6. PROPOSED CHRISTCHURCH CITY COUNCIL MARINE AND RIVER FACILITIES BYLAW 2008

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PURPOSE OF REPORT

1. To outline the background and options relating to the review of the present Banks Peninsula District Marine Facilities Control Bylaw 2002 and to recommend that the Planning and Regulatory Committee adopt and recommend:

   (a) That the Council resolve that there is a need for a new Marine and River Facilities Bylaw 2008 to control activities in, on and around marine facilities not covered by other bylaws or Acts of Parliament; and

   (b) That the Council adopt the attached proposed Marine and River Facilities Bylaw 2008 for public consultation.

2. The Local Government Act 2002 requires many of our bylaws to be reviewed in order to determine that they are still necessary, that they are appropriate and that they meet the purpose that they were designed for. This report summarises the results of a review of the Banks Peninsula District Marine Facilities Control Bylaw 2002 and proposes a new draft bylaw.

EXECUTIVE SUMMARY

3. The proposed bylaw covers marine facilities, and extends to river and estuary facilities in the Christchurch City area which are managed or owned by the Council. It does not cover privately owned wharves, jetties, or other related facilities. Some examples of Council-owned marine and river facilities include:

   1. wharves and jetties, for example, Akaroa Wharf and the South Brighton Jetty;
   2. slipways, for example, Pigeon Bay slipway;
   3. launching ramps, for example, Brooklands Reserve Launching Ramp;
   4. boat landings and punting points, for example, those on the Avon River.

   For a summary of the marine and river facilities owned by the Council, see Attachment 5.

4. The interaction between the Council's district boundaries, the jurisdiction of Environment Canterbury, and the impact of the Foreshore and Seabed Act, are covered in the legal considerations section of this report. In summary, the Council can make bylaws over land within its district boundaries, which, in the Banks Peninsula area, cross harbour mouths, so include waters within Akaroa and Lyttelton Harbours. The coverage of the proposed bylaw does not extend to activities on the water, other than in relation to the mooring of boats at Council-owned or controlled wharves, jetties, etc. Environment Canterbury has responsibility for managing activities that occur on the water, specifically those in the navigable inland waters and coastal marine area. Activities on the water are covered by the Environment Canterbury Navigation Safety Bylaws 2005 and Environment Canterbury's Coastal Management Plan.

5. The existing bylaw covers a range of issues including: restrictions around vehicles on wharves, berthing of vessels on wharves, removal of offenders from marine facilities, removal of offending vehicles and vessels, obstructing launching ramps, and other general restrictions on the use of marine facilities, including the wilful destruction of marine facilities and interference of any other persons use or enjoyment of marine facilities.

6. Existing bylaw clauses were assessed to see whether:

   - The issues they were designed to address still exist.
   - The issues are significant, either by frequency or seriousness.
   - The issues need to be controlled by regulatory means or can be dealt with by other means – that is, whether or not a bylaw is an effective tool.
   - The issues are covered by new or amended legislation.
   - The clauses are reasonably able to be enforced, and;
   - The clauses are consistent with the Bill of Rights Act.

7. These matters are covered in more detail in the background section of this report, and in the clause by clause analysis (Attachment 1). For example, a number of the existing clauses in the bylaw do not meet the above tests, and they have not been included in the proposed bylaw.

8. This report outlines the options[1] arising from the review of the Banks Peninsula District Marine Facilities Control Bylaw 2002:

    1) Option one: Status quo, retain the existing bylaw
    2) Option two: Revoke the existing bylaw and replace it with a rationalised and modernised bylaw.

9. The recommended option is option two. A proposed bylaw, the Marine and River Facilities Bylaw 2008, has been prepared for Councillors' consideration. (See Attachment 2).

10. The purpose of the proposed bylaw is to provide for the orderly management and control of marine and river facilities that are owned or under the control of the Council for the benefit and enjoyment of all users of those facilities.

11. The new proposed bylaw covers:

    a) The use of marine and river facilities by charter or commercial operators

    b) The use of wharves and jetties, including:

        - Requiring permission for vehicles (other than service or emergency vehicles) to drive or park on wharves and jetties.
        - The maximum weight of vehicles allowable on the Akaroa and Wainui wharves.
        - The maximum allowable time that vessels can lie alongside Akaroa Wharf.
        - Restrictions on certain vessels berthing at wharves and jetties.
        - The removal of vessels on wharves under certain weather conditions.
        - Vessels not to be left unattended at wharves at night.
        - The obstruction of launching ramps and fuelling facilities by users.
        - A requirement that anyone using any marine or river facilities pays any applicable fees.

