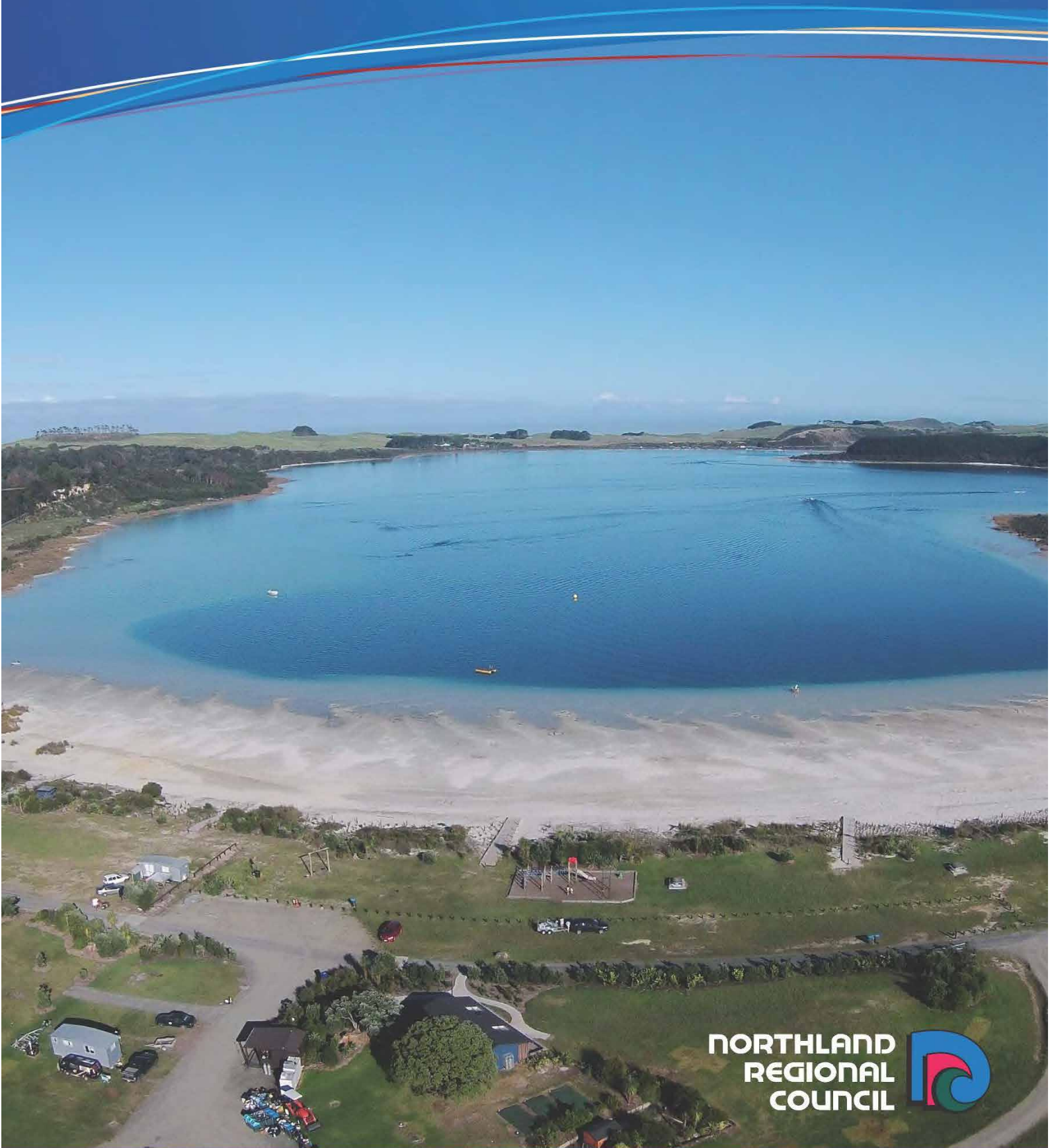


Statement of proposal and Draft Navigation Safety Bylaw for Kai Iwi Lakes



Contents

| | |
|-------------------------|----|
| STATEMENT OF PROPOSAL | 3 |
| Introduction | 3 |
| Legislative framework | 4 |
| Details of the proposal | 8 |
| Have your say | 11 |

| | |
|---|----|
| DRAFT NAVIGATION SAFETY BYLAW FOR KAI IWI LAKES | 12 |
| 1 Preliminary provisions | 13 |
| 2 Carriage and wearing of personal flotation devices on recreational vessel | 16 |
| 3 General navigation safety requirements | |
| 4 Activities | 17 |
| 5 Operating requirements | 19 |
| 6 Administrative matters | 21 |
| Schedule 1: Kai Iwi Lakes map | 21 |

Statement of proposal

Introduction

Taharoa Domain is a 538 hectare recreation reserve vested in Kaipara District Council. The Domain features three lakes: Lake Taharoa, Lake Kai Iwi and Lake Waikare (the Lakes). The Lakes are a popular destination for a range of recreational activities. The active recreational use of the Lakes is growing and anticipated to continue to grow, and this may create conflict with passive recreational users.

Northland Regional Council has developed a bylaw to help manage water-based activities on the Lakes. This Draft Navigation Safety Bylaw for Kai Iwi Lakes is intended to support and enable the Kai Iwi Lakes (Taharoa Domain) Reserve Management Plan, adopted by Kaipara District Council in September 2016.

