

	<h2>Maritime Facilities Bylaw</h2> <h3>Ngā ture mō ngā tauranga waka</h3>	
	Date made:	13 September 2022
	Operative date:	1 November 2022
	Next review date:	13 September 2027
<p>Under section 145 of the Local Government Act 2002, the governing body of Thames-Coromandel District Council makes the following bylaw to address activities on its maritime facilities.</p>		

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1 Title

This bylaw is the Maritime Facilities Bylaw.

2 Explanatory notes

Text in boxes headed 'Explanatory notes' in this bylaw is included for information purposes only, and –

- (a) does not form part of this bylaw; and
- (b) cannot be considered in the interpretation or application of a provision of this bylaw; and
- (c) may be inserted, amended or removed without any formality.

3 Commencement

This bylaw comes into force on [insert date].

4 Application

This bylaw applies to the district of the Thames-Coromandel District Council as defined in the Local Government (Waikato Region) Reorganisation Order 1989, Gazette 1989, p 2460.

Part 1: Preliminary provisions

5 Purpose

The purpose of this bylaw is to regulate the use of maritime facilities to ensure the facilities are used in a manner that is fair, safe, and efficient for –

- (a) recreation purposes;
- (b) the travelling public;
- (c) commercial transport of goods and passengers.

6 Interpretation

(1) In this bylaw, unless the context otherwise requires, –

approval means an approval granted under this bylaw and includes all conditions to which the approval is subject.

boat ramp means a slope used by ships to launch and to load ships to or from the water to or from boat trailers specified in Schedule 1.

berthing means the act of tethering, anchoring or mooring a ship at a maritime facility.

council means the governing body of the Thames-Coromandel District Council, or any person delegated to act on its behalf.

commercial activity means –

- (a) any charter operation involving carrying fare-paying passengers for profit or reward (including for transport, tourism, recreation or fishing purposes); or
 - (b) any commercial fishing or aquaculture operation; or
 - (c) sale or advertising of goods, services or events; or
 - (d) hire or rental of equipment that utilises Council facilities, such as for launching or landing;
- or

- (e) any associated infrastructure or service vehicles used to transport goods, fuel and other items on and off maritime facilities for the purposes of subsections (a) to (d).

goods includes—

- (a) all kinds of movable personal property, including animals; and
 (b) emblements, growing crops, and things attached to, or forming part of, the land that are agreed to be severed before sale or under the contract of sale; and
 (c) computer software.

maritime facility means the council managed marine structures specified in Schedule 1 and includes any associated permanent, or temporary structures.

owner has the same meaning as in section 2 of the Maritime Transport Act 1994.

Explanatory notes

As at 16 November 2021, the Maritime Transport Act 1994 defines 'owner' as:

- (a) in relation to a ship registered in New Zealand under the Ship Registration Act 1992, means the registered owner of the ship:
 (b) in relation to a ship registered in any place outside New Zealand, means the registered owner of the ship:
 (c) in relation to a fishing ship, other than one to which paragraph (a) or paragraph (b) applies, means the person registered as the owner in the Fishing Vessel Register kept under section 98 of the Fisheries Act 1996:
 (d) in relation to a ship to which paragraph (a) or paragraph (b) or paragraph (c) applies, 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:
 (e) in relation to an unregistered ship or a registered ship that does not have a registered owner, means the person who is for the time being responsible for the management of the ship

recreational activity means any activity that refreshes, satisfies, brings enjoyment to people, in which they engage on a voluntary basis during leisure time and does not include any activity that falls within the meaning of a "commercial activity".

ship has the same meaning as in section 2 of the Maritime Transport Act 1994.

Explanatory notes

As at 16 November 2021, the Maritime Transport Act 1994 defines 'ship' as:

means every description of boat or craft used in navigation, whether or not it has any means of propulsion; and includes—

- (a) a barge, lighter, or other like vessel:
 (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates:
 (c) a submarine or other submersible.

vehicle has the same meaning as in section 2 of the Land Transport Act 1998.

