

Te Taukī Whakakaupapa *Statement of Proposal*

**Draft Amendment to the Bay of Plenty
Regional Navigation Safety Bylaw 2024**





Te rārangi kaupapa

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Te tirohanga whānui

Overview

Toi Moana Bay of Plenty Regional Council (Council) oversees maritime safety in the region using the Bay of Plenty Regional Navigation Safety Bylaw (the Bylaw). These rules are established under the Maritime Transport Act (1994) to help minimise the risk of fatalities, injuries, accidents, and collisions in Bay of Plenty navigable waters.

We are required to review and amend our bylaw every five years. Following the most recent review we adopted a revised bylaw in 2024. However further issues arose and further amendments are required.



Te whakamāramatanga raru

Problem Definition

The manoeuvrability of large vessels is constrained due to their size, momentum and draft. In confined areas this creates a significant risk to people and the environment both in terms of collision with other vessels (and the risk of death) or in the event of running aground. While rare, the impact of running aground can be catastrophic in terms of environmental and economic costs. The MV Rena is a real and tangible example of this.

Two separate problems stemming from the above have been identified:

Topic 1 – Passage between Astrolabe Reef exclusion zone and Motiti Island

Large vessels seeking to reduce travel time can transit between Motiti Island and the Astrolabe Reef exclusion zone causing them to pass dangerously close to the reefs and the island itself.

This has occurred on at least one occasion to staff's knowledge, on 21 March 2024 when a cargo vessel inbound for Port of Tauranga passed approximately 500-800 metres from shore when transiting this passage.

Topic 2 – Anchoring in the Shipping Channel¹

Recreational vessels anchor in the Tauranga Harbour navigation channels, often to fish. This area is currently a restricted anchorage, meaning vessels must be kept ready to make immediate departure and must always keep an anchor watch.

In practice this does not always occur. While no known collisions have occurred, staff have, on multiple occasions, seen anchored boats having problems retrieving their anchor in time to get out of the way of an approaching ship. The person keeping an anchor watch may become distracted and/or anchors may become snagged.

One notable example of this involved a ship encountering a recreational vessel in the channel on her outbound journey. The Harbourmaster patrol team was able to move the recreational boat out of the way. However the ship had already altered course and experienced difficulty recovering that course. Port tugs were sent out however, in this case, the ship was able to get back on course without assistance.

¹ The Shipping channel includes the No1 Reach, No2 Reach, Cutter Channel, Maunganui Roads and Stella Passage.

Te whai tikanga ā-ture

Legislative Compliance

This section records the determinations made by Council on 7 August 2025 under section 155 of the LGA 2002. Under section 155 the Bylaw review must consider whether:

- bylaws are the most appropriate way of addressing a perceived problem.
- the proposed bylaw is the most appropriate form of bylaw, and
- the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.



Review and assess the appropriateness of a bylaw

Council reviewed the Maritime Bylaw in light of the unresolved issues from the 2022–2024 review and assessed whether changes were needed. This process considered the viability of various options, following the legal requirements in sections 155(1), 160, and 77 of the Local Government Act.

Five options were explored for Topic 1 Passage between Astrolabe Reef exclusion zone and Motiti Island.

Option	Advantages	Disadvantages
A. Status quo Existing bylaw with no amendments	- Existing navigation best practice advises ships avoid using this route. The NZ Nautical Almanac recommends that on approach to the Port of Tauranga ship should travel 3nm north of Astrolabe reef. - Could be linked to education via communication with shipping sector. - No CME responsibility for Council.	- Recommendation of route is not enforceable and does not have a deterrent element. - Does not effectively address significant risk of serious injury or death - Would rely on general legislation and CME attention by MaritimeNZ/ MOT. - Does not respond to significant regional issue for which Council policy is appropriate.
B. Additional education and increased Compliance Monitoring and Enforcement (CME)		- Cannot enforce with no rule in place - Additional ongoing resourcing required - Has little effect on international skippers
C. Amend the current bylaw to address vessels transiting between Astrolabe Reef exclusion zone and Motiti Island	- Better promotes deterrence via a location-specific rule - Enforceable - Legislation specifically provides for bylaws for this purpose in the Maritime Transport Act and with the Bylaw already in place this is the most straightforward option.	Infringement fee is unable to be higher than \$1,000 which may not be much of a deterrent to commercial operators

