

# Regulatory Impact Statement

## Lake Taupō (Crown Facilities, Permits and Fees) Regulations 2012

### Lake Taupō Navigation Safety Amendment Bylaw 2012

#### Agency Disclosure Statement

- a) This Regulatory Impact Statement has been prepared by the Department of Internal Affairs (the Department).
- b) It provides an analysis for an Order in Council under the Local Government Act 1974 to set new regulations to increase fees on a full cost recovery basis for the use of Crown-owned boating facilities on Lake Taupō.
- c) The Department administers and maintains the Crown-owned boating facilities on Lake Taupō. Fees for the use of mooring, ramp and berthing facilities by private and commercial boat owners are prescribed in the Lake Taupo (Crown Facilities, Permits and Fees) Regulations 2004 and the Lake Taupo Navigation Safety Bylaw 2010.
- d) Fees were last increased in 2004 to account for inflation. The current cost to maintain the Crown-owned boating facilities on Lake Taupō exceeds the fee revenue from those using the facilities. In addition to the current fee structure being on a partial cost recovery basis, it does not include the depreciation of \$0.147 million on the Crown assets for replacement purposes or the cost to the Crown for the annual rental payment of \$0.240 million to the Tūwharetoa Māori Trust Board.
- e) The Department undertook a review of fees for the use of the Crown-owned boating facilities. The Department considered two options for setting new fees for the use of the Lake Taupō boating facilities. The recommended option is full cost recovery that recovers the deficit (current and projected), depreciation and rental to the Tūwharetoa Māori Trust Board. This option will see proposed fee increases increased incrementally over the next three years and the increases will be varied according to the type of facility. Implementation of this option accurately aligns the provision of direct costs to users. The intention to recover the costs from users aligns with Treasury and the Auditor-General guidelines that all private good costs are recovered from third-party revenue.
- f) Fees need to increase to provide adequate revenue to maintain the facilities that are safe for users. If fees are not increased by July 2012, the Department could incur liabilities under the Health and Safety in Employment Act 1992 or potential closure of boating facilities.
- g) The Department does not expect the recommended option to impair market competition, or deter incentives on businesses to innovate or invest. The recommended option of full cost recovery will more accurately align the Lake Taupō fee structure with other boating facilities administered by councils across the country. However, under the recommended option users of the Lake Taupō facilities will pay more. Consultation undertaken with stakeholders and facility users indicate that the proposed fee increase will be well supported in conjunction with the upgrading and modernising of the boating facilities over the next three years.

Paul James, Chair, Regulatory Impact Analysis Panel  
Department of Internal Affairs

18 / 6 / 2012

# **Regulatory Impact Statement**

## **Lake Taupō (Crown Facilities, Permits and Fees) Regulations 2012**

### **Lake Taupō Navigation Safety Amendment Bylaw 2012**

#### **Status quo**

1. Under the Local Government Act 1974, the Minister of Local Government is the harbour authority for Lake Taupō. The Minister's role also includes overseeing the Crown-owned boating facilities<sup>1</sup> on Lake Taupō. The facilities are administered and maintained by the Department of Internal Affairs (the Department) on behalf of the Minister. Funding for administration and maintenance is provided through non-departmental appropriations and fees paid by users of the facilities.
2. The Department charges fees set by regulation for the use of mooring, ramp and berthing facilities. Fees are prescribed under the Lake Taupo (Crown Facilities, Permits and Fees) Regulations 2004 and the Lake Taupo Navigation Safety Bylaw 2010. Fees were last increased in 2004 to account for inflation.
3. In 1992, the Crown transferred ownership of the Lake bed to the Tūwharetoa Maori Trust Board (Trust Board) through a Trust Deed, but retained ownership of the boating facilities. In 2007, the deed was revised to include the Crown's agreement to make an annual payment of \$1.5 million to the Trust Board for continued public access to the lake, of which \$0.240 million is attributable to the rental of the Lake bed for the facilities.

