

Bay of Plenty Regional Navigation Safety Bylaws Review Subcommittee

Ngā Meneti Open Minutes

Commencing: Tuesday 26 July 2022, 09:30 am

Venue: Council Chambers, Ground Floor, Regional House, 1 Elizabeth Street, Tauranga and via Zoom (Audio Visual Meeting)

Heamana

Chairperson: Cr Andrew von Dadelszen – Bay of Plenty Regional Council
Toi Moana (BOPRC)

Heamana Tuarua

Deputy Chairperson: Cr Toi Kai Rākau Iti – BOPRC (as appointed at the meeting)

Ngā Kopounga

Members: Cr Jane Nees – BOPRC, Patrick Young – tangata whenua representative, Raewyn Bennett – tangata whenua representative, Cr Kevin Winters (via Zoom) – BOPRC, Micah Tawhara (via Zoom) – tangata whenua representative

In Attendance:

Reuben Fraser – Acting General Manager, Regulatory Services, Stephen Lamb – Environmental Strategy Manager, Toni Briggs – Senior Project Manager, Amanda Namana – Committee Advisor

1. Karakia Whakatuwhera Opening Karakia

A karakia was provided by Patrick Young.

2. Ngā Hōnea Apologies

None received.

3. Ngā Take Tōmuri

Items not on the Agenda

6.1 Item Not on the Agenda: Appointment of Navigation Safety Bylaw Subcommittee Deputy Chair

Resolved

That the Navigation Safety Bylaw Review Subcommittee:

- **Accepts for consideration the report, Appointment of Navigation Safety Bylaw Subcommittee Deputy Chair;**
- **Notes the reason why this item was not on the Agenda is that it was inadvertently excluded from the agenda, and the reason why it cannot be delayed is to ensure a Deputy Chair is appointed in the event the Chairperson is unavailable due to unforeseen circumstances.**

**[Winters/Iti]
[CARRIED]**

4. Raupapa o Ngā Take Order of Business

- Item 10.1 to be taken following Item 7, to appoint a Deputy Chair to the Subcommittee.

5. Whakapuakanga o Ngā Take Whai Taha-Rua Declaration of Conflicts of Interest

Chair Cr von Dadelszen and Senior Project Manager Toni Briggs presented this item.

Key Points:

- Any conflict of interest including financial, non-financial or perceived interests must be declared. Any potential conflict on a matter relating to a particular agenda item must be declared at the relevant meeting
- Members who declare an interest must not participate in discussion or voting on the matter pertaining to that interest
- An interests register would be compiled for the Subcommittee, detailing any interests declared by members and updated as necessary.

Key Points - Members:

- It was possible that further conflicts may arise during the course of the Subcommittee's term and these should be raised and considered at the time.

In Response to Questions:

- Suggested that members declare any potential interests initially, including any that conceivably may arise and staff would provide guidance around these as required, depending on the conversations that were held.

Cr Winters **declared an interest** in matters related to being a member of Coastguard New Zealand.

Items for Staff Follow Up:

- Staff to seek guidance to clarify conflicts of interest queries for members raised at the meeting, including:
 - Tangata whenua representative issues specific to forthcoming matters for the Subcommittee
 - Clear direction around the spectrum of conflict of interest to Māori
 - Explain the boundaries of conflict, specifically for members with iwi affiliation/s or personal interest in Matakana Island, Tarawera River and other connections to some of the issues that would be raised
 - Clarity around how best to work within these boundaries whilst providing a tangata whenua perspective.

5. Verbal Updates

6.1 Chair's Verbal Update

Chair Cr von Dadelszen welcomed members and provided a brief outline of the purpose of the Navigation Bylaws Review Subcommittee, followed by introductions from Raewyn Bennett and Cr Toi Kai Rākau Iti.

- Raised the issue of attending Subcommittee meetings via Zoom and requested that members notify the Chair or Committee Advisor if they were unable to attend a meeting in person.

