



Bay of Plenty Regional Navigation Safety Bylaws Review Committee Rārangi Take (Agenda)

NOTICE IS GIVEN that the next meetings of Bay of Plenty Regional Navigation Safety Bylaws Review Committee will be held as follows:

Tuesday 2 April 2024 from 9.00 am in Mataatua Room, Regional Council Building, 5 Quay Street, Whakatāne

Wednesday 3 April 2024 from 9.00 am in Council Chambers, Regional House, 1 Elizabeth Street, Tauranga

Thursday 4 April 2024 from 9.00 am in Council Chambers, Regional House, 1 Elizabeth Street, Tauranga

The purpose of the meetings is to hear submissions to the draft Bay of Plenty Regional Navigation Safety Bylaws 2024.

Fiona McTavish
Chief Executive, Bay of Plenty Regional Council Toi Moana
19 March 2024

Bay of Plenty Regional Navigation Safety Bylaws Review Committee

Membership

Chairperson	Cr Andrew von Dadelszen
Members	Bay of Plenty Regional Council: Cr Toi Kai Rakau Iti (Deputy Chair) Cr Jane Nees Cr Kevin Winters Tangata Whenua Representatives: Raewyn Bennett Micah Tawhara Patrick Young
Ex Officio	Chairman Doug Leeder
Quorum	Four members, consisting of a minimum of two tangata whenua members and two councillors
Meeting frequency	As required in agreed work programme

The Council Chairman has delegated authority to appoint replacement members to the Hearings Committee if necessary.

Purpose

The Bay of Plenty Regional Navigation Safety Bylaws Review Committee was established by the Regional Council, 23 June 2022; for the purpose of undertaking engagement, options analysis, submissions, hearings, and deliberations of the review process; and making a final recommendation to Council on a revised Bay of Plenty Regional Navigation Safety Bylaws 2023.

Role

The role of the Committee is to:

- Provide a wide range of perspectives on any changes, issues, options, and solutions when reviewing the Navigation Safety Bylaws 2017, especially a Te Ao Māori lens to those changes, issues, and options that directly affect some tangata whenua
- Prepare and recommend a Bay of Plenty Regional Navigation Safety Bylaws 2023 for adoption by Council after undertaking engagement and consultation processes under the Local Government Act 2002, by:
 - Developing solutions to issues and options presented to the Committee for inclusion in a draft Bylaws document

- Undertaking engagement with key stakeholders on specific matters which remain challenging
- Developing a Statement of Proposal and a *draft* Navigation Safety Bylaws 2023 for consultation
- Undertaking a formal consultation process including formal Hearings, under ss 83 and 86 of the Local Government Act 2002
- Undertaking final deliberations to consider all community submissions on a draft Bylaws document
- Recommending to Council a final *draft* Bay of Plenty Regional Navigation Safety Bylaws 2023 for adoption.

Power to Recommend

The Bay of Plenty Regional Navigation Safety Bylaws Review Committee will recommend to Regional Council:

- Solutions to issues and options addressed through the review of the Bay of Plenty Regional Navigation Safety Bylaws 2017 through:
 - A Statement of Proposal and a *draft* Bay of Plenty Regional Navigation Safety Bylaws 2023 for consultation under ss 83 and 86 of the Local Government Act 2002
 - A final Bay of Plenty Regional Navigation Safety Bylaws 2023 for adoption under schedule 7 s 32(b) of the Local Government Act 2002.

The Bay of Plenty Regional Navigation Safety Bylaws Review Committee reports directly to the Regional Council.

Decision Making

The Committee must seek to achieve consensus.

If the Chair considers that the meeting is unlikely to achieve consensus on a matter, the decision on the matter may be made only by a 75% majority of those present. The Chair may vote but does not have a casting vote.

Term of the Committee

For the duration of the Bay of Plenty Regional Navigation Safety Bylaws project unless discharged earlier by Regional Council.