Explanatory notes

As at 28 October 2021, the Land Transport Act 1998 defines 'vehicle' as:

- (a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and
 (b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but
 (c) does not include—

- (i) a perambulator or pushchair:
- (ii) a shopping or sporting trundler not propelled by mechanical power:
- (iii) a wheelbarrow or hand-trolley:
- (v) a pedestrian-controlled lawnmower:
- (vi) a pedestrian-controlled agricultural machine not propelled by mechanical power:
- (vii) an article of furniture:
- (viii) a wheelchair not propelled by mechanical power:
- (ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:
- (x) any rail vehicle

wharf means a flat structure built next to the sea where ships can be tied up and goods unloaded and are specified in Schedule 1.

(2) The Legislation Act 2019 applies to this bylaw.

Explanatory notes

This means that words or phrases used in this bylaw that are defined in the Legislation Act 2019 have the meanings given in that Act. For example, section 13 of that Act defines "person" as "includes a corporation sole, a body corporate, and an unincorporated body".

Part 2: Permitted uses of maritime facilities

7 Recreational activities

(1) A person must not use the facilities listed in Part A of Schedule 2 for recreational activities.

(2) A person using a maritime facility for recreational activities must comply with the following conditions –

- (a) use must not be during the loading and unloading of goods; and
- (b) a ship, trailer, vehicle, or any other thing, must not be placed in, on or near a facility in such a way as to obstruct the reasonable use of that facility
- (c) the conditions relating to swimming set out in clause 18 of this bylaw
- (d) the conditions relating to fishing set out in clause 8 of this bylaw.

8 Fishing

(1) No person may fish at facilities listed in Part A of Schedule 2.

(2) A person may fish at a maritime facility other than those facilities listed in Part A of Schedule 2 if that person –

- (a) removes all rubbish or fishing-related by-products, for example, fish guts, bait, fishing line, hooks or other sharp objects; and
- (b) rinses down the facility with water and makes all reasonable efforts to remove blood, scales, fish guts or other fishing waste; and
- (c) does not unreasonably obstruct or prevent access for commercial activities or other people; and
- (d) does not endanger commercial activities or other people, for example, by casting without warning or casting when a facility is busy.

Part 3: Uses of maritime facilities that require approval

9 Structures

A person must not build, construct, erect or affix any structure, whether permanently or temporarily, on any maritime facility except in accordance with an approval granted by the council.

10 Storage of ships or equipment

A person must not store any trailer, ship, equipment or any other thing in, on or around a maritime facility except in accordance with an approval granted by the council.

11 Refuelling

- (1) A person must not refuel a ship on a boat ramp.
- (2) A person may refuel a ship on a wharf if that person has council approval for the refuelling.

12 Events and competitions

A person must not carry out an event or competition on a maritime facility except in accordance with an approval granted by the council.

13 Berthing

- (1) This clause does not apply to the following ships –
 - (a) A ship being used as an ambulance and which is at the time being used on ambulance service
 - (b) A ship being used by Fire and Emergency New Zealand for attendance at fires, and which is at the time attending a fire or related rescue event
 - (c) A ship being used by a member of the New Zealand Police in the execution of their duty
 - (d) A ship being used by a member of the Coastguard in the execution of their duty or related rescue event
 - (e) A ship being used by a member of Surf Life Saving New Zealand in the execution of their duty or related rescue event
 - (f) A ship being used by the Ministry of Primary Industries in the execution of its duty
 - (g) A ship being used by the Waikato Regional Council in the execution of its duty
 - (h) A ship being used by a member of the New Zealand Defence Force in the execution of their duty
 - (i) A ship being used by the National Emergency Management Agency in the execution of its duty or related declared emergency event.
- (2) A person berthing a ship at a maritime facility must –
 - (a) ensure the ship is securely berthed; and
 - (b) comply with subclauses (3), (4) and (5) of this bylaw; and
 - (c) pay the fee specified in the council's Schedule of Fees and Charges; and
 - (d) comply with any time limits specified in Schedule 2.

