

# CHATHAM ISLANDS

Navigation Safety Bylaws 2013



chatham islands council

CHATHAM ISLANDS COUNCIL

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**CHATHAM  
ISLANDS  
COUNCIL  
NAVIGATION  
SAFETY  
BYLAWS 2013**

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Prepared under the Local Government Act 1974

Report R13/3

ISBN 978-1-927257-02-9 (Print)

ISBN 978-1-927257-03-6 (Web)

Operative 3 August 2013



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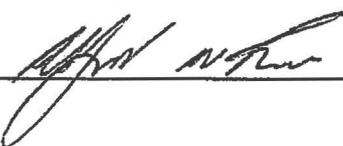
## Chatham Islands Council Navigation Safety Bylaws 2013

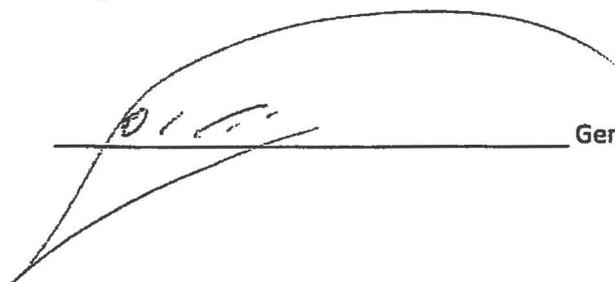
I hereby certify that this is a true and correct copy of the Chatham Islands Council Navigation Safety Bylaws 2013.

Council approved these Bylaws following the special consultative procedure set out in the Local Government Act 2002.

These Bylaws were made by the Chatham Islands Council by resolution passed at a meeting of the Council held on 4 July 2013, to become operative on the 3 August 2013.

The common seal of the Chatham Islands Council was affixed on 4 July 2013 in the presence of:

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
General Manager



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## **Preface**

The Chatham Islands Council Navigation Safety Bylaws 2013 have been developed after wide consultation with the Chathams community, to support safe navigation practices, to reduce risk, and generally to manage boating and other activities in the Islands' coastal waters.

These Bylaws are geographically-specific rules for navigation made under s684 of the Local Government Act 1974. The Bylaws are consistent with the national maritime laws for navigation safety but do not repeat the national rules for steering and sailing ("the rules of the road"). In addition to these Bylaws, all water users also need to understand and comply with the national rules especially Part 22 of the Maritime Rules –'Collision Prevention'. Further information and a full copy of Part 22 of the Maritime Rules can be found on: [www.maritimenz.govt.nz](http://www.maritimenz.govt.nz).

There are reasons why we chose not to rely solely upon the national rules - the default option for water-bodies not covered by regional bylaws. If we relied only on the national rules, we would have no standards for moorings or navigation within the port areas.

Without local people's input, the value and practicality of the Bylaws would be much reduced.

We hope you find these Bylaws user-friendly and informative.

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## Part 1

### 1.1 Title and Commencement

1.1.1 These Bylaws are the Chatham Islands Navigation Safety Bylaws 2013.

1.1.2 These Bylaws come into force on 3 August 2013.

### 1.2 Areas within which these Bylaws apply

These Bylaws apply to:

The Islands coastal waters out to three nautical miles from the shore of Chatham and Pitt Islands, and also including the area of Petre Bay, Western Reef, Pitt Strait, the Sisters and an area around the Forty Fours as shown on Map 1 and also including the following inland waters;

- i Te Whanga
- ii Lake Huro
- iii Lake Rangitai

### 1.3 Compliance Information

1.3.1 It is an offence to contravene these bylaws.

1.3.2 It is an offence under the Local Government Act 1974 to:

Fail to comply with the requirement of a Harbourmaster, enforcement officer or honorary enforcement officer as soon as reasonably possible; or

Prevent a Harbourmaster or enforcement officer from carrying out their statutory functions or duties under this bylaw; or

Refuse to give information when directed to do so by a Harbourmaster or enforcement officer or knowingly to misstate information

1.3.3 Compliance with these bylaws does not replace the need to comply with other legislation such as the national Maritime Rules under the Maritime Transport Act 1994 or Resource Management Act 1991.

### 1.4 Definition of Terms

In these Bylaws, unless the context otherwise requires:

<b>“aircraft”</b>	means any machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth.
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<b>“anchor” or “anchoring”</b>	when used as a verb means the act of securing of a vessel to the bed of the waterway by means of an anchor, cable or other device, that is normally removed with the vessel when it leaves the site or anchorage.
<b>“anchorage”</b>	in relation to vessels, means a place (enclosed or otherwise) used for the anchoring of vessels to the bed of waters, whether the place is reserved for such purposes by the Chatham’s Island Council or not .
<b>“beacon”</b>	means a light or mark set up in a prominent position as a navigation mark or a warning to vessels.
<b>“bulk”</b>	in relation to fuel, fuel oil, or petroleum means an amount greater than 220 litres.
<b>“buoy”</b>	means an anchored float serving as a navigation or locational mark, or to indicate reefs, other hazards or a mooring.
<b>“buoyancy aid”</b>	means for the purposes of Clause 2.1 (2)(f):  (a) buoyancy aid means any serviceable buoyancy aid that is designed to be worn on the body and that is certified by a recognised authority as meeting—(a) type 401, 402, 403, 404, 405, or 408 in NZ Standard 5823:1989 or NZ Standard 5823:2001 or type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005; or  (b) (b) a national or international standard that the Director is satisfied substantially complies with types 401, 402, 403, 404, 405, or 408 of the NZ Standard 5823:1989 or NZ Standard 5823:2001 or type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005.
<b>“cable”</b>	means 1/10 <sup>th</sup> of a nautical mile.
<b>“certificate of insurance”</b>	means a certificate under any regulations made under Marine Protection Rules Part 102.
<b>“coastal marine area”</b>	shall have the same meaning as in the Resource Management Act 1991.
<b>“craft”</b>	means a vessel or a toboggan, surfboard, windsurfer, sailboard or other object intended to carry or support a person in or on the water.
<b>“dangerous goods”</b>	Means:  (a) any substance, in packaged form or in solid form in bulk, listed and classified according to its hazards in the IMDG Code; and  (b) any harmful substance; and  (c) empty receptacles that have been used for substances specified in paragraph (a), unless the receptacles have been cleaned, subsequently dried, and, where appropriate, gas freed—  but does not include goods forming part of the equipment or stores of the ship in which they are carried.

<b>“Director of Maritime New Zealand”</b>	means the person who is for the time being the Director of Maritime New Zealand under section 439 of the Maritime Transport Act 1994.
<b>“enforcement officer”</b>	means an enforcement officer (including an honorary enforcement officer) appointed by the Chatham Islands Council.
<b>“explosive”</b>	means capable of sudden expansion owing to a release of internal energy; and includes the capability to generate deflagration or pyrotechnic effects, and explosion has a corresponding meaning. An explosive in relation to the requirement of Clause 6.5.1 to display Flag B means an explosive or an authorised explosive as defined in section 222 of the Hazardous Substances and New Organisms Act 1996, other than explosives of the first division of the sixth (ammunition) class or the third division of the seventh (firework) class as defined in Schedule 7 of the Hazardous Substances and New Organisms Act 1996.
<b>“flag A”</b>	means the Divers Flag of the International Code of Signals, a burgee (swallow-tailed) flag coloured in white and blue, with white to the mast, or a rigid equivalent, of not less than 600mm by 600mm.
<b>“flag B”</b>	means the flag B of the International Code of Signals, a burgee (swallow-tailed) flag coloured in red, or a rigid equivalent, of not less than 600mm by 600mm.
<b>“flammable liquids”</b>	means liquids, or mixtures of liquids, or liquids containing solids in solution or suspension that give off a flammable vapour at or below 61°C (141°F) in a closed cup test; including paints, varnishes and lacquers.
<b>“foreshore”</b>	means any land covered and uncovered by the flow and ebb of the tide at mean spring tides, or any land covered and uncovered by the normal rise and fall of the level of a river or estuary.
<b>“fuel oil”</b>	means any petroleum that has a flash point higher than 61°C and is generally used for fuel or is intended to be used for fuel.
<b>“gas free certificate”</b>	means a certificate obtained from an industrial or analytical chemist or other competent person certifying that the gas in any confined space is not at a level that creates a risk of explosion.
<b>“gross tonnage”</b>	in relation to a vessel, means the gross tonnage of that ship determined or recognised in accordance with the provisions of the Maritime Transport Act 1994 or any Maritime Rules.
<b>“GRT”</b>	in relation to a vessel, means the gross registered tonnage of that ship.
<b>“Harbourmaster”</b>	means the person or persons appointed by the Chatham Islands Council as Harbourmaster.
<b>"hazardous substance"</b>	shall have the same meanings as in the Hazardous Substances and New Organisms Act 1996.
<b>“kite surfing”</b>	means being propelled by means of a kite on a board or similar craft.