Bay of Plenty Regional Council - Toi Moana

Governance Commitment

**mō te taiao, mō ngā tāngata - our environment and our people
go hand-in-hand.**

We provide excellent governance when, individually and collectively, we:

- Trust and respect each other
- Stay strategic and focused
- Are courageous and challenge the status quo in all we do
- Listen to our stakeholders and value their input
- Listen to each other to understand various perspectives
- Act as a team who can challenge, change and add value
- Continually evaluate what we do

**TREAD LIGHTLY, THINK DEEPLY,
ACT WISELY, SPEAK KINDLY, JOURNEY TOGETHER.**

Recommendations in reports are not to be construed as Council policy until adopted by Council.

Rārangi Take Agenda

1. **Karakia Whakatuwhera
Opening Prayer**
2. **Ngā Hōnea
Apologies**
3. **Ngā Take Tōmuri
Items not on the Agenda**
4. **Raupapa o Ngā Take
Order of Business**
5. **Whakapuakanga o Ngā Take Whai Taha-Rua
Declaration of Conflicts of Interest**
6. **Reports**
Decisions Required
 - 6.1 **Regional Navigation Safety Bylaws Hearings** **6**
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Attachment 3 - Hearings Procedure - Additional advice for Hearing Committee and Staff 19
Supporting Document 1 - Full Submissions Pack
7. **Ngā Take Tōmuri Hei Whakaaroaro
Consideration of Items not on the Agenda**
8. **Karakia Kati
Closing Prayer**



Pūrongo Ki: Report To:	Bay of Plenty Regional Navigation Safety Bylaws Review Committee
Rā Hui: Meeting Date:	2 April 2024
Kaituhi Pūrongo: Report Writer:	Toni Briggs, Senior Project Manager
Kaiwhakamana Pūrongo: Report Authoriser:	Reuben Fraser, General Manager, Regulatory Services
Kaupapa: Purpose:	To provide the Regional Navigation Safety Review Committee with information required to conduct Hearings on the draft Regional Navigation Safety Bylaws 2024.

Regional Navigation Safety Bylaws Hearings

Whakarāpopototanga Executive Summary

This report provides the Regional Navigation Safety Bylaws Review Committee with the information required to conduct Hearings on the draft Regional Navigation Safety Bylaws.

Ngā tūtohutanga Recommendations

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

- 1 Receives the report, Regional Navigation Safety Bylaws Hearings;**
- 2 Receives the Full Submissions document;**
- 3 Agrees to accept the noted late submissions;**
- 4 Receives any tabled documents from submitters during the Hearings.**

1. **Kupu Whakataki** **Introduction**

This report provides the Regional Navigation Safety Review Committee with the information required to conduct Hearings on the draft Regional Navigation Safety Bylaws. As members will recall, the draft Bylaws were approved for public consultation by Regional Council at its 14 December 2023 meeting following a comprehensive review process. The Bylaws were subsequently released for public consultation, with 576 submissions being received between 18 December 2023 and 29 February 2024.

Staff have provided a full submissions pack with some initial analysis done for this report (Attachment 1).

Under the Local Government Act 2002, section 82(1)(d) Council must give submitters an opportunity to present their views to the Committee in person. Therefore, council are holding public Hearings over three days.

1.1 **Pou Tarāwaho ā-Ture** **Legislative Framework**

1.1.1 **The Maritime Transport Act 1994**

Under Part 3A of the *Maritime Transport Act 1994*, Regional Council is mandated to ensure maritime safety in its region by appointing Harbourmasters, making Bylaws, and carrying out enforcement on offences.

Maritime Rules

While the Maritime Transport Act stipulates broad principles of maritime law, the Rules contain detailed technical standards and procedures. Compliance with the rules is required because they form part of New Zealand maritime law. Failure to comply with the rules may be an offence under the Act.

The Maritime Rules are statutory instruments (or secondary legislation) made by the Maritime New Zealand under the Maritime Transport Act 1994.

Maritime Rules relate to the safety of ships (vessels) and people. The rules prescribe requirements for ship design, construction, equipment, crewing, operation, tonnage measurement, and for the carriage of passengers and cargoes. Many of the standards are based on international ship safety conventions.

