Club.

Commercial Wharf

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

Council

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

Crew

Means the persons employed or engaged in any capacity on board a vessel, but does not include the master, a pilot, or a person temporarily employed on the vessel while in port.

Dangerous goods

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

Director

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

Distress Signal

Means a distress signal as prescribed in Maritime Rule Part 23.¹

Dredged Channel

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

Emergency Service Vessels

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

Enforcement Officer

Means a person appointed as an Enforcement Officer under section 33G of the Maritime Transport Act 1994, or under section 177 of the Local Government Act 2002, and includes an honorary Enforcement Officer.

Fairway Beacon

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

¹ Refer to Maritime New Zealand:
http://www.maritimenz.govt.nz/Rules>List-of-all-rules/List-of-rules.asp#navigation_safety

Flag A

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

Flag B

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

Harbour

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

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

Harbourmaster

Means the person(s) appointed by the Council as Harbourmaster under section 33D of the Maritime Transport Act 1994 and includes any Deputy Harbourmaster.

Harbour transit lane

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

Infringement offence

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

Kite Board

Has the same meaning as Sail Board.

Length

In relation to a vessel, means overall length.

Lifejacket/Personal Floatation Device

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

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

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

Marina

Means that area of the Harbour defined in Map 4.

Marina Supervisor

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

Marine and Coastal Area

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

Maritime rule

Means a rule made under the Maritime Transport Act 1994.

Marked Channel

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

Master

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

Mean high water spring

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

Mile

Means a standard nautical mile of 1852 metres.

Mooring

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

Mooring area

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

Navigable waters

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

Navigate

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

Nelson Harbour

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

Nelson pilotage area

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

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

Novel Craft

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

Oar craft

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

Oil

Means petroleum in any form including crude oil, fuel oil, sludge, oil refuse; and includes spirit produced from oil and oil mixed with water and refined products (within the meaning of section 222 of the Maritime Transport Act 1994).

Owner

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

Paddle craft

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

Person in charge of a vessel

Means the master.

Pilot

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

Pleasure Craft

Means a vessel that is used exclusively for the owner's pleasure, or as the owner's residence, and is not offered or used for hire or reward; but does not include:

- i) a vessel that is provided for transport or sport or recreation by or on behalf of any institution, hotel, motel, place of entertainment, or other establishment or business;
- ii) a vessel that is used on any voyage for pleasure if it is normally used or intended to be normally used as a fishing vessel or for the carriage of passengers or cargo for hire or reward;
- iii) a vessel that is operated or provided by any club, incorporated society, trust, or business.

Port Nelson Operational Area

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

Proper speed

Means speed through the water.

Public notice

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

Recreational Vessel

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

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

Region

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

Repair grid

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

Reserved area

Means a permanently reserved area, as shown on any map appended to this Bylaw, which has been set aside for a specified navigation safety purpose, and any area temporarily reserved under Clause 6.1(a)(ii) of this Bylaw.

Reward

Means the payment to or for the benefit of the owner or master of a vessel, of a contribution towards the expenses of a voyage by or on behalf of any person; but does not include payment of any contributions by part owners of the vessel or by persons engaged as bona fide crew members.

Sail board

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

Seaplane

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

Seaworthy

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

Shore

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

Surf board

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

Structure

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

Sunrise

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

Sunset

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

Tanker

Means any vessel which is specially constructed, or has a compartment or compartments specially constructed, for the carriage in bulk of oil products of any class; and either:

- i) has on board or is about to take on board a cargo the whole or any part of which consists of Class 3.1, 3.2 or 3.3 oil products in bulk; or
- ii) has discharged any cargo consisting of any such oil products in bulk, but the holds, tanks, and compartment of which have not been rendered or certified gas-free; and
- iii) includes any tanker designed for the carriage of bulk liquid hazardous substances.

Vessel

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

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

Waters

Means all navigable waters within the Nelson region.

Waterskiing

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

Wind surfer

Has the same meaning as Sail Board.

2. Operation of vessels

2.1 Reporting procedures

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

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

2.2 Harbour recreational zoning

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

2.3 Moving Prohibited Zone/Total Exclusion Zone

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

2.4 Harbour Transit Lane

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

² Vessels of 3000 grt are the largest fishing vessels that call here.

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

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

2.5 Exclusion zone around vessels at wharves

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

2.6 Obstructions

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

2.7 Lifejackets/Personal Floatation Devices

- a) No person in charge of a recreational vessel may use it unless there are on board at the time of use, and in a readily accessible location, sufficient lifejackets/personal floatation devices of an appropriate size for each person on board.

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

- b) No person in charge of a vessel may use it to tow any person, and no person may cause himself or herself to be towed by a vessel, unless the person being towed wears a properly secured life jacket/personal floatation device of an appropriate size for that person.
- c) Sub-clause b) does not apply to:
 - i) persons training for any trick water skiing element of a sporting event administered by a national sporting organisation approved by the Director; or
 - ii) persons participating in a sporting event that is administered by a national sporting organisation approved by the Director.
- d) The person in charge of a recreational vessel or novel craft that is six metres or less in length shall ensure that every person shall wear an appropriately sized and properly secured lifejacket or personal floatation device.
- e) No person in charge of a recreational vessel or novel craft may use that vessel, or allow it to be used, in circumstances where:
 - i) tides, river flows, rough seas; or
 - ii) adverse weather, adverse visibility or emergencies

cause a danger or a risk to the safety of persons on board, unless each person on board is wearing a lifejacket or personal floatation device appropriate to each person on board.
- f) Except when otherwise directed by the Harbourmaster or an enforcement officer, sub-clauses a), d) and e) shall not apply to:
 - i) any surf boarder or user of a similar un-powered vessel or paddle craft involved in riding waves or is paddling between the Tahunanui beach and the black buoys, provided the person is attached to a board by means of a leg or waist rope;
 - ii) any sail boarder, kite boarder or wind surfer, if a wetsuit or buoyancy vest is worn at all times;
 - iii) a diver on a vessel of six metres or less in length that is used for recreational diving within five miles of the shore, if a full body suit is worn at all times;
 - iv) a person training for or participating in a sport event, if the training or the event is supervised in accordance with the safety system of a national sporting organisation approved by the Director;

Note: The Director may approve a national sporting organisation if that organisation has in place a safety system that the Director is satisfied provides an equivalent level of safety to the carriage or wearing of lifejackets.