Option	Advantages	Disadvantages
D. Change the Regional Coastal Environment Plan (RCEP) to manage activities in relation the surface of water under the RMA	Enforcement action with substantially higher fines	- Complex to deliver and would take a longer timeframe to introduce. - Ministry for the Environment has called a stop on any RMA plan changes for at least two years. - Unclear if legally permissible
E. Rely on Harbour Master directions	- Can be easily modified or adapted if required. - Enforceable under s33F(6) Maritime Transport Act.	- Does not respond to significant issue for which Council policy is appropriate. - Long-term/permanent use is not supported by MaritimeNZ/MOT. - Education/mapping via bylaw mechanism not available. - Infringement fees not available. No infringement offence available so enforcement would require charges to be laid in court.

Council considers that the status quo poses an unacceptable risk to navigational safety for ships passing too close to Motiti Island and other non-bylaw options are not an effective way to address this risk.

Two options were explored for Topic 2 Anchoring in the Shipping Channel.

Option	Advantages	Disadvantages
A. Status quo Existing bylaw with no amendments	• The infringement regulations under the new bylaw are expected to increase the infringement fee.² This may provide additional deterrence, particularly if coupled with additional education	• In practice, not all vessels are making timely departure from the shipping channel and this creates a risk of collision • Open to interpretation about whether a vessel was kept ready to make immediate departure • Non-compliance can be due to unexpected issues such as anchors becoming snagged
B. Amend the current bylaw	• Reduce risk of collisions • Less ambiguity	

The status quo poses an unacceptable risk to navigational safety for large vessels encountering small vessels that fail to weigh anchor as large ships enter shipping channels *en route* to the Port of Tauranga. Other non-bylaw options are not an effective way to address the risks posed by ships resting at anchor as large vessels enter shipping lanes in or near the Harbour.

Amending the bylaw is the most appropriate way to address both topics of the perceived problem.

Based on this evaluation, the Council agreed to amend the current bylaw to strengthen maritime safety and provide a clear regulatory framework.

² Council is currently liaising with the Ministry of Transport about the level of infringement fees for the 2024 bylaw and has requested a \$500 infringement fee for Failing to keep vessel ready for immediate departure in a restricted anchorage. It is anticipated that a \$500 fee will be approved. This is a significant increase from the current \$200 infringement fee.

Most Appropriate Form of Bylaw

Under s 155(2)(a) Council must then determine whether the proposed bylaw is the most appropriate form.

In making a decision, under s77, Council must consider all reasonably practicable options and assess options in terms of advantages and disadvantages.

Note that the options assessed here are a preliminary assessment only to enable a draft of the Bylaw changes to be made public. Further options or alternative ways to address the problems could be raised in submissions or during the hearing process for the Bylaw amendments.

Topic 1 – Passage between Astrolabe Reef exclusion zone and Motiti Island

In assessing the most appropriate form of bylaw for this Topic, the Council only identified one viable option for managing maritime safety near Astrolabe Reef which is to extend the exclusion zone around Astrolabe Reef. The status quo (i.e. the current Bylaw approach) had already been excluded as part of the s 155(1) decision noted above.

This proposed change to put out for public consultation would establish a permanent regulatory requirement and allow for the introduction of infringement offences pursuant to the Maritime Transport Act. This approach places compliance responsibilities on the Council.

Topic 2 – Anchoring in the Tauranga Harbour Shipping Channel

In assessing the most appropriate form of bylaw for this Topic, the Council explored several options to improve maritime safety in Tauranga Harbour shipping channels, particularly where anchored boats pose risks to large vessels.

The preferred solution to put out for public consultation, Option 2C, is to ban anchoring in the Tauranga Harbour Shipping Channel for any purpose (other than in emergencies). This approach directly addresses the safety issue, keeps fishing activities viable (as drifting or GPS fishing remain possible), and allows for clear and enforceable compliance measures through the existing Prohibited Anchorage designation.

