

# **Deliberation for the Maritime Facilities Bylaw**

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<b>TO</b>	Judicial Committee
<b>FROM</b>	Graham McDermott - Senior Policy Analyst
<b>DATE</b>	24 November 2015
<b>SUBJECT</b>	<b>Deliberations for the Maritime Facilities Bylaw</b>

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## **1 Purpose of report**

This report seeks Judicial Committee deliberations on submissions to the draft Maritime Facilities Bylaw and to provide recommendations to Council for consideration of the final bylaw for adoption.

## **2 Background**

### **Consultation**

At its meeting on 7 October 2015, Council approved a draft Maritime Facilities Bylaw for consultation through a special consultative procedure. Consultation ran from 9 October 2015 to 9 November 2015.

During the consultation period the proposed bylaw was advertised on Council's website and through media including radio, newspaper, e-newsletters and social media including Facebook and Twitter.

### **Submissions**

Council received six submissions to the draft Maritime Facilities Bylaw. Submitters were asked to provide their thoughts on the proposal in an open ended comment field.

### **Hearing**

One submitter attended a Judicial Committee hearing for the bylaw which was held on 18 November 2015.

## **3 Issue**

Through analysis of the submissions a number of themes have emerged:

- a) Support for making a bylaw to assist with the management of maritime facilities
- b) Safety concerns
- c) Environmental and health concerns

## **4 Discussion**

Council is not required to make a Maritime Facilities Bylaw, but is able to make one in accordance with the Local Government Act 2002 which states that the Council has general bylaw making powers to;

- protect the public from nuisance,
- protect, promote and maintain public health and safety, and
- minimise the potential for offensive behaviour in public places.

### **Summary of feedback**

There were a total of six submissions. Two submitters supported the bylaw and requested amendments, three submitters supported the bylaw as proposed and the other submitter did not state either support or opposition.

### **Supporting the bylaw**

Three submissions from the Thames, Coromandel and Tairua-Pauanui Community Boards supported the need for a bylaw. Two of the Community Boards had no other comment to make. Thames Community Board supported the bylaw as a necessity to manage maritime facilities owned or under the control of Council for the benefit of all users.

Waikato Regional Council had the largest number of submission points and focussed on navigation safety, biosecurity, and hazards and environmental compliance. The submission stressed that they wished to adopt an integrated and collaborative approach with Thames-Coromandel District Council. The vast majority of their submission points supported the bylaw and the submission points mainly focussed on the alignment between the proposed bylaw and the Waikato Regional Council Navigation Safety Bylaw which was adopted in 2013. Some possible gaps/omissions were also highlighted.

We are aware that the Regional Council received our press releases however for future consultations we will directly advise the Waikato Regional Council Chief Executive through official channels as a matter of courtesy.

Another submitter supported the need for the bylaw and was particularly concerned that the needs of tourism and the commercial sectors had overtaken those of local residents and ratepayers and hoped that the bylaw would recognise this.

### **Areas submitters requested clarification or improvements**

One submitter was concerned that it wasn't clear that the bylaw only applied to Council owned and operated facilities. The main concern was that if it extended to privately owned facilities then this would add to costs and create unnecessary responsibilities and burdens.

One submitter was concerned about being unable to power on and off trailers particularly in light of new technology. Another submitter had concerns that the hazardous substance provisions were too restrictive and meant that 'boaties' couldn't take a fuel can onto their boats without prior permission from the Maritime Facilities Manager which is unworkable.

Waikato Regional Council requested a number of improvements relating to environmental protection and alignment with their navigational safety bylaw. These are discussed in further detail below.

### **Staff analysis and recommendations**

Powering on and off trailers - The submission point about the ability to power on and off trailers is more pertinent to Waikato Regional Council's Navigation Safety Bylaw (Clause 4.4: Use of vessel engine around wharves, jetties or ramps).

Thames-Coromandel District Council as a ramp owner has the ability to authorise engine use at boat ramps, and has done so in the case of emergency services activity.

Fuel - The practicality of the requirement under Clauses 10.1 and 10.2 to ask permission in advance of the wharf facilities manager to take a fuel can, or gas bottle onto a maritime facility was queried. This is based on fuel meeting the definition under 5.1 of a Hazardous Substance (a) with one or more of the following intrinsic properties (i) explosiveness (ii) flammability.

Additionally, Waikato Regional Council request that clauses 10, 21 and 22 reflect the requirements of refuelling activities on maritime facilities.

*Staff recommendation* - The issue raised by Mr Jensen was not the intent of the provisions made in the bylaw under Clause 10 Hazardous Substances. To address the concerns raised, changes have been made to the definition of Hazardous Substances.

Environmental and safety concerns - These were issues raised by Waikato Regional Council to mitigate the risk of the biosecurity threat posed by unwanted organisms on vessels and in/around maritime facilities. A specific example is containing and mitigating the establishment of Sabella into Coromandel Town from other parts of the Hauraki Gulf.

The bylaw is not the primary mechanism for addressing this and there are limitations on the scope of the bylaw to be able to meaningfully address the issues raised.

*Staff recommendation* - This is an emerging issue where there is increasing understanding of the spread of unwanted organisms and marine pests though these are not yet fully defined in the Regional Pest Management Plan. A number of minor changes have been made to the bylaw at this stage to acknowledge that this is an area for development, however the bylaw is not the main vehicle for achieving better collaboration between Waikato Regional Council and Thames-Coromandel District Council on this matter.

Clause 8 includes specific reference to the prohibition of dumping dirt and rubbish in the coastal marine area. Clause 9 has been extended to include unwanted organisms and clause 13 has been extended to prevent biosecurity high risk vessel from tying up alongside a maritime facility until the risk is mitigated.

Further dialogue will be pursued with Waikato Regional Council staff to develop practical solutions to address the environmental concerns raised.

The Waikato Regional Council also suggested that the bylaw include provisions to prevent vehicles beyond maximum weight limits for any given maritime facility coming on to the facility. Clause 14 has been updated to provide for this.

Finally, Waikato Regional Council commented that the maritime facilities manager should have discretion to allow jumping or diving off a maritime facility as may be appropriate and the bylaw has been updated accordingly.

It is recommended that Council adopt the amended Maritime Facilities Bylaw included as **Attachment A**.

## **5 Suggested Resolution(s)**

That the Judicial Committee:

1. Receives the Deliberations and adoption for the Maritime Facilities Bylaw report.
2. Notes that it has considered all submissions to the Council's proposed Maritime Facilities Bylaw 2015.
3. Recommends to Council that it has followed the required special consultative procedure as set out in the Local Government Act 2002.
4. Recommends to Council that the bylaw does not give rise to any implications under the Bill of Rights Act 1990.
5. Recommends to Council the adoption of the Maritime Facilities Bylaw 2015 included as **Attachment A**.

**References-Tabled/Agenda Attachments**

**Attachment A** *Maritime Facilities Bylaw for adoption*

**Attachment B** *Hearing minutes for Maritime Facilities Bylaw*

***Attachment A***

**[Attachment A - Maritime Facilities Bylaw - Deliberations Report tracke...](#)**

***Attachment B***

**[Attachment C - 18 November 2015 - Judicial Committee Hearing Minutes](#)**