

Te Taukī Whakakapaupapa **Statement of Proposal**

This book contains some of the key changes we are looking at for the Bay of Plenty Regional Navigation Safety Bylaws.



Te rārangi kaupapa

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Te tirohanga whānui

Overview

Toi Moana Bay of Plenty Regional Council oversees maritime safety in the region using the Bay of Plenty Regional Navigation Safety Bylaws.

These rules are established under the Maritime Transport Act (1994) to help minimise the risk of fatalities, injuries, accidents, and collisions on Bay of Plenty's waters, including our lakes and rivers.

We are reviewing the Navigation Safety Bylaws for the Bay of Plenty region with the goal of having an updated Bylaws by mid- 2024. The current Bylaws have been in place since 2017 and we review them every five years. We are seeking feedback this summer to help guide changes to our Bylaws.

The Maritime Transport Act (MTA) s33M allows Councils to make Navigation Safety Bylaws and The Local Government Act (LGA) 2002 s83 and s86 sets out how they should consult on the document.

Te whakamāramatanga raru

Problem definition

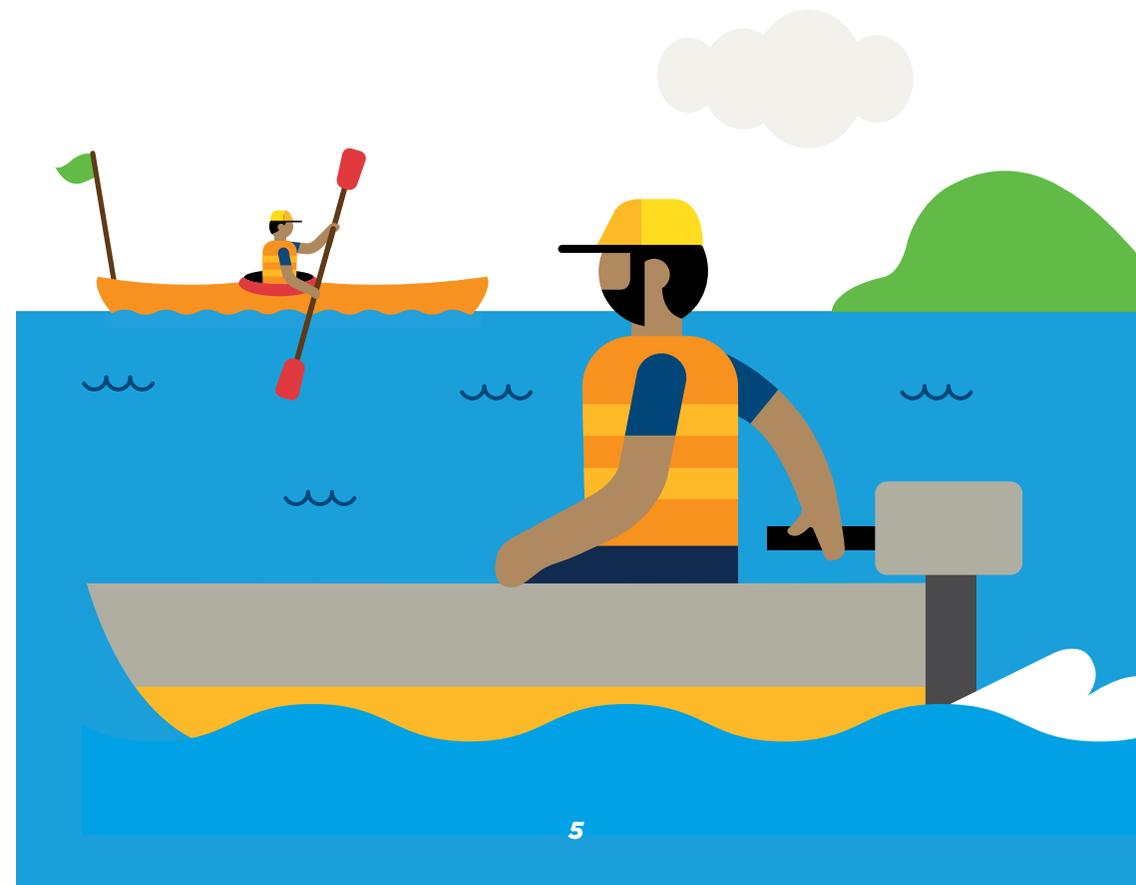
In order to effectively manage navigation safety, the Regional Council has the ability under the Maritime Transport Act 1994 to develop specific rules to manage and control activities and behaviour through Bylaws.

Council needs to keep these Bylaws current and as fit for purpose as possible to reflect latest thinking and technology; previous experience gained through past application of the bylaws; and information around current issues and risks.

Te take o te ture ā-rohe

Purpose of the Bylaw

Bay of Plenty Regional Council has a statutory role in ensuring maritime safety in its region by developing Navigation Safety Bylaws under section 33M of the Maritime Transport Act 1994. The Bay of Plenty Regional Navigation Safety Bylaws are in place to minimise the risk of fatalities, injuries, nuisance, accidents, collisions, and damage in the Bay of Plenty navigable waters.





Arotakenga Review

An internal review of the ongoing effectiveness of the existing Bylaws has now been completed. In most cases it has been decided that the existing Bylaw rules are effective for the ongoing safety of the community on the water. Council generally reviews the Bay of Plenty Regional Navigation Safety Bylaws every five years to ensure that the Bylaws reflect the most up to date legislation, latest best practice, up to date maritime regulations and rules, and current regional risks and issues. This last full review was in 2017.

Te whai tikanga ā-ture Legislative Compliance

Under section 155 of the LGA 2002 the Bylaws review has to consider:

- That Bylaws are the most appropriate way of addressing a perceived problem.
- Is the Bylaws document the most appropriate way to present the information to the public?
- That the Bylaws are not inconsistent with the New Zealand Bill of Rights Act 1990.

Appropriateness of Bylaws to address a perceived problem

Under s 155(1) of the LGA, Council must determine whether a Bylaw is the most appropriate way of addressing a perceived problem.

To that end, all probable methods to ensuring navigation safety in the Bay of Plenty, have been investigated.