Explanatory notes

The council's Schedule of Fees and Charges can be read at this link:
<https://www.tcdc.govt.nz/fees>

- (3) A person must not berth a ship in a place where the ship could –
 - (a) obstruct the approach to any maritime facility; or
 - (b) create a hazard to other ships at the maritime facility; or
 - (c) block or impede a commercial activity; or
 - (d) block or impede an event, works, or activities that have an approval granted by the council –unless that person has an approval for the berthing granted by the council.
- (4) A person must not berth a ship at a maritime facility for the purpose of loading or unloading of goods unless the facility is listed in Part B of Schedule 2.
- (5) A person must not berth a ship at a maritime facility longer than is necessary to load or discharge passengers or goods.

14 Vehicles

- (1) A person must not drive, park or store any vehicle on a maritime facility except in accordance with an approval granted by the council.
- (2) A person must not bring onto a maritime facility a vehicle where the single or combined weight of vehicles on the maritime facility exceeds the maximum weight specified in Part C of Schedule 2.

15 Working on ships

- (1) Except as provided in subclause (2), a person must not work on a ship berthed at a maritime facility except in accordance with an approval granted by the council.
- (2) A person may carry out work on a ship berthed at a maritime facility only if the work is urgent and –
 - (a) does not involve using a source of ignition, including without limitation heat shrinking, welding, or grinding gas cutting; and
 - (b) is notified to the council within 1 hour of berthing the ship.

16 Commercial activities

A person must not use a ship for a commercial activity on a maritime facility except in accordance with an approval granted by the council.

Part 4: Prohibited uses of maritime facilities**17 Operating engines near maritime facilities**

- (1) A person must not operate the propulsion system if there are people in the water in the immediate vicinity of the ship.
- (2) A person must not operate a ship's propulsion system –
 - (a) while the ship is lying at any maritime facility, except as required for –
 - (i) safe berthing or departing; or
 - (ii) engine testing or

- (b) for the purpose of loading onto or unloading from a trailer at any public boat ramp, in such a way that it may damage any property, scour the bed of navigable waters, or injure any person; or
- (c) for the purpose of flushing the ship's water systems while at a boat ramp or jetty.

18 Swimming

- (1) Subject to subclause (2) of this clause, a person must not jump or dive from, or swim within 50 metres of, any maritime facility while a ship is departing from or berthing at the maritime facility.
- (2) A person may jump or dive from, or swim within 50 metres of, any wharf specified in Part D of Schedule 2 that has areas marked or have signs specifying where swimming is permitted.

19 Obstruction of other users

- (1) A person must not obstruct or impede vehicle movements or commercial activities on a maritime facility.
- (2) A person must not use a maritime facility in a manner that obstructs the reasonable use of the maritime facility by other people.

20 Closure of maritime facilities

- (1) The council may, in its discretion and at any time, -
 - (a) restrict the use of all or part of a maritime facility by:
 - (i) limiting the weight of vehicles on the maritime facility;
 - (ii) limiting the type and/or number of ships that can use the maritime facility;
 - (iii) limiting the type of number of people who can use the maritime facility;
 - (iv) limiting the days, or times of the day, ships can berth.
 - (b) close all or part of a maritime facility where the council considers it appropriate to do so to:
 - (i) protect the public from a nuisance;
 - (ii) carry out maintenance and repairs;
 - (iii) otherwise protect, promote or maintain public health and safety; or
 - (iv) recognise significant cultural practice of iwi, hapū and whanau as tangata whenua (including but not limited to customary activities such as rāhui, tangihanga or hari tūpāpaku)
 - (v) for any other good and sufficient reason relating to the efficient, reasonable and fair management of the facility.
- (2) A person must not enter or use any part of a maritime facility that is closed or restricted under subclause (1).