Of particular importance to Regional Councils are:

- **Maritime Rules – Part 90 – Pilotage**

Maritime Rules Part 90 specifies compulsory pilotage areas and thresholds for pilotage. It also covers qualifications and training for pilots and pilotage exempt masters, and the issue of pilot licences and masters' pilotage exemption certificates (PECs) by the Director of Maritime New Zealand. This is of particular importance for the Port of Tauranga.

- **Maritime Rules – Part 91 – Navigational Safety**

Part 91 outlines navigation safety rules, specifically for personal floatation devices, anchoring and mooring, give way rules, wakes and proximity to oil tankers and ships carrying dangerous goods.

- Maritime Rules – Part 22: Collision Prevention**

Part 22 outlines the navigation safety rules (and gives effect to the Convention on International Regulations for Preventing Collisions at Sea). These rules outline the standardised (international) system for prevention of collisions and apply to all watercraft, including ships, pleasure craft, and seaplanes. The rules outline international conventions around steering and sailing, and the use of lights and sound for collision avoidance.

1.1.2 The Local Government Act 2002:

Regional councils make bylaws under the LGA 2002 under the general *procedure for making bylaws* (sections 155-161) and consult on bylaws using the special consultative procedure (sections 82 - 86).

Public Hearings are undertaken under section 82(1)(d).

1.1.3 Marine Transport (Infringement Fees for Offences – Bay of Plenty Regional Navigation Safety Bylaws 2017) Regulations 2017:

Under section 330 of the *Maritime Transport Act*, Regional Council can set infringement fees by Order in Council¹. At present we have 2017 regulations, which outlines offences under the Bay of Plenty Region Navigation Safety Bylaws 2017 and the fees applicable for those offences. These will need to be updated through a separate process of application to the Minister of Transport.

1.1.4 Other Legislation:

Staff have also ensured that any other legislation that may affect the legitimacy of the new Bylaws is considered. For example, one key influence will be from the *Marine and Coastal Area (Takutai Moana) Act 2011* and the recognition of customary marine titles and protected customary rights.

**1.2 Te Hāngai ki te Pou Tarāwaho Rautaki
Alignment with Strategic Framework**

Safe and Resilient Communities	We support community safety through flood protection and navigation safety.
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1.2.1 Community Well-beings Assessment

Dominant Well-Beings Affected			
<input checked="" type="checkbox"/> Environmental	<input checked="" type="checkbox"/> Cultural	<input checked="" type="checkbox"/> Social	<input checked="" type="checkbox"/> Economic
Low - Positive	Low - Positive	Low - Positive	Low - Positive

¹ An Order in Council means this regulation must go through Parliament to provide the legal force (see MTA 1994 s330).