12. If the Council adopts the attached proposed bylaw, it will go out for public consultation in accordance with the Special Consultative Procedure outlined in sections 83 and 86 of the Local Government Act 2002.

SECTION 155 ANALYSIS

13. The Local Government Act 2002 requires local authorities to determine whether a bylaw is the *most appropriate* way of addressing the perceived problems (section 155(1) of the Act), in other words, that the Council is satisfied that a bylaw is necessary, and the perceived problems cannot be dealt with in any other manner.

14. In reviewing the existing bylaw, there were a range of issues which are already addressed by means other than this bylaw. For example, as the clause by clause analysis (Attachment 1) demonstrates, some of the issues covered by the existing bylaw are covered by existing or proposed Parks and Reserves, Traffic and Parking and Public Places bylaws. Other issues are covered by legislation, including the Summary Offences Act 1981 and the Trespass Act 1980. Further issues are covered by Environment Canterbury's Navigation Bylaws, or through its Coastal Management Plan. Only a small range of issues remain to be regulated by the proposed bylaw.

15. Issues not covered by other legislation or tools have been included in the proposed bylaw (Attachment 2). The range of issues that have been identified as needing to be regulated through a bylaw for the orderly management and control of marine and river facilities include:

    - Vessels in bad weather conditions being left on wharves and damaging the wharves structure.

    - Heavy vehicles being driven onto wharves and damaging the wharves' structure and potentially endangering safety.

[1] This is required under s.77 of the Local Government Act 2002

- Vehicles and vessels obstructing fuelling and launching ramps and causing inconvenience.

- Chartered or commercial operations using Council controlled marine or river facilities without permission to the detriment of other users, such as recreational users.

- The issue of unattended vessels on wharves.

- Boats lying alongside Akaroa Wharf for long periods and restricting access for other users.

16. A bylaw is an effective tool for regulating these matters and therefore meets the section 155(1) test in the Local Government Act Section 155(2) and 155(3) of the Act relate to whether the proposed bylaw is in an appropriate form, and that it is not inconsistent with the New Zealand Bill of Rights Act 1990. A bylaw cannot be made if it is inconsistent with the Bill of Rights Act. The Bill of Rights Act sets the minimum standards to which public decision making must conform.

17. The Legal Services Unit considers that the form of the bylaw, as proposed, is the most appropriate form, and that the bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.

FINANCIAL IMPLICATIONS

18. It is not anticipated that the adoption of the proposed bylaw will adversely impact on enforcement demands, and in some areas may be more cost effective, as the coverage of the proposed bylaw is narrower than that of the existing bylaw.

19. The Council has twenty-five park rangers operating in the Christchurch City Council district. As the park rangers (who enforce the existing Parks and Reserves Bylaw) are located in the area covered by the proposed Marine and River Facilities Bylaw, they are well placed to enforce the proposed bylaw. This would include monitoring, education, investigation, evidence collection, taking prosecutions, etc. Park rangers could be delegated powers to enforce the proposed Marine and River Facilities Bylaw 2008.

20. Funding for an increase in the ranger presence in the Banks Peninsula area will be pursued in relation to both this proposed bylaw and the proposed Parks and Reserves Bylaw 2008 through the LTCCP process.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

21. The budgets for the City Environment group of activities in Christchurch's Long Term Council Community Plan (LTCCP) make general provision for the enforcement of bylaws.

LEGAL CONSIDERATIONS

22. There are a number of elements to consider in establishing the Council's jurisdiction for this bylaw, these include the Council's district boundaries, the Foreshore and Seabed Act, Environment Canterbury's jurisdiction and responsibilities, and the facilities under Council's control (that are not on Council-owned land).

The Council's district boundary

23. The Council's district boundary was altered in 1997 through a Local Government Boundary Alteration Notice to include the area between the existing seaward boundary of each district and the line of mean low water springs. This means that the Council has the jurisdiction to put in place bylaws to manage issues that may occur inland of the mean low water springs (regardless of "ownership" being vested in the Crown under the Foreshore and Seabed Act). This allows the Council, for example, to make bylaws to cover dog control on beaches, in the area seaward of the mean high spring waters, but inland of the mean low water springs). The Council gazetted district boundary crosses the mouth of the estuary of the Avon and Heathcote Rivers.