Consideration of Item not on the Agenda

10.1 Consideration of Item not on the Agenda: Appointment of Navigation Safety Bylaw Subcommittee Deputy Chair

That the Navigation Safety Bylaw Review Subcommittee:

- 1 Receives the report, Appointment of Navigation Safety Bylaw Review Subcommittee Deputy Chair. Notes the reason why this item was not on the Agenda is that it was inadvertently excluded from the agenda, and the reason why it cannot be delayed is to ensure a Deputy Chair is appointed in the event the Chairperson is unavailable due to unforeseen circumstances;**
- 2 Selects System B as the voting system for the election of a Deputy Chairperson;**
- 3 Elects Cr Toi Kai Rākau Iti as the Deputy Chairperson of the Navigation Safety Bylaw Review Subcommittee.**

**Winters/Young
CARRIED**

6. Reports

Decisions Required

6.1 Terms of Reference for the Navigation Safety Bylaws Review Subcommittee

Senior Project Manager Toni Briggs presented this item.

Key Points:

- Provided an opportunity for members to make any amendments/ additions to the Terms of Reference prior to the final draft being adopted by Council
- Clarified that a 75% majority meant six of seven members present in agreement of a decision.

In Response to Questions:

- Climate change impacts on decision making were unable to be taken into account from a navigational safety perspective. However, climate change would be taken into consideration as part of any discussion the impacts were relevant to
- Navigational Safety Bylaw Review Subcommittee meetings were available for the public to attend (with the exception of any public excluded matters), but would not be livestreamed or recorded.

Items for Staff Follow Up:

- Provide information to members around the implications of Marine and Coastal Area (MACA Act) claims where potential conflicts of interest may arise - a member of the Legal team to hold a specific session on this at a future meeting.

Resolved

That the Navigation Safety Bylaw Review Subcommittee:

- 1 Receives the report, Terms of Reference for the Navigation Safety Bylaws Review Subcommittee;**
- 2 Agrees with the purpose and the scope of the Subcommittee;**
- 3 Approves the following amendments be made to the draft Terms of Reference at this meeting:**
 - i) Removes “the decision on the matter may be made by a 70% majority of those present”;**
 - ii) Inserts “the decision on the matter may be made by a 75% majority of those present”;**
 - iii) Agrees the quorum of the Subcommittee to be a minimum of two tangata whenua members and two councillors.**

Winters/Iti

CARRIED

Resolved

That the Navigation Safety Bylaw Review Subcommittee:

- 1 Recommends to Regional Council, adoption of the final Navigation Safety Bylaws Subcommittee Terms of Reference.**

**Winters/Nees
CARRIED**

10.17 am - The meeting **adjourned**.

10.30 am - The meeting **reconvened**.

6.2 Introduction to the Regional Navigation Safety Bylaws Review Subcommittee

Presentation: Introduction to Navigation Safety Bylaws: Objective ID A4160303 [⇒](#)

Senior Project Manager Toni Briggs presented this item.

Key Points:

- Most New Zealanders lived within approximately 170km of a body of water
- In 2022, Maritime New Zealand conducted a quarterly survey which showed an estimated 2,140,000 people in New Zealand owned a boat
- In 2020, there were 74 preventable drownings and 27,892 preventable injuries in, on and around the water
- Outlined the history of maritime incidents and regulation requirements in New Zealand
- The Maritime Transport Act 1994 (the Act) and Local Government Act 2002 (LGA), directly influenced development of the Navigational Safety Bylaws, along with Maritime New Zealand rules which were based upon international best practice
- Provided definitions and context to bylaws at local government level and the benefits of writing focused legislation, relevant to the region and its unique requirements. Cognisance of national legislation relating to navigational safety during developing bylaws was also critical
- Jurisdiction for initial purposes was the open sea, continental shelf, exclusive economic zone and Bay of Plenty regional boundaries
- Regional bylaws were developed within the context of the Regional Council operating environment. Therefore, consideration must be given to balancing the four well-beings: environmental, economic, cultural and social, along with community outcomes of a healthy environment, freshwater for life, safe and resilient communities and a vibrant region
- The Bay of Plenty has had Navigational Safety Bylaws since 2004, prior to which these were split into a number of harbour rules and bylaws
- The bylaws addressed a boat or a craft in navigation, whether it had any means of propulsion or not. This included all boats, jetskis, kayaks/canoes, surfboards, wakeboards, rafts, seaplanes - anything that could float on the water was considered a craft and related to these bylaws