These include:

Options considered	Reasons for rejection or acceptance
Revoke bylaws and transfer jurisdiction to Maritime New Zealand REJECTED	<ul style="list-style-type: none"> No bylaws means that the Council has no regulatory mandate (other than those relating to the Harbour Master granted under the Maritime Transport Act 1994) to enforce appropriate behaviour and ensure navigation safety within the Bay of Plenty. Without bylaws, monitoring and enforcement responsibilities reverts back to Maritime New Zealand, which may not have local capacity to adequately manage risks to navigation safety within the Bay of Plenty
Revoking bylaws and include rules in the Coastal Plan for the Bay of Plenty Region REJECTED	<ul style="list-style-type: none"> The Regional Coastal Environment Plan is an alternative regulatory tool provided through the Resource Management Act 1991 (RMA). The RMA does not include provisions that address maritime safety or navigation as these are more appropriately addressed under the Maritime Transport Act 1994 and other legislation. Regulating maritime issues under the RMA is therefore inappropriate and not considered an appropriate option.
Status quo – the Council maintains bylaws for navigation safety matters in the region in accordance with the LGA. ACCEPTED	<ul style="list-style-type: none"> The Council is aware of and can be directly involved in matters of local significance.

Most Appropriate Form of Bylaws

Under the LGA 2002, council must determine whether the bylaws are in the most appropriate form (e.g. standalone, amendment to existing document, consolidation with other bylaws).

There are a number of reasons why Council believes a standalone, written document is the most appropriate form of Bylaw (though this is an amendment of the previous 2017 Bylaw).

A standalone document:

- Holds all the Bylaws in one place and is easily accessible for users.
- The document focusses only on the Navigation Safety Bylaws and cannot be confused with other rules.
- The document is relatively short and concise and can be easily printed or referenced in its entirety.
- Becomes a repository for all the legal matters associated with Navigation Safety in the Bay of Plenty.

NZ Bill of Rights Act 1990

Under section 155(3) of the Local Government Act 2002, Council must determine that the Bylaws are not inconsistent with the New Zealand Bill of Rights Act 1990.

The Bill of Rights Act 1990 protects the civil and political rights of all New Zealanders.

The Act covers:

- Life and security of the person
- Democratic and civil rights
- Non-discrimination and minority rights
- Search, arrest, and detention
- Criminal procedure
- The right to justice.

Council considers the Bylaws as proposed here, are not inconsistent with the Bill of Rights Act 1990.



Ngā ture ā-rohe rerekē

Amended Bylaws

The draft 2024 Regional Navigation Safety Bylaws have a number of amendments from the 2017 document.

This is due to new developments in maritime legislation and navigation management thinking; collection of regional data; development of new vessel technologies and types; and ongoing issues highlighted by community members.

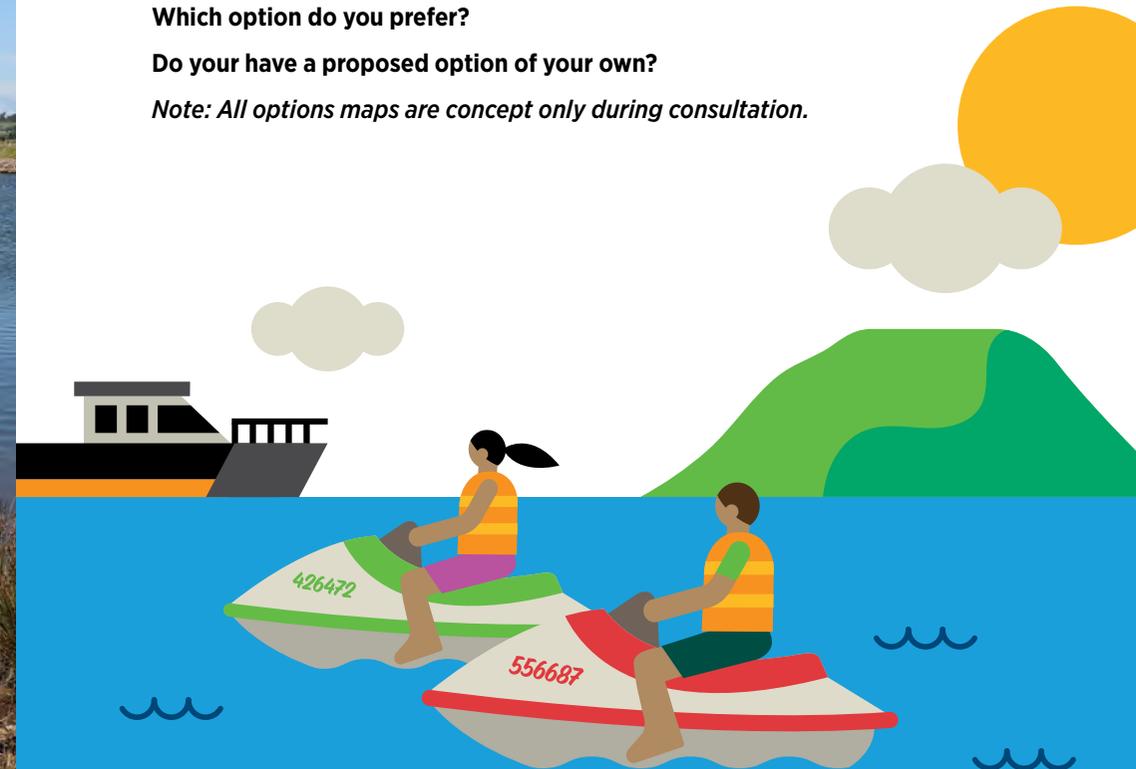
Council has also identified some bylaw clauses are inconsistent with national safety campaigns and some areas are inconsistent with national regulations.

The most significant changes are identified on the following pages.

Which option do you prefer?

Do you have a proposed option of your own?

Note: All options maps are concept only during consultation.



Te awa o Te Kaituna

Kaituna River

There are currently speed uplifting rules for watercraft on the Kaituna River, downstream of the Mangorewa confluence (where the Mangorewa River joins the Kaituna River) to the Bell Road boat ramp. This means that watercraft are able to exceed the 5 knot rule for this stretch of water, travelling up to 20 knots per hour. Health, safety and environmental concerns have been raised by communities who swim within this stretch of the river. We are seeking feedback on removing the speed uplifting rule from the lower Kaituna River.

This would mean that the maximum speed watercraft could travel on any part of the lower Kaituna River is 5 knots, giving swimmers as much space as possible. The change would make swimming in the river safer.

OPTION 1: Keep as is

Keep the speed uplifting: “Areas subject to speed uplifting: All navigable waters of the Kaituna River upstream of the Bell Road boat ramp to Mangorewa confluence”.

