



# **Hauraki District Council Consolidated Bylaw**

## **PART 9: (WHARVES)**

## BYLAW PART

### PART 9 (WHARVES)

#### Purpose

The purpose of Part 9 (Wharves) of the Hauraki District Council Consolidated Bylaw is to provide for the control and management of the wharf facilities that are provided by, owned or controlled by the Council.

Part 9 (Wharves) is part of the Hauraki District Council Consolidated Bylaw. Part 1 (Introduction) of the Consolidated Bylaw contains provisions that apply to Part 9 (Wharves) by providing generally applicable definitions, administrative measures and enforcement measures.

Part 9 (Wharves) of the Consolidated Bylaw follows.

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## **PART 9: (WHARVES)**

### **1 INTRODUCTION**

#### **1.1 SCOPE**

The purpose of Part 9 (Wharves) of the Bylaw is to provide for the control and management of the wharf facilities that are provided by, owned or controlled by the Council.

#### **1.2 TITLE**

This Part shall be known and cited as the Part 9 (Wharves) of the Hauraki District Council Consolidated Bylaw 2007 and shall come into operation on the date specified by public notice after the Hauraki District Council makes this Bylaw. For expediency this Part of this Bylaw may be referred to in this or other Parts of this Bylaw as Part 9 (Wharves).

#### **1.3 ENABLING ENACTMENTS**

This Part is made pursuant to sections 145 and 146(b)(vi) of the Local Government Act 2002.

### **2 DEFINITIONS AND INTERPRETATIONS**

#### **2.1**

The provisions of the Part 1 (Introduction) shall apply to this Part of the Bylaw.

#### **2.2**

For the purposes of this Part the following definitions shall apply:

BERTH means the place at a wharf facility where a vessel is anchored or moored;

BOAT RAMP includes any designated launching and retrieval points approved by the Council in clause 2.6.1 of Part 3 (Public Safety) of this Bylaw;

LITTER means the same as in section 2 of the Litter act 1979;

OWNER and OPERATOR mean the same as in the Maritime Transport Act 1994;

SERVICE VEHICLE means the same as in section 2 of the Land Transport Act 1998;

VESSEL means the same as “ship” in the Maritime Transport Act 1994 and includes any aircraft which can take off from or land on water, while such aircraft is manoeuvring on any waters to which this Part of the Bylaw relates;

WATERWAY means:

- (a) means a lake, being a body of fresh water that is entirely or nearly surrounded by land, or a river, being a continuously or intermittently flowing body of fresh water, and includes a stream and modified watercourse; and
- (b) includes coastal waters, including harbours; but
- (c) does not include an artificial watercourse such as an irrigation canal, water supply race, canal for the supply of water for electricity power generation, or land drainage canal.

WHARF means the same as in section 2 of the Reserves Act 1977;

WHARF FACILITIES means any buildings, enclosures, fences, shed, wharves, jetties, boat ramps, conveniences, storage parks, associated facilities and any other work used or associated with marine and river waterway activities that is provided, owned or controlled by the Council within the District;

### **3 ACCESS TO WHARF FACILITIES**

#### **3.1 Facilities Open to the Public**

Subject to the provisions of Part 3 (Public Safety) of this Bylaw and any other enactment and except during such times and subject to such conditions as the Council may from time to time by resolution publicly notified, prescribe or vary, every wharf facility shall be open to the public for pedestrian access.

### **3.2 Vehicles on Wharf facilities**

Except with the prior permission of the Council, no vehicle shall be driven or parked on any wharf facility, other than:

- (a) a service vehicle used at the time for a commercial activity that relates to that wharf facility; or
- (b) an emergency vehicle used at the time to save or protect life or health, or prevent injury or serious damage to property; or
- (c) a vehicle used in an official capacity at the time by an authorised officer;

### **3.3 Berthing of vessels at wharves**

#### **3.3.1**

The Council may regulate through *Rules of Use* specified by the Council pursuant to section 12 of the Act, the admission of vessels or vehicles to any wharf or wharf facility, including the conditions and duration of stay of any vessel or vehicle.

#### **3.3.2**

Except with the prior permission of the Council, no person shall tie or secure any vessel to any wharf, or in the proximity of any such wharf.

#### **3.3.3**

Except with the prior permission, no person shall permit any vessel to occupy a berth at a wharf whether directly alongside a wharf or outside one or more vessels occupying a berth at a wharf.

#### **3.3.4**

Except with the prior permission of the Council, vessels in excess of 40 tonnes (DWT) are prohibited from berthing at any wharf.

### **3.3.5**

Except with the prior permission of the Council obtained at least 24 hours beforehand, no vessel shall be left unattended at any wharf.

### **3.3.6**

Except with the prior permission of the Council, vessels are only allowed to lie alongside any wharf for one hour during daylight hours.\*

### **3.3.7**

Where in the opinion of the Council and after consultation with the owner or operator of the vessel, a possibility exists that the tying up of a vessel to a wharf under present or anticipated sea or weather conditions may impose undue strain or damage to the wharf, the owner or operator of such vessel shall remove the vessel at the request of the Council, unless the safety of a vessel or those onboard are likely to be placed at risk.

