

Bay of Plenty Regional Navigation Safety Bylaws Review Committee

Ngā Meneti Open Minutes

- Commencing:** Tuesday 20 September 2022, 9:30 am
- Venue:** Council Chambers, 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)
- Ngā Kopounga
Members:** Raewyn Bennett - Tangata Whenua Representative
Cr Jane Nees - BOPRC
Cr Kevin Winters - BOPRC
Patrick Young - Tangata Whenua Representative (via Zoom).
- In Attendance:** Reuben Fraser - General Manager Regulatory Services, Toni Briggs - Senior Project Manager, Stephen Lamb - Environmental Strategy Manager, Jon Jon Peters - Bay of Plenty Harbourmaster, Matt Hunt - Communications Team Leader, Georgia Thomson - Community Engagement Advisor (via Zoom), Claudia Cameron - Committee Advisor.
- Ngā Hōnea
Apologies:** Cr Toi Kai Rākau Iti - BOPRC
Micah Tawhara - Tangata Whenua Representative.

1. Karakia Whakatuwhera Opening Karakia

A karakia was provided by Patrick Young.

2. Ngā Hōnea Apologies

Resolved

That the Bay of Plenty Regional Navigation Safety Bylaws Review Committee:

- 1 Accepts the apologies from Cr Toi Kai Rākau Iti and Micah Tawhara for absence tendered at the meeting.**

**Nees/Bennett
CARRIED**

3. Raupapa o Ngā Take Order of Business

Item 8.1 was deferred to the next meeting.

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

None declared.

5. Minutes

Minutes to be Confirmed

5.1 Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 25 August 2022

Matters Arising

- In relation to Minute Item 6.2:
 - No definition of 'nuisance' in a maritime context had been received from Maritime NZ
 - Other avenues were being explored to secure a definition, including:
 - An operational definition of 'nuisance' from the New Zealand Harbour Masters Special Interest Group
 - A Council definition of 'nuisance' developed by BOPRC.
- In relation to Minute Item 6.2, staff clarified:
 - The Maritime Transport Act 1994 (MTA) stated that, for the purpose of ensuring maritime safety, a Regional Council may make bylaws
 - The Local Government Act 2002 (LGA), section 83, sets out the prescribed process for consultation with the community, and the process for adopting bylaws
 - Part of the formal consultation with the community required a statement of proposal and a due diligence process be undertaken
 - As maritime safety under the MTA was the reason for the bylaws, it would not be appropriate for the bylaws to be included under RMA documents (such as the Natural Resources Plan, Regional Policy Statement or the Coastal Environment Plan)

- Staff provided assurance that the correct process was being followed and the resulting bylaws would not be ultra vires.

Resolved

That the Bay of Plenty Regional Navigation Safety Bylaws Review Committee:

- 1 Confirms the Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 25 August 2022 as a true and correct record.**

**Nees/Bennett
CARRIED**

6. Verbal Updates

6.1 Navigation Safety Bylaws from an Operational Perspective

This item was deferred to the next meeting.

7. Reports

Information Only

7.1 Understanding the technical aspects of the Navigational Safety Bylaws

Presentation: Navigation Safety Bylaws Review Committee Presentation - Meeting Three: Objective ID A4211724 [⇒](#)

Presented by: Toni Briggs – Senior Project Manager, supported by Jon Jon Peters – Bay of Plenty Harbourmaster

Key Points:

- Key terminology contained within the Navigation Safety Bylaws (the bylaws) was introduced
- A pleasure craft had no commercial incentive
- Every person on a vessel must have access to a personal flotation device (PFD) of the required standard. On recreational crafts, six metres or less, the PFD must be worn and properly secured while the craft was making way, regardless of speed
- The bylaws have the ability to increase the five knot speed limit in certain areas, this was referred to as ‘speed uplifting’
- Moorings were privately owned, but new moorings required consent; placement, safety and inspection were managed under the bylaws by the Harbourmaster
- Mooring Areas are identified under the Coastal Environment Plan
- The finite number of available moorings, without the option to increase, was identified as a potential area for submissions during the consultation process
- Reserved areas were bylaw defined areas for specific uses and activities, for example water skiing. Allocation of reserved areas increased safety and

incident management, but required a balance between the activities and the needs of the local communities

