

Full Council

19 September 2024

Report for Agenda Item | Rīpoata moto e Rāraki take [5]

Department: Strategy & Policy

Title | Taitara: Navigation Safety Bylaw 2018 review

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to present Council with proposed changes to the Navigation Safety Bylaw 2018 (**the current bylaw**), and seek that Council endorse the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 (**the draft bylaw**) for formal consultation, via the Special Consultative Procedure.

If Council endorses the draft bylaw and adopts the Statement of Proposal for consultation, officers will undertake formal consultation in accordance with the special consultative procedure from 8.00am 30 September to 5:00pm on 31 October 2024.

Executive Summary | Whakarāpopototaka Matua

QLDC is required to review its bylaws every five years, and in some cases every ten years. The bylaw is now coming up for its five-year review. The district's waterways can present many challenges for users due to their depth, speed and temperature. They attract many local, national and international visitors. Council has a responsibility to manage navigation safety under the Maritime Transport Act 1994 (**MTA**) so everyone can safely enjoy our lakes and rivers.

The current bylaw applies to all the district's navigable waters and the foreshore. It regulates a range of activities, including:

- a) the use or management of vessels,
- b) placing and maintenance of moorings and maritime facilities,
- c) nuisances arising from the use of vessels and people on the water,
- d) reserved areas,
- e) sporting, training, ceremonial, or other customary events,
- f) vessel traffic and anchorages, and
- g) life jacket use.

The current bylaw also prescribes offences and penalties for contraventions of its provisions.

Officers have identified nine main navigation safety issues that have been addressed through the review. These issues were identified on the basis of complaints and concerns received, discussions with QLDC Harbourmasters and regulatory staff, commercial operators, community groups, and recreational users.

This report considers a range of options to address the nine main issues and identifies a series of preferred options that officers consider to be the most effective and efficient means for Council to fulfil its obligations under the MTA in respect to these issues. A series of other smaller scale amendments are also recommended to address minor corrections to improve the clarity, legibility and overall accessibility of the bylaw. The preferred options have been informed by a range of stakeholders, including elected members, QLDCs Harbourmaster and regulatory staff, Maritime New Zealand (**MNZ**), commercial waterways operators, recreational users, and the general public.

Council is proposing to carry over the majority of provisions from the current bylaw and no amendments are proposed to these carried over provisions. These provisions form the balance of the draft bylaw and are important to ensure navigation safety in the district.

Table 1 identifies the key issues and briefly summarises the preferred options recommended by officers for incorporation into the draft bylaw for consultation. This report provides a comprehensive analysis of these issues, the available options, and their advantages and disadvantages with respect to the degree to which they provide for the effective and efficient implementation of QLDCs roles and responsibilities under the MTA.

All of the proposed changes are marked up in the draft bylaw at **Attachment A**. The current bylaw is attached as **Attachment J**.

Table 1 - Overview of key issues and preferred options

Issue	Officers recommended option(s)	Report section
Lifejacket use	Status quo – no amendments to the current bylaw requirements (i.e. carry over the current provisions)	Section 6
Ski lanes	<ul style="list-style-type: none"> Amend the location of some ski lanes, Remove some problematic ski lanes, Formally identify the existing Sunshine Bay ski lane, Improve the identification of ski lanes by way of more accurate GPS coordinates, Update ski lane identification maps, and Apply non regulatory mechanisms to improve compliance. 	Section 7 Attachment B
Albert Town Bridge – Recreational jumping	Mitigate the navigation safety risk associated with this activity by amending the bylaw to ensure vessels are separated from swimmers through the identification of vessel passage lanes. Vessels would be required to travel under the bridge using these passage lanes.	Section 8 Attachment C Attachment D Attachment E
Vessel identification	Amend the current bylaw to introduce new identification requirements for certain vessels.	Section 9 Attachment F
Events on the water	Amend the current bylaw to expand the scope of existing provisions so the Harbourmaster: <ul style="list-style-type: none"> needs to be notified of all events, 	Section 10

Issue	Officers recommended option(s)	Report section
	<ul style="list-style-type: none"> • has additional discretion to approve or refuse events applications based on the level of risk to navigation safety, and • can continue to approve or refuse events which already require an approval¹. <p>Amend the requirement to give public notice of any event requiring approval of the Harbourmaster by removing the need for a newspaper advertisement and associated time constraints.</p>	
Safe use of The Wave, Hāwea	No specific additional regulatory intervention is recommended. Investigate the use of additional signage and/or education.	Section 11
Vessel speed interpretation	<p>Amend the current bylaw to ensure the correct interpretation of vessel speed, including:</p> <ul style="list-style-type: none"> • Amending the definition of ‘<i>proper speed</i>’ to differentiate the way speed is measured on rivers vs on lakes, and • Introduce a speed uplifting for part of the Clutha River / Mata-Au relating to commercial vessels operating under a resource consent. . 	Section 12
Kawarau Dam access lanes	Amend the current bylaw to extend the existing upstream and downstream Kawarau Dam access lanes to address changing navigation safety conditions in this area.	Section 13 Attachment G
Carriage of communication devices	Amend the current bylaw to require the person in charge of a vessel to carry communication devices that are commensurate to the context and waterway.	Section 14
Other miscellaneous amendments	Undertake minor corrections to improve the clarity, legibility and overall accessibility of the bylaw.	Section 15 Attachment H

In addition to the recommended options set out in Table 1 above, officers note that QLDC undertakes case by case enforcement action in accordance with its Enforcement Strategy and Prosecution Policy 2021². This ranges from education through to escalated enforcement and infringement. This action complements the effectiveness and efficiency of each recommended option set out in this report. QLDC continuously evaluates initiatives to increase compliance. Work is undertaken through a variety of engagement tools. Council’s regulatory staff will consider feedback received through the bylaw review process to improve compliance. However, operational methods for improving bylaw compliance, education and enforcement are not within the remit of the bylaw review itself.

¹ events which require an uplift of speed restrictions, and/or need to temporarily reserve an area and/or suspend a designation of permanent access lanes or reserved areas

² <https://www.qldc.govt.nz/media/4v5kg35t/enforcement-strategy-and-prosecution-policy-2021.pdf>

In addition, it is noted that updated infringement regulations³ will be sought where appropriate after Council has adopted a new bylaw, to ensure effective regulation of navigation safety in the district.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Note** that the Wānaka Upper Clutha Community Board and the Community and Services Committee provided input on key issues in the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 for consultation;
3. **Determine** pursuant to section 155(1) of the Local Government Act 2002 that a bylaw is the most appropriate way of addressing the risks of navigation safety on the district's navigable waters;
4. **Determine** pursuant to 155(2)(a) of the Local Government Act 2002 that the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 is the most appropriate form of bylaw;
5. **Determine** pursuant to sections 155(2)(b) of the Local Government Act 2002, that the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 does not give rise to any implications under the New Zealand Bill of Rights Act 1990;
6. **Adopt** the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 (**Attachment A**) for consultation;
7. **Adopt** the Statement of Proposal in **Attachment I** and Summary of Proposal in **Attachment K** for consultation in accordance with the Special Consultative Procedure outlined in sections 83 and 86 of the Local Government Act 2002, from 8.00am Monday 30 September 2024 to 5.00pm Thursday 31 October 2024; and
8. **Appoint** four councillors (to be named) of which three are required to form a hearing panel to hear and consider the submissions on the proposal and make recommendations to the Council on adoption of a draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025.

³ <https://www.legislation.govt.nz/regulation/public/2019/0019/latest/LMS154808.html?src=qs>

Prepared by:



Name: Luke Place
Title: Principal Policy
Advisor

23 August 2024



Name: Isabelle Logez
Title: Monitoring,
Enforcement and
Environmental Manager

23 August 2024

Reviewed and Authorised by:



Name: Pennie Pearce
Title: Acting General Manager
Strategy and Policy

30 August 2024

Context | Horopaki

1. Bylaws – Scope and limitations

- 1.1. Bylaws are made under the Local Government Act 2002 (**LGA**) for one (or more) of the following reasons:⁴
- protecting the public from nuisance
 - protecting, promoting, and maintaining public health and safety
 - minimising the potential for offensive behaviour in public places
- 1.2. The MTA empowers regional councils to make navigation safety bylaws⁵ to ensure maritime safety. This power has been delegated to QLDC from Otago Regional Council (**ORC**). The MTA specifies a range of further powers to ensure maritime safety. Further, the MTA provides navigation bylaws unique powers to enforce using infringement fines.

2. The bylaw review process

- 2.1. The bylaw was made in March 2018. The LGA sets out that a bylaw must be reviewed within five years of the date it is first made⁶. If it is not reviewed within 5 years there is a two-year grace period⁷ within which the bylaw is still valid, after which it is automatically revoked. A review done in the two-year grace period invokes a subsequent five-year review requirement. The bylaw has passed the five-year review date (which in this case is March 2023), and will automatically expire if not reviewed prior to March 2025.
- 2.2. Before commencing the process for making a bylaw (including consultation) under the LGA or the MTA, Council is required to make determinations set out under section 155 of the LGA. These determinations require a consideration of whether a bylaw is the most appropriate way of addressing the perceived problem, whether the draft bylaw is in the most appropriate form, and if it gives rise to any implications under the New Zealand Bill of Rights Act 1990. These requirements are canvassed in this report.
- 2.3. The bylaw has now reached the stage in the review process where it is ready to be considered by elected members for public consultation. The current progress for the bylaw review is set out in **Figure 1** below.



Figure 1 – High level overview of the bylaw review process.

⁴ LGA Section 145

⁵ MTA Section 33M

⁶ LGA Section 158

⁷ LGA Section 160A

3. Identification of key issues

3.1. Officers identified nine main issues for the bylaw review. These include:

- a) lifejacket use,
- b) events on the water,
- c) ski lanes,
- d) safe use of 'The Wave' on the Hāwea River,
- e) vessel identification,
- f) Albert Town Bridge recreational jumping, and
- g) vessel speed interpretation
- h) Kawarau Dam access lanes,
- i) carriage of communication devices, and
- j) other miscellaneous amendments/minor corrections to improve the clarity, legibility and overall accessibility of the bylaw.

3.2. These issues have been identified on the basis of complaints and concerns received, discussions with QLDCs Harbourmaster and regulatory staff, commercial operators, community groups, and recreational users.

4. Early engagement activities

4.1. To understand community views, Council undertook a period of pre-engagement between October and November 2023. During this feedback period, 67 responses were received, 51 via a Let's Talk survey and 16 by email.

4.2. In October 2022 Council undertook informal public consultation in relation to the district's ski lanes. This consultation was undertaken independent of the current review process on the basis of observed user conflicts within the district's ski lanes. During this engagement 160 responses were received. This feedback has also been considered as part of this review.

4.3. Officers conducted a public workshop with elected members on 16 April 2024. The purpose of this workshop was to collect councillor feedback to narrow the reasonably practicable options to address identified issues. This feedback has guided officers in the preparation of preferred options.

4.4. On 11 July 2024 the Wānaka Upper Clutha Community Board (**WUCCB or the Board**) were presented with a report⁸ outlining issues being addressed through the review. The Board agreed to note the contents of the report and to note the development of a draft QLDC Navigation Safety Bylaw. The Board also provided feedback on a range of issues, and officers' recommended options. This feedback has been taken into consideration and officers have undertaken additional analysis in relation to a number of key issues.

⁸ <https://www.qldc.govt.nz/your-council/council-meetings/11-july-2024-wanaka-upper-clutha-community-board-meeting/>

- 4.5. On 8 August 2024 the Community and Services Committee (**the Committee**) were presented with a report⁹ outlining issues being addressed through the review. The Committee agreed to note the contents of the report and to note the development of a draft QLDC Navigation Safety Bylaw. The Committee provided feedback on a range of issues. This feedback has been taken into consideration and officers have undertaken additional analysis where necessary.
- 4.6. Officers have shared advice on the bylaw review with Kāi Tahu, MNZ and Waka Kotahi NZTA (in the case of the Albert Town Bridge). Feedback received has been considered in the development of the recommended options. Council has directly consulted with MNZ in accordance with s33M(1) of the MTA.

