

amendments to the navigation safety bylaw 2007

Introduction

A Statement of Proposal and the special consultative procedure is required pursuant to sections 83, 86 and 156 of the Local Government Act 2002 in order that any clauses of the **Navigation Safety Bylaw 2007**, adopted on 19 September 2007, may be amended and the Bylaw re-adopted.

Section 156 of the Act requires that a bylaw or an amendment to an existing bylaw be made pursuant to the special consultative procedure set out in section 83. That section requires both a Statement of Proposal, and a summary of the information to be prepared, with the summary to be circulated widely and publicly notified. The full Statement of Proposal must be available for public inspection at all offices of the Council during the submission period.

Section 86 requires that a draft of the full bylaw to be amended be included in the Statement of Proposal, setting out the reasons for the proposal and whether a bylaw is an appropriate mechanism pursuant to section 155.

Reason for the proposal

The amendment to the existing Navigation Bylaw 2007 is required:

1. To enable Council to grant or renew mooring licenses for moorings whether they have a resource consent granted (or deemed granted) under the Resource Management Act 1991 (RMA) or not;
2. To enable control and management of navigation and safety matters not specifically provided for in the current bylaw.

Granting and Renewal of Mooring Licenses

It is proposed to remove the link between clause 3.16 (Moorings) of the Navigation Safety Bylaw 2007 (the Bylaw) and the requirement to gain a resource consent for a mooring (as provided in Plan Change 1 (Moorings and Marinas) of the Regional Coastal Plan for Northland). This will be done by removing reference to the Regional Coastal Plan from the Bylaw, allowing each to act independently and removing a circular situation – the chicken and egg situation - described below.

Existing moorings located within high priority mooring areas are now no longer classified as a permitted activity and require a resource consent. Council has allowed the existing moorings to remain without a resource consent because the Council has made a decision (since the adoption of the Bylaw in 2007) to not develop Mooring Management Plans under the Regional Coastal Plan and will now need to put in place new rules to cover moorings within these areas. Currently the Regional Coastal Plan requires a mooring to be licensed under the Bylaw before a resource consent can be granted, and the Bylaw requires the mooring to first have a resource consent before a licence can be granted under the Bylaw. The proposed amendment to the Bylaw will allow mooring licenses (under the Bylaw) to be granted to moorings that do not hold resource consents (under the RMA).

Navigation Safety Matters

It is proposed to include clause 3.16.10 to enable the Council to cancel the mooring licence, remove the mooring and dispose of it and to recover actual and reasonable costs incurred from the mooring owner for moorings that do not have current inspection certificates.

It is proposed to include clause 3.16.11 to enable the Harbourmaster to remove any vessel that has broken free from or drags its mooring, at the owner's risk and for the Council to recover from the owner of the vessel or mooring, all costs associated with such recovery, removal and subsequent storage.

It is proposed to amend clause 3.16.13 to enable cost recovery for action taken to be recovered from the mooring owner, or from the sale of the mooring in the event the mooring owner fails to notify the Council of their change of contact details within 60 calendar days of a change in the contact details.

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The NORTHLAND REGIONAL COUNCIL under and in exercise of the powers conferred upon it by sections 650A-H, 650J-K and 684B of the Local Government Act 1974 as inserted by section 6(1) and 7 of the Local Government Amendment Act (No. 2) 1999 and Schedule 18 of the Local Government Act 2002 and all other Acts, amendment Acts and powers vested in it, **hereby makes and passes** the following bylaw amendment to Clause 3.16 – Moorings of the Navigation Safety Bylaw 2007:

3.16 Moorings

~~Subject to the provisions of the Regional Coastal Plan for Northland:~~

- 3.16.1 No person may place (or have in place) a mooring in any waters, unless a **mooring licence has been**, issued by ~~in accordance with subclauses 3.16.3, 3.16.4 and 3.16.5 of this bylaw, has been obtained from~~ the Council.
- 3.16.2 The Harbourmaster may remove, or cause to be removed, any mooring, which is either unauthorised under the Resource Management Act 1991 or ~~is if the mooring is a permitted activity by a rule in the Regional Coastal Plan,~~ unlicensed pursuant to the provisions of this bylaw, and detain the vessel using the mooring, until such fees and charges, including the cost of removing the mooring and storing the vessel, have been fully paid and discharged. Should such debts have not been paid and discharged within a further 60 days, the Council has the right to sell the mooring and/or vessel to recover the debt.
- 3.16.3 ~~Subject to subclause 3.16.6,~~ The Council may, ~~on an application made pursuant to this bylaw,~~ either issue or decline to issue a mooring licence for a mooring ~~including an application to transfer a mooring licence~~ to which subclause 3.16.4 ~~9~~ applies.
- ~~3.16.4 Every application for a mooring licence made pursuant to subclause 3.16.3 shall be in writing (on the prescribed form). The application must contain sufficient information to enable the Council to determine whether a mooring licence should be granted. Such information should include, but is not limited to:~~
- ~~(a) the precise location of the mooring;~~
 - ~~(b) the size and type of any vessel which may be attached to the mooring;~~
 - ~~(c) the design and specifications of the mooring.~~
- 3.16.45 ~~When granting a mooring licence,~~ The Council may, at its discretion, impose terms and conditions on the licence. The conditions of any mooring licence issued by the Council may include, but are not limited to:
- (a) the ~~precise~~ location of the mooring;
 - (b) the size and type of any vessel which may be attached to the mooring;
 - (c) the design and specifications of the mooring;
 - (d) a requirement for maintenance and inspections of the mooring, this will not exceed a period of three years.
 - (e) the type of buoy or float with which the owner of a mooring must mark the location of the mooring when it is not being used by a vessel. The mooring buoy must be a bright colour, preferably orange, pink or yellow, and if hollow must be filled with polystyrene beads or foam. The mooring number must be engraved on top in lettering not less than 30mm high;
 - (f) a requirement that the owner of the mooring shall be liable in any event for the position, insufficiency or insecurity of any licensed mooring;
 - ~~(g) the fee for any application for a mooring licence applied for in accordance with subclauses 3.16.3 and 3.16.4 of this bylaw. Such a fee will be prescribed pursuant to the Section 150 of the Local Government Act as set out in the Council's Charging Policy as amended from time to time;~~
 - ~~(h) the annual licence fee is to be paid in terms of bylaw clause 5.4 herein pursuant to the Council's Navigation, Water Transport and Maritime Safety Bylaw Charges and its Charging Policy as amended from time to time.~~
- 3.16.6 The Council shall not grant, or renew, any licence for a mooring unless the Council is satisfied that:
- ~~(a) there is adequate space and suitable water depth for the proposed mooring; and~~
 - ~~(b) the mooring is of adequate design and specification to accommodate the proposed vessel to be moored;~~
 - ~~(c) the mooring is authorised by all relevant resource consents required under the Regional Coastal Plan for Northland and/or Plan Change to the Regional Coastal Plan, or the mooring is a permitted activity described in the Regional Coastal Plan for Northland.~~

