

QLDC Council  
6 October 2016

**Report for Agenda Item: 4**

**Department: Finance & Regulatory**

**Navigation Safety Bylaw – Amendments**

**Purpose**

- 1 To consider the amalgamation and simplification of the Navigation Safety Bylaw 2014 and the Waterways and Ramp Fees Bylaw 2014.

**Executive Summary**

- 2 The report recommends a complete review of the current Navigation Safety Bylaw and Waterways and Ramps Fees Bylaw, instead of the proposed amalgamation.
- 3 The full review is anticipated to simplify the current Bylaws, permitting systems and to simplify the requirements regarding moorings and waterways activities.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Accept** the recommendation from the Queenstown Lakes District Council Navigation Safety Bylaw Hearing panel to decline the proposed amendments of the Navigation Safety Bylaw and Waterways and Ramp Fees Bylaw.
3. **Direct** Council Officers to undertake a full review of the current Navigation Safety Bylaw and Waterways and Ramp Fees Bylaw and to report back to Council by December 2016.

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26/09/2016

Reviewed and Authorised by:



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26/09/2016

## **Background**

- 4 On 28 July 2016, Council resolved to consult on the proposed amendments to the Navigation Safety Bylaw 2014, which incorporated the Waterways and Ramp Fees Bylaw <http://www.qldc.govt.nz/assets/Uploads/Council-Documents/Full-Council-Agendas/2016/28-July-2016/Item-10/1Waterways-and-Ramp-Fees-Bylaw-covering-report.pdf>
- 5 Public consultation was undertaken during late July and August, with 10 submissions being received, covering six main themes (Attachment A).
- 6 A hearing was held on 16 September 2016, with a hearing panel consisting of the Mayor; Vanessa van Uden and Councillors Calum MacLeod and Simon Stammers-Smith.
- 7 Two submitters spoke to their submissions, with deliberations being undertaken following the Hearing (Attachment B).
- 8 Following the deliberations of the points raised, the hearing panel recommended to undertake a full review of the Navigation Safety Bylaw and Waterways and Ramp Fees Bylaw, with a full overview report to Council in the near future.

## **Comment**

### **Submissions**

#### Life Jackets for Paddle Boarders

- 9 The majority of the submissions related to the types of lifejackets that were proposed to be acceptable for paddle boarders i.e. being a type that did not require to be manually removed from its pouch before inflation.
- 10 Submissions to this proposal stated that any lifejacket that is approved by Maritime New Zealand or New Zealand Stand-Up Paddle Boarders should be acceptable to Council.
- 11 One submitter at the hearing reiterated this point and questioned why Queenstown Lakes District Council would be more restrictive on the requirements for the type of life jacket that is needed than what is acceptable nationally.
- 12 The Hearing panel deliberated this matter and accepted that lifejackets that are approved by Maritime New Zealand and did not need to be manually removed from a pouch before use were acceptable. This would also simplify the definition of life jackets in the Bylaw.

#### Exemptions

- 13 One speaker raised a question regarding the change to clause 55 regarding exemptions, which is currently undertaken by the Harbourmaster.
- 14 The submitter raised concern of possible delays in seeking an exemption, having used the process for some time previously and it working well.

15 The proposal to change this ability to 'Council and its delegate' was deliberated, and it was determined that the word Harbourmaster would be re-instated with the proposal, as it is intended that the Harbourmaster would undertake this activity on behalf of Council, however, Council should retain the ability to undertake this activity if it chose too.

### **Additional Matters**

16 During the deliberations, there were a number of matters raised through submissions and subsequent discussion, which were identified as significant and important e.g. the use of a leg leash for Paddle Boarders, a potential inconsistency regarding Maritime Rules and Commercial Vessel Licences in addition to a number of smaller amendments that would assist our community when applying this Bylaw.

17 The Hearing Panel noted that Council has not consulted on a number of matters raised and as a consequence would need to re-consult on these matters, where they are deemed out of scope of this consultation.