Analysis and Advice | Tatāritaka me kā Tohutohu

5. Sections 6 – 15 of this report explore each of the key issues, options, and recommended option in turn.

6. Lifejacket use

6.1. Issue discussion

- 6.1.1. The MTA¹⁰ empowers MNZ to create rules relating to lifejackets. National maritime rule 91.4¹¹ sets the legal framework for lifejackets. It places a responsibility on skippers to ensure correctly sized lifejackets¹² are available for each person onboard a vessel. Skippers are required to ensure lifejackets are worn in situations of heightened risk¹³. Part 91 also sets standards for the type of lifejackets required¹⁴. The standards of Rule 91 can be enforced locally by harbourmasters and regional council enforcement officers.
- 6.1.2. Section 33M(1)(i) of the MTA provides for navigation bylaws to specify additional lifejacket regulations relevant to localised conditions, but they cannot be less prescriptive than Part 91. As such, councils have some discretion regarding lifejacket requirements.
- 6.1.3. The district has many lakes and rivers that attract year-round use from residents and visitors. Given this, lifejacket use is considered important to maintain high levels of navigation safety, and it is important that the bylaw's lifejacket rules are fit for purpose.
- 6.1.4. The current bylaw's lifejacket provisions essentially replicate those contained within Part 91.4. Key points of difference include that:
- every person must wear a lifejacket on a recreational vessel 6 metres or less in length while the vessel is making way,

⁹ <https://www.qldc.govt.nz/your-council/council-meetings/8-august-2024-community-services-committee-meeting/>

¹⁰ Section 36(t) and (tb) of the MTA

¹¹ <https://www.maritimenz.govt.nz/media/rhwkcqt1/part91-maritime-rule.pdf>

¹² Lifejackets are also known as personal flotation devices or buoyancy aids

¹³ When crossing a bar, in rough water, during an emergency, and by non-swimmers

¹⁴ New Zealand standard NZS 5823:2001

- b) every person who is 10 years old and under must wear a lifejacket on a recreational vessel greater than 6 metres in length at all times,
- c) every person must wear a lifejacket on a recreational jet boat while the vessel is making way, and
- d) any person on a surfboard, paddleboard or other similar unpowered craft is not required to wear a lifejacket if a full wetsuit is worn at all times.

6.1.5. Key messages obtained during early engagement with regard to lifejackets included:

- a) overall support for existing provisions
- b) more enforcement and education
- c) a different approach for paddle boarders
- d) Re-consider thresholds relating to vessel size
- e) distance to shore as a possible trigger
- f) clarity over definitions (i.e. ‘making way’ and ‘underway’)

6.2. Options

6.2.1. A range of options have been considered to address this issue and the abovementioned feedback. These options are described in **Table 2**:

Table 2 – Options for addressing lifejacket issue

Option		Description	Recommendation
A	Status quo	Maintain the current provisions without any amendments.	Recommended
B	Compulsory at all times on all craft	<p>Introduce additional obligations by requiring skippers to ensure any person on every type of vessel of any size wears lifejackets.</p> <p>This option would remove the 6-metre vessel length threshold and expand the quantum of vessels subject to lifejacket requirements.</p> <p>This option would likely result in more people being required to wear lifejackets.</p>	Not recommended
C	Geographical based requirements (considering a more permissive approach for paddle boards/other similar ‘play’ type craft depending on their distance from shore)	<p>Determine lifejacket use on the basis of a vessel’s location. This could be in relation to its distance from shore or any other specific risk-based location requirements.</p> <p>This option would likely result in fewer people being required to wear lifejackets.</p>	Not recommended
D	Amend vessel size thresholds	Amend the specific vessel length threshold which triggers the need to wear a lifejacket.	Not recommended

Option	Description	Recommendation
	<p>While a specific vessel length is not proposed as part of this option assessment, a more restrictive approach would see the length threshold increased (likely resulting in more people being required to wear lifejackets), while a less restrictive approach would see the length threshold decreased (likely resulting in fewer people being required to wear lifejackets).</p>	

6.3. Recommended option and analysis

6.3.1 The recommended option for addressing this issue is option A – Status Quo.

6.3.2 Current MNZ advice is that lifejackets should be worn on recreational craft 6 metres or less in length. MNZ analysis illustrates that most recreational boating fatalities involve vessels 6 metres or less in length¹⁵ and that many fatalities could have been prevented if a lifejacket was worn. MNZ also recommend that non-swimmers and children wear lifejackets at all times. This evidence supports the bylaw’s current lifejacket provisions (in particular, those relating to vessel size thresholds).

6.3.3 Officers have considered a framework which could enable paddleboarders or those on unpowered vessels intended for ‘water play’ to be excluded from wearing lifejackets based on locational attributes. It is noted that the definition of ‘vessel’¹⁶ encompasses a wide range of craft, including an unpowered ‘inner tube’. All such craft are subject to the lifejacket provisions unless explicitly excluded in Part 3 of the bylaw. MNZ consider that lifejackets should be worn on all recreational craft 6 metres or less in length, except on a board being used in surf, if a person is secured to the board by a leash.

6.3.4 Officers acknowledge that a less restrictive framework (such as in options C or D) may be more convenient and flexible for waterway users on vessels intended for ‘water play’. A more flexible rule framework may also provide efficiencies in terms of monitoring and enforcement. However, a degree of flexibility is already built into the bylaw’s lifejacket provisions with regard to the use of paddle board type craft. In particular, any person on a paddle board (or a surfboard, sailboard, windsurfer, or other or similar unpowered craft) is not required to wear a lifejacket if a full wetsuit is worn at all times¹⁷. On balance, officers consider that any further relaxation of these provisions would not be prudent and may introduce additional navigation safety risks for some waterways users.

¹⁵ https://www.maritimenz.govt.nz/public/researchers/recreational-research/#rec_fatality_2015_20

¹⁶ Clause 6.1 (page 11)

¹⁷ Clause 22.1(a)

- 6.3.5 Officers have considered the application of a 200 metre from shore lifejacket threshold. This approach could align well with existing speed restrictions which limit vessel speed to 5 knots within 200 metres of the shore¹⁸ or within 50 metres of any other person in the water¹⁹. However, this more permissive approach may have unintended adverse consequences for navigation safety, noting that 200 metres is a long distance from shore for a person in distress, or where a strong offshore wind could quickly push them further from shore. In addition, it is noted that the district's waterways are unique in terms of their depth, speed and temperature. These attributes do not support a more permissive lifejacket regime.
- 6.3.6 Lifejackets are only required to be worn under the current provisions if a recreational vessel 6 metres or less in length is 'making way' (i.e. if it being propelled / if it is moving). If the vessel is not moving, the provisions do not require all people to wear lifejackets unless directed to by the person in charge of the vessel²⁰. Despite this, lifejackets are required to be readily available for all people at all times on recreational vessels 6 metres or less in length²¹, and any person 10 years old or under is required to wear a lifejacket at all times on a recreational vessel of any size²². The provisions also require lifejackets to be worn during dangerous situations whether the vessel is making way or not²³. As such, officers consider that the most vulnerable people, vessel types and situations are appropriately managed by the bylaw provisions, whether the vessel is making way or not.
- 6.3.7 On balance, it is recommended that the existing lifejacket provisions are fit for purpose. Council does not have any reported events which suggest the lifejacket provisions are failing to achieve officer's navigation safety expectations, and the provisions are well supported by MNZ evidence on waterways fatalities. As such, it is considered that that option A (status quo) is the most efficient and effective means to ensure Council meets its roles and responsibilities under the MTA.

7. Ski lanes

7.1. Issue discussion

- 7.1.1. Ski lanes refer to an 'access lane' with the purpose of enabling powered craft (including jetskis) towing water skiers to leave or approach the foreshore at speeds exceeding 5 knots. Ski lanes are contained within Table 2 (Upliftings for Water Ski access lanes) of Schedule 2(3) of the bylaw. The bylaw identifies 10 ski lanes in Lake Whakatipu, six in Lake Wānaka and one at Lake Hāwea.
- 7.1.2. It is important to note that the existence of a ski lane in a location, prevents the area from being used by recreational swimmers. Judicious placement of ski lane locations is therefore important to ensure equitable enjoyment of lakes and rivers.

¹⁸ Clause 9.1(b)

¹⁹ Clause 9.1(a)

²⁰ Clause 19.1

²¹ Clause 18.1

²² Clause 19.3

²³ Clause 21.1

- 7.1.3. Each ski lane is identified by two orange and black foreshore poles. Typically, their extent is also identified by buoys 100 metres offshore. Signage is included in and around the foreshore detailing how ski lanes are/are not to be used.
- 7.1.4. Currently, the bylaw provides one GPS point for the general location of ski lanes. A review of these GPS points has shown they do not align well to the physical location of ski lanes.
- 7.1.5. The bylaw specifies that:
- no person may swim in any access lane²⁴,
 - no person in charge of a vessel may operate a vessel in a manner that obstructs or impedes the passage of any other person²⁵,
 - no person within an access lane may proceed in any manner that is dangerous²⁶, and
 - if one or more persons are using an access lane no person may enter, remain in or use the lane for any other purpose²⁷.
- 7.1.6. Ski lanes are typically located in easily accessible and high amenity areas with good water conditions that promote safe ski activities. They may also be located in close proximity to vessel launch areas, picnicking spots, water sports clubs and popular swimming areas. Together, these conditions can create user conflicts that can also lead to navigation safety issues.
- 7.1.7. Key messages obtained during early engagement with regard to ski lanes include:
- The majority of respondents considered existing ski lane locations to be inappropriate.
 - There are conflicts between users and congestion during peak times.
 - Compliance and safety issues were noted.
 - Ambiguous markings (signage and buoys).
 - Some feedback related to specific ski lanes – targeted changes to improve usability and safety.
 - Ski lanes not working due to a lack of understanding
 - Appropriate to review locations including Frankton, Bobs Cove, Wilson Bay.
 - Safety and education programmes are important.
 - Roys Bay – short term restriction is useful.

7.2. Options

- 7.2.1. A range of options have been considered to address ski lane related issues and the abovementioned feedback. These options are described in **Table 3**.

²⁴ Clause 42.2

²⁵ Clause 42.3

²⁶ Clause 42.4

²⁷ Clause 42.5

Table 3 – Options for addressing ski lane issues

Option		Description	Recommendation
A	Status quo	Maintain the current provisions and ski lanes without any amendments.	Not recommended
B	Amend or remove specific ski lanes to address known issues Update ski lane identification maps in the bylaw	A number of ski lanes are creating (or are perceived to be creating) user conflicts or other navigation safety concerns. This option would involve either relocating or removing ski lanes from known popular beach picnicking and swimming spots or other features such as environmental constraints, recreational clubs, wharves, jetties or vessel launch facilities where navigation safety risks exist. This option could also involve the introduction of seasonal restrictions to some ski lanes to mitigate navigation safety risks.	Recommended
C	Establish additional ski lanes Update ski lane identification maps in the bylaw	New ski lanes could be established to address congestion and user conflict issues identified. These ski lanes could be created in the vicinity of existing ski lanes that may be subject to higher levels of use or congestion during peak periods.	Recommended (with respect to the Sunshine Bay ski lane only)
D	Create areas for passive water users (i.e. swimmers, non-motorised craft) to provide additional separation Update ski lane identification maps in the bylaw	Create additional separation between ski lane users and other passive waterways users to mitigate identified user conflicts.	Not recommended
E	Improve ski lane identification and public understanding/compliance Update ski lane identification maps in the bylaw	Use a combination of regulatory and non-regulatory mechanisms to mitigate identified issues. It would address administrative inaccuracies related to ski lane locations (i.e. by improving the accuracy of GPS points in the bylaw), and operational tools (i.e. signage, education and enforcement) to improve public understanding and compliance with existing requirements.	Recommended

7.3. Recommended option and analysis

7.3.1. The recommended options for addressing ski lane issues are a combination of option B and E, and with respect to the Sunshine Bay ski lane only, option C.

