



**QUEENSTOWN LAKES DISTRICT COUNCIL  
NAVIGATION SAFETY BYLAW 2014**

**STATEMENT OF PROPOSAL**

## EXECUTIVE SUMMARY

This Statement of Proposal is part of the review of the Queenstown Lakes District Council Navigation Safety Bylaw 2009 and is undertaken as part of the review of its bylaw programme and as a consequence of a change in the enabling legislation in October 2013.

Queenstown Lakes District Council (QLDC) is responsible for the management of navigation safety matters throughout the district following a transfer of the delegation of responsibilities from Otago Regional Council to QLDC in 1994.

There is a combination of recreational and commercial users of our waterways utilising the facilities available, and it is important that the bylaw meets the needs in our community today and in the future across the various users.

An assessment of the current Navigation Safety Bylaw 2009 was carried out and informal pre-consultation was undertaken with various stakeholders. The responses indicated that the existing bylaw has been appropriate; however, there are changes necessary to improve the effectiveness and appropriateness of the bylaw.

The Council has determined that a bylaw is the most appropriate method to deal with the issues it has to deal and that the proposed bylaw is the most appropriate form of bylaw.

Except from the changes set out below, the majority of the changes are intended to clarify aspects of the existing bylaw and to improve understanding of what is expected from users to ensure safety on our waterways.

Following discussions with the harbourmaster and targeted consultation from stakeholders, the following significant aspects were raised as problems that need consideration in the proposed Navigation Safety Bylaw:

- Life jackets to be worn on all vessels less than 6 metres in length
- Definition details e.g. method for measuring length of a vessel
- Self-compliance of the bylaw e.g. regarding use of access lanes

Other issues that were raised during consultation for which an amendment of the bylaw is not considered necessary or appropriate are requests to:

- Enforcement: An increase in the frequency of on-water enforcement activity to encourage compliance with Maritime Safety Rules and the Bylaw is an operational matter and will be addressed through a new enforcement strategy and a targeted enforcement programme during peak use periods.
- Information and maintenance: The improvement of lighting, signage and other navigation assets in the region is an asset management function and also forms part of Councils enforcement strategy to ensure people understand the rules.
- Education: Requiring the compulsory education, training and licensing for persons in charge of vessels is not required by the Empowering Act 1956, therefore a bylaw to this effect would be unlawful as it would impose duties on persons in charge of a vessel that go beyond the scope of the empowering legislation.
- Fees: The Administration of a more equitable fees and charging system for commercial operators is a matter that will be considered under a separate bylaw (Queenstown Lakes District Waterways and Fees Bylaw 2014) to ensure a fair user payers regime.

## STATUTORY REQUIREMENTS

The Queenstown Lakes District Council Navigation Safety Bylaw 2009 was made under section 68B of the Local Government Act 1974. The responsibility of waterways was transferred from the Otago Regional Council to QLDC under the Local Government Act 1974 and 2002.

In October 2013 the Maritime Transport Act 1994 was amended, which resulted in the transfer of the empowering provisions of local authorities regarding navigation safety from the Local Government Act to the Maritime Transport Act 1994.

Section 33 of the Maritime transport Act 1994 enables QLDC to make a bylaw to:

- regulate and control the use or management of ships
- regulate the placing and maintenance of moorings and maritime facilities
- prevent nuisances arising from the use of ships and seaplanes
- prevent nuisances arising from the actions of persons and things on or in the water
- reserve the use of any waters for specified persons, ships, or seaplanes
- in relation to boat races, swimming races, or similar events;
  - (i) prohibit or regulate the use of ships
  - (ii) regulate, or authorise the organisers of an event to regulate, the admission of persons to specified areas
- regulate and control the use of anchorages
- prescribe ship traffic separation and management schemes
- specify requirements for the carriage and use of personal flotation devices and buoyancy aids on pleasure craft
- require the marking and identification of personal water craft.

Whilst the Maritime Transport Act 1994 enables the making of rules to regulate matters such as navigation safety and water recreation, marine craft and pilotage, it also provides for the ability to vary the regulations to meet local conditions. The ability for QLDC to provide additional regulation through a bylaw under the Maritime Transport Act 1994 is to achieve navigation safety.

The enforcement of the Queenstown Lakes District Council Navigation Safety Bylaw 2009 is undertaken through the Local Government (Infringement Fees for Offences – Queenstown Lakes District Navigation Safety Bylaw 2009) Regulations 2009.

In addition, the Council is able to make a bylaw under section 145 of the Local Government Act 2002 to:

- a) Protect the area;
- b) Protect the health and safety of people who may visit the area; and
- c) Protect access to an area.

Section 155(1) of the Local Government Act 2002 requires that before starting the process for making a bylaw, a Council must determine that a bylaw is the most appropriate way of addressing the issues identified.

Section 155(2) of the Local Government Act 2002 states that, if it is determined that a bylaw is the most appropriate way of addressing a perceived problem, Council must determine whether the proposed bylaw is the most appropriate bylaw and Section 155(3) of the Local Government Act 2002 requires that no bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990.

## **REASON FOR PROPOSAL**

Queenstown Lakes District has significant navigable waters consisting of large lakes and rivers of which the safety of our community using these waterways is a priority.

As a result of the amendments to the enabling legislation and as part of the review programme of Councils bylaws, this has provided an opportunity for Council to review the appropriateness of the current Navigation Safety Bylaw and to determine if this is still the most appropriate format to meet the needs of our community today and for the future.

Queenstown Lakes District has an outstanding natural landscape with pristine lakes and rivers providing a beautiful environment for a variety of water activities from swimming, kite surfing and paddle boarding, sailing and wind surfing, as well as general boating and many other opportunities for both the recreational and commercial user.

