

Summary of Underpinning Analysis: Maritime Transport (Infringement Fees for Offences - Tasman District Council Navigation Safety Bylaw 2024) Regulations 2026

Agency responsible	Ministry for Cities, Environment, Regions and Transport
Portfolio	Associate Minister of Transport - Maritime
Date finalised	4 September 2026
Identification Number	N/A

Good law-making: 9(i)

The importance of consulting, to the extent that is reasonably practicable, the persons or representatives of the persons that the responsible agency considers will be directly and materially affected by the legislation

Inconsistency identified? NO

Summary of agency analysis

The Tasman District Council's Navigation Safety Bylaw 2024 (the Bylaw) was made in December 2024. The Council requested that the Maritime Transport (Infringement Fees for Offences – Tasman District Council Navigation Safety Bylaw 2024) Regulations 2026 (the Regulations) be made to enable effective enforcement of the Bylaw.

The Council carried out consultation with those directly and materially affected by the legislation when creating the Bylaw. These stakeholders included Maritime New Zealand, commercial vessel operators, the Department of Conservation, the Coastguard, Police and Port Nelson. Public consultation was then undertaken between 1 August and 1 September 2024.

Although the Regulations were not separately consulted on, they do not create new substantive obligations. Instead they provide an enforcement mechanism for breaches of the Bylaw and support the framework that was the subject of extensive public consultation.

Good law-making: 9(j)

The importance of carefully evaluating—

- the issue concerned; and
- the effectiveness of any relevant existing legislation and common law; and
- whether the public interest requires that the issue be addressed; and
- any options (including non-legislative options) that are reasonably available for addressing the issue; and
- who is likely to benefit, and who is likely to suffer a detriment, from the legislation

Inconsistency identified?

NO

Summary of agency analysis

The issue concerned is that the Council does not currently have an effective method for enforcing its Bylaw. Without the Regulations, the only mechanism available is to prosecute alleged offenders through the District Court. This is generally a disproportionate response to the type of offending envisaged by the Bylaw.

The existing legislation (the Maritime Transport (Infringement Fees for Offences—Tasman District Council Consolidated Bylaw, Chapter 5: Navigation Safety Bylaw 2015) Regulations 2016) relates to offences created under the Tasman District Council Navigation Safety Bylaw 2015. The 2015 Bylaw has been replaced by the current Bylaw and therefore no longer provides an appropriate infringement regime.

The public interest requires this issue be addressed to ensure the safe and peaceful enjoyment of the waterways in the Tasman District area. Other options are available, but are either less effective or less proportionate than the proposed infringement regime.

The ability to effectively enforce the new Bylaw will result in users of the Tasman District waterways benefitting from improved safety and a reduction in activities that may detrimentally impact on the public's right to peace and enjoyment of those waterways. Offenders who are penalised for breaching the new Bylaw may suffer a detriment by being levied with, and liable to pay, an infringement fee, but we consider this to be reasonable, as the penalty protects the safety, liberties, freedoms and rights of other users of the waterways.

Good law-making: 9(k)**The importance of the responsible agency identifying and developing effective arrangements for implementing the legislation****Inconsistency identified?**

NO

Summary of agency analysis

Effective arrangements have been made to implement the legislation. The Regulations allow the Council to serve infringement notices to those who are in breach of the provisions of the new Bylaw. This is replacing an existing infringement offence regime.

The enforcement of the Regulations will be carried out by Harbourmasters, enforcement officers and Police, who will be familiar with enforcement of similar offences under the previous infringement regime.

Good law-making: 9(l)

Legislation should be expected to produce benefits that exceed the costs of the legislation to the public or persons

Inconsistency identified? NO

Summary of agency analysis

The purpose of the Regulations is to ensure safety on the Tasman District waterways. They are expected to produce benefits that exceed the costs of the legislation to the public or persons.

The relatively low cost of enforcement of these infringement offences is outweighed by the significant benefits of deterring low level offending for dangerous or nuisance behaviour on a large scale. It is much more cost-effective to issue infringement notices for strict or absolute liability offences committed on a regular basis than to prosecute offenders in the District Court. These Regulations target this type of offending for the benefit of overall maritime safety and enjoyment. Those who breach the provisions of the new Bylaw will bear the cost of infringement fees, which are low compared to the overall benefit to users of the Tasman District waters and the justice system in reducing court time and costs.

Good law-making: 9(m)

Legislation should be the most effective, efficient, and proportionate response to the issue concerned that is available

Inconsistency identified? NO

Summary of agency analysis

Other enforcement options are available, including prosecution and warning-based responses. However, these options are either less effective or less proportionate than the proposed infringement regime. Prosecution through the District Court is likely to be disproportionate for many of the lower-level regulatory offences contemplated by the Bylaw, while warning-based responses may not provide a sufficient deterrent or enforcement response where non-compliance has occurred. The proposed infringement regime provides a more effective and proportionate means of promoting compliance and maintaining safety on the waterways.

The previous regulations introduced infringement fees for offences for breaches of the previous bylaw. As these have now expired, there is no existing law to address the problem.