Other options considered included:

- Option 2A – Banning all boats from entering channels would eliminate collision risks but was dismissed as impractical as it would severely restrict recreational use and demand high compliance monitoring resources.
- Option 2B – Banning fishing in channels could remove a key reason for anchoring but would heavily limit recreational activity and depend on clearly defining what constitutes “fishing.”
- Partial anchoring bans in high-risk areas (Option 2D), anchoring bans only during large vessel transits (Option 2E), and maintaining the current rules with enhanced education and compliance efforts (Option 2F) were also assessed. These were deemed less effective due to added complexity, limited responsiveness from recreational skippers, or insufficient guarantees of improved safety.

Ultimately, banning anchoring for any purpose in the shipping channel altogether (Option 2C) was identified as the most practical and enforceable solution for the purpose of the draft Bylaw.

NZ Bill of Rights Act 1990

Under section 155(2)(b) of the Local Government Act 2002, Council must determine that the Bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990.

The Bill of Rights Act 1990 protects the civil and political rights of all New Zealanders. The Act covers a range of rights including:

- Life and security of the person
- Democratic and civil rights
- Non-discrimination and minority rights
- Search, arrest and detention
- Criminal procedure
- Freedom of movement
- The right to justice.

Legally the Bylaw may not be inconsistent with the Act. This requires consideration of:

- Whether a bylaw limits any rights or freedoms contained in the Act.
- And if so, whether the limitation is ‘demonstrably justifiable’ in a free and democratic society.

The Bylaw could potentially limit the following rights:

- The right to freedom of peaceful assembly (s16) may be limited where people wish to protest. For example, protesting against a nuclear-powered vessel entering Tauranga Harbour.
- The right to freedom of movement (s18) may be limited where the Bylaw places conditions on movement or access to certain locations to manage the use of space.

For a limitation to be “demonstrably justifiable in a free and democratic society” it must serve a sufficiently important purpose to justify the limitation. A limitation must:

- be rationally connected to its purpose.
- not limit the right or freedom more than necessary to achieve the purpose.
- be proportionate to the importance of the objective.

There is evidence that activities on the Bay of Plenty’s navigable waters can cause risks of damage, harm and fatalities as discussed above. Importantly, the two proposals as recommended do not totally remove any of the possible rights identified.

In the case of Topic 1 (the Astrolabe/Motiti exclusion zone), the limit is only for certain vessel types and simply requires a different route be taken to avoid the Island and reefs.

In the case of Topic 2 (the anchoring restrictions), the use of the area in question is still permitted and there are other means available (sea anchors or GPS positioning motors) should there be a need to remain in the area.

To the extent Bill of Rights matters are engaged, any limitations are therefore justifiable because of the potential severity of associated risk.



Ngā ture ā-rohe rerekē

Draft Amended Bylaw

Changes to the bylaw are shown in red.

Topic 1 – Passage between Astrolabe Reef exclusion zone and Motiti Island

8.9 Tauranga Harbour Approaches Exclusion Areas

8.9.1 The Master of any vessel greater than 500 gross tonnes will not cause that vessel to enter any of the following exclusion zones:

Astrolabe Reef	2.0nm centred on position 37 32.446 S - 176 25.625 E
Brewis Shoal	1.5nm centred on position 37 34.136 S - 176 22.828 E
Motiti Island	2.0nm centred on position 37 36.430 S - 176 25.135 E
Okaparu Reef	1.5nm centred on position 37 34.914 S - 176 21.669 E
Penguin Shoal	1.0nm centred on position 37 26.752 S - 176 20.164 E
Volkner Rocks	2.0nm centred on position 37 28.624 S - 177 08.015 E

See Map 1 below and Also see the Nautical Almanac:

[hydro_202425-almanac_full-nautical-almanac_pdf.pdf\(linz.govt.nz\)](https://hydro.202425-almanac.full-nautical-almanac.pdf(linz.govt.nz))