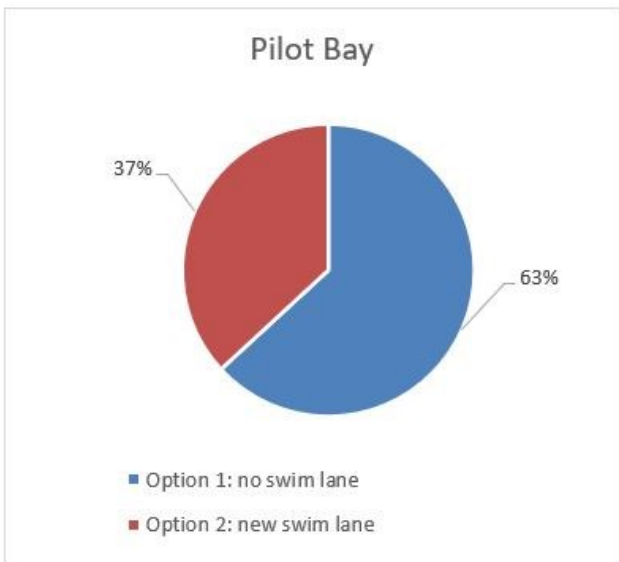
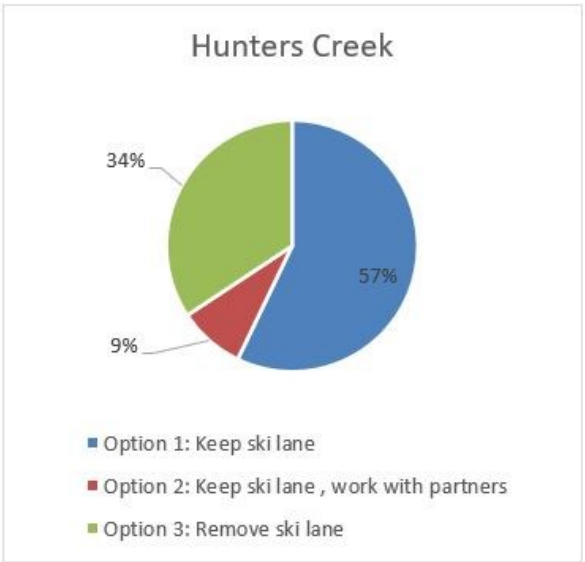
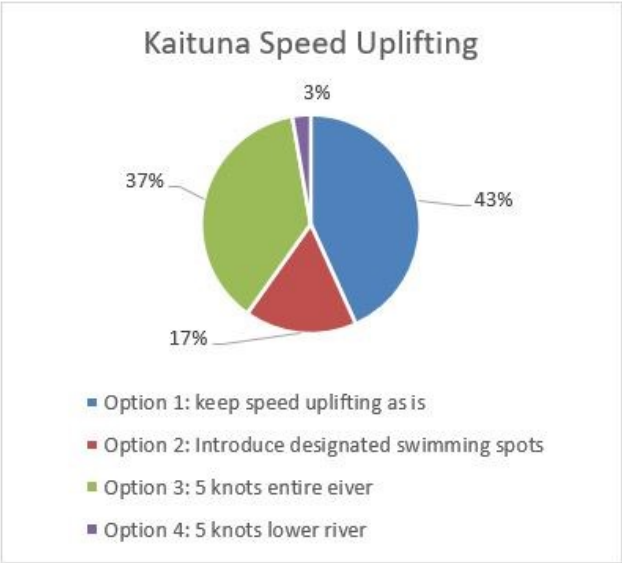
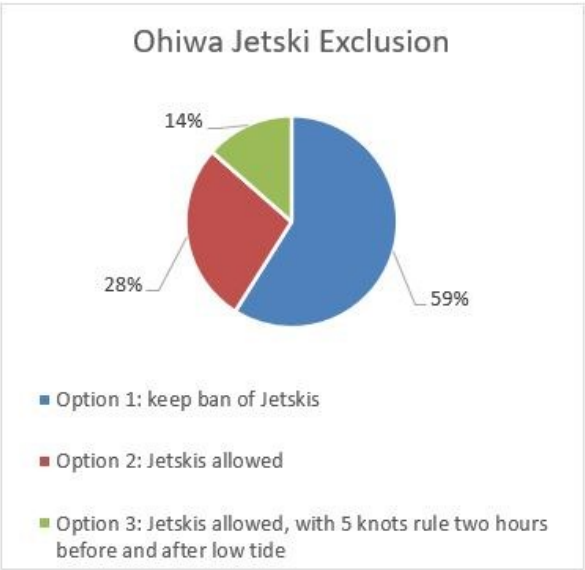
2. Submissions

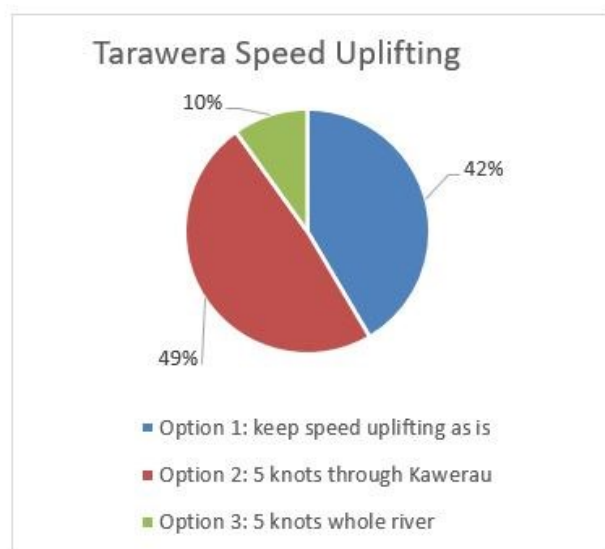
Council highlighted five main areas of potential change in the Statement of Proposal, providing a range of options for feedback. These areas generated a high number of views within the community.

