

Helping to protect the public

Minimising risk of accidents, nuisance and damage within Auckland's navigable waters

navigation safety, personal floatation devices, activities, restricted access, identification of vessels, moorings, large vessels, dangerous activities, pilots



Statement of Proposal to make a new Te Kaunihera o Tāmaki Makaurau Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council Navigation Bylaw 2021 and associated controls.

Public consultation takes place from **16 November 2020 to 14 February 2021.**

1 Have your say

Helping to protect the public

Every day people use Auckland's navigable waters for both recreation and business, for example boating, kayaking, kite boarding, swimming, fishing, and ferrying people and cargo.

The number of people and variety of uses of Auckland's navigable waters can increase the risk of accidents, nuisance and damage. For example, jet skis in swimming areas, illegally moored vessels and explosive cargo.

What Auckland Council does

We make rules to minimise the risk of accidents, nuisance and damage within Auckland's navigable waters.

The existing rules are set in the [Te Kaunihera o Tāmaki Makaurau Ture ā-Rohe Urungi Āhuru 2014 / Auckland Council Navigation Safety Bylaw 2014](#) and associated controls.

These rules are in addition to national rules contained in the [Maritime Transport Act 1994](#) and [Maritime Rules](#) (in particular [Part 91](#)). We also rely on other legislation to protect marine mammals ([Marine Mammals Protection Act 1978](#)), to protect the environment ([Resource Management Act 1991](#)) and for the safe use of vessels for hire ([Health and Safety at Work \(Adventure Activities\) Regulations 2016](#)).

Improving navigation rules

We recently checked how the rules are working and identified improvements.

The main proposals are to:

- increase the maximum speed limit on the Waitemata Harbour Zone to 18 knots to allow faster movement of vessels (including public transport vessels), but still ensure travel at a safe speed
- clarify existing rules, including about swimming, events and support vessels
- make new rules about novel craft (for example a motorised surfboard)
- make new specified areas and conditions of use for Tamaki Entrance and Commercial Port Area
- amend existing rules about carrying a means of communication on vessel, to carrying at least two independent forms of communication on a vessel
- align rules about the use of Ōrākei Basin with current accepted practices
- remove rules about licensing of commercial vessels for hire and marine mammal protections as these are more appropriately addressed in separate legislation
- update the format and wording of the rules to be easier to read and understand.

We want to know what you think

Starting on **16 November 2020** through to **14 February 2021** we want you to tell us what you think about the proposed new Te Kaunihera o Tāmaki Makaurau Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council Navigation Bylaw 2021 and associated controls.

Visit www.aucklandcouncil.govt.nz/have-your-say for more information, give your feedback and find out where you can drop in to a 'Have your say' event.

2 What is the Bylaw

[Te Kaunihera o Tāmaki Makaurau Ture ā-Rohe Urungi Āhuru 2014, Auckland Council Navigation Safety Bylaw 2014](#) and associated controls were made on 31 July 2014.

The purpose of the Bylaw is to help minimise the risk of accidents, nuisance and damage on Auckland's navigable waters.

Navigation Safety Bylaw 2014 and associated controls

General Navigation Safety Requirements Persons in charge, minimum age, speed, seaworthiness and collision prevention.	Carriage and wearing of Personal Flotations Devices Carriage, wearing in times of risk, wearing on small vessels and exemptions.
Activities Swimming, towing of persons, dive operations, wake, use of vessel engine, access lanes, reserved areas and conduct	Operating Requirements Obstructions, discharges, navigations aids, sound and light signals, communication, visibility, identification, aircraft and anchorages.
Licenses, permits and administrative matters Jet ski registration, moorings, licenses, maintenance and construction requirements, hot works and bunkering.	Large vessels Navigating with inoperative equipment, duties, moving prohibited zone, areas of restricted access and automatic identification systems.
Specific restrictions in lanes, zones and areas Restrictions and exemptions for certain zones around Auckland such as Motuihe Channel and Waitemata Harbour.	Large commercial operations Regulations of tankers, hazardous cargoes and works, fuel oil transfers and other dangerous materials.
Pilot and Pilot exempt master operations Regulates log transits in a pilotage area, passage plans and bridge team compositions.	Licensing of commercial vessels for hire or reward Vessels to be licensed, application for licenses and conditions of license.
Controls and demarcations specified under the Bylaw	
Enforcement powers, penalties, offences, exemptions, transitional provisions and revocation.	
Exceptions If acting under direction of the Harbourmaster, an enforcement officer or police officer For all: Statutory powers under the Maritime Transport Act 1994	

3 What council proposes to change

Improving navigation rules

We recently checked how the rules are working and identified improvements.

