

Report No:	REP12-09-03
File No:	H271
Date:	7 September 2012
<b>Decision Required</b>	

## REPORT SUMMARY

**Report to:** Environment & Planning Committee  
**Meeting Date:** Thursday, 20 September 2012  
**Report Author** Steve Hainstock, Harbourmaster  
**Subject:** **Annual Maritime Activity Report 2011-2012**

### EXECUTIVE SUMMARY

This report addresses matters arising from report REP11-08-06, including issues regarding the Kaiteriteri waterskiing area. It also summarises actions taken under delegated authority by the Harbourmaster during the period 1 May 2011 to 30 April 2012, projects progressed and discusses legislative and regulatory changes.

### RECOMMENDATION/S

That the Environment & Planning Committee adopts the draft resolution.

### DRAFT RESOLUTION

**THAT the Environment & Planning Committee:**

1. **Receives the Annual Maritime Activity Report 2011-2012 REP12-09-03. and;**
2. **Agrees that:**
  - (a) **for the 2012-2013 summer, buoys be used to mark the boundary between the "Power Craft Prohibited" area at Kaiteriteri lagoon entrance and the "Water skiing Area".**
  - (b) **a Special Direction be issued restricting the priority use by waterskiiers of the area labelled "Water Skiing Area" to two hours either side of high tide time as published for Port Nelson, for the period 15 December 2012 to 28 February 2013.**

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**Subject:** **Annual Maritime Activity Report 2011-2012**

## 1. Purpose

- 1.1 This report addresses matters arising from report REP11-08-06, and reports on actions taken under delegated authority by the Harbourmaster during the period 1 May 2011 to 30 April 2012.
- 1.2 A full activity report is in preparation at the time of writing and can be provided to members of the Committee when complete, upon request to the Regulatory Manager.

## 2. Matters Arising from Committee Meeting of 25 August 2011

### 2.1 Resolution:

- i. for the 2011-2012 summer, buoys be used to mark the boundary between the "Power Craft Prohibited" area at Kaiteriteri lagoon entrance and the "Water skiing Area";

#### **Report back:**

This was done. The Kaiteriteri warden reported that in conjunction with the waterskiing timing restrictions, and a build-up of the sand bar last summer, swimmers were adequately separated from waterskiers.

### 2.2 Resolution:

- ii. booms be trialled along the northern and southern boundaries of the area reserved as "Swimming Area";

#### **Report back:**

This was not done, following liaison with Kaiteriteri Recreation Reserves Board staff. Monitoring this summer indicated that incursions across the boundary by boats or swimmers were few and easily manageable. The existing buoys appear to provide adequate separation from the boating "lanes".

### 2.3 Resolution:

- iii. a Special Direction be issued restricting the use by waterskiers of the area labelled "Water Skiing Area" to two hours either side of high tide time as published for Port Nelson, for the period 16 December 2011 to 27 February 2012.

**Report back:**

This was done. Cost of promotion and signage was considerably less than the previous method of booming for separating swimmers and skiers. Much of this is also re-useable. Only one instance of conflict was observed between a skier and a depth-limited vessel, which occurred when the area was closed to skiing. A number of sailors, kayakers and other users reported their appreciation at being able to enjoy use of the usual ski area at lower tides. There were surprisingly few complaints from skiers, and most appeared to be aware of the changes in place and willing to plan their skiing around the tides, or to avoid high-speed beach starts and give way to other users. Options for next summer are addressed below.

**2.4 Question: Public access issue with Best Island ramp.****Report back:**

The Harbourmaster understands that no further progress has been made by the parties involved. The general matter of access to acceptably functional ramps is addressed later in this report.

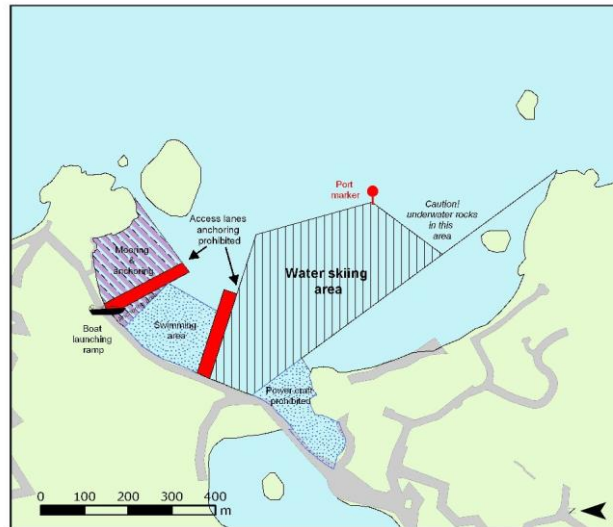
**3. Options for Management of the Kaiteriteri Lagoon Outlet This Summer**