<b>“landing place”</b>	means a wharf, jetty, dock, quay, landing, pile mooring, pontoon, slipway or other facility, where vessels are moored or are launched or retrieved, but does not include a swing mooring.
<b>“large vessel”</b>	means any vessel 24 metres or over in length.
<b>“length”</b>	in relation to the length of vessels means length overall.
<b>“lifejacket”</b>	means a serviceable personal flotation aid that is designed to be worn on the body and that is certified by a recognised authority as meeting— (a) type 401, 402, 403, 404, 405, or 408 in NZ Standard 5823:1989 or NZ Standard 5823:2001 or type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005; or (b) a national or international standard that the Director is satisfied substantially complies with types 401, 402, 403, 404, 405, or 408 of the NZ Standard 5823:1989 or NZ Standard 5823:2001 or type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005.
<b>“Master”</b>	means any person having command or charge of a vessel, but does not include a Pilot who is piloting the vessel.
<b>“moving prohibited zone (MPZ)”</b>	is the space of water extending 100m astern and 100m to each side of a vessel, and continued at such width to 500m ahead which is reserved around any vessel of 500 gross tonnage or greater, when that vessel is underway within the pilotage areas, or any other MPZ as declared by the Harbourmaster.
<b>“navigable”</b>	means suitable for navigating a vessel on, through, over or under the water.
<b>“navigate”</b>	means the act or process of managing or directing the course of a vessel on, through, over or under the water; “propel” and “operate” have the same meaning as navigate.
<b>“oil tanker”</b>	means a vessel constructed or adapted for carrying a cargo of oil or petroleum in bulk.
<b>“on the surface of the water”</b>	in respect of a seaplane that is taking off from, or alighting on the water, means the seaplane is in contact with the water surface.
<b>“owner”</b>	means: (a) the registered owner of the vessel; (b) where by virtue of any charter or demise or for any other reason, the registered owner is not responsible for the management of the ship, includes the charterer or other person who is for the time being so responsible; (c) in relation to an unregistered vessel or a registered vessel that does not have a registered owner, means the person who is for the time

	<p>being responsible for the management of the vessel;</p> <p>(d) used in relation to any dock, wharf, quay, or slipway, includes a lessee of the dock, wharf, quay, or slipway.</p>
<b>“parasailing”, “parakiting” or “paragliding”</b>	means any flying or gliding by use of a parachute or kite when being towed by a vessel.
<b>“person”</b>	includes a natural person, the Crown, a corporation sole, and also a body of persons, whether corporate or unincorporate.
<b>“person in charge”-</b>	in relation to any vessel means the master or skipper.
<b>"personal flotation device"</b>	<p>means any serviceable buoyancy aid that is designed to be worn on the body and that is certified by a recognised authority as meeting—</p> <p>(a) type 401, 402, 403, 404, 405, or 408 in NZ Standard 5823:1989 or NZ Standard 5823:2001 or type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005; or</p> <p>(b) a national or international standard that the Director is satisfied substantially complies with types 401, 402, 403, 404, 405, or 408 of the NZ Standard 5823:1989 or NZ Standard 5823:2001 or type 401, 402, 403, 404, 405 or 406 in NZ Standard 5823:2005:</p>
<b>“personal water craft”</b>	<p>means a power driven vessel that:</p> <p>(a) has a fully enclosed hull; and</p> <p>(b) does not take on water if capsized; and is designed to be operated by a person standing, sitting astride, or kneeling on it, but not seated within it.</p>
<b>“Pilot”</b>	shall have the same meaning as in the Maritime Transport Act 1994.
<b>“pleasure craft”</b>	has the same meaning as in Section 2 of the Maritime Transport Act, 1994. It is a vessel that is used exclusively for the owners' pleasure or as the owners' residence, and is not hired out or provided for transport or recreation or sport by a business, club, society or trust and is not a vessel normally used for fishing, or for carrying passengers or cargo for hire or reward.
<b>“powered vessel” or “powered craft” or “power craft”</b>	means any vessel that is propelled or driven otherwise than solely by oars, paddles or the wind.
<b>"proper speed"</b>	means speed through the water.
<b>“public notice” and “publicly notified”</b>	means notice published in a newspaper circulating in the area in which the waterway is situated.

<b>“recreational craft/vessel”</b>	means a vessel that is: (a) a pleasure craft; or (b) solely powered manually; or (c) solely powered by sail.
<b>“reserved area”</b>	means an area declared as being reserved for a specified purpose under Clause 4.5.
<b>“reward”</b>	means the payment to or for the benefit of the owner or master of a vessel, of a contribution towards the expenses of a voyage by or on behalf of persons; but does not include payment of any contributions.
<b>“rules”</b>	means Maritime Rules made under the Maritime Transport Act 1994.
<b>“sailboard”</b>	means a board with a sail or sails designed to be operated by a person standing upright on the board.
<b>“seaplane”</b>	means a flying boat or any other aircraft designed to manoeuvre on the water, and under these bylaws is deemed to be a vessel when operating on the water.
<b>"seaworthy"</b>	means being in a fit condition or readiness to operate safely on the water.
<b>“shore”</b>	when referring to distance from shore, means distance from the waters edge at the time.
<b>“speed”</b>	means speed through the water or ‘proper speed’.
<b>“structure”</b>	means any building, equipment, device, or other facility made by people and which is fixed to land and includes slipways, jetties, pile moorings, swing moorings, rafts, wharves, marine farms, and other objects whether or not these are above or below the waterline of the foreshore, but excludes navigation buoys.
<b>“support vessel”</b>	means any vessel used for coaching, marshalling and rescue attendance for training, regattas and competitions.
<b>“surfboard”</b>	means any object constructed of wood, metal, fibreglass, plastic or any other material, but without a sail, that is used for wave surfing or surf riding.
<b>“swing mooring”</b>	means any weight or article placed in or on the foreshore or the bed of a waterway for the purpose of securing a vessel, raft, aircraft, or floating structure, and includes any wire, rope, buoy, or other device attached or connected to the weight, but does not include an anchor that is normally removed with the vessel, raft, aircraft, or floating structure when it leaves the site or anchorage.
<b>“swing mooring area”</b>	means the area, where vessel moorings may be placed, designated by the Chatham Islands Council as a Mooring Area in any Resource

	Management Plan under the Resource Management Act 1991 or reserved as a mooring area under these Bylaws.
<b>“unseaworthy”</b>	means not being in a fit condition or readiness to operate safely on the water.
<b>“underway”</b>	means that a vessel is not at anchor, or made fast to a mooring, the shore, or aground, or rafted up to another vessel.
<b>“vessel”</b>	has the same meaning as ship in Section 2 of the Maritime Transport Act 1994, and shall include a seaplane when operating on waters.
<b>“waters/waterways”</b>	means: <ul style="list-style-type: none"> <li>(a) seawater including in estuaries, inlets or harbours and coastal waters, the outer boundary being three nautical miles from the shore and the inner boundary being the water’s edge, and</li> <li>(b) all navigable inland waters .</li> </ul>
<b>“water skiing”</b>	includes being towed on ski or skis or barefoot.
<b>“windsurfer”</b>	has the same meaning as sailboard.

## **Part 2 General Matters**

### **2.1 Notification to the Chatham Islands Council or the Harbourmaster**

- 2.1.1 Notification or report to the Chatham Islands Council or the Regional Harbourmaster, where this is a requirement of these Bylaws, shall be achieved through notification or reporting in the required form to the Office of the Chatham Islands Council (PO Box 24, Waitangi, Chatham Islands, Telephone (03) 305 0033, Facsimile (03) 305 0044, email: info@cic.govt.nz).

### **2.2 Bearings**

- 2.2.1 In these Bylaws a bearing is a true bearing unless specified otherwise.

### **2.3 Signs, Posts and Markers**

- 2.3.1 Notwithstanding the geographical designation or description of the area or location of an access lane or reserved area, the boundaries of the area for the purpose of interpretation of these bylaws shall be those indicated by the relevant signs, posts or markers erected by, or on behalf of the Chatham Islands Council.

### **2.4 Applicability to Masters and Owners**

- 2.4.1 Where any clause of these Bylaws imposes an obligation or duty on the Master of any vessel, that obligation or duty shall, in the case of a vessel that has no Master, be performed or carried out by the owner of the vessel.
- 2.4.2 Where any clause of these Bylaws imposes an obligation or duty on both the Master and the owner of a vessel, then if that clause is not complied with, the Master and the owner shall be deemed severally to have committed an offence against these Bylaws. If any such clause is complied with by either the Master or the owner, then compliance by one shall for the purposes of the clauses of these Bylaws be deemed to be compliance by the other.

### **2.5 Permission in Writing may be received by Facsimile or Email**

- 2.5.1 Persons requiring any approval or permission under these Bylaws in writing shall be deemed to have received such approval or permission if the approval or permission is received by facsimile or by email.

## 2.6 Lifejackets

2.6.1 Requirement to Carry Lifejackets

2.6.2 No person in charge of a recreational craft may use that craft or allow it to be used unless it carries, at the time of use, in a readily accessible location, lifejackets of an appropriate size for each person on board.

## 2.7 Requirements to wear Lifejackets

2.7.1 No person in charge of a recreational craft may use that craft or allow it to be used in circumstances where:

tides, river flows, rough seas; or

adverse weather, adverse visibility or emergencies; or

poor visibility including hours of darkness;

Cause(s) danger or risk to the safety of persons on board, unless each person on board is wearing a properly secured lifejacket.

2.7.2 Every person on board a recreational craft that is less than 6 metres in length which is powered by motor and/or sails shall wear a properly secured lifejacket when the craft is underway.

2.7.3 Every person on board a recreational craft that is less than 6 metres in length which is propelled solely by oars or paddles shall wear a properly secured lifejacket when the craft is underway; unless the person in charge of the craft who is over the age of 15 years has expressly given permission for lifejackets not to be worn; considers that conditions are such that there is no significant increase in the risk to safety to any person through not wearing a lifejacket.

2.7.4 No person in charge of a vessel may use it to tow any person and no person may cause himself or herself to be towed by any vessel, unless the person being towed wears a properly secured lifejacket of an appropriate size for that person.

### Exemptions

2.7.5 Subclauses 2.7.1, 2.7.2 and 2.7.3 shall not apply to:

any surfboard or similar unpowered craft; and

any sailboarder, windsurfer or kite surfer if a wetsuit is worn at all times; and

a diver on a boat of six metres or less in length overall that is used for recreational diving if a full body dive suit is worn at all times; and

person(s) training for or participating in a sporting event, if the training or the event is in accordance with a safety plan approved by the Harbourmaster or supervised in accordance with the safety system of a national sporting organisation approved by the Director of Maritime New Zealand under Maritime Rule 91.4(3); and

a member of a visiting foreign watersports team, if the person carries or wears a lifejacket that is approved by the competent authority for use in that person's country of residence.

- 2.7.6 In respect of any sporting event, training activity, ceremonial event or other organised recreational activity, subclauses 2.7.1, 2.7.3 and 2.7.4 shall not apply if ;

a support vessel that is capable of providing adequate assistance in the event of an emergency remains in the immediate vicinity of the recreational craft; and,

the support vessel carries lifejackets or buoyancy aids of an appropriate size for each person on board the support vessel and the recreational craft.