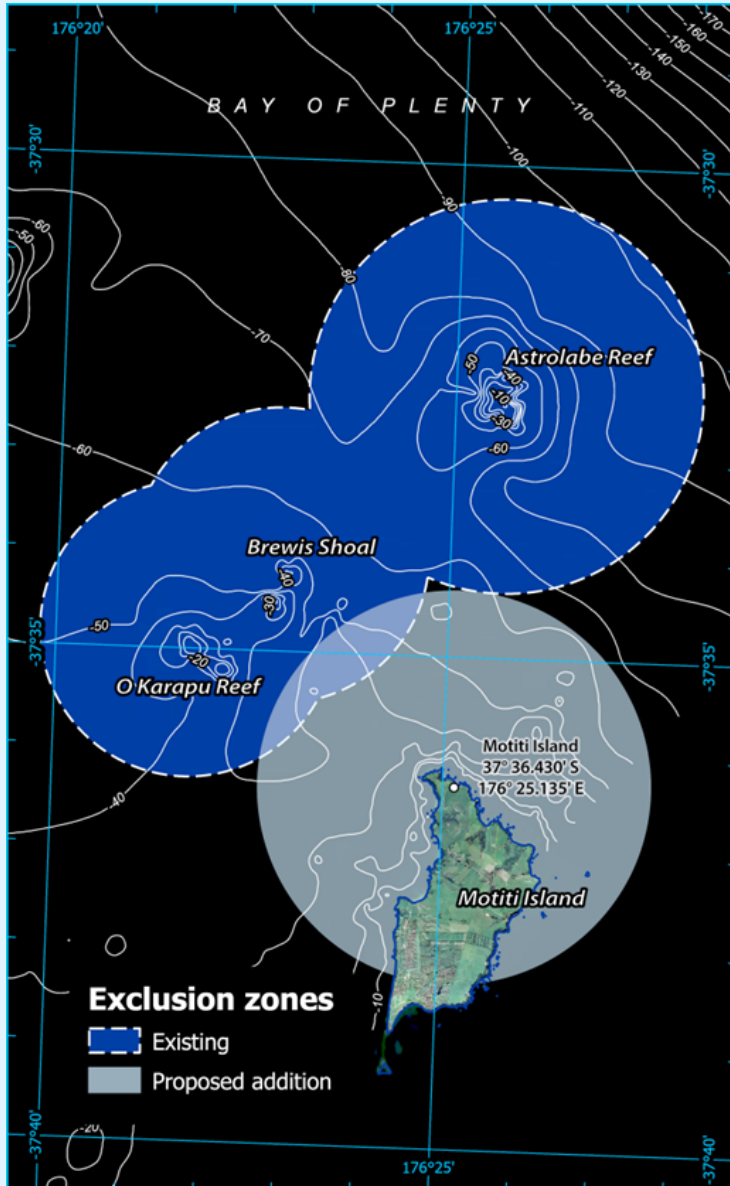
Tauranga	From the North	Keep at least 4 nautical miles off Mayor Island (Tūhūa) and thence to the Pilot Station.
	From the East	Keep at least 5 nautical miles to the north of Volkner Rocks, thence 3 nautical miles to the north of Astrolabe Reef (which breaks in all swell conditions and in fair weather appears like a boat) and thence to the Pilot Station.
	Eastbound	From the Pilot Station set course to pass 3 nautical miles to the north of Astrolabe Reef passing abeam of Brewis Shoal (distance 3.38 nautical miles), thence keeping at least 5 nautical miles north of Volkner Rocks.

Also see Schedule 2, points 1 and 3 advisory notes.

Map 1 - MOTITI ISLAND EXCLUSION ZONE

Draft map - September 2025

Navigation Safety Bylaw



Schedule 2: Advisory Notes [Consequential change]

- ~~1. Bay of Plenty Regional Council will be reviewing the size of the Astrolabe exclusion zone. In future, the passage between the current Astrolabe Reef exclusion zone and Motiti Island may be added to the exclusion zone and marked on charts, as it is considered an unsafe passage. See Clause 8.9.~~
- ~~2. Bay of Plenty Regional Council will be reviewing the anchoring of vessels in the shipping channels of the Tauranga Harbour in a special review before the next full review of the Bylaws. This will involve new consultation with affected Parties. See Clause 8.10.~~
1. Bay of Plenty Regional Council will be reviewing the East Coast shipping route as vessel traffic increases. See: New Zealand Hydrographic risk assessment – North Island. Land Information New Zealand.