It sets the rules for keeping people safe in and on the water.

The Kaipara District Council is considering how best to manage land-based activities.

Northland Regional Council is seeking submissions on its Draft Navigation Safety Bylaw for Kai Iwi Lakes, following an informal consultation process over summer to help refine where different activities might occur.

The full statement of proposal consists of this summary and a draft of the entire bylaw as well as a draft map that is based on the Reserves Management Plan (RMP) for the Kai Iwi Lakes (Taharoa Domain).

In 2013 the provisions enabling councils to make navigation safety bylaws were effectively moved from the Local Government Act (LGA) 1974 to the Maritime Transport Act 1994. This means that the Maritime Transport Act now provides for the regional council to make a bylaw, while the LGA sets out the process for doing so.

This statement of proposal forms part of the proposal to adopt a Navigation Safety Bylaw for Kai Iwi Lakes. It includes:

- An outline of the legislative framework under which the bylaw is reviewed;
- A determination of whether a bylaw is the most appropriate way of addressing the management of coastal waters in Northland (determinations under Section 155 of the Local Government Act 2002);
- A summary of proposed inclusions;
- Information on the bylaw making process; and
- Information on how to provide feedback.

Legislative framework

Making a new bylaw

National maritime rules are set by Maritime New Zealand. The Maritime Transport Act 1994 enables regional councils to make bylaws to provide for local conditions. Section 33M of the Act sets out that regional councils may make these bylaws for the purpose of ensuring maritime safety in their region, including to:

- a. regulate and control the use or management of ships;*
- b. regulate the placing and maintenance of moorings and maritime facilities;*
- c. prevent nuisances arising from the use of ships and seaplanes;*
- d. prevent nuisances arising from the actions of persons and things on or in the water;*
- e. reserve the use of any waters for specified persons, ships, or seaplanes;*
- f. regulate boat races, swimming races, or similar events:*
 - i. prohibit or regulate the use of ships;*
 - ii. regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas;*
- g. regulate and control the use of anchorages;*
- h. prescribe ship traffic separation and management schemes;*
- i. specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft;*
- j. require the marking and identification of personal water craft.*

Navigation bylaws must not be inconsistent with the Maritime Transport Act 1994, maritime rules, the Resource Management Act 1991, or the Northland Regional Council and Far North District Council Vesting and Empowering Act 1992.

The making of bylaws is also directed by Section 155 of the Local Government Act 2002, which requires that:

A local authority must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem.

Once this has been determined, the council must then determine whether the draft bylaw is the most appropriate form of a bylaw.

In addition, Section 155(3) of the Local Government Act 2002 states that:

No bylaw may be made that is inconsistent with the New Zealand Bill of Rights Act 1990, notwithstanding section 4 of that Act.

Section 155 of the Local Government Act 2002 also sets out the consultation process for the making of a bylaw, along with Sections 156 and 157, which set out the process for ensuring that those who may have an interest in the bylaw are made aware of the proposal and have an opportunity to have their say.

Section 156 of the Local Government Act requires that, when using the special consultative procedure to make, amend or revoke a bylaw, the statement of proposal must include:

- a. *as the case may be:*
 - i. *a draft of the bylaw as proposed to be made or amended; or*
 - ii. *a statement that the bylaw is to be revoked; and*
- b. *the reasons for the proposal; and*
- c. *a report on any relevant determinations by the local authority under section 155.*

Current situation

Regional councils are individually tasked with managing navigation safety for their region, as they have the local knowledge and experience to account for the unique regional variations in the environment, water conditions and weather. Councils need to ensure safety of all water users and reduce conflicts between different water-based activities in an area. Northland Regional Council's Long Term Plan 2015-2025 identifies 'Promoting navigation and boating safety on Northland harbours' as a level of service it provides.

The council currently manages this by way of a bylaw, as do many regional councils in New Zealand. The benefit of using a bylaw to set rules and manage activities on water is it enables the public to have their say on those rules and inform the discussion on what is appropriate and safe. It also allows infringement fees to be issued by the regional council for offences against the bylaw.

A current bylaw has served the region well; however, the existing Navigation Safety Bylaw does not include the Kai Iwi Lakes (Taharoa Domain), as it applies to the waters in estuaries, inlets, harbours and along the Northland coast between the following boundaries:

- a. the outer boundary being 12 nautical miles from the shore; and
- b. the inner boundary being a line of mean high water springs, except where the line crosses a river, in which case the inner boundary is deemed to be the landward boundary of the Coastal Marine Area as defined in the Regional Coastal Plan for Northland.

The council also undertakes an ongoing education programme to promote safe boating, which includes an annual safe boating campaign, production and distribution of a 'Boating in Northland' book, signs and other navigation aids around the region, and contributing to other boating safety campaigns.

What is the perceived problem?

Before commencing the process for making a bylaw, councils must undertake to determine whether a bylaw is the appropriate way of addressing the perceived problem. This is set out in Section 155 of

the Local Government Act 2002, which also states that if council determines that a proposed bylaw is the most appropriate way to address the issue, it must then consider if the proposal is the most appropriate form of bylaw, and whether it gives rise to any implications under the New Zealand Bill of Rights Act 1990.

In order to determine this, the perceived problems and how these problems could be addressed by a bylaw are set out below.

