



Consolidated Bylaw

Chapter #

Draft Mooring Area Bylaw

XX 2019

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1. Preliminary Provisions

1.1 Title and Commencement

- 1.1.1 These Bylaws are (and may be cited as) the Tasman District Council Consolidated Bylaw, Chapter #, Mooring Area Bylaw ##.
- 1.1.2 These Bylaws come into force on the same day as the Mooring Area provisions [refer to specific provision] in the Tasman Resource Management Plan become operative.

1.2 Purpose

- 1.2.1 These Bylaws are made for the purpose of ensuring maritime safety within specifically identified Mooring Areas in Tasman District.

1.3 Legal Basis

- 1.3.1 This Bylaw is made pursuant to Part 3A (Section 33M) of the Maritime Transport Act 1994.
- 1.3.2 The provisions in the Tasman District Council Consolidated Bylaw, Chapter 5: Navigation and Safety Bylaw 2015 apply in the Mooring Area.
- 1.3.3 Where this Mooring Area Bylaw ## is inconsistent with the Resource Management Act 1991 or any rule made under the Resource Management Act 1991, then under the Maritime Transport Act 1994 s. 33M(2)(i), that Act or rule prevails.

1.4 Application

- 1.4.1 This Bylaw applies to all Mooring Areas identified on the planning maps of the Tasman Resource Management Plan.

1.5 Definitions

Communally Established Mooring System Agreement means a written agreement between individuals agreeing to fund, establish, use and maintain a communal mooring system in accordance with the conditions of the agreement.

Mooring 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, chain, buoy, or other device attached or connected to the weight. Mooring may include a system of weights and attachments for the same purpose 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.

Mooring Area means the area identified by the Council as a mooring area in the Tasman Resource Management Plan planning maps.

Kaiteriteri Mooring Area 1 means the area identified by the Council as Kaiteriteri Mooring Area 1 in the Tasman Resource Management Plan planning maps ## ##.

Kaiteriteri Mooring Area 2 means the area identified by the Council as Kaiteriteri Mooring Area 2 in the Tasman Resource Management Plan planning maps ## ##.

2. General Requirements

2.1 Requirement for Authorisation

- 2.1.1 No person may place a mooring in a Mooring Area unless the mooring is a permitted activity in the Tasman Resource Management Plan or they hold a coastal permit for that mooring. All moorings are required to be fit for purpose.

2.2 Requirement for a Mooring Licence

- 2.2.1 No person shall place a mooring in a Mooring Area without holding a mooring licence issued by Council, unless the mooring is authorised by a coastal permit.
- 2.2.2 Where an application for a mooring licence renewal has been accepted by Council prior to the expiry of the mooring licence, the holder of the mooring licence can continue to moor until the application has been granted or declined.

Explanatory Note:

Within the identified Mooring Areas, moorings are a permitted activity (subject to meeting the conditions ##### of the Tasman Resource Management Plan) and can be established without the coastal permit ordinarily required. The most important condition enabling a mooring to be permitted is the requirement to hold a mooring licence issued by the Harbourmaster.

In some Mooring Areas there are pre-existing moorings which have coastal permits issued under the Resource Management Act 1991 and these moorings can remain in the Mooring Area until expiry of the permit. Following expiry of the coastal permit, the mooring owner will need to apply for a mooring licence from the Harbourmaster.

3. Application

3.1 Information to be provided with any application

- 3.1.1 The following information must be provided with any application for a mooring licence, unless advised by the Harbourmaster. The application may be placed on hold or returned if the required information is not provided.
- 3.1.1.1 Details of the vessel or vessels intended to be moored, including overall length, draft, general description, any commercial registration number(s) and, where possible, a photograph.
- 3.1.1.2 Details of any sewage treatment or holding facilities aboard the vessel(s).
- 3.1.1.3 A statement of whether or not any vessel using the mooring is likely to be occupied overnight (also known as 'liveaboard').
- 3.1.1.4 The proposed position as latitude and longitude in WGS84 datum or as easting and northing in NZTM format.
- 3.1.1.5 Depth reduced to chart datum.
- 3.1.1.6 Composition of the seabed.
- 3.1.1.7 Details of the proposed mooring construction, including a sketch and specifications of components.
- 3.1.1.8 Calculated swing radius to the stern of the longest vessel proposed for the proposed mooring specifications and location at chart datum.