Option 1 clauses would be:

For the Lower Kaituna River to the Mangorewa confluence:

- a. A maximum speed of 20 knots is allowed for all navigable waters of the Kaituna River, downstream of the Bell Road boat ramp to a line across the river from the northeastern point of the island adjacent to Fords Cut a maximum speed of 20 knots is allowed, except that during the period 15 August to 30 November the maximum speed is 10 knots.

The Upper Kaituna River from the confluence of the Mangorewa River to the first set of rapids 12.5km upstream of the confluence, is subject to these conditions:

- a. The speed uplifting applies to commercial operators operating under Maritime Rule Part 82, provided that they also hold a relevant resource consent from Western Bay of Plenty District Council, its successor or delegated authority; and
- b. The speed uplifting applies only from 9.00am to 5.00pm inclusive; and
- c. The five knot speed limit still applies 50m either side of the Maungarangi Road bridge; and

- d. The five knot speed limit will apply on the first Sunday of each month.

Refer to map on page 14

OPTION 2: Introduce designated swimming area ie watercraft must not exceed 5 knots

Identify popular swimming areas as permanent swimming areas, where vessels must go 5 knots in the most direct route through the area.

Option 2 clauses would be:

For the Lower Kaituna River to the Mangorewa confluence:

- a. A maximum speed of 20 knots is allowed for all navigable waters of the Kaituna River; downstream of the Bell Road boat ramp to a line across the river from the northeastern point of the island adjacent to Fords Cut a maximum speed of 20 knots is allowed, except that during the period 15 August to 30 November the maximum speed is 10 knots;
- b. Through identified reserved swimming areas a maximum speed of **5 knots only** is allowed. Vessels can go to 5 knots in the most direct route through the area, giving swimmers as much space as possible.

Refer to map on page 15

OPTION 3: Remove the speed uplifting from the entire river

Apply the 5 knot rule to the entire river.

There would be no Option 3 clauses as all standard speed rules would apply and the river would not be identified as having a speed uplifting.

Refer to map on page 16

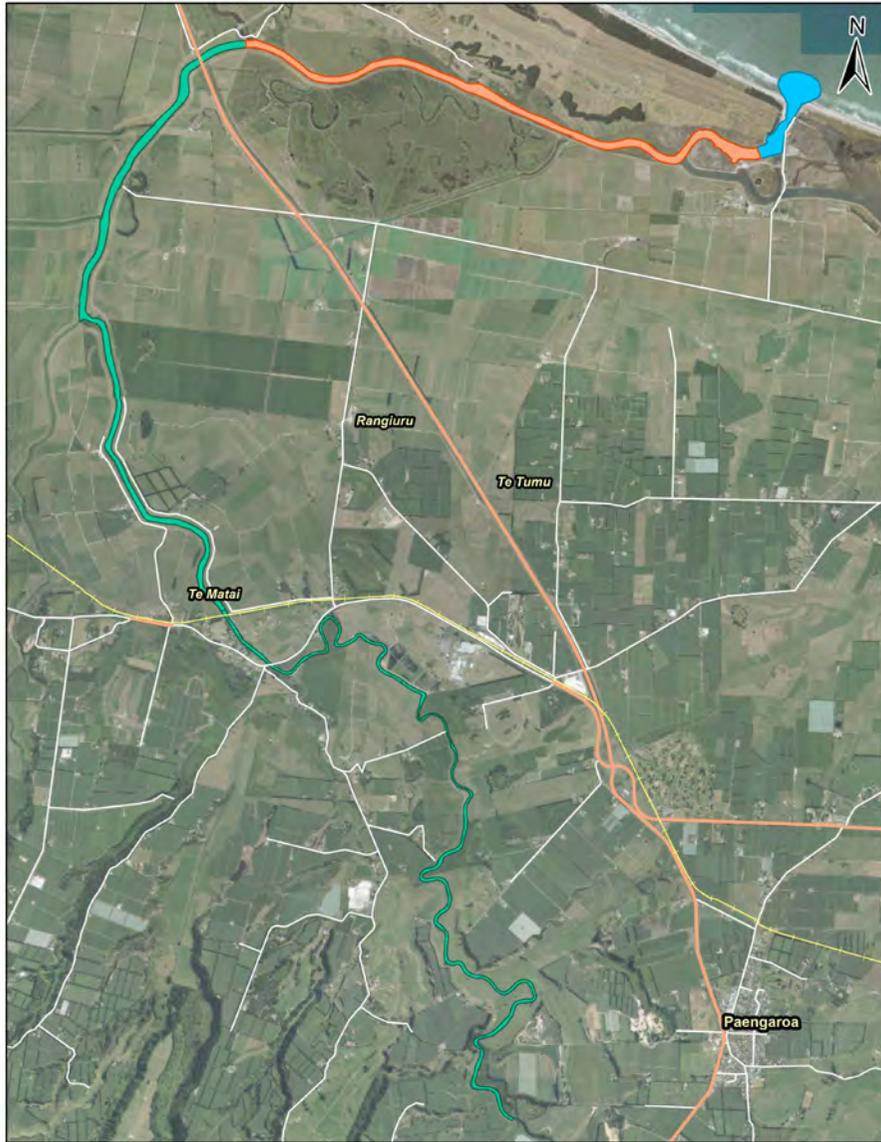
OPTION 4: Remove Speed Uplifting on lower river (from river mouth to Mangorewa River confluence)

Apply the 5 knot rule to the lower Kaituna River, leaving the upper Kaituna speed uplifting in place for consented commercial operations (currently not in operation).

Option 4 clause would be:

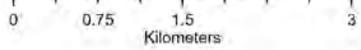
- a. For the Lower Kaituna River, from a line across the river from the northeastern point of the island adjacent to Fords Cut to the Mangorewa confluence, the maximum speed is 5 knots.