7.3.2. Option B is considered to be the most efficient and effective means to address the range of known issues associated with specific ski lanes. **Attachment B** provides a summary of the 2022 ski lane engagement feedback, an analysis of known ski lane issues, options that have been considered to address these issues, and officer’s recommended options in regard to each ski lane. **Table 4** below provides an overview of officer’s recommended option for each ski lane. Officers have sought input from the Harbourmaster and QLDCs regulatory staff who support the recommended options.

Table 4 – Recommended options relating to each of the district’s ski lanes

Ski lane ²⁸	Recommended Option
Lake Whakatipu ski lanes	
Kelvin Grove	Amend – Reduce width of ski lane by shifting the eastern pole 50 metres west
Wilson’s Bay	Amend – Retain ski lane but shift approximately 80 metres west by moving the right pole to the left pole location
Buckler Burn	No change
Kingston Main Beach	No change
Bobs Cove	No change
Sunshine Bay	Amend – Formally establish the ski lane within the bylaw and shift the ski lane poles 50 metres east away from the boat ramp and swimming area
Kinloch Main Beach	Remove ski lane
Frankton Beach	Remove ski lane
Willow Place West Side	Remove ski lane
Loop Road	Remove ski lane
Frankton Arm North Side	Remove ski lane
Lake Wānaka ski lanes	
Roys Bay – Main Beach adjacent to Pembroke Park	Remove ski lane
Roys Bay – Eely Point	Remove ski lane
Roys Bay – Waterfall Creek	Remove ski lane
Dublin Bay	No change
Glendhu Bay – East	Amend – Reduce the width of the ski lane by shifting the western pole east by 50 metres
Glendhu Bay – West	No change

²⁸ Note – the current ski lane locations are shown in maps 4, 6, 7, 9 and 12 of the current bylaw.

Ski lane²⁸	Recommended Option
Lake Hāwea ski lanes	
Lake Hāwea	No change

- 7.3.3. In addition to the specific amendments detailed in **Table 4** (and supported by Attachment B), option E encompasses a series of actions to a) ensure ski lanes are identified accurately in the bylaw (by way of improving the accuracy of GPS points in Table 2 – Access Lanes of Schedule 2), and b) to ensure QLDC manages the ski lanes in a way that gives effect to its roles and responsibilities under the MTA.
- 7.3.4. The current bylaw contains a number of provisions to manage user conflict and associated navigation safety, including in and around ski lanes. These provisions²⁹ control jumping, diving and swimming around jetties and wharves, prevent swimmers from entering ski lanes, prevent vessel obstructions and dangerous behaviour, manage congestion in ski lanes, control vessel speed in proximity to any structure or person, prevent skiing outside daylight hours, require incidents to be reported, and provide the Harbourmaster with enforcement discretion to ensure navigation safety.
- 7.3.5. Officers consider that these existing provisions provide reasonably practicable direction for waterways users, the Harbourmaster and Council’s regulatory staff to ensure ski lanes are used in a safe manner.
- 7.3.6. Officers’ recommended vessel identification provisions (discussed further below) would improve the efficiency and effectiveness of monitoring and enforcement provisions in circumstances where a vessel may be reported as operating in contravention of the bylaw.
- 7.3.7. Options C (excluding reference to the Sunshine Bay ski lane) and D involve specific bylaw amendments that may address some of the identified issues. However, they are not considered efficient or effective as they would create new access lanes or similar restricted use areas with the same or similar likelihood of user conflict. As noted above, a combination of options B and E is most appropriate as it proactively responds to site specific concerns and promotes compliance with existing provisions.
- 7.3.8. Although these recommendations are based on material navigation safety concerns (as described in Attachment B) it is also noted that their removal will reduce the number of ski lanes available for use across the district. Members of the WUCCB and Community and Services Committee raised concerns in regard to this matter. Officers are not opposed to the identification of new ski lanes to replace some or all of the removed ski lanes. However, any replacement or new ski lanes would need to be located in areas that overcome or avoid those existing navigation safety risks that have been identified, and be located, used and managed in way that QLDCs Harbourmaster and regulatory staff are satisfied that they would meet the purpose of the MTA and the bylaw.

²⁹ Clauses 42.2, 42.3, 42.4, 42.5, 9.1(a)(b) and (c), 10.1, 24.1, 28.1(a) and (b), 39.1, 40.1

- 7.3.9. A potential consequence of removing existing ski lanes without replacements may be additional vessel congestion in and around the remaining ski lanes during peak times. The bylaw contains provisions which control ‘*conduct in access lanes*’³⁰. These provisions prevent any person in charge of a vessel obstructing or impeding the passage of any other person using an access lane³¹, and prevent any person operating in a dangerous manner in relation to any vessel or other person in an access lane³². While these provisions are designed to ensure safe use within the ski lanes, they are not intended to directly manage congestion or vessel conduct outside of ski lanes. Despite this, the bylaw does set out general navigation safety requirements when operating a vessel outside of ski lanes that includes a requirement to navigate with all due care and caution and at a speed and manner so as not to endanger any person³³, to take appropriate action to immediately recover any water ski or similar object which may cause danger to any other person or vessel³⁴, and to prevent nuisance any other person³⁵.
- 7.3.10. Option D would provide specific areas for swimmers or other non-powered users. However, popular swimming areas are already informally identified to promote user separation³⁶. These informal areas, coupled with the existing abovementioned provisions, are considered sufficient to address any actual or perceived navigation safety risk between vessels and swimmers/non powered users.
- 7.3.11. Option A (status quo) is not considered efficient or effective. It does not sufficiently respond to the site-specific ski lane issues identified in Attachment B and fails to recognise the range of benefits associated with the regulatory and non-regulatory operational mechanisms inherent in the bylaw’s existing provisions.
- 7.3.12. With respect to the ski lane at Sunshine Bay only, officers recommend option C – establish additional ski lanes. This option is recommended on the basis that the ski lane is not currently formally identified with the bylaw despite it being physically established through demarcation of ski lane poles and buoys. In addition, it is recommended that the ski lane’s location be amended marginally (by approximately 50 metres) to move it away from the existing boat ramp. This option would address a minor administrative matter that would improve the clarity of the bylaw and enable QLDCs Harbourmaster and regulatory staff to enforce the provisions of the bylaw with respect to this ski lane to ensure navigation safety is maintained.

8. Albert Town Bridge – Recreational jumping

8.1. Issue discussion

³⁰ Clause 42

³¹ Clause 42.3

³² Clause 42.4

³³ Clause 7.1(a)

³⁴ Clause 9.6

³⁵ Clause 16

³⁶ Lake Wānaka Boating Guide, Lake Hāwea Boating Guide
<https://www.qldc.govt.nz/recreation/lakes-and-boating/>

- 8.1.1. The Albert Town Bridge (**the bridge**) is part of Waka Kotahi NZTA’s state highway network, providing access over the Clutha River / Mata-Au between Wānaka and Hāwea. The bridge contains a walking/cycling path separated from the vehicle carriageway.
- 8.1.2. QLDC has received concerns and complaints of people jumping from the bridge into the river. Vessels frequently use this stretch of the river. Swimmers (once jumped) can therefore create a navigation safety risk, which is the specific purview of this bylaw. Vessels may be travelling at speed³⁷, and it can be difficult to identify if someone is on the bridge about to jump, or if someone is already in the water.
- 8.1.3. As part of early engagement, QLDC asked respondents to provide insights to this issue. The online survey asked, ‘do you think QLDC should take action to address the potential navigational hazard caused by people jumping off the Albert Town Bridge?’:
- 50% of respondents indicated that QLDC should not take action
 - 19% of respondents indicated that action should be taken
 - 31% of respondents didn’t know or didn’t respond to this question
 - A range of suggestions were provided to improve safety i.e. designating jumping spots and identifying vessel lanes, prohibiting powered vessels from this area.
 - Some opposition was expressed with regard to further regulation and site-specific rules.
 - Feedback noted that QLDC needs to be conscious of its health and safety responsibilities, and enforcement challenges associated with any action.
- 8.1.4. QLDC engaged Drowning Prevention Aotearoa³⁸ (**DPA**) to undertake an independent risk assessment of bridge jumping to inform Council’s understanding of the risk, and what actions could be taken. DPA’s risk assessment and findings is included as **Attachment C** to this report. Key findings from DPA are set out in **Table 5** below.

Table 5 – Key findings from the DPA risk assessment

Waterways user/activity	Key findings – See Attachment D for DPA risk matrix definitions and rating scores
Jumper / Manu ³⁹	Risk Level: Extreme
Swimmers	Risk Level: High
Powered Craft User	Risk Level: High
Vehicles	Risk Level: Medium
Track or Bridge User – Walker/Cyclist	Risk Level: Medium
Non-powered Craft (Passive) User (i.e. Floaters (drifters) / kayakers / paddleboarders, rafting etc)	Risk Level: Medium
Kai Gatherer	Risk Level: Medium

³⁷ Note: Clause 35 sets out that no powered vessels may operate in the area between the Outlet Camping Ground and the Albert Town Bridge between 1 December and 30 April. Exceptions are provided for vessels operating under the conditions of an approved resource consent, if a vessel is carrying out specific activities permitted under the Proposed District Plan, or is being operated by the Harbourmaster. Between 1 May and 30 November any powered vessel operating in this area is subject to a 5 knot speed limit.

³⁸ <https://www.dpanz.org.nz/>

³⁹ Te Reo term for jumping or diving

8.2. Options and analysis

8.2.1. A range of options have been considered to address this issue, in response to the abovementioned feedback and DPA advice. These options are described in **Table 6** below:

Table 6 – Options for addressing navigation safety risk associated with people jumping from the bridge

Option		Description	Recommendation
A	Status quo	Maintain current provisions in the bylaw. It would result in no new or amended provisions relating to people jumping from the bridge. People could continue jumping into the river without any additional controls.	Not recommended
B	Amend the bylaw (and undertake other non – regulatory mechanisms) to address the waterways users/activities identified by DPA as having an ‘extreme’ or ‘high’ risk: <ul style="list-style-type: none"> - Jumper / Manu - Swimmers - Powered crafts 	Respond directly to the DPA assessment by adopting recommendations put forward by DPA to address the waterways users/activities which have an elevated level of risk. This would involve the creation of vessel passage lanes directing powered draft through the bridge.	Recommended
C	Amend existing provisions enabling the Harbourmaster to prevent jumping, diving, swimming or other activities at their discretion.	Clause 28 of the current bylaw provides discretion to the Harbourmaster to prevent jumping, diving, swimming or other activities around wharves or jetties to ensure navigation safety. This option would expand Clause 28, so it also applies to any bridge. This would enable the Harbourmaster to use discretion to prevent actions in this part of the river.	Not recommended
D	Introduce provisions that prohibit swimming around the bridge.	The introduction of such provisions would prevent swimming around the bridge, and theoretically equate to a jumping ban.	Not recommended

