

# Bay of Plenty Regional Navigation Safety Bylaws Review Committee

## Ngā Meneti Open Minutes

**Commencing:** Thursday 29 August 2024, 9:30 am

**Venue:** 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

### 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; Dan Rapson - Deputy Harbourmaster; Nick Swallow - Legal Counsel; Hayley Sheridan - Legal Counsel; Claudia Cameron - Committee Advisor

### Ngā Hōnea

**Apologies:** Cr Toi Kai Rākau Iti for late arrival - 29 August 2024 and Raewyn Bennett for late arrival - 10 September 2024.

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

**von Dadelszen/Winters  
CARRIED**

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

None declared.

## **4. Minutes**

### **Minutes to be Confirmed**

#### **4.1 Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 7 November 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 - 7 November 2023 as a true and correct record;**
- 2 Confirms the Public Excluded Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 7 November 2024.**

**Nees/Young  
CARRIED**

Minute Note: As there was no request for discussion of the public excluded minutes, they were confirmed in the public section and there would be no need to exclude the public.

#### **4.2 Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 30 July 2024**

### **Matters Arising**

In relation to Minute Item 5.1:

- Members requested a correction to resolution 2 (d) to read: 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

- Members requested more clarity within resolution 2 and 4 through the inclusion of maps and associated wording to demonstrate the locations of speed areas. This inclusion was for the sole purpose of adding clarity and did not change the intent of the resolution
- Members requested a more fulsome reflection of the debate regarding Hunter's Creek/Otapu and increased clarity identifying where Members had stated opinions.

Minute Note: Members requested by consensus that the amendments to the draft Minutes of the 30 July 2024 meeting be applied prior to their confirmation.

In relation to Minute Item 5.1 (continued):

- It was clarified that resolution 12 had been resolved by over 75% of the voting members
- Members sought clarity around the inclusion/exclusion of wakeboarding within the board sports definition. Staff clarified that wakeboarding and wake surfing were not examples of board sports and would not be added to clause 3.1.4. Board sports only included activities with non-mechanical means of propulsion such as wind. Suggested clarification could be included in the board sports definition to show that propulsion by wave excluded wake. Wake boarding and wake surfing were included within the towing category.

## 5. Reports

### Decisions Required

#### 5.1 Endorsement of a Final Tracked Changes Copy of the Bay of Plenty Regional Council Navigation Safety Bylaws 2024 for Council adoption.

Presented by: Toni Briggs – Senior Project Manager, supported by Stephen Lamb – Natural Resources Policy Manager

##### Key Points:

- The schedule one map of the Kaituna River would be amended to show the correct swimming area
- Noted that a separate Chair's report had been drafted and would be circulated to the committee for feedback prior to their opportunity for endorsement.

##### In response to Questions:

- Noted that within the separately distributed Chair's report, appendix c referred to the officer's report from the 30 July 2024 meeting
- Emphasised that if Regional Council was to be required to make the decision regarding Hunters Creek/Otapu, background information would be provided to Council via the record of submissions, minutes and officer's reports
- There was an option for this Committee to request to be retained to continue to seek a consensus position on Hunter's Creek/Otapu through

further consultation and a more focussed review. If this option was to be considered the suggested process was:

- Adoption of the bylaws on schedule to reflect the decisions made at deliberations, this would ensure the work already completed would become an operative bylaw
- The Committee resolve to retain the Hunter's Creek/Otapu ski lane (status quo) with an advisory note within the bylaws indicating that further work was to be completed on this topic
- The Committee recommend to Council that it be re-established for a further review with the purpose of seeking a consensus decision regarding Hunter's Creek/Otapu
- Staff noted that partnership signage in conjunction with local iwi/hapū/organisations was under discussion.

**Key Points - Members:**

- Emphasised the need for staff to clearly identify the options and associated analysis for Hunter's Creek/Otapu if Regional Council was to make a decision regarding that topic
- Considered there was potential to further explore alternative options and further consult with impacted parties to seek a consensus decision regarding the Hunter's Creek/Otapu ski lane
- As this Committee had received extensive information, heard submissions, conducted site visits and had been created to provide a unique lens over this topic, it was considered more appropriate to continue to work towards a decision regarding Hunter's Creek/Otapu
- Acknowledged that the Hunter's Creek/Otapu issue required a robust consultative process and a more concerted effort to try to find, together with tangata whenua, a solution that would suit everybody in a further bylaws review in the near future
- In relation to the tracked changes version of the bylaws the following comments were made:
  - Section 3.1.2: suggested increased clarity e.g. stating a craft cannot be used to cross a bar unless every person is wearing a personal flotation device
  - Section 9.1.2: clarified that this was not a calling of the bar, but was a Harbourmaster direction to close the bar due to extreme circumstances (such as a tsunami or police request). Suggested a note could be added to explain this
- Suggested the Kaituna River map include a legend to identify different speed areas and should include a detailed inset of the 5 knot area to identify where people could expect to find swimmers
- Noted the need for clear and updated signage which demonstrated a partnership approach.