Refer to map on page 17

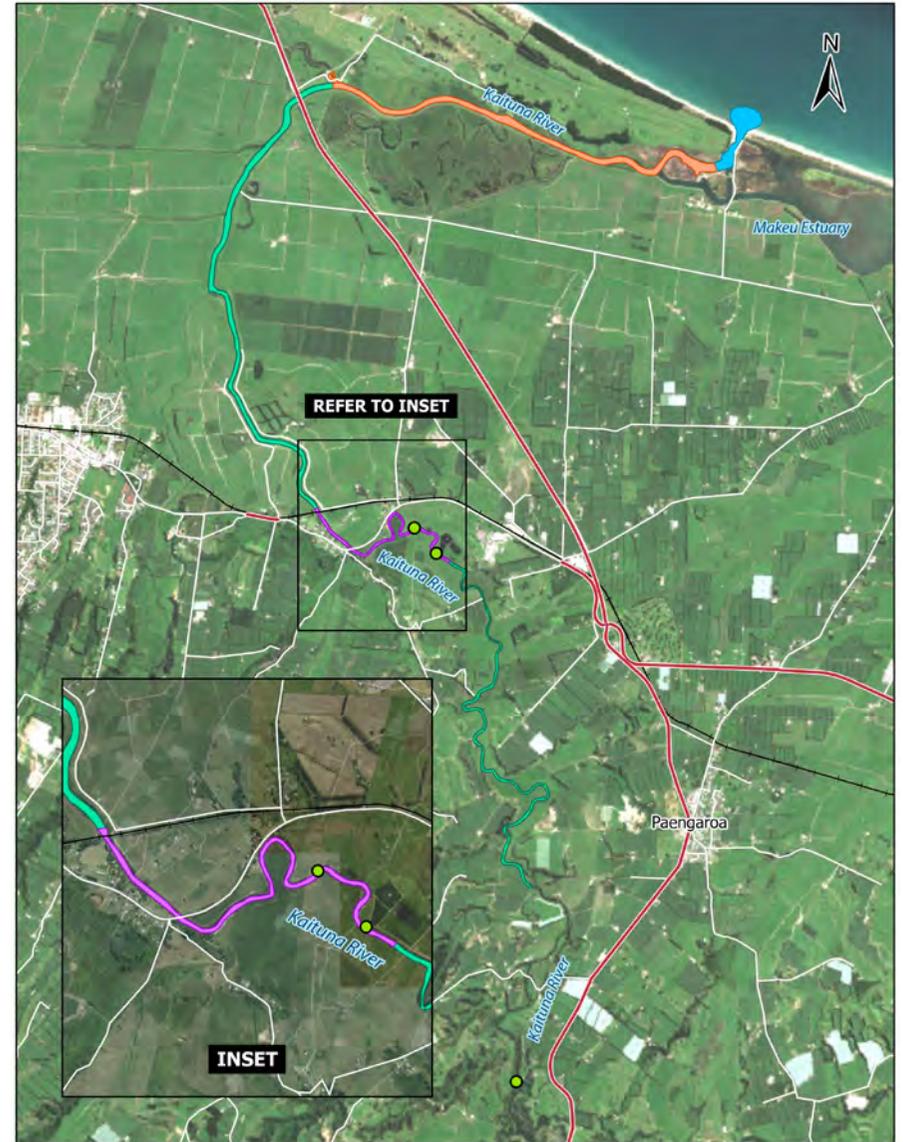


Speed Uplifting - Scenario 1
Lower Kaituna River

Scale 1:41,000 (A4)



