



Report 06.439
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File J/01/02/02

Committee Environment Committee
Author Mike Pryce Manager Harbours/Regional
Harbourmaster

Officers' comments on submissions received on the proposed amendment to the Wellington Regional Navigation and Safety Bylaws 2003

1. Purpose

To provide the Committee with officers' comments in response to key points made in submissions received on the proposed amendment to the Wellington Regional Navigation and Safety Bylaws 2003 (the Bylaws).

2. Significance of the decision

The matters for decision in this report do not trigger the significance policy of the Council or otherwise trigger section 76(3)(b) of the Local Government Act 2002.

3. Background

On 20 July 2006 the Council proposed to amend the Bylaws by removing the reserved area at Lyall Bay from schedule 3 of the Bylaws. In accordance with the requirement in the Local Government Act 2002 the special consultative procedure was initiated. Greater Wellington has received 97 submissions on its proposed amendment to the Bylaws. All submissions have been placed in a bound volume and circulated to Committee members. A summary of the submissions is provided in report 06.426 (**attachment 1**).

4. Comment

Officers have considered the key points raised in submissions. Comments on the key points follow.

4.1 Safety

Both proponents and opponents of the proposed amendment to the Bylaws discussed safety issues. Officers agree that there are safety issues with the reserved area at Lyall Bay. As noted in report 06.426, there have been reports

of jet-skiers using their Personal Watercraft (PWC) outside of the reserved area and other beach users encroaching on the reserved area when a jet-skier is operating a PWC. Officers acknowledge that due to sea currents, tides and drag, it may be difficult for other beach users to always be aware of whether they are in the reserved area or in another section of the beach.

Opponents of the proposed amendment suggest that jet-skiers will still use their PWC even if the reserved area is removed. Officers point out that removing the reserved area will not prohibit jet-skiers from using their PWC at a speed of more than 5 knots at Lyall Bay when more than 200 metres from shore and 50 metres from another water user. Jet-skiers would not be forced into shipping lanes and open water. 200 metres from shore at Lyall Bay could not in any way be termed “open water”. Requiring registration of PWC would not resolve the issue of safety, monitoring the registration of jet-skiers using PWC would be costly. While Greater Wellington has not received reports of any serious injury, it is not a risk officers are prepared to accept and suggest a precautionary approach.

4.2 Effect on the environment

Officers note that this proposed amendment is not concerned with the merits of PWC, including their effect on the environment, but whether the existing Bylaws need to be amended in the interests of safety.

4.3 Noise

Officers further note that this proposed amendment, is not concerned with the merits of PWC, including the noise they emit, but whether the existing Bylaws need to be amended in the interests of safety. Officers also comment that at the time the reserved area in Lyall Bay was put in place in 1991 it was located away from residential housing so as not to create a noise nuisance. In 1991 jet-skis had un-muffled two-stroke engines. Newer craft have well muffled four-stroke engines and are far less audible in the reserved area, especially if there is surf breaking and/or aircraft landing and taking off.

4.4 New Zealand Bill of Rights Act 1990

Officers do not believe Greater Wellington is in breach of the New Zealand Bill of Rights Act 1990. We have obtained legal advice which supports this view.

4.5 Lyall Bay

Most who supported the proposed amendment commented on Lyall Bay beach and its popularity a recreational area and surf beach. The popularity of Lyall Bay is accepted and pleasing. Officers would note that Lyall Bay is a multi-functional recreational area with swimmers, kayakers, surfers and kite-surfers amongst those who use the beach. However, the merits of individual beach users are only being considered as part of this consultation on the proposed amendment to the Bylaws in so far as they in so far as they relate to safety.

4.6 Additional requests

The purpose of this consultation is to look at the proposed amendment to the Bylaws. Surf and Restriction Zones could be looked at in the future by Greater Wellington.

4.7 Possible solutions identified by submitters

Submissions were received from a small number of submitters suggesting possible solutions to the problem of safety at Lyall Bay. Officers comment that, as discussed in report 06.315, increasing signage and demarcating the area with buoys could increase the costs for Greater Wellington to maintain them. Additionally, positioning buoys around the area could provide an additional safety risk if surfers or other water users came into contact at speed with buoy moorings.

Moving the reserved area elsewhere within Lyall Bay was considered in report 06.315, but the Council did not resolve to investigate this at this stage.

5. Communication

No communication is necessary at this stage

6. Recommendations

That the Committee:

1. ***Receives the report.***
2. ***Notes the content of the report.***
3. ***Recommends that the Council:***
 - a) ***amend Part B of Schedule 3 of the Wellington Regional Navigation and Safety Bylaws 2003 by removing the Lyall Bay reserved area; or***
 - b) ***does not amend Part B of Schedule 3 of the Wellington Regional Navigation and Safety Bylaws 2003 by removing the Lyall Bay reserved area.***

Report prepared by:

Report approved by:

Mike Pryce
Regional Harbourmaster

Nigel Corry
Divisional Manager,
Environment Management

Attachment 1: Report 06.315