8.3. Recommended option and analysis

- 8.3.1. The recommended option for addressing the bridge jumping issue is option B. Option B would involve the following regulatory based mechanisms:
- a) Create defined upstream and downstream passage lanes for powered craft under the bridge to create separation from the known jumping/swim area.
 - b) Signpost the middle lane of the bridge as a powered craft passage lane to minimise collision risks with people in the water.
- 8.3.2. **Attachment E** includes an image that illustrates the recommended locations for the upstream and downstream powered craft passage lanes. These passage lanes are intended to separate vessel traffic from the area jumpers are generally understood to enter the water. Option B could also include non-regulatory mechanisms recommended by DPA, including hazard signage, installing public rescue equipment, and water depth markers. These mechanisms are operational in nature and sit outside of the bylaw. They may require further analysis by QLDCs Harbourmaster and regulatory staff. Further, some non-regulatory mechanisms will need to be considered in partnership with Waka Kotahi NZTA as owners of the bridge, and any other relevant stakeholders.
- 8.3.3. Option B is considered most efficient and effective as it provides a ‘middle ground’ that ensures vessel traffic is separated from swimmers/people who have jumped from the bridge if they choose to do so. It would alert powered vessels of swimmers/jumpers, and therefore mitigate navigation safety risk.
- 8.3.4. Option B acknowledges that QLDCs Harbourmaster and regulatory staff will not be present to monitor and enforce activities in this area at all times. By contrast, options C and D would rely on an almost continuous presence of QLDCs Harbourmaster and/or regulatory staff (at least during peak summer months), which is not practical.
- 8.3.5. Option B is well supported by the independent expert assessment and recommendations of DPA, and is therefore considered more robust and effective than options A, C and D. The selection of options A, C or D may be subject to challenge as they do not align well with DPAs findings.
- 8.3.6. Option B recognises that people may continue to jump from the bridge. Officers consider that options C and D do not sufficiently take into account the ongoing possibility of the activity taking place without sufficient mitigation, possibly resulting in unintended navigation safety consequences. However, officers highlight that it is not the intention of option B to endorse jumping, nor to specifically enable the activity. It is noted that the bylaw continues to provide the Harbourmaster with wide ranging enforcement capabilities to prohibit or restrict activities if they are not satisfied that adequate precautions have been taken to ensure the health or safety of any person or the public⁴⁰. Officers acknowledge that that option B (or indeed further any action taken to manage this issue) may create a perception that jumping/swimming in and around the bridge is without risk. While option B would mitigate

⁴⁰ Clause 55.1

the identified navigation safety risk, signage would be considered for this area to notify users of any relevant residual navigation safety risks in this area.

- 8.3.7. Option A is not considered appropriate as it does not sufficiently respond to the DPA assessment and recommendations. Further, it would not satisfy QLDCs roles and responsibilities under the MTA.
- 8.3.8. There are existing restrictions on vessels operating on this part of the Clutha / Mata-Au River⁴¹. These restrictions play some role in reducing vessel traffic through this area, but do not remove it at all times throughout the year. As such, officers have recommended the introduction of additional controls. These existing restrictions do not prevent a small group of commercial vessel operators from travelling through this area if they hold a resource consent approved by QLDC. Officers have considered managing the identified navigation safety risks through the use of informal relationships, education and communication with resource consent holders that operate all year round. This option is not considered effective or efficient as it would rely on an approach that is not enforceable and does not further clarify the risk that exists to all vessel operators. Further, it does not well manage residual risks, including from other vessels (i.e. recreational vessels) that may also travel through this area at any time of the year either in compliance or otherwise with the existing restrictions. Overall, this approach is not well supported by the DPA findings, and would not support QLDC in fulfilling its obligations to achieve navigation safety under the MTA.
- 8.3.9. It is noted that QLDCs responsibilities for the purpose of this bylaw review relate to protecting, promoting, and maintaining public health and safety as per section 145 of the LGA, as well as the management of navigation safety as required under the MTA. Officers consider that the risk assessment undertaken by DPA provides Council with the information necessary to make an informed decision on how to manage this risk. Option B is considered to addresses these obligations and the identified risk.

9. Vessel identification

9.1. Issue discussion

- 9.1.1. QLDC's bylaw does not currently require vessels to be identifiable. This impacts the capacity and capability for QLDC to implement its roles and responsibilities under the MTA. In particular, it limits the ability for QLDCs Harbourmaster to respond to waterway incidents and complaints involving vessels (including emergency events). This is because it can be very difficult to locate vessels based on a second-hand description of their appearance alone.
- 9.1.2. It is noted that many other navigation safety bylaws around the country require vessels to be identified⁴², making QLDCs bylaw somewhat of an outlier.

⁴¹ Clause 35

⁴² Otago Regional Council Navigation Safety Bylaw 2020, Canterbury Regional Council Navigation Safety Bylaw 2023, Marlborough District Council Navigation By law 2023, the Nelson City Council Navigation Safety Bylaw 2012, Wellington Regional Navigation Safety Bylaws 2021, Waikato Regional Council 2013 Navigation Safety Bylaw, Auckland Council Navigation Bylaw 2021, Hawke's Bay Navigation Safety Bylaw 2024

9.1.3. However, there are no national requirements or direction requiring navigation safety bylaws to include vessel identification provisions. MNZ has some existing requirements for commercial and pleasure vessels to be identified⁴³. These requirements largely provide nationality to ships that travel overseas. This situation is very unlikely to apply to any vessel on the district’s waterways. Vessel owners do have the option to register with MNZ if they choose to. As such, Council has a choice about whether or not to introduce such a requirement, and if so, what form it should take. An absence of national direction has resulted in some variation between bylaws in terms of the specific nature of identification.

9.1.4. Key messages obtained during early engagement with regard to vessel identification include:

- a) Overall support for considering different options for vessel identification.
- b) Suggestions for identification varied from vehicle/trailer registration, name of vessel, QLDC specific ID number.
- c) QLDC needs to be conscious of enforcement and implementation challenges.
- d) The use of IT should be considered to ensure implementation is effective and efficient.

9.2. Options and analysis

9.2.1. A range of options have been considered to address this issue and in response to the abovementioned feedback. These options are described in **Table 7** below.

Table 7 -Options for addressing the issue of vessel identification

Option		Description	Recommendation
A	Status quo	Maintain the current approach which does not require vessel identification.	Not recommended
B	QLDC specific identification system	Introduce new provisions requiring vessel identification. This option requires the development of system unique to the district. QLDC would develop an online registration platform and manage its administration.	Not recommended
C	Apply a similar approach to ORCs vessel identification provisions with some amendments	Amend the bylaw to introduce vessel identification provisions. ORC included vessel identification requirements in their Navigation Safety Bylaw 2020 ⁴⁴ . These requirements prevent any person from operating a vessel that meets specific size thresholds unless it meets the identification provisions. This option would rely on a range of existing data sources and provide vessel owners with	Recommended

⁴³ <https://www.maritimenz.govt.nz/commercial/ships/ship-registration/>

⁴⁴ Section 15 (Vessels to be identified)

https://www.orc.govt.nz/media/9185/orc-navigation-safety-bylaw_forweb_2020-09-23.pdf

Option	Description	Recommendation
	<p>flexibility to choose which type of registration method best suits their vessel.</p> <p>Vessel owners would not be required to register with Council, nor would Council be required to administer a registration system.</p>	

9.3. Recommended option and analysis

- 9.3.1. Officers' recommended option for addressing this issue is option C - Apply a similar approach to ORCs vessel identification provisions with amendments to improve their clarity and usability. The full text of officers' recommended vessel identification provisions, is included in **Attachment F**.
- 9.3.2. The recommended provisions would prevent any person from operating a specified vessel unless it meets the identification requirements.
- 9.3.3. The recommended option would enable a range of different forms of identification, including a MNZ registration (if the vessel is registered with MNZ), a sporting body registration, a radio call sign, trailer registration number, or a sail number.
- 9.3.4. Not all vessels would be required to meet the full suite of recommended identification requirements, with smaller unpowered vessels simply needing to have the owners' name and contact details noted somewhere on the vessel.
- 9.3.5. Introducing vessel identification provisions that are similar to those in ORCs Navigation Safety Bylaw 2020 would provide a consistency across Otago. It is also noted that the Environment Canterbury Navigation Safety Bylaw 2016 has a similar set of vessel identification requirements⁴⁵ to those of ORC. Such policy alignment provides efficiencies for vessel owners, QLDCs Harbourmaster and regulatory staff. This is important as it is acknowledged that many people bring vessels to the district from other areas. Vessels compliant with other authorities' identification requirements would also satisfy the recommended provisions.
- 9.3.6. An identification requirement unique to the district (i.e. option B) would limit the 'pool' of identification data that would otherwise be accessible via the recommended provisions, and insufficiently recognise the efficiencies of regional consistency.
- 9.3.7. The recommended provisions provide a high degree of flexibility in terms the type of identification. This is efficient for vessel owners as it allows them to rely on a form of existing identification if it applies to them.

⁴⁵ Section 20 (Vessels to be identified)
<https://www.ecan.govt.nz/document/download?uri=2473039>

- 9.3.8. The proposed requirements would provide QLDCs Harbourmaster and regulatory staff with additional tools to fulfil their roles and responsibilities under the MTA and deliver improved customer service. In particular, requiring vessels to be identified would improve the effectiveness and efficiency of incident and compliant responses.
- 9.3.9. The recommended option would promote efficient administration and implementation of the bylaw because they would rely on a range of existing data sets, including a MNZ registration (if the vessel is registered with MNZ), a sporting body registration, a radio call sign, trailer registration number, or a sail number. QLDC can access this information to carry out its compliance and regulatory functions. In contrast, option B would require the establishment and maintenance of a unique vessel registration system. This system would need to be administered entirely in-house with additional resources needing to be allocated (or reallocated) to manage it successfully.
- 9.3.10. While the proposed provisions would require vessel owners to ensure their vessel name or number is displayed in a way that meets the standards, it would not impose a registration fee on account of its low administration cost. In contrast, option B would likely need to be cost recoverable (at least in part) due to its administration requirements, and therefore necessitate the application of a registration fee for vessel owners.
- 9.3.11. The proposed requirements are considered to be fit for purpose on the basis of the nature and scale of vessels needing to be identified. It places more fulsome identification requirements on vessels that are more likely to require regulation to maintain navigation safety (i.e. larger and power-driven vessels). It maintains a 'minimum' identification requirement for other vessels to ensure owners can be identified if necessary.
- 9.3.12. The proposed provisions introduce a new requirement on vessel owners whose vessels may not already meet the identification requirements. While these costs are not likely to be significant in comparison to the cost of a vessel, it will be a new cost that vessel owners will need to absorb. Option A (status quo) would be the least cost option for vessel owners.
- 9.3.13. The proposed provisions provide a high degree of flexibility in terms of the type of identification that could be accepted. This may create some complexities for QLDC's Harbourmaster and regulatory staff as they will need to consider a range of different registration types that may be very different from one another.
- 9.3.14. The requirements would rely on a range of external data systems. This may create complexities and inefficiencies for QLDC's Harbourmaster and regulatory staff as they will have to rely on information from other sources. This may cause delays in responding to incidents or complaints if the information is not readily available. In contrast, option B (QLDC unique system) would ensure QLDC's Harbourmaster and regulatory staff have immediate access to a centralised data system, possibly enabling quicker response times.
- 9.3.15. On balance, officers advise that the recommended option (option C - Apply a similar approach to ORCs vessel identification provisions) is the most effective and efficient means of implementing QLDCs responsibilities under the MTA.