- v) any other exemption or exclusion under Maritime Rules Part 91.
- g) Sub-clause a) and e) shall not apply in respect of any sporting event, training activity or ceremonial event if:
 - i) a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational vessel and the recreational vessel or support vessel, or both, carry lifejackets or buoyancy aids appropriate for each person on board the recreational vessel; or
 - ii) the Harbourmaster has granted an exemption in writing for the specified period if he or she is satisfied that adequate safety precautions are made for rescuing any person participating in the event or activity.

2.8 Minimum age for operating powered vessels

- a) The owner of a powered vessel that is capable of a proper speed exceeding 10 knots must not allow any person who is under the age of 15 years to be in charge of, operate or navigate that vessel without direct supervision by a person over the age of 15 who is in immediate reach of the controls.
- b) No person under the age of 15 years shall be in charge of, operate or navigate a powered vessel that is capable of a proper speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 who is in immediate reach of the controls.
- c) Sub-clauses a) and b) do not apply to any person who has a written exemption from the Harbourmaster. Written exemptions may be given for training, competitions or other sporting events.
- d) The Harbourmaster, when considering whether or not to grant such an exemption, shall have regard to the competence of the person, the level of supervision, and the awareness of that person of all relevant navigation safety matters.

2.9 Speed of vessels

- a) Subject to clause 2.9 f) no person may operate or navigate any vessel (including a vessel towing a person or an object) at a proper speed exceeding five knots:
 - i) within 50 metres of any other vessel, floating structure, or person in the water; or
 - ii) within either 200 metres of the shore or of any structure, or on the inshore side of any row of buoys demarcating that distance from the shore or structure; or
 - iii) within 200 metres of any vessel or floating structure that is flying Flag A (divers flag); or

- iv) within 200 metres of any area set aside or zoned by the Harbourmaster for specified activities; or
- v) when knowingly or deliberately approaching within 200 metres of a marine mammal.
- vi) within any zone set aside as a five knot zone or as a swimming area.
- b) Notwithstanding sub-clause a) no person shall operate or navigate a vessel in any marina at a proper speed exceeding three knots, including between any berths or "fingers".
- c) No person may operate or navigate a powered vessel at a proper speed exceeding five knots while any person is sitting at or on the fore part or bow of that vessel with any portion of their body extending over the fore part, bow, or side of that vessel.
- d) No person may cause or allow himself or herself to be towed by a vessel (whether or not on a water ski, aquaplane, or other towed object) at a proper speed exceeding five knots in any circumstances specified in any of paragraphs i) to vi) of sub-clause a).
- e) No person in charge of a vessel may permit the vessel to continue onwards, after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or other object which may cause danger to any other person or vessel, without first taking action to recover it.

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

- i) a commercial vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with this clause; or
- ii) a vessel solely powered by sail participating in a yacht race or training or coaching administered by a club affiliated to Yachting New Zealand, or a non-profit organisation involved in sail training or racing; with the exception of sub-clause a) iii) which will continue to apply; or
- iii) a wind surfer or kite boarder north of the channel markers (port hand beacons) that define the main channel; or
- iv) a vessel used in training for or participating in competitive rowing or paddling; or
- v) a tug, pilot vessel, emergency service vessel, Harbourmaster vessel or police vessel when the vessel's duties cannot be performed in compliance with sub-clauses a) to e); or
- vi) any vessel legitimately using any area, zone or transit lane which is set aside for the purposes of allowing vessels, or vessels towing water skis, aquaplanes, or other similar objects, to travel at a proper speed exceeding five knots; or
- vii) any vessel using any access lane or transit lane unless the purpose of the access lane or transit lane specifically requires a proper speed not exceeding five knots.

- f) Neither sub-clause a) ii) nor sub-clause c) shall apply to a vessel operated by a surf lifesaving club affiliated to Surf Lifesaving New Zealand, where that vessel is being operated in accordance with an Inflatable Rescue Vessel training procedure that has been approved by the Director.

2.10 Wake or wash

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

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

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

2.12 Water skiing or towing between sunset and sunrise

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

2.13 Conduct in access lanes

- a) No person may in any access lane, operate, navigate, or manoeuvre a vessel except by the most direct route through the access lane and on that side of the access lane that lies to the starboard or right hand side of the vessel.
- b) No person may, while being towed by a vessel in any access lane in which skiing or towing is permitted, cause himself or herself or any water ski, aquaplane or other object, on or by which he or she is being towed, or cause any object that is being towed by a vessel in any access lane, to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard or right hand side of the vessel.

- c) No person within an access lane may operate or navigate any vessel in a manner that is dangerous in relation to any other vessel or other person in the access lane.
- d) No person may obstruct any other person while that other person is using an access lane for the purpose for which it has been declared.
- e) No person may use an access lane for any purpose other than the purpose for which it has been declared while it is being used by any person for the purpose for which it was declared.

2.14 Reserved areas

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

2.15 Prohibited anchorages

- a) No person may, except in an emergency, anchor any vessel in any navigable waters so as to obstruct the passage of other vessels or obstruct the approach to any wharf, pier, jetty or mooring.

- b) No person may, except in any emergency, anchor or moor any vessel within any of the following prohibited anchorages:
- i) within 20 metres of any dredged channel;
 - ii) within the Marina Area shown on Map 4;
 - iii) within 50 metres of any underwater power or telephone cable⁴;
 - iv) within any dredged area set aside for construction;
 - v) within the path of any vessel entering or leaving the harbour.
 - vi) within the Harbour Transit Lane shown on Map 3, and the Wharf Exclusion Zone (clause 2.5).

2.16 Aids to navigation

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

2.17 Distance from oil tankers and other vessels showing Flag B

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

2.18 River safety rules

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

- a) Ensure that the vessel keeps to the starboard (right) side of the river channel; and

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

- b) If navigating a vessel upstream give way to any vessel proceeding downstream; and
- c) Not operate the vessel on the river unless river and weather conditions permit safe operation of the vessel.

2.19 Collision prevention

No person may operate any vessel in breach of Maritime Rule Part 22: Collision Prevention made under the Maritime Transport Act 1994.⁵

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

2.20 Flags and Signals

- a) Explosive Cargo
 - i) The master of any vessel having on board, or who intends to load or unload, 27kg or more of explosives in the harbour must display on the vessel Flag B by day and an all round red light by night at the masthead or where it can be best seen by night.
 - ii) On or immediately before the arrival in port of any tanker and for so long as the tanker remains in port, the master must display by day Flag B and by night an all round red light at the masthead or where it can best be seen by night.
- b) Dive Operations
 - i) The Master of every vessel from which diver operations are in progress must ensure that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper of another vessel at a distance in excess of 200 metres.
 - ii) Every person diving from a vessel must ensure that Flag A is displayed in such a manner that it can be clearly identified by the watch keeper of another vessel at a distance in excess of 200 metres.