Topic 2 – Anchoring in the Tauranga Harbour Shipping Channel

1.4 Definition of Terms for the purpose of these Bylaw

Restricted Anchorage means an identified area where any form of anchorage is restricted to temporary anchor or emergencies.
See clause 3.8.

~~These areas are defined in clause 8.10~~

3.7 Prohibited Anchorages

- 3.7.1 Except in an emergency no person may anchor or moor any vessel within:
 - i. 200 metres of any submarine power or telephone cable or any submerged utility, including water and sewage pipes.
NOTE: White triangular beacons on the foreshore mark the ends of submarine power cables.
 - ii. 50 metres of any commercial berth or berthed vessel operated by the Port of Tauranga Limited.
 - iii. The navigation channel between the Ōhau Channel Diversion Wall, Lake Rotoiti, and shore (including the reserved area marked by red buoys.
 - iv. Any area identified in clause 8.10 of these Bylaws.

3.8 Restricted Anchorages

- 3.8.1 Except in an emergency no person will anchor any vessel within any area identified as a restricted anchorage in ~~Clause 8.10 of~~ these Bylaw unless the vessel is kept ready to make immediate departure and an anchor watch on board the vessel is maintained *at all times*.

8.10 Tauranga Port – ~~restricted prohibited~~ anchorages

- 8.10.1 The following are ~~restricted prohibited~~ anchorages:
- i. From the intersection of the three mile radius from North Rock and the No 1 Reach leading Lights (Lat 37° 34.6'S Long 176° 11.9'E) one third of a mile in width centred on the line of the leads along No 1 Reach; and
 - ii. The width of the channel of No 2 Reach and Cutter Channel as marked on nautical chart NZ5412; and
 - iii. All areas of the Maunganui Roads and Stella Passage as marked on nautical chart NZ5412.

~~Also see Schedule 2: Advisory Note 2:~~



Map 2 - TAURANGA HARBOUR SHIPPING CHANNELS

Draft map - JULY 2025
Navigation Safety Bylaw



*Uuiunga me
ngā tukunga*

Public Consultation and Submissions



Any organisation or member of the public can make a submission on the draft amendment to the Regional Navigation Safety Bylaw 2024.

Toi Moana Bay of Plenty Regional Council welcomes your views and feedback. Community views help shape the way we manage navigation safety.

Public submissions start at 8am on Friday, 24 October 2025 and close at 11.59pm on Sunday, 11 January 2026. Further information regarding the submissions process is provided at the end of this statement of proposal.

Submitters will be given an opportunity to present their views either to a public meeting of the Regional Council, or to a Hearings Committee appointed by the Regional Council.

Making a submission

A submission is your chance to tell us what you think about the content of the Statement of Proposal for the Bylaw Review.

We also have lots of information about making a submission on our Participate website **www.participate.govt.nz/nav-safety-bylaw**. It includes more information about how to make a submission, what you should put in your submission and whether you want to present your submission in person.

What's a submission?

It's a statement in support of, or in opposition to, any part of this statement of proposal and the draft amendment to the **Regional Navigation Safety Bylaw 2024**.

How long do I have to make a submission?

The closing date for submissions is **11 January 2026**. Council staff are available to answer any queries. Contact us, as outlined below.

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How do I make a submission?

You can visit our Participate website and download a form or make a submission electronically.

Be brief and clear about the matters that you support or oppose.

Remember:

- State the most important points you want Toi Moana Bay of Plenty Regional Council to consider.
- Make your comments as specific as possible.
- Note which part of the draft plan, statement of proposal or summary your comments refer to by including page numbers and sections.
- Clearly state your name, address and telephone number.

Submissions are available to the public and the media and this includes your name and contact information.



Can I present my submission to Council?

YES. If you want to present your submission in person, please tick the box on the submission form. If you choose to do this, you will need to appear before Council at a public meeting.