- █ 5 Knots
- █ Speed Uplifting - River Mouth
- █ Speed Uplifting

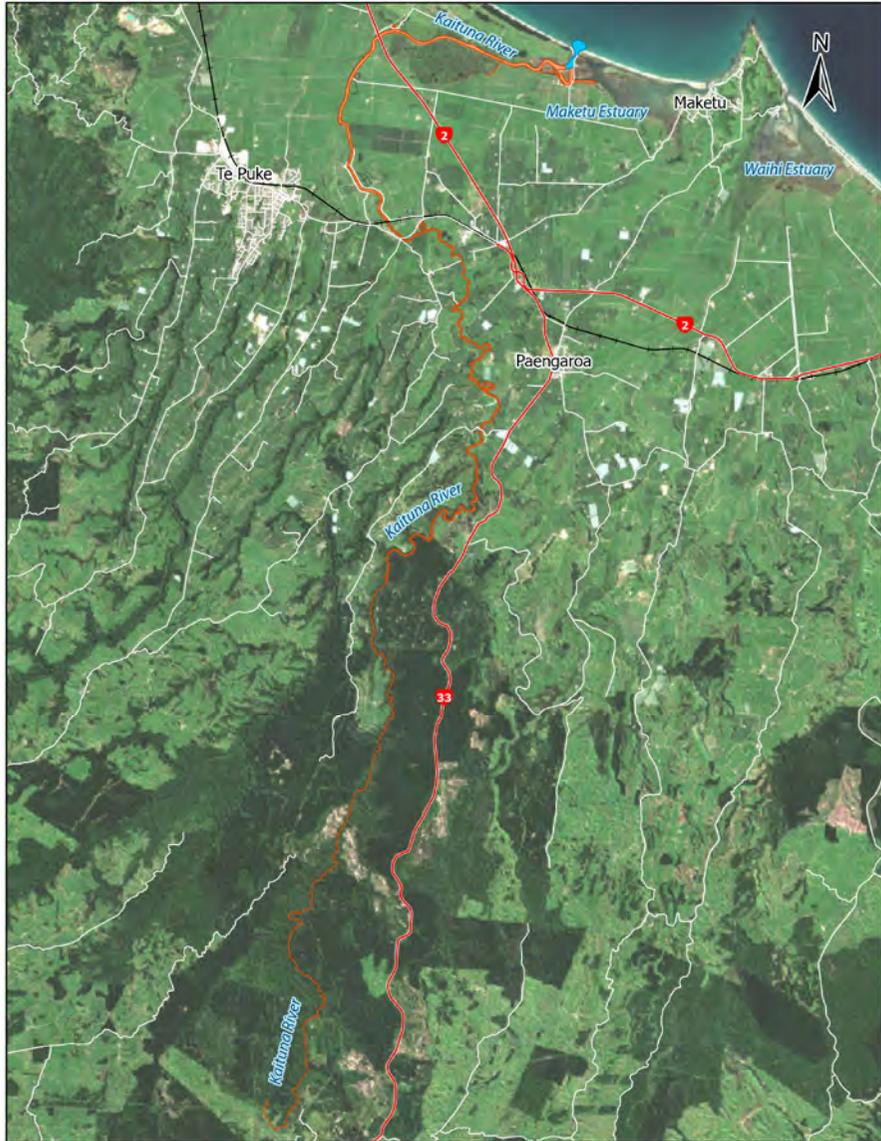


Speed Uplifting - Scenario 2
Lower Kaituna River

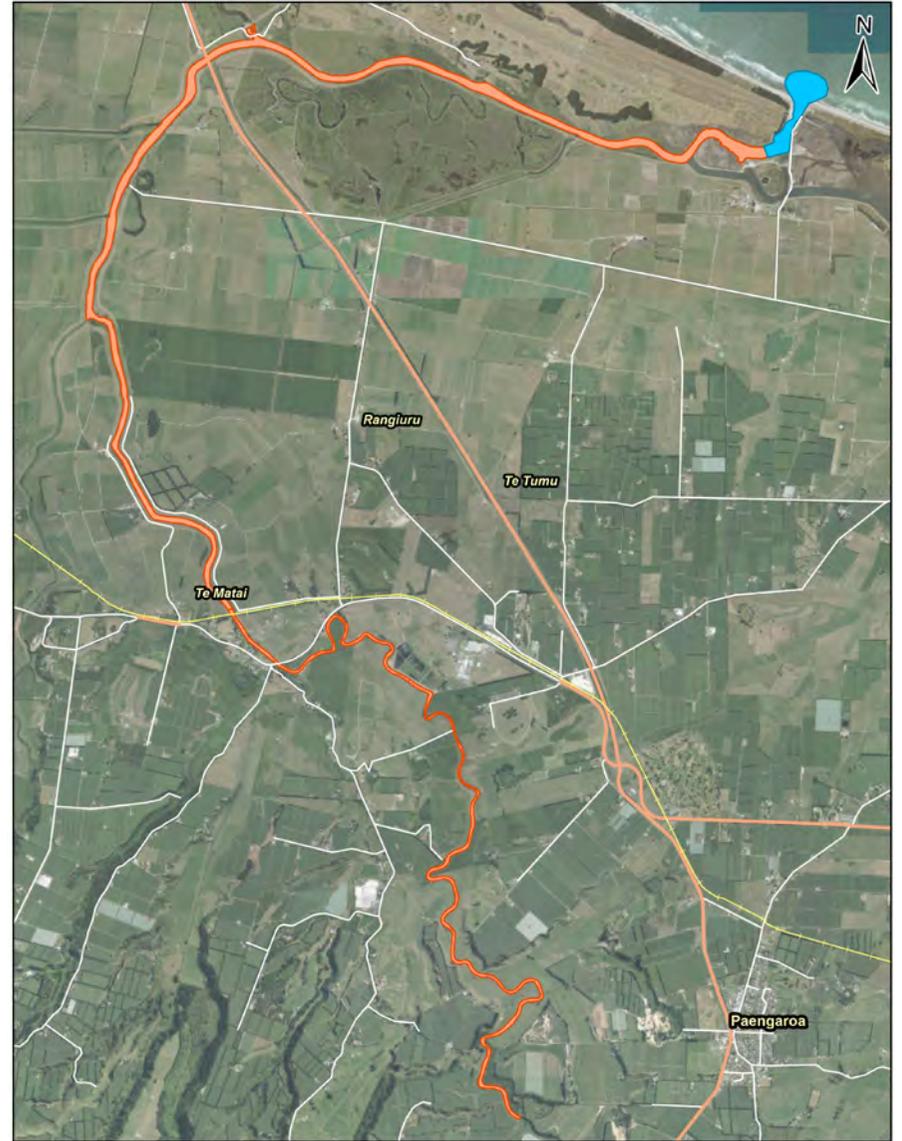
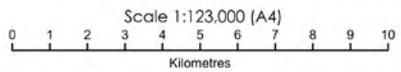
Scale 1:55,000 (A4)



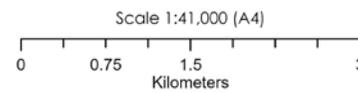
- Swimming Spots
- █ 5 Knots
- █ Speed Uplifting
- █ Speed Uplifting 1
- █ Speed Uplifting 2 - 5 Knots



Speed Uplifting - Scenario 3
Lower Kaituna River



Speed Uplifting - Scenario 4
Lower Kaituna River



Te awa o Tarawera

Tarawera River

There are currently speed uplifting rules for watercraft on the Tarawera River. This means that watercraft are able to exceed the 5 knot rule, travelling up to 20 knot per hour. Health, safety and environmental concerns have been raised by communities who swim in some parts of the river. We are seeking feedback on removing the speed uplifting rule for the stretch of river through the Kawerau township.

This would mean that the maximum speed watercraft could travel through this section of the river is 5 knots. The change would make swimming in the river safer.

Regional Council are consulting specifically on options for the Speed Uplifting on the Tarawera River. Depending on the option implemented the following clauses may occur:

OPTION 1: Keep as is

A speed uplifting applies to all navigable waters of the Tarawera River upstream of the Pacific Coast Highway Bridge.