Safety

A key function of council is regulating and promoting the safety of people using the harbours and coastal areas of Northland. This includes ensuring that the right equipment is available and used for activities as required, that safe navigation practices are observed, and that commercial and recreational vessels are operated safely.

While council undertakes a robust education programme to promote safe boating, it is considered that an education programme alone is not sufficient to manage water safety, and that a bylaw provides appropriate safety measures and the ability for necessary levels of enforcement.

Management of mixed-use areas

The lakes are a popular destination for a range of recreational activities including sailing, water skiing, diving, swimming, waka ama, kayaks and board sports. This often results in the same areas being under demand by more than one group of users for activities that are not always compatible with each other.

The process of setting a bylaw, with its element of consultation, allows the users of the marine space to participate in the decision about what areas are appropriate for certain activities, and where any boundaries should lie. A bylaw also provides a simple and user-friendly way to set out in maps any areas where restrictions apply.

Vessel management

Central to the management of water safety is the appropriate management of the vessels that occupy the lakes.

There is also a need to ensure that all vessels are fit-for-purpose and easily identified. Unseaworthy or derelict boats pose a significant risk to the safety of any occupants on the vessel, as well as other people using the water. They also pose an environmental risk.

While the national maritime rules set out rules relating to vessel operations, a bylaw provides a way to manage any lake-specific elements of this and some aspects of the bylaw apply only to the Kai Iwi Lakes, and cannot be found in the maritime rules.

Why would a bylaw be an appropriate way of addressing navigation safety?

The council considers that a bylaw would be an appropriate way of addressing the perceived problems outlined above, for the following reasons:

- Such a bylaw supports and enables the Kai Iwi Lakes (Taharoa Domain) Reserve Management Plan, providing a consistent approach to managing navigation safety.
- The Local Government Act 2002 provides for the bylaw to be reviewed and updated every five years, setting in place the process for regularly ensuring that the bylaw is the best method of managing navigation safety. This process allows the community to be involved, ensuring that the resulting bylaw is the most appropriate for the communities it will serve.
- A bylaw enables areas to be managed in a way that provides for their specific conditions and the demands placed on them by users.
- Rules are set out in a bylaw supplement and can work alongside the national rules, providing for lake-specific considerations. They do not negate any national rule, providing the best of both worlds.
- While public education campaigns are an effective way to address elements of maritime safety in the region, this alone is not considered sufficient. A bylaw provides a legal mechanism to set and enforce rules through infringement notices.

Are there any other ways of addressing the perceived problem?

The alternative to adopting a new Navigation Safety Bylaw is to rely on the national maritime rules and the guidance set out in the Maritime Transport Act 1994. However, this would not provide for the lake-specific issues identified in this statement of proposal.

Is the draft bylaw the most appropriate form of bylaw?

The draft bylaw is consistent with the approach taken nationally for regulating regional matters of maritime safety.

Are there any implications under the New Zealand Bill of Rights Act 1990?

The draft bylaw is not considered to be inconsistent with the New Zealand Bill of Rights Act 1990.

Making this new bylaw

National maritime rules are set by Maritime New Zealand. The Maritime Transport Act 1994 enables regional authorities to make bylaws to provide for local conditions. Section 33M of the Act sets out that regional councils may make these bylaws for the purpose of ensuring maritime safety in their region.

Navigation bylaws must not be inconsistent with the Maritime Transport Act 1994, maritime rules or Resource Management Act 1991, or the Northland Regional Council and Far North District Council Vesting and Empowering Act 1992.

Details of the proposal

Key proposals of this review are listed below. While not an exhaustive list, they highlight the main considerations proposed, and those that it is anticipated will be of interest to the users of Northland's waters. A full copy of the draft bylaw is attached to this statement of proposal. We recommend that you read this draft bylaw to ensure that you are aware of any changes that may affect you.

We want to hear your views on the draft bylaw - for details on how to provide feedback, see 'Have your say' at the end of this statement of proposal.

Application

This bylaw applies to the lakes in the Taharoa Domain in the Kaipara district of Northland, comprising Lake Waikare, Lake Taharoa and Lake Kai Iwi. These lakes are popularly and commonly known as the Kai Iwi Lakes and are henceforth referred to as the "Kai Iwi Lakes" or as "the Lakes" in this bylaw.

Purpose

The purpose of this proposed bylaw is to:

- regulate and control the use of vessels in the Kai Iwi Lakes;
- prevent hazards or nuisances arising from the use of vessels;
- specify requirements for the carriage and use of personal flotation devices on vessels;
- specify requirements for the marking and identification of vessels;
- regulate the placing and maintenance of any maritime structures and aids to navigation;
- make provisions for the establishment of temporary or permanent reserved areas for specific purposes;
- regulate the use of vessels and activities in relation to any sporting or other water-based event, training activity, ceremonial or other authorised customary event.

Interpretation and definitions

Maritime terminology and other descriptions used in the proposed bylaw are defined for ease of understanding and to remove ambiguity.

Personal floatation devices

In keeping with regional and national practice the proposed bylaw will describe the requirements to carry and wear personal flotation devices (PFDs) on recreational vessels, as well as exemptions to this requirement that may apply.

Person in charge of vessel

The proposed bylaw sets out what 'person in charge of a vessel' means, and requires that this person must not be under the influence of alcohol or drugs, and must manage risk.