- 2.7.7 Subclause 2.7.1 does not apply to a person training for or participating in:

a demonstration, show or a sporting event administered by a national sporting organisation approved under Maritime Rule 91.4 (3); and

provided that the approval of the Regional Harbourmaster is obtained.

## **2.8 No Swimming or Diving around Wharves or Ramps**

- 2.8.1 No person may dive or swim from a wharf or boat ramp when a vessel is manoeuvring within 30 metres of the wharf or boat ramp.

## **2.9 Minimum Age for Operating Powered Vessels**

- 2.9.1 No person under the age of 15 years shall be in charge of, or navigate, a power-driven vessel that is capable of speed exceeding 10 knots unless he or she is under the direct supervision of a person over the age of 15 years who is in immediate reach of the controls.

- 2.9.2 The person in charge of a powered vessel that is capable of speed exceeding 10 knots must not allow any person who is under the age of 15 years to navigate that vessel in contravention of subclause 2.9.1.

- 2.9.3 Subclause 2.9.1 does not apply to any person who has a written exemption from the Harbourmaster. Written exemptions may be given for training, competitions or other sporting events, and the Harbourmaster, when considering whether or not to grant such an exemption, shall have regard to the competence of the person, the level of supervision, and awareness of other relevant navigation safety matters.

## **2.10 Speed Limits**

- 2.10.1 No person may navigate a vessel, including a vessel towing another vessel or a person or an object, at a speed greater than five knots:

(a) within 50 metres of any other vessel or person in or on the water; or

(b) within 200 metres of the shore or any structure; or

- (c) within 200 metres of any vessel or raft that is flying Flag A of the International Code of Signals, (divers flag).

### **Exemptions:**

2.10.2 Except that Clause 2.10.1 (a) or (b) shall not apply to:

- (a) a vessel over 500 gross tonnage, if the vessel cannot be safely navigated in compliance with these clauses; or
- (b) coaching boats, safety boats and craft training for, or participating in, competitive rowing, paddling or sailing; or
- (c) a tug, pilot vessel, coastguard vessel, harbourmaster vessel, emergency response craft or a vessel carrying out duties for the police, government agency, local authority or fish and game council, if the vessel's duties cannot be performed in compliance with these clauses, provided that a detailed record (log) of all occasions when the 5 knot speed limits are exceeded is kept to be made available to the Harbour Master upon request; or
- (d) a vessel operating in accordance with these Bylaws e.g. in an Open Speed Area; or in accordance with the conditions for a reserved area; or
- (e) a vessel operating in an Access Lane provided the vessel is operated in accordance with the conditions for the use of the access lane.
- (f) a vessel operating in a reserved area for which the restriction in Clause 2.4 (1) (a) does not apply, provided the vessel is operated in accordance with the conditions for the use of the reserved area.

## **2.11 Requirement for Safe and Considerate High Speed Navigation**

2.11.1 No person who is permitted by any provision of these Bylaws to navigate a vessel at a speed through the water exceeding 5 knots shall do so in any manner that is likely to endanger or unduly annoy any person who is in, on, or using the waters, or fishing, or undertaking any recreational activity in the vicinity of the vessel.

## **2.12 Creating a Wake**

2.12.1 No person shall propel or navigate a recreational craft such that its wake causes unnecessary danger or risk of damage to other vessels or structures or unnecessary danger or risk of harm to other persons.

## **2.13 Navigating with Persons Extending Outside the Vessel**

- 2.13.1 No person shall navigate any type of powered vessel at a speed exceeding five knots, while any person has any portion of his or her body extending over the forepart, bow or side of the vessel.
- 2.13.2 No person shall have any portion of his or her body extending over the forepart, bow or side of any type of powered vessel while the vessel is being navigated at a speed exceeding five knots.

## **2.14 Provision of Information on Incidents, including Collisions and Other Accidents**

- 2.14.1 The person in charge of any vessel that:
- (a) has been involved in a collision with any vessel or property, or has been sunk; or
  - (b) by reason of accident, fire, defect or otherwise is in such a condition as to affect its safe navigation or to give rise to danger to other vessels or property; or
  - (c) in any manner gives rise to an obstruction in a navigational channel; or
  - (d) causes any damage to any structure or to anything on a structure; or
  - (e) is involved in any mishap that results in serious harm to a person, an accident, or an incident, that is required to be reported to Maritime New Zealand in accordance with Section 31 of the Maritime Transport Act 1994; shall, as well as complying with any accident reporting requirements of Maritime Rules and the Maritime Transport Act 1994, as soon as practicable report the occurrence to the Harbourmaster, and within 24 hours, provide the Harbourmaster with full details of the occurrence in writing. The same report shall be made available on request to the owner of the vessel or property which has been damaged.
- 2.14.2 The full details provided to the Harbourmaster under Clause 2.14.1, as well as a full description of how and when the incident occurred, shall include:
- (a) a full description of any injury to persons and their names and their addresses;
  - (b) a full description of any damage to vessels and structures;
  - (c) full details of the state of the environment at the time of, and immediately prior to the incident, including: rainfall, wind direction and strength, visibility, tides, wave heights;
  - (d) details on what was done to secure or recover any unseaworthy vessel; and the names and addresses of persons in charge of the vessel at the time of the incident.

2.14.3 The person in charge of any vessel for which clause 2.14.1 applies shall answer any written or oral questions of the Harbourmaster as to the cause of the incident and actions taken subsequently.

2.14.4 If an incident described in Clause 2.14.1 involves a large vessel that is navigating to a port outside the Chatham Islands, the Master shall provide the Harbourmaster with the report required under Clause 2.14.1 by facsimile, telex, e-mail, or other means.

## **2.15 Aircraft**

2.15.1 No person in charge of a watercraft shall navigate that watercraft so that it impedes a seaplane that is landing or taking off.

2.15.2 No person shall take-off, land or attempt to take-off or land any aircraft on any areas of water without the written permission of the Harbourmaster; except that permission of the Harbourmaster is not required for operation of aircraft on designated waters:

2.15.3 No person shall take-off, land or attempt to take-off or land any aircraft or other means for air flying, on any area of water that is an access lane or reserved for purposes other than aircraft or air flying operations.

## **2.16 Unseaworthy Vessels**

2.16.1 No person shall operate any vessel in circumstances where the vessel is unseaworthy, except to remove the vessel from the water or to move it to a safe area.

2.16.2 No person shall operate any vessel in circumstances where persons on board have been advised by the Harbourmaster or an enforcement officer that the vessel is unseaworthy, except to comply with the directions of the Harbourmaster or enforcement officer to proceed to a safe area.

2.16.3 The person in charge of any vessel for which Clause 2.14.1 applies, shall on request by the Harbourmaster or an enforcement officer, navigate the vessel immediately by the shortest and quickest route, to a safe area nominated by the Harbourmaster or enforcement officer.

2.16.4 If an incident involves damage to a large vessel that affects or is likely to affect its seaworthiness the Master shall not move the vessel except to clear the Main Navigational Channel; or to moor or anchor in safety; or to act in accordance with the directions of the Harbourmaster.

## **2.17 Obstructions to Navigation or Causing of Possible Injury or Damage**

- 2.17.1 No person shall navigate or anchor any vessel so as to obstruct the navigation of any waterway; or the access to any wharf, mooring or landing place.
- 2.17.2 No person shall moor or anchor any vessel so as to create a hazard or risk of collision with, or damage to, any other moored or anchored vessel.
- 2.17.3 No person shall place any obstruction, including any fishing apparatus, in any waterway, which is liable to restrict navigation or cause injury to any person, or damage to any vessel or any property.
- 2.17.4 No person shall anchor a vessel within 50 metres of any landing place or wharf or within 50 metres of the shore in a position where it may obstruct the approach to any landing place.
- 2.17.5 No person shall leave equipment, stabilisers, booms, cranes, davits or other equipment extending over the side of a vessel so as to cause a hazard to any other vessel.

## **2.18 Beacons, Navigation Markers, Navigation Buoys, Lights or Other Navigation Structures**

- 2.18.1 No person shall tie a vessel to any beacon, navigation marker, navigation buoy, light or other navigation structure, without the prior written permission of the Harbourmaster.
- 2.18.2 No person shall wilfully damage, remove, deface or otherwise interfere with any sign, light, navigation mark, buoy, beacon or other device or structure erected by or duly authorised by the Chatham Islands Council or Maritime New Zealand as a navigation aid or warning.
- 2.18.3 No person shall erect, maintain or display any sign, beacon, light, mark, buoy or other device that has the characteristics of a navigation aid and which may be used or mistaken as a navigation aid or warning, without the prior written permission of the Harbourmaster.

## **2.19 Large Vessel Navigation**

- 2.19.1 When entering or departing from any Chatham Island or Pitt Island port the master of any large vessel shall ensure that:
  - (a) all aids to navigation on board including but not limited to radar and depth recording devices are in continuous operation and are fully monitored and the information supplied is utilised; and
  - (b) anchors are immediately available for use in an emergency, and are capable of being used without power; and
  - (c) the main engines are immediately available for reducing speed, stopping or going astern without delay; and
  - (d) that any autopilot is disengaged unless there is a helmsman standing by in the immediate vicinity of the helm or wheel; and
  - (e) the wheelhouse is manned at all times by the master and at least one other person.

## **2.20 Vessels not to Sound Whistles**

2.20.1 No person shall blow or sound or cause to be blown or sounded, the whistle, siren or horn of a vessel, except as a navigation safety signal, or when used as part of organised event, such as yacht racing. Nothing in this Bylaw precludes the testing of such a whistle, siren or horn before the vessel is navigated from any landing place.

## **2.21 Divers to display Flag A on Vessel**

2.21.1 The person in charge of every vessel from which underwater dive operations are in progress must ensure that Flag A of the International Code of Signals is displayed.

2.21.2 The minimum size for the flag is 60cm x 60cm.

## **2.22 Assistance to the Harbourmaster**

2.22.1 The Master of any vessel and its crew shall give the Harbourmaster all possible aid and assistance in moving the vessel when this is considered by the Harbourmaster to be necessary for reason of safety or navigation.