- Temporary reserved areas could be allocated for special events via permits. Permits allowed for the temporary closure of the body of water to the public, and public awareness of the event to be ensured. The bylaws contained specific clauses related to the harbours in our region. The Port of Tauranga was included within the Tauranga harbour; specific Harbourmaster duties related to the port were outlined within the bylaws
- A pilot was the person provided by the port with a knowledge of the local navigation risks and processes distinct to that port. The requirements for needing a pilot were set out in the Maritime Transport Act
- Specific rules around hazards and risks within the port were managed by the Harbourmaster
- BOPRC had a comprehensive oil spill plan, separate to the bylaws
- Bylaws clauses needed to be operationally viable, while providing best practice for safety.

In Response to Questions:

- Any vessel travelling above five knots, in a five knot zone, was in breach of the bylaws, this included jet skis, e-foils and surfboards
- The Harbourmaster Team were working through potential issues brought about by new technologies, as these created cross-overs and 'grey areas' in the application of the bylaws
- The Skipper was the person in charge of the vessel, they must be present on board, but not necessarily the owner or driver. The Skipper was legally responsible for the safety of the vessel and the people on board
- There had been a delay in the adoption of Personal Flotation Device legislation from Parliament. Once passed, this would provide consistent rules across the country
- All current areas allocated for moorings were fully utilised, and the provision of increased moorings required a complex consenting process
- To future-proof the areas available to moorings, through the allocation of more space, would require a Coastal Environment Plan change
- Crossover was identified between the bylaws, the Coastal Management Plan and the Spatial Planning Act
- There were some exemptions for tugs and large ships to speed rules
- There were no legal requirements to work with neighbouring Councils, however the Harbourmaster Team met with neighbouring Harbourmasters on a regular basis, to discuss topical matters and compare regional rules. This helped to improve consistency between regions
- The setting of infringement fees was a separate process to the development of the bylaws. Infringement fees were set through an Order in Council, under the Maritime Transport Act. This process could not be undertaken until the bylaws review was completed
- The Committee had the opportunity for input on infringement fees during discussions later in the review process. Once fees were set they would be compared to other regions' fees, to ensure consistency, and then sent to the Minister of Transport for approval
- Fees needed to be reflective of the potential implications of the infringement, this ensured there was a disincentive to bylaws breaches
- It was confirmed that the Harbourmaster Team had developed strict processes and training around the placement of signs, and archaeological checks were undertaken before any signage was fixed
- The Harbourmaster Team had an ongoing relationship with the new harbour development projects teams, for example Ōpōtiki harbour. The

Harbourmaster Team was providing guidance and advice around navigation aids and marine issues

- BOPRC had the responsibility to maintain navigation aids, however a webcam was not a 'navigational aid'. Webcams were managed by the relevant Coastguard. Although they could be of use, webcams had proven to be unreliable in their resilience to bad weather. Caution was expressed in referring to a webcam as a 'navigational aid' as it would imply BOPRC was liable for its upkeep.

Key Points - Members:

- Increased mooring areas were required to keep up with population growth
- It was questioned whether future use and allocation of the marine coastal space would be allocated under the Coastal Plan or the Spatial Planning Act
- Members requested information regarding fees and infringements in the BOP region, including:
 - The type and location of infringements
 - Whether fees were being paid
 - A breakdown of the level/cost of fees
 - Information around how those fees compared to other regions
 - Any education being conducted in areas with high infringement rates
- Clear boundaries on the scope of the bylaws was requested to ensure that at the conclusion of the process no areas were missed, for example the new harbour developments
- It was noted that the average member of the public did not know how fast five knots was, and a difficulty was identified as most boat speedometers displayed speed in kilometres per hour (km/h). The use of visual aids was recommended to increase education around vessel speed
- Information was requested around the appointment process of the Tangata Whenua Representatives, this was to ensure members understood the process before consultation with the community
- Members requested support from Staff in preparation for public consultation, to ensure no unintentional impressions of pre-determination
- The need to fully inform Māori communities, particularly in relation to legacy issues, was emphasised
- Recognised "Akwé: Kon" from the Secretariat of the Convention on Biological Diversity, as guidelines which may assist when consulting with indigenous communities.