- 3.1.1.9 Information on how the mooring is intended to be used, including whether for a commercial or recreational vessel or for use of the applicant or of another party.
- 3.1.1.10 In Torrent/Rākauroa or Boundary Bay Mooring Areas, proof of an interest in a land title.

3.2 Granting of Mooring Licences

- 3.2.1 Any application for a mooring licence will be granted, except in the following circumstances:
 - 3.2.1.1 The Harbourmaster is of the opinion that the mooring or use of it is likely to:
 - (a) diminish the level of safety for other activities in the vicinity;
 - (b) give rise to congestion or undue difficulty for manoeuvring vessels with respect to access to existing authorised moorings or any wharf, jetty, boat ramp or beach, or for transiting a narrow channel;
 - (c) have any other adverse effects on maritime safety;
 - (d) cause excessive noise or other nuisances that may be considered objectionable; or
 - (e) occupy an excessive proportion of the overall space of that mooring area, with regard to vessel size, or to swing radius, or to number of mooring licences already held (or applied for) by applicant where in the opinion of the Harbourmaster there is a issue of navigation and safety.
 - (f) be not fit for purpose.
 - 3.2.1.2 The mooring or use of the mooring will occupy a position at or within the swing circle of:
 - (a) a mooring authorised by a mooring licence;
 - (b) a mooring authorised by coastal permit; or
 - (c) a mooring licence that has expired within the last six months;unless the applicant holds the mooring licence or coastal permit for the mooring occupying that site.
 - 3.2.1.3 The mooring site is within Kaiteriteri Mooring Area 2, except where:
 - (a) the application is for a mooring to be used by a commercial vessel with a CVO licence, which needs to be located in the Bay; or
 - (b) the applicant is an acknowledged owner of a mooring within Kaiteriteri Mooring Area 2 and that mooring was previously authorised by Schedule 25A of the Tasman Resource Management Plan; or
 - (c) the application meets the terms of a communally established mooring system agreement approved by the Harbourmaster .
 - 3.2.1.3 The mooring site is within Kaiteriteri Mooring Area 1, except where:
 - (a) the application is for a mooring for public use.
 - 3.2.1.4 Notwithstanding the provisions in 3.2.1.1, 3.2.1.2 and 3.2.1.3, at the discretion of the Harbourmaster a mooring licence may be granted within the same Mooring Area, but for a location different than applied for.

Explanatory Note:

The holders of mooring licences can generally expect their licences to be renewed (with or without a change in conditions) at the end of the term. Licence holders have up to six months after the expiry of their licence to reapply before the space becomes available for re-allocation.

The situation is slightly different at Kaiteriteri where recreational and commercial demand for moorings is very high. As part of the overall management of the Bay two areas have been set aside for moorings. The first area is Kaiteriteri Mooring Area 1, which provides high-density seasonal public moorings and Kaiteriteri Mooring Area 2, which provides mooring space for commercial boats. Land access continues to be provided by the boat ramp and anchoring space is available anywhere within the bay in accordance with the provisions in the Navigation and Safety Bylaw 2015.

Advice: *Applications for a mooring licence in the Torrent/Rākauroa or Boundary Bay Mooring Area can only be granted if the applicant has an interest in a land title in that area. Under the provisions of the Tasman Resource Management Plan ### any other person wishing to establish a mooring in those areas is required to apply for a coastal permit.*

3.3 Conditions of Mooring Licence

3.3.1 Any mooring licence issued under section 3.2 may be subject to conditions, including but not limited to:

- (a) duration of licence period (for up to five years and may include a common expiry date for the mooring area);
- (b) seasonal mooring commencement and cessation dates;
- (c) location of mooring;
- (d) design of mooring system and specifications of mooring components;
- (e) maximum vessel length, tonnage and draft;
- (f) pollution prevention arrangements;
- (g) biosecurity risk management arrangements (for purposes of maritime safety);
- (h) lighting and pumping arrangements;
- (i) inspection requirements;
- (j) markings and identification;
- (k) maintenance requirements;
- (l) public use;
- (m) a requirement that the owner of the mooring shall be liable in any event for any shift in the position or inadequate construction or maintenance of any licensed mooring; and
- (n) fees payable.