2.22.2 The Master of any vessel shall allow the Harbourmaster access to any part of the vessel and provide any reasonable facilities for its inspection as may be required by the Harbourmaster to ensure its safety and the safety or navigation of other vessels.

## **2.23 Lost Anchor, Chain, Cable, Propeller, Cargo or Other Material**

2.23.1 The Master of a large vessel that has parted from any anchor, chain, cable or propeller, or lost overboard any material or cargo that may endanger safety or navigation, shall:

- (a) leave a buoy to mark the position of a submerged anchor, chain, cable, propeller, other material or cargo if this is known; and
- (b) immediately report the occurrence to the Harbourmaster; and
- (c) give specific details of the loss to the Regional Harbourmaster including the position of the anchor, chain, cable, propeller, other material or cargo; and

if the Harbourmaster so directs, undertake the recovery of it as soon as practicable.

## **2.24 Distance from Vessels showing Flag B**

2.24.1 Where possible, the Master of a vessel must not allow that vessel to approach within 200 metres of:

any oil tanker or any other vessel that is showing flag B by day or a red all round light by night.

## **2.25 Vessels in Distress**

2.25.1 No person shall navigate a vessel into a harbour without the approval of the Harbourmaster in the following circumstances:

- (a) where the vessel and/or its cargo are on fire; or
- (b) where hazardous material is leaking from deck cargo, shipping containers or holds; or
- (c) where there is structural damage to the hull of the vessel or its propulsion or steering systems.

## **2.26 Collision Rules to Apply**

2.26.1 No person shall operate any vessel in contravention of Maritime Rule Part 22 – Collision Prevention, made under the Maritime Transport Act 1994, except where expressly provided for in these Bylaws.

2.26.2 The provisions of Maritime Rule Part 22 – Collision Prevention, are deemed to form part of these Bylaws and shall be enforceable under these Bylaws.

## **Part 3 Water Skiing and Towing**

### **3.1 Speed of Towed Person, Object or Watercraft**

- 3.1.1 Within 50 m of another person or vessel in the water or within 200m of a structure or the shore :
- (a) No person may operate a vessel at a speed exceeding 5 knots, when that vessel is towing, an object, watercraft or a person; and;
  - (b) No person shall allow themselves to be towed by a vessel at a speed exceeding 5 knots;
  - (c) Except that towing and being towed at a speed exceeding 5 knots is permitted for the purposes of launching, take-off and landing of skiers in a Water Ski Access Lane or where otherwise provided for in these bylaws, e.g. within areas reserved for water skiing or in Open Speed Areas for Towing.

### **3.2 Dropping of Skis or Other Objects**

- 3.2.1 No person in charge of a vessel shall 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 that may cause danger to any other person or vessel, without taking immediate action to recover that water ski or similar floating object, unless the person has taken measures to ensure that the dropped ski or similar object is clearly visible to other water users.

### **3.3 Erection of Water Ski Course Markers etc.**

- 3.3.1 No person shall erect any course markers or any structure for water ski jumping or other similar purposes without the prior written permission of the Harbourmaster. Such permission shall be subject to whatever conditions the Harbourmaster deems necessary for navigation safety purposes.

### **3.4 Lookouts required on Vessels used for Water Skiing and Towing**

- 3.4.1 No person in charge of a vessel may use it to tow any person at a speed exceeding 5 knots unless at least one additional person is on board who is responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.
- 3.4.2 No person may cause or allow himself or herself to be towed at a speed exceeding 5 knots by or from any vessel unless at least one additional person is on board who is responsible for immediately notifying the person in charge of every mishap that occurs to the person who is being towed.
- 3.4.3 No person who is under the age of 10 years is permitted to act as the additional person required by subclauses 3.4.1 and 3.4.2.

### **3.5 No Water Skiing at Night**

- 3.5.1 No person may operate between sunset and sunrise, a vessel that is towing any person, whether or not that person is on a water ski, aquaplane, paraglider or other similar object.
- 3.5.2 No person may allow themselves to be towed by a vessel between sunset and sunrise.

*\*Note that the times for sunset and sunrise can be found in the current edition of the New Zealand Nautical Almanac.\**

## **Part 4 Access Lanes and Reserved Areas**

### **4.1 Access Lanes**

- 4.1.1 An access lane shall be any area within 200 metres of the shore specified in these Bylaws.
- 4.1.2 An access lane may be specified or declared for surfboards, sailboards, kite surfers, windsurfers or for water skiing or for navigation or towing or for vessels of any description.
- 4.1.3 The specification or declaration of an access lane may be subject to conditions and have effect for the periods that the Chatham Islands Council considers appropriate.
- 4.1.4 The Chatham Islands Council may revoke the declaration of an access lane by resolution.
- 4.1.5 The declaration of an access lane or the revocation of the declaration of an access lane shall be publicly notified by the Chatham Islands Council at least seven days before the commencement of the period for which it is to have effect.

### **4.2 Marking of Access Lanes**

- 4.2.1 An access lane shall be indicated by notice boards that are prominently displayed in the vicinity of the access lane, and shall be marked on shore by orange posts with horizontal black bands. It may also be marked at its outer edges by orange buoys with black bands.

### **4.3 Speeds in Access Lanes**

- 4.3.1 The speed limits specified in Clause 3.4.1. do not apply in Access Lanes for Navigation. Clause 3.4.1. and Clause 3.4 do not apply within any access lane for water skiing, vessels or aircraft.

## **4.4 Conduct in and use of Access Lanes**

- 4.4.1 No person shall in any access lane navigate, or manoeuvre a vessel except by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right hand side) of the vessel.
- 4.4.2 No person shall, while being towed by a vessel in any access lane, cause themselves or any water ski, aquaplane or other object, on or by which they are being towed; to travel other than by the most direct route through the access lane and on that side of the access lane that lies to the starboard (right hand) side of the vessel.
- 4.4.3 No vessel or person within an access lane shall proceed in any manner that is dangerous in relation to any other vessel or person in the access lane.
- 4.4.4 No person shall anchor any vessel or aircraft in the waters of an access lane, or leave any vessel or aircraft unattended on the foreshore of an access lane, or in the water of an access lane.
- 4.4.5 No person shall deliberately capsize in an access lane, or swim in an access lane, except to regain control of a watercraft following an accidental capsize.
- 4.4.6 No person shall fish from a vessel within an access lane, or trawl a net, or lay a set net, fishing pot, fishing trap or setline within an access lane.

## **4.5 Specification of Reserved Areas**

- 4.5.1 The purposes for which an area is reserved and the conditions for any use of a reserved area are specified in these Bylaws.

## **4.6 Conduct in, and use of a Reserved Area**

- 4.6.1 All persons using a reserved area shall only do so in accordance with any conditions for the use of that reserved area specified in these Bylaws.
- 4.6.2 No person shall obstruct any other person while that other person is using a reserved area for the purpose for which it has been reserved under these Bylaws.

### **Exemptions for Certain Activities**

- 4.6.3 Clause 4.6.1 shall not apply to any persons carrying out the following:
- For a local authority, government agency, or fish and game council: enforcement services, or bird culls, or the rescue, protection, disposal of marine animals or other wildlife or animals;
  - For a local authority or government agency: water quality sampling, the control or clean-up of contaminants, or resource investigations or monitoring;

- For a local authority, or government agency: track maintenance, pest control, or the removal of rubbish or beach cast material; or beach and beach facility maintenance;
  - For a local authority, government agency, the New Zealand Police, the New Zealand Fire Service or the New Zealand Coastguard: activities including training with respect to civil defence and emergency management or fire fighting, or search and rescue operations;
  - Where contracted or otherwise appropriately authorised by the owner or manager of the structure or facility to: navigate vessels and to dive for the purpose of management (inspection, maintenance or repair) of structures or facilities in the reserved area.
- 4.6.4 All persons undertaking activities under 4.6.3, shall keep a detailed record (log) of all such activities; the log to be available, upon request, to the Harbourmaster. The prior approval of the Harbourmaster is required for all training, monitoring and management activities carried out under 4.6.3 in a reserved area. The Harbourmaster may set any conditions on the activity considered necessary for navigation safety purposes and/or require any vessel to be appropriately marked for identification purposes.
- 4.6.5 Clause 4.6.1 shall not apply to support vessels as defined in Clause 4.6.3.

## **4.7 Marking of Reserved Areas**

- 4.7.1 A reserved area shall be indicated by notice boards that are prominently displayed in the vicinity of the area. Transit posts with white and black bands or buoys may be used to mark the boundaries of a reserved area. Alternatively, the natural or physical features of the area may signify the boundaries of a reserved area.

## **Part 5 Vessels, Anchorage, Swing Moorings**

### **5.1 Vessels to Be Serviceable or Removed**

- 5.1.1 The Master and owner of any vessel anchored or moored in the area covered by these bylaws shall keep the vessel in a serviceable and operational condition at all times, unless the Master or owner has applied in writing for the approval to the Harbourmaster, and approval has been obtained for it to be anchored or moored in a non-operational state. The Harbourmaster's approval must be in writing, and the Harbourmaster, for any reason that he or she deems appropriate, may require the approval to be applied for instead under Clause 8.2 1.
- 5.1.2 If, in the opinion of the Chatham Islands Council, any vessel is a navigation hazard by reason of it being neglected or unseaworthy, or has potential to become a navigation hazard by reason of it being unseaworthy, the Master and owner of the vessel shall remove it from the navigable waterway when instructed to do so by the Chatham Islands Council. Such an instruction shall be in writing, and shall specify a reasonable time period for compliance.
- 5.1.3 If the person in charge of the vessel fails to remove the vessel in accordance with an instruction given under Clause 5.1.2, the Chatham Islands Council may move that vessel to a position where the vessel is no longer a hazard, or remove the vessel from the water. The costs incurred may be recovered from the Master, owner or agent of the vessel in any court of competent jurisdiction as a debt due to the Chatham Islands Council.