11:17 am - The meeting **adjourned.**

09:37 am, Tuesday 10 September - The meeting **reconvened.**

## **6. Chairperson's Statement**

Welcomed Members and Staff to the reconvened meeting of the Navigation Safety Bylaws Review Committee.

## **7. Ngā Hōnea Apologies**

### **Resolved**

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

- 1 Accepts the apology from Raewyn Bennett for late arrival tendered at the meeting.**

**von Dadelszen/Iti  
CARRIED**

## **8. Item not on the Agenda**

### **8.1 Review of Resolution 12 in the Bay of Plenty Navigation Safety Bylaws Review 30 July 2024 Deliberations Minutes**

#### **Resolved**

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

- 1 Accepts the item not on the agenda, Review of Resolution 12 in the Bay of Plenty Navigation Safety Bylaws Review 30 July 2024 Deliberations Minutes;**
- 2 Agrees that discussion of this item cannot be delayed to a subsequent meeting as endorsement of the bylaw is due to take place at this meeting.**

**Young/Winters  
CARRIED**

## **9. Whakapuakanga o Ngā Take Whai Taha-Rua Declaration of Conflicts of Interest**

None declared.

## **10. Order of Business**

The item not on the agenda, Review of Resolution 12 in the Bay of Plenty Navigation Safety Bylaws Review 30 July 2024 Deliberations Minutes, would be heard as the first item, followed by Agenda Item 8.1, Minutes for Confirmation, followed by Agenda Item 9.1, Endorsement of a Final Tracked Changes Copy of the Bay of Plenty Regional Council Navigation Safety Bylaws 2024 for Council adoption.

## **11. Review of Resolution 12 in the Bay of Plenty Navigation Safety Bylaws Review Deliberations minutes**

### **11.1 Review of Resolution 12 in the Bay of Plenty Navigation Safety Bylaws Review 30 July 2024 Deliberations minutes**

Presented by: Toni Briggs – Senior Project Manager, supported by Stephen Lamb –  
Natural Resources Policy Manager

**Key Points - Members:**

- Suggested the recommendation to full Council combine the Hunter's Creek/Otapu Ski Lane review with other items due for earlier review; noted the need to act with some urgency to have this completed prior to the next election
- Sought assurance that the international issues would have the appropriate level of consultation within the proposed 12 month timeframe
- Suggested there may be potential for Te Whānau-ā-Apanui to investigate a solution to the East Cape Shipping Lane issue via their treaty settlement, although there was no set timeline for this.

**Key Points - Staff:**

- Noted the report going to Council on 12 September 2024 had options to review the additional issues concurrently or in a staggered process
- The extension to the Astrolabe Reef Exclusion Zone required consultation with the international shipping community through Maritime NZ. This could potentially be a lengthy exercise as it may be required to go through the International Maritime Organization (IMO) Committee. Staff would communicate with Maritime NZ to ascertain and develop the correct process
- Staff would maintain a watching brief regarding the East Coast Shipping Lane and considered an imminent review not currently required.

09:54 am – Raewyn Bennett **entered** the meeting.

**Resolved**

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

- 1 Receives the report, Review of Resolution 12 in the Bay of Plenty Navigation Safety Bylaws Review 30 July 2024 Deliberations minutes;**
- 2 Agrees to revoke resolution 12 from the 30 July 2024 Deliberations minutes being “12. Notes that the Committee was unable to reach consensus or a 75% majority to make a recommendation on Hunters Creek/Otapu ski area, with the effect that Regional Council will need to make a determination on this issue”;**
- 3 Directs staff to retain status quo for the Hunters Creek/Otapu ski area in the Bay of Plenty Regional Navigation Safety Bylaws 2024;**
- 4 Recommends to Council that the Navigation Safety Bylaws Review Committee be re-established in the very near future to undertake further review and consultation on the below, with the view of completing the review within the next 12 months:**
  - a. The Hunters Creek/Otapu ski area,**
  - b. Extension of the Astrolabe Reef exclusion zone for vessels over 500 gross tonnes for the purposes of navigation safety,**
  - c. The prohibition of anchoring within the Tauranga Harbour shipping channel.**

**Winters/Iti  
CARRIED**

## 4. Minutes (continued)

### Minutes to be Confirmed

#### 4.1 Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 30 July 2024 (continued)

##### Resolved

Minute Note: These minutes for confirmation included the requested amendments.