24. In the case of the Banks Peninsula District Council, its gazetted district boundary is drawn across the entrances of harbours and bays. This means that the Council can make bylaws to cover issues that may occur in the harbour area (however, see below concerning Environment Canterbury's role).

The Foreshore and Seabed Act 2004

25. The Foreshore and Seabed Act vested ownership of the public foreshore and seabed in the Crown. The public foreshore and seabed is the marine area that is bounded —

    (i) On the landward side by the line of mean high water springs; and

    (ii) On the seaward side, by the outer limits of the territorial sea.

    The Foreshore and Seabed Act does not affect the ownership in any structure or thing that is fixed to, or under or over, any area of the public foreshore and seabed.

26. However, ownership of the foreshore and seabed needs to be distinguished from the City boundaries and the powers of the Council to make bylaws for the City. As mentioned above, the 1997 Local Government Boundary Alteration Notice altered Christchurch's seaward boundary to reach to the line of mean low water springs. Therefore, even though the foreshore may now be owned by the Crown, the Council still retains the power to make bylaws in relation to that part of the foreshore, i.e. the area inland of the line of mean low water springs because that area is located within the City boundaries.

Environment Canterbury

27. Environment Canterbury has responsibility for managing activities that occur in the navigable inland waters and coastal marine area, including activities on the water. These are managed through a combination of Environment Canterbury's Navigation Safety Bylaws 2005 and its Coastal Management Plan. The coverage of the proposed bylaw does not extend to activities on the water, other than mooring boats at Council-owned or controlled wharves, jetties, etc.

    Council Controlled Facilities - The proposed bylaw covers marine and river facilities which are Council managed or owned. It does not cover privately owned wharves, jetties, or other marine facilities (see Attachment 5).

    Rivers and Estuaries
    Although the coverage of the existing Marine Facilities Control Bylaw covered things and activities in the Banks Peninsula marine area, the bylaw proposed in this report covers both marine and river facilities, and covers the whole of the new Christchurch City district. This is to cover some of the issues that were contained in a little-used pre-1989 amalgamation bylaw.[2] The coverage of the proposed bylaw has therefore been extended to include river facilities that are owned or managed by the Council. Coverage extends only to those river facilities that are attached to the shore/riverbank and are owned by the Council, not to any Council owned facilities that are not attached to the shore, such as mooring posts.

28. The Local Government Act 2002 allows local authorities to make bylaws for its district (ie Christchurch City), to cover certain things or situations. These include:

    (a) s.145(a) – to protect the public from nuisance.
    (b) s.145(b) – to protect, promote, and maintain public safety
    (c) s.146(b)(vi) – to control the use of the land, structures, or infrastructure…under the Council's control.

29. The proposed Marine and River Facilities Bylaw 2008 will be made under the Local Government Act sections 145 (a) and (b) and section 146 (b) (vi).

[2] The Avon Heathcote Estuary and Rivers Bylaw 1982 was made prior to the 1989 amalgamation of boundaries into the Christchurch City Council, and covered a range of activities and things in river and estuary areas. Many of these activities and things are now covered by other bylaws or legislation, however, a small number of issues remain. The Avon Heathcote Estuary and Rivers Bylaw 1982 - Christchurch City Bylaw No. 120 is being revoked as part of the proposed Parks and Reserves Bylaw 2008.

30. Under section 155(2) of the Local Government Act 2002, the Council must determine whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. Under subsection (3), no bylaw may be made which is inconsistent with the Bill of Rights Act. The Legal Services Unit considers that the form of the bylaw, as proposed, is the most appropriate form, and that the Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.

31. This report also covers matters relating to section 77 of the Local Government Act. Section 77 relates to decision-making and requires local authorities to identify all practical options and to assess the options in relation to their costs and benefits, community outcomes and the impact on the Council's capacity. The options analysis forms the second part of this report.

32. The legal process for reviewing, making, amending or revoking bylaws is the same and is outlined in sections 83, 86, 155 and 156 of the Local Government Act 2002. If the Council agrees to adopt the attached proposed bylaw, it is required to appoint a hearings panel, to agree to a submission closing date, and to agree to the form of the Statement of Proposal and Summary of Information for consultation.

33. Section 81 of the Local Government Act requires local authorities to establish and maintain processes to provide opportunities for Maori to contribute to the decision-making processes. Due to the timeframes involved, effective consultation with the Ngai Tahu runanga Mahaanui Kurataiao (MKT) has not yet taken place. MKT will have the opportunity to express its views on the bylaw review during the Special Consultative Procedure.

