

Hearing Panel Report on Submissions on Proposed Queenstown Lakes District Waterways and Ramp Fees Bylaw

Purpose

To report on the Hearing Panel's consideration of submissions received on the proposed Queenstown Lakes District Waterways and Ramp Fees Bylaw.

Recommendation

That the Council:

- 1) Consider the report of the Hearings Panel and note:
 - a. the summary submissions to the proposed Waterways and Ramp Fees Bylaw 2014;
 - b. officer advice;
 - c. form of bylaw now proposed following the hearing of submissions
- 2) Adopt the bylaw now recommended by the Hearings Panel;
- 3) Note the comments of submitters which the Hearings Panel considered to be outside the scope of their deliberations.

Lyal Cocks



Chair of Hearings Panel
18/06/2014

Background

Queenstown Lakes District Council has undertaken a review of its existing Queenstown Lakes District Council Navigation and Safety Bylaw 2009. Council has proposed to split the bylaw into two separate bylaws, one bylaw is to deal with navigation safety, and one bylaw is to deal with the licensing of maritime facilities.

Public consultation on the proposed Queenstown Lakes District Council Waterways and Ramp Fees bylaw opened on 14 April 2014, and closed on May 12 (a four week period). Council appointed this hearings panel to consider the public submissions made and recommend to Council the form of bylaw to be adopted.

Submissions

Nine submissions were received. The submitters who wished to be heard in support of their submissions (in order of submission) were:

- John Scott Taylor (Wanaka)
- Bruce Hebbard (Wanaka)
- John Glover (Queenstown)
- Stuart John Dever (Queenstown)
- Jon Clow (Real Journeys) (Queenstown)

- Mike Hansen(for Wakatipu Yacht Club Incorporated) (Queenstown)
- Michael Ramsay (Queenstown)

Comment

The attached table sets out in summary form:

- the points raised by submitters;
- officer advice on each point of submission;
- The panel's recommendations on each point of submission;

In addition to the written submissions, the main topics that developed in the presentation of the submissions at the hearing were:

- 1) The value of the fees proposed, and the absence of a ratepayer subsidy for the costs of waterways services and facilities;
- 2) The administration of moorings licences;
- 3) The administration of licensing jetties (and other maritime structures) and the setting of fees for commercial jetties.

Value of fees proposed

Submitters stated that there were several elements of waterways facilities and services with a wider public good which directly benefitted the community at large rather than just the boating community. Examples cited included rubbish removal from the district's foreshores, and that the Harbourmaster monitored the safety of swimmers and provided facilities such as designated swimming areas. These activities were not for the sole benefit of boat users or jetty owners. The submitters considered that a component of the waterways services and facilities should be met by ratepayers to recognise the public benefit to the community as a whole. Submitters considered that if ratepayers contributed, the value of fees levied at boat ramps or for jetties would be less or would not need to increase to meet the targets in the current 10 Year Plan.

The Panel is not able to vary or change the targets set in the 10 Year Plan. Whether ratepayers contribute to the costs of waterways services and facilities, or the level of any contribution from ratepayers is a matter for Council's consideration. The Panel notes that it is required to make its conclusions based on the existing targets in the Long Term Plan. However, the Long Term Plan is to be revised in 2015. Submitters are encouraged to raise their request for a contribution to the costs of waterways services and facilities from rates by making a submission to the Long Term Plan at that time.

As regards the issue of the fee for an annual ramp permit, the Panel accepts that the weather has a strong influence on the number of times boats will be launched. Therefore the panel considers that the value of this permit should be set at a minimum of 8 launches per year as this fee would equate to one launch per fortnight over the peak summer season. The Panel considers that this fee level provides an incentive for frequent lake users to buy an annual ramp or launch permit, and therefore offers good value even during cool or wet summers. The fees for commercial users have not been adjusted, as submitters present advised that the level of fee proposed was not a significant burden on their operating costs.

A further submission sought that the fees apply broadly to all launching areas, including all parts of the foreshore. The hearings panel considers that the most efficient method of applying fees is to structures on the foreshore, rather than users of the foreshore.

Administration of Moorings Licences

Mooring owners made the point that the proposal for the Council to undertake inspections of moorings was undesirable. Moorings owners advised that they were required to obtain an inspection certificate (which is valid for two years) as a requirement of holding an insurance policy for a mooring. As the bylaw requires permit holders to have insurance, the panel considers that it is sufficient that mooring owners produce a copy of the certificate they obtain for insurance purposes. Therefore, it is not necessary for the Council or Harbourmaster to perform the mooring inspection or to specify a fee for the mooring inspection. It is considered that as the certificate of inspection is valid for a two year period, it is appropriate to offer a 2 year mooring licence. Clause 11 of the bylaw and the fees in Schedule 1 have been adjusted to take into account these changes.