Part 5: Approvals process

21 Approval applications

- (1) A person who requires an approval under Part 3 ('the applicant') must apply to the council for an approval and the application must be –
 - (a) in the form required by the council; and

- (b) accompanied by the applicable fee set in the council's Schedule of Fees and Charges.

Explanatory notes

The council's Schedule of Fees and Charges can be read at this link:
<https://www.tcdc.govt.nz/fees>

- (2) An application is not treated as having been made until all the provisions in this clause have been complied with.
- (3) The council may exercise its discretion to grant or decline an application for an approval, having regard to any matter it considers relevant and reasonably necessary to determine the application in relation to the purpose of this bylaw.
- (4) An applicant may withdraw their application at any time before a decision is made, but any fee paid with the application will not be refundable unless the council, in its absolute discretion, decides a refund, or partial refund, is reasonable in the circumstances.
- (5) Approvals are not transferable to another person.
- (6) An approval does not affect or limit the obligations of any person to comply with any legislation or regulatory requirements that apply to the matters covered by the approval.

22 Conditions on approval

- (1) All approvals granted under clause 21 include a condition that enables the council to carry out inspections to ensure the approval, its conditions and the provisions of the bylaw are being complied with.
- (2) The council may include other conditions on any approval for the following matters –
- requiring a label, in the form specified by the council, to be displayed on a ship showing the approval;
 - the duration of the approval and how the approval may be renewed, if at all;
 - any other matter the council considers is necessary to enhance or promote safety or provide reasonable public use of the maritime facility;
 - pay any fees specified in the council's Schedule of Fees and Charges.

Explanatory notes

The council's Schedule of Fees and Charges can be read at this link:
<https://www.tcdc.govt.nz/fees>

23 Amendment of approval

A person granted an approval may, at any time within the duration of the approval, apply to the council to amend the approval or its conditions. An application for amendment must be made in the same manner as an application for an approval, with any necessary modifications.

24 Suspending or cancelling approval

- (1) The council may suspend or cancel an approval in its absolute discretion if –
- any conditions are not complied with; or
 - the maritime facility, or part of the maritime facility, the approval applies to is removed from Schedule 1; or
 - the limits or restrictions on the use of the maritime facility, or part of the maritime facility, the approval applies to are changed; or
 - the council considers the suspension or cancellation is necessary to enhance or promote safety or provide reasonable public use of the maritime facility.

- (2) The suspension or cancellation takes effect from the date the person who was granted the approval receives written notice of the council's decision to suspend or cancel the approval. The notice must include the reasons for the council's decision.
- (3) Suspending or cancelling an approval does not affect the council's powers to take other enforcement action under this bylaw or any other legislation for the acts or omissions that were the reasons for the suspension or cancellation.
- (4) Except where the approval is cancelled under subclause (1)(b), the person who was granted an approval that is suspended or cancelled under this clause may object to the council about the suspension or cancellation by lodging an objection in writing within 20 working days after the date of the suspension or cancellation.
- (5) The council will make a decision on an objection within 20 working days of the date the objection is received and will provide the decision, in writing, to the applicant. The decision must include the reasons for the decision.
- (6) Any fees paid for the approval are not refundable if the council suspends or cancels the approval unless the council, in its absolute discretion, decides a refund, or partial refund, is reasonable in the circumstances.

Part 6: Enforcement, offences and penalties

25 Removal of ships

- (1) The council may, at any time and in its absolute discretion, require a person to move a ship from any maritime facility.
- (2) A person required to move a ship under subclause (1) must remove the ship immediately.

Explanatory notes

Pursuant to section 164 of the Local Government Act 2002, the council may seize and impound property that is materially involved in the breach of a bylaw.

26 Damage to or construction on maritime facilities

- (1) A person using a maritime facility is liable for any damage caused to the maritime facility by the person or any agent or employee of the person, including any damage caused by the person's use of any ship or vehicle.
- (2) The council may repair any damage to a maritime facility and charge and recover the cost of such repairs from any person liable for that damage under sections 175 or 176 of the Local Government Act 2002.
- (3) Pursuant to section 163 of the Local Government Act 2002, the council may remove or alter a work or thing that is or has been constructed on a maritime facility in breach of clause 9 of this bylaw, and may recover the costs of removing or altering the work or thing from the person who committed the breach.