#### **Problem definition**

4. The current cost to maintain the Crown-owned boating facilities on Lake Taupō exceeds the fee revenue from those using the facilities. Fee revenue for 2010/11 was \$0.305 million, while expenditure (including maintenance) was \$0.385 million. This has resulted in an ongoing and increasing operating deficit. As at 30 June 2011 there was a deficit balance of \$0.125 million. The deficit is expected to increase to \$0.250 million at 30 June 2012. If fees are not increased the ongoing forecasted deficit will increase to \$0.429 million in 2012/13, \$0.619 million in 2013/14 and \$0.820 million in 2014/15.
5. In addition, the current fee structure is on a partial cost recovery basis. It does not include the depreciation of \$0.147 million attributable to depreciation on the Crown assets for replacement purposes or the cost to the Crown for the annual payment of \$0.240 million to the Trust Board.
6. The current fee structure for Lake Taupō is inconsistent with Treasury and the Auditor-General's guidelines for charging fees for public sector goods and services<sup>2</sup>. Fees should be set at a rate to recover the full cost of a good and service including depreciation and rental payment.
7. The shortfall in revenue means the general condition of the facilities has been deteriorating. This is being compounded by increased use of the facilities by larger and heavier boats than what the facilities were designed for. If fees are not increased, deferred maintenance due to costs exceeding fee revenue could result in the Department incurring liabilities under the Health and Safety in Employment Act 1992 and closure of the boating facilities.
8. Additionally, because the current fee levels are among the lowest in the country, demand for berths far exceeds supply, with a 14-year waiting list. At some of the Crown marinas, boat users use their berths as a cheap place to store unused boats. At one Crown marina, one third of the boats are unused. The Harbourmaster has very limited powers to remove unused boats as long as berth holders continue to pay annual berthing fees. Stakeholders and boat users have continually expressed concerns that the low fees limit opportunities for other boat users and hinder the growth of the local economy.

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<sup>1</sup> The Crown currently owns 17 ramps, 4 marinas and 188 moorings on Lake Taupō.

<sup>2</sup> Good practice guide for charging fees for public sector goods and services, Office of the Auditor-General, 2008.

9. Although funding of \$4.8 million was approved in Budget 2011 for urgent repairs and upgrades of the facilities over four years, this is not a long-term solution. Keeping fees at current levels or minimal increases will not provide enough revenue to adequately maintain the facilities.

## **Objectives**

10. The Department's objective is to set new fees on a full cost-recovery basis to:
- recover the projected operating deficit;
  - provide adequate revenue to maintain facilities that are safe for use and assist the Department in meeting its obligations under the Health and Safety in Employment Act 1992;
  - reduce the burden on the Crown subsidising fees for the use of the Crown-owned boating facilities; and
  - provide a fee regime that meets market needs and feedback from stakeholders and facility users.

## **Regulatory impact analysis**

### ***Regulatory options***

11. Two regulatory options were considered:
- option one: universal increase in fees across the boating facilities; and
  - option two: targeted increase in fees across the boating facilities.

### ***Status quo***

12. The status quo provides that fees remain at current levels and is not considered an option because:
- the ongoing operating deficit will continue to increase;
  - deferred maintenance due to costs exceeding fee revenue could result in the Department incurring liabilities under the Health and Safety in Employment Act 1992 and potential closure of the boating facilities;
  - the Crown will continue to subsidise users of the facilities with the low fees; and
  - potential economic benefits to the local community would not be realised, as Crown marinas will continue to be used to park boats that are unused.

