

Report 00.854
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Report to Wellington Regional Council
From: Lloyd Bezett, Policy Analyst Council Secretariat

Wellington Regional Navigation and Safety Bylaws – Special Order

1. Purpose

To consider the confirmation of the Special Order:

- (a) adopting of the *Wellington Regional Navigational and Safety Bylaws 2000*, and
- (b) repealing all parts of the *Bylaws of the Wellington Harbour Board 1985* except those relating to Pilots and Pilotage.

2. Background

At its special meeting on 4 July 2000 the Council resolved to create the Wellington Regional Navigation and Safety Bylaws 2000 (**Attachment 1**) and repeal parts of the Wellington Harbour Board Bylaws 1985 (**Attachment 2**).

The Council's intention to confirm the Special Order must be advertised twice in a newspaper in circulation within the region. The first public notice must appear no less than 21 days before the confirmation of the Special Order and the second notice no more than 14 days or less than 7 days before the confirmation of the Special Order. Public notice was advertised on 4 November and 25 November 2000 in *The Dominion, Evening Post and Wairarapa Times-Age* (**Attachment 3**).

Copies of the Bylaws have also been made available at territorial authority information offices and on the Council's internet site.

3. Comment

Submissions

At the time of preparing this report 25 submissions had been received on the Bylaws (**Enclosed separately**). Under section 716B of the Local Government Act 1974, submissions must be received up until the time the Special Order is confirmed. Should any further submissions be received they will be tabled for consideration at the meeting.

Windsurfers - Lifejackets

The majority of the submissions are in relation to the requirement that windsurfers carry lifejackets. Submitters have raised the following objections to this provision:

- restricted manoeuvrability
- inability to dive under waves while swimming the board out
- the danger of being trapped under the sail
- few other places around the world require lifejackets to be worn
- a wetsuit, harness and the board provide sufficient buoyancy
- windsurfers look out for each other
- fatalities in the sport are rare.

It is understood that the Director of Maritime Safety is currently looking at this issue and may include in a Maritime Rule a requirement that windsurfers wear a lifejacket **or a wetsuit with sufficient buoyancy**. A submission to this effect is expected before the meeting.

Officers therefore recommend that the Bylaws be amended to exempt windsurfers from the requirement to carry lifejackets if they are wearing a wetsuit of sufficient buoyancy.

Rob Marshall (Submission 12)

Mr Marshall suggests that all persons wearing wetsuits should be exempt from the requirement to wear lifejackets. Officers consider that, in the absence of a decision by the Director of Maritime Safety accepting this view, a general exemption should not be granted to persons wearing wetsuits.

Waikanae Boating Club (Submission 16)

A submission from the Waikanae Boating Club has noted that there are problems with swimmers and fishers obstructing the use of the Waikanae Boat Club ramp. The Boating Club has suggested that the area be controlled for boats only. This would be done either as an access lane or a restricted area. Officers are of the view that this can be achieved by amending clause 2.2(b) to restrict swimming within 50 metres of a boat ramp when vessel is approaching it.

New Zealand Rowing Assn (Submission 17)

A further submission received from New Zealand Rowing Assn has pointed out the difficulty of wearing lifejackets in rowing skiffs and noted that boats often travel within 50 metres of each other at more than 5 knots.

Officers consider that it is reasonable for support craft to carry lifejackets and that if rowers are training without a support craft then they should carry lifejackets. The issue of rowing skiffs breaching the Bylaws by travelling over 5 knots while racing within 50 metres of each other can be resolved by granting them an exemption similar to that already granted to yachts.

Maritime Safety Authority (Submission 18)

The Maritime Safety Authority (MSA) has raised an issue of national consistency for bylaws relating to collision prevention in harbours. The MSA suggests that all vessels under 500 tons (not just pleasure craft) should be required to give way to larger vessels. Officers have made the necessary change to the Bylaws.

Wellington Recreational Marine Fishers Assn Inc (Submission 19)

This submission raises a number of concerns including:

- a request that lifejackets include buoyancy vests and be worn in oar powered vessels,
- that the main shipping channel be clearly defined and
- that large vessels be prevented from crossing the Falcon Shoals because of the danger posed to recreational fishers and the sea bottom.