27 Council liability

The council is not liable to any person for any loss or damage of any goods, object or thing that person has placed on, or left at, a maritime facility.

28 Offence and penalty

- (1) A person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002.

- (2) A person who intentionally obstructs or impedes the council in the exercise of its functions, powers or duties under this bylaw commits an offence under section 229 of the Local Government Act 2002.
- (3) This clause does not prevent the council from having recourse to other legal remedies, as it sees fit, to enforce the provisions of this bylaw.

Part 7: Savings and transitional provisions

29 Maritime Facilities Bylaw revoked

- (1) The Maritime Facilities Bylaw made by the governing body of the council on 9 December 2015 and all amendments made to that bylaw are revoked.
- (2) The revocations in this clause do not prevent any legal proceedings, criminal or civil, commenced, before the date of commencement of this bylaw, to enforce the bylaw or resolutions, from continuing to be dealt with and completed as if the bylaw or resolutions had not been revoked.

30 Applications, approvals under revoked bylaw

All permissions, agreements, licences, acts and things that were made, given or issued under the Maritime Facilities Bylaw revoked in clause 29, or that were continued by that bylaw, and are continuing at the commencement of this bylaw, will continue, and be treated, as if they are approvals granted by the council under this bylaw.

Schedules

31 Maritime facilities

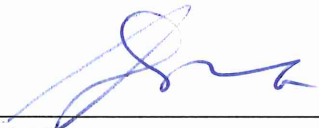
- (1) Schedule 1 lists the Maritime Facilities for the purposes of this bylaw.
- (2) Schedule 2 lists Maritime Facilities for the purposes of this bylaw that have a restriction on their usage.
 - (a) Part A – lists Maritime Facilities where recreational activities are prohibited as set out in clause 7(2).
 - (b) Part B – lists Maritime facilities that may be used for the loading and unloading of goods as set out in clause 13(4).
 - (c) Part C – sets out maximum weight limits on maritime facilities as set out in clause 14(2).
 - (d) Part D – lists wharves where swimming is permitted as set out in clause 18(1).

32 Amendment of Schedules

The council may, by resolution:


- (a) add, amend or remove any maritime facility from Schedule 1 or 2 and this bylaw shall apply to any maritime facility amended or added to Schedule 1 or 2; and
- (b) add, amend or remove any restriction on the usage of a maritime facility in Schedule 2 and a breach of any restriction made or amended by council is a breach of this bylaw.

Signed on Behalf of Thames-Coromandel District Council by;



District Mayor

28/9/2022
Date



Chief Executive

27/9/2022
Date



Table of Amendments

This table does not form part of the bylaw.

Action	Description	Date of Council Resolution	Effective Date

Schedule 1 – Maritime Facilities

Boat Ramps	Location
Coromandel-Colville	
Sugarloaf (Te Kouma) Ramps	Te Kouma Road, Te Kouma
Jacks Point/ Furey's Creek Ramp	Wharf Road, Coromandel
Long Bay Boat Ramp	Long Bay Road, Coromandel
Wyuna Bay Road Ramps	Woodroffe Road & Wyuna Bay Road, Coromandel
Mercury Bay	
Brophy's Beach Ramp	Buffalo Beach Rd, Whitianga
Hei Reserve Boat Ramp	Hei Esplanade, Whitianga
Matarangi Boat Ramp	Kenwood Drive, Matarangi
Purangi Boat Ramp	Captain Cook Road, Cooks Beach
Quarry Point Ramp	Kūaotunu-Wharekaho Road, Kūaotunu
Robinson Road Ramp	Robinson Road, Whitianga
Whitianga Esplanade Ramp	The Esplanade, Whitianga
Whangapoua Ramp	Whangapoua Road, Whangapoua
Tairua-Pāuanui	
Tairua Wharf Boat Ramp	Wharf Road, Tairua
Paku Ramp, Tairua	The Esplanade, Tairua
Pleasant Point Ramp	Pleasant Place, Pāuanui
Royal Billy Ramp	Vista Paku, Pāuanui
Tangiteroria Lane Ramp	Tangiteroria Lane, Pāuanui
Thames	
Kōpū Boat Ramp	Quay Street, Kōpū
Ruamahunga Boat Ramp	Thames Coast Road, Ruamahunga
Waiomu Boat Ramp	Thames Coast Road, Waiomu
Whangamatā	
Beach Road Ramp	Beach Road, Whangamatā
Kotuku Ramp	Kotuku Road, Whangamatā