2.21 Vessels not to sound whistles

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

⁵ Refer to Maritime New Zealand:
http://www.maritimenz.govt.nz/Rules>List-of-all-rules/List-of-rules.asp#navigation_safety

activities or sound signals are not to be made in the vicinity of commercial vessels greater than 40m in overall length.

2.22 Use of distress signals

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

2.23 Seaplanes

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

2.24 Vessels to be licensed

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

to Council to establish the seaworthiness of the vessel, the adequacy of its safety equipment, the competence of its operator, and the overall safety of the proposed operation. Additional professional advice may be sought by the Council, the cost of which will be recovered from the applicant.

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

2.25 Vessels to carry navigational charts and equipment

- a) Every vessel shall have on board appropriate means of navigating safely at all times for any intended voyage.

- b) Operators or users of paddle craft while on the water should use and display visibility aids appropriate to the weather conditions such as flags, high visibility vests or hats, or lights.

2.26 Vessels to be identified

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

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

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

2.27 Person in charge

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

2.28 Means of communication

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

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

2.29 Overloading and stability

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

3. Moorings, berths, marina and other structures

3.1 Moorings

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

3.2 Control of Marina

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

3.3 Alcohol

Deleted

3.4 Fees and charges

- a) The fees and charges specified on Council's website for marina fees for functions undertaken by the Council under this Bylaw must be paid on demand by the specified person to the Council.
- b) The Council may, by resolution, amend these fees and charges.
- c) The fees and charges specified exclude GST and are maximum charges. The Council may on application reduce such charges when in its opinion special circumstances warrant a lesser charge being made.

3.5 Berths

- a) No person shall use or occupy any berth in any Marina or other reserved area without first obtaining from the Council a licence permitting that person to use or occupy such berth.
- b) No person shall use or occupy any berth except as may have been allocated and with the vessel specified in the licence.

Provided that with the consent of the Council, which consent may be subject to any new or changed conditions, the holder of a licence in respect of a berth may occupy the berth with a vessel other than that specified in the licence.
- c) No person shall transfer, sublet or otherwise dispose of their interest in a licence or any interest they may have in a berth except to the Council.
- d) Every person holding a licence issued pursuant to this Bylaw in respect of any berth shall notify the Council in writing of any change to their address or other contact details.
- e) Every person to whom a licence has been issued in respect of any berth shall comply with the terms of such licence.
- f) Where any person fails to comply with the terms of the licence or with the provisions of this Bylaw relating to the berth and who continues the failure to comply after being provided with a reasonable opportunity to remedy the non-compliance, the Council may cancel the licence and remove the vessel which is the subject of the licence, from the berth. The cost of such removal shall be a debt due by the licence holder to the Council.

3.6 Visiting vessels

- a) No person shall use or occupy a berth which has been set aside by the Council within any marina or other reserved area for visiting vessels except with the consent of the Marina Supervisor and then only on such terms and conditions including payment of any fee set by the Council, and for such duration as specified by the Marina Supervisor.
- b) The owner or master of any visiting vessel shall not anchor or moor such vessel in any prohibited anchorage area identified in Clause 2.15 of this Bylaw.

3.7 Sharing of berths

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

3.8 Commercial vessels in the Marina

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

3.9 Removal from a berth, mooring or anchorage.

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

3.10 Person on board to ensure vessel berthed safely

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

3.11 Vessels to be seaworthy or removed

- a) The person in charge and owner of any vessel anchored or moored in any waters, or berthed at any berth, must keep the vessel in a seaworthy condition at all times, unless the Harbourmaster or Marina Supervisor has given prior written approval for it to be anchored, moored, or berthed in an un-seaworthy state. The owner and person in charge of the exempted vessel must comply with any

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

3.12 Alteration of Berth

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

3.13 Damage to mooring or berth

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

3.14 Fishing

3.15 No person shall fish in any part of the Marina in contravention of any direction given by the Marina Supervisor from time to time either generally or as to any particular part or parts of the Marina or as to any particular time or times. Use of vessel engine around wharves, ramps and marinas

- a) No person may operate the propulsion system of a vessel while it is lying at any wharf, or while it is loading or unloading at any ramp, in such a way that it may damage any property, scour the bed of the navigable waters, or injure any person. Provided that this does not preclude the use of the propulsion system for the safe berthing or unberthing of any vessel at a wharf.
- b) The master of any commercial vessel over 40m length must:
 - i) ensure that crew members are stationed both forward and aft on any vessel while that vessel is lying at any wharf and about to test or is testing a propulsion system; and
 - ii) warn all persons or vessels in the immediate vicinity of that vessel that the engines are being tested; and

- iii) notify the Harbourmaster before testing a propulsion system while that vessel is lying at any wharf.
- c) No person shall create excessive noise from the operation of any vessel in a marina.
- d) No person shall cause excessive noise by accelerating or racing the engine of any vessel while the same is stationary at any wharf, ramp, or marina.

3.16 Nuisance

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

3.17 Living on board

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

3.18 Safety in the marina

- a) Any person berthing or tying up any vessel in any Marina shall ensure that:
 - i) the vessel is properly and safely secured to whatever it is berthed or tied;
 - ii) all access ways and navigable waters are kept clear;
 - iii) the vessel is in a good and safe state of repair;
 - iv) in the event of any accidental spillage into the marina which poses a threat to any other vessel, property, wildlife or thing, immediate steps are taken to notify the Marina Supervisor and report the spill to the Nelson City Council. Immediate steps must be taken to stop any discharge of hydrocarbons or other contaminants. No steps may be taken to disperse any oil discharged to water without the Regional

On Scene Commander's (Council's) explicit consent, however, the spiller may (and should) attempt to contain the spill;