The following section provides some initial analysis of all submissions:

2.1 Initial Data

Total submissions: 576
Total submission points: 1040





2.2 Submissions Pack

The attached submissions pack contains the submitter and submission information to enable Hearings Subcommittee members to be prepared for the hearings, including the following:

- Draft hearings schedules, setting out the timing of the hearings. Please note this is a draft schedule and may be subject to change. A final schedule will be provided at the start of each hearing session.
- A Full Submissions Report containing all online submissions (99% of submissions) and all written submissions (1% of submissions).
- A copy of instructions given to each Hearing participant.
- A copy of Hearings procedure information for Committee members.

2.3 Late Submissions

There were two late submissions – Tauranga City Council, submitter 575 (1 working day) and Grant Fraser, submitter 572 (1 working day). Both were provisionally accepted by staff. We ask the committee to accept these late submissions.

3. Hearings

Attached are the draft Hearings schedules for each of the three days.

- Whakatāne – 2 April 2024: 12 submitters in 10 slots. Staff are trying to arrange a field trip in the afternoon to Ōhiwa Harbour.
- Tauranga – 3 April 2024: 26 submitters (Single submitters and groups) in 28 Slots. This is a full day session.
- Tauranga – 4 April 2024: Eight submitters (Single submitters and groups) in 18 slots. Staff are trying to arrange a field trip to Hunters Creeks and Pilot Bay in the afternoon.

4. **Ngā Whakaarohanga
Considerations**

4.1 **Ngā Mōrea me Ngā Whakangāwaritanga
Risks and Mitigations**

There are no significant risks associated with this procedural matter.

4.2 **Huringa Āhuarangi
Climate Change**

The matters addressed in this report are not sensitive to the effects of climate change. Staff have also considered the effect of the initiative on greenhouse gas emissions and consider that there will be no effect.

4.3 **Ngā Pānga ki te Māori
Implications for Māori**

The Treaty principles and the partnerships upon which they are founded are an established part of our local government framework. As Treaty partners, Māori hold a unique role in shaping and contributing to regional leadership and direction.

As some of the legacy issues are of particular importance to tangata whenua it was vital to include them in the consultation, and decision-making process.

We have had considerable submission from affected iwi and local communities on Hunters Creek, Tarawera River, and Kaituna River in particular.

4.4 **Whakawhitiwhiti ā-Hapori
Community Engagement**



**CONSULT
Whakauiuia**

To obtain input or feedback from affected communities about our analysis, alternatives, and /or proposed decisions.

4.5 **Ngā Pānga ā-Pūtea
Financial Implications**

There are no material unbudgeted financial implications and this fits within the allocated budget.

5. **Ngā Mahi Whai Ake
Next Steps**

5.1 **Deliberations**

A deliberations report containing a summary of submission points and draft staff recommendations will be prepared for the Committee’s deliberations commencing **7 - 8 May 2024**. This will be accompanied by a track changes version of the draft RPTP showing the effect of the draft recommendations.

5.2 Adoption

Adoption of the Bay of Plenty Regional Navigation Safety Bylaws 2024 is a two-step process:

- The Committee will endorse a final Bay of Plenty Regional Navigation Safety Bylaws 2024 for adoption by full Council on **6 June 2024**.
- Regional Council will then adopt the final Bylaws document at its meeting on **1 August 2024**.