Wharves & Jetties	Location
Coromandel-Colville	
Sugarloaf Wharf (Te Kouma)	Te Kouma Road, Te Kouma
Port Charles Wharf	Port Charles Wharf Road, Port Charles
Hannaford's Jetty	Te Kouma Road, Te Kouma
Coromandel Wharf	Long Bay Road, Coromandel
Mercury Bay	
Ferry Landing Wharf	Purangi Road, Ferry Landing
Whitianga Wharf	The Esplanade, Whitianga
Hei Esplanade Jetty	Hei Esplanade, Whitianga
Matarangi Jetty	Kenwood Drive, Matarangi
Whangapoua Wharf	Whangapoua Road, Whangapoua
Tairua- Pāuanui	
Tairua Wharf	Wharf Road, Tairua
Paku Jetty	The Esplanade, Tairua
Royal Billy Jetty	Vista Paku, Pāuanui
Pāuanui Waterways Public Jetty	Waterways Parade, Pāuanui
Whangamatā	
Whangamatā Wharf	Beach Road, Whangamatā

Schedule 2 – Maritime Facilities that have a restriction on their usage

Part A – Maritime facilities where recreational activities are prohibited

- (1) Sugarloaf Wharf (Te Kouma) (3) Ferry Landing Wharf
 (2) Hannaford's Jetty

Part B – Maritime facilities that may be used for the loading and unloading of goods as part of a commercial activity

- (1) Sugarloaf Wharf (Te Kouma) (5) Whitianga Wharf
 (2) Hannaford's Jetty (6) Ferry Landing Wharf
 (3) Coromandel Wharf (7) Whangamatā Wharf
 (4) Port Charles Wharf (8) Tairua Wharf

Part C – Maximum weight limits on maritime facilities

Structure	Location	Maximum weight on any 1 axle
Coromandel-Colville		
Sugarloaf (Te Kouma)	Te Kouma Road, Te Kouma	No known limit
Port Charles Wharf	Port Charles Wharf Road, Port Charles	No known limit
Hannaford's Jetty	Te Kouma Road, Te Kouma	No vehicle access
Coromandel Wharf	Long Bay Road, Coromandel	1500kg on wooden timber wharf section on south side of wharf nearest the far end of Coromandel Wharf
Mercury Bay		
Ferry Landing Wharf	Purangi Road, Ferry Landing	No vehicle access
Whitianga Wharf	The Esplanade, Whitianga	** 8 Tonne on triangular area near wharf crane
Hei Esplanade Jetty	Hei Esplanade, Whitianga	No vehicle access
Matarangi Jetty	Kenwood Drive, Matarangi	No vehicle access
Whangapoua Wharf	Whangapoua Road, Whangapoua	No vehicle access
Tairua- Pāuanui		
Tairua Wharf	Wharf Road, Tairua	1500kg and no public vehicles
Paku Jetty	The Esplanade, Tairua	No vehicle access
Royal Billy Jetty	Vista Paku, Pāuanui	No vehicle access
Pāuanui Waterways Public Jetty	Waterways Parade, Pāuanui	No vehicle access

Part D – Wharves where swimming is permitted

- (1) Whitianga Wharf (2) Whangamatā Wharf