10. Events on the water

10.1. Issue discussion

- 10.1.1. The district is a popular place to conduct organised waterways events. These events range from small recreational club races, to large commercial events that attract a large number of participants. Organised waterways events may take place in locations and at a scale that could result in navigation safety concerns. As such, it is necessary for QLDC to manage such events to implement its roles and responsibilities under the MTA.
- 10.1.2. The current bylaw contains provisions to manage ‘special events’⁴⁶. These events may include ‘*a race, speed trial, competition, display, performance, film, advertisement or other organised water activity*’.
- 10.1.3. Clause 31.1 of the current bylaw specifies a need to apply to the Harbourmaster if an event is proposed to be held on the water **and** if the event seeks to uplift speed restrictions for the location and/or temporarily reserve an area and/or suspend the designation of permanent access lanes or reserved areas. The Harbourmaster may grant an application for an event if they are satisfied that it can take place without endangering the public.
- 10.1.4. The current bylaw does not set out requirements for the Harbourmaster to provide approval for, or for Council to be notified of all events. Only those events which require an uplift of speed restrictions, and/or need to temporarily reserve an area and/or suspend a designation of permanent access lanes or reserved areas are required to notify Council and obtain Harbourmaster approval. These thresholds mean that an event of any scale and in any location could take place on the district’s waterways without Harbourmaster approval, Council notification or public notice if it does not trigger these thresholds.
- 10.1.5. This approach does not facilitate the most effective or efficient implementation of QLDCs roles and responsibilities under the MTA because, while these thresholds may contribute to a need for specific management, they alone do not necessarily pre-determine the absence or otherwise of navigation safety risk that has the capacity to endanger the public through the operation of an organised waterways event.
- 10.1.6. Events that take place without Harbourmaster approval, council notification or appropriate public notice may endanger the public or hamper an incident response because the Harbourmaster will not have access to the event organiser’s contact details, radio communication channels, course and event site maps, or oversight of the events water safety plan. Further, the Harbourmaster will not have the capacity to impose conditions on the event to ensure it operates in the interest of navigation safety. The absence of Council notification or appropriate public notice may result in other waterways users being unaware of an event taking place and occupying space where the event is to take place. All of these circumstances may result in navigation safety risks which are appropriately managed through the bylaw.

⁴⁶ Part 31 of the bylaw

10.1.7. The current event provisions require that public notice⁴⁷ is given (including in a newspaper) specifying the period of the activity and details of the supervision or reserved area not less than seven days or more than 14 days before the commencement of the activity. This requirement can present challenges for event organisers and regulatory staff given the tight timeframes of event programming and newspaper circulation. It is also noted that national Maritime rules do not require such strict public notice actions for organised waterways events.

10.1.8. Key messages obtained during early engagement with regard to special events include:

- a) The majority of respondents agreed the Harbourmaster should be notified of events citing reasons of managing safety, user conflict and improving compliance.
- b) A variety of events were suggested to be considered as a 'special event' ranging from swimming to jet boat racing events.
- c) Clarity concerning approval processes, timeframes, required documentation and the role of the Harbourmaster is needed.
- d) Thresholds created based of the nature and scale of the event that correlate to notification requirements were recommended.
- e) QLDC should be mindful of the impacts of notification requirements, associated paperwork and administration costs.
- f) A risk-based process should be considered.

10.2. Options

10.2.1. A range of options have been considered to address this issue and in response to the abovementioned feedback. These options are described in **Table 8** below.

Table 8 - Options to address special events management issues

Option		Description	Recommendation
A	Status quo - Harbourmaster approval and Council notification only required in limited circumstances.	Maintain the current approach which requires Harbourmaster approval in limited circumstances - if the event seeks to: <ul style="list-style-type: none"> - uplift speed restrictions for the location and/or - temporarily reserve an area and/or - suspend the designation of permanent access lanes or reserved areas 	Not recommended
B	Create a risk-based threshold for event requirements dependent on the	Amend the bylaw to include a risk assessment framework that aims to pre-empt the nature and scale of navigation risks associated with all events based on a	Not recommended

⁴⁷ Public notice means a notice published on the Council website and in a newspaper circulating in the area of the District.

Option		Description	Recommendation
	<p>nature and scale of the event.</p> <p>Amend the requirement to give public notice of any event requiring approval of the Harbourmaster.</p> <p>Amend the definition of public notice to remove the requirement for a newspaper advertisement.</p>	<p>detailed set of factors which could include the number of participants, the type of vessel i.e. powered vs. non-powered and the location of the event. The Harbourmaster and/or Council's regulatory staff would be required to assess each event against this framework and determine if the event should be approved or refused.</p> <p>This option would also remove the challenging timeframes associated with the public notice requirements in the current bylaw by enabling public notice to be given on the Council's website and at a more flexible time period before the commencement of the activity.</p>	
C	<p>Expand the scope of the existing provisions such that the Harbourmaster:</p> <ul style="list-style-type: none"> - needs to be notified of all organised waterways events, and - has additional discretion to approve events on navigation safety grounds - would continue to have discretion to approve or refuse events that already require an application to be made (i.e. events which require an uplift of speed restrictions, and/or need to temporarily 	<p>This option would generally align with the approach for managing special events in ORCs Navigation Safety Bylaw 2020⁴⁸. It would involve amendments that increase the Harbourmaster's oversight of events. It would require event organisers to notify the Harbourmaster of their events in every circumstance, and result in some event organisers needing to obtain Harbourmaster approval in specified circumstances. If the Harbourmaster is not satisfied that the event can take place without endangering the public, this option provides the Harbourmaster with additional discretion to refuse an application.</p> <p>This option would also remove the challenging timeframes associated with the public notice requirements in the current bylaw by enabling public notice to be given on the Council's website (and social media) and at a more flexible time period before the commencement of the activity.</p>	Recommended

⁴⁸ Clause 22 of ORCs Navigation Safety Bylaw 2020

Option	Description	Recommendation
<p>reserve an area and/or suspend a designation of permanent access lanes or reserved areas)</p> <p>Amend the requirement to give public notice of any event requiring approval of the Harbourmaster.</p>		

10.3. Recommended option and analysis

10.3.1. The recommended option for addressing this issue is Option C - expand the scope of the existing provisions to enable additional Harbourmaster oversight and discretion (and amend public notice requirements).

10.3.2. Option C would ensure that the Harbourmaster is notified of every organised waterway event. This additional notification requirement would provide scope for the Harbourmaster to determine if any proposed event is likely to affect normal operation of another vessel(s) or any other user(s) of the water. In addition, option C would continue to require Harbourmaster approval in those circumstances already provided in the current bylaw. Officers consider that this additional scope will provide QLDC with a more robust framework to ensure it efficiently and effectively implements its roles and responsibilities under the MTA.

10.3.3. Due to the expanded remit of option C, it is likely that additional organised events will need to be notified to and approved by the Harbourmaster. While the quantum of additional notifications and approvals is not known, it is likely that option C will create additional administrative requirements for QLDCs Harbourmaster and regulatory staff. However, officers consider that any such costs are likely to be absorbed within existing budgets and capabilities.

10.3.4. QLDC does not currently impose a fee for event organisers to notify the Harbourmaster of their event or to apply for an uplift of speed restrictions, temporary reservations or suspensions of a designation permanent access lanes or reserved area. However, it is noted that QLDC regularly reviews its fees and charges, and officers may make future recommendations regarding the need to charge for any organised waterways event notification and associated Harbourmaster approval.

10.3.5. In addition, option C (and option B) would involve the simplification of public notice requirements for organised waterways events that require Harbourmaster approval. In

particular, it would remove the strict timeframe associated with newspaper publication⁴⁹. Instead, it would enable the notice to be published at a more flexible time and on Council's website and social media platforms. This would be more effective and efficient as it would better suit the limited timeframes and programmes of event organisers, while still ensuring appropriate levels of awareness of waterways events. It is also noted that Council's regulatory staff has a range of contacts with recreational groups and commercial operators.

10.3.6. Option C is generally consistent with the waterways events provisions within ORCs Navigation Safety Bylaw 2020. This level of regional consistency benefits waterways event organisers who may operate across the wider Otago region.

10.3.7. Option B is not recommended as it would require the development of a complex waterway event risk matrix that may be inconstantly applied and create confusion. It is not likely to provide sufficient scope to accurately assess the circumstances of every type of organised waterway event in every single location on the district's many and unique lakes and rivers. On balance, officers consider that QLDCs Harbourmaster (and regulatory staff) are best qualified to consider each event on a case-by-case basis on account of their knowledge of district's waterways and experience in managing navigation safety.

10.3.8. Option A is not considered effective or efficient. It would not address the identified issue and may result in navigation safety risks because some waterways events will not be appropriately considered by QLDCs Harbourmaster and regulatory staff. It is not sufficient to ensure QLDC implements its obligations under the MTA.

11. Safe Use of The Wave Hāwea

11.1. Issue discussion

11.1.1. The Wave (also known as the Hāwea Whitewater Park) is a man-made structure located in the channel of the Hāwea River upstream of the Camphill Bridge. It creates waves for recreational users including kayak, white water, body boarding and surfing enthusiasts.

11.1.2. The Wave comprises two drop features of different levels, a smaller top wave and a bigger bottom wave. It was constructed by Contact Energy to mitigate the effects on recreational who used natural rapids on the Kawarau and Cutha Mata-Au Rivers that were lost beneath the waters of Lake Dunstan and the Clyde Dam.

11.1.3. The Wave creates strong currents in and around this part of the Hāwea River. The Camphill Bridge immediately downstream can create risks for people riding the water. QLDC has received concerns and observed safety issues relating to the type of tethering used to secure users to their boards. Incorrect tethering may result in navigation and general

⁴⁹ It is noted that some temporary waterway events may require a notified resource consent under the district plan or a road closure application. These applications may involve specific public notification processes under the RMA or LGA respectively which are not managed through the bylaw.

safety risks as people could get caught on the supporting structures of the Camphill Bridge.

11.1.4. Key messages obtained during early engagement with regard to the Wave include:

- a) Reports of safety issues.
- b) Monitoring, signage, presence of a lifeguard, tether types and lifejacket use were identified to promote safer use of the Wave.
- c) Additional restrictions were not strongly supported, but options should be considered.
- d) Education is important and preferred to additional rules.
- e) QLDC should be mindful of enforcement challenges.

11.2.Options

11.2.1. A range of options have been considered to address this issue and in response to the abovementioned feedback. These options are described in **Table 9** below.

Table 9 – Options to address safe use of the Wave

Option		Description	Recommendation
A	Status quo	Maintain the current approach which does not identify any specific controls relating to the Wave or the way it is used.	Not recommended
B	Specific provisions relating to the use of the Wave (i.e. lifejacket use, tether type)	<p>Introduce new provisions that set out how people are required to use the Wave to ensure navigation safety.</p> <p>It is understood that the most appropriate (safest) method for people to tether themselves to their board while riding the Wave is on the biceps or waist, not the leg, and that this tether should include a quick release function. This advice is provided in the form of signage on the shore around the Wave. Signage states that correctly sized lifejackets and/or wetsuits and crash helmets are to be worn when using the Wave.</p> <p>This option would introduce provisions to require users to give effect to these recommended safety practices , and would allow QLDC to enforce and/or infringe users who do not comply.</p>	Not recommended
C	Signage / education on safe use of the Wave	Use of confined non-regulatory mechanisms to ensure Wave users implement recommended safety practices described on signage in and around the Wave.	Recommended

Option	Description	Recommendation
	This option would not introduce any additional site-specific provisions relating to the use of the Wave, and would primarily rely on a review of existing signage around the Wave, engagement with recreational groups, and education campaigns by QLDCs Harbourmaster and regulatory staff.	

11.3. Recommended option and analysis

11.3.1. Officers’ recommended option for addressing this issue is option C - signage / education on safe use of the Wave.

11.3.2. With regard to of lifejackets, it is noted that the requirements of Part 3 (Carriage and wearing of lifejackets) of the bylaw do apply to people using the Wave, whether that be on a board, kayak or any other sort of vessel. As such, QLDCs Harbourmaster and regulatory staff already have the capacity to enforce and infringe people who are not wearing lifejackets and/or a wetsuit in accordance with the bylaw.

11.3.3. The current provisions do not go so far as to specify how boards are to be tethered to a person using the Wave (as set out in the on-shore signage). It is considered that the existing lifejacket provisions and signage are generally appropriate to ensure people using the Wave are appropriately equipped to ensure navigation safety. In combination with additional and ongoing education activities undertaken by QLDCs Harbourmaster and regulatory staff in partnership with recreational groups, officers are satisfied that QLDC would be implementing its obligations to achieve navigation safety at the Wave.

