



I hereby give notice that an ordinary meeting of the Regulatory and Bylaws Committee will be held on:

Date: Monday, 17 November 2014
Time: 10am
Meeting Room: Reception Lounge
Venue: Auckland Town Hall
301-305 Queen Street
Auckland

Regulatory and Bylaws Committee

OPEN AGENDA

MEMBERSHIP

Chairperson	Cr Calum Penrose
Deputy Chairperson	Cr Denise Krum
Members	Cr Bill Cashmore
	Cr Linda Cooper, JP
	Cr Alf Filipaina
	Cr Sharon Stewart, QSM
	Member John Tamihere
	Cr John Watson
	Member Glenn Wilcox
	Cr George Wood, CNZM
Ex-officio	Mayor Len Brown, JP
	Deputy Mayor Penny Hulse

(Quorum 5 members)

Jaimee Maha
Democracy Advisor

11 November 2014

Contact Telephone: (09) 373 6201
Email: jaimee.maha@aucklandcouncil.govt.nz
Website: www.aucklandcouncil.govt.nz

TERMS OF REFERENCE

The Regulatory and Bylaws Committee will be responsible for:

- Considering and making recommendations to the Governing Body regarding the regulatory and bylaw delegations (including to Local Boards);
- Regulatory fees and charges in accordance with the funding policy;
- Recommend bylaws to Governing Body for special consultative procedure;
- Appointing hearings panels for bylaw matters;
- Review Local Board and Auckland water organisation proposed bylaws and recommend to Governing Body;
- Set regulatory policy and controls, and maintain an oversight of regulatory performance;
- Engaging with local boards on bylaw development and review; and
- Exercising the Council's powers, duties and discretions under the Sale of Liquor Act 1989 and the Sale and Supply of Alcohol Act 2012

Relevant legislation includes but is not limited to:

Local Government Act 2002;
Resource Management Act 1991;
Local Government (Auckland Council) Act 2009;
Health Act 1956;
Dog Control Act 1996;
Waste Minimisation Act 2008;
Land Transport Act 1994;
Maritime Transport Act 1994;
Sale of Liquor Act 1989;
Sale and Supply of Alcohol Act 2012; and
All Bylaws.

ITEM	TABLE OF CONTENTS	PAGE
1	Apologies	5
2	Declaration of Interest	5
3	Confirmation of Minutes	5
4	Petitions	5
5	Public Input	5
	5.1 Neil Henson - Set Nets at Hatfields Beach	5
	5.2 Irene Hemmingsen - Set Nets at Browns Bay Beach	6
6	Local Board Input	6
7	Extraordinary Business	6
8	Notices of Motion	7
9	Proposed summer set net control at Shakespear Regional Park beaches	9
10	Implementation of the new Auckland Council Navigation Safety Bylaw 2014	17
11	Consideration of Extraordinary Items	

1 Apologies

An apology from Deputy Mayor PA Hulse has been received.

2 Declaration of Interest

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

3 Confirmation of Minutes

That the Regulatory and Bylaws Committee:

- a) confirm the ordinary minutes of its meeting, held on Tuesday, 21 October 2014, as a true and correct record.

4 Petitions

At the close of the agenda no requests to present petitions had been received.

5 Public Input

Standing Order 3.21 provides for Public Input. Applications to speak must be made to the Committee Secretary, in writing, no later than **two (2)** working days prior to the meeting and must include the subject matter. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders. A maximum of **thirty (30) minutes** is allocated to the period for public input with **five (5)** minutes speaking time for each speaker.

5.1 Neil Henson - Set Nets at Hatfields Beach

Purpose

1. To provide an opportunity for Neil Henson to speak to the Regulatory and Bylaws Committee on the topic of set nets at Hatfields beach.

Executive summary

2. The chairperson of the Regulatory and Bylaws Committee has approved Neil Henson's request to speak at public input on the topic of set nets at Hatfields beach.

Recommendation

That the Regulatory and Bylaws Committee:

- a) thank Neil Henson for his public input presentation regarding the issue of set nets at Hatfields beach.

5.2 Irene Hemmingsen - Set Nets at Browns Bay Beach

Purpose

1. To provide an opportunity for Irene Hemmingsen to speak to the Regulatory and Bylaws Committee on the topic of set nets at Browns Bay beach.