Administration and Proposed Fees for Foreshore Structure Licences

The bylaw in the form consulted on provided for a permit for foreshore structures (i.e. jetties or similar), with a different price specified where the Council determined the jetty was for commercial or non-commercial purposes.

Submitters raised concerns with how Council proposed to classify structures as either commercial or non-commercial. An example presented was a jetty used by a commercial operator not associated with the jetty owner. Submitters expressed concern the jetty owner would be liable for the higher commercial rate simply because the structure was used in association with a commercial activity that had access to the jetty at the courtesy of the jetty owner. Additionally, submitters perceived that the jetties were available for full public use and therefore the proposed bylaw meant the jetty owner essentially pays for other people's use of them.

The hearings panel recognises that there is a significant benefit to the community provided by jetties that are available for general public use. That public benefit is a key driver for Council granting permission to the construction and retention of the structure. Recognising that it is not administratively efficient for Council to evaluate how every structure is used on a case by case basis every year, the hearings panel recommends that applicants have a choice of applying for a maritime structure permit either on a commercial or non-commercial basis. The Panel has also recommended adding clauses to confirm an existing practice that holders of a Maritime Structure Permit (Commercial) are required to make areas of the structure (specified by Council) available to the public, but are otherwise granted preferential use of the area of the structure described in the permit. It is expected that these amended provisions will allow jetty owners to make arrangements for permitting the jetty as they consider appropriate. Council (subject to the appropriate regulation passed by central government) will encourage self-compliance with the use of a

structure on the foreshore, but will have the ability to penalise (through the offence provisions) jetty owners that do not have the correct permit category.

It was proposed that the “Earnslaw” Slipway be excluded from the effect of this bylaw. Excluding that slipway would mean that the fees and charges would not apply once the existing licence for the slipway expires. The Panel considers that the slipway does have significant public benefit and that it is appropriate for users and occupiers of the slipway to contribute to the costs of waterways services and facilities. The Panel considers that a permit which specifies preferential use of the slipway is likely to achieve a better outcome for the wider community, than excluding the slipway from the terms of the bylaw.

Another point raised was that the fees for commercial jetty owners should be set as a fixed fee as part of the bylaw. Submitters considered that leaving the price of a licence to be set by the annual plan did not provide enough certainty for business or financial planning purposes. As regards business planning purposes, the fee will be set using the special consultative procedure as part of the Long Term Plan. Jetty permit owners will have a short reprieve before the fees are introduced mid-year in 2015, and an opportunity to make a submission to the Long Term Plan. This offers business operators some lead in time.

There was also a concern that unless the fee was specified as a fixed amount in the bylaw, commercial jetty owners would be required to meet the funding shortfall. The Panel notes that the Long Term Plan sets funding targets. It is therefore not a requirement to collect the whole of any “shortfall” from just one user group. Council in setting fees under the Long Term Plan or Annual Plan will still be required to set a fee at a level which is fair and reasonable, and will be setting that fee following an anticipated increase in revenue from higher ramp fees over the peak summer period. The Council will be evaluating whether contributions from rates can be made to fund waterways services and facilities at same the time it is considering commercial licensing fees. The Panel notes that setting an appropriate fee through the annual plan process will provide for public input, and flexibility to reflect changes in the value of the asset and the variety of assets in use. A bylaw is reviewed on the anniversary of a 5-10 year cycle. A review of fees in the bylaw on an annual basis would require a more frequent public consultation, and would effectively duplicate the cost and effort of consultation occurring for the purpose of setting the annual plan.

The Panel considers the best method for setting the amount of the fee in the case of jetties with a commercial licence is to refer to a fee schedule set as part of the annual plan process, as this will avoid duplication of consultation processes and will minimise the costs of public consultation. Should the fees set as part of that process cause any economic hardship, the jetty owner will need to evaluate whether it meets their interests to retain the permit or whether a waiver of the fee is available under the revised clauses of the bylaw.

The hearings panel also notes that it has received requests for rates to contribute to the costs of funding waterways services and facilities. Submissions to that effect are referred to Council for its information.

Attachments

- A Summary of submissions and panel recommendations;
- B Queenstown Lakes District Waterways and Ramp Fees Bylaw 2014
(Incorporating amendments as recommended by the Hearings Panel);
- C Minutes of the hearings panel;