18 However, there remained a concern that the Navigation Safety Bylaw could be further improved and simplified, in addition to including the proposals already considered through this amendment process.

19 Consequently, the hearing panel recommended that the Waterways and Ramp Fees Bylaw and the Navigation Safety Bylaw are both reviewed in their entirety, rather than just the proposed combining recommend currently.

### **Options**

20 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.

21 Option 1 Status Quo

Advantages: No additional work

22 If the Bylaws are not combined, no further work is necessary, until the Bylaws are due for a review in the next three years.

Disadvantages: Customer dis-satisfaction, confusion, unfair

23 There have been a number of concerns and complaints regarding the identified elements of the Bylaws, which have been confusing for customers on how they can self-comply with the rules. It is also unfair that no fees have been set for commercial operations.

24 Option 2 Partial Adoption

Advantages: Simplification, Customer satisfaction, Fair

25 The adoption of the proposed amendments and combining of the Bylaws simplify the rules and will provide a fairer system regarding user pays.

Disadvantages: Confusion, regulations

26 A number of concerns and improvements remain, which could simplify the Bylaws further to remove confusion and ensure consistency with Maritime Rules, which may provide further confusion if not resolved. The regulations to enforce the Bylaw are set by Government and would need to be developed, which would be unlikely before 2017 and certainly would not occur if a further review of the Bylaw is proposed.

## 27 Option 3 Review of Bylaws

Advantages: Enables a simplification of the Bylaws, consistency, address concerns

28 The full review of the Bylaws would enable all matters to be addressed, to provide consistency, fairness in costs and to ensure all concerns raised are address at once.

Disadvantages: Additional work, regulations

29 The full review will require additional work; however, this review would enable the final Bylaw to be in place for a further five years without further reviews. The regulations to enforce the Bylaw i.e. issue fines are set by Government and would need to be developed after the review has been completed in early 2017.

30 This report recommends Option 3 for addressing the matter, as the full review of these two Bylaws will enable the issues raised by customers, stakeholders and Council to be considered and actioned to develop a potential single Bylaw that is fit for purpose for our community, without a scheduled review for a further five years.

31 A report to Council would be scheduled for December, with consultation through January/February. A proposed hearing would be held in March, with a final report and new Bylaw in April 2017.

### ***Significance and Engagement***

32 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because there is community interest regarding our waterways, and the Bylaw impacts on the wider community.

### ***Risk***

33 This matter related to the operational risk OR005 – Death of a member of the community, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because it directly affects the use of our waterways, ramps and jetties.

34 The recommended option considered above mitigates the risk by simplifying the rules regarding the use of our lakes and waterways, by providing simplified rules to enable self-compliance.

## **Financial Implications**

35 The costs associated with a full review of these Bylaws will be met from current budgets.

## **Council Policies, Strategies and Bylaws**

36 The following Council policies, strategies and bylaws were considered:

- Enforcement and Prosecution Policy
- Navigation Safety Bylaw 2014
- Waterways and Ramp Fees Bylaw 2014
- Finance Policy
- 10 Year Plan

37 The recommended option is consistent with the principles set out in the named policy/policies.

38 This matter is included in the 10-Year Plan/Annual Plan

- Volume 1 – Regulatory Functions and Services

## **Local Government Act 2002 Purpose Provisions**

39 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses by providing a single Bylaw that provides simplified requirements, which are applied in a fair manner for users of our waterways;
- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

## **Consultation: Community Views and Preferences**

40 The persons who are affected by or interested in this matter are tourists, residents/ratepayers of the Queenstown Lakes district community, iwi, or and any users of our Lakes and navigable waterways.

41 The Council undertook consulted on the proposed Amendments following the special consultative procedure, in addition to workshops and Council meetings regarding these matters.

42 Any full review of the Bylaws would follow the special consultative procedure.

## **Attachments**

- A Submission Hearing Report
- B Submission Hearing Minutes