Executive summary

2. The chairperson of the Regulatory and Bylaws Committee has approved Irene Hemmingsen's request to speak at public input on the topic of set nets at Browns Bay beach.

Recommendation

That the Regulatory and Bylaws Committee:

- a) thank Irene Hemmingsen for her public input presentation regarding the issue of set nets at Browns Bay beach.

6 Local Board Input

Standing Order 3.22 provides for Local Board Input. The Chairperson (or nominee of that Chairperson) is entitled to speak for up to **five (5)** minutes during this time. The Chairperson of the Local Board (or nominee of that Chairperson) shall wherever practical, give **two (2)** days notice of their wish to speak. The meeting Chairperson has the discretion to decline any application that does not meet the requirements of Standing Orders.

This right is in addition to the right under Standing Order 3.9.14 to speak to matters on the agenda.

At the close of the agenda no requests for local board input had been received.

7 Extraordinary Business

Section 46A(7) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"An item that is not on the agenda for a meeting may be dealt with at that meeting if-

- (a) The local authority by resolution so decides; and
- (b) The presiding member explains at the meeting, at a time when it is open to the public,-
 - (i) The reason why the item is not on the agenda; and
 - (ii) The reason why the discussion of the item cannot be delayed until a subsequent meeting."

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

“Where an item is not on the agenda for a meeting,-

- (a) That item may be discussed at that meeting if-
 - (i) That item is a minor matter relating to the general business of the local authority; and
 - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion.”

8 Notices of Motion

At the close of the agenda no requests for notices of motion had been received.

Proposed summer set net control at Shakespear Regional Park beaches

File No.: CP2014/24940

Purpose

1. The purpose of this report is to recommend that the Regulatory and Bylaws Committee make an annual summer set net control at Army Bay and Te Haruhi Bay within Shakespear Regional Park to ensure public safety and prevent nuisance. This control will be made under the Public Safety and Nuisance Bylaw 2013.

Executive summary

2. Since 2012 members of the public have been expressing concern about risks to public safety and nuisance issues associated with set nets and have requested set netting be prohibited at Army Bay and Te Haruhi Bay within Shakespear Regional Park. A set net control cannot be made under the bylaw to protect fisheries resources or to protect wildlife such as the Maui dolphin, as these policy reasons do not relate to the relevant bylaw making powers under the Local Government Act 2002.
3. A summer set net control at Army Bay and Te Haruhi Bay is considered necessary to protect public safety and prevent nuisance at these two popular beaches over the peak summer period. Set netting will still be permitted at Okoromai Bay.
4. The Hibiscus and Bays Local Board and Rodney Local Board support further set net controls at Browns Bay, Hatfields Beach and Omaha Beach, however controls at these beaches have not been recommended for the 2014/2015 summer period. Council staff recommend that the control at Army Bay and Te Haruhi Bay be monitored for its effectiveness before controls are implemented at other sites.
5. Council staff also recommend that set netting activities be monitored at Browns Bay, Hatfields Beach and Omaha Beach over the 2014/2015 summer period and that evidence of public safety and nuisance issues be reviewed in 2015 at the time of the Rodney District Council – Prohibition of Set Netting Arkles Bay Bylaw review.

Recommendations

That the Regulatory and Bylaws Committee:

- a) adopt a summer set net control from 20 December to 31 March annually for Army Bay and Te Haruhi Bay at Shakespear Regional Park, extending 200 metres seaward of the mean high water mark.

Comments

Background

6. Shakespear Regional Park is an open wildlife sanctuary that integrates conservation, recreation and farming (Attachment A). It is the third most visited regional park in Auckland and receives approximately 500,000 visitors per year. Shakespear Regional Park is a popular location for a large range of water related recreational activities, particularly over the summer months. Activities include swimming, boating, kitesurfing, windsurfing, diving, kayaking and fishing. Of the three beaches at Shakespear Regional Park, Te Haruhi Bay and Army Bay are popular for swimming and Okoromai Bay is more commonly known for shell fish gathering.