- 3.1 The first option is to revisit the 2010 resolution, and re-install a boom between early December and Easter. If this option is favoured, then consideration should be given to resourcing a contractor with the equipment and skills to keep the boom operational throughout this period, in order to free up Harbourmaster staff time for other duties.
- 3.2 The second option is to return to the system of buoys only, to relieve pressure on resources. This option however does not address the identified risks at the lagoon, as reported in REP11-08-06.
- 3.3 The third and preferred option is to repeat the successful use of a Special Direction to again restrict waterskiing to two hours either side of published high tide time at Nelson.
- 3.5 Any other options would go beyond the scope of a temporary direction, or would be too difficult to communicate to users in the writer's opinion.
- 3.9 The next review of the Navigation Safety Bylaw was brought forward from 2014 to late 2011. Due to changed focus of management as a result of the Golden Bay flood recovery, and other urgent Bylaw matters, this has again been deferred. It should be undertaken during 2013, as a satisfactory long-term solution to the various spatial allocation issues at Kaiteriteri remains a priority.

**4. Recommendations**

The following recommendations refer to Map 7 of the Bylaws, included below for reference.

- 4.1 THAT for the 2012-13 summer, buoys be used to mark the boundary between the “Power Craft Prohibited” area at Kaiteriteri lagoon entrance and the “Water skiing Area”.
- 4.2 THAT a Special Direction be issued restricting the priority use by waterskiiers of the area labelled “Water Skiing Area” to two hours either side of high tide time as published for Port Nelson, for the period 15 December 2012 to 28 February 2013.



**Map 7 - Kaiteriteri**

## **5. Discussion of Boat Ramps**

- 5.1 Public access to the waters of the district is linked to the Council’s Community Outcome No6: *Our communities have access to a range of cultural, social, educational and recreational services* in the Long Term Plan. It is expected and fair that Council either provide, or facilitate, accessible boat ramps where practicable, within a reasonable distance of population centres. *Outcome 3: Our infrastructure is safe, efficient and sustainably managed* is also relevant here - ramps are assets that cost money to maintain and keep safe.
- 5.2 Presently, there is a mix of boat ramp ownership and control, from public owned and freely available (e.g. Rabbit Island), to public owned but accessed over private land (as at Best Island), to privately or publicly owned with restricted or paid access (as at Kaiteriteri, Motueka and Tarakohe), to informal beach accesses, and even formed ramps with unclear ownership or maintenance responsibility (e.g. Murchison, Tata Beach). Some are not formally authorised by the TRMP, but are highly valued by their users (e.g. Kaihoka, Stephens Bay). Some are under pressure from changing uses around them (e.g. Mapua wharf). Some are inadequate for current or future expected use (e.g. Grossis Point, Murchison). There are only two sealed ramps that allow for free-of-charge all-tide access for large trailer boats to the sea in the district - Tata Beach and Totaranui.

- 5.3 Some of the ramps that the community expect to be provided and maintained by Council are not actually under our control (e.g. Kina, Motueka channel, Tata Beach). Ownership can be unclear depending if it was built originally by a Council, Club or Association, or the Harbour Board. Of those that are known to be Council owned, budget can be controlled variously by Engineering, Reserves or Property, and often the department with responsibility for any given ramp is not clear (e.g. one at the end of a road, on a reserve, accessed through a Council-owned campground).
- 5.4 There does not appear to be a clear umbrella policy or plan in place to ensure that Outcome 6 can be readily and transparently met by Council in regard to boat ramp access to the waters of the district, by ensuring that a fairly-spaced network of accessible safe, functional boat launching facilities is provided and their maintenance funding is clearly budgeted and responsibility clearly assigned.

This matter will be addressed further through staff discussion.

- 5.5 The following sections are presented for the information of the Committee.

## **6. Cross-Department Projects**

- 6.1 The Harbourmaster was involved in two Engineering projects this year that are near completion. One was replacement of the floating jetty at Mapua. The other was removal of fixed transit leads at the minor ports, and installation of a number of navigation buoys and beacons near Mapua, Motueka, Riwaka and Collingwood.

## **7. Legislation and Regulatory Matters**

- 7.1 A project is underway currently to review the provisions of the TRMP and Navigation Safety Bylaws that apply to moorings. A complicated enquiry is ongoing seeking to determine ownership and consent status of moorings at Mapua.
- 7.2 A full review of the Navigation Safety Bylaw is expected within the year, having been deferred due to the flood events and other Bylaw work. A key part of the review will be consideration of the provisions of the new Abel Tasman Foreshore Reserve Management Plan and the Kaiteriteri Recreation Reserve Management Plan, to avoid inconsistencies.
- 7.3 New Maritime Rules are expected to be in place within a year to give effect to Maritime NZ's Qualifications and Operating Limits review, and the Maritime Operator Safety System, which will replace the Safe Ship Management system for small commercial vessels. These will have only minor operating impacts on the Council.