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

- 1 Confirms the Bay of Plenty Regional Navigation Safety Bylaws Review Committee Minutes - 30 July 2024 as a true and correct record.

Nees/Iti  
CARRIED

## 5. Reports (continued)

### Decisions Required

#### 5.1 Endorsement of a Final Tracked Changes Copy of the Bay of Plenty Regional Council Navigation Safety Bylaws 2024 for Council adoption (continued)

Presented by: Toni Briggs – Senior Project Manager, supported by Stephen Lamb – Natural Resources Policy Manager

##### Key Points:

- Edits to the bylaw from the 29 August meeting would be presented to Council within the tracked-change bylaw for adoption, including updated maps and clarification around the Whakatāne river mouth/bar
- The process to set infringement fees, via the Ministry of Transport, had extended to approximately six months and required a Council adopted bylaw to commence the process. The 2024 bylaw was unable to be enforced without 2024 infringement fees, therefore this would result in a six month period between the adoption of the bylaw and it becoming operative
- It was suggested the Committee endorse, and Council adopt, the 2024 bylaw as planned, and to cover the summer season 2024/25, maintain the 2017 bylaw as operative in the interim. Once the 2024 bylaw was able to become operative the 2017 bylaw could be revoked
- Staff had expressed concern regarding the delay from the Ministry of Transport and would be approaching Maritime NZ and the Harbourmaster Group to discuss this issue
- There was potential to investigate the use of Harbourmaster powers in the interim (the 2024/25 summer season) to address risks which would be addressed within the 2024 bylaw once they come into force.

**In response to Questions:**

- It was considered ultra vires for the 2024 bylaw to be enforced using the 2017 bylaws' infringement fees and was therefore not an option. This was due to the 2017 infringement fees regulations referring specifically to the Bay of Plenty Regional Navigation Safety Bylaw 2017
- Currently every Council adopting bylaws were experiencing the same delay regarding the setting of infringement fees
- The Harbourmaster clarified that Harbourmaster Directions were only able to be deployed to prevent risk to life and if the appropriate significance threshold had been met.

**Key Points - Members:**

- Sought assurance that the changes from the 29 August meeting had been applied to the bylaws tracked changes document going to Council
- Expressed frustration regarding the disjointed bylaw/infringement fee process and noted that many Regional Councils were in a challenging position due to this policy. Requested staff communicate this to the relevant agencies.

**Resolved**

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

- 1 Receives the report, Endorsement of a Final Tracked Changes Copy of the Bay of Plenty Regional Council Navigation Safety Bylaws 2024 for Council adoption;**
- 2 Endorses and recommends a final copy of the Bay of Plenty Regional Navigation Safety Bylaws 2024 for adoption by Regional Council, to come into force on the date that the new Maritime Transport (Infringement Fees for Offences – Bay of Plenty Regional Navigation Safety Bylaws 2024) Regulations come into force;**
- 3 Delegates to the General Manager, Regulatory Services the authority to make any minor editorial, grammatical or formatting edits to the Chairperson's Report and the Bay of Plenty Regional Navigation Safety Bylaws 2024 that do not change the intent of the endorsed document;**
- 4 Endorses the Chairperson's Report prepared by the Chair for presentation to Council;**
- 5 Notes that the Harbourmaster will explore the use of Harbourmaster Directions as an interim way to address some of the navigational safety risks proposed to be addressed in the 2024 Navigation Safety Bylaws;**
- 6 Directs staff to write a letter to the Minister of Transport and the CE of Maritime NZ expressing concern regarding the process to develop infringement fees.**

**Iti/Winters  
CARRIED**

**7. Karakia Kati  
Closing Karakia**

A karakia was provided by Patrick Young.



**10:33 am - the meeting closed.**

**CONFIRMED**

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