

## Full Council

20 March 2025

### Report for Agenda Item | Rīpoata moto e Rāraki take [3]

**Department: Strategy & Policy**

**Title | Taitara: Adoption of Draft Navigation Safety Bylaw 2025**

**Purpose of the Report | Te Take mō te Pūroko**

---

The purpose of this report is to:

- a. provide information relating to Hearing Panel (**Panel or the Panel**) deliberations and recommendations relating to the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 (**the draft bylaw – Attachment A**),
- b. provide further analysis and advice on Panel recommendations, and
- c. present options to Council, so that it can make decisions on adopting the draft bylaw.

### Executive Summary | Whakarāpopototaka Matua

---

The Navigation Safety Bylaw 2018 (**the current bylaw**) (**Attachment B**) is due for review. The district's waterways can present many challenges due to their depth, speed and temperature. They attract many local, national and international visitors. Queenstown Lakes District Council (**QLDC or Council**) has a responsibility to manage navigation safety under the Maritime Transport Act 1994 (**MTA**) so that everyone can safely enjoy the district's lakes and rivers.

Officers commenced the process to review the current bylaw by undertaking preliminary engagement between October and November 2023. On 19 September 2024, Council endorsed a summary of proposal (**Attachment C**) and statement of proposal (**Attachment D**), which included the draft bylaw for formal consultation, in accordance with the special consultative procedure. Formal consultation took place between 30 September 2024 and 31 October 2024.

The Panel appointed by Council<sup>1</sup> received written and oral submissions at a hearing held on 25 November 2024<sup>2</sup>. The Panel recommended a number of amendments to the draft bylaw that was adopted for consultation as an outcome of the consultation process. Having undertaken further analysis on the Panel's recommendations, officers have provided advice in this report that, on occasion, differs from those recommendations made by the Panel. Council has a choice about how to proceed with recommendations made by the Panel. Council has delegated receiving submissions and making recommendations on a final form of the draft bylaw to the Panel, and the Panel has considerable knowledge as an outcome of this role that should be recognised. However, only full Council may make a bylaw.

---

<sup>1</sup> The Panel comprised councillors Quentin Smith (chair), Cody Tucker and Gavin Bartlett.

<sup>2</sup> <https://www.qldc.govt.nz/your-council/council-meetings/25-november-hearing-of-submissions-on-the-draft-navigation-safety-bylaw-2024/>

This report should be read in close association with the draft bylaw at Attachment A. Note that Attachment A incorporates the Panel's recommendations only (which are shown as tracked changes). Any additional advice provided by officers that differs from the Panel's recommendations have not been included in Attachment A.

**Table 1** below summarises the final set of amendments recommended by the Panel and officer's corresponding further advice where it differs to the recommendations made by the Panel.

In practice, most of these amendments addressed in Table 1 are depicted graphically in the documentation (e.g. ski lanes). There are only two amendments that are embodied within the text and these can be found at **Attachment E**, which provides a direct comparison between the Panel's recommendations and officer's further recommended amendments.

**Table 1** Recommendations of Hearing Panel and further officer advice following hearing and deliberations.

<b>Topic</b>	<b>Hearing Panel recommendation</b>	<b>Officer’s further recommendations post Hearing Panel meetings</b>	<b>Daft bylaw clause or map reference (see Attachment A)</b>
Kelvin Grove ski lane	Retain the ski lane with a change to its size and foreshore location. Move the ski lane to the south by approximately 20 metres from the location shown in the hearing report.	NA	Map 4 Map 4C
Frankton Beach ski lane	Retain the ski lane.	NA	Map 4 Map 4B
Willow Place West Side ski lane	Retain the ski lane.	Remove the ski lane.	Map 4 Map 4F
Loop Road ski lane	Retain the ski lane.	Retain the ski lane but amend the location shown in the maps to match its correct physical location.	Map 4 Map 4D
Roys Bay – Main Beach ski lane	Retain ski lane and apply an annual closure between December and the end of March.	NA	Map 12 Map 12E
Roys Bay – Eely Point ski lane	Amend existing ski lane to create a ‘launch lane’ type access lane within the existing ski lane that allows for vessels to launch/leave the foreshore only.	NA	Map 12 Map 12B
Roys Bay – Waterfall Creek ski lane	Retain the existing ski lane (presently located to the south of Waterfall Creek) and establish a second ski lane to the north of Waterfall Creek.	Retain the present ski lane only.	Map 12 Map 12G
Glendhu Bay – East	Retain the ski lane but reduce the width of the ski lane by approximately 50 metres at the lake shore and shift it away from the informal boat ramp	NA	Map 12 Map 12C

Topic	Hearing Panel recommendation	Officer’s further recommendations post Hearing Panel meetings	Daft bylaw clause or map reference (see Attachment A)
	area. The outer ski lane markers would remain at a wide angle to reduce impact on congestion.		
Lake Hāwea ski lane	Amend the location of the existing ski lane so that it is half across the esplanade and half to the west with one pole in middle of esplanade beach and the rest to the west.	NA	Map 13 Map 13A
Ski lane maps	Include detailed images showing the location and size of each ski lane in the district, and any adjoining swim lanes.	NA	Various
Kawarau Dam access lanes	<p>Amend the upstream and downstream access lanes as follows:</p> <ul style="list-style-type: none"> <li>• Extend both access lanes further to the northwest, and</li> <li>• Enlarge the access lane to occupy the area between the existing upstream and downstream access lanes from the willow tree island to the Kawarau Dam, prevent recreational vessels from stopping in this area and include exemptions for commercial vessels operating under an approved resource consent.</li> </ul> <p>Amend the proposed ‘western’ access lane as follows:</p> <ul style="list-style-type: none"> <li>• Limit the size of the access lane to the area necessary to traverse shallow water, and</li> <li>• Restrict this access lane to use by commercial vessels operating under an approved resource consent.</li> </ul>	NA	Map 3 Clause 38

Topic	Hearing Panel recommendation	Officer's further recommendations post Hearing Panel meetings	Daft bylaw clause or map reference (see Attachment A)
Vessel identification	Amend the provisions to remove the requirement for exempt vessels to display the owner's name and contact details (to be replaced with an explanatory note), and other minor amendments.	NA	Clause 18
Temporary events	Add a clause that enables a decision/term/condition to be reviewed upon request and add an explanatory note which guides the interpretation of 'organised water activities'.	NA	Clause 33
Communication devices	Amend the provisions so that one form of communication is required to be carried by a person in charge of any powered vessel or any vessel greater than 6 metres in length.	Amend the provisions so that any powered vessel is required to carry two forms of communication, and any non-powered vessel more than 200 metres from the shore is required to carry at least one form of communication.	Clause 19
Albert Town Bridge – recreational jumping	<p>Include new provisions in the bylaw to:</p> <ul style="list-style-type: none"> <li>• create defined upstream and downstream passage lanes for powered craft to be separate from the known jumping/swim area, and</li> <li>• Signpost the middle lane of the bridge as a powered craft passage lane to minimise collision risks with people in the water.</li> </ul>	NA	Map 14 Clause 37.1
Vessel speed interpretation	<p>Amend the current bylaw to ensure the correct interpretation of vessel speed, including:</p> <ul style="list-style-type: none"> <li>• Amending the definition of 'proper speed' to differentiate the way speed is measured on rivers vs on lakes, and</li> </ul>	NA	Clause 6.1 Clause 37(2)(b)

Topic	Hearing Panel recommendation	Officer’s further recommendations post Hearing Panel meetings	Daft bylaw clause or map reference (see Attachment A)
	<ul style="list-style-type: none"> <li>Introduce a speed uplifting for part of the Clutha River / Mata-Au relating to commercial vessels operating under a resource consent</li> </ul>		
Other minor and miscellaneous amendments	Undertake minor corrections to improve the clarity, legibility and overall accessibility of the bylaw.	NA Note: Officers have recommended updating the coordinate system used throughout the bylaw.	Various

Recommendation | Kā Tūtohuka

---

That the Council:

1. **Note** the contents of this report;
2. **Note** that on 19 September 2024, Council determined, 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;
3. **Determine** prior to making the bylaw, pursuant to section 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;
4. **Determine** pursuant to section 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;
5. **Adopt** the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 with the changes recommended by the Hearing Panel and any further changes, including as recommended by officers;
6. **Resolve** that the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 will come into effect on 20 March 2025 and that the Navigation Safety Bylaw 2018 is revoked on 20 March 2025; and
7. **Note** that in accordance with section 157 of the Local Government Act 2002, public notice be given of the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025, advising:
  - a. that the Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 will come into force on 20 March 2025;
  - b. that copies of the Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 may be inspected, without fee, at all Council offices.