7. Over the past three summers Auckland Council has received complaints from visitors at Shakespear Regional Park. Complaints refer to swimmers being entangled in drifting nets and obstruction for windsurfers, kayakers and kitesurfers accessing the beach. The council has also received complaints about washed up nets and bait. A full account of complaint information can be seen in Attachment B.
8. Before the adoption of the Public Safety and Nuisance Bylaw 2013 by the Governing Body in 22 August 2013 (GB/2013/84), only the Rodney District Council – Prohibition of Set Netting Arkles Bay Bylaw regulated the setting of nets in Auckland. This bylaw prohibits the setting of nets on Arkles Bay and does not apply to other beaches. The Public Safety and Nuisance Bylaw 2013 enables the council to make controls to prohibit or restrict set netting for specified times or seasons to ensure public safety and prevent nuisance. As a matter of good decision-making, controls should be enforceable, evidence-based, complementary to other tools and flexible to be amended if proven ineffective.

Proposed summer set net control at Shakespear Regional Park

9. A summer set net control from 20 December to 31 March annually at Army Bay and Te Haruhi Bay is considered necessary to protect public safety and prevent nuisance. The duration of the proposed control has been set over an extended summer period to align with the school holiday and public holiday period without imposing unnecessarily on lawful access to the fishing resource, as well as to allow appropriate time to implement the control and evaluate effectiveness. The distance of the control, 200 metres seaward of the mean high water mark, is consistent with other regulations for recreational water related activities.
10. The proposed control does not restrict fishing as an activity but regulates set netting as a method of fishing to protect public safety and minimise potential nuisance to other park users. The control is proposed for the two most common beaches for swimming at Shakespear Regional Park. Set netting will still be permitted at Okoromai Bay.

Further requests for set net controls

11. Council staff recognise that the Hibiscus and Bays Local Board and Rodney Local Board support further set net controls at Browns Bay, Hatfields Beach and Omaha Beach. Controls at these beaches have not been recommended for the 2014/2015 summer period because of a lack of verifiable evidence of a nuisance or a risk to public safety caused by nets in the past, enforcement resources are not currently available and there is limited time to arrange implementation including public notices and signage.
12. The proposed control at Army Bay and Te Haruhi Bay will be the first control made under the Public Safety and Nuisance Bylaw 2013. The control will be enforced by regional park rangers. Council staff also recommend that the control be monitored for its effectiveness, including monitoring of activities at nearby beaches, in case there are displacement issues before controls are implemented at other sites. Council staff also recommend that set netting activities be monitored at Browns Bay, Hatfields Beach and Omaha Beach over the 2014/2015 summer period and evidence of public safety and nuisance issues be reviewed in 2015 at the time of the Rodney District Council – Prohibition of Set Netting Arkles Bay Bylaw review.
13. The Public Safety and Nuisance Bylaw 2013 does not enable the council to make permanent controls. If permanent set net controls were the preferred approach, an amendment to the Public Safety and Nuisance Bylaw 2013 or a new set netting bylaw would be required.

Ministry for Primary Industries set net regulations

14. A set net control cannot be made under the bylaw to protect fisheries resources or to protect wildlife such as the Maui dolphin, as these policy reasons do not relate to the relevant bylaw making powers under the Local Government Act 2002. The Ministry for Primary Industries is responsible for setting and enforcing fisheries regulations. The Fisheries (Amateur Fishing) Regulations 2013 and Auckland and Kermadec Fishery Management Area Recreational

Fishing Rules regulate the use of set nets and stipulate areas where set netting is prohibited to protect fisheries resources.

15. Council staff recommend that park rangers work with the Ministry for Primary Industries to educate all beach users including swimmers on the national set net regulations and safe swimming in the vicinity of set nets. Set netters in breach of the regulations should be reported to the Ministry for Primary Industries.

Consideration

Local board views and implications

16. The Hibiscus and Bays Local Board has recommended to the Regulatory and Bylaws Committee that a summer set net control be made for Army Bay and Te Haruhi Bay as well as further controls at Browns Bay and Hatfields Beach (CP2014/19501). Similarly, the Rodney Local Board has expressed an interest in a further set net control at Omaha Beach for the upcoming summer period and may recommend to the Regulatory and Bylaws Committee to approve this.