- v) the name of the vessel is clearly displayed on the vessel;
 - vi) there is on the vessel an adequate fire extinguisher or fire fighting appliance.
- b) No person shall bring into or keep in the Marina any motor spirit, petroleum products, fuel oil, liquefied petroleum gas, compressed natural gas, kerosene or goods of a similarly dangerous or similarly flammable character without the permission of the Marina Supervisor.
Provided that nothing in this sub-clause shall prevent the bringing into the marina, or the keeping on any vessel small quantities of any of the goods mentioned in sub-clause b), in safe containers and in quantities reasonably required for the vessel's engines, stoves or similar appliances.
- c) No person shall commence or carry out any repairs, alterations or work on or to any vessel in the Marina involving welding or flame cutting operations, grinding, or the prolonged use of any other power tools, or air spray apparatus without first obtaining the permission of the Marina Supervisor, and complying with any conditions imposed by the Marina Supervisor in respect of the operations or any resource consent.
 - d) Every person carrying out any repairs, alterations or other works on or to any vessel in the Marina shall ensure that such is carried out in a safe and proper manner and in accordance with the provisions of the Health and Safety in Employment Act 1992, and that no rubbish or material used in the work, or removed as part of the works is allowed to fall into the water.
 - e) If the Marina Supervisor is of the opinion that any repairs, alterations or works are not being carried out in a safe and proper manner he may order that all work cease and every person carrying out such work shall thereupon cease to do so until the Marina Supervisor authorises the continuation of such work.

3.19 Repair grid

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

3.20 Use of landing stages⁶

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

3.21 Use of boat ramps

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

3.22 Swimming or diving around wharves or moorings

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

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

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

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

4.1 Hot work operations

- a) Within the Nelson Harbour, the person carrying out the hot work and the master of every vessel on board which, or on the hull of which, it is proposed to carry out welding, grinding or flame-cutting operations in or from any position, whether on board the vessel or not, must obtain from the Harbourmaster a Hot Work Permit not less than two hours before commencing the work.
- b) The person carrying out the hot work, or the master or the Chief Engineer if available, of every vessel on or in which hot work operations are proposed must ensure that, before any welding or grinding operations are commenced, precautions are taken for the detection, prevention, and extinguishing of fire on board the vessel

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

- or elsewhere while the work is undertaken, and that the requirements of the Hot Work Permit are met. Provision must be made for the continuance of the precautions until the work is completed. Monitoring of the space in which the work has taken place, and all adjacent spaces, shall continue for at least one hour after the completion of welding, grinding or flame-cutting.
- c) No person may commence hot work without having seen and understood the terms of a current Hot Work Permit for the work to be undertaken.
 - d) The Harbourmaster may grant a written exemption from compliance with those provisions to the master or owner of any vessel lying at any vessel-repairing establishment or at any berth where work is being undertaken by a company whose Hot Work procedures have been approved by the Harbourmaster.
 - e) No hot work shall commence until such time as the Harbourmaster is satisfied that the pre-condition requirements of a Hot Work Permit have been met in full.

4.2 Explosives anchorage

- a) The master of a vessel having on board or intending to load explosives in quantities greater than 27kg must ensure that:
 - i) the vessel remains within the explosives anchorage outside the harbour entrance to be specified on each occasion by the Harbourmaster; and
 - ii) no person loads or unloads explosives outside the explosives anchorage, unless otherwise permitted by the Harbourmaster; and
 - iii) the Harbourmaster is provided with the Dangerous Goods declaration for the explosives at least 48 hours prior to the loading or discharging. For weekend loading or discharging documentation shall be provided no later than 12 noon on the preceding Friday.
- b) Nothing in this clause shall apply to any vessel which:
 - i) is carrying less than 27kg of explosives; or
 - ii) is carrying, or intending to load, only explosives of Safety Ammunition Class 1.4S as defined under the Hazardous Substances (Classes 1 to 5 controls) Regulations 2001, or Fireworks of classes 1.3G, 1.4G or 1.4S as defined under the Hazardous Substances (Fireworks) Regulations 2001, in quantities which do not require a Hazardous Substance and New Organisms Approved Handler.

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

On or immediately before the arrival in harbour of any vessel carrying Dangerous Goods and for as long as that vessel remains in harbour, the

master must display by day Flag B and by night a red light at the masthead where it can best be seen from all directions.

4.4 Distance from vessels showing Flag B

4.5 Deleted Duties of master while tanker is in port

- a) While in port, the master of an oil tanker must operate in accordance with the current edition of the International Safety Guide for Oil Tankers and Terminals (ISGOTT).
- b) The master must:
 - i) berth or moor the tanker only at the Main Wharf or McGlashen Quay South or as otherwise authorised by the Harbourmaster; and
 - ii) keep the tanks containing Class 3.1 or 3.2 oil cargo securely closed, except when opened for loading or discharging; and
 - iii) unless exempted by the Harbourmaster, ensure that sufficient motive power is available at all times to enable the vessel to be moved from the berth in case of fire or other emergency; and
 - iv) submit to the Harbourmaster a plan showing the layout of the vessel's tanks and contents, giving the products and approximate quantities that will be on board when alongside in Nelson Harbour, at least 6 hours prior to arrival.

4.6 Loading or discharge of cargo

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

5. Pilotage

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

5.1 Compulsory Pilotage

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

5.2 Pilotage Fee

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

5.3 Use of Pilotage Exemption Certificates

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

5.4 Expenses of Pilot detained on board

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

5.5 Complaints against Pilots

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

⁷ Refer to Maritime New Zealand, Maritime Rule Part 90
http://www.maritimenz.govt.nz/Rules>List-of-all-rules/List-of-rules.asp#navigation_safety

5.6 Accidents occurring to vessel in charge of Pilot

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

5.7 Cruise ship anchoring area

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

6. General

6.1 Special or temporary events

- a) No person shall conduct a race, speed trial, competition or other organised water activity in any area to which this Bylaw applies, unless they have:
 - i) applied to the Harbourmaster to temporarily suspend the application of any clause of this Bylaw in that area during the conduct of the race, speed trial, competition or other organised activity; and
 - ii) applied to the Harbourmaster to temporarily reserve the area for the purpose of that activity; and
 - iii) notified the Harbourmaster of the event at least 28 days in advance.
- b) The Harbourmaster may in the interest of navigational safety choose to issue a special event authorisation in the absence of an application to do so.
- c) Where the Harbourmaster is satisfied, on considering an application under this Bylaw, that the application may be granted without endangering the public, he or she may grant the application accordingly, for a period not exceeding 10 days, and subject to such conditions (if any) as he or she may specify.
- d) Every grant of an application under this Bylaw shall, subject to sub-clause e), have effect according to its tenor.
- e) No grant of an application under this Bylaw shall have effect unless, not less than 7 days or more than 14 days before the commencement of the activity, a public notice is given specifying the period of the activity and details of the suspension or reserved area.
- f) The Harbourmaster may recover from the applicant all actual and reasonable costs incurred for the publication of a public notice under sub-clause e).