**Prepared by:**



**Name:** Luke Place  
**Title:** Principal Policy Advisor  
21 February 2025

**Reviewed and Authorised by:**



**Name:** Michelle Morss  
**Title:** General Manager Strategy & Policy  
21 February 2025

Context | Horopaki

1. The draft bylaw has now reached a stage in the development process where it is ready for deliberation and adoption by Council. The steps involved in the bylaw development process and the current status of the draft bylaw is set out in **Figure 1** and key milestones in the process at **Table 2** below.

**Figure 1** Bylaw development process



**Table 2** Key milestones for the review of the draft bylaw process

Date	Milestone
October - November 2023	Officers undertook <b>preliminary engagement</b> <sup>3</sup> . 67 responses were received, 51 via a Let’s Talk survey and 16 by email.  In October 2022 Council undertook informal formal consultation in relation to the district’s ski lanes and received 160 responses. This consultation was independent of the current bylaw development process, but this input was taken into account.
16 April 2024	Officers conducted a <b>public workshop</b> with elected members <sup>4</sup> . The purpose of this workshop was to collect feedback to narrow the reasonably practicable options to address identified issues.
11 July 2024	The <b>Wānaka-Upper Clutha Community Board</b> <sup>5</sup> was presented with a report <sup>6</sup> outlining the navigation safety issues being addressed. The Board agreed to note the contents of the report and the development of a draft bylaw. The Board provided feedback which was taken into consideration, and officers undertook additional analysis where necessary.
8 August 2024	The <b>Community &amp; Services Committee</b> was presented with a report <sup>7</sup> outlining the navigation safety issues being addressed. The Committee agreed to note the contents of the report and the development of a draft bylaw. The Committee provided feedback which was taken into consideration, and officers undertook additional analysis where necessary.
19 September 2024	<b>Full Council</b> was presented with proposed changes to the current bylaw <sup>8</sup> . Elected members <b>endorsed a draft bylaw, statement of proposal and summary of proposal for formal consultation.</b>

<sup>3</sup> <https://letstalk.qldc.govt.nz/88754/widgets/447774/documents/295979>

<sup>4</sup> <https://www.qldc.govt.nz/media/g11lukia/1-navigation-safety-bylaw-review.pdf>

<sup>5</sup> <https://www.qldc.govt.nz/your-council/council-meetings/11-july-2024-wanaka-upper-clutha-community-board-meeting/>

<sup>6</sup> <https://www.qldc.govt.nz/your-council/council-meetings/11-july-2024-wanaka-upper-clutha-community-board-meeting/>

<sup>7</sup> <https://www.qldc.govt.nz/your-council/council-meetings/8-august-2024-community-services-committee-meeting/>

<sup>8</sup> <https://www.qldc.govt.nz/your-council/council-meetings/19-september-2024-full-council-meeting/>

Date	Milestone
30 September 2024 – 31 October 2024	Council undertook <b>formal consultation</b> on the draft bylaw in accordance with the special consultative procedure <sup>9</sup> . Officers undertook three drop-in sessions across the district for members of the public to ask questions related to the draft bylaw. 139 submissions were received, and 29 submitters presented their submission in person (or online) to the Panel ( <b>Attachment F – submissions pack</b> ).
25 November 2024	The Panel conducted a <b>public hearing to hear submissions</b> <sup>10</sup> . 29 submitters presented their submission in person (or online). Officers prepared a hearing report <sup>11</sup> providing analysis of submissions, and advice on further recommended amendments to the draft bylaw.
28 November 2024	The Hearing Panel conducted its <b>deliberations on submissions</b> received and heard <sup>12</sup> . It recommended a number of amendments to the draft bylaw as consulted, in response to the feedback received.
28 November 2024 onward	Officers have reviewed the Panel’s recommendations and have provided further advice to Council on several of these recommendations. Council has a choice about how to proceed with any recommendation made by the Panel.

### Bylaws – Scope and limitations

2. Bylaws are made under the Local Government Act 2002 (**LGA**) for one (or more) of the following reasons:<sup>13</sup>
  - a. protecting the public from nuisance
  - b. protecting, promoting, and maintaining public health and safety
  - c. minimising the potential for offensive behaviour in public places.
  
3. The MTA empowers regional councils to make navigation safety bylaws<sup>14</sup> 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.
  
4. The current bylaw (**Attachment B**) applies to all navigable waters and foreshores in the district. The current bylaw is included as. Its purpose is to regulate the following matters:
  - a. the use or management of ships, anchorages, and vessel traffic,
  - b. moorings and maritime facilities,
  - c. preventing nuisances arising on, in, or near the water,
  - d. reserving the use of water for specified purposes,

<sup>9</sup> Sections 83 and 86 of the Local Government Act 2002

<sup>10</sup> <https://www.qldc.govt.nz/your-council/council-meetings/25-november-hearing-of-submissions-on-the-draft-navigation-safety-bylaw-2024/>

<sup>11</sup> [25 November Hearing of Submissions on the draft Navigation Safety Bylaw 2024 | Queenstown Lakes District Council](#)

<sup>12</sup> <https://www.qldc.govt.nz/your-council/council-meetings/navigation-safety-bylaw-2025-deliberations/>

<sup>13</sup> LGA Section 145

<sup>14</sup> MTA Section 33M

- e. manage events on the water,
  - f. wearing of life jackets and buoyancy aids on recreational vessels,
  - g. administrative requirements including fees and charges for administrative functions, and
  - h. offences and penalties for contravention of the bylaw's clauses.
5. The current bylaw was made on 23 March 2018. The LGA sets out that a bylaw must be reviewed within five years of the date it is first made<sup>15</sup>. If it is not reviewed within five years there is a two-year grace period<sup>16</sup> 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 23 March 2023) and will automatically be revoked if a new bylaw is not made prior to 23 March 2025.
6. Officers have shared advice on the bylaw review with Kāi Tahu, Maritime New Zealand (**MNZ**) and Waka Kotahi NZTA. Feedback received has been considered in the development of the draft bylaw. Council has directly consulted with MNZ in accordance with s33M(1) of the MTA ahead of formal consultation on the draft bylaw.

#### Analysis and Advice | Tatāritaka me kā Tohutohu

7. The draft bylaw that was adopted for consultation included amendments to address navigation safety issues related to the following specific topics:
- a. Ski lanes
  - b. Kawarau Dam access lanes
  - c. Vessel identification
  - d. Communication devices
  - e. Temporary events
  - f. Albert Town Bridge recreational jumping
  - g. Vessel speed interpretation, and
  - h. Minor changes.
8. A comprehensive discussion of each topic is included in previous reports, including in the 19 September 2024 report<sup>8</sup> requesting adoption of the draft bylaw for consultation, and the 25 November 2024 hearing report<sup>11</sup>.
9. The proceeding sections of this report address the following topics where the Panel have made further recommendations that differ from the advice provided by officers in the 25 November 2024 hearing report, or where officers have provided further advice to Council on the Panel's recommendations, including:
- a. Ski lanes
  - b. Kawarau Dam access lanes
  - c. Vessel identification, and
  - d. Communication devices.