Submitters that wish to be heard will be advised of the Council meeting date following closure of submissions.

Make an online submission:

If you prefer, you can visit our website and make a formal submission electronically. Visit **www.participate.govt.nz/nav-safety-bylaw** and follow the links.

How to get a full copy of the Draft Amendment to the Regional Navigation Safety Bylaw 2024

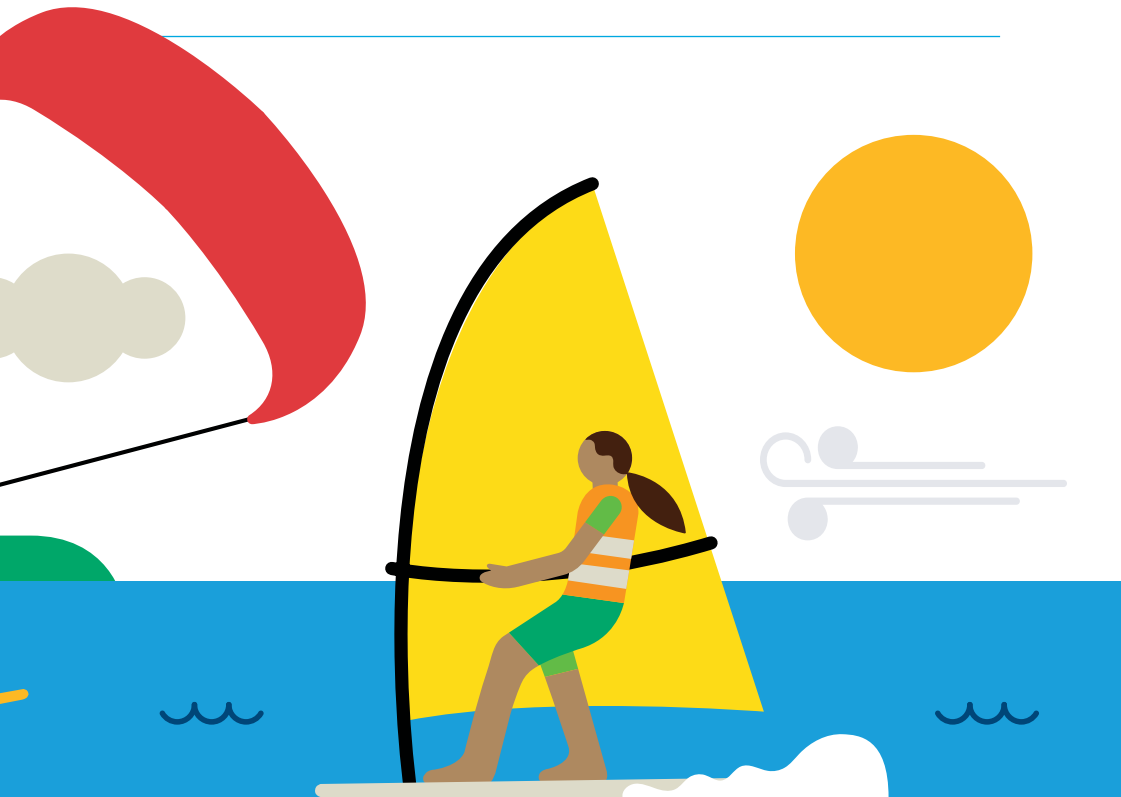
- Phone us on **0800 884 880** or email us at **NavSafety@boprc.govt.nz** and we'll email one to you.
- Visit **www.participate.govt.nz/nav-safety-bylaw** and read it online.

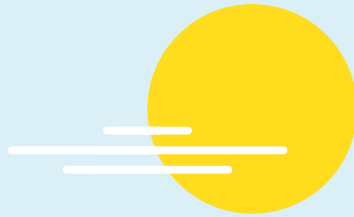
Copies of the draft Amendment to the **Regional Navigation Safety Bylaw 2024** can also be viewed at, or picked up from, any of our offices.

- 5 Quay St,
Whakatāne
- 1118 Fenton St,
Rotorua
- 1 Elizabeth St,
Tauranga.



Notes





www.boprc.govt.nz