

Bay of Plenty Regional Navigation Safety Bylaws Review Committee

Ngā Meneti Open Minutes

- Commencing:** Tuesday 30 July 2024, 9:30 am
- 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:** Cr Jane Nees - BOPRC
Cr Kevin Winters - BOPRC
Raewyn Bennett - Tangata Whenua Representative
Patrick Young - Tangata Whenua Representative
- In Attendance:** Reuben Fraser - General Manager Regulatory Services; Toni
Briggs - Senior Project Manager; Stephen Lamb - Natural
Resources Policy Manager; Jon Jon Peters - Bay of Plenty
Harbourmaster; Nick Swallow - Legal Counsel; Daniel Rapson
- Deputy Harbourmaster, Jessica Somerville -
Communications Partner; Hayley Sheridan - Legal Counsel;
Claudia Cameron - Committee Advisor

1. Karakia Whakatuwhera Opening Karakia

A karakia was provided by Patrick Young.

9:32 am - The meeting **adjourned**.

11:00 am - The meeting **reconvened**.

2. Chair's Statement

It was noted that Micah Tawhara was no longer involved with the bylaw review process.

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

Raewyn Bennet noted extended whānau links to the residents of Matakana Island and Rangiwhaea Island and noted that she had logged a Waitangi Tribunal claim in relation to the Maketū estuary.

Patrick Young noted whānau in Ōhiwa Harbour and throughout the Bay of Plenty, and noted submitter Tu O'Brien as his brother-in-law.

4. Minutes

Minutes to be Confirmed

4.1 Bay of Plenty Regional Navigation Safety Bylaws Review Committee Hearings Minutes - 2, 3 and 4 April 2024

*Tabled Document 1 - Draft Ōhiwa Harbour Speed Uplifting Map - 29 July 2024:
Objective ID A4733366 [⇒](#)*

*Tabled Document 2 - Sped Uplifting Definition - 30 July 2024: Objective ID
A4733364 [⇒](#)*

Resolved

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

- 1 Confirms the Bay of Plenty Regional Navigation Safety Bylaws Review Committee Hearings Minutes - 2, 3 and 4 April 2024 as a true and correct record.**

**Winters/Nees
CARRIED**

5. Reports

Decisions Required

5.1 Bay of Plenty Regional Navigation Safety Bylaws Deliberations

Presented by: Toni Briggs – Senior Project Manager, Stephen Lamb – Natural Resources Policy Manager, Jon Jon Peters – Bay of Plenty Harbourmaster and Daniel Rapson – Deputy Harbourmaster

Supported by: Hayley Sheridan – Legal Counsel and Nick Swallow – Legal Counsel

Kaituna River

Key Points:

- Four options were consulted on and an options analysis had been provided
- Staff preferred option two which would provide for a 5 knot area within the speed uplifted area
- Clarified the five knot area by Ford Road was to remain.

Key Points - Members:

- Supported the staff recommendation
- Every map within the bylaw should have a key for ease of reference
- Clarity was required regarding the commercial consent, particularly that the uplift on that part of the river did not apply to anyone other than the consent holder
- There was a need for an over-arching educational campaign particularly for matters impacted by a change to the bylaw.

Tarawera River

Key Points:

- Three options had been consulted on
- Staff preferred option two which was a five knot zone, where speed uplifting was removed, through the Kawerau township. Speed uplifting would apply outside of that area.

Key Points - Members:

- Supported the staff recommendation
- The length of the five knot zone in kilometres should be included in communications to ensure clarity.

Ōhiwa Harbour

Key Points:

- Three options had been consulted on
- The staff recommendation was option two as the layout of the harbour left few places where a vessel would not either be within 50 metres of a structure or 200 metres of the shore, therefore if speed rules were adhered to, vessels should remain under five knots
- After discussion, a map of Ōhiwa harbour with a suggested five knot area, 20 knot area and speed uplifted area was tabled.

Key Points - Members:

- A safe speed within the majority of harbour for powered vessels was five knots due to the shifting bars and swimmers
- Acknowledged the need for vessels to make way from the Port Ōhope and Kuterere boat ramps to the harbour entrance at a speed above five knots, however this should be limited to 20 knots to maintain a safe speed
- A speed uplift for the harbour mouth was suggested to enable vessels to safely cross the bar
- The safety of people crossing the channel adjacent to the harbour mouth to access the pipi beds should be taken into consideration
- Noted the use of bar cameras and educational tools, collateral and briefings conducted by BOPRC staff for the purpose of maintaining navigation safety as opposed to for regulatory or infringement purposes

- Requested the signage design and placement be presented to the Monitoring and Operations Committee; the need for simplicity and clarity was emphasised.