6.2 Notification of collisions or accidents

- a) The master of any vessel that:

- i) has been involved in a collision with any vessel or property, or has been sunk or grounded or become stranded in any waterway; or
 - ii) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to any person, other vessels or property; or
 - iii) in any manner gives rise to an obstruction; or
 - iv) causes any damage to any navigation aid or structure or to anything on the structure;
- must, as well as complying with any accident reporting requirements of sections 30 to 33 of the Maritime Transport Act 1994, as soon as practicable report the occurrence to the Harbourmaster and within 24 hours, provide the Harbourmaster with full written details of the occurrence.
- b) A report under sub-clause a) must include:
- i) a full description of any injury to persons and their names and their addresses; and
 - ii) a full description of any damage to vessels or structures; and
 - iii) the names and addresses of persons in charge of the vessel; and
 - iv) the time and date of the occurrence; and
 - v) an outline of events relating to the occurrence.
- c) If an incident described in sub-clause a) involves damage to a vessel that makes or is likely to make it un-seaworthy the master may not move the vessel except:
- i) to prevent the vessel from creating a hazard to navigation; or
 - ii) in accordance with the directions of the Harbourmaster, or an enforcement officer.

6.3 Discharge of pollutants, litter and rubbish

- a) No person shall discharge, cast or dispose of or cause to be discharged, cast or disposed of (directly or indirectly) into any water any rubbish or other substance or liquid of an objectionable or offensive nature or which is likely to pollute, detract from or cause deterioration of the waters.
- b) No person shall in any part of the Harbour:
- i) break or cause to be broken or throw or abandon, cast or leave, whether broken or not any glass or pottery object, tins, bottles, paper, paper wrappings, plastic bottles, bags or containers, plastic sheet, litter, rubbish, oil or other articles

- or thing likely to be unsightly or to cause any nuisance or danger to public health or safety; or impede or endanger the operation of any vessel.
- ii) scale, clean or gut any fish or throw cast or leave or deposit any fish, or any portion of a fish or a carcass of any dead animal, or fowl or any vegetable matter likely to cause a nuisance, injury or danger to public health or safety.
 - c) No person shall allow any material described in clauses 6.3 a) and b) above from the washing down or scrubbing of the hull of any vessel to enter any water covered by this Bylaw.

6.4 Fouled vessels

No person shall anchor, berth or moor, or allow to remain anchored, berthed or moored, within the Harbour (including within any marina) any vessel which is subject to significant fouling⁸ with marine growth.

6.5 Application to person in charge /owner

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

6.6 Penalties, offences and infringements

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

6.7 Serving of Infringement Notices

- a) If a person is observed committing an infringement offence by the Marina Supervisor, Harbourmaster or an Enforcement Officer, or the

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

Marina Supervisor, Harbourmaster or Enforcement Officer have reasonable cause to believe such an offence has been committed by that person, an infringement notice in respect of that offence may be served on that person.

- b) The Harbourmaster or Enforcement Officer may deliver the infringement notice (or a copy of it) to the person alleged to have committed the offence personally or by post, addressed to that person's last known place of residence or business.

6.8 General Defence

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

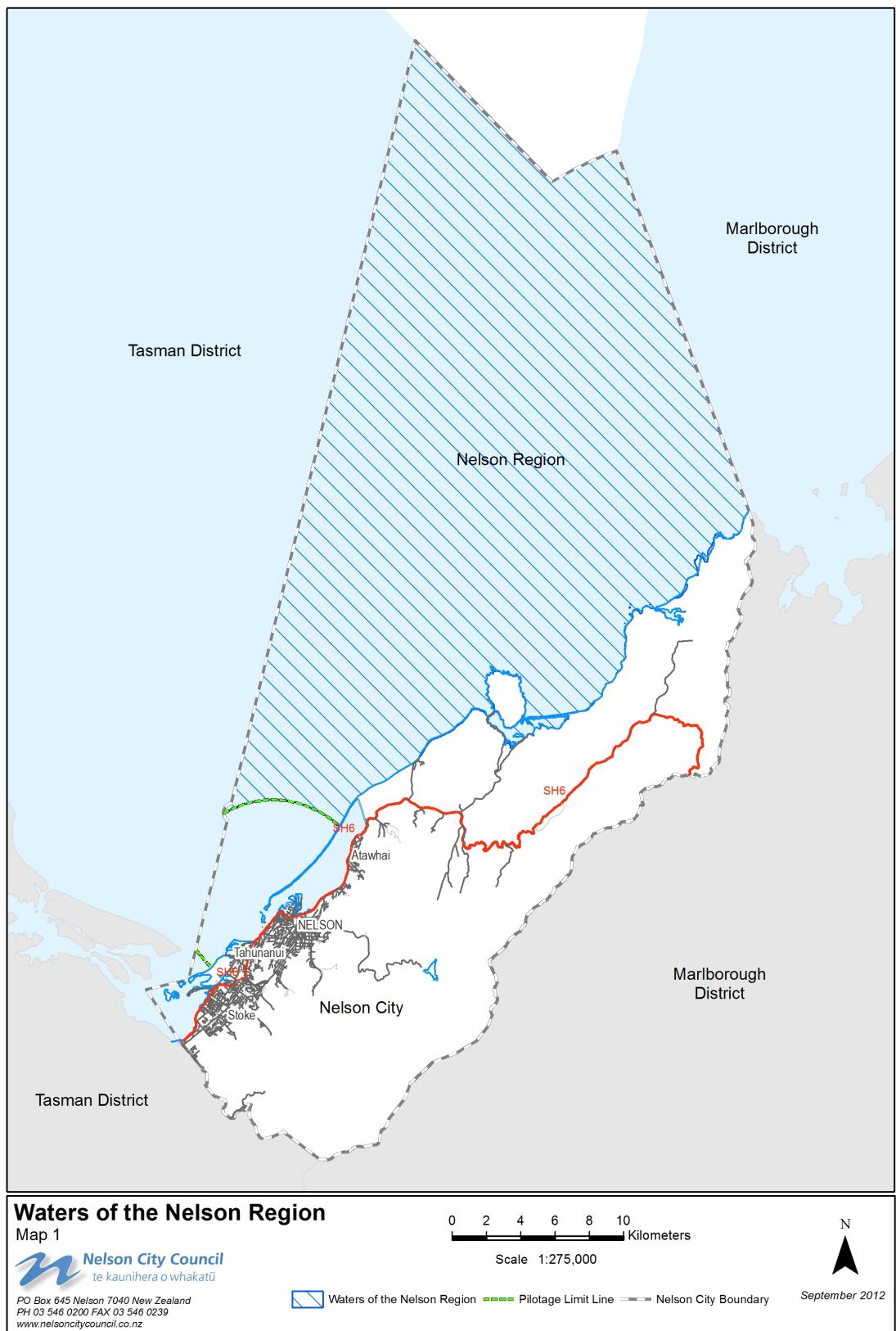
6.9 Appointment of Harbourmaster, Enforcement Officers, Marina Supervisor and Navigation Safety Officer

