

22 June 2022

Dear Permit Holder

### **Re: Privately owned Moorings and Jetties in the Queenstown Lakes District**

Council is following up on recent communications to provide an update on survey findings. You are being included in this as our records show you are an owner or part-owner of a mooring or jetty.

Within this update you will find the results of the survey which was designed to capture and validate information held on jetties and moorings. Also included are the further steps which are required to ensure all jetty and mooring owners are fully informed of their responsibilities. This updated activity will assist Council to keep our waterways safe for everyone to enjoy.

Following a survey completed in December 2021, Council has become aware that a number of privately-owned moorings and jetties may not be legally compliant and may not hold up-to-date permits, and/or resource consents, and/or building consents.

Council would like to take this opportunity to inform mooring and jetty owners of their legal compliance obligations for these assets.

This letter explains:

- What you need to know about your responsibilities;
- Where to access information to check if you are compliant;
- Who to contact if you need to progress consent application/s; and
- What to do if you wish to surrender a mooring or jetty if compliance costs are prohibitive to you.

### **Moorings and Jetties | Your responsibilities**

Whether you own a mooring or a jetty (or both), or you are a shareholder, you are responsible for the following:

- Paying the correct permit fees for a mooring and/or a jetty;
- Applying to transfer ownership of a mooring/jetty if it has been sold;
- If no resource consent has been granted, obtaining a resource consent;
- If a resource consent has expired, obtaining a new resource consent;
- If a building consent is required, obtaining a building consent;
- Maintenance and repairs in order to keep the mooring or jetty safe and in good order; and
- Anything else required to ensure the jetty or mooring is fit for purpose.

## Moorings and Jetties | Compliance Obligations

Any temporary or permanent structure, where some part of that structure sits in, on, under or over a lake, is considered to be a lake structure.

A resource consent and/or a building consent may be required for a mooring and/or a jetty. Owners of these structures should seek professional advice on what is required under the Resource Management Act 1991, or the Building Act 2004.

In most cases, the following consents should be sought:

**Resource Consent** A resource consent is required under the [Resource Management Act 1991](#), the Queenstown Lakes District Plan and the Otago Regional Council Water Plan and is issued by QLDC. Resource consents enable QLDC to assess and monitor lake structures, to ensure that they are maintained, are safe, and that they minimise any impact on the environment. The owner of the structure is responsible for the costs involved in obtaining a resource consent.

**Building Consent** A building consent may be required under the [Buildings Act 2004](#). The owner of a structure is responsible for ensuring that no works are undertaken without a building consent, or unless QLDC specifically exempts the requirement. A building consent is issued by QLDC. The purpose of a building consent is to ensure that all lake structures meet building code compliance standards and are safe for public use. The owner of the structure, or proposed structure is responsible for the costs involved in obtaining a building consent.

*\*It is advised to seek professional assistance when lodging a consent application. The QLDC website also has all the information you need to commence the process. See our FAQ's attached for more details and resources on the above.*

## Moorings and Jetties | Compliance Timetable

If your mooring and/or jetty does not hold the necessary consents to be compliant, QLDC will allow a 12 month period for compliance from the date of the 2022 renewal.

The table below shows timeframes for compliance:



## Moorings and Jetties | Who to contact to better understand your level of compliance

Some of the information in this letter may be new to you and we appreciate that you may have some questions. Please refer to the **attached** updated Frequently Asked Questions (FAQs) for your reference, here you will find information on who to contact. It is important that you seek professional advice QLDC officers may provide some assistance to you in the first instance.

### Moorings and Jetties | Legal Information

#### Permit Fees and Conditions

This letter has been issued by QLDC under Part 9 (Structures and Moorings) of the [Navigation Safety Bylaw 2018](#).

This grants QLDC the right to issue permits for lake structures, sets the fees for such permits and requires all owners of lake structures to ensure such moorings and/or jetties are lawfully compliant.

#### Non-Compliance

Non-compliance with the conditions of the permit, including a failure to pay a permit fee; or a failure to properly comply with the requirements under the RMA or BA, could result in QLDC or the Harbourmaster cancelling your permit and/or requiring the removal of your lake structure under section 48 of the [Navigation Safety Bylaw 2018](#).

Enforcement under the Resource Management Act 1991 for a breach could result in QLDC issuing an Infringement Notice, Abatement Notice, or, it could even result in a prosecution under the Act with a conviction and fine of up to \$300,000 if found guilty. The penalty could also include up to 2 years imprisonment.

Additionally, failure to comply with a bylaw could result in a fine under section [239 of the Local Government Act 2022](#) of up to \$20,000.