## **3.4 Pollution Control**

### **3.4.1**

Before any vessel is cast off from any wharf or structure, the person in charge of the vessel shall cause all litter to be removed from the portion of the wharf where the vessel was tied up.

### **3.4.2**

No person shall cast, throw, deposit, discharge or allow to fall into any waterway, any ballast, rock, stone, shingle, earth, cinders, rubbish, fuel or oil discharges, dunnage, offal of any kind, sewage or other offensive matter unless authorised by a resource consent granted under the Resource Management Act 1991 or undertaken as part of a construction or maintenance activity authorised by the Council.

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\* Permission is likely to be granted when using the Puke Bridge jetty as it is a place where due to low tide water levels in the river the vessel may lay alongside until the next tide permits sailing.

### **3.5 Removal of Offenders from Wharf Facility**

The Council or police officer requested by the Council may exclude or remove from any wharf facility, any person:

- (a) who has acted in an unlawful manner in or near any wharf facility; or
- (b) who is not bona fide using the wharf facilities for its normal intended purposes; or
- (c) who has contravened any of the provisions of any Part of this Bylaw; or
- (d) for any good and sufficient reason relating to the efficient, reasonable, and fair management of the wharf facilities.

### **3.6 Removal of Offending Vehicles and Vessels**

#### **3.6.1**

The Council or police officer requested by the Council may remove, from any wharf facility, into safe custody, any vehicle or vessel:

- (a) which has been abandoned on or moored to the wharf facility; or
- (b) which is contravening any of the provisions of this Bylaw, where the owner or person of the vehicle or vessel refuses to move it or cannot be located;
- (c) for any good and sufficient reason relating to the efficient, reasonable and fair management of the wharf facility.

#### **3.6.2**

Vehicles or vessels removed pursuant to clause 3.6.1 shall be released by the Council to the owner on payment to the Council of the reasonable costs of such removal.

### **3.7 Traffic and Parking Control**

The provisions of Part 2 (Land Transport) of this Bylaw shall apply to wharf facilities.

## **4 OBSTRUCTING BOAT RAMPS**

No person shall loiter on or near any boat ramp whilst loading or unloading any trailer, nor shall any person leave on or near any boat ramp any vessel or vehicle so as to obstruct the reasonable use of such ramp by other people desiring to use the same.

## **5 FEES AND CHARGES**

### **5.1**

The Council may prescribe fees for this Part of this Bylaw in accordance with section 150 of the Act.

### **5.2**

The Council may from time to time by resolution publicly notified and set out in Schedule 1 of this Part of this Bylaw, make and amend a system of charges and fees for the use of wharf facilities.

## **6 OFFENCES AND BREACHES**

### **6.1**

Every person who fails to comply with this Part of this Bylaw commits an offence and shall be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Act, Part 1 (Introduction) of this Bylaw and the other enabling enactments contained in clause 1.3 of this Part of this Bylaw.

## 6.2

Any person who breaches this Part of the Bylaw shall be liable for a fine in the amount prescribed by section 292 of the Local Government Act 2002, and, where the breach is a continuing one, not exceeding the amount in that section for every day or part of a day during which the breach has continued.

THE COMMON SEAL OF HAURAKI DISTRICT COUNCIL WAS HERETO AFFIXED PURSUANT TO RESOLUTION PASSED AT A MEETING OF THE HAURAKI DISTRICT COUNCIL HELD ON 19<sup>th</sup> (DAY) OF DECEMBER (MONTH) 2007.

----- MAYOR

----- CHIEF EXECUTIVE

## **SCHEDULE 1 OF PART 9 (WHARVES) – SYSTEM OF FEES AND CHARGES**

### **1. Wharf and Pile Mooring Fees**

- 1.1 The Council may establish fees pursuant to section 150 of the Local Government Act 2002 in the Council's Annual Plan for commercial use of wharves and pile moorings to which such fees apply.
- 1.2 Where a charge is established, every owner or operator of a vessel that is used on any wharf facility that is a wharf or pile mooring shall be liable to pay to the Council a wharf or pile mooring fee as prescribed in the Council Schedule of Fees and Charges under Wharf Facilities Fees with the exclusion of private use of canoes, kayaks, surfboards, windsurfers and sailboards.
- 1.3 Payment of the fee grants the right for the owner or operator to use the wharf facility, in accordance with the provisions of the Bylaw, for the period/date applied for. On payment of the fee and completion of the form associated with it, the owner or operator will be issued with a Certificate of Use.

### **2. Parking Fees**

Parking fees for vehicles allowed on wharf facilities may be set by the Council pursuant to Part 2 (Land Transport) of this Bylaw.

### **3. Miscellaneous Fees and Charges**

Every person who enters and makes use of the wharf facilities shall be liable to pay for the provision, maintenance and use of the wharf facility in accordance with the fees and charges determined or altered from time to time by the Council by resolution publicly notified pursuant to section 150 of the Local Government Act 2002.