

Bay of Plenty Regional Navigation Safety Bylaws Review Committee

Ngā Meneti Open Minutes

- Commencing:** Tuesday 7 November 2023, 09.30am
- Venue:** Council Chambers, Regional House, 1 Elizabeth Street,
Tauranga
- Heamana
Chairperson:** Cr Andrew von Dadelszen – Bay of Plenty Regional Council
Toi Moana (BOPRC)
- Heamana Tuarua
Deputy Chairperson:** Cr Toi Kai Rākau Iti - BOPRC
- Ngā Kopounga
Members:**
- BOPRC:
Cr Jane Nees
Cr Kevin Winters
- Tangata Whenua Representative
Raewyn Bennett
Micah Tawhara (via Zoom)
Patrick Young
- In Attendance:** Reuben Fraser - General Manager, Regulatory Services; Toni
Briggs – Senior Project Manager; Hayley Sheridan – Legal
Counsel; Claudia Cameron – Committee Advisor.
- Ngā Hōnea
Apologies:** Cr Toi Kai Rākau Iti for late arrival.

1. Ngā Hōnea Apologies

Resolved

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

- 1 Accepts the apology from Cr Toi Kai Rākau Iti for late arrival tendered at the meeting.**

**Nees/Winters
CARRIED**

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

Raewyn Bennett informed the committee that her daughter, Pia Bennett, was named in the Tabled Document - *Stakeholders Register and Communications Log IWI - 7 November 2023*.

3. Minutes

Minutes to be Confirmed

3.1 Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 27 April 2023

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 - 27 April 2023 as a true and correct record.**

**Winters/Nees
CARRIED**

4. Reports

Decisions Required

4.1 Endorsement of a draft Bay of Plenty Regional Navigation Safety Bylaws 2024 for consultation

Presentation: Navigation Safety Bylaws Presentation - 7 November 2023: Objective ID A4537683 [⇒](#)

Tabled Document 1 - BOP Regional Navigation Safety Bylaw 2024 - 7 November 2023: Objective ID A4537712 [⇒](#)

Tabled Document 2 - Reserved Areas Maps - 7 November 2023: Objective ID A4537709 [⇒](#)

Tabled Document 3 - Schedule of Changes by Clause - 7 November 2023: Objective ID A4537702 [⇒](#)

Tabled Document 4 - Stakeholders Register and Communications Log - 7 November 2023: Objective ID A4539972 [⇒](#)

Tabled Document 5 - Stakeholders Register and Communications Log IWI - 7 November 2023: Objective ID A4539970 [⇒](#)

Presented by: Toni Briggs – Senior Project Manager

Key Points:

- The process to date had included a legal peer review, communication with Harbourmasters and a review of other regions' bylaws
- An independent peer review would take place before the draft bylaws were presented to Regional Council for adoption, this would remove any current referencing, spelling or technical errors.

9:34 am - Cr Iti **entered** the meeting.

- Pilot rules had been incorporated into the 2024 bylaws document
- Further engagement could continue during the submission process.

Key Points - Consultation Topics:

• **Hunter's Creek/Ōtapu:**

- Option 2 *Joint Management*: required clarification within the Statement of Proposal, suggested it be identified as Status Quo with Partnerships. This would involve working alongside partners, not co-management
- New Option 3 *Adjustment to Ski Area Boundaries*. Suggested adjusting the ski lane area by moving the ski lane marker to the forestry block
- New Option 4: to become *Remove Ski Lane*
- The creation of a reserved area for mahinga kai was out of scope for the bylaws and had to be achieved via alternative mechanisms. Noted that water skiing was prohibited two hours either side of low tide
- Suggested the Statement of Proposal highlight that submissions could outline alternative options. Were submissions received requesting a reserved swimming area in Ōtapu, this could be deliberated on
- Removal of the ski lane had potential to create significant management challenges for the Harbourmaster Team.

• **Kaituna River Speed Uplifting:**

- Option 2: BOPRC would work with Tangata Whenua to identify reserved areas, e.g., Te Matai School area
- Option 3: would be required to acknowledge the current consent holder
- Suggested a map inset of specific areas be included in the consultation material
- There was no intention to change speed uplifting across the bar as this was required for safe passage.

10:43 am - The meeting **adjourned**.

10:51 am - The meeting **reconvened**.

• **Tarawera River Speed Uplifting:**

- Suggested a map inset of specific areas be included in the consultation material.

• **Pilot Bay Swim Lane:**

- This was a proposed idea which would require a feasibility investigation and engagement with the triathlete club to clearly identify the area and potential moorings impacted
- The Statement of Proposal must clearly ask a question and outline the proposed area.

• **Ōhiwa Harbour:**

- Clarity via the Statement of Proposal was needed
- An additional speed restriction to 5 knots across the harbour two hours before and after low tide would be consistent with Hunter's Creek/Ōtapu

- There was potential for increased monitoring of Ōhiwa Harbour; cameras could be used as a research mechanism to support increased Warranted Officers
- Jet skis which abided by the five knot rule were not problematic.

Key Points – Infringement Fees:

- The Maritime Transport Act 1994 set bylaw infringement fees at a maximum of \$1000
- Passage through an Exclusion Zone currently resulted in a \$1000 fine, a \$10,000 fine was proposed to sufficiently disincentivise commercial operators and send a proportionate message around the risks
- Increases were proposed for recreational crafts endangering shipping vessels
- Fee increases beyond the \$1000 limit had to be rationalised to the Ministry of Transport via an application process which ran parallel to the bylaw submissions and hearings period
- There would be increased messaging and education around infringement fee changes
- For a Breach of Bylaw (BoB) non-specific to the Port of Tauranga, fee consistency with other regions was preferred.