---

<sup>15</sup> LGA Section 158

<sup>16</sup> LGA Section 160A

10. It should be noted that the majority of provisions from the current bylaw were transferred to the draft bylaw, and no amendments were proposed to these provisions. These transferred provisions form the balance of the draft bylaw and are important to ensure navigation safety in the district.
11. Analysis and advice is provided in relation to the following matters for each key topic:
- Management under the current bylaw (if any),
  - What amendments were proposed and consulted on,
  - Submitter feedback,
  - Officer recommendations to the Panel,
  - Panel recommendations to Council, and
  - Where relevant, further advice from officers to Council on navigation safety issues associated with specific Panel recommendations.

### **Ski lanes**

12. Ski lanes are a type of ‘access lane’ with the purpose of enabling powered craft towing water skiers to leave or approach the foreshore at speeds exceeding 5 knots. In the absence of an access lane, vessel speed is limited to 5 knots within 200 metres of the shore. Judicious placement and management of ski lanes is important to ensure equitable enjoyment of lakes and rivers for all users, and to ensure Council is fulfilling its responsibilities under the MTA. Ski lanes are contained within Table 2 (Upliftings for Water Ski access lanes) of Schedule 2(3) of the draft bylaw. The current bylaw identifies 10 ski lanes in Lake Whakatipu, six in Lake Wānaka and one at Lake Hāwea.
13. The draft bylaw as consulted on specified important controls on conduct within access lanes. These provisions specify that:
- no person may swim in any access lane<sup>17</sup>,
  - no person in charge of a vessel may operate a vessel in a manner that obstructs or impedes the passage of any other person<sup>18</sup>,
  - no person within an access lane may proceed in any manner that is dangerous<sup>19</sup>, and
  - if one or more persons are using an access lane no person may enter, remain in or use the lane for any other purpose<sup>20</sup>.
14. The draft bylaw as consulted on included the following changes relating to ski lanes to address known navigation safety issues identified by Council’s Harbourmaster and regulatory team:
- Amend the location of some ski lanes,
  - Remove some ski lanes with known navigation safety issues,
  - 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.

---

<sup>17</sup> Clause 43.2

<sup>18</sup> Clause 43.3

<sup>19</sup> Clause 43.4

<sup>20</sup> Clause 43.5

15. **Table 3** illustrates that a range of views were presented in response to the proposed ski lane amendments. It shows that many respondents generally opposed the removal of ski lanes or requested further changes to the way ski lanes are managed.

**Table 3 Responses regarding overall amendments to ski lanes**

Question	Position – number of submitters				
	Support	Oppose	Support some	Neutral	No response
What is your view of the proposed amendments to the district's ski lanes?	36	56	36	11	13

16. **Attachment G** provides a further breakdown of the responses provided in regard to those ski lanes that were proposed to be removed or amended in the draft bylaw, as well as a high-level overview of the key themes and alternative options presented by submitters.
17. The submissions show that the community is highly engaged in this topic and has a range of important experiences and knowledge with regard to ski lanes. It acknowledged that ski lanes facilitate the recreational use of the district's lakes, and that these recreational opportunities are highly valued by the community. Those in opposition to the ski lane amendments were concerned that removing ski lanes would result in congestion and user conflict in the remaining ski lanes, adversely affecting navigation safety, and reducing recreational opportunities. Those in support of the amendments noted conflicts between powered vessels/water ski activities and passive users (i.e. swimmers and non-powered vessels) as creating navigation safety risks. A range of alternative approaches were advocated by submitters including use of temporary closures over peak periods, enhancing monitoring and enforcement activities, and greater use of education, signage and information.
18. In the 25 November 2024 hearing report, officers recommended a range of amendments to the draft bylaw to address submitters' concerns. The Panel recommended additional amendments. **Table 4** below provides an overview of the proposed position for each ski lane at each stage of the bylaw development process, including Panel recommendations.

**Table 4** Ski lane amendments addressed throughout the draft bylaw development process (amendments are highlighted green)

Ski lane <sup>21</sup>	Options consulted on in the draft bylaw adopted for consultation 30 September 2024 – 31 October 2024	Officer recommendations in hearing report consultation 25 November 2024	Hearing Panel recommendations following hearing of submissions received and deliberations 28 November 2024	Officer recommendations following further analysis 20 March 2025
<b>Lake Whakatipu ski lanes</b>				
Kelvin Grove	Amend – Reduce width of ski lane by shifting the eastern pole 50 metres west	Retain the ski lane with a change to its size and foreshore location. Shift the western ski lane pole east by 40-80 metres.	Retain the ski lane and move the whole ski lane to the south by 20 metres.	NA
Wilson's Bay	Amend – Retain ski lane but shift approximately 80 metres west by moving the right pole to the left pole location	No further amendments.	Accept hearing report recommendation	NA
Buckler Burn	No change	No further amendments.	Accept hearing report recommendation	NA
Kingston Main Beach	No change	No further amendments.	Accept hearing report recommendation	AN
Bobs Cove	No change	No further amendments.	Accept hearing report recommendation	NA
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	No further amendments.	Accept hearing report recommendation	NA
Kinloch Main Beach	Remove ski lane	No further amendments.	Accept hearing report recommendation	NA
Frankton Beach	Remove ski lane	No further amendments.	Retain the ski lane and consider installing signage re possible low water levels	NA
Willow Place West Side	Remove ski lane	No further amendments.	Retain the ski lane	Remove ski lane
Loop Road	Remove ski lane	Retain ski lane.	Accept hearing report recommendation	Retain ski lane and amend its location as shown in the current bylaw to its correct physical location (currently shown as being the 'Willow Place west side ski lane')
Frankton Arm North Side	Remove ski lane	No further amendments.	Accept hearing report recommendation	NA
<b>Lake Wānaka ski lanes</b>				
Roys Bay – Main Beach adjacent to Pembroke Park	Remove ski lane	No further amendments.	Retain ski lane and apply a seasonal closure from the beginning of December until the end of March	NA
Roys Bay – Eely Point	Remove ski lane	Amend existing ski lane to create a 'launch lane' type access lane within the existing ski lane area that would enable vessels to exceed 5 knots within 200 metres of a smaller area of shore.	Accept hearing report recommendation	NA

<sup>21</sup> Note – the current ski lane locations are shown in maps 4, 6, 7, 9 and 12 of the current bylaw.

<b>Ski lane<sup>21</sup></b>	<b>Options consulted on in the draft bylaw adopted for consultation 30 September 2024 – 31 October 2024</b>	<b>Officer recommendations in hearing report consultation 25 November 2024</b>	<b>Hearing Panel recommendations following hearing of submissions received and deliberations 28 November 2024</b>	<b>Officer recommendations following further analysis 20 March 2025</b>
Roys Bay – Waterfall Creek	Remove ski lane	Retain ski lane.	Retain the ski lane and create a second ski lane so that there is one to the north and one to the south of Waterfall Creek	Retain the ski lane currently located to the south of Waterfall Creek only (i.e. do not include a second ski lane to the north of Waterfall Creek)
Dublin Bay	No change	No further amendments.	Accept hearing report recommendation	NA
Glendhu Bay – East	Amend – Reduce the width of the ski lane by shifting the western pole east by 50 metres	Retain the ski lane but reduce the width of the ski lane by approximately 50 metres at the lake shore and shift it away from the informal boat ramp area. The outer ski lane markers would remain at a wide angle to reduce impact on congestion.	Accept hearing report recommendation	NA
Glendhu Bay – West	No change	No further amendments.	Accept hearing report recommendation	NA
<b>Lake Hāwea ski lane</b>				
Lake Hāwea	No change	No further amendments.	Amend the location of the ski lane so that it is half across esplanade beach and half to the west (one pole in middle of esplanade beach and the rest to the west)	That the location of the ski lane be refined marginally so that it is located on the western side of Hāwea Esplanade Road.