- Defined navigation as taking a person on a craft, from one position to the next via a planned route. This included recreational and commercial vessels and crafts, anything that could be towed on the water (skis, biscuits), hydrofoils, and anything propelled through the water
- These bylaws covered all bodies of water within the Bay of Plenty, including the open sea, harbours, lakes, rivers or dams but not any transient water (e.g. temporary water bodies such as large puddles)
- Bylaws had to be reviewed every five years and a new document needed to be established every ten years
- New bylaws also had to consider changes to the Astrolabe Reef that occurred following the RENA disaster
- Highlighted the purpose of the Subcommittee in the context of providing a wide range of perspectives on changes, issues, options and solutions during the review of the current Navigational Safety Bylaws
- During past bylaw reviews, challenging legacy issues had arisen which required ongoing consideration e.g. prohibition of jet skis in Ōhiwa Harbour. Legacy issues significantly affected tangata whenua and appropriate solutions needed to be found - some of the long term legacy issues also had major impacts on affected communities
- The concept of noise as a 'nuisance' in a safety bylaw had been altered and this needed addressing as the wording in the bylaw currently specified this
- New national direction on safety components such as life jackets would also need to be taken into consideration
- Speed uplifting in Kaituna and Tarawera Rivers was another legacy issue that would need addressing. 'Speed uplifting' was a maritime term for specific rules around increasing speed limits on the water, also noted the complicated application of this in different areas
- The Hunters Creek zone continued to be one of the most challenging and controversial areas within the bylaws, particularly in trying to establish a balanced way of managing/addressing the issues there
- Confirmed next meeting would be held on 25 August 2022.

In Response to Questions:

- Mangroves were a separate issue for which there were other avenues available to address, unless a situation arose where they affected navigational safety in a particular area Bylaws would also apply to navigational safety behaviour at Ōpōtiki Harbour and the new marina development in Whakatāne
- Regulation reviews were underway and change being signalled at a national level meant it was difficult to establish a timeline for these at present
- Development of a broad engagement plan was underway which included pre-engagement with community groups that currently use the waterways (e.g. waka ama groups), and supported a range of ways for people to engage.

Items for Staff Follow Up:

- Maritime operational staff to attend a future meeting to inform members of the practical application of the bylaws, their past experiences and highlight present issues and risks to consider
- There was a unique challenge around implementation of bylaws in new development areas (Ōpōtiki/Whakatāne). Operationally, more staff may

be required over time to educate the public on bylaw application within the new areas

- 'Nuisance' was not defined in the Act or the LGA – legal counsel to provide a synopsis to a future meeting for clarity on where and how this terminology could be applied in the bylaws. Noise was not considered a safety issue in the open air
- Within the community engagement plan, ask people what the particular issues were and to provide their thoughts on any potential solutions to these
- Provide information to members on feedback and solutions previously put forward by tangata whenua for each legacy issue.

Resolved

That the Navigation Safety Bylaw Subcommittee:

- 1 Receives the report, Introduction to the Regional Navigation Safety Bylaws Review Subcommittee.**

**von Dadelszen/Tawhara
CARRIED**

7. Karakia Kati Closing Karakia

A karakia was provided by Patrick Young.

11.37 am – The meeting **closed**.

CONFIRMED 25 AUGUST 2022

Cr Andrew von Dadelszen
Chairperson, Bay of Plenty Regional Navigation
Safety Bylaws Review Committee