Rule of Law: 9(a)(i)

The law should be clear and accessible

Inconsistency identified? NO

Summary of agency analysis

The Regulations have been drafted by PCO following their plain language standards.

The language and structure of the Regulations is suitable for the users of the Tasman District's waterways. The Regulations list the clause number of each offence under the Bylaw, provide a simple description of the offence, and list the corresponding infringement fees for breach. The Regulations also provide a clear and detailed explanation of the infringement notice process.

The concept and effect of the Regulations is clear. They do not impose conflicting legislative duties.

The Regulations will be published on the New Zealand Legislation website and will be available free of charge. The Regulations will also be gazetted 28 days before commencement.

Rule of Law: 9(a)(ii)

The law should not adversely affect rights and liberties, or impose obligations, retrospectively

Inconsistency identified?

NO

Summary of agency analysis

The Regulations will not adversely affect rights and liberties retrospectively.

Rule of Law: 9(a)(iii)

Every person is equal before the law

Inconsistency identified?

NO

Summary of agency analysis

The Regulations apply equally to all persons undertaking the activities regulated by the Bylaw. Liability arises from conduct rather than personal status and the Regulations do not create different legal standards for different classes of persons.

Rule of Law: 9(a)(iv)

There should be an independent impartial judiciary

Inconsistency identified?

NO

Summary of agency analysis

The Regulations do not impact judicial appointments and independence from the executive and Parliament.

Rule of Law: 9(a)(v)

Issues of legal right and liability should be resolved by the application of law, rather than the exercise of administrative discretion

Inconsistency identified? NO

Summary of agency analysis

The Regulations do not seek to resolve issues of legal right and liability through the exercise of administrative discretion.

The Regulations do not confer broad powers to determine legal rights or liabilities through administrative discretion. Liability arises from the application of the Bylaw and the Regulations to the relevant conduct. Although some bylaw provisions depend on Harbourmaster approvals, permissions or exemptions, those powers are conferred and constrained by legislation and do not displace the role of the courts in determining liability.

Like other infringement offence regulations, the Regulations deal with straightforward issues of fact for low level offending.

The Regulations do not affect an offender's right to request a court hearing of the infringement notice.

Liberties: 9(b)

Legislation should not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as is necessary to provide for, or protect, any such liberty, freedom, or right of another person

Inconsistency identified? NO

Summary of agency analysis

The Regulations do not unduly diminish a person's liberty, personal security, freedom of choice or action, or rights to own, use, and dispose of property, except as necessary to provide for, or protect, any such liberty, freedom, or right of another person.

The Regulations will allow infringement notices and fees to be issued for those who breach the Bylaw, which may impact their freedom of action and/or use of property. However, diminishment is necessary to protect the liberty, freedom and rights of other persons on the water.

Taking of property: 9(c)

Legislation should not take or severely impair, or authorise the taking or severe impairment of, property without the consent of the owner unless-



- there is a good justification for the taking or severe impairment; and
- fair compensation for the taking or severe impairment is provided to the owner; and
- the compensation is provided, to the extent practicable, by or on behalf of the persons who obtain the benefit of the taking or severe impairment

Inconsistency identified?

NO

Summary of agency analysis

The Regulations do not take or severely impair property.

Taxes, fees and levies: 9(d)

The importance of maintaining consistency with section 22(a) of the Constitution Act 1996 (Parliamentary control of taxation)

Inconsistency identified?

NO

Summary of agency analysis

The Regulations do not seek to control taxation.

Taxes, fees and levies: 9(e)

Legislation should impose, or authorise the imposition of, a fee for goods or services only if the amount of the fee bears a proper relation to the cost of providing the good or service to which it relates

Inconsistency identified?

NO

Summary of agency analysis

The Regulations do not impose, or authorise the imposition of, a fee for goods or services.

Taxes, fees and levies: 9(f)

Legislation should impose, or authorise the imposition of, a levy to fund an objective or a function only if the amount of the levy is reasonable in relation to both—

- the benefits that the class of payers is likely to derive, or the risks attributable to the class, in connection with the objective or function; and
- the costs of efficiently achieving the objective or providing the function

Inconsistency identified?

NO

Summary of agency analysis

The Regulations do not impose, or authorise the imposition of, a levy to fund an objective or a function.

Role of courts: 9(g)

Legislation should preserve the courts' constitutional role of ascertaining the meaning of legislation

Inconsistency identified? NO

Summary of agency analysis

The Regulations do not impact on or alter the courts' constitutional role of ascertaining the meaning of legislation. They do not introduce an alternative appeal or review mechanism that removes the jurisdiction of the courts.

Role of courts: 9(h)

Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review

Inconsistency identified? NO

Summary of agency analysis

The Regulations do not make rights and liberties, or obligations, dependent on administrative power only. The Regulations do not remove or interfere with the general rights of appeal of infringement notices in the Summary Proceedings Act, nor do they limit or remove judicial review rights.

Additional information

Relevant publicly available inquiry, review, or evaluation reports

N/A

Relevant international treaties, standards and obligations

N/A

Departures from the Legislation Guidelines

N/A

Other unusual provisions or features

N/A