19. The Panel recommended that the draft bylaw be amended to include more specific maps for each ski lane illustrating their location and scale, including the physical location of each pole, buoys and any swim areas located in close proximity. The Panel considered that such detailed illustrations would enhance the understanding of ski lane placements, regulations and user behaviour.
20. In making these recommendations, the Panel were cognisant of the large number of submitters which expressed concerns in relation to the removal of ski lanes and the impacts this could have on congestion and user conflict at the smaller number of remaining access lanes. They also sought to address the loss of accessible recreational opportunities for water skiers, in particular, families and those learning to water ski who prefer accessible locations close to the shore.
21. Officers make the following additional comments in regard to the Panel recommendations related to ski lanes:
- a. Waterfall Creek ski lane(s) – The Panel recommended that the existing ski lane be retained and that a second/additional ski lane be created in this location.
    - i. Officers note the matter of scope relating to the Panel’s recommendation. In particular, the statement of proposal and draft bylaw contemplated removing the single existing ski lane. The Panel recommendation goes further, suggesting that two ski lanes be present. On balance, officers consider that the Panel recommendation would be in scope for the following reasons:
      - Map 12 of the current bylaw shows the ski lane as being located to the north of waterfall creek, while the physical location of the current ski lane and poles are to the south of Waterfall Creek.
      - A large number of submitters requested that Council reconsider the number of ski lanes present in Lake Wānaka, and
      - The 19 September 2024 report adopting the draft bylaw set out that *‘officers are not opposed to the identification of new ski lanes to replace some or all of the removed ski lanes’<sup>22</sup>*.
    - ii. Council’s Harbourmaster and regulatory team advise against the creation of a second ski lane to the north of Waterfall Creek. Observations over the 2024/2025 summer period suggest low usage of the existing ski lane for the prescribed activity. Observed usage in the area to the north of Waterfall Creek primarily comprised jet skis and family vessels along with swimmers and paddle boarders, beached vessels, and children in the water close to shore. Officers are concerned that a second ski lane to the north of Waterfall Creek would reduce accessible areas for the large number of families and passive users in this area. It is also understood that organised swimming club events take place in the area to the north of Waterfall Creek that could be adversely impacted by a second ski lane. It is also possible that a second ski lane would result in large numbers of vessels beaching in the ski lane area, along with people unknowingly swimming or beaching boats in the ski lane in breach of the draft bylaw.

---

<sup>22</sup> Para 7.3.8 of the 19 September 2024 report

- iii. The Panel recommended adding a second ski lane to address submitters' concerns. Accordingly, the draft bylaw at Appendix A for adoption by Council includes a 'northern' and southern' Waterfall Creek ski Lane. However, given the concerns set out above, on balance, officers consider that a single ski lane located to the south of Waterfall Creek is sufficient and would achieve better navigation safety outcomes. This would leave the northern section of beach for passive users and for families to lawfully beach their boats. The current layout of the area is working well, with few navigation safety issues being observed or identified over peak times. It is also noted that the Panel has recommended retaining a range of other ski lanes in Lake Wānaka that were initially proposed to be removed, thereby mitigating potential congestion amongst remaining ski lanes. Council has a choice about how to proceed with this recommendation.
  
- b. Lake Hāwea ski lane – The Panel recommended that the ski lane be moved in response to a submission such that 'it is half across esplanade beach and half to the west (one pole in middle of esplanade beach and the rest to the west)'.
  - i. Officers note the matter of scope relating to the Panel's recommendation. In particular, it is noted that the statement of proposal and draft bylaw did not propose any amendments to the Lake Hāwea ski lane. The Panel recommendation is to refine the ski lane location to address submitter's relief. On balance, officers consider that the Panel recommendation would be in scope for the following reasons:
    - The Panel recommendation would retain the ski lane in its general location with refinements. The recommendation would not materially impact any person with a recreational interest in the Lake Hāwea ski lane, and
    - The recommendation responds directly to a submission to refine the location of the ski lane.
  
  - ii. There was some ambiguity concerning the revised location of the ski lane based on local names applied to sections of the Lake Hāwea foreshore. Council's regulatory officers have clarified the submitter's request and advise that the ski lane be located on the western side of Hawea Esplanade Road, is as shown in Map 13 and 13A in the draft bylaw included as Attachment A.
  
  - iii. Council's Harbourmaster and Regulatory team consider that that the revised location would achieve suitable levels of navigation safety in this this area.
  
- c. Willow Place ski lane - The Panel recommend that this ski lane be retained.
  - i. Officers note the confusion and differing views concerning the exact location of this ski lane. This matter has not required investigation until now as officers had proposed that the Willow Place ski lane be removed in the draft bylaw. Its location

is now being more closely considered as the Panel have recommended that it be retained.

- ii. There is conflicting feedback that the ski lane was located in the areas of 'A' and 'B' in **Figure 2**. Map 4 of the current bylaw suggests that it is located at 'C' in **Figure 2**.
- iii. In the case of locations 'A' and 'B' no physical ski poles are present on the lake shore. Officers consider that location 'C' is the physical location of the Loop Road ski lane, not the Willow Place ski lane (the Loop Road ski lane is discussed more below).

**Figure 2 Willow Place ski lane location**



- iv. In the case of location 'A', officer's note that a ski lane in this location would overlap with the smaller western Kawarau Dam high speed access lane recommended by the Panel (discussed in the next section of this report). Council's Harbourmaster and regulatory team are concerned that this will result in poor navigation safety outcomes due to high commercial vessel traffic (in particular water taxi services) that will use the western Kawarau Dam high speed access lane. It is understood that commercial vessels could pass through the recommended western Kawarau Dam access lane frequently. It is advised that that a ski lane in this location would result in undesirable navigation safety outcomes. Further, it is noted that the Panel recommended restricting the use of this access lane to commercial operators authorised under a resource consent issued by QLDC. This would exclude recreational vessels from this area and therefore create a conflict between the bylaw provisions that enable the use of the ski lane for waterskiing (note that the

Kawarau Dam access lanes matter is discussed more in the proceeding sections of this report).