- 3.16.57 Every mooring licence issued by the Council shall apply only to the licensee. The licence is to be held by the licensee subject to the following additional terms and conditions:
- (a) ~~Except as provided for in subclause 3.16.6,~~ The licence shall be issued annually upon full payment of an annual mooring fee charged pursuant to the Council's Navigation, Water Transport and Maritime Safety Bylaw Charges and its Charging Policy as amended from time to time.
 - (b) The licence shall apply from 1 July to the following 30 June each year.
 - (c) ~~This licence must be read in conjunction with the standards and terms of any permitted activity rule in the Regional Coastal Plan concerning moorings, or the terms and conditions of any coastal permit for the mooring issued to the licensee pursuant to the Resource Management Act 1991.~~
- ~~3.16.8~~ (c) ~~Except as provided for in subclause 3.16.6,~~ Payment of the annual mooring licence fee and acceptance thereof by the Council shall constitute a renewal of the licence. ~~and the above terms and conditions shall apply to such renewal. The licence for the renewed period shall be issued following receipt of the licence fee.~~
- 3.16.6 The Council may at any time after giving due written notice, cancel a mooring licence where the licensee fails to comply with the terms and conditions of the mooring licence or any other clause under this section of the bylaw. There will be no refund if a mooring licence is cancelled. Where a mooring licence has been cancelled, the Harbourmaster may request the mooring owner remove the mooring to which that licence refers. The mooring owner shall remove the mooring within the timeframe specified by the Harbourmaster. Where the mooring owner fails to remove the mooring in the specified timeframe, the Harbourmaster may direct that the mooring and any vessel occupying the mooring be removed and the Council may recover the costs from the licensee or from the sale of the mooring and/or vessel.
- 3.16.97 Should any annual mooring licence fee(s) or other charges due to the Council under the provision of this bylaw remain unpaid for a period of 60 days, then the Harbourmaster may remove, or cause to be removed, the mooring and detain the vessel using the mooring, until such fee(s) and charge(s), including the cost of removing the mooring and storing the vessel, have been fully paid and discharged. Should such debts have not been paid and discharged within a further 60 days, the Council ~~has the right to sell~~ may sell or dispose of the mooring and/or vessel ~~the mooring and/or vessel~~ to recover the debt.
- 3.16.408 The licensee shall not transfer or part with the licence without first completing and submitting a transfer of the mooring ~~ownership~~ licence form with the Northland Regional Council for registration of the transfer of ownership as provided by this bylaw. ~~and the Resource Management Act 1991.~~ All mooring licence fees, including the transfer fee, must be paid and the mooring must have a current inspection certificate before the transfer of the mooring licence will be registered.
- 3.16.449 The mooring owner shall keep and maintain the mooring in a proper state of condition and repair. All components of the mooring must be inspected visually at least once every three years. The inspection must be performed by a Council approved mooring contractor or a Council approved construction diver. A mooring can be lifted, dragged ashore and maintained by the mooring owner, provided arrangements are made to have a Council representative inspect the mooring prior to its replacing. All costs in having the mooring inspected shall be paid for by the mooring owner.
- 3.16.10 Failure to comply with Clause 3.16.9 six months after the expiry of the current inspection certificate will mean that the mooring is unfit for purpose or use. As a result, the Council may cancel the mooring licence and the Harbourmaster may direct that the mooring be removed from the water and disposed of. Any vessel occupying the mooring may be detained until all fees and charges, including the cost of removing the mooring and storage of the vessel have been fully paid and discharged. If after 60 days following removal of the mooring the fees and charges remain unpaid, the Council may sell the vessel to recover the debt.
- 3.16.11 Where a vessel breaks free from or drags its mooring, or is endangering another vessel or causing or resulting in a navigational safety issue, or is sinking or has become unseaworthy, the Harbourmaster may remove that vessel at the owner's risk. All costs associated with such recovery, removal and subsequent storage are recoverable from the owner of the vessel or from the mooring owner. Where the vessel owner can not be found (after Council has made reasonable enquiries), the costs incurred by the Council for recovery, removal and subsequent storage of vessel may be recovered from the sale of the vessel, fittings and any equipment onboard.