Key Points – 2024 Bylaws Causes:

- Clause 4.1.1, 4.1.2 and 4.2.3 – clarity was needed as failure to wear a lifejacket in a boat under 6 metres would result in a fine for the skipper and for individuals not wearing lifejackets
- Clause 5.1.1 and 5.1.2 – if the person operating a craft in breach of a bylaw was underage to prosecute, the owner would be given the BoB, in all other situations the person in charge of the vessel was given the BoB
- Clause 5.2 – the proper speed of vessels was defined as the vessel speed through the water, not land speed, as this took into consideration water current impacting boat speed
- Clause 5.2.3 – no observation when towing a person could result in two BoBs, one for the person towing and one the person being towed.

12:00 pm – Cr Nees **withdrew** from the meeting.

- Clause 5.2.4 – in relation to a dropped water ski, highlighted the context of “which may cause danger”
- Clause 5.2.8 – allowing a wake to cause danger or a hazard was consistent with the Maritime NZ Rules, a wording change may inadvertently narrow its scope
- Clause 7.4.5 (vii) – wording regarding Lakes Ōkātaina and Rotomahana was taken from the Rotorua Lakes Council District Plan for consistency
- Clause 7.2.6 – the Harbourmaster would be consulted regarding the starboard side of accessway rule, as it could be challenging to abide by in a busy ski lane accessway.

12:23 pm – Cr Nees **entered** the meeting.

- Clause 7.4.5 (iii) – Requested increased clarity around the location of the Rotorua Lake Waterfront rules
- A higher infringement fee would be given to those who did not respond to a BoB compared to those who were late to respond

- Definitions had been expanded to capture innovations in technology and included, but was not limited to, those listed. Suggested the inclusion of wake surfing and e-foiling due to their increasing popularity
- 'Unseaworthy' had become 'not seaworthy' and 'in the opinion of the Harbourmaster' was considered justifiable as the Harbourmaster was the most capable of making that determination
- Drones were considered aircraft in terms of navigation safety
- Warranted officers must display their warrant card on their persons
- Moorings were inspected by Independent Inspectors and a report was provided to BOPRC
- Queried whether Reserved Areas should be grouped by location rather than type
- Private information gathered by BOPRC would be managed in accordance with the BOPRC privacy statement and was referenced within the bylaws
- Communication with Maritime New Zealand (MNZ) was ongoing regarding:
 - *Exemption given by Harbourmaster* (Clause 3.2) this was requested to enable the Harbourmaster to address swiftly changing/emergency situations to safely manage the region
 - *Navigation safety licenses* ensured the small group of commercial non-powered vessels for hire were captured within the bylaws
 - *Registration of personal watercraft* was an ongoing initiative
 - *Notification of collisions and accidents* should be reported to the Harbourmaster as opposed to being reported directly to MNZ, this ensures the Harbourmaster was aware of incidents
- There was legal opinion behind the bylaws and suggestions from MNZ were not binding.

Key Points - Members:

- Suggested land markers on the Lake Rotomā map
- Suggested staff, supported by Committee Members, present to Territorial Authorities (TAs) to highlight aspects of bylaws which impact their regions and to promote submissions from TAs
- Sought an expansion to the listed Iwi/Hapū stakeholder list and noted the need for culturally appropriate engagement to receive practical feedback and build successful relationships
- Te Maru O Kaituna was currently not on the stakeholder list.

01:00 pm – Micah Tawhara **withdrew** from the meeting.

In Response to Questions:

- There were five ongoing Marine and Coastal Area Act 2011 (MACA) claims which included Hunters Creek/Ōtapu, however the bylaws could only take into account the law as currently enacted
- A Warranted Officer must observe the breach and issue a BoB, body camera footage was then to be reviewed by a Maritime Officer who determined the extent of the infringement and whether an infringement notice, an infringement fine or prosecution would ensue
- There would be increased education during the implementation phase for both the public and Warranted Officers
- The bylaws were a legal document which were to be read in conjunction with the Boating in the Bay document
- Staff would write operational instructions around each clause to ensure Warranted Officer understanding.

Next Steps:

- Staff to email the Iwi/Hapū stakeholder list to Members for their feedback and additions
- A report to be presented to the Regional Council to adopt the draft bylaws for consultation
- Consultation to take place until 29 February 2024, including some additional engagement
- Three days of hearings were planned, with one day held in each sub-region.

Resolved

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

- 1 Receives the report, Endorsement of a draft Bay of Plenty Regional Navigation Safety Bylaws 2024 for consultation;**
- 2 Endorses the draft Bay of Plenty Regional Navigation Safety Bylaws with minor numerical, editorial or presentation alterations and the following amendments:**
 - **Hunters Creek/Ōtapu Ski Area: include an additional option - Status Quo with area modification and invite proposals for other options during the submission process**
- 3 Delegates to the Chair and Deputy Chair of this committee the ability to sign off the final draft prior to its presentation to Regional Council;**
- 4 Recommends to Regional Council they adopt the draft Bay of Plenty Regional Navigation Safety Bylaw for consultation.**

**Iti/Winters
CARRIED**

5. Public Excluded Section

Resolved

Resolution to exclude the public

- 1 Excludes the public from the following parts of the proceedings of this meeting as set out below:**

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Item No.	Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Grounds under Section 48(1) for the passing of this resolution	When the item can be released into the public
0.1	Public Excluded Bay of Plenty Regional Navigation	As noted in the relevant Minutes.	As noted in the relevant Minutes.	To remain in public excluded.

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**von Dadelszen/Nees
CARRIED**

6. Karakia Kati Closing Karakia

A karakia was provided by Patrick Young.

1:10 pm - the meeting closed.

CONFIRMED

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