We are proposing to better minimise the risk of accidents, nuisance and damage within Auckland's navigable waters by making a new Ture ā-Rohe Urungi Āhuru / Navigation Bylaw and associated controls.

Major proposals in comparison to the existing Bylaw and associated controls are:

Main proposals	Reasons for proposal
Increase the maximum speed limit on the Waitematā Harbour Zone to 18 knots (currently 12 knots) Alternative speed limits Council has heard a range of views regarding speed limits within the Waitematā Harbour Zone and is seeking feedback on a lower or higher speed limit than the proposed 18 knots. For example, the current 12 knots or an alternative like 15 knots.	- to allow vessels to operate at a higher safe speed limit - to better reflect the use of the area by fast ferries - to allow fast ferries to operate at higher known speeds to safely maximise public transport (instead of seeking exemptions to the current speed limit).
Clarify existing rules, including swimming, events and (New) support vessels	to improve certainty.
Make new rules about novel craft, for example a motorised surfboard	to help minimise safety risks.
Make new specified area and conditions of use for Tamaki Entrance and Commercial Port Area	to help minimise safety risks.
Amend existing rules about carrying a means of communication on vessel, to carrying at least two independent forms of communication on a vessel	help minimise safety risks.
Align rules about the use of Ōrākei Basin with current accepted practices	to reflect the current practices displayed on the signs at the Basin. No changes are proposed to the current use.
Remove rules about Commercial Vessels for Hire and Reward	to avoid duplication with the Health and Safety at Work (Adventure Activities) Regulations 2016.
Remove rules about speed around Marine Mammals	to avoid duplication with the Marine Mammals Protection Act 1978.
Update the format and wording of the Bylaw and associated controls	- to align with current best practice drafting standards - to make the rules easier to read and understand.

If you want to know more:

[Appendix A](#) shows what the proposed new Bylaw would look like, [Appendix B](#) provides a copy of the existing Bylaw and [Appendix C](#) provides a comparison between the existing and proposed new Bylaw.

4 How we implement the Bylaw

Graduated approach to compliance

The Harbourmaster undertakes proactive and reactive patrols of Auckland's navigable waters and uses a graduated approach to Bylaw compliance. For example:

- the initial response to lower risk issues (for example unregistered personal watercraft) may use education, advice and informal warnings
- there is a 'no excuses' approach to offences relating to personal flotation devices (life jackets) or other offences that directly or imminently risk public safety or damage to property. In these situations, formal directions and infringement fines may be issued.

Penalties for breaches of a bylaw rule could include infringement fines of up to \$1000 or a maximum \$20,000 court fine.

If offences escalate to a criminal threshold the Harbourmaster involves the Police or Maritime New Zealand.

Making controls and giving approvals

Both the existing and proposed new Bylaw use **controls** and **approvals** to effectively manage navigation.

Controls are specific rules the Harbourmaster can make. For example, a control can specify a reserved area or access lane within any navigable water in order to prohibit or restrict any activity and to ensure that adequate safety precautions have been made.

Approvals are when a person must get permission from the Harbourmaster before undertaking certain activities. For example, applications for mooring licences and registration of jet skis.

5

How we got here

Decisions leading to the proposed changes

The [Local Government Act 2002](#) requires the council to review its bylaws periodically to determine whether they are effective, efficient and still necessary to address the problem. We also check that a bylaw is not inconsistent with the other legislation such as the [Maritime Transport Act 1994](#) and [New Zealand Bill of Rights Act 1990](#).

The existing Navigation Safety Bylaw 2014 is due to expire on 31 July 2021.

We reviewed the existing Bylaw and associated controls by engaging with stakeholders and undertaking research. This was reported in our findings and considered options at meetings in March and June 2020.



This statement of proposal was approved for public consultation by the Governing Body on 29 October 2020 to commence the process to make a new Navigation Bylaw and associated controls.

Go to www.aucklandcouncil.govt.nz/have-your-say for copies of the above decisions, including findings and options considered, as required by legislation.

6 We want your input

You have an opportunity to tell us your views

We would like to know what you think about the proposed new Navigation Bylaw and associated controls.

Give us your feedback

Starting on 16 November 2020 through to 14 February 2021 we are asking for feedback on the proposed new Te Kaunihera o Tāmaki Makaurau Ture ā-Rohe Urungi Āhuru 2021 / Auckland Council Navigation Bylaw 2021 and associated controls.

You can give your feedback:

- at one of our 'Have your say' events – visit our website for details
- online at our website www.aucklandcouncil.govt.nz/have-your-say

Visit www.aucklandcouncil.govt.nz/have-your-say for more information.

Online services are available at our libraries.

Your name and feedback will be available to the public in our reports and online. All other personal details will remain private.

Find out more: **phone 09 301 0101**
or visit **aucklandcouncil.govt.nz/**