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- 3.16.12 Every person commits an offence against this bylaw who moors a vessel to any mooring without the written approval of the licensed mooring owner. Should the vessel remain on the mooring for a period longer than ~~7 days~~ **a specific date stipulated by the Harbourmaster**, then the Harbourmaster may direct that the vessel be removed **from the mooring** and detained until such fees and charges including the cost of removing and storing the vessel have been fully paid and discharged. If such debts are not paid and discharged within a further 60 days, the Council has the right to sell the vessel to recover the debt.
- 3.16.13 If the mooring owner or their whereabouts is unknown, owing to their failure to notify the Council of their change of ~~address~~ **contact details within 60 days, in a reasonable time**, the Council may after a period of not less than 60 days sell the mooring ~~and/or vessel~~ **in situ (if it has a current mooring inspection certificate)**. **If the mooring does not have a current inspection certificate, the Harbourmaster may direct that the vessel be removed from the mooring and be detained until such fees and charges including the cost of removing and storing the vessel have been fully paid and discharged. If such debts are not paid and discharged within a further 60 days, the Council has the right to sell the vessel to recover the debt or dispose of the vessel as it sees fit.**
- 3.16.14 Every person commits an offence against this bylaw who secures or allows to be secured any vessel to any moored vessel in a manner that is liable to:
- (a) restrict navigation; or
 - (b) cause loss of life or injury to any person; or
 - (c) cause damage to any vessel or any property.
- 3.16.15 No owner of a licensed mooring may leave a mooring vacant for a period longer than six months without the prior written permission of the Harbourmaster.
- 3.16.16 Where the owner of a mooring has left the mooring vacant or unattended for a period of longer than six months without the prior written permission of the Harbourmaster, the Council may cancel the licence and the Harbourmaster may direct that the mooring be removed.
- 3.16.17 **The Harbourmaster has the right to inspect or require inspections of any mooring and on receipt of an unfavourable report can require the owner to upgrade or repair the mooring as considered appropriate.**
- 3.16.18 The Harbourmaster may from time to time ~~approve~~ **authorise, in writing**, a person(s) to lift and inspect moorings ~~on behalf of the Council~~. The person(s) shall be known as **Council approved mooring contractors**. **Council approved mooring contractors are required** ~~are~~ to undergo an assessment by a Council officer every six months ~~and to ensure~~ certain standards ~~must be~~ **are met including, but not limited to, the quality of workmanship (including welds and splices), which deal with the safe operation and work practices, the workmanship of the authorised person(s) and the quality of materials used to construct and maintain moorings, and the safe operation of the vessel and associated safe work practices.**
- 3.16.19 The Council is not liable in any event for the position, insufficiency of, or insecurity of any designated mooring area.
- 3.16.20 The Council ~~is not responsible for any damage or loss that may arise to any vessel or other property caused by~~ shall exercise reasonable care, but shall have no liability for any damage caused by any action taken in accordance with the bylaw. In addition, the Council is not responsible for any damage or loss that may arise to any vessel or other property caused by:
- (a) any breaking away or defect of a mooring or any part of it; or
 - (b) the act of any person in causing damage to a mooring or any part of it, where the damage is caused by any vessel moored to such mooring; or
 - (c) the perils of the seas, or by navigation of any vessel, or any other cause.
- 3.16.21 **The Council may from time to time set mooring guidelines governing the weight, size and length of mooring components for vessels of a certain type, size and weight.**

These bylaws will be sealed, publicly notified pursuant to the Local Government Act 2002 and will be confirmed at a meeting of the Council on 21 June 2011. Following confirmation, the bylaws will come into force on 1 July 2011. These bylaws will continue to apply until superseded by a subsequent bylaw charge fixed by resolution and publicly notified or by the review required by Section 158 of the Local Government Act 2002.

Submissions on the proposed changes to this Bylaw are invited by 3.00pm, 6 May 2011 using the submission form on page 21 of this plan.

amendments to the navigation, water transport and maritime safety bylaw charges 2010

Introduction

A Statement of Proposal and the special consultative procedure is required pursuant to Sections 83, 86 and 156 of the Local Government Act 2002 in order that any clauses of the **Navigation, Water Transport and Maritime Safety Bylaw Charges 2010**, adopted in June 2010, may be amended and the Bylaw Charges re-adopted.

Section 156 of the Act requires that a bylaw or an amendment to an existing bylaw be made pursuant to the special consultative procedure set out in Section 83. That section requires both a Statement of Proposal, and a summary of the information to be prepared, with the summary to be circulated widely and publicly notified. The full Statement of Proposal must be available for public inspection at all offices of the Council during the submission period.

Section 86 requires that a draft of the full bylaw to be amended be included in the Statement of Proposal, setting out the reasons for the proposal and whether a bylaw is an appropriate mechanism pursuant to Section 155.

Reasons for the proposal

Section 2: amending the definitions of 'maritime facility' and 'mooring'.

Section 3(1): amending the fee category to cover every mooring, jetty, jetty berth, boatshed, boat ramp, minor structure, group of piles with 74 berths or less owned by one organisation. This was previously set at 24 berths or less and has been amended as there are no groups of piles with less than 24 berths owned by the same organisation.