Māori impact statement

17. Local iwi were invited to provide their feedback on the proposal and council staff met with a representative from Ngati Whatua and mataawaka. Feedback from both representatives was that there should be no restrictions on people's ability to gather food for their own personal use and there needs to be a better understanding of what the real issues are. They recommended that a more balanced approach should be undertaken including education of all beach users, including swimmers. Other feedback recently received on the wider issue of set net controls is that consideration needs to be given to the potential impacts on other beaches, where no controls will exist, as a result of displacement from Omaha (and the other beaches proposed for controls in the Hibiscus and Bays local board area).

Implementation

18. A public notice and signage will be required to inform the public of the summer set net control at Army Bay and Te Haruhi Bay. All signage will be in Te Reo Māori and English. Organisations such as the Ministry for Primary Industries will be directly notified.

Attachments

No.	Title	Page
A	Proposed set net control at Shakespear Regional Park	13
B	Complaint information for Shakespear Regional Park	15

Signatories

Authors	Emma Pilkington - Policy Analyst Rebekah Stuart-Wilson - Principal Policy Analyst - Planning, Policies & Bylaws.
Authorisers	Helgard Wagener - Team leader, Policies and Bylaws Michael Sinclair - Team Leader, Regionwide Social Policy



Attachment A: Map of proposed controls at Army Bay and Te Haruhi Bay, Shakespear Regional Park

Attachment B: Public safety and nuisance complaints received by Auckland Council from 2012-2014 on set netting at Shakespear Regional Park beaches

Source	Subject of complaint
Auckland Council visitor comment cards at Shakespear Regional Park (2012/2013 summer period)	Approximately 50 visitors complained about set netting at Te Haruhi Bay over this summer period. Complaints largely included comments of public safety risk and obstruction for other water related activities such as swimming, kitesurfing and windsurfing. Three of the complaints were personal accounts of public safety harm including a swimmer being entangled in a net and kitesurfers and windsurfers colliding with nets.
Auckland Council regional park shore based fishing survey (January – February 2013)	Subsequent to the findings from the comment cards, the council conducted a shore based fishing survey at all regional parks. 523 visitors took part and around 57% were shore based fishers themselves. 19% of respondents had been adversely affected by shore based fishing, of which approximately 50% of accounts were at Shakespear Regional Park. When asked which fishing practice should be banned 64% of participants selected set netting. The following general comments were received: <ul style="list-style-type: none"> • Old discarded gear such as hooks, nets and bags of bait pollute the beaches and is a safety issue • Nets limit boat access • Many set nets in one area deter other fishing practices.
Public submissions to the Public Safety and Nuisance Bylaw (February – March 2013)	During formal public consultation on the Public Safety and Nuisance Bylaw, nine submitters requested set netting be banned at Shakespear Regional Park beaches. The reasons included risk to public safety and obstruction to other recreational water related activities.
Auckland Council regional parks 2013/2014 summer visitor profile research	In February 2014 Auckland Council conducted a random survey of visitors at Shakespear Regional Park. 216 visitors participated and 11 participants suggested that a set net ban at Shakespear Regional Park would improve the park. Comments included that set netters leave fish carcasses on the beach and restrict swimming.

Implementation of the new Auckland Council Navigation Safety Bylaw 2014

File No.: CP2014/25415

Purpose

1. To note a summary of initiatives taken to support implementation of the new Auckland Council Navigation Safety Bylaw 2014 and Controls.

Executive summary

2. On 31 July 2014, the Governing Body of Auckland Council revoked the legacy Auckland Regional Council Navigation Safety Bylaw 2008 and adopted the new Auckland Council Navigation Safety Bylaw 2014 and Controls as recommended by the hearings panel (refer GB/2014/66).
3. The governing body also resolved to direct staff to develop an integrated implementation plan to ensure adequate education and promotion of the requirements of the new bylaw (refer GB/2014/66).
4. The new bylaw and controls made under the bylaw came into force on 25 October 2014.
5. Significant work has been completed to ensure adequate education and promotion of the new bylaw requirements were in place before the new bylaw came into force. This has included development of new signage, production and distribution of brochures and copies of the bylaw to key stakeholders, radio advertisement, giveaways and attendance at key boat ramps across Auckland.
6. This report provides an overview of the work that has been completed and outlines further work that is planned for the remainder of the 2014/2015 summer.

