

**MINUTES OF A HEARING OF SUBMISSIONS ON THE PROPOSED
QUEENSTOWN LAKES DISTRICT WATERWAYS AND RAMP FEES BYLAW
HELD IN THE ARMSTRONG ROOM, LAKE WANAKA CENTRE, WANAKA ON
TUESDAY 3 JUNE 2014 COMMENCING AT 1.00 PM**

Present

Councillor Lyal Cocks (Chairperson) and Councillor Simon Stammers-Smith

In attendance

Ms Kristy Rusher (Solicitor) and Ms Jane Robertson (Governance Advisor)

Appointment of Chair

The Governance Advisor called the meeting to order and asked Councillors Cocks and Stammers-Smith to determine who would chair the hearing. Councillor Stammers-Smith advised that he wanted Councillor Cocks to chair and Councillor Cocks agreed that he was happy to take the position, which he then did.

Apologies

An apology was received from Councillor Lex Perkins.

On the motion of Councillors Cocks and Stammers-Smith it was resolved that the apology be accepted.

Conflicts of Interest

No conflicts of interest were declared.

Hearing of Submissions

1. John Taylor

Mr Taylor advised that he was employed by Southern Monitoring Services which was contracted by the Council to perform harbour master and other water safety regulatory activities. He did not consider however that this represented a conflict of interest or should prevent him from presenting his submission.

Mr Taylor observed that advertising of the proposed boat ramp fees should have taken place during Easter rather than the week before, as this would have highlighted the matter to non-locals. He noted that 75% of concessions were sold to visitors and advertising prior to the holiday weekend resulted in them not seeing the publicity.

Mr Taylor spoke in opposition to the proposed annual fee of \$60 to use launch facilities in the district. He believed that such an increase would be unpalatable to many, whereas a more modest increase to \$40 would be more universally

acceptable. He believed that a further increase to \$50 the following year would also be accepted by the boating committee and encouraged the panel to adopt this approach.

Mr Taylor recommended that publicity about the new fee structure occur mainly over the Christmas/New Year period and that it also highlight that fees rather than rates paid for boating amenities.

Mr Taylor recommended that a boat ramp and jetty be constructed at Eely Point, adding that people were generally prepared to pay for facilities but needed to see something tangible and serviceable in order to do so.

2. Bruce Hebbard

Mr Hebbard noted that if Council wanted to enforce the payment of fees, it needed to provide some proof of payment. He believed that honesty boxes were ineffective.

Mr Hebbard questioned why funding for waterways was sought entirely from commercial and recreational users. He considered that everyone in the district benefited in some way from the lakes and rivers and for this reason, he believed that the waterways function of Council should be partially funded from general rates. He asked the hearings panel to recommend that some rates funding be allocated to the administration of the district's waterways so that the costs could be shared across the district.

Mr Hebbard suggested that local users of Council waterways amenities receive some sort of concession, whilst visitors pay the full rate for use of the facilities.

Members noted that how the waterways function was funded could be reviewed when the rating system was reviewed as part of the next Ten-Year-Plan.

The meeting adjourned at 1.33 pm and reconvened at 10.00 am on Wednesday 4 June in the Meeting Room, ground floor, 10 Gorge Road, Queenstown.

3. John Glover

Mr Glover tabled a written submission which he spoke to. He detailed his personal background with operating a boat commercially, owning a wharf with a foreshore licence and running commercial kayaking trips on Lake Wakatipu. He believed that the Council should have sought his input prior to developing the proposed bylaw. He made the following key points:

- a) He considered the definitions were inadequate, particularly in relation to whether a structure was deemed to be commercial.
- b) He drew attention to comment in the officer report that the financial information was the 'best estimate' of user revenue and that figures should be treated with caution. He did not consider that this was a sound basis on which to present the proposed bylaw.

- c) The report advised that there was a deficit of \$146,837 in user fees collected from public and private users, but did not examine how this could be addressed. He questioned whether the shortfall would fall to the commercial sector.
- d) He was concerned that commercial fees were not specified in the bylaw but would be 'set by Council'. He did not believe that the reason given, being that changing the fees would be a cumbersome process, was inadequate. If costs were to increase, he concluded that any shortfall could only be recovered from commercial operators because private fees were specified by the bylaw.
- e) There was no analysis of how user pays and commercial fees would be apportioned.
- f) It was unwise, unsafe and unreasonable to proceed as recommended.