### **5.2 Vessels to be Adequately Moored or Secured**

- 5.2.1 The person in charge of a vessel shall ensure that it is properly and effectively secured to a dock, wharf, mooring or landing place when berthed, moored or anchored.
- 5.2.2 No person shall secure a vessel to any post, wharf, ring, fender, buoy or any other structure not intended for that purpose.
- 5.2.3 No person shall abandon any vessel or property on the banks or shore or in an intertidal area where it may refloat and create a navigation hazard or where it may interfere with the normal use of the waters by other persons.
- 5.2.4 No person shall cut, break, or destroy: the mooring of any vessel; or the fastening securing any vessel lying in a dock or at or near a wharf or landing place.
- 5.2.5 No person shall leave a vessel secured to a wharf overnight unattended without the permission of the owner of the wharf.

### **5.3 Access to and Egress from a Vessel**

- 5.3.1 The person in charge of any large vessel that is berthed at a wharf or alongside another vessel shall:
- (a) provide and maintain a sufficient and proper gangway for the access and egress of all persons having lawful business on the vessel;
  - (b) provide sufficient lighting to illuminate the whole length of the gangway between sunset and sunrise;
  - (c) ensure that every gangway and accommodation ladder provided is rigged at such an angle and in such a manner as will render it safe for any person using it;
  - (d) ensure that every gangway and accommodation ladder is sited so as to ensure that no temporary pipelines associated with cargo-working operations, and, so far as practicable, no sling loads associated with cargo-working operations, pass overhead during the operations;
  - (e) ensure that at all times the provisions for embarking or disembarking persons are safe;
  - (f) ensure that a safety net is rigged, secured and maintained beneath the whole length of the gangway.
- 5.3.2 The person in charge of any large vessel shall not allow any passenger to embark or disembark:
- (a) while the vessel is underway alongside a wharf; and
  - (b) other than by a gangway provided for this purpose.
- 5.3.3 Clause 5.3.2 shall not apply in respect of members of the crew of the vessel, licensed or appointed Pilots, Harbourmasters, authorised shipping agents for the vessel or those persons on legitimate Government or Local Authority business.

### **5.4 Use of the Vessel Engine while a Large Vessel is Moored, Berthed or Anchored**

- 5.4.1 No person shall operate the propulsion system of a large vessel while it is lying at any wharf, or while it is being loaded or unloaded at any ramp without the permission of the Harbourmaster.
- 5.4.2 In addition to the requirements of Clause 5.4.1 the person in charge of the vessel shall ensure all persons at the wharf and on vessels in the immediate vicinity of that vessel and harbour control, are warned immediately prior to the propulsion system being tested.
- 5.4.3 Clause 5.4.1 shall not preclude the use of the propulsion system for the safe movement of a vessel to or from a landing place.

## 5.5 Entitlement to Lay and Use a Swing Mooring

- 5.5.1 No person shall lay a swing mooring, whether in a designated swing mooring area or not, unless:
- (a) the mooring occupies a position that has been allocated by the Harbourmaster; and
  - (b) the mooring has been allocated a unique number by the Harbourmaster; and
  - (c) the swing mooring and its fittings meet any specifications and conditions set by the Harbourmaster;
  - (d) all necessary consents required under the Resource Management Act 1991 have been obtained.
- 5.5.2 No person shall tie a vessel to or moor a vessel on a swing mooring unless the Harbourmaster has authorised the use of the swing mooring for mooring that vessel or size of vessel;
- 5.5.3 No person shall reassign or transfer the ownership of a swing mooring to any person other than the person listed at the top of any mooring waiting list (where a waiting list is held by Council) and the existing owner must provide written notification\* of the name and address of the new owner or assignee to the Harbourmaster within 14 days of the reassignment or transfer, and the reassignment or transfer shall have no effect until notification is received.
- 5.5.4 No person shall tie a vessel to or moor a vessel on a swing mooring whose ownership has been reassigned or transferred unless the written approval of the Harbourmaster has been obtained.
- 5.5.5 Clauses 5.5.2 and 5.5.4 shall not apply to a dinghy or other small pleasure craft under 6 metres used with the approval of the mooring owner to gain access to a vessel on the mooring.
- 5.5.6 No person shall lay and/or use a swing mooring unless all relevant fees have been paid to the Chatham Islands Council by the date specified by the Council.
- 5.5.7 If there has been no use of an assigned mooring site within one year of the mooring being assigned, the Harbourmaster may, after making reasonable attempts to contact the mooring holder, declare by public notice that the mooring is abandoned and that the authorisation to occupy is cancelled.

*\* Note: The transfer form which is required to be completed is available on the Chatham Islands website or at the office of the Council.\**

## 5.6 Maintenance of Moorings

- 5.6.1 The owner of a mooring shall maintain the mooring in a safe working condition so that other vessels in the area are not endangered. To establish that a mooring is in a safe working condition the owner of a mooring shall, at least every 12 months, ensure that the mooring equipment (including ropes, chains, sacrificial anodes, shackles and swivels) is inspected by a

- competent person; and shall provide confirmation of this inspection to the Chatham Islands Council within 21 days of the inspection.
- 5.6.2 The owner of a mooring shall mark the position of the mooring with floats or buoys marked with the unique number allocated by the Harbourmaster whether the mooring is occupied by a vessel or not.
- 5.6.3 The Harbourmaster may, if in his or her opinion any mooring is insufficient or in a poor state of repair, inspect the mooring and may require the swing mooring to be repaired within a specified period. If after inspection at the end of the specified period, the mooring has not been repaired to an acceptable standard in the opinion of the Harbourmaster, he or she may require the swing mooring to be removed. Such an instruction shall be in writing, and shall specify a reasonable time period for compliance.
- 5.6.4 The owner of a mooring shall comply with the instructions of the Harbourmaster under Clause 5.6.3 to repair or remove a mooring. The owner of a mooring shall not re-lay the mooring until it has been inspected and approved by the Harbourmaster or his or her agent.
- 5.6.5 If a requirement by the Harbourmaster under Clause 5.6.3 is not met as soon as reasonably practicable, the Harbourmaster may take action to remove the swing mooring. The cost incurred may be recovered from the mooring owner in any court of competent jurisdiction as a debt due to the Chatham Islands Council.
- 5.6.6 If there has been no inspection and maintenance carried out as required by Clause 5.5.1 for a period exceeding three years, the Harbourmaster may, after making reasonable attempts to contact the mooring holder, declare by public notice that the mooring is abandoned and that the authorisation to occupy is cancelled.

## **5.7 Relocation of a Mooring**

- 5.7.1 If in the opinion of the Harbourmaster a mooring is in a position that causes a navigation hazard, or is not in the position allocated by the Harbourmaster under Clause 5.5.1, the owner of a mooring shall shift a mooring to a position allocated by the Harbourmaster. The Harbourmaster's instruction shall be in writing, and shall specify a reasonable time for compliance.
- 5.7.2 If the owner of the mooring fails to move the mooring in accordance with an instruction given under Clause 5.7.1, the Harbourmaster may take action to move that mooring to its correct position or to a position where it is no longer a hazard. The costs incurred may be recovered from the Master, owner or agent of the vessel in any court of competent jurisdiction as a debt due to the Chatham Islands Council.

## **5.8 Anchoring a Vessel within or adjacent to a Swing Mooring Area or close to an Occupied Swing Mooring**

- 5.8.1 No person shall anchor a vessel within a swing mooring area reserved in these Bylaws.
- 5.8.2 No person shall anchor a vessel outside a swing mooring area within 50 metres of any buoy that marks the location of a swing mooring within a swing mooring area or within 50 metres of a vessel on a swing mooring.

## **5.9 Recovery of a Vessel that has Broken Adrift from a Mooring**

- 5.9.1 The Harbourmaster may take action to secure or refloat any vessel that has broken adrift from, sunk, or partially sunk at a mooring if it is causing or is likely to cause a hazard to navigation. The costs incurred may be recovered from the person in charge of the vessel in any court of competent jurisdiction as a debt due to the Chatham Islands Council.

## **5.10 Maintenance of Maritime Facilities**

- 5.10.1 Where any wharf, quay, jetty, pier, dock, pile mooring, slipway, landing stage or other landing place has fallen into disrepair and is a danger or potential danger to navigation, the owner shall immediately either demolish and remove it, or make such repairs as are considered necessary by the Harbourmaster to remove the danger or potential danger.

## **Part 6 Special Provisions for the Waters of the Chatham Islands Territory**

### **6.1 Waitangi Harbour (Port Waitangi)**

General directions for navigating in the port of Waitangi as described in Schedule 1:

- 6.1.1 The person in charge of any vessel 12 metres or more in overall length shall ensure that at all times while the vessel is within the port of Waitangi:
- i. automatic-steering “pilot” devices are not used, unless a helmsman is standing by in the immediate vicinity of the helm or wheel, otherwise the vessel is to be in the hand-steering mode; and
  - ii. the main engines are immediately available for reducing speed, stopping or going astern without delay; and
  - iii. anchors are immediately available for use in an emergency, and are capable of being used without power; and
  - iv. all information from any aids to navigation and/or charts on board is fully monitored.
  - v. all aids to navigation on board including but not limited to radar and depth recording devices are in continuous operation and are fully monitored and the information supplied is utilised.
  - vi. the number of persons on the bridge of the vessel shall be sufficient to enable compliance with sub clause (i).

### **6.2 Notification of Vessel Movements**

- 6.2.1 The person in charge of any vessel that is over 25 metres in length shall give at least 24 hours prior notice to the Chatham Islands Council of the vessel’s arrival in the waters of the Chatham Islands Territory.
- 6.2.2 The person in charge of any vessel that is over 25 metres in length shall give at least two hours prior notice to the Chatham Islands Council of the vessel’s departure from, or movement within, the waters of the Chatham Islands Territory.
- 6.2.3 The Master of any vessel required to have a Certificate of Insurance under Maritime Protection Rule Part 102, or regulations made under that Rule, shall give written notice to the Chatham Islands Council of compliance with this maritime protection rule not less than 24 hours prior to arrival in the waters of the Chatham Islands territory.