Pilot Bay swim lane

Key Points:

- Two options were consulted on, with option two as a feasibility study to gauge public interest in the swim lane
- Recommended option one being the retention of status quo.

Key Points - Members:

- Supported the staff recommendation.

Submarine cables

Key Points - Members:

- Supported the staff recommendation

Future issues for consideration at next bylaws review

Key Points:

- Additional navigation safety issues had arisen post-consultation which would require a bylaw review before the next full review. These issues were:
 - an extension to the Astrolabe Reef exclusion zone
 - an alteration to the East Coast shipping route
 - an anchoring prohibition within the shipping channel of Tauranga harbour
- As these items were not included in the consultation material changes could not be made at this review, however a partial review to only consider these issues could be conducted prior to the next full review
- Appropriate consultation would be conducted during a future review regarding these matters
- The consideration of any future extension to the Astrolabe reef exclusion zone would be for vessels over 500 tonnes. It was not an extension to the marine protection exclusion zone, so no additional monitoring would be required.

Key Points - Members:

- The intent to consider changes at a future review should be included as advisory notes within this version of the bylaws.

Editorial tracked changes

Key Points - Members:

- Supported the tracked changes.

Changes to definitions

Key Points:

- The deliberations tracked change version included new definitions for speed uplifting, board sports and anchoring
- Noted the tabled document regarding the changes to the definition of speed uplifting
- The inclusion of GPS anchoring within the definition of anchoring had been removed following advice from Maritime NZ. The definition of anchoring was now unchanged from the previous bylaw and only included physical anchoring as this was considered the safest and most reliable way to anchor a vessel.

Hunter's Creek/Otapu ski lane

Key Points:

- Three options had been included for consultation
- Stakeholder opinion had been provided however there was no staff recommendation on this topic as the three options were considered equally balanced
- Emphasised the need to weigh up navigational safety issues for each option to draw a conclusion
- Staff considered that a removal of the ski lane would likely see a large increase in users to the area which had the potential to result in increased conflict between users in the short term
- Due to the size of Hunter's Creek/Otapu water skiing could still take place in that area without a designated ski lane, however other users would no longer be required to vacate the area when someone was water skiing. The staff view was that this would reduce navigational safety, at least in the short-term.

Key Points - Members:

- A part time ski lane and partnerships (option 2 with variation) was considered:
 - Committee Members provided their opinions in support of a part time ski lane and partnerships option:
 - Considered that this was a constructive compromise position which allowed shared use of the area by removing the ski lane between Easter and Labour weekend
 - This option would maintain the current rules during the peak summer season. This would prevent mixed use in the busy season, avoid potential conflict and make monitoring easier for Maritime Staff, while enabling Tangata Whenua the full use during the rest of the year
 - There was potential to build relationships through partnerships which could strengthen consultation for the next review
 - This option would retain the five knot rule for the two hours either side of low tide. This would allow passive activities during those times throughout the year
 - Emphasised the comments from staff indicating that the removal of a ski lane during the peak months may reduce the safety of the area by allowing mixed use
 - Committee Members provided their opinions in opposition to a part time ski lane and partnerships option:
 - Members believed this option would not fully address the current navigation safety issues which had been raised within some submissions

- Members considered this option too similar to status quo which favoured water skiers by allowing a ski lane during the peak/summer months
- Removal of the ski lane (option 3) was considered:
 - Committee Members provided their opinions in support of the removal of the ski lane:
 - Members considered that the current situation did not provide a safe environment, therefore it was considered appropriate to try an alternative option. Submissions which had addressed this were acknowledged
 - Considered that other ski lanes could be used within the Tauranga harbour and the Rotorua area, and of these other ski lanes, there were not the same issues as the Hunter's Creek/Otapu ski lane
 - Members considered that the ski lane had removed the ability for passive activities, such as swimming, and emphasised the need for children to learn water safety in an area with calm water such as Hunter's Creek/Otapu
 - Considered that the area could be made safer through the removal of the ski lane and increased monitoring to ensure the public adhered to the speed rules within the bylaws
 - Acknowledged that the removal of the ski lane could be a starting point for further engagement with Tangata Whenua in order to reach a compromise solution, such as a part time ski lane in the future
 - Highlighted that some submissions opposing the ski lane were representative of many people/a community
 - Committee Members provided their opinions in opposition to the removal of the ski lane:
 - Members emphasised that staff were of the opinion that the removal of the ski lane would create a less safe environment in Hunter's Creek/Otapu
 - If the ski lane was removed, it was likely people would continue to water ski in the area. This would put water skiers in close proximity to other water users, which would create an unsafe environment for all users
 - Members considered that allowing the mixed use of the area would increase the risk of an accident on the water. Ensuring other users had to remain out of the area while the ski lane was operative kept opposing uses separate
 - Passive activities were currently able to take place in Hunter's Creek/Otapu during the two hours either side of low tide (being eight hours per day)
 - Passive activities could also occur at any time outside of the ski lane area, for example in Duck Bay
 - Considered that the management of competing uses of the area would be more challenging without a ski lane
 - Travel to ski lanes outside of the Tauranga harbour may not be available to some people
 - Highlighted the submissions in support of retaining the ski lane, including those which had expressed that this was a highly valued ski lane and the only adequate place for some towing activities (such as barefoot skiing) due to its sheltered, flat water
 - It was suggested that some submissions which highlighted the need to remove the ski lane were not based on safety reasons
- The ski lane being retained in its current form (option 1 - Status Quo) was considered:
 - Committee Members provided further opinions in support of the ski lane being retained in its current form:

- The current situation was considered the safest way to manage the area
- The public understood the rules as they currently stood
- Noted that there was no housing in the direct vicinity of the ski lane
- Committee Members provided further opinions in opposition to the ski lane being retained in its current form:
 - Some Members considered that submissions had highlighted the unsafety of the ski lane which demonstrated that the current rules were not the safest option
 - Noted that some submissions which highlighted the need to retain this ski lane were not based on safety reasons
- Members acknowledged the genuine attempt to compromise and seek a solution, however it was conceded that this decision would be required to be determined by Regional Council.

Resolved

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

- 1 Receives the report, Bay of Plenty Regional Navigation Safety Bylaw Deliberations.**

**Winters/Nees
CARRIED**

- 2 Regarding the Kaituna River, directs staff to implement the following changes to Bay of Plenty Regional Navigation Safety Bylaw 2024 as outlined in option two being:**
 - a) Add a map indicating the five knot area at Ford Road to the Bylaw, as indicated in yellow on the below map;**
 - b) Designate the Waitangi Area from 200m downstream of the Waitangi railway bridge to 400m upstream of the Pacific Coast Highway Bridge a permanent five knot zone, as indicated in yellow on the below map;**
 - c) Note the projects occurring at Bell Rd and the advancement of the urban growth areas and consider implementing navigation safety review at next Bylaws review (in approximately 2029);**
 - d) Maintain the speed uplifting of 20 knots from the Bell Road boat ramp to the Ford Road cut excluding the months of August to November inclusive (status quo) which shall be a speed uplifting of 10 knots, as indicated in red on the below map;**
 - e) Maintain the speed uplifting from Ford Road cut to the river mouth (status quo), as indicated in blue on the below map;**



- 3 Regarding the Upper Kaituna commercial consent, directs staff to:**
- a) Consider the Upper Kaituna River Commercial Consent during the next review of the Bay of Plenty Regional Navigation Safety Bylaw, specifically reviewing the options of both *no uplifting* and an *open uplifting* being explored in the future and including the requisite consultation;
 - b) Add an advisory note regarding the speed uplifting rules on the Upper Kaituna, being that the uplifting does not apply to anyone other than the consent holder.

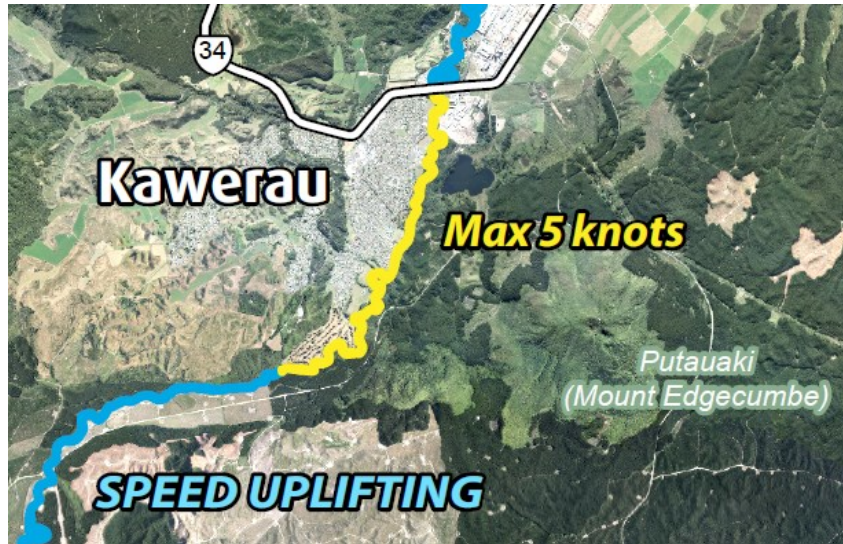
Winters/Bennett
CARRIED

Minute Note: To provide further clarification to resolution 2, the map and wording identifying the associated colour on the map was included prior to the confirmation of the minutes. This was agreed by consensus of the committee.