- v. In the case of location 'B', officers note that a ski lane here would be approximate 90 metres from the willow tree islands immediately offshore. Further, a number of vessel moorings are located between the shore and the willow tree islands. As a result, Council's Harbourmaster and regulatory team advise that location 'B' is not suitable for a ski lane and would result in undesirable navigation safety outcomes.
  - vi. The Panel recommended retaining this ski lane to address submitters' concerns. Accordingly, the draft bylaw for adoption by Council includes the Willow Place ski Lane. However, given the concerns set out above, on balance, officers advise that removing the Willow Place ski lane would achieve better navigation safety outcomes. Council has a choice about how to proceed with this recommendation.
- d. Loop Road ski lane - The Panel agreed with officer's advice in hearing report, and recommend that this ski lane be retained.
- i. Similar to the Willow Place ski lane, there are differing views regarding the exact location of this ski lane. This matter has not required investigation until now as officers had proposed that the Loop Road ski lane be removed in the draft bylaw. Its location is now being more closely considered as the Panel have recommended that it be retained.
  - ii. Initially, it was understood that the ski lane was located in the area indicated in Map 4 of the current bylaw. However, Map 4 shows the ski lane being located much further to the southwest than Loop Road.
  - iii. Officers advise that the current physical location of the Loop Road ski lane is location 'C' in **Figure 2** (i.e. in the location indicated as being the Willow Place west side ski lane). Officers advise that location 'C' is a suitable location for the Loop Road ski lane from a navigation safety perspective and agree with the Panel's recommendation that this ski lane be retained.
- e. Ski lane identification coordinates – The draft bylaw sought to address administrative inaccuracies related to ski lane locations. The current bylaw provides one GPS point for the general location of ski lanes. A review of these GPS points demonstrated that they did not align well to the physical location of ski lanes. It is important that ski lanes are identified accurately in the bylaw. The draft bylaw improved the accuracy of GPS points in Table 2 – Access Lanes of Schedule 2. In addition, the GPS coordinate system in the draft bylaw was updated to reflect the to reflect the WGS84 Lat-Long system. There are two matters in relation to coordinates of note:

- i. Through the bylaw development process, it has come to the attention of QLDC's Harbourmaster and regulatory team that the WGS84 Lat-Long system is not commonly used, nor is it consistent with QLDC standards in the waterways space for demarcation of moorings, navigational aids, or jetties. It is advised that the GPS coordinate system used in the draft bylaw be updated to the decimal degrees system to better reflect the common use of GPS coordinates in waterways management. It is also noted that this would align with the approach used in the ORC navigation safety bylaw.
- ii. Amending the GPS coordinate system would also necessitate amending clause 6.1 (definition of 'GPS Coordinate') as follows (added text underlined and deleted text struck through): '*GPS or GPS Coordinate(s) means a Global Positioning System used to determine a location using the ~~WGS84 Lat-Long system~~ decimal degrees system*'.
- iii. As noted elsewhere in this report, the Panel recommended that the draft bylaw be amended to provide a greater level of specificity concerning ski lane identification. This has been addressed in the draft bylaw through the introduction of specific maps illustrating the location and scale of each ski lane. Officers also recommend that a new table be included in Schedule 2(3) of the draft bylaw which provides coordinates of each onshore ski lane pole. This would improve the accuracy of ski lane locations and improve the effectiveness of Council's monitoring and enforcement activities in regard to ski lanes.

### **Kawarau Dam access lanes**

22. The current bylaw identifies two high speed access lanes upstream of the Kawarau Dam<sup>23</sup> that enable vessels to exceed 5 knots within 200 metres of the shore. One access lane is marked as an upstream lane and the other as a downstream lane. These two access lanes are shown in 'Map 3 – Kawarau Dam' of the draft bylaw. 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 marked 'gates'<sup>24</sup>, and prevent vessels from resting or stopping in locations that might impede the use of these access lanes<sup>25</sup>.
23. The draft bylaw included amendments to the Kawarau Dam access lanes to address known navigation safety risks associated with lowering water levels, combined with larger vessels and growing vessel traffic in this area of Lake Whakatipu. These conditions mean that vessels now need to exceed 5 knots within 200 metres of the shore to navigate safely in this area.
24. The draft bylaw proposed large extensions to the area covered by the existing upstream and downstream Kawarau Dam access lanes to address these navigation safety risks.

---

<sup>23</sup> This refers to the historic bridge (now for cycle and walking access only) not the SH6 NZTA two lane vehicle bridge.

<sup>24</sup> Clause 36.3

<sup>25</sup> Clause 36.1

25. 101 respondents provided a response on the proposed amendments. **Table 5** below provides an overview of the positions expressed by respondents and shows that the majority of those who provided a position (excluding neutral/no response answers) supported all or some of the amendments. However, the largest proportion of respondents indicated that they were neutral or provided no response at all.

**Table 5 Responses regarding the proposed extension to the existing Kawarau Dam access lanes**

Question	Position – number of submitters				
	Support	Support some	Oppose	Neutral	No response
What is your view of the proposed extension to the existing Kawarau Dam access lanes?	24	1	7	69	38

26. Section 1 of Attachment H provides an overview of those key themes and rationale from submissions regarding the proposed extension to the existing Kawarau Dam access lanes.

27. RealNZ (**RNZ**) made a submission in support of the proposed extension with some refinements, including further extensions to the length of the downstream and upstream access lanes, a separate access lane to the west of the islands for the water taxi approach and departure to and from the Hilton Hotel, and removing all other parts of the extended access lane. A detailed submission in opposition was provided by Millon Dollar Cruise (**MDC**) who operates scheduled sight-seeing cruises in Frankton Arm. The MDC commercial operation is authorised by resource consents that provide for MDC to operate in and around the area of the Kawarau Dam, including the Kawarau Dam downstream access lane and the area upstream of the Kawarau Dam. During its tours, the MDC vessel pauses in this area for commentary and photographs. The MDC submission opposed the access lane extensions on the basis that it would prevent vessels from resting or stopping in the areas currently used by MDC. Other submissions raised concerns in regard to the potential navigation safety issues that might arise from the extended access lane with moored boats in the area, blind spots associated with the willow tree islands, swimmers and other passive/non powered vessels.

28. In the 25 November 2024 hearing report, officers recommended that the RNZ amendments be accepted but did not recommend accepting any further amendments.

29. Having considered submitter relief and officer advice contained in the 25 November 2024 hearing report, the Panel recommended the following amendments to the draft bylaw:

- a. That the scale and location of the access lanes be amended as recommended in the 25 November 2024 hearing report in response to the RNZ submission and as shown Map 3 of Attachment A. These amendments include:
  - i. Extending both the upstream and downstream access lanes to the northwest,
  - ii. Retaining a separate, smaller western access lane to the west of the willow tree island, and

- b. Removing all other areas of the extended access lanes identified in the draft bylaw that was consulted on.
30. That the whole area to the south of the willow tree island between the downstream and upstream access lanes and down to the Kawarau dam, be mapped/identified to prevent the stopping of recreational vessels with exemptions for commercial vessels operating under an approved resource consent.
31. That the smaller western access lane to the west of the willow tree island be restricted for use by commercial passenger transport vessels operating under an approved resource consent.
32. In making these recommendations, the Panel sought to address the navigation safety risks identified by officers in this part of Lake Whakatipu that have arisen since the 2018 bylaw was made while also maintaining legitimate access for commercial vessels operating in this area under an approved resource consent. The Panel considered that commercial operators would be more familiar with the navigation safety risks associated with the use of the high speed access lanes (noting that they would also require approvals from MNZ), and it is expected that any future resource consents for commercial vessel activities in this area would be considered by Council's Harbourmaster and regulatory team to ensure that suitable levels of navigation safety can be achieved. The Panel were satisfied that excluding or restricting recreational vessels from parts of the extended access lanes and immediately surrounding areas would suitably mitigate any residual navigation safety risk. It is also noted that the MDC resource consent includes a condition that allows Council to review and reconsider the suitability of the MDC operations in this area should the navigation safety environment change.
33. Officers draw attention to para 19(d) above in regard to the Willow Place ski lane. This discussion is relevant to the Panel's recommendation related to the smaller western Kawarau Dam access lane. In particular, officers advise that placing the Willow Place ski lane in this location would overlap with the access lane, resulting in poor navigation safety outcomes and a conflict between the bylaw's provisions. As noted above, officers recommend that the Willow Place ski lane be removed from the bylaw to avoid these issues.
34. In regard to the smaller western access lane, officers note that the draft bylaw does not provide a definition of 'commercial passenger transport vessels'. It is advised that any new text specifying the use of the access lane refer to the already defined term of 'commercial vessel' which would capture the type of vessels referred to by the Panel, and any other commercial vessel, such as the MDC operation. Introducing a new definition of 'commercial passenger transport vessels' is superfluous and may create complexity in the administration of the bylaw. The specific activity being undertaken by any commercial vessel would be considered by QLDC under the District Plan and MNZ as part of their own approval processes.