Resolved

That the Bay of Plenty Regional Navigation Safety Bylaws Review Committee:

- 1 Receives the report, Understanding the technical aspects of the Navigational Safety Bylaws.**

**Winters/Nees
CARRIED**

10.39 – the meeting **adjourned**.
10.55 – the meeting **reconvened**.

7.2 Communications and Engagement Plan Overview

Presented by: Matt Hunt – Communications Team Leader, supported by Georgia Thomson – Community Engagement Advisor (via Zoom).

Key Points:

- A high level overview of the Communications and Engagement Plan was provided
- Two phases of engagement were identified:
 - The first phase would begin around Labour Weekend. It would be focussed on informing the wider boating community that a bylaws review was underway, and identifying where the public could find additional information
 - The second phase would occur after summer, this would contain increased detail to build on public awareness. Any issues highlighted during the review would dictate the communications plan going forward.

Key Points - Members:

- Emphasised the need for increased public awareness around speed, and suggested handouts with educational and safety messages
- Sought reassurance that our communications plan would target beach users and swimmers as well as boat users, and emphasised the importance of reaching out to all stakeholders
- Recommended engagement be conducted over the summer months, as this was when beach use would be at its peak
- Recommended site visits took place in late summer, and included Rotorua Lakes as well as marine and coastal areas
- It was noted that many bylaws breaches were from people visiting the area from other regions
- Members emphasised the need to include Marine Dealers in the communications plan
- It was recommended that the proposed engagement plan with Māori be re-considered, with increased energy put into engagement with Māori communities. It was advised that the regular channels of community communication, for example public meetings, were unlikely to be effective
- It was suggested a means to discover interested parties was to look at the submissions to the Port of Tauranga expansion
- Marae and schools, which neighboured bodies of water/rivers, were identified as stakeholders which required engagement
- The importance of members feeling safe through the community engagement period was highlighted.

In Response to Questions:

- The initial contact would be with boat users, with wider public engagement at a later date, once specific issues were identified
- As the bylaws affected a wide range of stakeholders, it was expected some members may feel 'outrage' at decisions. The engagement plan had been developed to mitigate tension through education, inclusion and a solution focus
- There were ongoing issues with people from other regions breaching local bylaws due to inter-regional inconsistencies. Two other Regional Councils were undertaking a bylaws review at present. Work would be conducted to identify any inconsistencies, and provide messaging to the community in an attempt to avoid breaches
- The boat and jet ski database was not a reliable source of information for ownership. It was not required to be updated when ownership changed,

and did not include people living south of Taupō, where jet skis were not required to be registered

- Noted that some Marine Dealers were unwilling to participate in customer education around jet ski rules and safety
- Management of shipping lanes and exclusion zones for ships entering the Port of Tauranga was included within the mandate of the bylaws. This would be specifically addressed during the bylaws review process, in particular, around the setting of infringement fees
- Commercial fishing vessels coming close to Mōtītī Island was not within the bylaws remit, but boats going too close to diving areas was a bylaws issue
- Key messaging around the bylaws would be provided to members and would be phrased to ensure that it came from a Council and Committee perspective, not from members as individuals.

Resolved

That the Bay of Plenty Regional Navigation Safety Bylaws Review Committee:

- 1 Receives the report, Communications and Engagement Plan Overview.**

**Bennett/Winters
CARRIED**

8. Rā Hui Whai Ake Next Meeting Date

The next meeting will be held on 1 December 2022, in The Mataatua Room, BOPRC Office, 5 Quay Street, Whakatāne.

9. Karakia Kati Closing Karakia

A karakia was provided by Patrick Young.

11.32 am - the meeting closed.

CONFIRMED 14 NOVEMBER 2022

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

Fiona McTavish

Chief Executive - Bay of Plenty Regional Council

28.4 Minutes of last meeting before election (Standing Orders)

The Chief Executive and the relevant Chairpersons must sign, or agree to have their digital signature inserted, the minutes of the last meeting of the local authority, its committees and subcommittees before the next election of members.