In addition, due to the responsibility of 'person in charge of a vessel' falling upon a child using a boat, an additional clause is included to the definition to transfer the responsibility to their parent or guardian.

The proposed wording closely aligns with other regional councils and the Safer Boating Forum, providing more surety and less confusion to people who move between the regions.

Minimum age

Consistent with the Maritime Rules, the proposed bylaw will provide restrictions on the minimum age for the person in charge of a power-driven vessel that can exceed 10 knots.

Speed of vessels

The proposed bylaw will define the maximum speed of vessels operating within prescribed distances from the shore, a person or other vessels, some of which are specific to the lakes.

Unseaworthy vessels

It is proposed that vessels need to be seaworthy and provisions are enabled for the harbourmaster to direct the removal of an unseaworthy vessel.

Collision prevention

The proposed bylaw would specify a general direction in which vessels must operate around the lake for the purposes of collision prevention.

Accident notification

The proposed bylaw specifies the reporting requirements for any vessel that is involved in an accident.

Swimming areas

The proposed bylaw will restrict powered craft from designated swimming areas.

Water skiing etc.

The bylaw proposes controls on skiing and towing activities to enhance safety, including keeping lookouts and recovery of equipment.

Dive activities

The bylaw proposes requirements to display dive-flags to ensure safety of divers in the water and trigger a speed restriction within 200m of a dive vessel.

Wake

The bylaw proposes requirements for vessels to control their wake for safety and risk of damage to property or harm to persons using the lakes.

Access lanes

Access lanes are proposed for water skiing from the shore in specified areas as well as controls on their use and specifications for demarcation of the areas.

Reserved areas

The proposed bylaw would provide for the harbourmaster to reserve areas for specific purposes and events, and state details for applications and associated notifications relevant to a reservation. It will also specify conduct within a reserved area.

Operating requirements

Operating requirements related to seaplanes and properly anchoring/mooring of vessels are proposed.

Administrative matters

It is proposed in the bylaw that:

- Personal water craft are to be registered and marked accordingly;
- To use the Lakes, power-driven vessels would be required to get a permit, for a small fee. Fees would be used to help cover the cost of buoys, beacons and other navigation safety costs. These daily or seasonal permits would be available on-site, and would be required before launching;
- Aids to navigation are not to be interfered with;
- Honorary enforcement officers may be appointed and authorised to enforce the provisions of the bylaw through warranted powers;
- Breaches of the bylaw are liable to penalty under the Maritime Transport Act, maritime rules and/or the Local Government Act and regulations;
- Liability of the council is waived for damage to vessels caused by actions taken to enforce the bylaw;
- Intervention by the harbourmaster is provided for in the interests of public safety and/or damage to property;
- The harbourmaster may provide written exemptions to the provisions of the bylaw.

Have your say

The consultation process to be followed for the review of a bylaw is set out in Section 156 of the Local Government Act. Northland Regional Council is using the special consultative procedure, as it considers that the bylaw might be of significant interest to the public.

A copy of the draft bylaw and this statement of proposal is available free from any of the council's offices, or on the council's website: www.nrc.govt.nz/lakesbylaw

The council offices are located at:

- Main Office: 36 Water St, Whangārei | Ph 09 470 1200
- Ōpua Office: Unit 10, Ōpua Marine Park, Ōpua | Ph 09 402 7516
- Dargaville Office: 42 Hokianga Rd, Dargaville | Ph 09 439 3300
- Kaitāia Office: 192 Commerce Street, Kaitāia | Ph 09 408 6600

Anyone can make a submission about the draft Kai Iwi Lakes (Taharoa Domain) Navigation Safety Bylaw 2017 - you can:

- Do it online at www.nrc.govt.nz/lakesbylaw (we encourage online feedback as it reduces our costs for processing the feedback we get)
- Email us at submissions@nrc.govt.nz
- Or mail your submission to: Kai Iwi Lakes bylaw submission, Northland Regional Council, Private Bag 9021, Whangārei Mail Centre, Whangārei 0148.

Your submission should reach the council by 4pm on Wednesday 2 August 2017.