11.3.4. Option A wouldn’t result in the application of any further, reviewed or proactive engagement with recreational groups, and education campaigns by QLDCs Harbourmaster and regulatory staff to promote implementation of the recommended safety practices . As such, option A is not recommended. While option C may result in some additional costs to QLDC in terms of officer time and/or revised signage, these costs are not likely to be significant and can be absorbed within existing budgets.

12. Vessel speed interpretation

12.1. Issue discussion

12.1.1. **Issue** - How speed is interpreted when travelling on rivers

12.1.2. Unless a speed uplifting is present (or if other conditions are met as stated in the current bylaw) vessels are required to travel 5 knots on rivers. The bylaw currently defines ‘Proper Speed’ as ‘*speed through water*’. QLDCs Harbourmaster and regulatory staff have found this definition problematic when interpreting the speed that should be travelled on rivers.

This is because to travel safely on a river (particularly when travelling upstream) vessels will need to exceed the velocity of the water moving in the river. In many cases, river velocity will be such that a vessel would need to be travelling faster than 5 knots under the current definition of 'proper speed' in the bylaw.

12.1.3. This situation means that some vessels travelling on rivers would be in breach of the bylaw's speed provisions despite needing to travel faster in order to navigate safely.

12.1.4. **Issue** - How speed is interpreted for commercial vessels operating under an approved resource consent on the Clutha River / Mata-Au between the Lake Wānaka Outlet Camping Ground and the Albert Town Bridge

12.1.5. Clause 35 of the current bylaw provides a suite of controls relating to vessel speed on the Clutha River / Mata-Au between the Lake Wānaka Outlet Camping Ground and the Albert Town Bridge. Clause 35(1)(a) prohibits the operation of powered vessels on the Clutha River Mata-Au between 1 December and 30 April. Clause 35(1)(a)(i) provides an exception to this prohibition for powered vessels whose operation is authorised by a resource consent approved by QLDC⁵⁰. These vessels will be operated for commercial activities.

12.1.6. The intention of this exception is to recognise that commercial vessels are primarily assessed and managed by MNZ and its associated approvals process. Navigation safety bylaws are not intended to provide a framework to assess or permit the operation of commercial activities, although they are expected to comply with the provisions of the bylaw unless otherwise stated, including speed restrictions. MNZ consider and assess the way in which commercial vessels operate under the MTA to ensure vessels travel in a safe and responsible manner, and QLDC resource consents may not specify the speed at which commercial vessels are permitted to travel. This provides a speed interpretation tension where it is unclear if such vessels are permitted to exceed the 5-knot speed limit on the Clutha River Mata-Au during the 1 December to 30 April powered vessel prohibition period.

12.1.7. This interpretation issue has led to questions from members of the public and commercial vessel operators. It is appropriate for the bylaw to address any confusion regard to this matter.

⁵⁰ At the time of writing two resource consents are known to have been approved for commercial vessels on this part of the Clutha River / Mata-Au

12.2.Options and analysis

12.2.1. A range of options have been considered to address the subject speed interpretation issues. These options are described in two separate sections below:

- a) the first section addresses options to address river speed interpretation issues (**Table 10**) and;
- b) the second section addresses speed interpretation for commercial vessels operating under an approved resource consent on the Clutha River / Mata-Au between the Lake Wānaka Outlet Camping Ground and the Albert Town Bridge **Table 11**:

12.2.2. **First Section** - Options to address river speed interpretation issues

Table 10 - Options to address river speed interpretation issue

Option		Description	Recommendation
A	Status quo	Maintain the current definition of speed.	Not recommended
B	Apply a definition that differentiates the way speed is measured on lakes and rivers	Amend the definition of speed to differentiate the way vessel speed is measured on lakes and rivers. This amended definition would provide for vessel speed on rivers to be measured through the water if travelling with the current (downstream), or over the ground if travelling against the current (upstream). The amended definition would retain the existing approach for measuring speed when travelling on lakes, being speed through the water.	Recommended
C	Provide a speed uplifting on all rivers at all times	Amend the bylaw to apply a speed uplifting on every river at all times. This option would reduce the tension of interpreting vessel speed by enabling vessels to travel as fast as they needed or wanted on all navigable rivers.	Not recommended

12.2.3. Officers’ recommended option for addressing this issue is option B - Apply a definition that differentiates the way speed is measured on lakes and rivers.

12.2.4. This option is considered the most efficient and effective means for QLDC to implement its responsibilities under the MTA. It would promote a more accurate and pragmatic measurement of speed that is more appropriate to the waterbody being traversed. It would formally allow vessels to navigate more safely on rivers when travelling against the current, and remove operational ambiguity from the current bylaw for QLDCs Harbourmaster, regulatory staff and waterway users.

12.2.5. It is also noted that that the recommended option is consistent with the definition of ‘speed’ in ORC’s Safety Bylaw 2020⁵¹. As such, the recommended option creates regional consistency across Otago in regard to this matter.

12.2.6. The recommended amended definition is noted below:

‘Speed means:

In relation to lakes, the speed through the water; or

In relation to rivers, the speed through the water if travelling with the current, or speed over the ground if travelling against the current.’

12.2.7. This option retains the status quo for vessels travelling on rivers where vessels are travelling with the current, and on lakes.

12.2.8. Option A is not supported by officers because it would maintain the existing situation which does not give clarity to the current speed interpretation issue.

12.2.9. Option C would be efficient in that it would remove the identified interpretation tension, however it is not considered effective as it would unnecessarily and inappropriately enable vessels to travel at any speed on any navigable river within the district. This approach would not promote navigation safety and does not therefore enable QLDC to fulfil its obligations under the MTA.

12.2.10 **Second Section** - Options for addressing speed interpretation for commercial vessels operating under an approved resource consent on the Clutha River / Mata-Au between the Lake Wānaka Outlet Camping Ground and the Albert Town Bridge

Table 11 - Options for addressing speed interpretation for commercial vessels operating under an approved resource consent on the Clutha River / Mata-Au between the Lake Wānaka Outlet Camping Ground and the Albert Town Bridge

Option		Description	Recommendation
A	Status quo	Maintain the current approach set out in Clause 35 of the current bylaw.	Not recommended
B	Establish a speed uplifting between 1 December and 30 April that applies to vessels expressly authorised to operate under a resource consent issued by Council	Amend the bylaw to introduce a new speed uplifting that would clarify the interpretation of vessel speed for commercial vessels that have a resource consent. This option would clarify that such vessels can exceed 5 knots between 1 December and 30 April.	Recommended
C	Reviewing resource consents to consider	This option would be a non-regulatory approach (in respect of this bylaw) and rely on clarifying	Not recommended

⁵¹ Page 9, ORC Navigation Safety Bylaw 2020

Option	Description	Recommendation
commercial operator speed limits (if review conditions exist in them)	vessel speed interpretation through existing resource consent conditions.	

12.2.11. Officers' recommended option for addressing this issue is option B - Establish a speed uplifting between 1 December and 30 April that applies to vessels expressly authorised to operate under a resource consent issued by Council.

12.2.12. The recommended wording for the speed uplifting is set out below:

'Between 1 December and 30 April, a speed uplifting shall apply to a person operating a power-driven vessel in this area, where expressly authorised to operate under a resource consent issued by Council provided the person complies with:

(i) All other obligation under this Bylaw including clause 7.1(b);

(ii) All resource consent conditions applicable to the activity;

(iii) Any requirement under an applicable licence issued by Maritime New Zealand.'

12.2.13. This option is considered to be the most efficient and effective means for QLDC to implement its responsibilities under the MTA. It would provide clarity that commercial vessels operating under a resource consent on this part of the Clutha River / Mata-Au can travel at speeds that exceed 5 knots. The recommended wording sets out that, while such vessels can travel faster than 5 knots, it is also expected that they meet the residual navigation safety requirements under the bylaw, and any other conditions or requirements set out in their resource consent and MNZ approval.

12.2.14. It is acknowledged that clarifying this speed interpretation issue may enable a small number of commercial vessels authorised by resource consents to travel faster than what they might lawfully do currently. However, officers are not of the view that any other aspect of navigation safety associated with such vessels (or any other waterway user) in this part of the Clutha River / Mata-Au will be impacted by option B.

12.2.15. Any amenity or environmental effects associated with the speed of commercial/ vessels are managed by the district plan and associated resource consents. These are not considerations that are within the scope of navigation safety bylaws.

12.2.16. Option A is not recommended by officers because it would retain the existing ambiguity for QLDCs Harbourmaster, regulatory staff and waterway users. It is not considered efficient or effective.

12.2.17. Option C is not recommended as it would rely on a separate set of legislation and approval processes that are not directly intended to address navigation safety matters nor QLDCs obligations under the MTA. Further, it is not clear if the existing resource consents provide scope for their conditions to be reviewed as there are limited

circumstances under which this can occur. Ultimately, this option would also retain the existing ambiguity for QLDCs Harbourmaster, regulatory staff and waterway users.

13. Kawarau Dam access lane

13.1. Issue discussion

- 13.1.1. The current bylaw identifies two access lanes upstream of the Kawarau Dam⁵². One access lane is provided for upstream vessel traffic and the other for downstream vessel traffic. These two access lanes are shown in 'Map 3 – Kawarau Dam' of the current bylaw. These access lanes are intended to direct vessel traffic beneath the Kawarau Dam to achieve navigation safety, given the unique water conditions and vessel use characteristics in this location. The current bylaw includes provisions that control vessel traffic in this part of the Kawarau River. These provisions require vessels to navigate upstream and downstream in accordance with the subject access lanes⁵³, and prevent vessels from resting or stopping in locations that might impede the use of these access lanes⁵⁴.
- 13.1.2. QLDCs Harbourmaster and other waterway users have articulated issues in regard to changing water conditions in the area of Lake Whakatipu immediately upstream of the Kawarau Dam. In particular, water levels have been consistently lower over recent years, and larger vessels are now being used which sit lower in the water. These larger vessels need to travel at a greater speed to ensure they sit higher in the water when leaving or approaching this part of Lake Whakatipu. This effectively means that vessels need to get 'on the plane' closer to the shore than they might have previously needed to, and therefore exceed 5 knots within 200 metres of the shore to safely navigate the access lane. Navigating in excess of 5 knots within 200 metres of the shore outside of the access lane would be in breach of the current bylaw's provisions. Accordingly, it is reasonable to consider additional bylaw controls to achieve appropriate levels of navigation safety.
- 13.1.3. Further, it is understood that additional vessel traffic is occurring in and around this area due to a range of factors, including a new jetty in the area of the Hilton Hotel complex, as well as continued population and visitor growth. This additional traffic is causing congestion in a confined area of Lake Whakatipu such that additional areas should be considered for vessels to navigate the access lanes safely.
- 13.1.4. Together, these conditions create navigation safety issues which QLDC has an obligation to consider managing under the MTA. Officers consider it appropriate that the bylaw review assesses options to address these issues.

⁵² This refers to the historic bridge (now for cycle and walking access only) not the SH6 NZTA two lane vehicle bridge.

⁵³ Clause 36.3

⁵⁴ Clause 36.1

13.2.Options

13.2.1. A range of options have been considered to address this issue. These options are described in **Table 12** below.