Attachments

Attachment 1 - Hearings Schedules [↓](#)

Attachment 2 - Hearings Procedure for Submitters [↓](#)

Attachment 3 - Hearings Procedure - Additional advice for Hearing Committee and Staff [↓](#)

Supporting Document 1 - Full Submissions Pack [↓](#)

Navigation Safety Bylaws Hearings - Day 1

Tuesday, 2 April 2024

5 Quay st, Whakatāne

Time	Name
8.30	Introductions, agenda and admin
9.00	Tilmann Loewe 202 / Tanja Rother 198
9.10	Ruth Westgate 76 Proxy presenter: Lynne Hickling
9.20	Forest and Bird 247/ Lynne Hickling 1
9.30	Grant Fraser 572 / Dido Eden 438
9.40	
9.50	
10.00	Mack Rewiri 209
10.10	Gaylene Kohunui 564
10.20	Phillip Kemp 382
10.30	Frans Roozendaal 154
10.40	Tu O'Brien 479
10.50	
11.00	
11.10	
11.20	
11.30	
11.40	
11.50	
12.00	Lunch
12.30	
12.40	
12.50	
1.00	
1.10	
1.20	
1.30	
1.40	
1.50	
2.00	Afternoon tea
2.20	
2.30	
2.40	
2.50	
3.00	Panel Wrap up

Navigation Safety Bylaws Hearings - Day 2

Wednesday, 3 April 2024

Regional House, Tauranga

Time	Name
8.30	Introductions, agenda and admin
9.00	Jeff Berkers 51
9.10	Michael McLennan 178
9.20	Miles Patterson 391
9.30	Gordy Lockhart 228
9.40	Animei Skudder 450
9.50	Brent Emerson 64
10.00	Natasha Wati 471
10.10	Romana Kana 507/ Tarryn Kana 508
10.20	Amy Marfall 149 (Waikato Regional Water Safety Strategy Advisory Group)
10.30	Hone Te Riri 422 (Kawerau)
10.40	Paora Stanley (Ngai Te Rangi Runanga) 551
10.50	Paora Stanley (Ngai Te Rangi iwi Settlement Trust) 554
11.00	Sheryl McKay 145
11.10	
11.20	
11.30	Vance Skudder 516, 517, 518,519, 520, 521, 523
11.40	
11.50	
12.00	Lunch
12.30	Myles Reid 77
12.40	
12.50	
1.00	
1.10	Biel Whanau Tapuika
1.20	
1.30	
1.40	
1.50	
2.00	Afternoon tea
2.10	
2.20	
2.30	
2.40	
2.50	
3.00	Panel Wrap up
3.10	
3.20	
0.30	

Item 8.1, Attachment 1

3.40	
3.50	Shane Killingback 61
4.00	Brett Waterhouse 63

Navigation Safety Bylaws Hearings - Day 3

Thursday, 4 April 2024

Regional House, Tauranga

Time	Name
8.30	Introductions, agenda and admin
9.00	
9.10	Denham Cook 515
9.20	Chris Bredenbeck Waikato Regional Council 386
9.30	
9.40	
9.50	
10.00	
10.10	
10.20	Matakana Is
10.30	Rangiwaea Is
10.40	Contact :Ngaraima Taingahue
10.50	
11.00	
11.10	
11.20	
11.30	Jetboating NZ 573 TBC Speaker 1
11.40	Jetboating NZ 573 TBC Speaker 2
11.50	Jetboating NZ 573 TBC Speaker 3
12.00	Lunch
12.30	
12.40	
12.50	
1.00	
1.10	
1.20	
1.30	
1.40	
1.50	
2.00	
2.10	
2.20	
2.30	
2.40	
2.50	
3.00	Panel Wrap up

Bay of Plenty Regional Navigation Safety Bylaws Hearing Submitter Information.

Draft Bay of Plenty Regional Navigation Safety Bylaws 2024

Hearings Procedure

Under section 83(1)(d) of the Local Government Act 2002, the Bay of Plenty Regional Council offers members of the community the opportunity to present their views to the Regional Council in a manner that enables spoken interaction. This is done as public hearings. The Hearings run under the provisions of the Local Government Official Information and Meetings Act 1987.

