

Kai Iwi Lakes Navigation Safety Bylaw 2017



Amendment of the Kai Iwi Lakes Navigation Safety Bylaw 2017

Pursuant to Section 33M of the Maritime Transport Act 1994 and all other powers vested in it, the Northland Regional Council approved and made operative an Amendment of the Kai Iwi Lakes Navigation Safety Bylaw 2017 contained herein.

The amended bylaw was confirmed at a meeting of the council held on 24 April 2018 and ordered to come in to force on 1 July 2018.

The common seal of the Northland Regional Council was hereto affixed in the presence of:



Malcolm Nicolson
Chief Executive Officer



Bill Shepherd
Chairman

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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 1 November 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 Interpretation and definitions

In this bylaw:

Access lane means an area designated as an access lane in schedule 1 of this bylaw.

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.

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.

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

Flag A means Flag A of the International Code of Signals (the divers' flag), a burgee (swallow-tailed) flag coloured in white and blue, or a rigid replica, with white to the mast. A flag exhibited on a vessel must be not less than 600mm by 600mm. For divers not swimming from a vessel, or more than 200 metres from a vessel, a dive Flag A on a float must be used. The Flag A must be exhibited on a float which must be red, yellow or orange coloured, minimum size 10 litres; this equipment must be fitted with a divers' Flag A of at least 200mm x 200mm and be self-righting.

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

Honorary enforcement officer has the same meaning as in Section 33G of the Act.

Lakes 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. The areas designated as swimming areas are identified in Schedule 1 of this bylaw.

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 a person for the purpose of this bylaw means the towing of a person behind a vessel using, for example, water skis, sea biscuit, wake board or similar.

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 vessels

2.1 Carriage of personal flotation devices

- (1) A person in charge of a 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 power-driven vessel

- (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 five knots within:
 - (a) 50 metres of any other vessel;
 - (b) 50 metres of any person in the water;
 - (c) 200 metres of any vessel that is exhibiting Flag A;
 - (d) The 5-knot speed limit area between the shoreline and 5-knot buoys – as indicated in Schedule 1.
- (2) A person in charge of a power-driven vessel must not operate the vessel at a speed exceeding five 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.

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 owner's 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 where practicable.

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 power-driven vessels 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 master of every vessel from which dive operations are in progress must ensure that Flag A is displayed on the vessel in such a manner that it can be clearly identified by an operator of another vessel at a distance exceeding 200 metres, and ensure that the vessel remains within 200 metres of divers.
- (2) Every person diving from a vessel must ensure that Flag A is displayed on the vessel in such a manner that it can be clearly identified by the operator of another vessel at a distance of 200 metres.
- (3) Every person diving from a vessel must ensure that they remain within a 200 metre horizontal radius of Flag A being exhibited, unless they additionally are attached to a dive Flag A on a float as defined in section one.
- (4) Every person who dives unaccompanied by a vessel or dives from the shore, such as when snorkelling, freediving or spear fishing, where there exists a likelihood of passing vessel traffic, 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 exceeding 200 metres.

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) Access lanes
 - (a) Subject to the provisions of the Resource Management Act 1991, the council may, from time to time, declare by Public Notice that a specified area or areas are to be an access lane for the purpose of high-speed access to and from the shore.
- (2) Conduct in access lanes
 - (a) No person shall propel, navigate, or manoeuvre a vessel in an access lane for the purpose for which it is declared, except by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right) side of the vessel;
 - (b) No person within an access lane shall proceed in a manner that is dangerous in relation to any vessel or other person in the access lane;
 - (c) No person shall obstruct any other person while that other person is using an access lane for the purpose for which it has been declared;
 - (d) If one or more persons are using an access lane for the purpose for which it is declared, no person may enter, remain in, or use the lane for any other purpose;
 - (e) The access lanes to which this bylaw applies are those prescribed in Schedule 1.
- (3) Marking of access lanes
 - (a) Every access lane must be demarcated by:
 - i. orange posts with horizontal black bands on the shore; and

- ii. orange posts with black bands if the access lane is marked at its outer edge; and
- iii. an adequate sign or signs in the vicinity of the access lane that declare the purpose of that lane.

4.6 Reserved areas

- (1) Reserved areas generally
 - (a) The council, on application or of its own mind, may from time to time, by Public Notice, and in the interests of navigation safety, reserve any specified area for a specific purpose.
 - (b) A reservation under this bylaw may be made on such conditions, and for such period or periods, as the council may specify in the notice.
- (2) Reserved area for special events
 - (a) Any person intending to conduct a race, speed trial, competition, or other organised water activity in any area to which this bylaw applies, may apply to the Harbourmaster to:
 - i. temporarily suspend the application of clause 3.3 in part, or in total, in that area for the purposes of facilitating the event;
 - ii. temporarily reserve the area for the purpose of that activity.
 - (b) Where the Harbourmaster is satisfied 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 on such conditions as he or she may specify;
 - (c) No grant of an application shall have effect unless, not less than seven 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;
 - (d) The council may recover from the Applicant all actual and reasonable costs associated with the application, including any monitoring and advertising.

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.

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 Aids to navigation

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

6.3 Appointment of officers

- (1) The council may appoint persons as enforcement officers or honorary enforcement officers. 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.

6.4 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.

6.5 Liability of the council

- (1) The council is not liable for:
 - (a) any damage to vessels used on the lakes;

¹ Auckland Council runs the closest registration system.

- (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.

6.6 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.

6.7 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 been, 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.

Schedule 1: Kai Iwi Lakes map