## Vessel Identification

35. 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 to respond to waterway incidents and complaints (including emergency events). This is because it can be difficult to locate a vessel without appropriate forms of identification.
36. There is no requirement that navigation safety bylaws to include vessel identification provisions. As such, Council has a choice about whether or not to introduce such a requirement and what form it should take. MNZ has some existing identification requirements for commercial and pleasure vessels which largely provide nationality to ships that travel overseas<sup>26</sup>. Vessel owners can register with MNZ if they choose.
37. Clause 18 of the draft bylaw includes amendments that require all vessels to have a name or number on each side which meets specified appearance standards. The provisions enable different forms of identification, including an MNZ registration (if registered with MNZ), a sporting body registration, a radio call sign, trailer registration number, or a sail number. The draft provisions did not require all vessels to be identifiable, with smaller unpowered vessels simply needing to have the owners’ name and contact details noted somewhere on the vessel (note that this requirement is not accompanied with any minimum appearance or visibility standards). Vessels temporarily operated in the district which have identification complying with the navigation safety bylaw of the region it normally operates in would also be exempt in the draft provisions.
38. The method set out in clause 18 would not require vessel owners to register their vessel name/number with QLDC, nor would any fee be imposed on vessel owners. Rather, the approach would facilitate efficient administration as it would rely on a range of existing data sets that QLDC can access to carry out compliance and regulatory functions.
39. 113 respondents provided a position on the proposed amendments. **Table 6** below provides an overview of the positions expressed by respondents. **Table 6** illustrates that the majority of those who provided a position (excluding neutral/no response answers) supported the proposed amendments. However, the largest proportion of respondents indicated that they were neutral or provided no response at all.

**Table 6 Responses regarding vessel identification**

Question	Position – number of submitters				
	Support	Support some	Oppose	Neutral	No response
What is your view of the proposed amendments that require vessel identification?	43	1	20	49	26

<sup>26</sup> <https://www.maritimenz.govt.nz/commercial/ships/ship-registration/>

40. Section 2 of Attachment H provides an overview of the key themes and rationale from submissions regarding the proposed amendments relating to vessel identification.
41. In the 25 November 2024 hearing report, officers recommended minor amendments to the wording of the vessel identification provisions, but did not recommend amending the overall intent of the version consulted on.
42. Having considered the submissions received and officer advice contained in the 25 November 2024 hearing report, the Panel agreed to officer's minor amendments. In addition, the Panel recommended that clause 18.4 be removed from the provisions relating to the requirement for vessels otherwise exempt from the identification requirements to be marked with the current owner's name and contact details. In making this recommendation, the Panel considered that it was not necessary or practical to require the type of vessels otherwise exempt to be marked with the owner's name and contact details. The Panel did not consider the loss of such vessels from the foreshore during periods of high-water a sufficient navigation safety rationale to support clause 18.4, and that other mechanisms (such as under the Reserves Act 1977) might be better suited. However, the panel agreed that similar wording could be included in the bylaw as an explanatory note which has been added underneath clause 18 in Attachment A.

### **Communication devices**

43. 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. If waterway users find themselves in emergency situations, the absence of an appropriate form of communication these conditions may result in serious harm or death.
44. The Safer Boating Forum's 'Safer Boating Guide'<sup>27</sup> 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 its position<sup>28</sup>. 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.
45. Many other navigation safety bylaws around the country require the carriage of some form of communication device<sup>29</sup>.

---

<sup>27</sup> <https://www.maritimenz.govt.nz/media/ydrdqwdl/safer-boating-guide.pdf>

<sup>28</sup> <https://www.maritimenz.govt.nz/media/lcbo43if/nzsbf-communications-position-statement.pdf>

<sup>29</sup> 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

46. Clause 19 of the draft bylaw included provisions which set a requirement that two independent forms of communication be carried except that:
- people using non-powered vessels on a river are only 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.
47. 108 respondents provided a position on the proposed amendments. **Table 7** below provides an overview of the positions expressed by respondents. **Table 7** illustrates that the majority of those who provided a position (excluding neutral/no response answers) supported the amendments. However, it is noted that a large group also expressed opposition to the amendments. Overall, the largest proportion of respondents indicated that they were neutral or provided no response at all.

**Table 7 Responses regarding proposed requirements to carry communication devices**

Question	Position – number of submitters			
	Support	Oppose	Neutral	No response
What is your view of the proposed requirements to carry communication devices?	47	38	23	31

48. Section 3 of Attachment H provides an overview of those key themes and rationale from submissions regarding the proposed amendments related to communication devices.
49. In the 25 November 2024 hearing report, officers recommended introducing a further exemption to address concerns raised by submitters. This exemption would provide an intermediary standard between clause 19.1 (where two communication devices are required for all vessels not otherwise identified) and the exemption at clause 19.3(b) (where voice or whistle communication is suitable for non-powered vessels within 50 metres of a lake shore). This intermediary standard set out that a person in charge of a non-powered vessel operating between 50 metres and 200 metres of a lake shore must ensure that at least one form of communication equipment is carried. The amendment sought to balance the navigation safety objective with reduced costs and inconvenience for non-powered vessel operators with limited storage.
50. Having considered submissions and officer advice contained in the 25 November 2024 hearing report, the Panel recommended significant amendments to the provisions such that only powered vessels or any vessel greater than 6 metres would be required to carry one form of communication suitable for the location. The Panel were concerned that the hearing report version was overly complex, and that further self-governance should be provided for, with the important distinction being between powered and non-powered vessels. The Panel recommend that an explanatory note be included in the bylaw recommending that other vessels not required

to carry a communication device should have a form of communication suitable to their activity. The Panel considered that their recommendation was a more pragmatic and less onerous approach that achieves a suitable level of navigation safety.

51. Officers make the following additional comments in regard to the Panel recommendations:
52. Officers have carefully considered the Panel's comments and their recommended amendments. It is acknowledged that a regulatory framework regarding communication devices should suitably balance navigation safety outcomes/best practice and practical applications that suit the wide range of waterway users in the district as much as possible.
53. However, Council's Harbourmaster and regulatory team are concerned that the bylaw should not be inconsistent with the position advocated by MNZ and the Safer Boating Forum (i.e. that two forms of communication should be carried at all times). The draft bylaw was informed by the Safer Boating Forum's 'Safer Boating Guide'<sup>30</sup> and rationale paper<sup>31</sup> which support two forms of communication being carried.
54. Taking this into account, officers advise that clause 19 (as shown in the hearing report version of the draft bylaw) be amended as follows:
  - a. That any person in charge of a powered vessel is required to carry two forms of communication equipment,
  - b. That any person in charge of a non-powered vessel being operated more than 200 metres from the shore be required to carry at least one form of communication equipment,
  - c. Remove the proposed exemption for a person operating a non-powered vessel within 50 metres of the shore of a lake, and
  - d. Remove the requirement for a person operating a non-powered vessel on a river to carry at least one form of communication.
55. **Attachment H** provides a comparison of the different wording for clause 19, including the Panel's recommendation, officers hearing report recommendation, and officers current recommendation (as set out above).
56. Officers advise that the recommended amendments set out above are consistent with the MNZ and the Safer Boating Forum position. It is considered that the recommended provisions provide a pragmatic approach for the different types of waterways users in the district and the likely risk profiles associated with their location and characteristics, with a lesser requirement for non-powered vessels located closer to the shore.
57. Officers consider that a prudent approach is justified to ensure suitable levels of navigation safety is achieved on the districts waterways which are large and isolated and can be subject to dangerous and rapidly changing conditions.