Kai Iwi Lakes Navigation Safety Bylaw 2017

Contents

| | | | | | |
|-----|---|----|-----|--|----|
| 1 | Preliminary provisions | 13 | 6 | Administration matters..... | 21 |
| 1.1 | Title and commencement..... | 13 | 6.1 | Registration of personal water craft (jet ski) . | 21 |
| 1.2 | Application | 13 | 6.2 | On-water permits for vessels..... | 21 |
| 1.3 | Purpose | 13 | 6.3 | Aids to navigation | 21 |
| 1.4 | Interpretation and definitions | 13 | 6.4 | Appointment of officers..... | 22 |
| 2 | Carriage and wearing of personal flotation devices on recreational vessels..... | 16 | 6.5 | Bylaw breaches | 22 |
| 2.1 | Carriage of personal flotation devices | 16 | 6.6 | Liability of the council | 22 |
| 2.2 | Wearing of personal flotation devices | 16 | 6.7 | Intervention by the Harbourmaster | 22 |
| 2.3 | Exemptions to the compulsory carriage of personal flotation devices..... | 16 | 6.8 | Exemptions and other provisions | 22 |
| 2.4 | Wearing of personal flotation devices by persons being towed..... | 16 | | Schedule 1: Kai Iwi Lakes map | 24 |
| 3 | General navigation safety requirements | 17 | | | |
| 3.1 | Person in charge of the vessel | 17 | | | |
| 3.2 | Minimum age for operating powered vessels | 17 | | | |
| 3.3 | Speed of vessels | 17 | | | |
| 3.4 | Vessels to be seaworthy | 18 | | | |
| 3.5 | Collision prevention..... | 18 | | | |
| 3.6 | Notification of accident | 18 | | | |
| 4 | Activities..... | 19 | | | |
| 4.1 | Swimming areas | 19 | | | |
| 4.2 | Water skiing and towing of persons | 19 | | | |
| 4.3 | Dive activities | 19 | | | |
| 4.4 | Wake of vessels | 19 | | | |
| 4.5 | Access lanes..... | 20 | | | |
| 4.6 | Reserved areas | 20 | | | |
| 4.7 | Conduct in reserved areas..... | 21 | | | |
| 4.8 | Prohibition of powered vessels | 21 | | | |
| 5 | Operating requirements | 21 | | | |
| 5.1 | Seaplanes..... | 21 | | | |
| 5.2 | Vessels to be adequately moored or secured | 21 | | | |

1 Preliminary provisions

1.1 Title and commencement

- (1) Pursuant to the provisions of the Maritime Transport Act 1994, the Northland Regional Council makes this Kai Iwi Lakes Navigation Safety Bylaw 2017.
- (2) This Bylaw comes into force on XXXX 2017.

1.2 Application

- (1) This bylaw applies to the lakes in the Taharoa Domain in the Kaipara district of Northland, comprising Lake Waikare, Lake Taharoa and Lake Kai Iwi. These lakes are popularly and commonly known as the Kai Iwi Lakes and are henceforth referred to as the “Kai Iwi Lakes” or as “the lakes” in this bylaw.

1.3 Purpose

- (1) The purpose of this bylaw is to:
 - (a) regulate and control the use of vessels in the Kai Iwi Lakes;
 - (b) prevent hazards or nuisances arising from the use of vessels;
 - (c) specify requirements for the carriage and use of personal flotation devices on vessels;
 - (d) specify requirements for the marking and identification of vessels;
 - (e) regulate the placing and maintenance of any maritime structures and aids to navigation;
 - (f) make provisions for the establishment of temporary or permanent reserved areas for specific purposes;
 - (g) regulate the use of vessels and activities in relation to any sporting or other water-based event, training activity, ceremonial or other authorised customary event.

1.4 Interpretation and definitions

In this bylaw:

Access lane means an area that is marked by orange posts with horizontal black bands for landing or departing vessels or persons or objects towed by vessels.

Accident has the same meaning as in section 2 of the Act.

Act means the Maritime Transport Act 1994.

Anchor/anchoring/anchored means the temporary securing of a vessel to the bed of the waterway by means of an anchor, or other device that is removed with the vessel when it leaves the site or anchorage.

Anchorage in relation to vessels, means a place set aside in the lakes for the anchoring of vessels to the bed of the waterway.

Authorised Officer means any person to whom the Northland Regional Council has delegated authority to act under this bylaw.

Board sports means any board sport, including windsurfing, sailboarding, kiteboarding, stand-up paddle boarding, knee boarding and body boarding where the means of propulsion is by wind, waves or other natural forces, or where no mechanical means of propulsion is used.

Buoy means a float secured to the seabed serving as an aid to navigation or serving to mark an area set aside for a specific purpose or to indicate a hazard.

Council means the Northland Regional Council or any person delegated or authorised to act on its behalf.

Enforcement officer means a person appointed as an enforcement officer under section 33G of the Act.

Flag A means the flag A of the International Code of Signals, being a swallow-tailed flag, or a rigid equivalent, coloured in white and blue, with white to the mast of a size not less than 600mm by 600mm.

Harbourmaster has the same meaning as in Section 2 of the Act.

Honorary enforcement officer has the same meaning as in Section 2 of the Act.

Lake means those inland waters within the Taharoa Domain namely Lake Kai Iwi, Lake Taharoa and Lake Waikare.

Maritime rule means a rule made pursuant to Part 4 of the Act.

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

Obstruction means an object, equipment, structure, vessel or person, positioned, whether in the water or not, so as to restrict or prevent navigation of a vessel or cause a hazard to others.

Owner has the same meaning as in section 2 of the Act.

Paddle craft means a vessel powered only by use of a single or double bladed paddle as a means of propulsion without the aid of a fulcrum provided by rowlocks, thole pins, crutches or like arrangements. A paddle craft includes a kayak, canoe, stand-up paddle board, waka, dragon boat and other such craft.

Person in charge of a vessel means:

- (a) the master or skipper of the vessel;
- (b) in the absence of an identified master or skipper, the owner of the vessel who is on board or the person steering the vessel;
- (c) in the case of a child under the age of 15 years the person in charge will be the parent or guardian of the child.

Personal flotation device means any buoyancy aid that is designed to be worn on the body that meets:

- (a) a standard in NZS 5823:2005 Specification for buoyancy aids and marine safety harnesses and lines applicable to such buoyancy aids;
- (b) a national or international standard that the director is satisfied substantially complies with a standard in NZS 5823:2005 Specification for buoyancy aids and marine safety harnesses and lines applicable to such buoyancy aids.