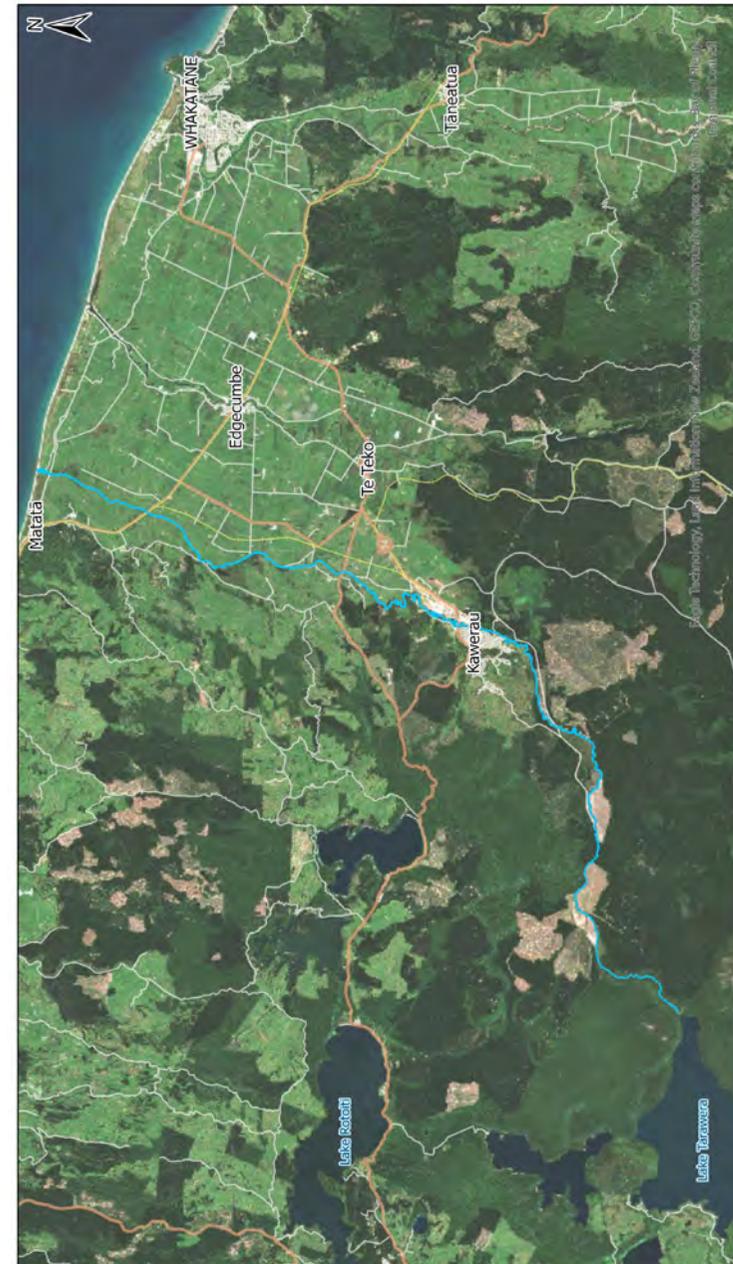
Refer to map on page xx

OPTION 2: Apply a 5 knot rule through the Kawerau township

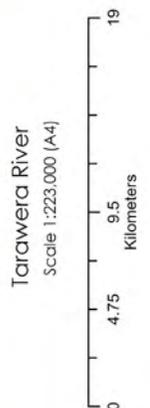
Option 2 clause would be:

- a. A speed uplifting applies to all navigable waters of the Tarawera River downstream of the State Highway 34 Bridge. From the State Highway 34 bridge to the lake side of the Kawerau golf course a maximum speed of 5 knots only is allowed. Watercraft can go up to 5 knots in the most direct route through the area giving swimmers as much space as possible.

Refer to map on page xx



Tarawera River





Te whanga o Ōhiwa Ōhiwa Harbour

Ōhiwa Harbour is a very popular spot for recreation. Jetski and personal watercraft are currently excluded from the majority of the harbour. We are seeking feedback on removing the exclusion zone of jetski and personal watercraft from Ōhiwa Harbour.

This would mean that jetski and personal watercraft would be able to use Ōhiwa Harbour, along with other users (boaties and the community). However, jetski and personal watercraft would still be subject to the 5 knots speed limit for this area.

OPTION 1: Keep as is

Leave the whole of Ōhiwa Harbour as a Personal Water Craft (Jetski) exclusion area. Due to changes in legislation the only way this can continue is through local (Whakatāne District Council and Ōpōtiki District Council) Bylaws.

There would be no Option 1 clauses as they would sit in local regulation documents. Regional Council no longer has legal mandate to exclude one type of vessel from an entire waterbody.

Refer to map on page 23

OPTION 2: Allow Personal Water Craft (Jetski) across the Harbour with standard speed rules applying

This would allow Personal Water Craft across the harbour with all other standard bylaws rules applying e.g. 5 knots within 200m of shore, 50m of a person or vessel.

There would be no Option 2 clauses as all standard speed rules would apply and the Harbour would not be specifically identified as having a personal water craft exclusion area.

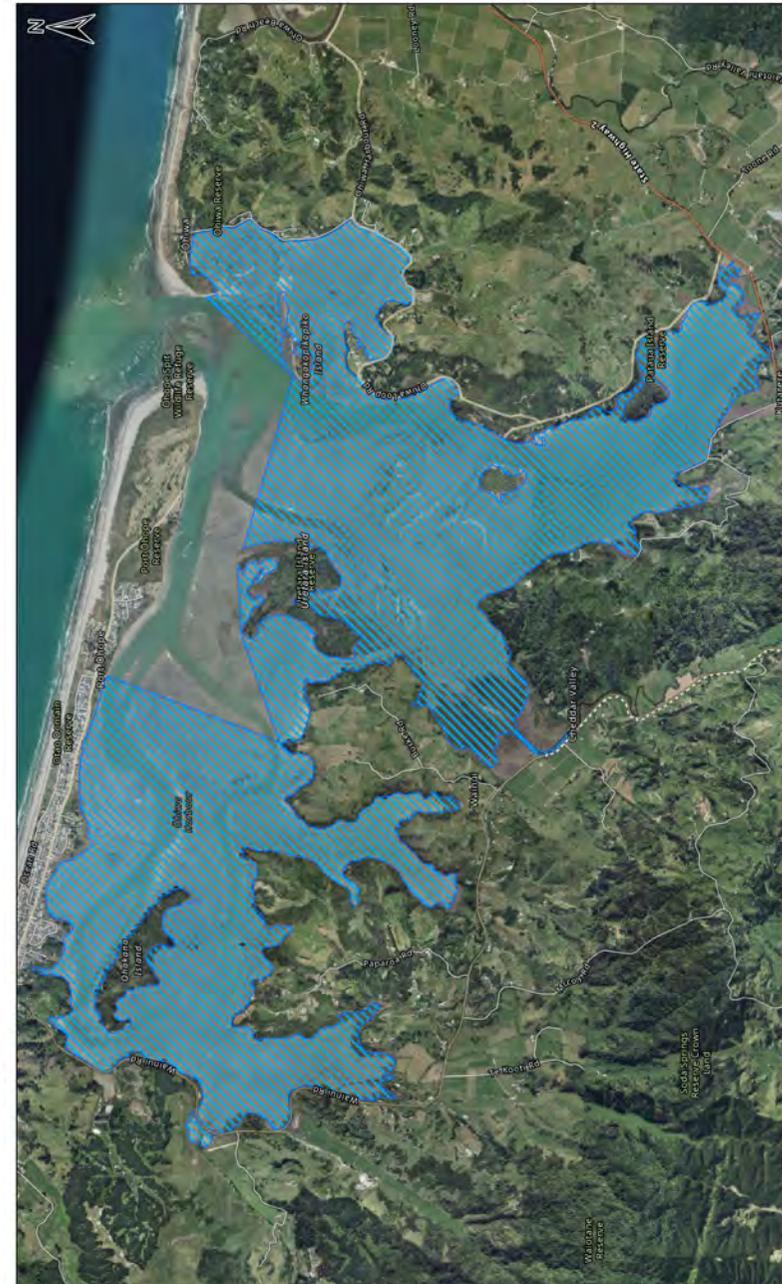
Refer to map on page 24

OPTION 3: Allow Personal Water Craft across the Harbour with standard speed rules applying with speed restriction to 5 knots two hours before and after low tide

Option 3 clause would be:

- a. No person shall operate a personal water craft within Ōhiwa Harbour at more than 5 knots, two hours before and after low tide.
- b. At other times, all other speed rules apply.