### ***Option one: Universal increase in fees across the boating facilities***

13. This option sets fees at full cost recovery including the operating deficit, depreciation and rental payment to the Trust Board, with a universal increase in fees across all the mooring, ramp and berthing facilities.
14. The option aligns with Treasury and the Auditor-General's guidelines that all private good costs are recovered from third-party revenue and the Department's pricing framework of full cost recovery. Implementation of this option would accurately align the provision of direct costs to users. Examples of pricing for this option are:
- daily ramp permits would increase from \$3.80 to \$8.40 from 27 July 2012; and
  - an annual berthing permit at Taupō marina (for the biggest berth) would increase from \$1,328.00 to \$2,938.00 from 27 July 2012.
15. Users of the facilities would be required to pay more in fees to meet the costs of maintaining the facilities, but would benefit from having improved facilities. The benefits to the Crown would include:
- reducing the burden for subsidising users of the facilities with the low fees;
  - the additional fee amounts collected would reduce cost pressures and contribute towards recovery of the current operating deficit; and

- providing additional ongoing funding towards the cost of maintaining facilities that are safe for users.

16. The Department consulted on this option in March 2011. Feedback from stakeholders, submitters and facility users considered that a universal increase in fees across all the boating facilities was inconsistent with the fee levels of other boating facilities across the country. They considered that there should be smaller increases on ramps and moorings, and larger increases incremented over three years on berths to align better with fees at other marinas and better manage the current 14-year waiting list for a berth at Lake Taupō.

**Option two: Targeted increase in fees across the boating facilities**

17. This option sets fees at full cost recovery including the operating deficit, depreciation and rental payment to the Trust Board. Like option two it aligns with Treasury and the Auditor-General’s guidelines that all private good costs are recovered from third-party revenue and the Department’s pricing framework of full cost recovery. It also achieves the same benefits to the Crown as option one.

18. This option provides for smaller increases on ramps and moorings. Annual berthing permits have the biggest increases and would be incremental over two to three years for certain Crown marinas.

19. Stakeholders, submitters, and facility users strongly recommended that the biggest increases go on annual berths to align better with other marinas and better manage the current 14-year waiting list for a berth. Based on feedback from Motuoapa (located at Lake Taupō) berth holders and in recognition that re-development needs will not start until 2015/16, fees are 50 per cent less than the other Crown marinas.

20. Examples of pricing for this option are:

- daily ramp permits would increase from \$3.80 to \$5.00 from 27 July 2012; and
- an annual berthing permit at Taupō marina (for the biggest berth) would increase from \$1,328 to \$2,700 from 27 July 2012 and increase to \$4,000 from 1 July 2013.

**Analysis of regulatory options**

21. Table one below summarises the analysis of options.

**Table one: analysis of options**

Regulatory Options	Objectives			
	Provides fees to assist in reducing the operating deficit	Meets the obligations under the Health and Safety in Employment Act 1992	Reduces the burden on the Crown subsidising fees for the use of the facilities	Meets market needs and feedback from stakeholders, submitters and facility users
Option one: Universal increase in fees across the boating facilities	✓	✓	✓	<b>x</b>
Option two: Targeted increase in fees across the boating facilities	✓	✓	✓	✓

**Consultation**

22. The Treasury supports the Department’s full cost recovery approach. The Department consulted extensively on option one in March 2011 with public meetings and a written submission process. Seventy two submissions were received. As noted above, strong feedback from stakeholders, submitters and facility users suggested minimal increases on ramps and moorings, bigger increases on berths and an incremental approach to increasing fees at this time.

23. The Department consulted stakeholders on option two including suggested fees levels in December 2011. All stakeholders consulted support the proposed new fees. This included strong support from the Trust Board and the Taupō District Council, both wanting to see the fees align better with market rates. The Town Centre Taupō Inc (which represents 511 businesses in Taupō) also supports option two.
24. The public was also given the opportunity to lodge written submissions on option two<sup>3</sup>. The majority of written submissions received from the public (29 of 41) were in support. Overall, there is strong support for option two.
25. The Department also reviewed the fee regimes of 30 commercial and non-commercial marinas administered by 17 councils. The results of this review showed fees under option two would still be lower or compare to what councils are charging for berths, moorings and ramps. A sample of comparative fees charged by councils is attached as Annex one.
26. The Harbourmaster considers that the pricing for option two is appropriate for the facilities and the Lake Taupō market. The only commercial marina at Lake Taupō is located at Kinloch. The cost of comparative berths or a ramp permit at Kinloch marina would still be higher or similar to the Crown facilities.
27. The views of stakeholders, submitters and users have been considered and the Department anticipates that in general users will accept the increases, in conjunction with the Crown investing significant capital back into the facilities over the next three years. A list of the Lake Taupō stakeholders consulted is attached as Annex two.
28. The Department acknowledges that despite overall support, some users of the facilities will inevitably not support the fee increases. The Department considers that once users see improved boating facilities over the next three years they are more likely to accept paying more in fees.

