

IN CONFIDENCE

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Office of the Associate Minister of Transport

Cabinet Legislation Committee

Maritime Transport (Infringement Fees for Offences – Tairāwhiti Navigation Safety Bylaw 2024) Regulations 2025

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 – Tairāwhiti Safety Bylaw 2024) Regulations 2025 (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 by imposing monetary penalties.
- 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 relatively low level of offending envisaged by these bylaws.
- 5 The Gisborne District Council (the Council) passed a new bylaw in October 2024: The Tairāwhiti Navigation Safety Bylaw 2024. The Council have requested that infringement regulations be made to go with this navigation safety bylaw, because currently there are no in force infringement regulations for navigation safety for the Gisborne District Council.
- 6 The Maritime Transport (Infringement Fees for Offences – Gisborne District Navigation and Safety Bylaw 2012) Regulations 2015, which have now expired, will be repealed as part of the Regulations.
- 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.
- 8 The Regulations are entirely routine and did not require Cabinet approval to make policy decisions¹.

¹ 7.95(d), Cabinet Manual 2023.

Comment

- 9 The Regulations propose to set the infringement fees between \$50 and \$1,000.
- 10 The Council has designed this navigation safety infringement regime generally in line with those in surrounding regions. As noted in paragraph 7.2, \$1,000 is the maximum fee that can be set under section 330 of the Maritime Transport Act 1994. There are 6 infringement offences in the Regulations each of which have fees of \$1,000 prescribed. These fees are designed to deter acts or omissions that could result in more serious damage or harms, such as anchoring in prohibited areas, undertaking hotworks² without permission or taking appropriate precautions, or failing to ensure specified navigational requirements are complied with. Otherwise, the infringement offences and fees are not materially different from those used by other councils throughout New Zealand.
- 11 The Regulations modernise the form of infringement notice prescribed in the previous 2015 Regulations.

Level of infringement fees

- 12 The Offences and Penalties Vetting team at the Ministry of Justice was consulted with under 7.36 of the Cabinet Manual, and its feedback has been incorporated into the Regulations.

Consultation

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

Timing and the 28-day rule

- 16 Subject to Cabinet's approval, the Regulations will be notified in the *New Zealand Gazette* (the *Gazette*) on 27 November 2025 to come into force on 25 December 2025. This will be 28 days after notification in the *Gazette*.

Compliance

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

² shipboard operations that involves heat, sparks, or flames, such as welding, cutting, grinding, and soldering, which can ignite flammable materials like fuel, oil, or cargo residue.

17.5 principles of the Treaty of Waitangi.

Regulatory Impact Analysis

- 18 The Treasury's Regulatory Impact Analysis team has determined that the proposal to make infringement offences and fees under the Tairāwhiti Navigation Safety Bylaw 2024 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

- 19 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

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

Publicity

- 21 The Regulations will be notified in the *Gazette*.

Proactive Release

- 22 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

- 23 I recommend that the Committee:

- 23.1 **note** that the Maritime Transport (Infringement Fees for Offences –Tairāwhiti Navigation Safety Bylaw 2024) Regulations 2025 (the Regulations) will allow Gisborne District Council to effectively enforce the Tairāwhiti Navigation Safety Bylaw 2024, which came into force in October 2024.
- 23.2 **authorise** the submission of the Regulations to the Executive Council.
- 23.3 **note** that the Regulations will come into force on 25 December 2025.

Authorised for lodgement

Hon James Meager
Associate Minister of Transport