Table 12 - Options to address Kawarau Dam access lane issue

Option		Description	Recommendation
A	Status quo	Maintain the approach in the current bylaw i.e. retain the existing Kawarau Dam upstream and downstream access lanes without any amendments.	Not recommended
B	Extend the existing Kawarau Dam access lanes	Amend the current bylaw to extend the existing upstream and downstream Kawarau Dam access lanes to enable vessels to exceed 5 knots within its boundaries provided they are travelling through via the most direct route and are not resting or stopping in locations that might impede the use of the access lane. The purpose of the existing Kawarau Dam upstream and downstream access lanes would not be altered.	Recommended
C	Introduce further controls on vessel traffic	Amend the current bylaw to introduce additional controls on vessel traffic in the area immediately upstream of the Kawarau Dam, including: <ul style="list-style-type: none"> a) restricting the size of vessels travelling through this area b) limiting the number of vessels that can travel through this area c) prevent access during periods of low water levels The purpose of the existing Kawarau Dam upstream and downstream access lanes would not be altered.	Not recommended

13.3.Recommended option and analysis

13.3.1. Officers’ recommended option for addressing this issue is option B – extend the existing Kawarau Dam access lanes. Officers have sought input from the Harbourmaster and QLDCs regulatory staff who support the recommended option.

13.3.2. The recommended extension of the access lanes is shown in **Attachment G**. The recommended access lane would:

- a) extend beyond and connect to the existing upstream and downstream Kawarau Dam access lanes to the northwest and the west,

- b) form a rectangle shape approximately 450 metres long and 130 metres wide,
- c) extend along the southern shore of Lake Whakatipu across the area of the Hilton Hotel complex, and
- d) be located approximately 50 metres from the shore of Lake Whakatipu at its closest point.

13.3.3. Option B would have the effect of creating an area that enables vessels to travel at a speed exceeding 5 knots within 200 metres of the shore of Lake Whakatipu provided they are travelling through via the most direct route. It would also prevent vessels from resting or stopping in locations that might impede the use of the access lane. It would allow vessels to reach their 'plane' speed closer to the shore, and travel higher in the water thus mitigating the potential navigation safety impacts of lower water levels.

13.3.4. The access lane extension would also open up other parts of Lake Whakatipu in this area where vessels could travel at higher speeds. This would mitigate the navigation safety risks of increasing vessel congestion in this area and provide vessels with a greater level of control, should they require it, due to the unique water conditions around the Kawarau Dam.

13.3.5. The recommended option responds directly to the changing nature of development in this area, in particular, the substantial area of commercial development in the Hilton Hotel complex and the development of the Hilton Hotel jetty, which is now used by the Queenstown water taxi service.

13.3.6. While the recommended option would enable vessels to travel at higher speeds than is currently provided for in a developed area closer to the shore, QLDCs Harbourmaster and regulatory staff have not identified any potential conflicts that are likely to eventuate with other waterway users in this area (i.e. with other vessels, swimmers or passive users). There are no other known navigation safety risks that would be created or exacerbated by the recommended access lane extension. Further, it is noted that clause 42 of the current bylaw contains a number of existing provisions that manage conduct within access lanes. Officers consider that these provisions (which are proposed to be carried into the draft bylaw) would appropriately manage the operation of vessels within the recommended access lane and provide a pathway for enforcement action should it be necessary.

13.3.7. The recommended access lane extension, while connected to the existing Kawarau Dam upstream and downstream access lanes, would not alter the purpose of the existing lanes which would continue to be regulated as per the current bylaw provisions.

13.3.8. Option C (further controls on vessel type and movements) is not considered efficient or effective. It would require the introduction of a complex suite of provisions into the bylaw that are applicable to a specific set of circumstances. These provisions would require a detailed and ongoing understanding of the changing nature of water levels in Lake Whakatipu, vessel traffic, and vessel types. This level of understanding is not practical and would require a high level of input from QLDCs Harbourmaster and regulatory staff. The

provisions would be difficult for waterway users to understand, require careful communication and education, and impose high monitoring costs on QLDC. Further, these controls may not integrate well with any existing approved resource consents for other waterway activities in this area.

13.3.9. Option A (status quo) is not considered effective or efficient. It would retain the existing navigation safety issue for vessel traffic in the area around the Kawarau Dam. This option would not improve the implementation of QLDCs roles and responsibilities under the MTA.

14. Carriage of communication devices

14.1. Issue discussion

14.1.1. The current bylaw does not specify a requirement for people operating a vessel to carry any form of communication. This presents a navigation safety issue because the district's dynamic alpine lakes and rivers have unique and sometimes dangerous conditions, including low water temperatures, fast flowing and deep waters, as well as large and isolated waterways. If waterway users find themselves in emergency situations, these conditions can present a considerable navigation safety risk. In the absence of an appropriate form of communication to contact emergency services, these conditions have the potential to result in serious harm or death.

14.1.2. The Safer Boating Forum's 'Safer Boating Guide'⁵⁵ identifies two forms of waterproof ways to call for help as part of their 'boating safer code'. The Forum have prepared a rationale paper to support their position⁵⁶. This paper is supported by available evidence, research and fatality statistics. The paper sets out that not being able to call for help in an emergency is a major risk factor contributing to the annual boating toll, with a 2007 study finding that effective communications equipment, if available, would most likely have prevented 58% of the fatalities that occurred over the previous six years.

14.1.3. Many other navigation safety bylaws around the country require the carriage of some form of communication⁵⁷, making QLDCs bylaw somewhat of an outlier.

14.1.4. Taking into account the paper prepared by the Safer Boating Forum and the work of other local authorities, officers consider that the absence of a requirement for vessel operators to carry some form of communication equipment creates a navigation safety risk. Officers advise that this navigation safety risk be addressed in the draft bylaw.

⁵⁵ <https://www.maritimenz.govt.nz/media/ydrdqwdl/safer-boating-guide.pdf>

⁵⁶ <https://www.maritimenz.govt.nz/media/lcbo43if/nzsbf-communications-position-statement.pdf>

⁵⁷ Draft Tasman District Council Navigation Safety Bylaw 2024, Waikato Regional Council Navigation Safety Bylaw 2020, Canterbury Regional Council Navigation Safety Bylaw 2023, Environment Southland Navigation Safety Bylaw 2015, Otago Regional Council Navigation Safety Bylaw 2020, Wellington Regional Navigation Safety Bylaws 2021, Auckland Council Navigation Bylaw 2021, Hawke's Bay Navigation Safety Bylaw 2024

14.2.Options

14.2.1. A range of options have been considered to address this issue. These options are described in **Table 13** below.

Table 13 - Options to address carriage of communication devices

Option		Description	Recommendation
A	Status quo	Maintain the approach in the current bylaw i.e. no requirement to carry any form of communication device.	Not recommended
B	Introduce a requirement to carry two forms of communication in all circumstances	Amend the bylaw to require people in charge of vessels to carry two forms of communication that can be used to communicate with land-based persons.	Not recommended
C	Introduce a requirement to carry communication equipment commensurate to the context and waterway	Amend the bylaw to require people in charge of vessels to carry communication equipment depending on the type of vessel being used, the waterway being traversed (i.e. lake vs river), and the proximity to shore.	Recommended

14.3. Recommended option and analysis

14.3.1. Officers' recommended option for addressing this issue is option C – introduce a requirement to carry communication equipment commensurate to the context and waterway.

14.3.2. The recommended provisions require that two independent forms of communication that are either waterproof or in a waterproof bag or container are carried except that:

- people using non-powered vessels on a river are required to carry one or more form of communication,
- people using non-powered vessels on a lake within 50 metres of the shore are not required to carry communication equipment, and
- people participating in a sporting event or training activity are not required to carry communication equipment provided a compliant support vessel is present,

14.3.3. Acceptable communication devices include (but not are not limited to) equipment that uses satellites (i.e. emergency locator beacons (EPIRBS, PLBs) and satellite phones), equipment that uses land-based stations (i.e. marine radio and mobile phones), or audio/visual signals (i.e. flares, lights, whistles, horns) ⁵⁸.

⁵⁸ Page 3

<https://www.maritimenz.govt.nz/media/lcbo43if/nzsbf-communications-position-statement.pdf>

- 14.3.4. Option C is considered to be the most efficient and effective means to address the identified navigation safety risk, and for QLDC to implement its roles and responsibilities under the MTA. It would ensure that all people operating a vessel would have the capacity to contact emergency services (or another person) in the event that they find themselves in a difficult or emergency situation.
- 14.3.5. Option C is considered to be the most pragmatic approach taking into account the multiple different types of waterway users in the district, and the different conditions they are likely to be associated with. In particular, it is noted that the default requirement is for all vessels to carry two forms of communication. Non powered vessels used on rivers or within 50 metres of the shore of a lake would be subject to a lower threshold on the basis of the type of navigation safety risk they may be subject to. This tiered approach is likely to achieve the highest levels of compliance and be the most enforceable for QLDCs Harbourmaster and regulatory staff.
- 14.3.6. The recommended option would bring QLDCs bylaw into general alignment with the Safer Boating Forum's advice concerning communication devices and a number of other navigation safety bylaws around Aotearoa New Zealand.
- 14.3.7. The recommended provisions would introduce a new requirement on the district's waterways users and may impose new costs on vessel operators where they don't currently have access the required forms of communication. However, officers to not consider that any costs are likely to be significant given the range of different options available that could meet the expectation set out in the recommended provision⁵⁹ and the tiered approach contained within the provision.
- 14.3.8. Option B would apply a universal requirement for the carriage of two forms of communication equipment. While this may achieve a higher level of communication coverage for all vessel types despite their location or context, officers consider that it would impose an unnecessarily onerous requirement on a range of waterway users who are not likely to be subject to the same types of navigation safety risk given their vessel type and proximity to the shore.
- 14.3.9. Option A is not recommended. It will enable vessels to continue being operated on the district's lakes and rivers without any form of communication, contrary to the Safer Boating Forum's advice concerning communication devices. Option A would not facilitate QLDC to efficiently or effectively achieve navigation safety in the district.

15. Other miscellaneous amendments

15.1. Issue discussion

⁵⁹ Page 9, Safer Boating Guide
<https://www.maritimenz.govt.nz/media/ydrdqwdl/safer-boating-guide.pdf>

15.1.1. A number of provisions within the bylaw require minor corrections to improve its clarity, legibility and overall accessibility. These components of the bylaw are not considered to materially impact the capacity or capability of QLDC to fulfil its role and responsibilities under the MTA.

15.1.2. **Attachment H** provides an overview of these miscellaneous minor corrections.

15.2. Options and analysis

15.2.1. Options have been considered to address this issue. These options are described in **Table 14** below.

Table 14 - Options to address minor miscellaneous amendments

Option		Description	Recommendation
A	Status quo	Maintain the current wording in all of the subject provisions.	Not recommended
B	Undertake amendments to address the identified minor miscellaneous amendments.	Undertake a number of amendments throughout the bylaw to address relevant miscellaneous issues.	Recommended

15.3. Recommended option and analysis

15.3.1. Officers' recommended option for addressing this issue is option B - Undertake amendments to address minor miscellaneous amendments.

15.3.2. These changes will improve the legibility and usability of the bylaw, and avoid potential ambiguity. The subject amendments are not considered to have a material impact on waterway users, nor on the capacity or capability of the Harbourmaster or QLDCs regulatory staff to fulfil their obligations under the MTA.

15.3.3. Option A is not considered efficient or effective as it would retain known issues within parts of the bylaw that could be addressed at this time.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

16. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2021. While the bylaw review and officers' recommended options may result in a range of amendments that could change the way lakes and rivers are managed to ensure navigation safety, and which are likely to be of high community interest, the recommended amendments have yet to be considered by the public (through consultation) nor

by a hearings panel. This report is not requesting that a draft bylaw be adopted for implementation, and the current bylaw will remain in place until such time that a new bylaw is adopted by Council.

17. The persons who are affected by or interested in this matter are Kāi Tahu, commercial waterway operators, recreational users, and the general public. Council has engaged with Kāi Tahu, MNZ, Waka Kotahi NZTA, ORCs and QLDCs Harbourmaster, commercial waterways operators, recreational users, and the general public to guide the development of recommended options to address key issues.
18. Council undertook early engagement with stakeholders and the public on the bylaw between October and November 2023. Informal public consultation in relation to the district's ski lanes was undertaken during October 2022.
19. Officers have engaged with QLDC councillors throughout the draft bylaw development process, including through the use of a councillor workshop, as well as meetings with the Wānaka Upper Clutha Community Board and the Community and Services Committee.

