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Report to Environment Committee
from Mike Pryce, Manager, Harbours

Implications of the Revised Harbours Legislation

1. Purpose

To advise the Committee of the implications of the revised harbours legislation, the Local Government Amendment Act (No 2) 1999 and the Maritime Transport Amendment Act 1999.

2. Background

The Local Government Amendment Act (No. 2) 1999 ("The Act") came into force on 28 April 1999. It legislates for a number of functions, duties and powers of regional councils in relation to navigation safety, the appointment of harbourmasters, the preparation and enforcement of navigation bylaws and the removal of wrecks. It repeals the remaining sections of the Harbours Act that previously contained these provisions.

These amendments now complete the reforms of the Harbours Act and related maritime legislation which began with the Port Companies Act 1988 and continued with a number of other acts including the Resource Management Act 1991 and the Maritime Transport Act 1994.

3. Significant Changes

3.1 Harbour Limits

The Act now gives regional councils the ability to be responsible for navigation safety and other functions **within all waters in the region**, not just those within harbour limits as under the previous legislation. These functions can now extend offshore from regional coastlines out to the 12 nautical mile limit.

3.2 **Harbour Works**

Under the Act, regional councils may carry out harbour works, such as the construction and maintenance of navigation aids and carry out other works to improve navigation. Of note is that the functions of regional councils to carry out harbour works are limited to works for the purposes of navigation safety. Regional councils do not have statutory authority to carry out other works, such as the construction of wharves, jetties or ramps - these functions have been specifically assigned to territorial authorities.

3.3 **Appointment of Harbourmasters**

The Act continues the powers of regional councils to appoint harbourmasters to carry out the Council's functions in relation to navigation safety and to enforce navigation bylaws. This key provision has not changed from the previous legislation. However, the Council may now delegate some of its functions under the act to port operators.

Some changes have been made to the general powers of harbourmasters and to the pilotage provisions previously contained in the Harbours Act, which dealt with such things as the time and the manner in which ships may enter or depart from harbours and ports.

3.4 **Recreational Safety**

The Act continues and extends the powers of regional councils to make bylaws relating to navigation and related activities. For example, bylaws may be made to regulate and control the use and speed of ships, the placement of moorings, provision and wearing of life jackets and buoyancy aids on pleasure craft and the marking and identification of personal water craft. The Act also introduces significant new areas that may be subject to Council bylaws, particularly in relation to pleasure craft and personal water craft.

A new enforcement tool known as an infringement notice has been introduced by the amendment. Infringement notices may be issued by a harbourmaster where there is a breach of a navigation bylaw. Infringement fines of up to \$1000 may be payable. The details of what breaches of bylaws are deemed to be infringement offences and the fees payable for offences are to be set out in regulations. These regulations have not yet been prepared and members should note that regulations relating to equivalent provisions in the Resource Management Act 1991 have yet to be prepared after some two to three years.

The Council has existing bylaws for Wellington Harbour, Porirua Harbour and Kapiti. The latter two bylaws will expire on the 30 September 1999, and these areas will then be controlled under the Water Recreation Regulations 1979, which mainly replicate them. The bylaws for Wellington Harbour, the Water Recreation Regulations 1979, and other national regulations continue in force until 31 March 2003 and then expire, unless they are replaced at an earlier date by new bylaws or maritime rules.

4 **Pilotage**

The rules regarding pilotage are significantly altered by the Maritime Transport Amendment Act 1999. Pilotage is to be controlled nationally, with local involvement dependent on the promulgation of maritime rules and delegations from the Maritime Safety Authority. In the past, regional councils (and before them harbour boards) have been able to control and manage pilotage at a local level.

The Maritime Safety Authority has indicated that it will delegate control of local pilotage rules to regional councils. However, there are some limitations to the powers that can be delegated, for example, the power to revoke a licence cannot be delegated, although the Authority may delegate the power to suspend a licence.

It seems likely that pilotage rules will be generic and cover matters such as the general ship handling skills required for a pilot. Detailed requirements for individual ports, including maximum lengths, draughts and tonnage etc., will be set locally.

The promulgation of new rules will take time, and some gaps have been identified in the interim. To cover the gaps, the Maritime Safety Authority has prepared interim rules that effectively enable the former regime controlling pilotage to remain in force while new rules are developed. The development of new rules is expected to occur over the next 12 months.

5. **General**

The Maritime Safety Authority will be developing a raft of new rules under the new legislation. They intend that all rules will be in place before 2003. In the meantime, the Authority is encouraging councils to prepare new navigation safety bylaws over the next twelve months.

There seems to be a general desire for the standardisation of common safety of navigation bylaws throughout New Zealand and a working group of harbourmasters has been established for this purpose.

6. Recommendation

1. *That the Committee note the repeal of the Harbours Act 1950 and its replacement by the Local Government Amendment Act No. 2 1999.*
2. *That the Council reviews all of its Harbour Bylaws in light of the Local Government Amendment Act (No. 2) 1999.*

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