- 4 Regarding the Tarawera River, directs staff to implement the following changes to Bay of Plenty Regional Navigation Safety Bylaw 2024 as outlined in option two being:**
- a) Designate the area from the State Highway 34 (Tamarangi Drive), through the Kawerau township to the end of the Kawerau Golf course land boundary as a five knot zone, as indicated in yellow on the below map, and;
 - b) Install signage clearly marking the boundaries of the area;
 - c) Be cognisant of national and international kayak and raft competitions held on the same stretch of river as the proposed five knot zone, and the focused communication needed to ensure awareness that events can still take place;

- d) Acknowledge issues, such as bank erosion, are outside of the scope of this committee and asks Regional Council to look at other issues through other mechanisms.

Iti/Young
CARRIED



Minute Note: To provide further clarification to resolution 4, the map and wording identifying the associated colour on the map was included prior to the confirmation of the minutes. This was agreed by consensus of the committee.

- 5 Regarding Ōhiwa Harbour, directs staff to implement the following changes to Bay of Plenty Regional Navigation Safety Bylaw 2024 being:

- a) Apply a five knot rule for all powered vessels throughout the harbour, except for the area outlined in the below map which will be 20 knots, with the addition of a full speed uplift at the mouth of the harbour entrance;



- b) Clearly outline the speed constraints, as outlined within the bylaw, via clear signage and education.

Iti/Nees

CARRIED

- 6 Regarding the Pilot Bay swim lane, directs staff implement option one being to make no changes to Bay of Plenty Regional Navigation Safety Bylaw 2024.**

**Winters/von Dadelzen
CARRIED**

- 7 Regarding the submarine cables, directs staff to:**

- a) Decline the Powerco submission;**
- b) Refer Powerco to the Ministry of Transport if they wish to protect their infrastructure through the Submarine Cables and Pipelines Act 1996.**

**Nees/Winters
CARRIED**

- 8 Directs staff to include an advisory note within the Bay of Plenty Regional Navigation Safety Bylaw 2024 to show an intent to consider the alteration of the bylaw before the next review, regarding the following issues:**

- a) Extension of the Astrolabe Reef exclusion zone for vessels over 500 gross tonnes for the purposes of navigation safety**
- b) East coast shipping route to investigate the use of Navigation Safety bylaw powers to enhance safety aspects of this coastal route**
- c) The prohibition of anchoring within the Tauranga Harbour shipping channel.**

**Winters/Young
CARRIED**

- 9 Directs staff to make edits and agreed changes to the speed and uplifting clauses as outlined in the tabled document, for the purpose of increased clarification and alignment with the rules within the Maritime Transport Act and Maritime Rules;**

- 10 Accepts the editorial and numerical tracked changes as outlined in the Deliberations tracked change version of the Bay of Plenty Regional Navigation Safety Bylaw 2024;**

- 11 Directs staff to incorporate diagrammatical, schedule and wording changes to support understanding of the bylaws clauses.**

**Nees/Bennett
CARRIED**

Regarding Hunters Creek/Otapu Ski lane, directs staff to implement the following to the Bay of Plenty Regional Navigation Safety Bylaw 2024:

- a) Option two with an amendment where there would be no dedicated ski area from the end of Easter weekend to the beginning of Labour weekend, being an operative ski lane between Labour weekend and Easter weekend inclusive, and;*
- b) Work with tangata whenua and WBOPDC to seek collaborative ways of working which will assist with the reduction of bylaw breaches, including the*

investigation into training of tangata whenua summer wardens, and to log the data relating to bylaw breaches within the ski lane area.

Nees/Winters

The motion was **lost** on a show of hands

New motion:

Regarding Hunters Creek/Otapu Ski lane, directs staff to implement the following change to the Bay of Plenty Regional Navigation Safety Bylaw 2024:

- a) Option three with where there would be no dedicated ski area.*

Iti/Bennett

The motion was **lost** on a show of hands

New motion:

Regarding Hunters Creek/Otapu Ski lane, directs staff to implement the following to the Bay of Plenty Regional Navigation Safety Bylaws 2024:

- a) Option one being status quo.*

Winters/Nees

The motion was **lost** on a show of hands

New motion:

- 12** *Notes that the Committee was unable to reach consensus or a 75% majority to make a recommendation on Hunters Creek/Otapu Ski lane, with the effect that Regional Council will need to make a determination on this issue.*

von Dadelszen/Iti

CARRIED

Raewyn Bennett abstained from voting on this motion.

Minute Note: Resolution 12, was **revoked** at the meeting on 10 September 2024 being a continuation of the 29 August 2024 meeting. This was agreed by resolution of the committee.

6. Karakia Kati Closing Karakia

A karakia was provided by Patrick Young.

1:10 pm – the meeting closed.

CONFIRMED 10 SEPTEMBER 2024

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