Section 3(1) – (11): Navigation Safety Bylaw fees have increased between 10-20%. In most cases this means these fees will increase by about \$10. This is to more accurately reflect the time required to proactively manage problems and issues associated with moorings and due to the costs relating to the providing, improving and maintaining of navigation aids.

Removal of fees set out in clause 3(12)(a) – (o) of the 2010 bylaw. The fees have been removed as these functions are not undertaken by council.

Section 7(a): to encourage more superyachts to visit the Bay of Islands, the fee tier structure for pilotage fees inwards/outwards to wharf, Ōpua and to anchor in the Bay of Islands is amended to increase the number of smaller ships that will fall in the lower fee category. The minimum fee now applies to ships greater than 500 up to GRT 3000, whereas previously this was up to GRT1000.

Section 9: this section was amended to remove process covered in Navigation Safety Bylaw 2007.

This bylaw amendment is made pursuant to the bylaw provisions of the Local Government Act for setting fees and charges as mandated by Section 684B(h)(i)-(iii) of the Local Government Act 1974 (Part 39A Navigation), saved in Schedule 18 of the Local Government Act 2002. It is the most cost effective way of recovering the costs arising from the regulation of recreational maritime activities and commercial shipping as appropriate.

The Bylaw is as follows:

Navigation, Water Transport and Maritime Safety Bylaw Charges 2011

These bylaws shall be known as the Northland Regional Council **Navigation, Water Transport and Maritime Safety Bylaw Charges 2011**:

1. These bylaws shall apply throughout the region of the Council.
2. In these bylaws, unless the context otherwise requires:
 - “**Maritime facility**” means any jetty, jetty berth, wharf, ramp, slipway, boatshed, marina berth, pontoon or, whether private, commercial or a recreational public facility, that is located within the coastal marine area of the Northland.
 - “**Mooring**” means any swing or pile mooring whether private, commercial or recreational mooring that is located within the coastal marine area of the Northland.
 - “**Owner**” includes:
 - (a) in relation to a vessel, the agent of the owner and also a charterer; or
 - (b) in relation to any dock, wharf, quay, slipway or other maritime facility, means the owner, manager, occupier or lessee of the dock, wharf, quay, slipway or other maritime facility.

navigation, water transport and maritime safety bylaw charges 2010 continued

3. Navigation Safety Bylaw Fees

For the period specified hereunder and for each year thereafter until amended or superseded by a subsequent bylaw charge, the owner of every maritime facility or mooring in the region shall pay to the Council an annual navigation fee fixed herein.

- (a) The navigation safety bylaw fee shall be payable on the number of berths available at the maritime facility, whether or not all berths are used. The Council's Harbourmaster shall determine the number of berths available at any maritime facility.

	GST Exclusive
(b) (1) For every mooring, jetty, jetty berth, boatshed, boat ramp, minor structure, and any group of piles with 74 berths or less owned by one organisation.	\$60.00
(2) For every berth holder not otherwise included herein a fee for the recovery of the cost of the navigation safety equipment in the upper Hātea river, per berth.	\$60.00
(3) (a) For every berth in a marina containing more than 75 berths, provided that if the fee is not paid within 60 days of invoice, the fee shall revert to \$60.00 per berth.	\$50.00
(b) For every berth in marinas containing 24 or more, but less than 75 berths, provided that if the fee is not paid within 60 days of invoice, the fee shall revert to \$60.00 per berth.	\$56.00
(4) Boatsheds, per additional berth.	\$60.00
(5) Community and boating club structures, jetties and private accommodation in the coastal marine area.	\$60.00
(6) Marine farms.	\$60.00
(7) High use structures and jetties, marine-related, not more than 300 m ² in plan area within the coastal marine area.	\$330.00
(8) High use commercial slipways with a maximum capacity of less than 50 tonnes.	\$330.00
(9) High use structures and jetties, marine-related and more than 300m ² but less than 1,000m ² in plan area within the coastal marine area.	\$1,430.00
(10) High use structures and jetties, marine-related and more than 1,000m ² in plan area within the coastal marine area.	\$2,530.00
(11) High use commercial slipways with a maximum capacity of more than 50 tonnes.	\$2,530.00
(12) Pursuant to the provisions of Navigation Safety Bylaw clause 3(1)(6), should any mooring licence fees or other charges due to the Council under the provision of this bylaw remain unpaid for a period of 60 days, then the Harbourmaster may remove, or clause to be removed, the mooring and detain the vessel using the mooring, until such fees and charges, including the cost of removing the mooring and storing the vessel, have been fully paid and discharged. Should such debts have not been paid and discharged within a further 60 days, the Council has the right to sell the mooring and/or vessel to recover the debt.	