## **Conclusions and recommendations**

29. The Department recommends option two, which provides that fees should be increased to recover the deficit (current and projected), depreciation and rental to the Trust Board, while having different increases across different facilities. The intention to recover the costs from users will:
  - provide additional fee amounts needed to reduce cost pressures and contribute towards recovery of the current operating deficit;
  - provide additional ongoing funding towards the cost of maintaining the facilities;
  - accurately align the provision of direct costs to users;
  - align with Treasury and the Auditor-General's guidelines that all private good costs are recovered from third-party revenue; and
  - it responds to the feedback from stakeholders, submitters and facility users.
30. Based on option two, a detailed breakdown of the proposed new fees is attached as Annex three.
31. The Department does recognise that not all users will support the proposal to increase fees. However, the Department considers that providing improved facilities for users in the future will significantly increase user satisfaction with the facilities.

## **Implementation**

32. If Cabinet agrees to the proposed fee increases, new Lake Taupō fees regulations will be drafted, with the intention of having the new regulations in place on 27 July 2012. The new fees must be set by regulation early in the 2012/13 financial year, when many users will be renewing their annual permits for the use of the Crown-owned boating facilities. The Department is recommending a waiver of the 28-day rule, on the basis that the Department has conducted extensive consultation with stakeholders and facility users since 2010. It is also to ensure fees are in place by July 2012.

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<sup>3</sup> The public were given an opportunity to make submissions from 13 December 2011 – 10 February 2012.

33. As part of the communication plan for the fee increases, the Department will announce the final recommendations of the increases in early July 2012. The Department will provide information to boat users and stakeholders directly and via the Department's website, local media and public notices. Further publicity will be done prior to Labour weekend and the Christmas/New Year holidays.

**Risk and Mitigation**

34. The risks associated with the recommended option and suggested mitigation are highlighted in Table two below.

**Table two: Risks and suggested mitigation**

Risk	Mitigation
Decision to increase fees causes public concern and media enquiries	It is considered that the proposal to increase fees will attract minimal media coverage. Some media reported on the proposal to increase fees in December 2011. Comments from berth holders stated the fee increases were justified and expected. The Department has a communication plan in place and has received no further request from media on the proposed fee increases.
Fee increases will reduce the use of the boating facilities	<p>It is considered that the impact will be minimal for berths, which have the highest increases. Demand for berths far exceeds supply with a 14-year waiting list. Market research also indicates the new fees are lower, if not comparable with other facilities across the country.</p> <p>It is considered that there will be no impact on the usage for ramps and moorings. New ramps and moorings fees have strong support from stakeholders and submitters.</p>

35. We consider the risks associated with the recommended option to be low because the proposal to increase the fees was well supported. The proposed new fees will still be lower or match fees charged by councils elsewhere. Facility users were first consulted in March 2011 and they acknowledge that fee increases are long overdue, even those users that are opposed.

**Compliance costs**

36. There are no additional compliance costs associated with implementing a new set of fees for the use of the boating facilities. There are no changes to the way in which fees will be collected from users, and therefore, there is no impact or additional compliance requirement for users of the facilities.

**Monitoring, evaluation and review**

37. The Department will continue to review fees on a regular basis to ensure the level of fees continue to cover maintenance costs and future capital needs for the Crown-owned assets on Lake Taupō.