3.3.2 Failure to comply with any condition is an offence and may lead to the cancellation of the licence.

3.4 Costs

3.4.1 Any costs incurred by a mooring licence holder in complying with the conditions of the mooring licence will be met by the mooring licence holder.

4. Mooring Area Management and Maintenance

4.1 Renewal of Mooring Licences

- 4.1.1 The Harbourmaster may undertake consultation with mooring licence holders within the mooring area prior to reviewing the conditions on any mooring licence.
- 4.1.2 A Mooring Area User Group may establish itself at any time and may request the Harbourmaster to consider a collaborative approach to the management of that Mooring Area at any time. The Harbourmaster may accept or decline any such request.
- 4.1.3 Despite provision 3.4.1, where a collaborative approach is taken to the management of a Mooring Area, then the costs of meeting the conditions may be shared or be apportioned by agreement of the mooring licence applicants affected by the change in conditions.

4.2 Right to Reconsideration

- 4.2.1 Any mooring licence holder dissatisfied with any condition imposed by the Harbourmaster under provisions 3.3 of this Bylaw may object in writing to the Council within 15 working days of the decision. The objection will be considered by a Review Panel and the Panel's decision will be given in writing within 20 working days of receiving the request.

4.3 Transfer of Mooring Licence

- 4.3.1 A mooring licence may be transferred upon written notice to the Harbourmaster. Any such transfer becomes effective 10 working days after the receipt of such notice, or earlier if agreed to in writing by the Harbourmaster.
- 4.3.2 No fees shall be refunded by Council upon transfer of a mooring licence.
- 4.3.3 Following any transfer, the Harbourmaster may require the new holder of a mooring licence to apply for a new licence if in his opinion there are substantive changes to the nature of use or specifications of the mooring intended.

4.4 Removal of Moorings

- 4.4.1 The Harbourmaster may cancel any mooring licence, and may remove or authorise the removal of any mooring and any vessel attached to such mooring (all costs of so doing are a debt to the Council by the owner of such mooring), in the following circumstances:
 - 4.4.1.1 The conditions of the mooring licence are breached or there is ongoing breach of conditions, including non or late payment of fees.
 - 4.4.1.2 The mooring has not been established or has not been used within a 12-month period.
 - 4.4.1.3 The current holder of the mooring licence cannot be contacted after reasonable effort, or has failed to keep contact details up to date with Council.
 - 4.4.1.4 The mooring is not maintained to a good condition or not fit for purpose.

Explanatory Note:

Over time vessels are bought and sold and the needs of mooring owners change. To enable the continued efficient and safe management of Mooring Areas, the conditions on mooring licences need to be reviewed at the time of licence renewal, particularly those conditions relating to the size, type and location of the vessel. The review of conditions may occur individually, or in some Mooring Areas the conditions of all licences may be reviewed at the same time through a common expiry date.

The bylaw also provides for mooring licences to be transferred and for moorings to be removed in certain conditions.

5. Allocation

5.1 Initial Allocation of Space

- 5.1.1 The Council will not accept any application for a mooring licence until a date that is publicly notified for the mooring area.
- 5.1.2 Applications for licences in Mooring Areas (excluding Kaiteriteri Mooring Areas 2) will be received, considered and decided on using the following preferential system of allocation:
 - 5.1.2.1 Firstly, to existing mooring owners authorised either by Schedule 25A of the Tasman Resource Management Plan or by a coastal permit.
 - 5.1.2.2 Secondly, for a mooring~~s~~ for public use.
 - 5.1.2.3 Thirdly, any other applicant on a first-in, first-served basis.

Advisory Note: applications are subject to 3.2

5.1.3 Kaiteriteri Mooring Area 2

- 5.1.3.1 Any application for a mooring licence in Kaiteriteri Mooring Area 2 will only be accepted from:
 - (a) an applicant that is an acknowledged owner of a mooring within Kaiteriteri Mooring Area 2 and that mooring was authorised on [Date] in Schedule 25A of the Tasman Resource Management Plan; or
 - (b) a holder of a Commercial Vessel Operators licence, who needs to be located in the Mooring Area for commercial reasons and has, in the opinion of the Harbourmaster, had a persistent history of anchoring or mooring in the Bay for a number of years; or
 - (c) an applicant meeting the conditions of a or b and permitted to apply in accordance with the terms of a communal mooring system agreement approved by the Harbourmaster.
- 5.1.3.2 Any application for a mooring licence will be received, considered and decided on using the following preferential system of allocation:
 - (a) Firstly, to existing mooring owners previously authorised in Kaiteriteri Mooring Area 2 by Schedule 25A of the Tasman Resource Management Plan.
 - (b) Secondly, to any other applicant as and where they can be safely accommodated within the Mooring Area.

