



**QUEENSTOWN LAKES DISTRICT COUNCIL
SHOTOVER RIVER BYLAW 2020**

STATEMENT OF PROPOSAL

INTRODUCTION

1. This is a statement of proposal prepared in accordance with section 83(1)(a) Local Government Act 2002 (LGA), in relation to the review of the Shotover River Bylaw 2015 (**Current Bylaw**), and making of the proposed Queenstown Lakes District Shotover River Bylaw 2021.
2. The Queenstown Lakes District Council (**Council**) is seeking public feedback on its proposal to make minor amendments to the Current Bylaw, and provide comment on the reviewed Shotover River Bylaw 2021 (**Proposed Bylaw**). A copy of the Proposed Bylaw is included as Appendix 1.
3. The Current Bylaw regulates a portion of the Shotover River (**Concession Area**) by reserving the Concession Area for use by persons and craft that have a permit granted by Council or its delegate for the purposes of maritime safety. It also provides the permitting system. There is an identified need to continue to regulate the Shotover River to ensure the safety of all users of the river, both recreational and commercial. A copy of the Proposed Bylaw is included as Appendix 2.
4. The Proposed Bylaw will retain the same regime as the Current Bylaw, with minor amendments, in order to provide for the continued safe and effective regulatory management of the Concession Area.
5. Council officers have consulted with key stakeholders to identify matters within the Current Bylaw that may require amending, and to address any specific concerns they have with the Current Bylaw. Council officers have also sought legal advice about the drafting improvements that could be made to the Current Bylaw.

LEGISLATIVE FRAMEWORK

6. Section 33M of the Maritime Transport Act 1994 (**MTA**) provides for Regional Councils to create bylaws for ensuring maritime safety in their region, including by reserving the use of any waters for specified persons, ships or seaplanes. The Otago Regional Council transferred its maritime bylaw making powers in the Queenstown Lakes District to the Council under the LGA and the Local Government Act 1974. The transfer has a continuing effect under section 87 of the Maritime Transport Act Amendment Act 2013.
7. The Current Bylaw was made on 15 December 2015 and is due for review in accordance with section 158 LGA .
8. Section 33M requires that the Council consult with the Director of Maritime New Zealand when making bylaws for ensuring maritime safety. The Council will run the special consultative procedure under the LGA at the same time as seeking comments from the Director of Maritime New Zealand.

PROPOSAL

9. The Council proposes that minor amendments to the Current Bylaw should be made by adopting the proposed Shotover River Bylaw 2021.
10. This Statement of Proposal has been prepared in accordance with the requirements of sections 83 and 86 of the LGA, and includes:

- a. Consideration of whether a bylaw is the most appropriate and proportionate way of addressing the perceived problems in relation to the safety of the users of the Concession Area;
- b. Consideration of whether the Proposed Bylaw is the most appropriate form of bylaw to ensure the safe navigation of users in the Concession Area;
- c. Consideration of the bylaw's consistency with the New Zealand Bill of Rights Act 1990;
- d. A draft of the proposed reviewed Shotover River Bylaw 2021.

IS THE PROPOSED BYLAW THE MOST APPROPRIATE WAY OF ADDRESSING THE PERCEIVED PROBLEM?

11. The Shotover River is a popular destination in the Queenstown Lakes District for both residents and tourists alike. Commercial operators operate on the Shotover River, as well as recreational users, making it a busy and high traffic river.
12. The area of the Shotover River that the bylaw relates to is a unique section of the river, home to narrow canyons and gorges. This is a dynamic section of the river that both commercial and recreational watercraft users use. It poses a significant safety risk for all users of the river if not appropriately managed, due to the dynamic and unforgiving nature of this section of river.
13. The Council has undertaken informal consultation with key stakeholders to assist in the review of the Current Bylaw. Stakeholders were unified in identifying a continuing need for a bylaw to ensure the safety for all users of the river. Stakeholders identified that if vessels are operated within the Concession Area without a permit or outside permit conditions the potential for significant injuries is high, and fatalities are a distinct possibility.
14. From the feedback received from stakeholders, the Current Bylaw has worked effectively to manage use of the Shotover River from a variety of users, both recreational and commercial, which has resulted in increased safety for all users of the river. Stakeholders are generally supportive of the Current Bylaw and retaining the same restrictions.
15. Council has gathered the following information in relation to the Current Bylaw:
 - a. Since 1 January 2015 there has been a total of 708 permits issued to recreational users within the Concession Area;
 - b. On average 130 permits per year are issued to recreational users;
 - c. Since 2015, there has been a total of five infringements issued for private craft entering the Concession Area without obtaining a permit. Four of the five infringements have been issued in the past eight months; and
 - d. Anecdotally, Council officers have observed that the ownership of private craft, and jet boats in particular, has become more common in the Queenstown Lakes District since the Current Bylaw was made. No known accidents have occurred in the past five years.

16. The number of permits issued, alongside the increase in ownership of private craft and recent infringements issued shows that there is increasing demand for use of the river. The risk of a serious incident would be extremely high without appropriate restrictions and provisions in place. This risk is only increasing with more users of the river.
17. Near accidents within the Concession Area have been a result of non-permitted recreational users that have not first notified the Council or its nominated delegate of presence within the Concession Area. Part of the permitting process under the Existing Bylaw and the Proposed Bylaw is for the Shotover Jet Ngai Tahu to complete an induction with the applicant and to advise on river conditions and hazards. Without a permitting system in place the likelihood of a severe or fatal accident taking place increases significantly.
18. The Council has determined that a bylaw is the most effective mechanism to ensure public safety on the Shotover River by reserving the Concession Area for specified persons, ships or seaplanes.
19. The Council has determined that the most appropriate way of addressing the problems in respect of safety on the Shotover River is to retain the same restrictions on public access to the Concession Area as in the Existing Bylaw, with the following minor amendments to the 2015 Bylaw:
 - a. The word “craft” has been replaced with the word “vessel” for consistency with the Navigation Safety Bylaw 2018;
 - b. The addition of the word “only” in the purpose to ensure clarity that the bylaw is only in respect of the Concession Area;
 - c. In the Permit to access the Concession Area the addition of “Any future permits applied for by parties or individuals with a history of non-compliance with the Bylaw may be rejected;” and
 - d. Correcting minor errors
20. In considering whether a bylaw is the most appropriate way of addressing the problem in respect of the Shotover River, the Council has considered the following options:
 - a. Option 1 – Adopt the proposed Shotover River Bylaw 2021 for public consultation;
 - b. Option 2 – Do nothing, allow the Current Bylaw to expire
21. Option 1 is the proposed option.