Personal water craft has the same meaning as in section 33B of the Act. These craft are commonly known as jet skis.

Public Notice means a formal notice published in a newspaper circulating in the Kaipara District.

Power driven vessel means any vessel propelled by machinery.

Raft means an inflatable vessel manoeuvred by oars or paddles (or a combination thereof) but does not include inflatable kayaks, sledges or tubes.

Reserved area means any area reserved for a specific purpose under this bylaw.

Sailboard means any type of board, including a windsurfer or kiteboard, which is propelled by a sail and operated by a person standing upright on a board.

Seaplane has the same meaning as in Section 2 of the Act.

Seaworthiness means being, in the opinion of the Harbourmaster, in a fit condition of readiness to be able to be safely used on the lakes.

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

Speed means speed over the ground.

Speed uplifting means an authorisation by the Harbourmaster to increase/change, or otherwise alter, the speed provision under this bylaw.

Swimming area means an area on the water that is set aside for the purposes of swimming only.

Sunrise/sunset has the same meaning as stated in the New Zealand Nautical Almanac, NZ204.

Support vessel means any vessel used for coaching, marshalling and rescue attendance for a sporting event, training activity, ceremonial or other authorised customary event.

TDGC refers to the Taharoa Domain Governance Committee

Towing for the purpose of this bylaw means the towing of a person or object behind a vessel but does not include the towing of a vessel by another vessel.

Underway means that a vessel is not at anchor, or made fast to the shore, or aground.

Vessel means every description of a ship, boat or a craft used in navigation on the water, whether or not it has any means of propulsion; and includes a:

- (a) seaplane while on the surface of the water;
- (b) personal watercraft (jet ski);
- (c) raft;
- (d) paddle craft; or

- (e) any board used for board sports.

2 Carriage and wearing of personal flotation devices on recreational vessels

2.1 Carriage of personal flotation devices

- (1) A person in charge of a recreational vessel must not use it unless there are sufficient personal flotation devices for each person on board at all times that the vessel is in use.
- (2) Personal flotation devices must be:
 - (a) in a readily accessible location on board the vessel;
 - (b) of an appropriate size for each person on board; and
 - (c) in good operative condition.

2.2 Wearing of personal flotation devices

- (1) Every person on board a vessel must wear a properly secured personal flotation device of an appropriate size for that person at all times when the vessel is underway.

2.3 Exemptions to the compulsory carriage of personal flotation devices

- (1) Section 2.2 does not apply to:
 - (a) any board sport, provided a wetsuit or tether/leash appropriate for the conditions is worn;
 - (b) a diver on a vessel that is used for diving when the diver is wearing a wetsuit;
 - (c) a person training for or participating in a sporting event, if the training or the event is supervised in accordance with a safety system of an organisation approved by the Director.
 - (d) a sporting event, training activity, ceremonial or other authorised customary event if:
 - i. the Harbourmaster has granted prior written exemption; and
 - ii. a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the vessel and the vessel or support vessel or both must carry personal flotation devices of an appropriate size for each person on board the vessel.

2.4 Wearing of personal flotation devices by persons being towed

- (1) The person in charge of the vessel and any person being towed are both responsible for ensuring that the person being towed wears a properly secured personal flotation device of an appropriate size for that person.

3 General navigation safety requirements

3.1 Person in charge of the vessel

- (1) The person in charge of a vessel is responsible for the safety and wellbeing of every person on board and for the safe operation of the vessel, including the carriage and wearing of personal flotation devices by persons on board the vessel and anyone being towed.
- (2) The person in charge of a vessel must not:
 - (a) be under the influence of alcohol or a drug, or both, to such an extent as to be incapable of having proper control of the vessel.
 - (b) cause or permit any act to be done in a manner which causes any unnecessary danger or risk to any other vessel or person in the water irrespective of whether or not any injury or damage occurs.

3.2 Minimum age for operating powered vessels

- (1) The owner or person in charge of a vessel that is able to exceed a proper speed of 10 knots must not allow any person below the age of 15 years to be in charge of that vessel, unless they are under the direct supervision of a person:
 - (a) who is 15 years or older; and
 - (b) who is in immediate reach of the controls; and who is not the lookout person required under this bylaw when another person is being towed.

3.3 Speed of vessels

- (1) A person in charge of a vessel must not operate a vessel at a speed exceeding 5 knots within:
 - (a) 50 metres of any other vessel;
 - (b) 50 metres of any person in the water;
 - (c) 200 metres of the shore; except for the area to the east of the launch ramp up to the ski lane, where the limit is reduced to 100 metres from the shore (as shown on the map in Schedule 1).
 - (d) 200 metres of any structure;
 - (e) 200 metres of any vessel that is exhibiting Flag A.
- (2) A person in charge of a power driven vessel must not operate the vessel at a speed exceeding 5 knots while another person has any portion of his or her body extending over the bow or side of that vessel.
- (3) The provisions of (1) above do not apply to:
 - (a) An emergency response vessel, Harbourmaster vessel, or police vessel if the vessel's duties cannot be performed in compliance with those provisions;
 - (b) A vessel operating in an access lane or a reserved area for the purpose for which the access lane or reserved area was declared;
 - (c) Any board sport carried out with due regard for the safety of other water users, and in accordance with the accepted safe practices of the individual sport.

