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Committee Policy, Finance and Strategy Committee
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Management

Review of the Lyall Bay reserved area

1. Purpose

To update the Committee on issues surrounding the Lyall Bay reserved area, and to consider its status in light of recent publicity and a public petition regarding its future.

2. Significance of the decision

The matters for decision in this report **do not** trigger the significance policy of the Council or otherwise trigger section 76(3) (b) of the Local Government Act 2002.

3. Background

At the last meeting of the Policy, Finance and Strategy meeting, a petition, signed by 919 people, was submitted, which seeks to abolish the Lyall Bay reserved area.

It was agreed at this meeting that a report on the matter be prepared which would address the issues raised in the petition presented to the council. As part of preparing this paper, options for the future management of the reserved area would also be addressed.

The actual provision of the reserved area is managed via the Navigational and Safety Bylaws. Greater Wellington's Harbours Department administers these Bylaws. The Council has the authority to adopt or review the Bylaws. After initially being adopted in 2000, the Bylaws were last reviewed in late 2003.

A copy of the relevant section of the Navigational and Safety Bylaws can be found at **Attachment 1**.

4. Comment

4.1 History of the reserved area

Around 1991, the idea of developing a trial jet ski lane at Lyall Bay was raised for the first time. This interest corresponded with the rise in interest, and access to, personal water craft (PWC) commonly referred to as ‘jet skis’. At this time, the Harbour Board Bylaws were in force, and these had no provision for designating defined areas for specific uses.

Recognising the increasing demand for space to be provided for jet skis, the Harbours Department engaged in consultation with local surf clubs, the Wellington City Council, residents and jet skiers about the concept of a trial jet ski lane, where it might be located, and how it would work. While there was not universal agreement, this consultation process resulted in the concept of a ‘trial’ jet ski lane. This approximately 200 metre wide lane was located towards the eastern end of Lyall Bay beach, which allowed jet skiers to utilise the waves generated in this area, while leaving ‘the wall’ at the end of the beach and the main break in the centre of the beach free available for surfers. At the time the trial lane was developed, it was considered that this area was least likely to affect residents with noise (because of the adjacent road and airport runway).

Recognising Council’s desire to accommodate the interests of all beach users, the trial jet ski lane stayed in place for some years in an informal manner, until 2000, when the old Harbour Board Bylaws were repealed and replaced by the Navigational and Safety Bylaws (the Bylaws). This allowed for the formalisation of the trial jet ski lane as a reserved area as part of the adoption of the Bylaws. This followed a period of extensive public consultation as governed by the Local Government Act.

This was also done with guidance from the 1999 Pleasure Boat Safety Advisory Group report, which stated:

"Recommendation 11: Separation of Activities

The Group supports and encourages local authorities in their continuing development of appropriate PWC management initiatives such as setting aside specific areas and that such activities be brought to the attention of the National & Regional Pleasure Boat Safety Forums."

This bylaw process legally established the location of the reserved area, and allowed jet skiers to formally exceed the 5 knot speed limit at locations within 200 metres of the shore which would otherwise prevail.

In 2003, the Bylaws were reviewed due to changes to National Maritime rules. A further public consultation exercise resulted as a result of the Bylaw review, including further consultation in relation to the reserved area. When the Bylaws were adopted as a result of the review, the reserved area remained in place.

However, due to the possible development of the proposed surf reef at Lyall Bay (which had gone through a separate resource consent process), provision was also made to move the reserved area further west down the beach by approximately 150 metres and reduce it in width by 50 metres should the surf reef be constructed. As a surf reef has not been developed to date, this provision in the Bylaws has not been required.

5. The current situation

5.1 Changing trend in usage

Over the years since 1991 when the reserved area was introduced, usage of Lyall Bay as a recreational area has evolved. While no accurate numbers are available, anecdotal evidence suggests that the surfing 'community' has increased in numbers over the years, as have other traditional recreational user groups such as swimmers, along with newer pursuits such as kayak and kite surfers. Jet skiers have also continued to use the beach and the reserved area over this time. There is now a number of competing user groups wanting access to a limited space. This can cause conflict over access to beach and wave space, and can develop into potentially dangerous situations where there are multiple users recreating in a particular area.

User sentiment has reached a peak with regard to the reserved area. Safety issues have evolved over time with increasing use. Some of these risks result from surfers who access this reserved area, either intentionally or unintentionally, as a result of rips or wave action that inadvertently draws them into the reserved area. Risk also exists with jet skiers riding their craft outside of the designated area, often into areas otherwise intended for the use of other beach users, including kayakers and surfers.