---

<sup>30</sup> <https://www.maritimenz.govt.nz/media/ydrdqwdl/safer-boating-guide.pdf>

<sup>31</sup> <https://www.maritimenz.govt.nz/media/lcbo43if/nzsbf-communications-position-statement.pdf>

58. A range of communication devices could satisfy the requirements of the clause, including (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)<sup>32</sup>.
59. The Panel's intention with regard to the recommended explanatory note is acknowledged, however, is not included in officers' recommended amendments to clause 19.
60. The Panel recommended reducing the nature and scale of communication device requirements. Accordingly, the draft bylaw for adoption by Council represents the Panel's position. Council has a choice about how to proceed with this recommendation.

### **Summary**

61. The Panel recommended that Council adopts the draft bylaw that went out for consultation subject to the range of amendments summarised in **Table 1**, and as discussed in the preceding sections of this report. These amendments have been incorporated into the draft bylaw in Attachment A (shown as tracked changes).
62. Council can make changes to the draft bylaw as an outcome of feedback received during consultation, as long these changes are within the scope of the statement of proposal. Material changes to the draft bylaw proposed after consultation that come about through the submissions process but are not contemplated in the statement of proposal may require Council to consult again.

### **Options and analysis**

63. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.
64. **Option 1:** Accept all recommendations from the Panel with no further amendments and adopt the Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025.

---

<sup>32</sup> Page 3

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

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• Council would have fulfilled its obligations under the LGA by facilitating the timely completion of the bylaw development process.</li> <li>• The bylaw development process has comprehensively identified and addressed a range of contemporary issues relating to navigation safety in the district. Adoption of the bylaw would ensure that these (in the view of the Panel) have been considered and addressed.</li> <li>• Recognises the weight of Panel recommendations which represent the balanced analysis of Panel members who have benefited from receiving and hearing submissions, and subject matter expert advice from QLDC officers.</li> </ul>	<ul style="list-style-type: none"> <li>• The recommended amendments may not align or address all community views received through submissions.</li> <li>• Officers have provided advice on a small number of issues where, on balance, they consider that the Panel’s recommendations do not facilitate the best navigation safety outcomes.</li> <li>• There are costs associated with implementation of the amended bylaw (noting that any increased costs can be provided for within existing budgets).</li> </ul>

65. **Option 2:** Accept the recommendations from the Panel and any further changes, including as recommended by officers, and adopt the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakaterē 2025.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• The final version of the bylaw would be responsive to new information, analysis and subsequent advice provided by officers since the Hearing Panel convened.</li> <li>• Council would have fulfilled its obligations under the LGA by facilitating the timely completion of the bylaw development process.</li> <li>• The bylaw development process has comprehensively identified and addressed a range of contemporary issues relating to navigation safety in the district. Adoption of the bylaw would ensure that these (in the view of the Council’s Harbourmaster and regulatory team) have been considered and addressed.</li> </ul>	<ul style="list-style-type: none"> <li>• Any significant or material changes proposed by Council (other than those addressed in this report) that were not contemplated in the draft bylaw and statement of proposal may necessitate further consultation and hearings that could delay the adoption of the bylaw and create administration complexity.</li> <li>• The recommended amendments may not align or address all community views received through submissions.</li> <li>• There are costs associated with implementation of the amended bylaw (noting that any increased costs can be provided for within existing budgets).</li> </ul>

66. **Option 3:** Do not adopt the Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 or propose a different way forward.

Advantages	Disadvantages
<ul style="list-style-type: none"> <li>• If Council elects not to adopt a bylaw, there is no risk the bylaw would be perceived as:                             <ul style="list-style-type: none"> <li>○ not satisfying section 155 of the LGA as the most appropriate way to address the perceived problem</li> <li>○ not supporting the purpose of navigation safety bylaws under the MTA</li> <li>○ being inconsistent with the New Zealand Bill of Rights Act 1990.</li> </ul> </li> <li>• There would be reduced time and cost associated with implementation of the bylaw.</li> <li>• ORC could elect to take over QLDC’s navigation safety roles and responsibilities under the MTA.</li> </ul>	<ul style="list-style-type: none"> <li>• The current bylaw will lapse, and Council will not have any ability to regulate navigation safety. QLDC would therefore not be fulfilling its navigation safety obligations under the MTA.</li> <li>• Unregulated waterways and waterways activities may result in serious harm or death.</li> <li>• Officers may need to restart the bylaw development process resulting in cost and time implications.</li> <li>• A large number of submitters have invested time and money participating in the bylaw development process. Not adopting a bylaw may damage Council’s reputation among waterways users.</li> <li>• Overall, the majority of submitters supported the draft bylaw amendments or their general intent. Further amendments have been recommended to address a range of submitter concerns. There is little rationale from the submissions not to adopt a bylaw.</li> </ul>

67. This report recommends that Council proceed with **Option 2**, that it accepts the recommendations from the Panel with further amendments and adopt the draft Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025.

68. Option 2 enables Council to:

- a. continue to regulate navigation safety in the district, and
- b. proactively respond to the overall balanced judgement of submitters, Council officers, and the Panel.

### Next steps

69. If Council adopts the draft bylaw, it is proposed that it would commence immediately on 20 March 2025. There will be public notification of the outcome of the review, and submitters will be notified.

70. Creating new infringement offences and fines:

- a. Section 330 of the MTA allows for infringement offences and fines (not exceeding \$500) to be made relating to navigation safety bylaws. Regulations made under section 330 are secondary legislation that must be made by parliament.
- b. The Maritime Transport (Infringement Fees for Offences—Queenstown Lakes District Council Navigation Safety Bylaw 2018) Regulations 2019<sup>33</sup> provide for the issuing of infringement fines under the current bylaw. QLDC will not be able to issue infringements for breaches of a new navigation safety bylaw until new regulations are adopted.
- c. Infringement regulations will support the effective enforcement of specific provisions contained in the new bylaw by dissuading breaches and funding Council enforcement activities. Without infringement regulations, the only way QLDC can enforce the bylaw is by prosecuting alleged offenders through the District Court. Prosecution is generally a disproportionate response to the level of offending envisaged under navigation safety bylaws and can be a costly and lengthy process.
- d. Infringement regulations can only be developed by Parliament. The Government of the day has a choice about whether or not to enact such regulations. . The process could take anywhere from 6 – 12 months.
- e. Officers will work with the Parliamentary Counsel Office and Ministry of Transport to initiate the process to prepare infringement regulations. It is anticipated that the majority of any new regulations would be consistent with the 2019 regulations but would include new clauses that address new provisions where necessary.
- f. In this instance, the new bylaw will need to commence immediately as the current bylaw will be revoked automatically on 23 March 2025. It is acknowledged that there will be a gap between the commencement date of the new bylaw and the development of new infringement regulations. QLDC will not be able to issue infringements for breaches of the new bylaw until regulation to do so are in place. However, in the intervening period it is noted that the Harbourmaster / authorised enforcement officers could issue infringement notices under section 423 of the MTA. The infringements are contained in the Maritime (Offences) Regulations 1998 and include breaches of Maritime Rule 91: Navigational Safety, which mirror some but not all of the provisions in the new bylaw. In the absence of infringement regulations, QLDC can continue to enforce the bylaw using remedies under the LGA and/or MTA, including prosecuting breaches of the bylaw.

