

**In Confidence**

Office of the Associate Minister of Transport

Cabinet Legislation Committee

**Maritime Transport (Infringement Fees for Offences - Manawatū River and Tributaries Navigation Safety Bylaw 2022) Regulations 2023**

**Proposal**

- 1 This paper proposes that the Cabinet Legislation Committee (the Committee) authorise the submission to the Executive Council of the Maritime Transport (Infringement Fees for Offences – Manawatū River and Tributaries Navigation Safety Bylaw 2022) Regulations 2023 (the Regulations) (**attached**).
- 2 The Regulations specify fees for infringement offences for the corresponding local navigation bylaws.

**Background**

- 3 Navigation safety bylaws allow councils to manage and regulate maritime safety within their waterways. Corresponding infringement regulations support the effective enforcement of these bylaws by dissuading breaches.
- 4 Without infringement regulations, the only way councils can enforce a bylaw is by prosecuting alleged offenders through the District Court. Prosecution is generally a disproportionate response to the level of offending envisaged by these bylaws.
- 5 Horizons Regional Council (the Council) passed a new bylaw in July 2022: The Manawatū River and Tributaries Navigation Safety Bylaw 2022. The Council have requested that new infringement regulations be made to go with this new navigation safety bylaw, and the previous infringement regulations be repealed.
- 6 The creation of the new bylaw coincided with the expiry of the Council's previous bylaw, which means they are unable to use the infringement regulations associated with that bylaw.<sup>1</sup> There is some legal risk associated with the fact that the Council has not had any infringement regulations in place since July 2022 and has therefore been unable to enforce its bylaws except through prosecution.
- 7 Section 330 of the Maritime Transport Act 1994 empowers the Governor-General, by Order in Council, to make regulations:
  - 7.1 specifying which breaches of navigation bylaws are infringement offences
  - 7.2 prescribing an infringement fee (not exceeding \$1000) for these infringement offences
  - 7.3 prescribing the form of the infringement notice.

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<sup>1</sup> Local Government (Infringement Fees for Offences: Manawatu River and Tributaries Navigation Safety Bylaw 2010) Regulations 2010.

- 8 The Regulations are entirely routine and did not require Cabinet approval to make policy decisions.

### Comment

- 9 The Regulations propose to set the infringement fees between \$200 and \$300.
- 10 Schedule 1 to the proposed regulations includes minor changes from the previous infringement regulations to reflect changes contained in the Manawatū River and Tributaries Navigation Safety Bylaw 2022, as well as five new infringement offences.<sup>2</sup>
- 11 The Council have made the changes in the updated bylaw for the purpose of minimising the risk of fatalities, injuries, nuisances, accidents, collisions and damage on the Manawatū River and its tributaries.
- 12 These infringement offences and fees are not materially different from those used by other councils throughout New Zealand.

### Level of infringement fees

- 13 The Ministry of Justice were consulted with under 7.34 of the Cabinet Manual. It did not raise any concerns over the proposed infringement fees and noted that the fees largely sit at a level that reflects the lower relative gravity of the offending.

### Consultation

- 14 The following departments and agencies were consulted: Horizons Regional Council, Ministry of Justice, Maritime New Zealand, and the Department of Internal Affairs.
- 15 The Department of the Prime Minister and Cabinet was informed.
- 16 No issues were raised during consultation.

### Timing and the 28-day rule

- 17 Subject to Cabinet's approval, the Regulations will be notified in the *New Zealand Gazette* (the *Gazette*) on 15 June 2023 to come into force on 13 July 2023. This will be 28 days after notification in the *Gazette*.

### Compliance

- 18 The regulations comply with the:
- 18.1 LDAC Guidelines on Process and Content of Legislation (2021 edition), a publication maintained by the Legislation Design and Advisory Committee
  - 18.2 New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - 18.3 principles and guidelines set out in the Privacy Act 2020
  - 18.4 relevant international standards and obligations

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<sup>2</sup> Provisions 4.1.6, 5.1.1, 5.1.2, 5.1.3 and 5.8.2 of Schedule 1 of the attached Regulations.

18.5 principles of the Treaty of Waitangi.

### Regulatory Impact Analysis

19 The Treasury's Regulatory Impact Analysis team has determined that the proposal to make infringement offences and fees under the Manawatū River and Tributaries Navigation and Safety Bylaw 2022 is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities.

### Climate Implications of Policy Assessment

20 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### Certification by Parliamentary Counsel

21 Parliamentary Counsel Office has certified the Regulations as being in order for submission to the Executive Council.

### Publicity

22 The Regulations will be notified in the *Gazette*.

### Proactive Release

23 I intend to proactively release this Paper within 30 business days of final decisions being taken by Cabinet, subject to any redactions appropriate under the Official Information Act 1982.

### Recommendations

24 I recommend that the Committee:

24.1 **note** that the Maritime Transport (Infringement Fees for Offences – Manawatū River and Tributaries Navigation Safety Bylaw 2022) Regulations 2023 (the Regulations) will allow Horizons Regional Council to effectively enforce the Manawatū River and Tributaries Navigation Safety Bylaw 2022, which came into force in July 2022.

24.2 **authorise** the submission of the Regulations to the Executive Council.

24.3 **note** that the Regulations will come into force on 13 July 2023.

Authorised for lodgement

Hon Kiri Allan  
Associate Minister of Transport