- a) The Council may appoint a Harbourmaster for the purpose of enforcing the provisions of this Bylaw.
- b) The Council may appoint a Deputy to the Harbourmaster or an enforcement officer for the purpose of enforcing the provisions of this Bylaw.

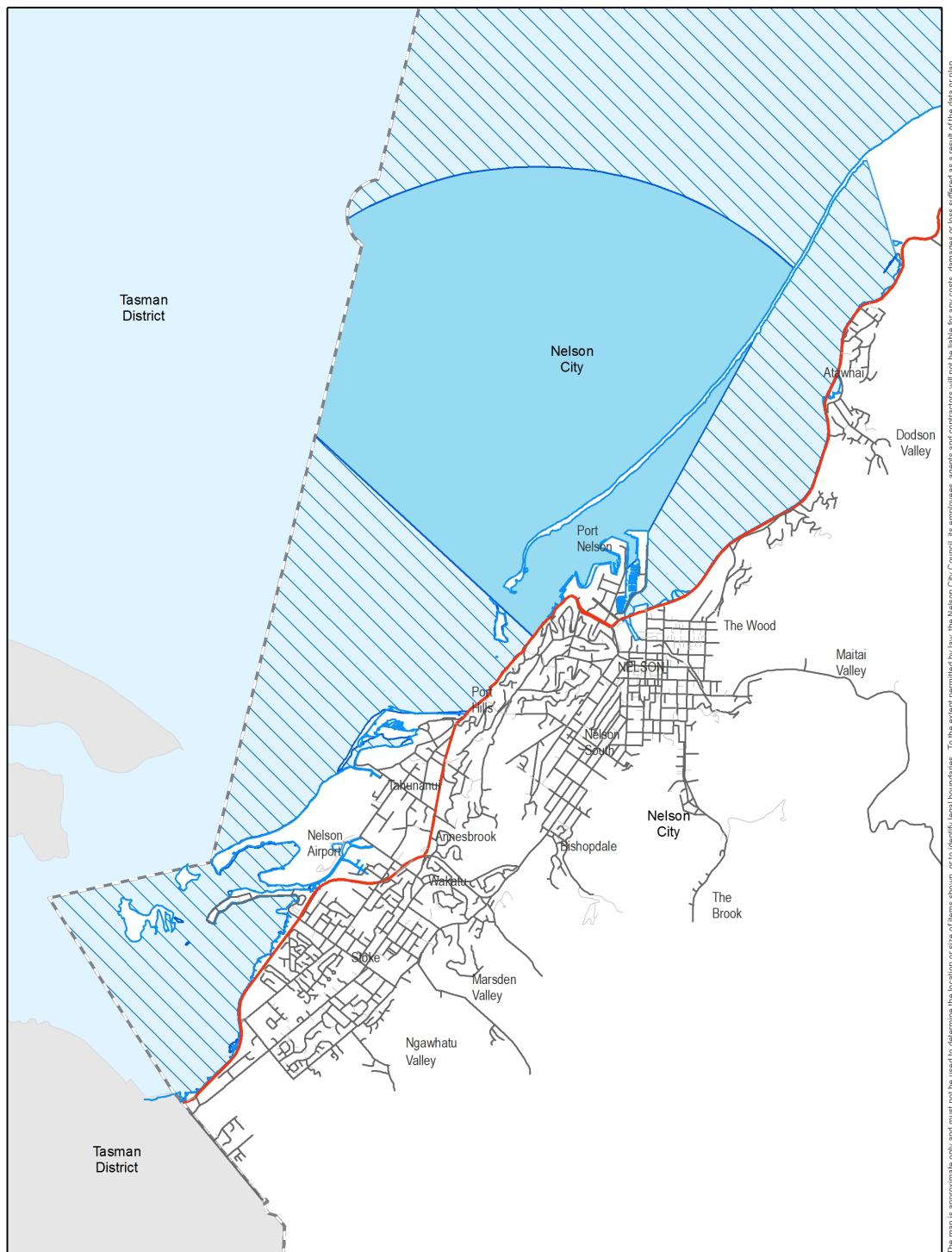
- c) The Council may appoint an Enforcement Officer for the purpose of this Bylaw.
- d) The Council may appoint an officer or entity as Marina Supervisor for the purpose of enforcing this bylaw where it relates to management of the Marina.
- e) The Council may appoint a Navigation Safety Officer to assist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