Enforcement under the Building Act 2004 for a breach could result in QLDC issuing an Infringement Notice, Notice to Fix, or, it could even result in a prosecution under the Act with a conviction and fine of up to \$200,000 if found guilty.

*For further information on Moorings and Jetties please visit [www.qldc.govt.nz/jetties-and-moorings](http://www.qldc.govt.nz/jetties-and-moorings)  
For information on who to contact please see the attached Frequently Asked Questions.*

Kind Regards,



Quintin Howard  
Property Director, Queenstown Lakes District Council

## Jetties and Moorings – frequently asked questions

Council has been working to validate all existing information held on jetties and moorings to ensure these waterway features are compliant. Please find these Frequently Asked Questions as a guide to answer your enquiries around compliance and process.

### Who to contact:

**Resource Consents team** - [www.qldc.govt.nz/services/resource-consents/duty-planner](http://www.qldc.govt.nz/services/resource-consents/duty-planner)

- To check if your mooring or jetty has a Resource Consent
- To understand requirements to lodge an application for a Resource Consent

**Building team** - [www.qldc.govt.nz/services/building-services/contact-us#contact\\_us](http://www.qldc.govt.nz/services/building-services/contact-us#contact_us)

- To check if your jetty requires a Building Consent
- To lodge an application for a Building Consent

**Property team** – [property@qldc.govt.nz](mailto:property@qldc.govt.nz)

- Questions on your permit fees
- To lodge an application to transfer the ownership of a mooring or jetty
- To advise if you wish to surrender your permit

### My mooring/jetty is no longer in use/ I would like to surrender my permit, what process do I follow?

If your Mooring or Jetty is not consented and there is no intention for it to be in the future, then it needs to be removed as soon as possible.

If you have a consented and permitted mooring/jetty but no longer wish to use it, please notify council you would like to surrender your permit to avoid future charges. We will then discuss next steps with you to remove the mooring/jetty. The Council or the Harbourmaster may require a mooring permit holder to remove the mooring/jetty in a specified time frame if the permit fee is unpaid for a period greater than 2 months from the due date.

If you wish to surrender your resource consent under the RMA, because you have not established your mooring/jetty yet (where the timeframe to implement your resource consent has not already lapsed), let us know by completing the 'Surrender of consent application' form.

### I didn't know I needed a resource consent for my jetty/ mooring? When did this requirement come in?

Requirements for Resource Consent came into effect with the Resource Management Act 1991 (RMA). This replaced previous permissions and licenses under the Harbours Act 1950.

For any jetty or mooring that obtained approval under the Harbours Act 1950, your permit under that Act will have expired in 2005 (if not before). After that, you would have required a Resource Consent under the RMA. Jetties and Moorings need permissions under both the [QLDC District Plan](#) and the [Otago Regional Council Water Plan](#). One application for both can be made directly to the Queenstown Lakes District Council.

### **I thought I had existing use rights? How do I demonstrate this?**

*If you have a jetty/ mooring and you believe it was lawfully established without the need for a Resource Consent (e.g. from before the RMA became relevant legislation), you can apply to Council for an Existing Use Certificate under the RMA. In making such an application, you must provide sufficient evidence to Council that demonstrates when your jetty/mooring was established and how it was lawful to do so at that time in accordance with the requirements of RMA section 139A(2).*

### **I purchased a mooring/ jetty from someone but realise now it doesn't have a resource consent? What can I do?**

*You will need to apply for resource consent. See below for information about applying for resource consent.*

### **What if I don't have a resource consent and/or building consent or my mooring/jetty is deemed unsafe, but I do have a permit?**

*If you are not able to obtain a resource consent and/or a building consent, the mooring/jetty may be subject to removal. Additionally, mooring owners are required to ensure that the mooring is in line with the required safety standards outlined within the Moorings Booklet, which was sent along with your last permit. Failure to bring the mooring up to the required safety standard, even if a valid resource consent/building consent is obtained, will also likely result in its removal.*

*If the 2022-2023 permit invoice is paid, this allows you 12 months to meet compliance and legislation requirements. After this period, if your mooring/jetty remains uncompliant you will not be able to renew your permit.*

### **How do I apply for a resource consent for my mooring/jetty?**

*QLDC's Waterbased Activity Application Form (Form 9) includes what information you're required to provide with your resource consent application. You'll find a link to Form 9 below.*

*You will also need to look at our District Plan to find the relevant rules to establish a mooring/jetty. Because our District Plan is currently being reviewed, you will need to look at both the [Operative District Plan](#) and the [Proposed District Plan](#).*