Refer to map on page 25



Personal Watercraft Exclusion Zone

Ōhiwa Harbour
Personal Watercraft Exclusion Zone
Scale 1:33,000 (A3)

0 0.6 1.2 1.8
Kilometres

Te wāhi retiwai o Otapu

Hunters Creek/Otapu Ski Lane

Hunters Creek/Otapu is a typically sheltered section of Tauranga Harbour, located between Matakana Island and Rangiwāea Island. This makes the area one of the most sought-after locations in the harbour for boaties, passive recreational activities (e.g. swimming, kayaking, beach picnics) and active water sports.

A significant part of Hunters Creek/Otapu is currently reserved as a **water ski area**. The water ski area extends to the shoreline of both Matakana Island to the north-east and Rangiwāea Island to the south-west. The ski area incorporates the main channel that meanders between the islands. This navigation channel is the primary connection from the mainland (Sulphur Point) to Opureora on Matakana Island.

A wide range of historical issues relating to Hunters Creek/Otapu, its use and behaviour of some boaties in the area, have been consistently raised during reviews of the Navigation Safety Bylaws.

Regional Council are consulting specifically on three options for Hunters Creek/Otapu. Depending on the option implemented the following clauses may occur:

OPTION 1: Keep as is

The area of Hunters Creek/Otapu, between Matakana and Rangiwāea Islands, is designated as a reserved area for skiing **ONLY** between sunrise and sunset, except for two hours before and after low tide.

Option 1 clause would be:

- a. The area designated as the Hunters Creek/Otapu Ski Area in Schedule 2 is a reserved area for skiing, except during the period being 2 hours before and after low tide when no person shall be towed and a 5 knot speed limit applies to all vessels within 200m of shore.

Refer to map on page 29

OPTION 2: Keep as is with Partnerships

Leave the Ski Lane where it is but add requirements around increased monitoring and compliance; and working with our partners and other entities to address non-bylaws issues (e.g. beach landings).

Option 2 clause would be:

- a. The area designated as the Hunters Creek/Otapu Ski Area in Schedule 2 is a reserved area for skiing, except during the period being 2 hours before and after low tide when no person shall be towed and a 5 knot speed limit applies to all vessels within 200m of shore.

Refer to map on page 30



OPTION 3: Modify Ski Lane

Reduce the size of the ski lane and reshape the top left corner of the area so that the top marker buoy is aligned with Forest land boundaries, avoiding private land.

Option 3 clause would be:

- a. The area designated as the Hunters Creek/Otapu Ski Area in Schedule 2 is a reserved area for skiing, except during the period being 2 hours before and after low tide when no person shall be towed and a 5 knot speed limit applies to all vessels within 200m of shore.

Refer to map on page 31

OPTION 4: Remove Ski Lane

There would be no Option 3 clauses as all standard speed rules would apply and the area would not be specifically identified as having a ski lane.

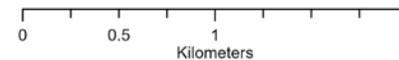
Refer to map on page 32

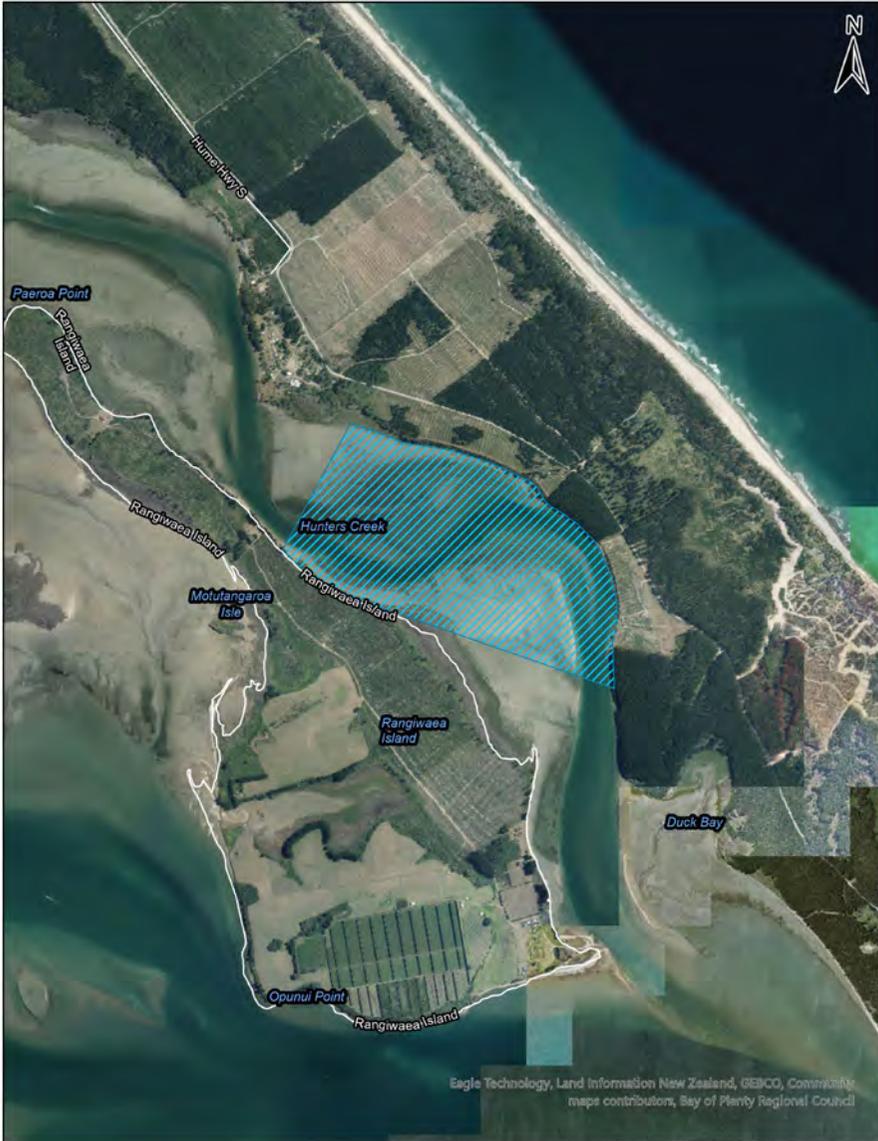


Hunters Creek/Otapu
Current Water Ski Area

 Personal Water Craft Areas

Scale 1:24,000 (A4)