## Consultation Process | Hātepe Matapaki

---

### Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

71. This matter is of medium significance, as determined by reference to the Council’s Significance and Engagement Policy 2024. In particular, the following matters were considered:

---

<sup>33</sup> <https://www.legislation.govt.nz/regulation/public/2019/0019/latest/LMS154808.html?src=qs>

- a. Importance to the Queenstown Lakes District – The bylaw includes regulations which manage or restrict waterways activities and the way people interact with the district’s navigable waters. This makes it important to the social, economic, environmental and cultural wellbeing of the community. However, it is considered that the recommended amendments achieve an appropriate balance between achieving navigation safety and maintaining a high level of access to the district’s waterways for recreational and commercial activities.
  - b. Community interest – The community has a high level of interest in how navigation safety is managed, and any associated regulations that restrict or manage access and use of waterways. The bylaw development process has considered the views provided by submitters and other key stakeholders. It is not considered that the recommended amendments materially impact reasonable access and use of waterways.
  - c. Consistency with existing policy and strategy – There is no inconsistency with existing policy and strategy.
  - d. The impact on the Council’s capability and capacity - The draft bylaw does not propose any changes to Council operations that would require additional funding. Existing resources and/or a reallocation of resources will address any regulatory functions required to implement amendments in the bylaw.
  - e. Climate change – The recommended amendments are not inconsistent with Council’s Climate & Biodiversity Plan, including its action plan and outcomes.
  - f. Mana whenua - It is acknowledged that Mana Whenua have a high interest in matters relating to water, in particular, water quality and quantity. The bylaw primarily addresses navigation safety issues associated with the use of navigable waters. Water quality and quantity are managed by the Resource Management Act 1991 and associated planning instruments at a national, regional and district level.
  - g. Strategic assets – This matter does not relate to the sale or transfer or sale of shareholding of any strategic assets.
  - h. Council controlled organisations (**CCOs**) or council-controlled trading organisations (**CCTOs**) – This matter does not relate to any CCOs or CCTOs.
72. 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, ORC and QLDC Harbourmasters, commercial waterways operators, recreational users, and the general public at various stages in the bylaw development process. Engagement activities are summarised in **Table 2**.

### **Māori Consultation | Iwi Rūnaka**

73. Kāi Tahu have been engaged in the bylaw development process. It is acknowledged that Mana Whenua have a high interest in matters relating to water quality and quantity, however, the draft bylaw does not address these matters. Water quality and quantity are managed by way of the Resource Management Act 1991.
74. Te Ao Marama and Aukaha were advised of consultation on the draft bylaw and invited Iwi representatives to make a submission. Te Ao Marama and Aukaha did not make a formal submission.

### **Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka**

---

75. 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.
76. The approval of the recommended option will allow Council to implement additional controls for this risk. This will be achieved by ensuring QLDC's navigation safety bylaw provides the most efficient and effective clauses for it to fulfil its obligations under the MTA.

### **Financial Implications | Kā Riteka ā-Pūtea**

---

77. The draft bylaw does not propose any changes to Council operations that would require additional funding. Existing resources and/or a reallocation of resources will address any regulatory functions required to implement amendments in the bylaw.

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

---

78. The following Council policies, strategies and bylaws were considered:
- Our Strategic Framework and Investment Priorities,
  - Significance and Engagement Policy 2024, and
  - Enforcement Strategy and Prosecution Policy 2021.
79. The recommended option is consistent with the principles set out in the above-mentioned named policies.
80. Resources for QLDC's Harbourmaster and regulatory team 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 Plan<sup>34</sup>.

---

<sup>34</sup> QLDC Long Term Plan 2024-2034, pages 104, 325

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

---

81. 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.
82. Section 160A of the LGA automatically revokes any bylaw two years after the last date it was eligible for review. For the current bylaw, section 158 required review before 23 March 2023. As this was not undertaken, revocation is scheduled to occur on 23 March 2025. Council cannot avoid the revocation of the current bylaw, although it may elect to revoke it early and make another new bylaw, subject to completing a formal consultation process. This has been completed and it is therefore recommended that Council revoke the current bylaw, effective 20 March 2025, when the Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakatere 2025 is proposed to come into effect.
83. Consultation on the draft bylaw followed the requirements of the Special Consultative Procedure outlined in sections 83 and 86 of the LGA.
84. The preparation of QLDC's navigation safety 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 to ensure they give effect to the MTA and national maritime rules.
85. 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 regulate. Officers consider that the draft bylaw is within the scope of the matters set out in Section 33M.
86. 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 in the development of the draft bylaw and much of MNZ's advice has been incorporated into the draft bylaw.

### **Determinations**

87. Before making or reviewing a bylaw, Council must make the determinations required under section 155 of the LGA. While these determinations were considered by Council in adopting a draft bylaw for consultation at their 19 September 2024 meeting, additional amendments have been recommended by the Panel (and further advice has been provided by officers), and only Full Council has the delegation to make a bylaw. As such, an analysis of the matters in section 155 is set out below that takes into account the analysis and advice provided in this report for Council in considering whether to adopt the draft bylaw:
  - a. whether a bylaw is the most appropriate way of addressing the perceived problem (section 155(1)):

- i. When adopting its statement of proposal for consultation on 19 September 2024 Council determined that a bylaw is the most appropriate way of addressing the problems related to navigation safety.
  - ii. Council is required to address navigation safety issues in the district, which has unique conditions due to its alpine environment and rapidly growing population. A bylaw is the most appropriate method to manage these issues, as it empowers local authorities to develop regulatory frameworks for local conditions and ensures effective implementation under the MTA. Relying solely on national maritime rules, the district plan and education campaigns is insufficient to address the unique navigation safety problems in the district.
88. If Council determines that a bylaw is most appropriate, it must also make the determinations at section 155(2)(a) and (b) as follows:
- a. whether the proposed bylaw is in the most appropriate form of bylaw to address the perceived problem:
    - i. A standalone navigation safety bylaw is considered the most appropriate form because it consolidates all relevant regulations, makes provisions easily accessible, is focused solely on navigation safety, is concise, and follows a format similar to those of other councils in surrounding regions. This approach ensures clarity, accessibility, and consistency, which are crucial given the district's unique waterways, and the likelihood of waterway users traveling from nearby areas. The current format has been effective since 2009 and aligns with legislative requirements.
  - b. whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA):
    - i. Council is required to determine if the draft bylaw has any implications under the NZBORA, which protects civil and political rights. In particular, Section 18 of the NZBORA relates to 'freedom of movement'. This section states 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. The draft bylaw's restrictions on the movement of powered vessels are to ensure navigation safety on district lakes and rivers. These include general Harbourmaster powers and offence clauses. Despite these restrictions, the bylaw also provides a range of enabling provisions that facilitate the safe use and enjoyment of the district's waterways. On balance, officers consider that the restrictions are justified and do not unreasonably interfere with protections afforded under the NZBORA.

---

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

---

89. 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.

90. Adopting the draft bylaw will deliver on this purpose as it will ensure QLDC is managing waterways to give effect to section 145 of the LGA and section 33M of the MTA.
91. It is considered that the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
92. The recommended options:
- Can be implemented through current funding under the Long Term Plan and Annual Plan;
  - Are consistent with the Council's plans and policies; and
  - 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	Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakaterere 2025 (tracked changes)
A1	Navigation Safety Bylaw 2025 / Te Ture ā-Rohe mō te Haumarū Whakaterere 2025 (clean version)
B	Navigation Safety Bylaw 2018 (the current bylaw)
C	Summary of Information (Draft Navigation Safety Bylaw 2025)
D	Statement of Proposal
E	Comparison of text changes relating to clause 19 'carriage of communication devices'
F	Submissions pack (redacted and including submissions accepted at hearing)
G	Responses regarding ski lanes proposed to be amended in the draft bylaw
H	Key themes and rationale from submitter by topic
I	Minutes <ul style="list-style-type: none"> <li>- Hearing of submissions (25 November 2024)</li> <li>- Deliberations on submissions (28 November 2024)</li> </ul>

Note that all attachments are presented in a separate document.