Have you considered the legal implications of the issue under consideration?

34. Yes, in the "Section 155 Analysis" and "Legal Consideration" sections above.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

35. The LTCCP's strong communities strategic directions section prioritises the following: providing accessible and welcoming spaces and facilities; providing other facilities that are accessible, safe, welcoming and enjoyable to use; working with partners to reduce crime, help people avoid injury and help people feel safer.[3].

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

36. The bylaw would be consistent with the commitment in the Community Plan, volume 1, page 145: *Legislative requirements are enforced to ensure the safety and health of people.*

ALIGNMENT WITH STRATEGIES

37. There are no specific Council strategies that are relevant to the use of Council owned or controlled marine and river facilities.

38. The Council has a number of policies that are related to marine facilities, but these are largely concerned with the provision and maintenance of the facilities, including things such as location and accessibility. These policies do not directly relate to the coverage of either the existing or the proposed bylaw.

Do the recommendations align with the Council's strategies?

39. Yes, as above

CONSULTATION FULFILMENT

40. If the proposed bylaw is adopted by the Council, stakeholder groups will be given the opportunity to make a submission as part of the Special Consultative Procedure.

[3] Our Community Plan 2006-2016, Volume 1, p.60

STAFF RECOMMENDATION

It is recommended that the Planning and Regulatory Committee adopt and recommend:

(a) That the Council resolve that the attached proposed bylaw is the most appropriate way to address the problems relating to marine and river facilities; is in the most appropriate form; and does not give rise to any implications under the New Zealand Bill of Rights Act 1990 [sections 155(1), 155(2) and 155(3) of the Local Government Act 2002].

(b) That a bylaw be made under the Local Government Act 2002 under the following powers:

- s.145(a) – To protect the public from nuisance.
- s.145(b) – To protect, promote, and maintain public safety.
- s.146(b)(vi) – To control the use of the land, structures, or infrastructure under the Council's control.

(c) That the Council resolve that the purpose of the proposed bylaw is to provide for the orderly management and control of marine and river facilities that are owned or under the control of the Council for the benefit and enjoyment of all users of those facilities.

(d) That the attached proposed bylaw be adopted for consultation.

(e) That public notice of the consultation be given in The Press and on the Council's website on 12 April 2008, and that the public notice of the proposal be given in the Christchurch Star, the Akaroa Mail and other community newspapers distributed in the Christchurch area, as close as possible to 12 April 2008.

(f) That the attached Statement of Proposal and Summary of Information be adopted, and that they be made available for public inspection at all Council service centres, Council libraries and on the Council's website.

(g) That the period within which written submissions may be made to the Council be between 12 April 2008 and 14 May 2008.

COMMITTEE RECOMMENDATION

It is recommended that the staff recommendation be adopted.

BACKGROUND (THE ISSUES)

41. Marine facilities include things such as wharves, jetties, slipways, launching ramps, pontoons, storage parks, and any other Council owned or controlled structures used or associated with marine activities. River facilities include launching ramps, punting points, boat landings, jetties and any other Council owned or controlled structures used or associated with river activities. The proposed bylaw covers Council owned or managed marine or river facilities within the Christchurch City district. For a summary of the facilities covered by the proposed bylaw, see Attachment 5.

42. The existing bylaw comprises a collection of diverse matters that may occur in, on and around marine facilities, including: restrictions around vehicles on wharves, berthing of vessels on wharves, removal of offenders from marine facilities, removal of offending vehicles and vessels, obstructing launching ramps, and other general restrictions on the use of marine facilities, including the wilful destruction or interference of any other person in the use or enjoyment of marine facilities.

43. It is timely to review the existing bylaw as:

- The Local Government Act 2002 requires it to be reviewed.
- The amalgamation of Banks Peninsula District with Christchurch City means that bylaws made under the two jurisdictions are gradually being amalgamated.

44. Some of the clauses contained in the existing bylaw:

- Reflect matters that were significant in the past, but are no longer relevant.
- Are now covered by national legislation or by other bylaws.
- May not comply with the Code of Good Regulatory Practice.
- May not comply with the New Zealand Bill of Rights Act 1990.
- May not fall within current bylaw making powers of the Local Government Act.
- May no longer present a significant issue that needs to be controlled via bylaw.
- May not be possible or practical to enforce.