The reserved area is an area set aside for the specific use of jet skiers. However, if there is no jet skiers using the area at a particular time, other users are free to treat it like any other part of the beach. In practice, this division does not always work particularly well as it can be ignored, and there has also been criticism from some users, both surfers and jet skiers, that signage identifying the designated reserved area is not clear. Again, this can result in both jet skiers and other users entering areas where they should not be.

5.2 Bylaw enforcement

The Harbours Department is charged with policing the Bylaw. This in itself is not an easy job given the physical difficulties of being out on the water to monitor compliance, and recognising that for some beach users, this has become an emotive issue which can result in emotive responses to requests for compliance.

It is also worth noting that many recent complaints from the Surf Lifesaving Clubs located at Lyall Bay have related to kite surfers among swimmers rather than PWCs.

5.3 Existing safety criteria

While accepting the legal status of the reserved area, the proximity of reserved area to other water users, in particular surfers, has led to an increasingly dangerous situation over the years as more and more numbers of users compete for the best waves in a finite area of the beach. There is concern over the physical safety of beach users which could potentially result in a collision between a jet ski and other users. It should be noted that risk exists across all beaches in the region where there are multiple users, and a collision between a surfer and a swimmer, for instance, would also be regarded as a safety incident.

Reference was made as part of the petition received by Council to “a similar situation” at Sumner Beach, in Christchurch, which was resolved by placing a 400 metre jet ski restriction zone in place at the beach. However, this situation is not quite the same as that which exists in Lyall Bay. What has been done in Sumner is to create an area for non-powered craft, not a specific ban on PWC’s and there are exclusions that still allow powered craft to travel through the area. This is a different situation to Lyall Bay, however, it is an example of how competing use has been managed elsewhere.

A copy of the relevant section of the Canterbury Navigational and Safety Bylaws can be found at **Attachment 2**.

6. Summary

Regardless of the above, it may be timely for the Council to review the future of the reserved area appreciating the issues specific to this area as outlined below:

- the close proximity of motorised craft and other users, including swimmers, windsurfers, sailboarders, surfboarders and kite surfers
- the overall volume of users, particularly the increasing numbers of surfers;
- the dynamic nature of this part of Lyall Bay
- the potential for serious harm as a result of collisions resulting from trying to accommodate the competing interest of beach users.

A number of options in relation to the future management of the Lyall Bay reserved area are outlined below.

7. Future management options for the Lyall Bay reserved area

7.1 Status Quo

Leave the reserved area where it currently is, recognising the associated risks which this decision would entail. This option would recognise that the reserved area is currently legally entitled to be located where it is, that it was put in place as a result of formal consultation as part of implementing the Bylaws,

and that the access to this area by jet skiers should be allowed to continue in accordance with the Bylaws. There are no other areas currently legally designated for jet ski users (in surf areas), so the retention of the reserved area would continue to formally recognise the needs of this user group. There could also be an increased emphasis on managing compliance with the bylaw in coming summers.

For any reserved areas such as this to work effectively, there needs to be a will of cooperation between user groups.

7.2 Relocate the reserved area

While potentially a good option, Lyall Bay is the only large surf beach on the South Coast of Wellington City, and there are no other apparent adequate options to relocate a reserved area which would allow for jet skis to ride in areas of surf.

Moving the reserved area along the beach, while provided for in the Bylaws, is perhaps not considered a realistic option given this would not necessarily resolve any of the current conflicts surrounding the existence of the reserved area, nor its proximity to the beach and other users. The option of moving the reserved area was only to avoid the proposed surf reef area impinging over the existing reserved area and causing more conflict between users groups.

Any relocation of the lane would require a review of the Bylaws and associated public consultation process, before any formal decision could be made as to a new location.

7.3 Remove the reserved area

There are now clearly a large number of beach users who would simply like to see the removal of the reserved area. Any decision along this line would need to weigh up the rights of all existing users of the area against the potential for future conflict arising from the reserved area remaining where it is, and any safety concerns given the current proximity of user groups.

The removal of the reserved area would require a review of the Bylaws, and the associated public consultation process, before any formal decision could be made.

It is worth noting that if the reserved area was removed, powered-craft would be still be able to exceed 5 knots when more than 200 metres from the shore, but would not be able to exceed 5 knots when 50 metres or less from a swimmer or other vessel.

8. Communication

A press release will be prepared advising the Community of the Council's decision, and directly interested groups will be contacted individually if a bylaw review eventuates as a result of the Council's decision.

9. Recommendations

That the Committee:

1. *receives the report;*
2. *notes the content; and*
3. *decides to:*
 - a. *leave the reserved area where it currently is; or*
 - b. *review the Navigational and Safety Bylaws in order to relocate or remove the reserved area.*

Report prepared by:

Report approved by:

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Attachment 1: Navigational and Safety Bylaws relevant to the Lyall Bay

Attachment 2: Extract from Canterbury Navigational and Safety Bylaws