- 7.4 The Marine Legislation Bill was introduced to the House of Representatives on 30 August. The draft Bill is now available online at [www.legislation.govt.nz/bill/government/2012/0058/latest/DLM4698452.html?search=ts\\_bill\\_marine\\_resele\\_25\\_h&p=1](http://www.legislation.govt.nz/bill/government/2012/0058/latest/DLM4698452.html?search=ts_bill_marine_resele_25_h&p=1). The Transport and Industrial Relations Select Committee are expected to call for submissions from mid September.
- 7.5 This Bill, amongst other things, seeks to remove most of the provisions of the Local Government Act 1974 that relate to Navigation Safety and Harbourmaster functions, and consolidate them into the Maritime Transport Act.
- 7.6 It is proposed to require regional councils to employ a harbourmaster and allow for the creation of Maritime Rules that could set minimum qualifications of a harbourmaster. It also proposes that new Bylaws would be called Navigation Bylaws, and be limited to controlling only certain defined matters at a local level, removing duplication of Maritime Rules. In return, harbourmasters would have the power to issue Infringement Notices related to any Maritime Rule. Effectively, regional council staff will be expected to do Maritime NZ's job in this regard! Of greater concern is that the powers of the harbourmaster will be linked to an explicit duty of safety, which may have liability and resourcing issues.
- 7.7 Another provision that leaps out is that the Government appear to have considered the ramifications of the RENA stranding, and taken clear steps to lay liability for any future shipping casualties around the coast of New Zealand squarely on the shoulders of the local Regional Council:

“33C Responsibility of regional councils for maritime safety

- Regional councils must take all reasonable and practicable steps to—
  - “(a) regulate, control, and ensure maritime safety in the ports, harbours, and waters in their regions; and
  - “(b) regulate maritime-related activities in their regions for the purpose of ensuring maritime safety.”

Staff will assess any insurance, legal and other issues with this Bill when lodging a submission.

- 7.8 All Honorary Launch Warden warrants expire in December. Invitations have been made to all local boating clubs, Department of Conservation and Fish and Game offices to nominate candidates. Nominations from Councillors, Community Board members and the public are also welcome.

## **8. Actions taken by Harbourmaster Under Delegated Authority 2011-2012**

### **8.1 Wrecks**

On 16 December 2010 delegation was granted by this Committee to the Harbourmaster to carry out the functions of a Regional Council with regards to Wrecks, under the Local Government Act 1974.

During the reporting period two vessels were declared Wrecks. One was salvaged by the owner; the other has been sold privately and removed by the new owner.

## **8.2 Powers of the Harbourmaster under Local Government Act 1974**

Seven Special (Harbourmaster's) Directions (s650C) were issued. Four related to the matter of the SANTA MONICA, a vessel being towed to Tarakohe for stripping at the time, two related to controlling vessels at Mapua during construction of the floating jetty, and one was for the changes to the ski area at Kaiteriteri.

A number of informal (unwritten) Special Directions were made, generally directing uncooperative kayakers or boaties ashore in cases where no lifejacket was carried. All were complied with.

The power to require a person to give their details (s650E) was exercised on eighty occasions. There is an increasing tendency to resist these requests by those wishing to avoid responsibility for their actions, which proposed changes to the Maritime Transport Act should help address.

## **8.3 Commercial Vessel Operation licences**

The authority to issue these licences and grant exemptions is delegated to the Harbourmaster, Regulatory Manager and Environment & Planning Manager.

Applications for a licence or exemption are expected from three small-scale operations that have been discovered, or enquired, during the year, generally pending development of safety plans or upgrade of equipment. One new operator discovered advertising during the year has been granted a licence.

The expected application for a company hiring jet-powered kayaks in last years' report did not eventuate. The company continued to advertise, was fined and ceased trading.

An unlicensed jetski hire company and a paddleboarding company were discovered and immediately chose to cease trading in Tasman district when advised of legislative and regulatory requirements. There was no indication of intent to avoid requirements, and no further action was taken.

Two reported suspected unlicensed operations were investigated with no evidence of unlicensed commercial activity discovered. Two out-of-district operations advertising charter availability to Tasman district ceased advertising when advised of local requirements. Two commercial vessels discovered operating were investigated. Their claims of personal use were accepted.