45. A clause by clause analysis of the bylaws is attached (Attachment 1), indicating which of the clauses in the existing bylaw meet the above tests for inclusion in the new bylaw.

46. In general, it is accepted that Council control of marine facilities via a bylaw should not:

- Apply to matters that are covered adequately by other legislation.
- Deal with matters that unnecessarily restrict individual freedoms[4].
- Cover matters that are insignificant in effect or magnitude.
- Deal with matters that can be more appropriately dealt with by other tools.
- Be impractical to enforce.[5]

47. The Council has at its disposal a number of different tools for managing or preventing potential or perceived issues, including through policies and strategies, through public education, imposing conditions as the owner of public places (e.g. through conditions of use), and through bylaws.

48. In reviewing the existing bylaw, a range of issues have found to be addressed already through means other than this bylaw. For example, as the clause by clause analysis (Attachment 1) demonstrates, some of the issues are covered by the proposed Parks and Reserves, Traffic and Parking, or Public Places bylaws. Environment Canterbury Navigation Bylaws 2005 and Coastal Management Plan also cover issues that were in the existing bylaw. Taking this coverage by other legislation or tools into account, a small range of issues remain to be regulated by the proposed bylaw.

[4] The New Zealand Bill of Rights Act must be taken into account in the making of bylaws - bylaws cannot be made that are inconsistent with the NZBORA (Local Government Act 2002, section 155(3))

[5] The Decision Making Guide (produced by CCC and Local Government New Zealand) requires taking into account the nature of the identified problems; whether they need to be controlled by regulatory means or can be dealt with by other means; whether the perceived problems are significant, either by frequency or seriousness; and whether regulatory action is available under other legislation, or is reasonably able to be enforced.

49. Behavioural issues that were covered by the existing bylaw are adequately covered by legislation such as the Summary Offences Act 1981 and the Trespass Act 1980. Rangers have been successful in obtaining compliance with the existing bylaw through education and believe that this educational approach should be continued in the future. Any issues that cannot be dealt with through education, or through enforcement of the proposed bylaw, can be dealt with by the Police, who ultimately retain the power of arrest for uncooperative offenders.

50. This report outlines the options for a new marine and river facilities bylaw, includes the proposed bylaw, and recommends that Council adopt it and agrees that consultation be undertaken to seek community views on the proposed bylaw.[6]

THE OPTIONS

51. This report outlines the options[7] for the review of the Banks Peninsula District Marine Facilities Control Bylaw 2002:

    1) Option one: Status quo, retain the existing bylaw.

    2) Option two: Revoke the existing bylaw and replace it with a rationalised and modernised bylaw.

52. Option one, status quo, is not considered acceptable, as the existing bylaw must be reviewed by 30 June 2008 under the requirements of section 158 of the Local Government Act 2002. As previously outlined, some aspect of the existing bylaw are no longer necessary. Additionally, the existing bylaw covers the previous Banks Peninsula District Council area, rather than reflecting the amalgamation of Banks Peninsula District with Christchurch City.

53. Option two, revoking the existing bylaw and creating a rationalised and modernised marine and river facilities bylaw, is the preferred option. This would meet the review requirements of section 158 of the Local Government Act and meet the tests, at a broad level, in section 155 of the Local Government Act. Rationalising the bylaw would clarify and reduce the clauses, for example, by removing duplication and matters that are insignificant or are no longer relevant, and matters that cannot be enforced. Modernising the bylaw would update the language and style of the bylaw, so that it is easier to understand, and is more suitable now and into the future.

THE PREFERRED OPTION

54. Option two, revoking the existing bylaw and creating a rationalised and modernised bylaw is preferable.

55. This type of bylaw is written in simple, modern language. The Legislation Advisory Committee, in its publication *Guidelines on Process and Content of Legislation* states: "there is a strong movement in New Zealand towards plain English drafting of legislation [where] provisions are expressed as economically as possible and in modern language. One of the objectives is to make legislation more accessible to ordinary people…".[8] Additionally, the Ministry of Economic Development's *Code of Good Regulatory Practice*, promotes the importance of clarity, arguing that regulation should use plain language where possible, in order to make things as simple as possible.[9]

[6] The process for consulting the community is outlined in s.83 of the Local Government Act 2002 – the Special Consultative Procedure.
[7] This is required under s.77 of the Local Government Act 2002
[8] The Legislation Advisory Committee was established in 1986 to "help improve the quality of law-making by attempting to ensure legislation gives clear effect to government policy, ensuring that legislative proposals conform with the LAC Guidelines, and discouraging the promotion of unnecessary legislation" www.justice.govt.nz/lac/who/index.html
[9] Ministry of Economic Development, *Code of Good Regulatory Practice*, Quality of Regulation Team, Competition and Enterprise Branch, November 1997

ASSESSMENT OF OPTIONS

The Preferred Option

56. The preferred option is to revoke the existing bylaw (the Banks Peninsula District Marine Facilities Control Bylaw 2002) and replace it with a rationalised and modernised bylaw.