Recommendation

That the Regulatory and Bylaws Committee:

- a) note the initiatives undertaken to support the implementation of the new Navigation Safety Bylaw 2014 and Controls.

Discussion

Adoption of the new bylaw

7. On 31 July 2014, the governing body of Auckland Council adopted the new Navigation Safety Bylaw 2014 and revoked the legacy Auckland Regional Council Navigation Safety Bylaw 2008. A set of controls were also made under the bylaw to provide specific direction on particular matters, such as the location of ski lanes and restricted areas.
8. In general, the purpose of the new bylaw is to ensure water-based activities are carried out in a way that prevents nuisance and preventable accidents from occurring and to ultimately assist in reducing the number of drownings.
9. The new Navigation Safety Bylaw 2014 and Controls came into force on 25 October 2014. While the new bylaw continues to regulate activities on the water in a similar manner to the legacy bylaw, the new bylaw does bring about significant changes for recreational boating.

10. The new bylaw introduces the following key regulatory requirements:
- Everyone on board a small recreational vessel must wear a personal flotation device (lifejacket) at all times, unless the person in charge (skipper) uses his/her discretion to determine that it is not required
 - The person in charge of the vessel must not be under the influence of alcohol or drugs to the extent he/she is incapable of having proper control of the vessel
 - The person in charge of the vessel must be able to communicate with a land based person
 - Mooring licensing requirements

Implementation initiatives to support the new bylaw

11. Auckland Council, the boating community and the public recognise education as essential in making the new bylaw effective.
12. When the governing body adopted the new bylaw, a resolution was passed to direct staff to develop an integrated implementation plan to ensure adequate education and promotion of the new bylaw requirements (refer GB/2014/66).
13. Since adoption, staff from various departments of Auckland Council have developed an integrated implementation plan and have already completed a number of implementation initiatives to ensure adequate education and promotion of the new bylaw requirements.
14. Table 1 provides an overview of the implementation initiatives that have been completed to date. It also notes initiatives that will be progressed over the remainder of the 2014/2015 summer. These initiatives have been categorised into five key implementation items:
- Collateral (e.g. brochures and forms)
 - Signage
 - Awareness campaign
 - Operational readiness
 - Infringements

Table 1: Overview of implementation initiatives

Key implementation items	Overview of initiatives	Project item status
Collateral	All existing collateral has been updated, including information relating to: <ul style="list-style-type: none"> ○ Mooring Information ○ Jetski & Personal Watercraft ○ Harbour Markers & Information (Sticker) ○ Auckland Waterway brochure (now called "Safety on the Water") ○ Auckland Restricted Chart ○ Updated and improved council website ○ Geospatial Information System updated with new control areas ○ Marinemate mobile phone application updated ○ Breach of Bylaw Notice updated and distributed to Harbourmaster staff 	Completed

Signage	<ul style="list-style-type: none"> ○ New signage installed at Auckland's 30 busiest boat ramps (Attachment A includes a list of these boat ramps and an example of new signage) ○ An audit of the remaining boat ramp locations has been completed to assist with new signage installation 	Completed
	<ul style="list-style-type: none"> ○ Installation of new signage at remaining sites 	Planned for summer 2014/15
Awareness campaign	<ul style="list-style-type: none"> ○ Advertisement of the new bylaw took place on radio stations and digital outlets such as metservice.com and Snakk media sites, between 19-26 October ○ Numerous non-paid media opportunities have taken place, including interviews with the Harbourmaster on radio and social media coverage relating to Safer Boating Week ○ Television news provided coverage and interviews of Harbourmaster staff at boat ramps on 25 October ○ Promotional posters have been produced and distributed to the council network including all service centers and libraries ○ Information packs have been prepared and are ready to be distributed to the public at boat ramps, boat clubs and at events ○ Promotional giveaway - Auckland Council floating key rings, have been produced and distribution ○ Promotional pop up banner with campaign creative for use at boat ramps has been produced and used ○ Informational letter and supply of brochures has been sent to Jetski retailers to explain ownership transfer rules ○ Key stakeholders have been sent a letter advising of the bylaw commencement and a copy of the new A5 bylaw booklet ○ Specific commercial stakeholders have been sent letters highlighting specific changes (Hotwork and Bunkering Operators) ○ A newsletter has been created and posted to 3200 mooring holders, highlighting specific bylaw changes ○ An e-newsletter has been created and distributed to 2500 stakeholders highlighting the commencement of the bylaw and summary of changes ○ An Auckland Council banner story has been run on the council intranet 	Completed