### **6.3 Declaration of the Particulars of a Vessel**

- 6.3.1 The Master of any large vessel arriving in the waters of the Chatham Islands Territory shall, when requested, supply to the Harbourmaster in the form required by the Harbourmaster a declaration that is to the best of his or her knowledge a correct statement of:
- (a) the tonnage and draft of the vessel;

- (b) the vessel's last port of call and next destination;
- (c) the vessel's ownership, Registry details and details of the company managing the operation of the vessel;
- (d) details of any explosives, dangerous goods, flammable liquids and oils carried as cargo; and
- (e) any other information requested by the Regional Harbourmaster that is needed for navigation safety purposes.

6.3.2 In providing the information required under clause 6.3 (1) the Master of a large vessel discharging or loading dangerous liquids in bulk, other than oil or petroleum, shall use the Ship/Shore Safety Checklist form in Schedule 8 and supply a copy to the Harbourmaster as well as meeting any requirements for the supply of information to the Harbourmaster.

*\*Note: Dangerous Goods are those listed in Part G of Schedule 9 of the Hazardous Substances and New Organisms Act 1996.\**

## **6.4 Restrictions applying to Water Beneath Commercial Wharves**

6.4.1 No person shall navigate or use any vessel, surfboard, windsurfer or sailboard beneath any wharf, or swim beneath or alongside any wharf, that is within or immediately adjacent to any wharf in the Port of Waitangi, without the permission of the Harbourmaster.

## **6.5 No Obstruction of Other Vessels**

6.5.1 The person in charge of any vessel under 500 gross tonnage must not allow the vessel to impede the navigation of any vessel of 500 gross tonnage or more.

6.5.2 No person shall navigate or use a craft within a navigational channel so as to be within the moving prohibited zone for any vessel.

6.5.3 The person in charge of any vessel shall not anchor in a navigational channel without permission from the Harbourmaster.

6.5.4 Clauses 6.5.2 shall not apply where the permission of the Harbourmaster has been obtained for a vessel to be within a moving prohibited zone.

6.5.5 A moving prohibited zone may be declared by the Harbourmaster to apply to any vessel for such times and duration as the Harbourmaster considers necessary. Such a declaration shall be publicly notified by the Chatham Islands Council at least three days before the commencement of the period for which it is to have effect.

## **6.6 Parasailing, Paragliding and Aircraft**

6.6.1 No person shall take-off, land or attempt to take-off or land any aircraft, helicopter, floatplane, glider, hang-glider, balloon, parachute, parasailer, paraglider or other means for

air flying, in the waters of the Chatham Islands Territory; other than with the permission of the Harbourmaster or in lanes or areas declared or reserved for that purpose by the Chatham Islands Council.

## **6.7 Local Knowledge and Competency**

- 6.7.1 No Master of any large vessel, shall come alongside the main wharf at Waitangi, unless he/she has lodged with the Chatham Islands Council proof that he/she has served on a large vessel as Master or Mate on at least ten separate occasions of arrival or departure of a large vessel at the Port of Waitangi within the last two years and that at least two of these occasions were within the hours of darkness.
- 6.7.2 No person in charge of any vessel should approach Port Hutt (Whangaroa Harbour), Owenga or Kaingaroa except during daylight hours and in conditions of good visibility, unless they have recent local knowledge (at least four separate occasions of arrival or departure within the last year)

## **6.8 Requirement to obtain a Gas Free Certificate**

- 6.8.1 The Master of any vessel shall obtain a Gas Free Certificate from an industrial or analytical chemist or other competent person before any repairs are carried out on or in a tank or confined space on the vessel that contains or has previously contained bulk petroleum products, or drums of petroleum products; or before any persons enter such a tank or confined space.
- 6.8.2 If the repairs continue beyond midnight on any day then the person in charge of the vessel shall obtain a new daily Gas Free Certificate.
- 6.8.3 The Master of the vessel shall display the Gas Free Certificate for the day at the gangway on the vessel.

## **6.9 Permission required to do Hot Work**

- 6.9.1 Approval is required under for 'hot work' on: oil tankers; all vessels in Waitangi Harbour.
- 6.9.2 Before commencing any repairs, alterations or other work involving gas or electric arc welding or flame cutting operations or grinding, on any vessel using any dock or any slipway or lying alongside any wharf, or moored or anchored, the Master shall:
- (a) apply in writing for permission to do Hot Work on an Oil Tanker or a vessel using the Chatham Islands Council approved form.
  - (b) obtain permission to proceed with the work; and
  - (c) pay the application fee specified.

- 6.9.3 Any permission under Clause 6.2.1 and 6.2.2 may be subject to conditions that protect the safety of people and property.

## **6.10 Requirements for Stowing or Handling Dangerous Goods**

- 6.10.1 The Master of any vessel using any dock or any slipway or lying alongside any wharf, or moored or anchored shall:
- (a) Take measures to prevent the escape of flammable liquids or oils or water mixed with flammable liquids or oils.
  - (b) Give the Harbourmaster at least 24 hours' notice in writing of any loading or unloading of dangerous goods carried as cargo for hire and reward onto or from the vessel. The notice shall include the time and place of loading or unloading, the vessel's name, and the quantity and type of dangerous goods involved, including their classification under the International Maritime Dangerous Goods Code.
  - (c) Not allow the vessel to be fumigated without consultation with the Harbourmaster.
- 6.10.2 The requirement of Clause 6.10.1 (b) shall not apply to regularly scheduled vessel services where prior arrangements have been agreed with the Harbourmaster, to provide information immediately after berthing on the dangerous goods to be unloaded and, to provide information immediately after departing a berth on the dangerous goods that have been loaded.
- 6.10.3 The Master of any vessel that carries oil products in bulk as cargo or for transfer to other vessels shall ensure that a watchman or crewman is on duty on the vessel at all times, for the purpose of protecting the safety of the public and to detect spillage.

## 6.11 Loading or Unloading of Oil or Bunkers

- 6.11.1 No person shall load bunker fuel for use on a vessel within Port Waitangi except at a recognised fuel installation or at a location approved by the Harbourmaster and the Chathams Oil Transfer Checklist is completed by the supplier and the receiver.
- 6.11.2 No person shall load or unload bunker fuel, fuel oil or petroleum to or from any vessel without a crew member of the vessel or a representative of the owner being present on the vessel and observing the loading or unloading.
- 6.11.3 The Master of a vessel shall not allow bunker fuel in bulk, fuel oil in bulk or petroleum in bulk to be loaded on the vessel or unloaded from the vessel unless persons are stationed at both the loading and the unloading points, for the purpose of protecting the safety of the public and to detect spillage.
- 6.11.4 Clauses 6.11.1, 6.11.2, and 6.11.3 shall apply to all forms of loading or unloading bunker fuel, fuel oil or petroleum including by pipeline and from road or other tankers, except where fuel is transported in an approved, closed container of 20 litres or less.
- 6.11.5 No person shall transfer bunker fuel, fuel oil or petroleum by means of a pipeline system between any vessel over 24 metres in length and the shore or between that vessel and any other vessel unless:
- (a) the vessel or vessels are securely moored or berthed;
  - (b) all supplying and pumping equipment is secured;
  - (c) there are sufficient qualified persons stationed to continuously observe all pumps and valves in the pipeline system and to deal with any emergency;
  - (d) there is an agreed system of procedures and a continuous communication system between the supplier and the receiver of the bunker fuel, fuel oil or petroleum, and all persons stationed as observers;
  - (e) there are emergency shutdown procedures and a spill procedure plan known to all persons involved in the transfer;
  - (f) clean up and containment material and equipment is readily and immediately available to all persons involved in the transfer;
  - (g) all transfer hoses are in good condition, properly rigged and within test cycle time limits;
  - (h) all scuppers are plugged and drip trays positioned under all connections;
  - (i) all unused connections are blanked;
  - (j) there are no naked flames, or welding or gas cutting being undertaken on the vessel or vessels or on any wharf or berth alongside;
  - (k) there is safe access between the vessel and the shore or any other vessel;
  - (l) the Master or Masters of the vessel or vessels and the supplier or receiver of the bunker fuel, fuel oil or petroleum or their representatives have all certified to the Harbourmaster that requirements (a) to (k) above have been met using the Chatham Islands Oil Transfer Checklist.

6.11.6 The master of any tanker shall display code Flag B by day and an all-round red light at the masthead or where it can best be seen by night.

## **6.12 Oil tankers and Vessels Loading or Unloading of Explosives to Display Flag B**

6.12.1 The master of an oil tanker and the master of any vessel that has on board, or who intends to load or unload, 27 kilograms or more of explosives shall display code Flag B by day and shall at night display an all-round red light at the masthead or where it can best be seen.

6.12.2 While in harbour, the master on an oil tanker must operate in accordance with the most current edition of the International Safety Guide for Oil Tankers and Terminals.

## Part 7

### 7.1 Suspensions and Exemptions

#### 7.1.1

- (a) The Chatham Islands Council may at any time suspend any provision of these Bylaws or exempt any activity or person or vessel or class of vessel from any provision of these Bylaws by public notice.
- (b) Any person may apply to the Chatham Islands Council for an exemption or suspension from a bylaw provided the application is in writing and received at least 10 working days before the exemption or suspension is required. The decision shall be given in writing and if granted may be subject to such conditions and have effect for the period of time that the Chatham Islands Council considers appropriate.

7.1.2 In considering a suspension or exemption under Clause 7.1.1, The Chatham Islands Council may choose to call for written or oral submissions and may hold a public hearing of those submissions.

7.1.3 The Chatham Islands Council may revoke any approval under 7.1.1, at any time if The Chatham Islands Council has reason to believe the safety of water users has been or may be adversely affected.

### 7.2 Temporary Regulation

7.2.1 The Chatham Islands Council may, of its own accord or on application by any person, temporarily:

- (a) Uplift or impose speed limits on specified waters;
- (b) Reserve any specified waters or create an Access Lane for use by any specified kind of vessel or seaplane, or by any persons;
- (c) Regulate or prohibit the use of those waters by other vessels or persons; and
- (d) On the occasion of boat races, yacht races, launch races, swimming races, or other events:
  - i. provide for the prohibition or regulation of the use of specified types or classes of vessels; and
  - ii. regulate admission to specified areas or authorise the organisers of the event to regulate admission and charge for entry to specified areas.