7. Maps

MAP 1 WATERS WITHIN THE NELSON REGION

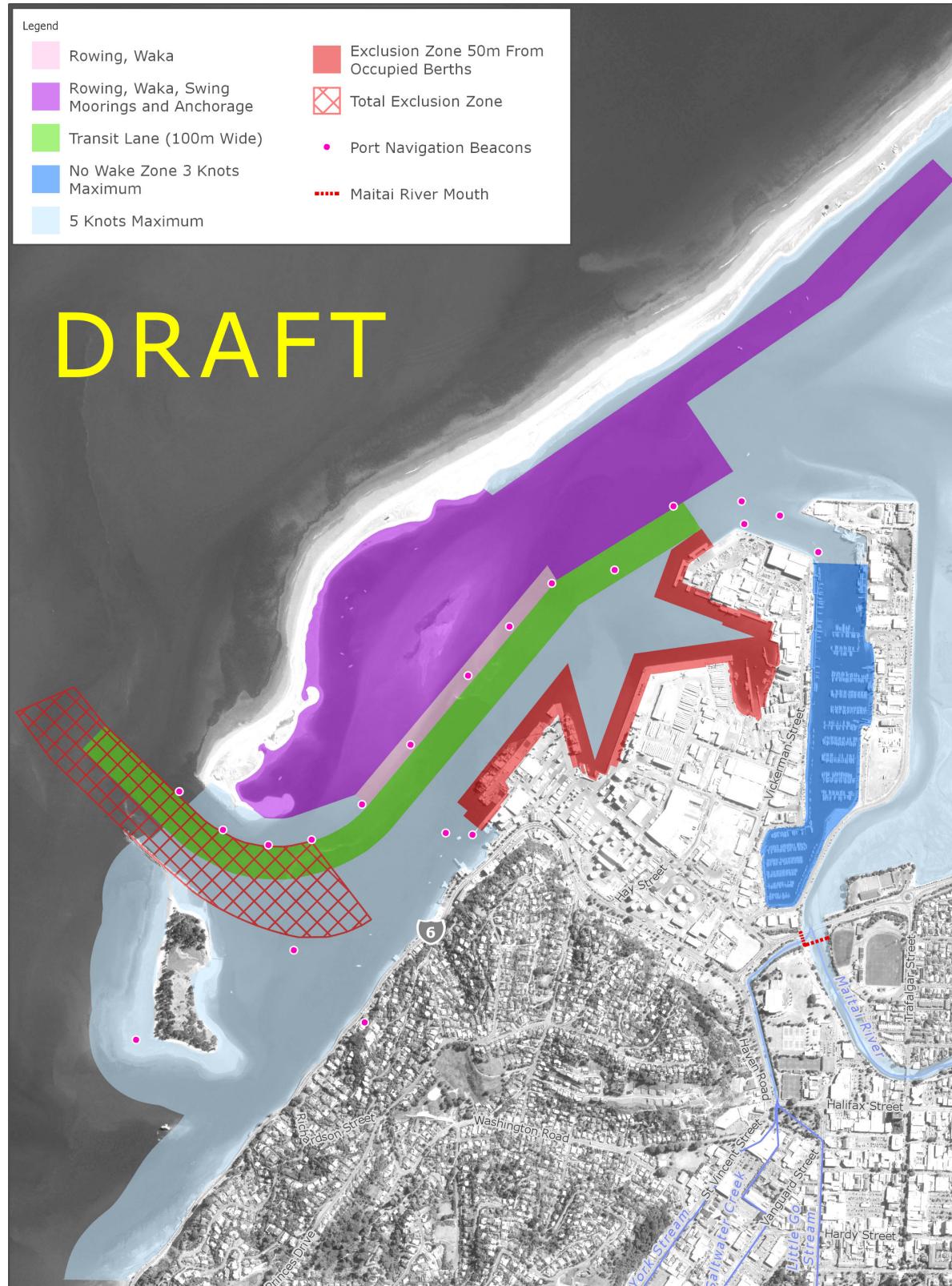


MAP 2 WATERS WITHIN THE NELSON HARBOUR



The map is approximate only and must not be used to determine the location or size of items shown or to identify legal boundaries. To the extent permitted by law, the Nelson City Council, its employees, agents and contractors will not be liable for any costs, damages or loss suffered as a result of the data or plan, and no warranty of any kind is given as to the accuracy or completeness of the information represented by the GIS data. This publication is copyright reserved by the Nelson City Council. Original map size A4. File Ref: 137/27.

MAP 3 NELSON HARBOUR PRIORITY ACTIVITY AREAS



Nelson Harbour Priority Areas

Map 3



PO Box 645 Nelson 7040 New Zealand PH 03 5460200 nelson.govt.nz

0 100 200 300 400 m

Scale 1:16,000



May 2019

MAP 4 NELSON MARINA



Nelson Marina

Map 4



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Marina Area - No
Wake Zone 3 Knots
Maximum

5 Knots Maximum

Repair Grid

----- Maitai River Mouth

Port Navigation
Beacons

0 50 100 150 200 m

Scale 1:8,000

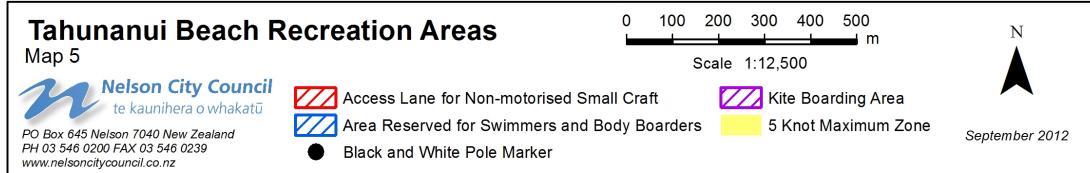


May 2019

MAP 5 TAHUNANUI BEACH RECREATION AREAS



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MAP 6 MONACO ACTIVITY AREAS



Monaco Activity Areas

Map 6



Area reserved for Skiing/Jet
Skis

— NCC Boundary

0 100 200 300 400 m

Scale 1:10,000



May 2019

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MAP 7 CRUISE SHIP ANCHORING AREA



Cruise Ship Anchoring Area



 Cruise Ship Anchoring

0 250 500 750 m
Scale 1:20,000



May 2019

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APPENDIX 1 PENALTIES, OFFENCES AND INFRINGEMENTS

Bylaw Number	Clause	Offence Description	Fine
	2.1	Failing to follow reporting procedures	\$500
	2.2b), c), d), e)	Failing to act appropriately in specified zone	\$100
	2.2f)	Operating motorised craft within Tahunanui exclusion zone	\$100
	2.3	Failing to comply with operating requirements of zones	\$200
	2.4	Failing to comply with operating requirements of lane	\$200
	2.5	Failing to stay clear of exclusion zone	\$100
	2.6a), b)	Placing an obstruction likely to restrict navigation or cause damage to vessels or property, or injury or death to any person	\$100
	2.6c)	Impeding navigation of vessel greater than 500gross tonnage	\$200
	2.7a)	Failing to provide sufficient accessible personal flotation devices	\$100
	2.7b)	Failing to ensure any person being towed wears an appropriate personal floatation device, or failing to wear an appropriate personal floatation device while being towed	\$100
	2.7d), e)	Failing to ensure persons on board vessels wear personal floatation devices in accordance with requirements	\$100
	2.8	Owner of a power-driven vessel capable of a proper speed exceeding 10 knots allowing a person under the age of 15 years to be in charge of, operate, or navigate that vessel	\$100
	2.9a) i)	Operating or navigating a vessel at a speed exceeding 5 knots within 50 metres of another vessel, floating structure, or	\$200