The available facilities such as jetties, boat ramps and access lanes are used by many and must be managed to ensure they are used to their potential, but also in a safe manner.

## **OPTIONS**

Queenstown Lakes District Council has considered the most appropriate way of addressing navigation safety throughout the district, and has considered the issues identified, the outcomes sought and the appropriate methods to achieve these, and considers that the proposed Queenstown Lakes District Council Navigation Safety Bylaw 2014 is the most appropriate means for addressing the issues.

In considering if a bylaw is the most appropriate way of addressing the issues, Council has considered other options including:

1. Not enforcing
2. Education
3. Maritime Safety Enforcement
4. Status quo
5. Amended Bylaw

### No enforcement

As a number of the issues raised are not addressed through the MTA and there are serious navigation safety matters, this is not considered a viable option.

### Education

Public education is useful and necessary tool, which is used in various enforcement situations. However, this method has been found to be a less effective method of addressing the issues when used as a stand-alone tool, but is a positive additional tool when utilised with regulatory and enforcement provisions.

### Maritime Safety Enforcement

The MTA deals with general navigation safety matters. This does not however cover all aspects of issues identified in our community and is therefore not a viable option. The MTA also provides for the ability to develop a Navigation Safety Bylaw to address local issues.

### Status quo

Following targeted consultation, it is apparent that there are amendments necessary to the existing Navigation Safety Bylaw to ensure the issues in our community are addressed. Consequently, this is not a viable option.

## Amended Bylaw (This is the recommended option)

As there were amendments identified through targeted stakeholder consultation, the most appropriate manner of addressing the issues of Navigation Safety is believed to be an amended bylaw through the MTA and the LGA.

### **PROPOSED BYLAW**

The proposed bylaw includes the following key changes to the existing bylaw.

#### **Interpretations**

New definitions regarding drugs, alcohol and intoxication have been included.

The length of overall of a vessel is defined with simple a diagram of how it should be measured.

The life jacket definition has been amended to reflect the new prescribed standard.

#### **General**

- There is the inclusion of a specific section on River Boarding / Surfing regarding life jacket requirements.
- Life Jacket requirements has been expanded to state life jackets must be worn on all vessels under 6m in length e.g. this includes paddle boarders.
- Delegation for an exemption from the bylaw requirements are provided to the Harbourmaster

### **NEW ZEALAND BILL OF RIGHTS**

The proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 and is in the most appropriate form. It meets the requirements of section 155 of the Local Government Act 2002.

### **SUMMARY OF STATEMENT OF PROPOSAL**

A Summary of the Proposal containing the information required by section 83(1)(a)(ii) of the Local Government Act 2002 is included in Appendix 2 to this Statement of Proposal.

### **DISTRIBUTION OF SUMMARY OF STATEMENT OF PROPOSAL**

This proposal will be distributed in accordance with Section 83 of the Local Government Act 2002, on the following basis:

- a) Council will review its existing databases of organisations within the community with a potential interest in this matter and will write to each providing a copy of the proposal and indicating that the Council would welcome submissions of the matter.
- b) The Council will write to each of the previous submitters providing a copy of the proposal and indicating that the Council would welcome further submissions of the matter.
- c) The Council will advertise in the Otago Daily Times, Southland Times and in the Mirror, advising that the proposal exists and inviting further submissions.

## **Timetable for Consultation**

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

26 June 2014	Council adopts the proposed bylaw and resolves to undertake public consultation following the special consultative procedure
2 July 2014	Advertisement in Mirror and Wanaka Sun
5 July 2014	Advertisement in Otago Daily Times and Southland Times
4 August 2014	Submissions close 5pm
18 & 19 August 2014	Submissions heard by a subcommittee of Councillors (to be confirmed)
25 September 2014	Council considers outcome of consultation process. Adoption of bylaw.
1 October 2014	Public notice of final decision (if Council resolve to adopt the bylaw) The Bylaws come into effect subject to the above.

## **Inspection of Documents and Obtaining Copies**

Copies of this proposal, the draft Bylaw and the supporting reports may be inspected, and a copy obtained, at no cost, from:

- a) Either of the Council offices at 10 Gorge Road, Queenstown or the Wanaka Service Centre, 47 Ardmore Street, Wanaka
- b) Any Council library within the Queenstown Lakes District.
- c) The Council website – [www.qldc.govt.nz](http://www.qldc.govt.nz)

## **Right to Make Submissions and Be Heard**

Any person or organisation has a right to be heard in regard to this proposal and the Council would encourage everyone with an interest to do so.

The Council would prefer that all parties intending to make a submission set those submissions out in writing and submit them to the District Secretary, Private Bag 50072, Queenstown, no later than 5 PM on Friday 4<sup>th</sup> August 2014. The Council will then convene a hearing, which it intends to hold in 18<sup>th</sup> and 19<sup>th</sup> August 2014, at which any party who wishes to do so can present their submission in person.

Equal weight will be given to written and oral submissions.

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.

Every submission made to the Council will be acknowledged in accordance with the Act, will be copied and made available to the public, and every submission will be heard in a meeting that is open to the public.

Section 82 of the Local Government Act 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**

Written submissions can take any form (e.g. Email, 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.

Submissions on matters outside the scope of the Bylaw cannot be considered by the Hearings Panel.

Adam Feeley  
CHIEF EXECUTIVE

**APPENDIX 1** - Proposed Queenstown Lakes District Council Navigation Safety Bylaw 2014

**APPENDIX 2** - A Summary of the Statement of Proposal prepared in accordance with  
Section 83 Local Government Act 2002