3.4 Vessels to be seaworthy

- (1) The person in charge of a vessel, whether underway or at anchor, must keep the vessel in a seaworthy condition at all times.
- (2) Except in an emergency or following an accident or incident, a person must not operate a vessel that is unseaworthy, except to comply with the directions of the Harbourmaster to move that vessel to an alternative location.
- (3) If a vessel is not seaworthy or has the potential to cause a hazard to navigation, the Harbourmaster may give a direction to the person in charge of the vessel to move it to an alternative location or remove it from navigable waters within a reasonable time.
- (4) If the person in charge of the vessel fails to comply with the direction of the Harbourmaster, or if the owner or person in charge of the vessel cannot be located, the Harbourmaster may, at the owners cost, move that vessel to a position where it is no longer a hazard or remove it from the water and dispose of it.

3.5 Collision prevention

- (1) A person must not operate any vessel in breach of Maritime Rule Part 22 (Collision Prevention) made under the Maritime Transport Act 1994.
- (2) In general all vessels must proceed in an anticlockwise direction around the lakes.

3.6 Notification of accident

- (1) The owner and/or person in charge of a vessel that has been involved in an accident must report the details of the accident to the Harbourmaster (verbally notified within 24 hours and notified in writing within 48 hours) when:
 - (a) the accident has caused damage to another vessel, or a navigation aid or any structure;
 - (b) a vessel has been sunk or grounded or become stranded in navigable waters;
 - (c) by reason of accident, fire, defect or otherwise, the vessel cannot be safely operated; or
 - (d) any person has been injured.
- (2) The report must include: a full description of any injury to persons, their names and contact details; and
 - (a) a full description of any damage to vessels or structures; and
 - (b) the names and contact details of the person in charge of the vessels involved.

4 Activities

4.1 Swimming areas

- (1) Within any designated swimming area, no powered craft are allowed to operate or anchor.

4.2 Water skiing and towing of persons

- (1) A person in charge of a vessel used for towing another person must have at least one other person on board acting as a lookout, who is 10 years of age or older and who is responsible for immediately notifying the person in charge of the vessel of every mishap that occurs to the person and/or object that is being towed.
- (2) A person in charge of a vessel must not tow any person or object between sunset and sunrise.
- (3) A person in charge of a vessel must not permit the vessel to continue onwards after any person being towed by that vessel has dropped (whether accidentally or otherwise) any water ski or similar object, in a location where it could cause danger to any other person or vessel, unless:
 - (a) the person in charge immediately takes action to recover that water ski or similar object; or
 - (b) the dropped ski or similar object is clearly visible to any other water user operating within the vicinity.
- (4) A person must not allow himself or herself to be towed by a vessel unless in compliance with this clause.

4.3 Dive activities

- (1) The person in charge of a vessel from which dive operations are in progress and the person diving from the vessel, must ensure that Flag A of a size no less than 600mm by 600mm is displayed in such a manner that it can clearly be identified by the person in charge of another vessel at a distance in excess of 200 metres.
- (2) Every person who dives unaccompanied by a vessel, such as when snorkelling, freediving or spearfishing, must ensure that Flag A is displayed on a buoy in the water within close proximity to the diver in such a manner that it can be clearly identified by the person in charge of another vessel at a distance in excess of 200 metres.
- (3) The master of a vessel from which dive operations are in progress must ensure that the vessel remains within 200 metres of the divers.
- (4) Every person diving must ensure that they remain within a 200 metre horizontal radius of Flag A being exhibited.

4.4 Wake of vessels

- (1) A person in charge of a recreational vessel must ensure that the vessel's wake or the wake from any person or object being towed:
 - (a) does not prevent other people from safely using the navigable water;
 - (b) does not cause danger or risk of damage to other vessels, structures, or navigation aids; and
 - (c) does not cause any risk of harm to any other person.

4.5 Access lanes

- (1) An area of navigable water may be specified as an access lane for the purpose of high speed access to and from the shore and controls for the use of the area may be specified.
- (2) A vessel must proceed by the most direct route through the access lane on that side of the access lane that lies to the starboard (right) side of the vessel.
- (3) If any person is using an access lane for the purpose for which it is specified, no other person or vessel may obstruct that user or enter, remain in or use, the lane or area for any other purpose.
- (4) A person in charge of a vessel within an access lane must ensure that the vessel does not obstruct or cause any danger to any other vessel or to any other person in the access lane.
- (5) A person must not anchor a vessel in an access lane.
- (6) An access lane is demarcated by:
 - (a) orange posts with horizontal black bands on shore; and
 - (b) orange buoys with black bands if the access lane is marked at its outer edge;
 - (c) adequate signs in the vicinity of the access lane that declare the purpose of that lane.