Māori Consultation | Iwi Rūnaka

20. Kāi Tahu have been engaged (via Council's Māori Strategy and Partnerships Manager) in the draft bylaw development process. It is understood that whilst Mana Whenua have a high interest in matters relating to water quality and quantity, the bylaw does not address these matters. Water quality and quantity are managed by way of the Resource Management Act 1991. Kāi Tahu will have an opportunity to provide input as part of formal consultation.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

21. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK10026 Ineffective enforcement within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.
22. The approval of the recommended options will allow Council to implement additional controls for this risk. This will be achieved by ensuring QLDCs bylaw provides the most efficient and effective provisions for it to fulfil its obligations under the MTA.

Financial Implications | Kā Riteka ā-Pūtea

23. The costs associated with reviewing the bylaw including staff time and advertising will be met within current Council budgets. The draft bylaw does not propose any changes to Council operations that would require additional funding.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

24. The following Council policies, strategies and bylaws were considered:

- a) Our Strategic Framework and Investment Priorities
 - b) Significance and Engagement Policy 2021
 - c) Enforcement Strategy and Prosecution Policy 2021.
25. The recommended option is consistent with the principles set out in the above-mentioned named policies.
26. Provision for QLDCs Harbourmaster and regulatory staff to address waterway management (including to enforce bylaws and regulations to promote water safety) is identified in the regulatory and enforcement community outcome of the Long Term Plan⁶⁰. The review of strategies, policies and plans is identified as a function of the Policy and Performance team in the Long Term Plan in regard to finance and support services⁶¹.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

27. Council is bound by the LGA when making or reviewing bylaws. The base determination, notification, and consultation procedures set out under sections 155, 156 and 157 of the LGA apply.
28. The preparation of QLDCs bylaw must be in accordance with the MTA and relevant associated national maritime rules set by MNZ. The draft bylaw and associated documents have been legally reviewed prior to presentation to Council to ensure they give effect to the MTA and national maritime rules.
29. Section 33M of the MTA provides QLDC with the power to create a bylaw to manage navigation safety in the district. Section 33M(1)(a) – (j) sets out the range of matters that a navigation safety bylaw may be made and regulate. Officers consider that the draft bylaw is within the scope of the matters set out in Section 33M.
30. Section 33M requires that any navigation safety bylaw is made in consultation with the Director of MNZ. Officers have consulted regularly and directly with MNZ staff in the development of the draft bylaw and much of MNZs advice has been incorporated into the draft bylaw.

Special consultative procedure

31. It is proposed that consultation on a draft bylaw would be done using the special consultative procedure outlined in sections 83 and 86 of the LGA. The special consultative procedure requires that Council adopts a formal statement of proposal, has a consultation period of not less than one month, and allows people to present their views to Council in a manner that enables spoken interaction, such as by having a hearing.

⁶⁰ QLDC Ten Year Plan 2021–2031 Volume One, page 147

⁶¹ QLDC Ten Year Plan 2021–2031 Volume One, page 165

32. In accordance with section 83 of the LGA, it is proposed that Council will encourage people to give feedback by making the draft bylaw, Statement of Proposal, Summary of Proposal, and associated supporting material as widely available as is reasonably practicable and by:
- enabling people to provide their views on the draft bylaw by way of a survey on Council's 'Let's Talk' website, or by email, post or hand delivery,
 - having the Summary of Proposal and Statement of Proposal accessible on Council's 'Let's Talk' website,
 - placing advertisements in local newspapers and radio stations,
 - hosting public 'drop in' sessions in the Whakatipu and Upper Clutha wards,
 - directly notifying (via email) known public stakeholders (i.e. commercial operators and recreational groups), and
 - promoting the consultation on Council's social media pages.

LGA section 155 determinations

33. Before making or reviewing a bylaw, Council must make the determinations required under section 155 of the LGA. These determinations include:
- whether a bylaw is the most appropriate way of addressing the perceived problem (section 155(1)). If Council determines that a bylaw is most appropriate, it must also make the determinations at section 155(2)(a) and (b) as follows:
 - whether the proposed bylaw is in the most appropriate form of bylaw to address the perceived problem, and
 - whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (**NZBORA**).

34. An assessment for each required determination is set out below.

34.1. Most appropriate way of addressing the perceived problem

34.1.1. The perceived problem that requires addressing is navigation safety⁶². ORC has delegated its roles and responsibilities for ensuring navigation safety is achieved in the district to QLDC. Therefore, Council has a legislated responsibility to consider what navigation safety problems, risks or concerns need addressing in the district, and if a bylaw is the most appropriate way to manage these navigation safety problems.

34.1.2. The QLD has a large number of navigable lakes and rivers. These waterways have a range of unique conditions on account of the district's dynamic alpine environment, including low water temperatures, fast flowing waters, as well as the size and isolation of the district's waterways. In addition, the QLD is a very popular place for people to engage in waterways activities, attracting year-round use from residents and visitors. The district's resident and visitor populations are growing at a significant rate, and faster than most other areas in Aotearoa New Zealand. Together, these conditions give rise to a wide range of perceived and/or actual navigation safety problems.

⁶² Also referred to as maritime safety in the MTA

- 34.1.3. A number of contemporary navigation safety problems have been canvassed in this report. It is recommended that these problems be addressed through the bylaw review for QLDC to effectively and efficiently implement its roles and responsibilities under the MTA. QLDCs Harbourmaster and officers advise that the current bylaw successfully manages a range of other perceived and/or actual navigation safety problems in the district, and no specific changes have been proposed to a wide range of provisions in the current bylaw. These existing provisions are recommended to be carried forward into the draft bylaw.
- 34.1.4. Officers consider that a navigation safety bylaw is the most appropriate way of addressing the wide range of perceived and/or actual navigation safety problems in the district. The MTA and MNZs national maritime rules (including an ability under the MTA to develop and enforce bylaw infringement fines) provides a specific and long-established legislative framework for QLDC to effectively and efficiently manage navigation safety problems. Further, QLDC has successfully developed and implemented previous navigation safety bylaws, and has established operational capacity and capability to educate, monitor and enforce navigation safety bylaw provisions.
- 34.1.5. Council could rely solely on the MTA and MNZs national maritime rule framework to address the perceived navigation safety problems in the district. However, officers do not consider that this alternative approach would be sufficient to address the local conditions unique to the district. The purpose of bylaw making powers is to empower local authorities to develop regulatory frameworks with the community to address local conditions. Further, it is not considered that this approach would support QLDC to effectively or efficiently implement its roles and responsibilities under the MTA.
- 34.1.6. Council could also rely solely on the QLD district plan to manage waterways activities. A range of district plan provisions already address activities that take place on and/or in lakes and rivers. However, officers advise that the RMA and district plan provisions do not afford the same depth and breadth of powers to efficiently and effectively manage navigation safety problems in the district. Further, it is noted that RMA roles and responsibilities for managing waterways activities are spread between territorial authorities and regional councils.
- 34.2. Most appropriate form of bylaw to address the perceived problem
- 34.2.1. Different forms of the bylaw could include a standalone document, amendment to another existing document, or consolidation with other bylaws. The draft bylaw is presented as a standalone document.
- 34.2.2. Officers consider that a standalone document is the most appropriate form of bylaw because:
- a) It contains all provisions which control navigation safety, making it a repository for all relevant regulatory matters,
 - b) It makes navigation safety provisions more easily accessible to QLDCs Harbourmaster, regulatory staff and waterway users,

- c) It is targeted and focussed on navigation safety alone, ensuring that the regulatory approach for navigation safety in the district is not confused with Council other functions,
- d) It is appropriately concise and can be easily printed or referenced in its entirety, and
- e) There are no other appropriate documents or bylaws that could reasonably be applied to achieve QLDCs navigation safety roles and responsibilities under the MTA.

34.2.3. QLDC has used a standalone navigation safety bylaw since at least 2009. During this time, the form of the bylaw has been considered fit for purpose. The draft bylaw takes a very similar format to navigation safety bylaws developed by other councils (i.e. those of ORC, Environment Canterbury and Environment Southland). This consistency is important as many of the district's waterways users are likely to travel from surrounding districts and regions.

34.2.4. The bylaw is organised in a clear, logical way, and the provisions have been prepared to be as accessible as possible in line with the legislative requirements and context.

34.3. Does the draft bylaw give rise to any implications under the NZBORA?

34.3.1. Council is required to determine whether the draft bylaw gives rise to any implications under the NZBORA, which grants certain civil and political rights to people in Aotearoa New Zealand. In accordance with section 5 of the NZBORA, *'the rights and freedoms contained in the Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'*.

34.3.2. Section 18 of the NZBORA relates to 'freedom of movement'. In particular, section 18 provides that *'everyone lawfully in New Zealand has the right to freedom of movement and residence in New Zealand'*, and is engaged by virtue of the draft bylaw's limits on the movement of powered vessels in certain areas.

34.3.3. The draft bylaw includes a number of provisions which restrict and/or prevent waterways activities to ensure navigation safety is achieved on the district's navigable lakes and rivers. Among others, this includes general powers conferred on the Harbourmaster to prohibit or restrict activities to ensure the health or safety of any person or the public or to avoid damage to any vessel, structure or the environment. In addition, the bylaw includes offence and penalty clauses that can be applied should the bylaw's provisions be found to have been breached.

34.3.4. In addition to the draft bylaw's restrictive provisions, it includes a wide range of enabling provisions that provide for and protect the safe and enjoyable use of the district's lakes and rivers.

34.3.5. On balance, officers consider that the draft bylaw's restrictive and enabling provisions together are 'demonstrably justified' and present 'reasonable limits' on the rights and freedoms contained within the NZBORA in order to achieve navigation safety, and do not unreasonably interfere with any of the rights contained in the NZBORA. As such, it is advised that the draft bylaw is consistent with the NZBORA.

Revocation of the Navigation Safety Bylaw 2018

35. A bylaw is automatically revoked under Section 160A of the LGA two years after the last date it was eligible for review. Section 158 of the LGA requires the current bylaw to be reviewed before 23 March 2025 (seven years after the date of making). For the purposes of the LGA, meeting the review requirements means that Council must make the determinations in section 155 of that Act prior to 23 March 2025. If Council makes the section 155 determinations prior to 23 March 2025, the current bylaw will continue to be in force until a new bylaw is adopted, at which point the current bylaw will be revoked and replaced by a new bylaw.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

36. Section 10 of the Local Government Act 2002 states the purpose of local government is:
- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
 - (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. The review of the bylaw will deliver on this purpose as it will ensure QLDC is managing waterways to give effect to section 145 of the LGA. It is considered that the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
37. The recommended options:
- a) Can be implemented through current funding under the Long Term Plan and Annual Plan;
 - b) Are consistent with the Council's plans and policies; and
 - c) Would not significantly alter 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.

Attachments | Kā Tāpirihaka

A	Draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025
B	Ski lanes - Summary of feedback from 2022 ski lane engagement and analysis of known issues, options and recommended options
C	Drowning Prevent Aotearoa Albert Town Bridge Inland Water Hazard and Risk Assessment June 2024
D	Drowning Prevention Aotearoa – Risk matrix and rating score
E	Recommended Albert Town Bridge powered craft passage lanes
F	Recommended vessel identification provisions
G	Recommended extension to the existing Kawarau Dam access lanes
H	Overview of miscellaneous minor corrections, including recommended solutions
I	Statement of Proposal – Navigation Safety Bylaw Review
J	Navigation Safety Bylaw 2018 (the current bylaw)
K	Summary of Proposal - Navigation Safety Bylaw review

All attachments are presented in a separate document.