Item 10

	<ul style="list-style-type: none"> ○ Several articles in the Our Auckland magazine has promoted the new bylaw (delivered to approximately 547,000 homes, businesses, libraries and service centres across Auckland) ○ Have collaborated with the Coastguard, Watersafe Auckland and Maritime NZ to align the new bylaw requirements with external campaigns that are being run this summer to promote safe boating, such as Maritime New Zealand's Safe Boating Week (17-24 October 2014) ○ Working with boat clubs to promote the new bylaw requirements 	
	<ul style="list-style-type: none"> ○ A similar campaign is also planned for 25 January – 1 February 2015 ○ Harbourmaster staff scheduled to visit boat ramps during weekends of the summer season (18 Oct-28 Mar) to educate the public on the new bylaw requirements ○ Continuation of collaborative efforts with boat clubs and agencies promoting water/boating safety 	Planned for summer 2014/2015
Operational readiness	<ul style="list-style-type: none"> ○ Procedures required for the operation of the new bylaw have been implemented and all Harbourmaster staff and volunteers have been briefed and trained on the new bylaw requirements 	Completed
Infringements	<ul style="list-style-type: none"> ○ New infringement fines have been developed ○ Infringement processes have been revised 	Completed
	<ul style="list-style-type: none"> ○ Awaiting the making of the new infringement regulations by the Ministry of Transport 	Underway

Project Funding

15. The implementation of the new bylaw is funded through the Integrated Bylaw Review and Implementation Programme.

Attachments

No.	Title	Page
A	List of 30 sites where new signage has been prioritised and an example of new signage	21

Signatories

Authors	Deborah Hill - Policy Analyst
Authorisers	Helgard Wagener - Team leader, Policies and Bylaws Michael Sinclair - Team Leader, Regionwide Social Policy

Attachment A: Auckland's 30 busiest boat launch locations where new signage has been prioritised

Count	Boat ramp location	Local Board area
1	Ara Tai Esplanade Reserve	Howick
2	Eastern Beach	Howick
3	Gulf Harbour Marina Hammerhead Reserve	Hibiscus and Bays
4	Jack Lachlan Drive Esplanade Reserve	Franklin
5	Kawakawa Bay Foreshore	Franklin
6	Kawakawa Coast Road Reserve	Franklin
7	Keith Park	Manurewa
8	Kennedy Point	Waiheke
9	Kiwi Esplanade (Bird Refuge & Pump House)	Mangere-Otahuhu
10	Kiwi Esplanade (Boat Ramp)	Mangere-Otahuhu
11	Leigh Wharf Reserve	Rodney
12	Maraetai Park	Franklin
13	Marina Esplanade	Howick
14	Matakawau Point Reserve	Franklin
15	Matiatia Warf new side near Church Bay Esplanade Reserve	Waiheke
16	Matiatia Warf old side near Owhanake Matiatia Walkway	Waiheke
17	Omaha Beach Boat Launching & Wharf	Rodney
18	Outboard Boating Club (OBC)	Orākei
19	Sandspit Reserve	Rodney
20	Stanmore Bay Park	Hibiscus and Bays
21	Stillwater	Hibiscus and Bays
22	Tamaki Drive (The Landing)	Orākei
23	Tamaki Drive	Orākei
24	Te Atatu Boating Club	Henderson-Massey
25	Te Toro Recreation Reserve	Franklin
26	Wade River Road Reserves & Berm	Hibiscus and Bays
27	Waiau Pa Boat Club	Franklin
28	Waterfront Road Reserve	Mangere-Otahuhu
29	Wenderholm Regional Park	Rodney
30	Z Pier Westhaven Marina	Waitematā

Attachment A: Example of new boat ramp signage