One operator who had cancelled his licence in 2007 was discovered operating, and following discussion of enforcement options has renewed the licence.

Four operators who have not operated nor advertised operations in the district for over a year were granted voluntary suspensions of their licences for up to three years without prejudice.

New licences were issued since the last report to:

- CO0109: Kelly's Fishing Charters Ltd (Wildcat Charters)
- CO0110: Z Mirfin (Strike Adventures Ltd)
- CO0111: M Chamberlain (Abel Tasman Dive)
- CO0112: A P Smith Fishing Consultancy Ltd
- CO0113: Abel Tasman Paddleboarding

As at 7 September 2012, there are 38 licences and three exemptions active. Only licences are renewable annually. A list of licence holders is now available on the TDC website.

Two renewals remain incomplete from last year. One is an administrative matter related to inconsistencies in vessel documentation complicated by suspension of their survey company by Maritime NZ. The other has failed to provide further information requested despite repeated requests. The operators were allowed to continue operating last season, as the renewals were still technically in progress.

Changes in ownership:

- CO0103: Rotoiti Water Taxis - bought by Surround Sounds Water Travel
- CO0076: Estuary Adventures have given notice of impending sale of ferry business at Mapua.
- CO0032: Marahau Water Taxis - has taken over CO0008 Abel Tasman Aquataxi
- CO0063: Marahau Sea Kayaks - has taken over CO0012 Kayaking Abel Tasman/Kaiteriteri Kayaks.

#### **8.4 Infringement Offence Notices**

Thirteen Infringement Offence Notices were issued during the reporting period under the regulations relating to the TDC Consolidated Bylaw, Chapter 5, Navigation Safety 2005.

- 250020: Stillwell Beach: Speeding within 50m of another vessel: \$200
- 250021: Honeymoon Bay: Waterskiing without observer: \$100
- 250022: Totaranui: Speeding within 200m of shore: \$200 (via Court)
- 250023: Tata Islands: Speeding within 200m of shore: \$200
- 250024: Lake Rotoroa: No lifejacket: \$100 (via Court)
- 250025: Tasman Bay: Failure to show lights and keep proper lookout in restricted visibility: \$100
- 250032: Lake Rotoiti: No lifejacket while waterskiing: \$100 (via Court, fine outstanding)



- 250033: Astrolabe Roadstead: Speeding within 50m of a kayak: \$200 (via Court)
- 250034: Kaiteriteri: No lifejacket: \$100 (via Court, fine outstanding)
- 250035: Mapua Bar: Not wearing lifejackets at time of heightened risk: \$100
- 250036: Kaiteriteri: Waterskiing without observer: \$100
- 250037: Mangarakau: Offering rental vessels without a licence: \$200
- 250038: Waimea River: Speeding: \$200 (via Court, fine outstanding)

Several investigations into serious incidents or accidents were commenced but due to complexity and limited resources did not get to the point of taking enforcement action before timeframe lapsed. At present, an Infringement Notice should be issued within three months of the incident to keep Court options open if it is disputed or ignored.

A bill before Parliament currently includes provisions to extend this to 12 months for offences under the Maritime Transport Act 1994. If passed, this should allow for thorough investigation and unhurried determination of enforcement action in future.

## **8.5 Authorisations for Special Events**

The Harbourmaster is delegated the authority by Bylaw 3.10 to grant temporary speed-limit up-liftings, or reserve areas of water, for special events. These are published on the TDC website at [www.tasman.govt.nz/recreation/boating-fishing/special-events-and-activities/](http://www.tasman.govt.nz/recreation/boating-fishing/special-events-and-activities/) and publicly notified.

11 such authorisations were granted since the last report.

## **8.6 Delegation to issue Permits to Operate Vessels**

Council staff, staff of Council contractors, and Honorary Launch Wardens are eligible to apply to the Harbourmaster for a “skippers’ ticket” for named vessels up to 15 metres in length, while on Council business. These are issued under delegated authority from the Director of Maritime NZ. Four staff, one Launch Warden and one contractor have been issued a Permit to Operate.

Staff who already hold a valid NZ Certificate of Competency sufficient for the vessel(s) they operate do not need to obtain a TDC Permit to Operate.

<b>9. Draft Resolution</b>
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**THAT the Environment & Planning Committee:**

- 1. Receives the Annual Maritime Activity Report 2011-2012 REP12-09-03 and;**
- 2. Agrees that:**
  - (a) for the 2012-2013 summer, buoys be used to mark the boundary between the “Power Craft Prohibited” area at Kaiteriteri lagoon entrance and the “Water skiing Area”.**
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Steve Hainstock  
**Harbourmaster**