4.6 Reserved areas

- (1) The Harbourmaster or his delegate may reserve an area of navigable water temporarily or permanently for a specified purpose and period, and may specify controls for the use of the reserved area. Such reserved areas may be established for purposes including conduct of events or for the purposes of setting aside areas for specific purposes.
- (2) A person or organisation that intends to conduct a sporting event, training activity, ceremonial or customary event, or any other organised water activity on the lakes, must first obtain approval from the Taharoa Domain Governance Committee before applying to the Harbourmaster:
 - (a) for an area to be temporarily reserved for a specific area for the purpose of the event; and/or; if required
 - (b) for the temporary suspension of the relevant speed clauses and any other relevant clauses of this bylaw.
- (3) A safety plan must be submitted to the Harbourmaster outlining the area required to be reserved, details of the activity, and safety precautions put in place to ensure the safety of all participants and observers and persons in or by the area.
- (4) The Harbourmaster may require temporary installation of course markers or similar structures in the water and may also specify support vessels required for the safe conduct of the activity.
- (5) Public notices with details of the activity must be published in at least one local newspaper at the applicant's cost, not less than one week before the date of the activity and no more than one month before the date of the activity.
- (6) An application to reserve an area of navigable water may be granted or refused at the discretion of either the Harbourmaster or TDGC.
- (7) The Harbourmaster and TDGC may recover any costs associated with the reservation of the area of navigable water from the applicant.

4.7 Conduct in reserved areas

- (1) A person must not enter into a reserved area for any other purpose than that specified by the Harbourmaster.
- (2) If any person is using a reserved area for the purpose for which it is specified, no other person or vessel may obstruct that user or enter, remain in or use the area, for any other purpose unless with the approval of the Harbourmaster.

4.8 Prohibition of powered vessels

- (1) Powered vessels are prohibited from Lake Kai Iwi and Lake Waikare unless an area has been reserved under section 4.6 above.

5 Operating requirements

5.1 Seaplanes

- (1) A person in charge of a vessel must not impede a seaplane in the process of landing or taking off.
- (2) Except in an emergency, a person must not take off, land, or attempt to take off or land, a seaplane without the permission of the Harbourmaster.

5.2 Vessels to be adequately moored or secured

- (1) No person shall anchor or moor a vessel in any navigable water in such a manner that it may break free, drag anchor or cause a navigational safety hazard.
- (2) No person shall cut, break, or destroy:
 - (a) the mooring or anchor of any vessel; or
 - (b) the fastening securing any vessel lying in a dock, or at or near a wharf or landing place.

6 Administration matters

6.1 Registration of personal water craft (jet ski)

- (1) Personal water craft (jet skis) must display a unique identification number obtained through a current and acceptable registration with any regional council.¹

6.2 On-water permits for vessels

- (1) All power driven vessels must obtain an on-water permit, issued by an Authorised Officer before launching.
- (2) The fee payable for on on-water permit is as set annually through the Northland Regional Council Charging Policy.²

6.3 Aids to navigation

- (1) A person must not tie a vessel to any aid to navigation.

¹ Auckland Council runs the closest registration system.

² May be daily, seasonal. Fee to be used for costs of buoys, signs, ramps and any navigational safety costs.

- (2) A person must not damage, remove, deface or otherwise interfere with, any aid to navigation or signs.

6.4 Appointment of officers

- (1) The council may appoint persons as honorary enforcement officers to carry out or exercise the duties, office or powers of any enforcement officer or honorary enforcement officer. Such persons are authorised to enforce the provisions of this bylaw as per the powers accorded to them through warrants.
- (2) While exercising any right or performing any duty pursuant to this bylaw the enforcement or honorary enforcement officer shall carry a warrant of appointment and shall as soon as it is practicable produce it to any person when asked to do so.

6.5 Bylaw breaches

- (1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Act and maritime rules and regulations.
- (2) A person who fails to comply with an instruction given to that person by the Harbourmaster, an enforcement officer, honorary enforcement officer or the police, under this bylaw commits a breach of this bylaw and is liable to a penalty under the Act and maritime rules and/or the Local Government Act 2002 and regulations.
- (3) The owner and person in charge of a vessel are jointly and severally responsible for compliance with this bylaw.
- (4) If no person is placed in charge of a vessel, the owner of the vessel is responsible for compliance with this bylaw.

6.6 Liability of the council

- (1) The council is not liable for:
 - (a) any damage to vessels which have not been securely anchored or moored;
 - (b) any damage to a vessel which results from any actions taken by the Harbourmaster, his delegate or an enforcement officer, to secure a vessel in the event of an adverse event.
- (2) The council is not liable for any damage to a vessel that the Harbourmaster, his delegate, or an enforcement officer, secures or removes under this bylaw or under the Act.

6.7 Intervention by the Harbourmaster

- (1) In any case where the Harbourmaster, his delegate or an enforcement officer, is not satisfied adequate precautions have been taken to ensure the health or safety of any person or the public or to avoid damage to any vessel, structure, wharf or the environment, the Harbourmaster, his delegate or an enforcement officer, may prohibit or restrict the activity until they are satisfied that adequate precautions have been taken.

6.8 Exemptions and other provisions

- (1) The Harbourmaster may exempt by written approval, any person, vessel or class of vessels from any requirements of this bylaw.
- (2) In granting any written exemption to any clause of this bylaw, the Harbourmaster must consider the effects of the exemption on public health and safety.

- (3) The Harbourmaster may revoke any exemption at any time the Harbourmaster has reason to believe public health or safety has, or may be, adversely affected.
- (4) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.
- (5) Unless the context requires another meaning, a term or expression that is defined in the Act or maritime rule and used in this bylaw, but not defined, has the meaning given by the Act or maritime rule.
- (6) Any explanatory notes and maps are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.

Schedule 1: Kai Iwi Lakes map