	Benefits (current and future)	**Costs (current and future)**
Social	• Only matters of significance will be regulated • Only matters that are enforceable will be regulated • An easier to understand bylaw (modern plain English) • Public expectations more likely to be met (realistic and enforceable clauses)	• Increased need for advertising/communications
Cultural	• None specific	• None specific
Environmental	• None specific	• None specific
Economic	• Only matters of significance will be regulated • Requirements will be more easily understood by the public and enforcement officers	• None specific

Extent to which community outcomes are achieved:

The community outcomes that this option would contribute to include:

- A **well governed city** by having a new, rationalised and modernised bylaw, the requirements will be easier to understand than they are now. Increased understanding of the bylaw, both while it is being consulted on, and once it comes into force.

Impact on the Council's capacity and responsibilities:

Inspection and enforcement activity for the bylaw, as proposed, is likely be less than or similar to that required under the current bylaw. See previous comment on pursuing funding for enforcement of both this proposed bylaw and the proposed Parks and Reserves Bylaw 2008 through the LTCCP process for the Banks Peninsula area.

Effects on Maori:

There will be no specific effect on Maori –rationalising and modernising the bylaw will make the requirements easier to understand for everyone.

Consistency with existing Council policies:

The Council has a number of policies that are relevant to marine facilities, but these largely relate to the provision and management of the facilities. These policies do not directly relate to the coverage of either the existing or the proposed bylaw.

Views and preferences of persons affected or likely to have an interest:

The Transport and Greenspace Unit is strongly in favour of this option, especially the Park Ranger Team, because the proposed bylaw will better support their work in the field.

Further views would be obtained through the Special Consultative Procedure.

Both the MED's *Guide to Good Regulatory Practice*, and the Legislation Advisory Committee's *Guidelines on Process and Content of Legislation* promote the importance of clarity through plain English legal drafting, in order to increase the public's understanding of their legal obligations.

Other relevant matters:

Section 158 of the Local Government Act 2002 requires the Council to review the bylaw under consideration by 30 June 2008.

Maintain the Status Quo (if not preferred option)

57. The first option is to do nothing and retain the bylaw. The status quo is not preferred, as it would involve failing to comply with section 158 of the Local Government Act, which requires bylaws made under the Local Government Act 1974 to be reviewed by 30 June 2008.

	Benefits (current and future)	**Costs (current and future)**
Social	• Existing bylaw may be known to some people - no new requirements to publicise	• Legal uncertainty as to the status and enforceability of the bylaw • Reputation of the Council tarnished by not meeting LGA requirements • Confusion caused by duplication and overlap of the bylaw with other law, including ECan's Coastal Management Plan and Navigation Safety Bylaws.
Cultural	• None specific	• None specific
Environmental	• None specific	• None specific
Economic	• None specific	• Legal uncertainty as to the status and enforceability of the bylaw • Open to legal challenge

Extent to which community outcomes are achieved:

The community outcome of a **well governed city** would not be met, as the maintaining the current situation would be confusing and uncertain, and would not comply with the Local Government Act.

Impact on the Council's capacity and responsibilities:

Section 158 of the Local Government Act 2002 requires the Council to review the bylaw under consideration by 30 June 2008. Failing to meet this requirement would tarnish the Council's reputation. It would also create an uncertain legal environment, in which the legal status and enforceability of the bylaw would be questionable.

Effects on Maori:

There will be no specific effect on Maori – maintaining the status quo would have a negative effect on the city as a whole.

Consistency with existing Council policies:

The Council has a number of policies that are relevant to marine facilities, but these largely relate to the provision and management of the facilities. These policies do not directly relate to the coverage of either the existing or proposed bylaw.

Views and preferences of persons affected or likely to have an interest:

The Legal Services Unit does not support maintaining the status quo, nor does the Transport and Greenspace Unit.