

QLDC Council
18 December 2014

Report for Agenda Item: 6

Department:

Legal and Regulatory

6: Navigation Safety Bylaw 2014

Purpose

- 1 To adopt the proposed Navigation Safety Bylaw 2014.

Recommendation

- 2 *That Council:*
 - a. **Agree** to adopt the proposed Queenstown Lakes District Council Navigation Safety Bylaw 2014;
 - b. **Defer** the commencement of the Queenstown Lakes District Council Navigation Safety Bylaw 2014 until the commencement of the associated Regulations.

Prepared by:

Reviewed and Authorised by:



Lee Webster
Regulatory Manager

1/12/2014



Scott Carran
Legal & Regulatory General
Manager

1/12/2014

Background

- 3 On 26 June 2014, Council resolved to undertake public consultation on the proposed Queenstown Lakes District Council Navigation Safety Bylaw, as part of a review of Council's bylaws and as part of the Chief Executive's work plan.
- 4 Council appointed Councillors Cocks, Ferguson and Lawton to hear submissions received. Submissions closed on 5 August 2014.

- 5 Following deliberations, the hearing panel resolved to recommend the Council adopt the attached Queenstown Lakes District Council Navigation Safety Bylaw (Attachment A).
- 6 The enforcement of the current Queenstown Lakes District Council Navigation Safety Bylaw is undertaken through the Local Government (Infringement Fees for Offences – Queenstown Lakes District Navigation Safety Bylaw 2009) Regulations 2009. These regulations are enacted by Central Government and not by Council.
- 7 If Council adopts the proposed Navigation Safety Bylaw, Council needs to defer the commencement date of the new bylaw to enable Central Government to enact new Infringement Fee Regulations. This is needed to enable the effective enforcement of the Bylaw. If the Council doesn't defer its commencement, then Council will have an unenforceable bylaw until the new regulations are enacted.
- 8 Council Officers have initiated discussions with Central Government regarding this matter. However it has not been possible to determine the timeframe for the drafting and implementation of the new regulations.
- 9 On 8 August 2014, the Local Government Act 2002 Amendment Act 2014 commenced, which placed additional requirements on Council regarding its decision making to:
 - a) identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) assess the options in terms of their advantages and disadvantages; and
 - c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.
- 10 Council considered these factors when addressing the issues of safety on its navigable waterways on 26 June 2014, and resolved that a bylaw was the most appropriate method of addressing issues of safety.
- 11 The proposed Navigation Safety Bylaw does not breach the Bill of Rights Act, because the limits placed on the freedom of movement are justified in providing an environment for the safe use of waterways and vessels.

Comment

Submissions

- 12 At total of 42 submissions were received during the special consultative process, with 17 submitters attending two hearings held on 18 August in Wanaka and 20 August in Queenstown.

- 13 The panel considered the views and preferences of the submitters, who identified the following general topics for consideration:
- a) Upliftings (speed) on the Clutha and Hunter River;
 - b) Environmental damage (from jet boats);
 - c) Clarity regarding definitions, personal safety on a vessel, reporting incidents and depositing material in to waterways;
 - d) Safety around jetties;
 - e) Consistency with Maritime New Zealand rules and terminology;
 - f) Use of vessels and alcohol;
 - g) Exemptions from the bylaw requirements;
 - h) Use of powered vessels on the Kawarau river (below the Arrow River).

Deliberations

General

- 14 There were some submissions to improve the clarity of language used in the bylaw to ensure all parties understood the rules and to provide consistency with language used by Maritime New Zealand. Where appropriate the bylaw was amended.
- 15 It was recognised that swimming and diving around some jetties and wharfs does not pose a risk from commercial vessels and the bylaw was amended to reflect this where appropriate. This would be enforced through signage where necessary.
- 16 The panel did not support the submission to remove the responsibility of a person in charge of a vessel not to carry on board a person intoxicated from alcohol, as this clause complements the responsibilities of licensed conveyances under the Sale and Supply of Alcohol Act 2012.

Upliftings

- 17 The panel agreed that the current uplifting on the Clutha River should remain and not be increased as proposed, as the panel believed this provides a fair and balanced use of the river for all to enjoy in a safe manner. It also resolved to retain the uplifting on the Hunter River, which was the subject of significant previous discussions.

Environmental Damage

- 18 The issue regarding environmental damage from the use of jet boats and the wake they created was deemed by the panel as a matter that should be considered in the District Plan review and referred to the Otago Regional Council for their consideration. These matters have been referred to the appropriate parties.

Exemptions

- 19 There was agreement that any exemptions to the bylaw should only be temporary, as a permanent exemption would be a significant change to the bylaw and should be undertaken in accordance with the special consultative process to ensure the community have an opportunity to be consulted.

Kawarau River

- 20 There are few navigable rivers across the district where non-powered vessels are able to utilise the environment without the risk of collision with powered vessels. The panel discussed this and the safety concerns in light of the submission to permit the use of powered vessels by two commercial operators in this area, however unanimously decided to retain the current prohibition.
- 21 The current review of the District Plan is likely to be consistent with the prohibition of powered craft in this location.¹

Financial Implications

- 22 The commercial vessel licence fee will assist in meeting the Queenstown Lakes District Council's 10-Year Plan 2012/2022. However, because the number of commercial operators this will affect is small, it will only amount to a small increase in revenue.
- 23 Following the commencement of new regulations to enable the enforcement of the bylaw, it is proposed that revised signage will be necessary at boat ramps to ensure a consistent message is delivered across the district. It is anticipated that these costs will be met from the income received from ramp and licence fees.

Local Government Act 2002 Purpose Provisions

- 24 The proposed Navigation Safety Bylaw achieves the purpose of the Local Government Act as it enables the efficient and effective conduct of Council's regulatory activities regarding the safety on its waterways in a fair and reasonable manner.

Council Policies

- 25 The following Council Policies were considered:
- a) Significance and Engagement Policy: the decision is not significant under the Council's Significance and Engagement Policy.
 - b) Annual Plan/ 10-Year Plan: the proposed bylaw assists in meeting the financial criteria to be met.

¹ The review of Part 4, Chapter 13 – Rural Zone of the District Plan which relates to the matter, is also being considered at the 18 December Council meeting.

Consultation

26 Council undertook pre-consultation with a number of stakeholders, prior to formal consultation. Maritime New Zealand was specifically consulted as required by the Maritime Transport Act 1994.

27 Council publicly notified and consulted on the proposed bylaw from 5 July to 5 August 2014 in accordance with the Local Government Act 2002, resulting in 42 submissions.

Publicity

28 If the bylaw is adopted, it is intended to place a public notice in the following publications:

- Otago Daily Times
- Lakes Weekly Bulletin
- Upper Clutha Messenger

Attachments

A Queenstown Lakes District Council Navigation Safety Bylaw 2014