*The lakes in our district are zoned "Rural General" under the Operative District Plan, and "Rural" under the Proposed District Plan. The exception being Queenstown Bay, where the bay is zoned "Queenstown Bay Waterfront Subzone" which is part of the "Queenstown Town Centre" zone. You will also want to check the Otago Regional Council (ORC) Water Plan.*

*You can apply to QLDC for the resource consent required by both QLDC and ORC for your jetty/ mooring. QLDC will liaise with ORC on your behalf and unless ORC decide to process the application themselves, QLDC will process both the QLDC and ORC component of your application.*

*You can apply for resource consent yourself, or you may like to engage an independent resource management planner to assist in preparing your application. Whether you choose to apply yourself or seek assistance, once you have an application prepared you can also seek a pre-application meeting with us to help understand your resource consenting requirements.*

*Below are a number of links that may be helpful:*

- [Resource Consent Application form - water-based activity \(Form 9\)](#)
- [Information about pre-application meeting service](#)
- [QLDC Proposed District Plan](#)
- [QLDC Operative District Plan](#)
- [Otago Regional Council information](#)

### **I want to transfer my mooring permit – what do I need to do?**

*There are two steps to this process*

- 1) You will need to **transfer your resource consent** for your jetty/ mooring under the RMA, this is done through the QLDC Consents team. It's a good idea to get this done first, you can find helpful steps below.
- 2) You can then apply to **transfer the permit**. **This is done through the QLDC Property team** and a transfer fee applies. You can download the form on our website [www.qldc.govt.nz/jetties-and-moorings](http://www.qldc.govt.nz/jetties-and-moorings) . Permit transfers will only be considered once the form and supporting documents are complete.

**To transfer your jetty or mooring resource consent**, you need to email us with a letter setting out the following details:

- Your resource consent number
- Location of your jetty/mooring
- Details for the current and new consent holder (this must be a legal person or entity).

*Once we have that information and confirm your resource consent is valid, we will action the resource consent transfer and send you written confirmation that it is completed along with the next steps you need to take to transfer the permit. An administration fee applies.*

*Please send all RMA transfer requests to the Resource Consents Team (see first page contact)*

### **What is building work under the building act?**

*Jetties are considered building work under the Building Act. As mooring safety and maintenance are assessed under the Local Government Act and Resource Management Act these are not considered a building work that needs to be assessed under the Building Act.*

### **How will the building work comply?**

*All building work must comply with the [building code](#). Specifically, for jetties building code clauses B1 Structure and B2 Durability must be considered. F4 Safety from falling is more complex and has been the subject of previous determinations, some key determinations include [1995/004](#), [2001/12](#), [2014/059](#) generally, if the fall is >1.0m to the water level a barrier is required.*

### **Is a building consent required for my Jetty?**

*Generally speaking, a building consent is required for all building work. If a building consent is not obtained, the building work will be unlawful, and Council will not be able to issue a Code Compliance Certificate. This means that the public may not be able to use the Jetty, and Jetties may be subject to public use requirements. Under s363 of the Building Act 2004.*

*Some building work is exempt from requiring a building consent. Please see 'Building work consent not required guidance' on the [www.building.govt.nz](http://www.building.govt.nz) website. You may also apply for a Territorial Authority for a discretionary exemption advising us why the building work is likely to comply with the building code with evidence to support your application. Please download the application form for 'AF EX- Application for Building Consent Exemption' [here](#). Where building works are outside the scope of exempt work and no territorial authority discretionary exemption is obtained, you are required to obtain a building consent before commencing construction.*

*You should seek professional advice on any matter related to the Building Act process prior to undertaking any building works.*

### **What if my Jetty already exists?**

*Council may choose to take a pragmatic approach to existing building work, using current exemption guidance to determine next steps (if any). However, some Jetties may be in a very poor state of repair, and may need to be assessed under Council's [Dangerous and Insanitary Building Policy](#). Some jetties may have also been constructed unlawfully, and you will need to seek professional advice on how to bring the building works up to a compliant standard.*

### **What other rules am I supposed to be following to make sure my mooring is safe and compliant?**

*There are a number of guidance documents that set out the expectations for your mooring or jetty. We've provided links below:*

- *Moorings Booklet – information about construction and maintenance of moorings*
- *QLDC Jetties and Moorings Policy*
- *Navigation Safety Bylaw 2018*
- *Building Act 2004*
- *Resource Management Act 1991*

### **Non-Compliance**

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