- 7.2.2 No person shall exceed any speed limit or use any reserved area or access lane for a purpose or in a way or at a time other than for which it has been temporarily regulated.
- 7.2.3 Any temporary regulation under Clause 7.2.1 shall be in force for such periods and subject to such conditions as the Chatham Islands Council considers appropriate.
- 7.2.4 In considering a reservation under Clause 7.2.1, the Chatham Islands Council may choose to call for written or oral submissions and may hold a public hearing of those submissions.

## **Part 8**

### **8.1 Schedule of Fees and Charges**

- 8.1.1 That fees and charges for functions undertaken by the Chatham Islands Council under this bylaw are set out in the Council's Schedule of Fees and Charges. These fees and charges must be paid on demand by the specified person to the Chatham Islands Council.
- 8.1.2 The Chatham Islands Council shall review fees and charges as part of its annual planning process under the Local Government Act 2002.

### **8.2 Fees and Charges for Approvals**

- 8.2.1 Persons applying for any approval or permission under these Bylaws e.g. to lay and/or use a swing mooring or any suspension or exemption from any provision of these Bylaws, or any temporary regulation under Part 7, shall pay the relevant fee or charge specified.
- 8.2.2 Persons applying for any approval or permission under these Bylaws or any suspension or exemption from any provision of these Bylaws, or any reservation, regulation, prohibition or authorisation under Part 7, shall pay the actual and reasonable cost of any advertisements, or public or other notices required as a condition of the approval, permission, suspension or exemption whether or not these costs are incurred by the applicant or the Chatham Islands Council.
- 8.2.3 Persons applying for any approval or permission under these Bylaws or any suspension or exemption from any provision of these Bylaws, or any reservation, regulation, prohibition or authorisation, shall pay the actual and reasonable cost to the Chatham Islands Council of any hearings required by The Chatham Islands Council.
- 8.2.4 Any actual and reasonable costs and charges due to, and expenses incurred by, the Harbourmaster, enforcement officer or the Chatham Islands Council in ensuring compliance with these Bylaws, may be recovered from the master, agent and owner of the relevant vessel or mooring in any court of competent jurisdiction as a debt due to the Chatham Islands Council.
- 8.2.5 Persons applying for a replacement copy of any licence, certificate, permission or approval document shall pay the relevant fee or charge specified in Schedule 2

### **8.3 Port Charges**

- 8.3.1 The port charges specified in Schedule 2.5 shall be payable by the owners of the Wharf facilities.

## **8.4 Calculation of Port Charges**

- 8.4.1 The port charges specified in Schedule 2.5 shall be calculated on the basis of the actual and reasonable costs incurred by the Chatham Islands Council in undertaking its statutory functions under Part 39A of the Local Government Act 1974, reasonably apportioned to reflect the costs of and benefits of providing for commercial services at the ports of Waitangi, Owenga, Kaingaroa, Port Hutt and Flower Pot.
- 8.4.2 The Chatham Islands Council may, at its discretion, allow Clause 8.4.1. to be complied with through the payment of lesser sums than any of the port charges specified in Schedule 3 if there is a reduction in costs incurred by The Chatham Islands Council.
- 8.4.3 The Chatham Islands Council shall undertake a review of the port charges specified in Schedule 3 on an annual basis in consultation with the affected Wharf owners.

## **8.5 Navigation and Safety Services Fee**

- 8.5.1 Any vessel navigating within the Chatham Islands Navigation and Safety Bylaw Area, other than a vessel making a direct passage through the area shall be liable to the charges set out in Schedule 2.6.
- 8.5.2 The master or owner of the vessel shall be liable to pay this fee.
- 8.5.3 The Chatham Islands Council may, at its discretion, exempt vessels essential to supplying the Islands and vessels permanently or seasonally located in the Chatham Islands Bylaw Area

## Part 9 Offences and Enforcement

### 9.1 Offences

- 9.1.1 Every person commits an offence against these bylaws who, without reasonable cause, contravenes or fails to comply with any provision of these Bylaws.
- 9.1.2 Every person who commits a breach of these Bylaws may be proceeded against in the following manner:
- (a) If the breach consists of a failure to comply with a direction or prohibition in these Bylaws, that person may be prosecuted under Section 238 (1) of the Local Government Act 2002 and, if convicted, shall be liable to the penalties set out in Section 242 (2) of the Local Government Act 2002, which carries a maximum penalty of \$5000; and
  - (b) If the breach is one to which Section 699A of the Local Government Act 1974 applies, (and is therefore an infringement offence):
    - i. that person shall be liable under the Infringement Offence process under Section 699C of the Local Government Act 1974 for infringement fees prescribed by Regulations made under Section 699A of the Local Government Act 1974, which carries a maximum penalty of \$1000; or
    - ii. that person may be prosecuted under Section 699B (a) of the Local Government Act 1974, and if convicted, shall be liable to the penalties set out in Section 698 (1) of the Local Government Act 1974, which carries a maximum penalty of (a) as to the time or manner in which a vessel may enter into, depart from, lie, or navigate in a waterway;
  - (c) as to the position, mooring, unmooring, placing, removing, securing, or unsecuring of a vessel
  - (d) as to the manner in which a vessel may take in or discharge its cargo or any part of its cargo, and the manner in which the cargo is secured or is being handled on a vessel where there is a risk of cargo falling overboard and becoming a hazard to navigation; and
  - (e) to desist from any action that creates a hazard to navigation, or endangers the safety of any persons.

### 9.2 Compliance with Directions

- 9.2.1 All persons shall, as soon as is reasonably practicable, obey any lawful directions given by the Regional Harbourmaster, Harbourmaster, or an enforcement officer, and in particular comply with any direction by the Regional Harbourmaster, Harbourmaster, or an enforcement officer:
- (a) as to the time or manner in which a vessel may enter into, depart from, lie, or navigate in a waterway;

- (b) as to the position, mooring, unmooring, placing, removing, securing, or unsecuring of a vessel;
- (c) as to the manner in which a vessel may take in or discharge its cargo or any part of its cargo, and the manner in which the cargo is secured or is being handled on a vessel where there is a risk of cargo falling overboard and becoming a hazard to navigation; and
- (d) to desist from any action that creates a hazard to navigation, or endangers the safety of any persons.

### **9.3 Obstruction of a Regional Harbourmaster, Harbourmaster or Enforcement Officers**

- 9.3.1 No person shall by word or act, impede or obstruct the Regional Harbourmaster, Harbourmaster, or an enforcement officer in the execution of their duties.
- 9.3.2 No person shall aid, abet or incite any other person to resist, obstruct or impede any Regional Harbourmaster, Harbourmaster or enforcement officer.

### **9.4 Requirement to Allow Access**

- 9.4.1 The Master and the owner of a vessel shall allow a Regional Harbourmaster, Harbourmaster, or an enforcement officer, for the purposes of carrying out his or her duty, to enter and remain on any vessel.

### **9.5 Requirement to Provide Information**

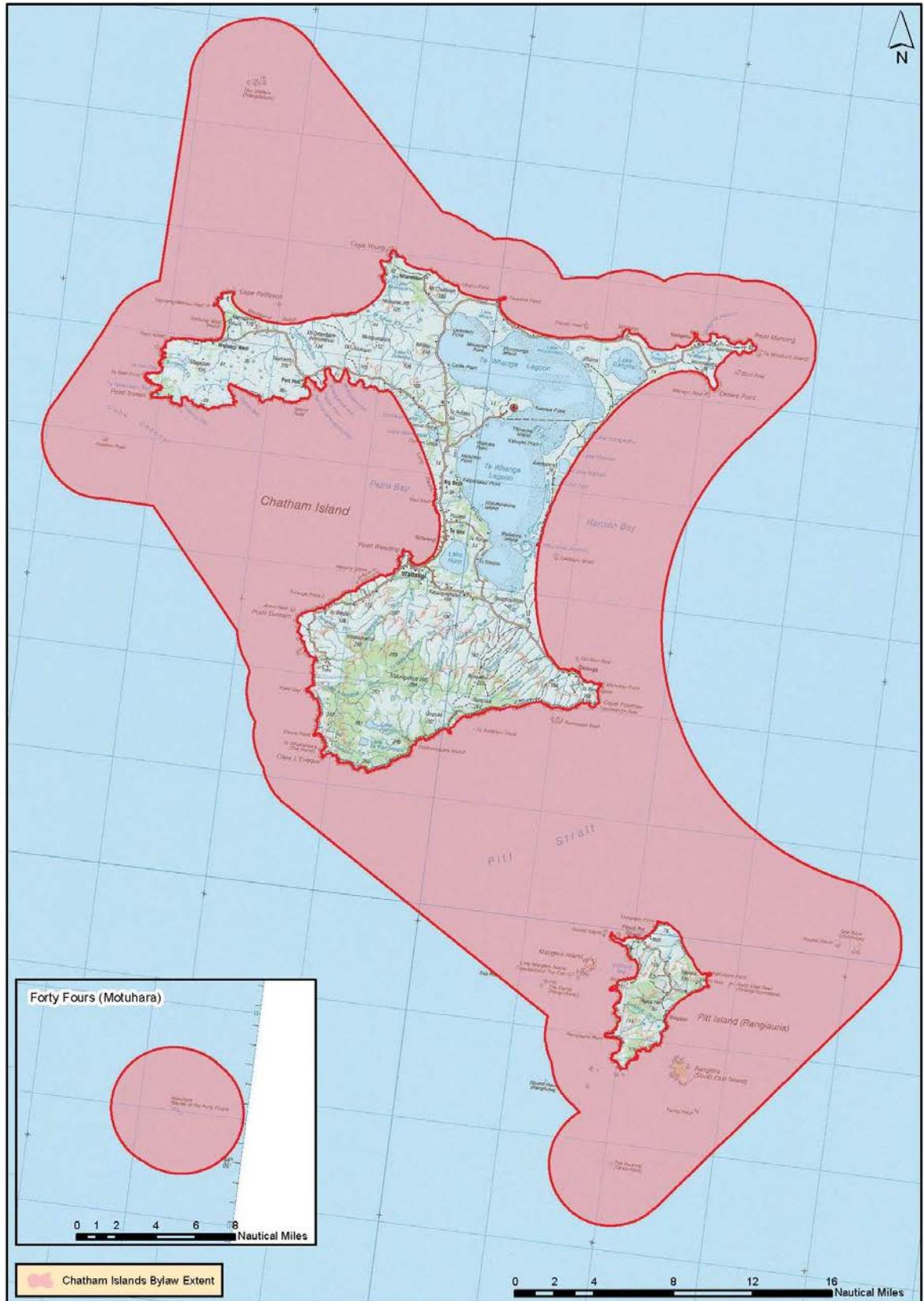
- 9.5.1 The person in charge of a vessel or seaplane shall, on request by a Regional Harbourmaster, Harbourmaster, or an enforcement officer, stop the vessel or seaplane and provide his or her correct name and address.
- 9.5.2 On request by a Regional Harbourmaster, Harbourmaster, or an enforcement officer (other than an honorary enforcement officer), the owner of a vessel or seaplane shall, after being informed of an alleged offence against these Bylaws, give all information in the owner's possession or obtainable by the owner which may lead to the identification of the person by whom the offence is alleged to have been committed