Mr Glover stated that as it was proposed to roll over the existing fee regime for another year, there would be nothing lost by delaying adoption of the bylaw. He believed that such a delay would provide an opportunity for the Council to gather more substantive financial information including cost recovery figures, a transparent budget and apportionment to private and commercial users. For this reason, he asked that the proposed bylaw not be adopted at this time.

4. Stuart Dever

Mr Dever stated that he was a fishing guide in Queenstown and paid to use a mooring in Queenstown Bay. His insurance policy required him to have the mooring inspected every two years by a certified person. The bylaw implied that in the future this function would be delivered by the Council at a cost of \$120. He questioned what sort of inspection the Council would require, specifically whether it would be a full underwater inspection or only a visual inspection and if this would satisfy the requirements of the Insurance Council. He also questioned if this was consistent with the stance adopted in Section 12 which limited the liability of the Council. He asked the panel not to adopt the approach suggested in the draft bylaw but to maintain the status quo whereby owners were responsible for arranging their own inspections.

Mr Dever asserted that no ramp fees should be chargeable and boat ramps should be treated like any other public amenity, particularly as once constructed, they cost very little to 'run'.

Mr Dever observed that the Council received approximately \$800,000 per annum from the Shotover Jet concession and he suggested that this income be used to fund operating costs for waterway facilities.

Mr Dever asked that fees for mooring permits be based upon vessel length and not on whether the boat was used for commercial or non-commercial purposes. Members considered the issues raised by Mr Dever and concluded that an inspection certificate completed for insurance purposes would also serve to satisfy the Council's requirements.

5. Jon Clow

Mr Clow advised that he was Real Journeys' Marine Manager based in Te Anau. He noted that under section 18 of the proposed bylaw ('Public Use of Foreshore Structures') all structures such as jetties or ramps needed to be available for use by the general public and were not for the sole and private use of an individual or commercial entity. He asked that the bylaw exclude the Earnslaw slipway from this requirement as it required specific skills to operate and was not safe for the general public to use. He added that Real Journeys needed to have immediate access to this facility so that any operational problems with the Earnslaw could be addressed without delay. This need was heightened by the age of the vessel and the commercial importance of minimising down-time.

Mr Clow expressed concern that Section 26 (fees) made it too easy for the Council to increase charges to commercial operators and he asked that 'reasonable' be inserted in regard to the costs recovered. Overall, he was disappointed in the way the fees had been set with no clear methodology used.

Mr Clow considered that an annual full inspection of a mooring was unnecessary for fresh water and there was a significant difference between a visual and full inspection. He believed that the bylaw needed to specify what was intended by the term 'inspection' as it had a very wide definition.

There was extensive general discussion about the condition which applied to all wharves and moorings that they be available to the general public to use. It was noted that the non-exclusive right to a facility caused confusion especially for commercial operators and the lack of definition in the bylaw of 'public use' did not assist the matter. It was suggested that further consideration be given to clarifying 'exclusive' and 'non exclusive' use in the bylaw, particularly as commercial owners needed to have control over the facilities they used as uncontrolled access compromised their operations.

6. Mike Hansen – Wakatipu Yacht Club

Mr Hansen stated that members of the public used the Wakatipu Yacht Club's facilities and increasing ramp fees would place greater pressure on their amenities as more people would use them. Power boats in particular would scour out holes in the lake which would make it difficult for members to retrieve trailer yachts at very low lake levels.

Mr Hansen noted that the club did gain some revenue from ramp fees but this was minor and a condition of its lease was that public entry could not be refused. Use by the public caused congestion at times and not only prevented members from using club facilities but also created higher maintenance costs for the club.

Mr Hansen advised that the club paid fees for several swing moorings and although some were no longer in use, the club retained them as it felt that once relinquished, they would be difficult to get back. He questioned the proposed \$190 fee per annum which he believed was very high as well as being unnecessary for the administration costs involved.

In summary, Mr Hansen stated:

- The club wanted the current system to remain in place.
- If the Council adopted the bylaw, the club sought further discussion with the Council on ways to mitigate the effects of the proposed fees and enforcement actions on the club's assets and amenity.
- The club would like the site to be maintained both for members and the general public.

Members questioned the origins of the requirement for all facilities to be public and asked for this to be checked with respect to the Ngai Tahu Claims Settlement Act 1998.

