



Whitewater NZ

Wednesday 20th March 2019

Sarah Omundsen
GM Regulatory Services
Bay of Plenty Regional Council
Tauranga

Dear Sarah,

As discussed today, I am writing to convey our position on the proposed closure of the Kaituna lower gorges and ask that this position is conveyed to the Councillors and the CEO as a matter of urgency.

In summary, we believe both the process followed and the decision to close the lower gorges is flawed. Like yourselves, we want a positive and safe outcome for all river users and acknowledge the need for action to address some known risks in certain parts of the river. However the process that Bay of Plenty Regional Council has followed has not involved our community or input in a timely and appropriate level of engagement. We have highly skilled, experienced and knowledgeable people that live near the river, who understand it's behaviour and changes, the risks and the nature of the whitewater recreation.

It is apparent that a decision has been reached without genuine consultation, and without the benefit of expert knowledge or the knowledge of the actual hazards present in the river. It is also clear that alternative approaches that will lower the risk have not been adequately explored. In addition the recommendation from the coroner for the key stakeholders to meet, collaborate and find a workable solution has not been actioned, but remains an approach that Whitewater NZ and the Jull family are very supportive of.

Our position is outlined in greater detail below.

The Kaituna river sees more whitewater recreation than any other river in New Zealand, making good management decisions for this world renown river all the more important. It is a jewel in the crown, and is frequented by paddlers from around New Zealand and sought out by international visitors.

Closing the lower gorges is a flawed approach to safety.

- Closure of the lower gorges, whether via a local by-law change or by a Harbourmaster Direction under the Maritime Transport Act, does not reduce or mitigate the actual risk, nor does it keep people safe.
- Legal closure cannot be practically enforced, making it little more than a token gesture.
- The proposed closure includes long sections of the river that have the usual navigation hazards of a nature expected in rivers of a similar grade and difficulty. A river is by nature, a series of rapids that have inherent risk, relative to the skill of paddler. These sections of the river are paddled regularly year round, without incident, and in some cases without any history of same. This was clearly a surprise



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to your team in the meeting today, illustrating a lack of knowledge upon which a position has been formed.

- We agree that there is an unacceptable level of risk in Gnarly Gorge. No-one has paddled that section in the last year due to additional risk from recent changes, illustrating that good decisions are being made by whitewater community. Legal closure will not mitigate this risk or make any difference to the current frequency of use for that section of river (zero), but it may prevent action being taken to remove the specific hazard that caused the 2015 fatality.
- In making the decision to close, BOPRC is appointing itself as the arbiter of what section of a river is safe or not safe to paddle, when they do not have the expertise or information to make such an assessment. BOPRC have not been in the lower gorges, and have not actively sought the views of those that have.
- Closure of one river section implies to the general public that any river section not closed is lower risk than that which is closed. As experienced paddlers that descend rivers around the country, we know that this is not the case.
- There is no clear measure for re-opening the river once closed, given the stated measure for closure is the two fatalities over the previous 12 years, one of which resulted from a hazard no longer present.
- The Maritime Transport Act is primarily concerned with safety between vessels, or between vessels and other people and recreational activity in navigable waters. It is not an appropriate tool to regulate non-commercial recreational activity such as whitewater paddlesports, which should be viewed through the same safety lens as other outdoor pursuits such as canyoning and mountaineering.
- Closure is inconsistent with the application of the same legislation in other locations and other rivers in New Zealand e.g. Lake Tekapo was not closed to tourists when six tourists drowned kayaking. The Shotover river was not closed when a passenger was killed jet boating on the river. The Hawea River has not been closed after the fatal jet boat accident two months ago. After multiple vessels with experienced skippers have foundered on Greymouth bar with loss of life, the harbour entrance has not been closed. Nearby, the Rangitaiki and the Wairoa rivers have also seen raft and kayak drownings, but neither river was closed. Nor was the Whitcombe closed, when a highly skilled kayaker drowned 3 years ago, on a river that is not dissimilar in difficulty or consequence to Gnarly Gorge. Related to the above, it is our experience that other regional authorities have openly entered into and actively maintain open dialogue with river user groups to best manage safety. This is also consistent with the coroner's recommendation.

Alternate approaches to mitigating the risks

Whitewater paddlers have descended Gnarly gorge hundreds of times, and Awesome and Smokey Gorges thousands of times, understand the hazards present and how to best mitigate or eliminate them.

There are number of alternate approaches to mitigating the risk, and these approaches should be fully and openly assessed with ourselves and other stakeholders that wish to be a part of the solution. For example, a river clean up operation such as that put forward by the local whitewater community, to lower the gates and extract the known hazards (specific logs), would reduce the risk in real terms. We have attempted on several occasions to lead this work, but have received push-back from BOPRC, even when the council's role in this would



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be limited to lowering and raising the gates on the river. It is our belief that more effort is required on the part of the Regional Council.

BOPRC have concerns that a river clean up operation will leave them with liability under Health and Safety at Work legislation and stated that they have legal advice to back this up. However, this information has not been shared with the intent to find a solution. If that were the case, Whitewater NZ and the local community are ready, willing and confident a solution can be found, provided we have a level of engagement and commitment from the council and any other parties that wish to be a part of this process.

Another mitigation option to lower the risk is improving information on the river conditions. The Whitewater community has been talking to BOPRC for over a year regarding the risk associated with the opening and lowering of the river gates and the resultant flow changes downstream. Our suggestion was to install a warning device at the get-in and provide a social media post, website or similar, giving a forward view of the planned river flow. This would address the specific and real risk that BOPRC is responsible for every day. The current email system is an inadequate tool to advise of changes in flows, is targeted at commercial operators only, and does not cater for the large number of recreational river users that need to understand potential changes in the conditions, conditions the council controls.

We also believe that improved signage and communication, along with access improvements could improve the safety of river users, and would like to see greater effort, engagement and leadership from BOPRC on this issue.

Finally we believe a solution is required to enable people to portage the Gnarly Gorge section legally and safely. There are a number of options to explore and a collaborative approach will be necessary to ensure an enduring solution is found. This is another area BOPRC can assist with.

For any risk management option to be effective, it must be properly assessed, with the involvement and engagement of experts and user groups, and most importantly, be supported by those it seeks to keep safe. We wish to work with the council to achieve this and ask that you reconsider the wisdom of closing the river until the necessary work has been undertaken in a thorough manner.

I look forward to hearing from you.

Regards,

Nigel Parry
President
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