The definition of a lifejacket, as “a serviceable personal floatation device”, includes buoyancy vests that meet the appropriate standard. The issue of the compulsory wearing of lifejackets in manually propelled craft has been discussed and rejected as unreasonable in all situations.

While the main shipping channel can be clearly defined, it is not recommended that larger vessels be restricted from crossing the Falcon Shoals. While the desire of recreational fishers to use this area is appreciated, the Falcon Shoals are nevertheless part of the entrance to Wellington Harbour and therefore should continue to be used by larger vessels leaving the Harbour. The reporting mechanisms in the Bylaws will ensure that different users can utilise this area safely.

Possible environmental damage caused by ferry wash cannot be the subject of bylaws, which legally must be about navigation and safety.

Transport Accident Investigation Commission (TAIC) (Submission 21)

The Transport Accident Investigation Commission’s submission makes a recommendation that vessels transiting Wellington Harbour have an agreed passage plan and sufficient crew to carry out the plan safely. These recommendations are the result of an investigation into a grounding at Tauranga Harbour. The recommendations would appear to apply to all size of vessel.

Officers were aware of the investigation during the preparation of these Bylaws. The Bylaws have therefore incorporated TAIC's concerns by including the following measures:

- vessels over 20m in length and passenger vessels must advise the Wellington Harbour Radio when they leave the wharf of their intentions,
- all vessels (except pleasure craft) must advise Wellington Harbour Radio prior to entering Wellington Harbour during daylight hours,
- all vessels must advise Wellington Harbour Radio prior to entering Wellington Harbour during the hours of darkness,
- all vessels must turn on and have sufficient crew to monitor all their navigational aids

Officers consider that these measures are appropriate and meet the concerns of TAIC without requiring all vessels (including windsurfers) to have an agreed passage plan.

Changes to text

A number of minor editorial changes have been included to ensure consistency with the latest legislative style adopted by the Parliamentary Counsel Office.

In addition to the issues discussed above, the following changes have been made:

- clause 5.1 has been changed to make it clearer that the Harbourmaster, Enforcement Officers will be appointed to enforce the provisions of the Bylaws. Honorary Enforcement Officers will carry out those duties determined appropriate by the Council,
- new subclause 5.1.4 has been added to allow the Harbourmaster, Enforcement Officers and Honorary Enforcement officers to require persons offending against the Bylaws to supply their name and address,
- subclause 6.2.1 has been amended so that vessels in Wellington Harbour must be capable of 'lowering' their anchor without power,
- clause 6.3 is amended so that all vessels under 500 tonnes must give way to vessels over 500 tonnes,
- Schedule 2 has also been amended to make it clear that anchoring within 100 metres of an underwater power or telephone cable is prohibited.

Delegation to Environment Committee

Once the Bylaws are confirmed it is appropriate that the Environment Committee, as the Harbours Committee of the Council, be delegated all the powers of the Council in terms of the operation and enforcement of the Bylaws.

Further amendments to the Bylaws can only be done by the Council using the Special Order process.

4. Communications

The Regional Council will circulate the confirmed Wellington Regional Navigation and Safety Bylaws 2000 to territorial authorities and stakeholders. We will also issue press releases and utilise the Council's Internet site.

5. Recommendation

That the Council:

- (1) *Consider all submissions.*
- (2) *By way of Special Order:*
 - (a) *adopt the amended Wellington Regional Navigation and Safety Bylaws 2000 as per Attachment 1 to Report 00.854.*
 - (b) *repeal all parts of the Bylaws of the Wellington Harbour Board 1985 except those identified to be saved in Attachment 2 to Report 00.854.*
 - (c) *authorise the affixing of the Common Seal.*
- (3) *Delegate to the Environment Committee all its functions, duties and powers in terms of the operation and enforcement of the Wellington Navigation and Safety Bylaws 2000 and the Wellington Harbour Board Bylaws 1985.*

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