- (d) Or in accordance with the terms of a communal mooring system agreement approved by the Harbourmaster.

5.1.4 Waitlist

- 5.1.4.1 Any person may contact the Harbourmaster and ask to be placed on the waitlist for a Mooring Area. The Harbourmaster must maintain a waitlist. The waitlist will be maintained on a first-in, first-served basis.
- 5.1.4.2 When sufficient space for a new mooring is either identified or becomes available then the first person on the waitlist for that Mooring Area will be offered the opportunity to apply for a mooring licence. The offer may contain restrictions on the location, vessel type or size that can be applied for.
- 5.1.4.3 Where a person offered the opportunity to apply for a mooring licence declines that opportunity, or the application is unsuccessful, then the space will be offered to the next person on the waitlist.
- 5.1.4.4 Waitlisted applicants are required to advise the Harbourmaster of any changes to their contact details. Persons unable to be contacted will be deleted from the waitlist.

Explanatory Note:

The locations within the Tasman District which provide for safe mooring are limited. Consequently moorings tend to be clustered in distinct locations around the District. In the past, illegal, poorly located and maintained moorings and overcrowding have affected safety and navigation in these areas. This bylaw enables the type of boat, number and location of moorings within a Mooring Area to be controlled to maximise use while maintaining navigational safety. As part of the transition to this new management system, the Council will initially need to allocate mooring licences where there are pre-existing authorised moorings or demand is high.

The opportunity to apply for a mooring licence will be offered to existing mooring owners first (authorised by the Tasman Resource Management Plan or by coastal permit), then public use groups, then individuals. This preferential system will enable the current (lawful) mooring owners to remain in the Mooring Area and will encourage the establishment of public moorings which enable the greatest number of people to safely moor within the area. All other individual applications will be processed on a first-come, first-served basis and, subject to the provisions in 3.2 including there being sufficient space, will be granted.

*Following the initial allocation of mooring licences in the Mooring Areas (except Kaiteriteri), **any** person can apply for a mooring licence on a first-in, first-served basis or can ask for their name to be added to a waitlist if the mooring area is considered full.*

6. Fees

- 6.1 The Council is entitled to charge a fee in respect of every new mooring licence application received and every mooring licence renewal issued. The fees payable in respect of every mooring licence shall be listed in Schedule 1 forming part of this Bylaw, and may be on a pro-rata basis.
- 6.2 Any mooring licence shall be subject to payment of an annual monitoring and administration fee due by 1 July each year, or earlier if a shorter term is specified on the licence. If the fee is not paid within 28 days, the licence may be cancelled.

- 6.3 Every licence renewal application fee accepted after 1 July shall be subject to a late-payment fee. If a renewal application and fee is received after the expiry date on the licence, Council may treat that renewal as a new application.
- 6.4 Council shall be entitled to recover reasonable costs incurred in monitoring any particular mooring licence, where that licence has required specific monitoring attention in excess of one hour of staff time in any given 12-month period.
- 6.6 The Chief Executive may, by written agreement, authorise an incorporated body to act as Council's agent for routine administration of mooring licence renewals for a given Mooring Area, and any such incorporated body shall be entitled to retain such fees or proportion of such fees collected as may be agreed.
- 6.7 At the Chief Executive's discretion, Council may waive application or renewal fees for applications by public organisations.

Fees and Charges

Mooring Licence

Application and Renewal of existing mooring licence

For new applications or renewal of expiring licence with substantial changes or lack of inspection report.

\$280.00

Annual monitoring and administration fee

\$100

Renewal of existing mooring licence

A renewal application where there are no substantial changes to the licence and where all inspection reports have been provided.

\$100.00

Late payment fee (for annual renewal)

Additional 20%

Additional Costs

Reasonable staff costs incurred by Council in assessing an application or enforcing compliance with a licence – hourly rate.

\$140.00

Reimbursement of any reasonable and necessary additional costs incurred by Council in assessing an application or enforcing compliance.

Waitlist

Administration cost

\$50