Option 1: Adopt the proposed Shotover River Bylaw 2021 for public consultation

22. If the Council adopts the Proposed Bylaw it will continue to provide effective management and control of potential safety risks to members of the public using the concession area recreationally. One advantage of this option is that it enables continuity of a successful process that has been in place for a number of years to control public access to the Concession Area. This has provided a secure system to ensure the safety of all river users. The Council will be seen as actively engaging in protecting the district’s community and river users via a safe and effective permitting system.

23. One disadvantage of this option is that the Council will not be providing unimpeded access for the public to the Concession Area of the Shotover River.

Option 2: Do nothing, allow existing bylaw to expire

24. If the Council does nothing, the Existing Bylaw will expire on 15 December 2022. After the expiry of the Existing Bylaw there would be no restrictions on who could access the Concession Area, which may be favoured by some users.
25. The Council runs the risk of not taking all practical steps to protect, promote and maintain public health and safety and the natural environment. Without a bylaw, high risk activities within the Concession Area cannot be monitored and investigated to provide control and ensure public safety.
26. If this option is taken and there is no regulation on this section of the Shotover River, there is a high risk that there could be a serious incident on this section of the Shotover River.

ARE THERE ANY IMPLICATION UNDER THE NEW ZEALAND BILL OF RIGHT ACT 1990?

27. Section 18 of the New Zealand Bill of Rights Act 1990 (**NZBORA**) provides a right to freedom of movement and residence in New Zealand. The Proposed Bylaw will potentially engage the right to freedom of movement under section 18 of NZBORA by restricting access to a part of the Shotover River. However, the proposed controls are considered reasonable limits on that right as allowed for in section 5 of the NZBORA:

Subject to section 4, the rights and freedoms contained in this Bill of Rights may subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

28. The proposed restriction on access to the Shotover River is justified because it is unsafe to have unrestricted access to this waterway, and there is a reasonable system for public access. The proposed restriction is an appropriate control.

TIMETABLE FOR CONSULTATION

29. The following dates represent the key times in the consultation programme:

10 December 2020	Council resolves to undertake public consultation on the proposed changes to the Shotover River Bylaw following the special consultative procedure.
11 December 2020	Submissions open
11 December 2020 - 18 December 2020	Advertisement in Otago Daily Times, Southland Times, The Mountain Scene, and the Wānaka Sun
25 January 2020	Submissions close 5pm

Early February 2020	Submissions heard by a subcommittee of Councillors
Council meeting February 2020	Council considers outcome of consultation process and whether to make decisions on the proposal.
Council meeting February 2020	Public notice of final decision (if Council resolve to adopt the Bylaw)
At a date when Council resolves for the Bylaw to come into force	The Bylaw comes into force (if the Council resolve to adopt the Bylaw)

INSPECTION OF DOCUMENTS AND OBTAINING COPIES

30. Copies of this Statement of Proposal and the proposed bylaw may be inspected, and a copy obtained, at no cost, from:
- a. Either of the Council offices at 10 Gorge Road, Queenstown or the Wānaka Service Centre, 47 Ardmore Street, Wānaka ;
 - b. Any Council library within the Queenstown Lakes District; or
 - c. The Council website – <http://www.qldc.govt.nz>

RIGHT TO MAKE A SUBMISSION AND BE HEARD

31. Any person or organisation has a right to be heard in regard to this Proposal and the Council encourages everyone with an interest to do so. Submissions should be directed toward matters that are within the scope of the Proposal.
32. The Council would prefer that all parties intending to make a submission:
- a. go to the Queenstown Lakes District Council Website: <http://www.qldc.govt.nz> or
 - b. post their submission to: Regulatory Department, Queenstown Lakes District Council, Private Bag 50072, Queenstown 9348.
33. Submissions must be received by **Monday 25 January 2021**. The Council will then convene a hearing, which it intends to hold in early February, at which any party who wishes to do so can present their submission in person.
34. The Council will give equal consideration to written and oral submissions.
35. The Council will permit parties to make oral submissions (without prior written material) or to make a late submission, only where it considers that special circumstances apply.

36. Every submission made to the Council will be acknowledged in accordance with the LGA, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.
37. Section 82 of the LGA sets out the obligations of the Council in regard to consultation and the Council will take all steps necessary to meet the spirit and intent of the law.

MAKING AN EFFECTIVE SUBMISSION

38. Written submissions can take any form (eg email or letter) but we recommend your submission be made on a standard submission form available from Council. An effective submission references the clause(s) of the Draft bylaw you wish to submit on, states why the clause is supported or not supported, and states what change to the clause is sought.
39. Submissions on matters outside the scope of the Proposal cannot be considered by the Hearings Panel.

Mike Theelen

CHIEF EXECUTIVE

APPENDIX 1 – Proposed Shotover River Bylaw 2021

APPENDIX 2 – Shotover River Bylaw 2015

APPENDIX 3– Informal consultation feedback