## **Schedule 1: Areas within which these Bylaws apply**

### **These Bylaws apply to the following parts of the Coastal Marine Area:**

The Islands coastal waters out to three nautical miles from the shore of Chatham and Pitt Islands, and also including the area of Petre Bay, Western Reef, Pitt Strait, the Sisters and an area around the Forty Fours as shown on Map 1 and the following inland waters;

- i Te Whanga
- ii Lake Huro
- iii Lake Rangitai



Map 1

## Schedule 2: Fees and Charges

### Schedule 2.1 General Provisions

- 2.1.1 Fees in this schedule are inclusive of Goods and Services Tax.
- 2.1.2 In this Schedule, unless otherwise specified, fees and charges payable per annum shall be payable and due on 1 July in any year for the 12 month period 1 July to 30 June in the following year.
- 2.1.3 The Chatham Islands Council may at its discretion reduce, waive or refund all or part of any fee or charge in this schedule, including making a reduction of per annum charges to take account of the months remaining to the end of the June year.
- 2.1.4 All fees and charges shall be payable to the Chatham Islands Council. The fees in this Schedule are in addition to any actual and reasonable costs required to be met under the provisions of these Bylaws or required to be met as a condition of granting any permission, approval, suspensions or exemptions from any clauses of these Bylaws.
- 2.1.5 2.1.5 Persons applying for any approval or permission under these Bylaws or any suspension or exemption from any provision of these Bylaws shall pay the actual and reasonable cost of any advertisements, or public or other notices required as a condition of the approval, permission, suspension or exemption whether or not these costs are incurred by the applicant or the Chatham Islands Council.
- 2.1.6 2.1.6 A fee of \$20 shall be payable for a replacement or duplicate copy of any licence, certificate, exemption, permission or approval document.
- 2.1.7 2.1.7 Review of fees and charges will occur through the Annual Plan process and will be included in the Chatham Island Council Schedule of Fees and Charges in the Annual Plan.

### Schedule 2.2 Permission of the Regional Harbourmaster

For an application for an exemption, permission or approval of the Regional Harbourmaster not otherwise specified in this Schedule.	\$60
Permission of the Regional Harbourmaster to undertake Hot Work on a vessel other than an oil tanker.	No charge
Permission of the Regional Harbourmaster to undertake Hot Work on an oil tanker.	\$100

### Schedule 2.3 Suspensions, Exemptions, Reservations etc.

For an application for a suspension or exemption from the Chatham Islands Council under clause 8.1.	\$250.00
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### Schedule 2.4 Swing Mooring Fees

Swing Mooring Registration Fee, payable per annum.	\$75
Swing Mooring Transfer Fee	\$75

### Schedule 2.5 Port Charges

For Waitangi, payable per annum by Chatham Islands Ports Ltd	\$3000
For Owenga, payable per annum by the Chatham Islands Council	\$2500
For Kaingaroa, payable per annum by Kopi Holdings	\$2000
For Port Hutt (Whangaroa Harbour), payable per annum by Yellow Fin Holdings Ltd	\$2000

### Schedule 2.6 Navigation and Safety Services Fee

Charges for Vessels Anchoring or Stopping within the Coastal Waters Covered by these Bylaws

Arrival of vessel into area	\$1/GT*
Departure of vessel from area	\$1/GT
Anchoring, drifting, sheltering or undertaking any transfer operation within the area	\$0.20/GT per day or part thereof

\*GT – gross tonnage

## **Schedule 3: Navigation Channels**

The Navigational Channels that are required to be kept clear to allow the unimpeded passage of large vessels are described below:

### **Schedule 3.1 Port Hutt (Whangaroa Harbour)**

The Navigation channel is located within the waters contained between Napper Point (430 49' S, and 1760 41' 30" W) and Point Enderby (430 48' 40" S and 1760 42' 6" W), from the shoreline to 300 metres off shore.

### **Schedule 3.2 Kaingaroa**

The navigation channel is the area indicated by leading lights facing the harbour as follows:

Front light (white triangle, orange strip, on beacon four metres in height) (430 44' 6" S, 1760 15' 24" W), standing on a hill, 12 metres in elevation, at the head of the harbour.

Rear light (similar structure) (53 metres south of front light)

The alignment (169.50) of these lights leads into the harbour. Length of channel one nautical mile.

### **Schedule 3.3 Owenga (Hanson Bay)**

The navigation channel is the area indicated by leading lights facing the harbour as follows:

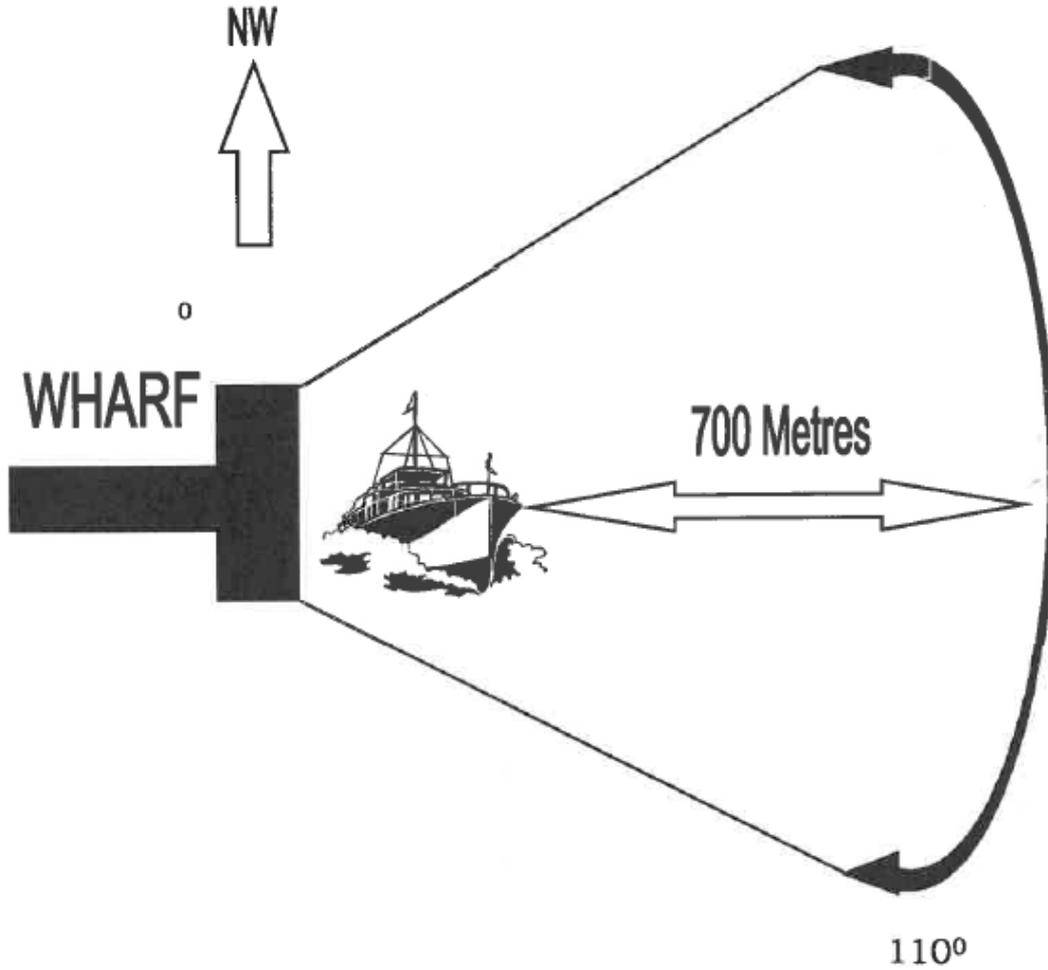
Front light (white triangle, orange stripe, on beacon two metres in height). Rear light (similar structure on front beacon four metres in height) (33 metres from front light).

The alignment (141.750) of these lights indicates the anchorage, which is approached passing west of Old Man Reef. The reef extends 2 miles NNE from the coast in the vicinity of Owenga. Length of channel 0.8 nautical miles.

## Schedule 4: Area to be kept clear off Waitangi Wharf

### Waitangi Wharf - Holding Pens, Petre Bay

The diagram below shows the area at Waitangi Wharf that should be kept clear at all times for shipping purposes.



Chatham Islands Council  
PO Box 24  
Tuku Road  
Waitangi  
Chatham Islands

Ph: (03) 3050 033  
(03) 3050 034  
Fax: (03) 3050 044  
Email: [info@cic.govt.nz](mailto:info@cic.govt.nz)  
Web: [www.cic.govt.nz](http://www.cic.govt.nz)

ISBN: 978-1-927257-02-9 (hardcopy)  
ISBN: 978-1-927257-03-6 (web)  
Report Number R13/3



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