		person in the water	
	2.9a) ii)	Operating or navigating a vessel at a speed exceeding 5 knots within 200 metres of the shore or of any structure	\$200
	2.9a) iii)	Operating or navigating a vessel at a speed exceeding 5 knots within 200 metres of a vessel or floating structure flying flag A (diver's flag)	\$200
	2.9a) iv)	Operating or navigating a vessel at a speed exceeding 5 knots within 200 metres of any area set aside or zoned	\$200
	2.9a) vi)	Operating or navigating a vessel at a speed exceeding 5 knots within any zone set aside as a 5 knot zone or as a swimming area	\$200
	2.9b)	Operating or navigating a vessel at a speed exceeding 3 knots within any marina	\$100
	2.9c)	Operating or navigating a vessel at a speed exceeding 5 knots while any person has a portion of his or her body extending from vessel	\$200
	2.9d)	Allowing oneself to be towed by a vessel at a speed exceeding 5 knots	\$200
	2.9e)	Failing to recover any object dropped by any person being towed	\$100
	2.10	Operating a vessel creating damaging wake or wash	\$100
	2.11a)	Towing a water skier or person in breach of requirements	\$100
	2.11b)	Allowing oneself to be towed by a vessel in breach of requirements	\$100
	2.12a)	Towing a water skier or person in breach of requirements	\$200
	2.12b)	Allowing oneself to be towed by a vessel in breach of requirements	\$200

	2.13a), b)	Failing to manoeuvre a vessel, or allowing oneself to be towed by a vessel, in an access lane other than by the most direct route through and on the starboard side of the access lane	\$100
	2.13c), d)	Obstructing, or creating danger to, persons or vessels making legitimate use of the access lane	\$100
	2.13e)	Undertaking an activity in an access lane other than the priority activity while the priority activity is taking place	\$100
	2.14b)	Obstructing persons or vessels making legitimate use of a reserved area	\$100
	2.14c)	Undertaking an activity in a reserved area other than the priority activity while the priority activity is taking place	\$100
	2.15	Anchoring or mooring a vessel in a prohibited anchorage	\$100
	2.16a)	Tying a vessel to a navigation aid without written permission from the Harbourmaster	\$100
	2.16b)	Damaging, removing, interfering or defacing navigation aids	\$100
	2.16c)	Erecting, displaying or maintaining any beacon, buoy or other device without written permission	\$100
	2.17	Failing to stay 200m clear of oil tanker or any other vessel showing flag B or an all-round red light	\$200
	2.18	Failing to comply with river safety rules	\$100
	2.20a)	Failing to display flag B during day and an all-round red light at night (explosive cargo)	\$500
	2.20b) i)	Being master of a vessel from which dive operations are in progress and not clearly	\$200

		displaying flag A	
	2.20b) ii)	Diving from a vessel without clearly displaying flag A	\$200
	2.21	Sounding whistle, siren or horn in breach of requirements	\$100
	2.22	Using distress signals improperly	\$100
	2.23a)	Impeding a seaplane from taking off or landing	\$200
	2.23b)	Operating a seaplane within the harbour without permission	\$200
	2.24	operating without authorisation for hire or reward a vessel in breach of requirements	\$500
	2.25a)	Failing to carry appropriate navigation aids	\$100
	2.25b)	Failing to use and display visibility aids	\$100
	2.26	Failing to identify vessel with appropriate markings	\$100
	3.1d)	Allowing use of a mooring by unauthorised vessel	\$100
	3.1g)	Anchoring a vessel so that it obstructs a mooring	\$100
	3.5b), c)	Unauthorised use, occupation, transfer, sublet or disposal of berth	\$200
	3.5e)	Failure to comply with terms of licence	\$200
	3.6a)	Occupying visiting vessel berth without authorisation	\$100
	3.6b)	Anchoring or mooring in prohibited anchorage area	\$100
	3.7	Tying up vessel to a berthed vessel in marina	\$100
	3.8	Use of marina berth by a commercial vessel without authorisation	\$200
	3.10	Failing to securely fasten vessel and to ensure safe and adequate means of access	\$100
	3.11a)	Failing to maintain a vessel in seaworthy condition	\$200

	3.12	Altering or modifying berth without authorisation	\$500
	3.13	Failing to make good any damage to mooring or berth	\$200
	3.14	Fishing in marina in contravention of direction by Marina Supervisor	\$50
	3.15	Operating propulsion system in breach of requirements	\$100
	3.16	Creating excessive noise or public nuisance	\$100
	3.18a)	Failing to maintain a safe marina environment	\$100
	3.18b)	Bringing or keeping dangerous or inflammable goods in breach of requirements	\$200
	3.18c)	Failing to obtain approvals for repairs, alterations or work on or to vessel	\$100
	3.18d)	Failing to ensure safe means of work and proper disposal of rubbish	\$100
	3.19	Unauthorised use of repair grid or use in breach of requirements	\$100
	3.20a)	Landing or leaving goods on a marina landing stage without permission of Marina Supervisor	\$50
	3.20b)	Using water supply improperly	\$100
	3.21b)	Failing to pay charges and fees for using any boat ramp, and failing to prominently display proof of payment on boat or towing vehicle	\$100
	3.22	Swimming or diving within 50m of nominated structures without written consent of Harbourmaster or Marina Supervisor	\$50
	4.1a), b), c)	Failing to obtain hot work permit from Harbourmaster	\$500
	4.1e)	Failing to secure Harbourmaster's agreement that pre-condition requirements of a hot work permit are met in full	\$500

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

- a) Every person who breaches any of the provisions in Part 2 (Operation of Vessels) of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- b) Every person who breaches any of the provisions in Part 3 (Moorings, Berths, Marina and other Structures) or Part 6 (General) of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$500:
- c) Every person who breaches any provision in Part 4 (Commercial Operations) of this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- d) Every person who breaches any provision of this Bylaw for which no penalty is provided for elsewhere in this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$500.



Submission Form

Proposed changes to the Nelson City Council Navigation Safety Bylaw

Name:

Organisation represented: (if applicable).....

Address:

Email: **Tel:**

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

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

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

Submission comments:

Please attach additional sheets if needed.

Submissions can be made:

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