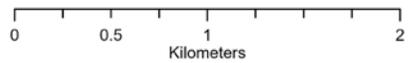




Hunters Creek/Otapu
Current Water Ski Area

 Personal Water Craft Areas

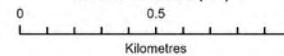
Scale 1:24,000 (A4)



Hunters Creek/Otapu
Revised Water Ski Area (Option 3)

 Revised Personal Water Craft Area
 Land Parcels

Scale 1:17,000 (A4)

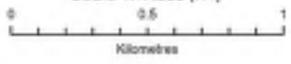




Hunters Creek/Otapu
No Water Ski Area (Option 4)

— Land Parcels

Scale 1:17,000 (A4)



Te āheinga o te ara kaukau i Waikōriri

Pilot Bay Swimlane feasibility

We received a large amount of feedback from the swimming community who would like to see a permanent swim area in Pilot Bay. We are now looking at the feasibility of this, as it would provide a safe area for those wishing to swim in an increasingly busy area.

Note: the following map is a concept only and does not represent the exact dimensions of the proposed swimming lane.



Feasibility of a Buoyed Swim Lane
Scale 1:5,800 (A4)
0 0.13 0.25 0.5
Kilometers

Uuinga me ngā tukunga Consultation and Submissions



Any organisation or member of the public can make a submission on the draft Regional Navigation Safety Bylaws 2024.

Toi Moana Bay of Plenty Regional Council welcomes your views and feedback. Community views help shape the way we manage navigation safety. in the Bay.

Public submissions start at 8am on Monday, 18 December 2023 and close at 4pm on Friday, 29 February 2024. Further information regarding the submissions process is provided at the end of this statement of proposal.

Hearings relating to the draft Bylaw will take place in March 2024, and Council will adopt the reviewed Bylaw in June 2024 after considering all submissions.

The full draft Bylaws document is available on our website participate.boprc.govt.nz/navigational-bylaw

It is also available from all Toi Moana Bay of Plenty Regional Council offices or by phoning **0800 884 880** to have a hard copy sent by mail.

Making a submission

A submission is your chance to tell us what you think about the content of the Statement of Proposal for the Bylaw Review.

We've also got lots of information about making a submission on our Participate website participate.boprc.govt.nz/navigational-bylaw. It includes more information about how to make a submission, what you should put in your submission and whether you want to present your submission in person.

What's a submission?

It's a statement in support of, or in opposition to, any part of this statement of proposal and the draft **Regional Navigation Safety Bylaws 2024**.

How long do I have to make a submission?

The closing date for submissions is **29 February 2024**. Between now and then Navigation Safety Review Committee members and staff are available to answer any queries. Contact us, as outlined below.

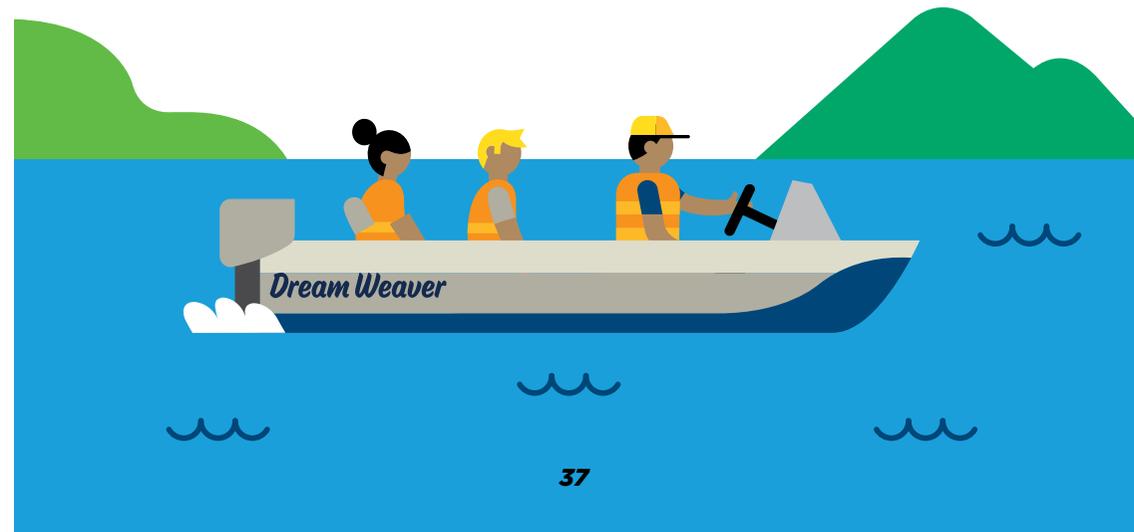
How do I make a submission?

Fill in the form available at Bay of Plenty Regional Council receptions and send or email it back to us. You can also visit our website and download a form or make a submission electronically.

Be brief and clear about the matters that you support or oppose.

Remember:

- State the most important points you want Toi Moana Bay of Plenty Regional Council to consider
- Make your comments as specific as possible
- Note which part of the draft plan, statement of proposal or summary your comments refer to by including page numbers and sections
- Clearly state your name, address, email, and telephone number.



Can I present my submission to Council?

YES. If you want to present your submission in person, please tick the box on the submission form. If you choose to do this, you will need to appear before council at a public meeting – these hearings are set for **March 2024** and more information can be found on our Participate website.

Make an online submission

If you prefer, you can visit our website and make a formal submission electronically. Visit participate.boprc.govt.nz/navigational-bylaw and follow the links.

How to get a full copy of the Draft Regional Navigation Safety Bylaws 2024

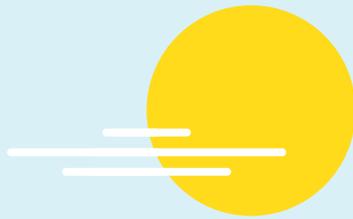
- Phone us on **0800 884 880** or email us at NavSafety@boprc.govt.nz and we'll send one to you.
- Visit participate.boprc.govt.nz/navigational-bylaw and read it online.

Copies of the draft **Regional Navigation Safety Bylaws 2024** can also be viewed at, or picked up from, any of our offices.

- 5 Quay St, Whakatane
- 1118 Fenton St, Rotorua
- 1 Elizabeth St, Tauranga.

Notes





www.boprc.govt.nz