## Market analysis

The following tables provide a sample of fees for ramps and annual berthing permits charged by councils in comparison to the Lake Taupō proposed new fees.

### Daily and annual ramp permit charges

Council	Daily ramp permit	Annual ramp permit
Lake Taupō Harbourmaster	\$5.00 (new fee)	\$90.00 (new fee)
Waitaki District Council	\$5.00	\$80.00
Queenstown Lakes District Council	\$4.00	\$30.00
Hutt City Council	\$8.00	\$125.00
Nelson City Council	\$5.00	\$90.00

### Annual berthing permit charges

Council	Facility fee
Lake Taupō Harbourmaster	\$820.00 to \$4,000.00 (new fee)
Hutt City Council	\$3,189.00 to \$8,176.00
Auckland City Council	\$3,373.00 to \$9,343.00
Nelson City Council	\$1,470.00 to \$2,496.00

**List of stakeholders consulted on the proposal to increase fees**

On 12 and 13 December 2011, the Department consulted the following stakeholders:

- Tūwharetoa Maori Trust Board
- Department of Conservation
- Taupō District Council
- Waikato District Council
- MP for Taupō – Louise Upston
- Motuoapa Fishing and Boating Association
- Taupō Launchmens Association (commercial operators)
- Lake Taupō Boat Users Association
- Omori Kurutau Ratepayers Association
- Acacia Bay Residents Association
- Individual commercial operators and facility users
- Individual berth holders at Taupō, Nukuhau, Tokaanu and Motuoapa



## Annex three

### Proposed fees for the use of Crown-owned boating facilities on Lake Taupō

The following tables set out the proposed increase in fees compared to the current fees charged for the Crown-owned boating facilities at Lake Taupō. The fees are GST-inclusive.

Ramp permit options from 27 July 2012		
Daily	(current fee) \$3.80	\$5.00
Fortnightly	new option	\$35.00
Annual	(current fee) \$52.10	\$90.00

Mooring options from 27 July 2012		
Monthly	new option	\$50.00
Annual	(current fee) \$136.00	\$190.00

Temporary berthing permit options (any Crown facility) from 27 July 2012		
Weekly	(current fee) \$25.50	\$100.00
Monthly	(current fee) \$56.00	\$200.00

Taupō and Nukuhau annual berthing permit options			
Facility type	Current fee	From 27 July 2012	From 1 July 2013
Parallel and more than 12.5m in length	\$1,328.00	\$2,700.00	\$4,000.00
Parallel and 12.5m in length	\$1,107.00	\$2,200.00	\$3,500.00
Parallel and less than 12.5m in length	\$73.40 per metre	\$150.00 per metre	\$280.00 per metre
Bow-in and 3m or more in width (jetty incl)	\$887.00	\$1,500.00	\$2,700.00
Bow-in and 3m or more in width (jetty not incl)	\$740.00	\$1,260.00	\$2,300.00
Bow-in and less than 3m in width (jetty incl)	\$591.00	\$1,000.00	\$1,800.00
Bow-in and less than 3m in width (jetty not incl)	\$480.00	\$820.00	\$1,500.00

Tokaanu annual berthing permit options				
Facility type	Current fee	From 27 July 2012	From 1 July 2013	From 1 July 2014
Parallel and less than 12.5m in length	new option			\$280.00 per metre
Bow-in and 3m or more in width (jetty incl)	\$294.00	\$1,500.00	\$2,100.00	\$2,700.00
Bow-in and less than 3m in width (jetty incl)	\$294.00	\$1,000.00	\$1,400.00	\$1,800.00

Motuoapa annual berthing permit options				
Facility type	Current fee	From 27 July 2012	From 1 July 2013	From 1 July 2014
Bow-in and 3m or more in width	\$294.00 - \$480.00	\$610.00	\$730.00	\$1150.00
Bow-in and less than 3m in width	\$294.00 - \$480.00	\$450.00	\$600.00	\$750.00