4. Hot Work Permits

For vessels alongside wharves or at anchor, per permit \$70.00

5. Safe Operating Licences

For all Northland harbours, unpowered craft not subject to a maritime rule and available for lease or hire, including: dinghies, kayaks, canoes, aqua-cycles, surf cats or similar commercially available craft, an inspection fee to verify the adequacy of procedures and safety equipment, up to one hour. \$70.00

Where inspection time exceeds one hour, the charge shall be at the rate of \$70.00 per hour plus vehicle running costs at the rates approved from time to time by the Inland Revenue Department.

6. Jet Ski Registration Fees

As resolved and prescribed by the Auckland Council which undertakes this function on behalf of the Northland Regional Council under delegated authority.

7.	(a) Pilotage	GST Exclusive
	(i) Inwards/outwards to wharf, Ōpua – per visit	
	Where GRT is greater than 500 but less than 3000	\$1,500.00
	Where GRT is greater than 3000 but less than 18000	\$2,900.00
	(ii) Ships to anchor in Bay of Islands – per visit	
	Where GRT is greater than 500 but less than 3000	\$1,500.00
	Where GRT is greater than 3000 but less than 18000	\$2,900.00
	Where GRT is greater than 18000 but less than 40000	\$3,400.00
	Where GRT is greater than 40000 but less than 100000	\$3,800.00
	Where GRT is greater than 100000	\$4,200.00
	(b) Shipping – Navigation and Safety Services Fee	
	Per Ship visiting the Bay of Islands regardless of which pilotage organisation or company actually services the vessel	
	Where GRT is less than 3000	\$1.00/GRT
	Where GRT is greater than 3000 but less than 18000	\$2,900.00
	Where GRT is greater than 18000 but less than 40000	\$3,200.00
	Where GRT is greater than 40000 but less than 100000	\$3,500.00
	Where GRT is greater than 100000	\$4,000.00
	(c) Shipping – Navigation and Safety Services Fee	
	Per Ship visiting the Bay of Islands when the Master is exempt from compulsory pilotage	
	Up to 3000 GRT	\$1.00/GRT
	Per ship visiting the Bay of Islands when the vessel's GRT is more than 100 and less than 500	
	From 100 to 500 GRT	\$1.00/GRT
	(d) Shipping – Navigation and Safety Services Fee	
	Per ship visiting Whangaroa Harbour except when the ship is also visiting the Bay of Islands during the same voyage	\$1,000.00
8.	Harbourmaster's Navigation Safety Services Fee	
	(a) North Port Ltd.	\$110,000.00
	(b) For water transport operators not serviced by a port company, at actual time and cost.	
	(c) Where the actual costs on a labour time and plant recovery basis exceed the annual fee, the Council will recover any balance on an actual cost basis.	
9.	Applications for Reserved Area for Special Event (clause 3.10 of the Navigation Safety Bylaw 2007)	
	(a) Special Event Processing Fee	\$140.00
	The Council shall recover from the applicant all actual and reasonable costs incurred in arranging for the publication of a public notice. These costs are additional to the above fee.	
10.	All navigation and other fees specified herein are exclusive of Goods and Services Tax.	
11.	These bylaw fees shall apply for the period 1 July 2011 to 30 June 2012 and will continue to apply until superseded by a subsequent bylaw charge fixed by resolution and publicly notified or by the review required by Section 158 of the Local Government Act 2002.	

These bylaws will be sealed, publicly notified pursuant to the Local Government Act 2002 and will be confirmed at a meeting of the Council on 21 June 2011. Following confirmation, the bylaws will come into force on 1 July 2011.

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