What happens at the Hearing:

- A Council Hearing is quasi-judicial and therefore reasonably formal. All conduct in a Hearing should be appropriately respectful.
- The Chairperson will formally open the meeting. You are welcome to come for the whole session or just for your booked time of speaking. If you are arriving just for your speaking time, please sit quietly in the public seats and wait to be called.
- The Chairperson will welcome those attending and outline any specific matters of protocol, especially for submitters who are likely to be unfamiliar with hearings procedures.
- The Hearing Committee will avoid unnecessary formality and recognise Tikanga Māori where appropriate, i.e. Māori greeting protocols like mihi mihi or karakia.
- The Chairperson will remind submitters that the Hearing Panel members will have read the submissions and invites submitters to **highlight their key submission points**.
- The purpose of the Hearing is to allow the decision makers (the Hearing Panel) the opportunity to hear all opinions on the proposal, and then make an informed decision.
- No person speaking at the Hearing should speak about anything outside the scope of their submission.
- Anyone participating in the Hearing, other than the Hearing Committee may ask a question of **clarification to the Hearing Committee**. Please follow these steps:
 - Wait until the current speaker finishes.
 - Wait for the Panel to ask all their questions, they may be seeking the same clarification.

- Indicate to the Chairperson (or secretary) that you have a question of clarification.
- Ask your question to the **Chairperson**.
- If the Chairperson believes the question needs clarification, they will direct that the question be answered.

CROSS-EXAMINATION OF OTHER SUBMITTERS IS NOT PERMITTED.

- The Hearing Committee will only "Exclude the Public" where necessary to protect the interests of any party who could be affected by the submissions presented or discussed.
- The Chairperson may allow departure from these guidelines if satisfied that justice will be better served.
- The Chairperson will conduct proceedings in accordance with the principles of natural justice.
- The use of cellphones is not permitted.

When you speak:

Each submitter will be given **ten minutes** in which to speak. Please arrive 15 minutes **before** your booked time.

The following rules generally apply:

- Clearly identify yourself when it is your turn to speak.
- You will be invited to a designated table in front of the Committee to speak at your designated time.
- **You may not raise issues that are not covered in your written submission**, but points may be elaborated on or explained.
- Evidence is not given under oath.
- Only the Hearings Committee may question you as a submitter.
- The Hearings Committee may request or receive advice from Council staff during your spoken submission.
- After speaking you are welcome to return to the public seats to hear the other submissions.



Additional Information for Hearing Panel Members and Council Staff

- The Hearings are run under the provisions of the Local Government Official Information and Meetings Act 1987.
- The purpose of the hearings is for the Hearing Panel to gain a comprehensive understanding of the concerns, matters and issues being raised so that sound decisions can be reached. To achieve this, members need to listen carefully. When submitters are speaking, they should be permitted to do so without interruption, except for seeking simple clarification through the Chair. Interruptions should not be used by the Hearing panel members to start debate on the issue being presented. Ideally questions of clarification should wait until the submitter has concluded their presentation. The relative merits of issues raised can be fully discussed and considered once the hearing itself has been adjourned and the Hearing Committee deliberate.
- The hearings are in public and Hearing Panel members should remember the liability they may place themselves under should they make statements of bias or predetermination during the hearing. They may well be called to repeat what they have said before the Court as evidence to support a case of unfair predetermination.
- The Hearing Panel through their Chair should keep strict control of the asking of questions. There can be no cross examination and questions should relate to points of clarification only. Only questions that would provide information that would advance the Hearing Panels understanding of issues should be allowed. Questions asked must be clear and not statements or accusations dressed as questions. The Chairman should not hesitate to disallow any question if its answer would not add relevant information that would advance the Hearing Panels understanding.
- Panel members should ensure that they have all necessary information from staff before the submitter starts and before the hearing is adjourned. It may not be possible to reopen the hearing without administrative difficulties and inconvenience to submitters.
- Hearing Panel members should not discuss hearing issues with any submitter, or other person outside the formal hearing procedure, to do so may cause the member to become disqualified to hear matters and could be cited as unfair predetermination in evidence to support a case against council decisions.

BOPRC ID: A4501298

ITEM 8.1

SUPPORTING DOCUMENT 1

Full Submissions Pack