7. Michael Ramsay

Mr Ramsay advised that he had a mooring on Lake Hayes to which he had some exclusive/preferential rights and he was opposed to the charging of any ramp fees. He believed that boat ramps and jetties were the sorts of facilities that the Council should supply without imposing user charges, comparing them to the public good benefits in the Council providing free use of public sports fields and skateboard parks. He believed that the maintenance on boat ramps was minimal once the ramp was installed and asserted that introducing charges without having an adequate financial structure justifying the charges was both inappropriate and cheeky. Nonetheless he considered that the Council needed to plan for the long-term, pointing out that locals were often prevented from using boating facilities during peak times of the year because of the influx of visitors using them.

Mr Ramsay questioned the status of pre-existing structures especially those which were historic, adding that many did not comply with current standards. It was noted however that a licence held under the previous bylaw would continue in force and the harbour master generally took a pragmatic approach that a structure was acceptable provided it was not fundamentally unsafe.

Mr Ramsay asked why non-commercial jetties which provided a public good should subsidise other Council structures, adding that he owned the only jetty on Lake Hayes built in the 1950's. It had been constructed before there was any requirement for jetty inspections and whilst he now subjected it to an engineering inspection, he was aware that it did not comply with current regulations. He believed that this was unimportant however, as there were no large or power boats on Lake Hayes and it fulfilled its purpose. In this regard, he considered that his jetty provided a public good and he should not have to pay a fee to the Council to do so.

Mr Ramsay did not believe that the proposed fees regime was reasonable and whilst accepting the need for the Council to raise funds to expand its waterways functions, he considered that the Council should look at other ways of raising funds. He was particularly opposed to paying more than \$400 for a private jetty.

Mr Ramsay asserted that fuel taxes should be used to fund waterways because boats used a lot of fuel.

The meeting adjourned at 11.30am and reconvened at 11.40am.

The following matters were highlighted for further discussion at the next meeting:

- A breakdown of income and expenditure on waterways was needed.
- What sort of annual inspections should the Council require?
- If an entity or individual paid a fee for a facility, was it reasonable that it should also be available for use by the general public?
- Was the ability for the public to use any facility a resource consent condition or a condition attached to an existing permit?
- Should a mooring fee be dependent upon the size of a vessel or its length?
- Should a fee for a berthing permit be used or would it be better to introduce two levels of fees for moorings (vessels greater than/less than 6 metres)

The meeting adjourned at 12 noon on 4 June and reconvened for deliberations on Thursday 12 June 2014 in Interview Room 1, 10 Gorge Road, Queenstown at 11.15am. Marty Black (Harbour Master) was also in attendance.

Detailed consideration was given to the questions raised in the written submissions and by submitters at the hearings.

- Mooring inspections: what is entailed and is it necessary to be performed annually?
- Should the mooring licence be tied to proof of payment of inspection fee?
- Why should commercial entities be charged a different rate?
- Should provision be made for exclusive/preferential use rights?
- Cost allocations – should some costs fall on the ratepayer?
- What is an appropriate definition for a 'maritime structure'?

There was further discussion about which structures should be subject to foreshore permits and the effect of granting preferential use of a facility.

The meeting concluded at 12 noon and resumed at 10.05 on 13 June 2014 in the Harbourmaster's office.

Discussion focused on the following matters:

- Foreshore structure licences – two scenarios needed for a structure connected to private land and mainly for private use (1) and a commercial structure (2).
- Use of 'person' to differentiate from the public in general – will capture both public persons and commercial entities.
- Commercial operators need to have some certainty of access to their own facility – covered under 16 (condition of licence).

- Is there a difference between occupation of the water and the land and are separate provisions required? Use/occupy serves to differentiate between land and water occupation.
- Introduce two different types of licences to differentiate between commercial operators and private individuals.
- Permits – all to be amalgamated under one name to reduce confusion.
- Two types of structure - owner (building) and users (areas that they can use).
- \$5 ramp fee; \$40 /year – suggest \$50 for 2015/16. Commercial ramp fee – should follow the same movement and applies per boat.
- Fees – can consult as part of the annual plan special consultative procedure.
- How will proposed provisions apply to the use of the Earnslaw slipway?
- Include dispute resolution clauses.

The meeting concluded at 11.15 am