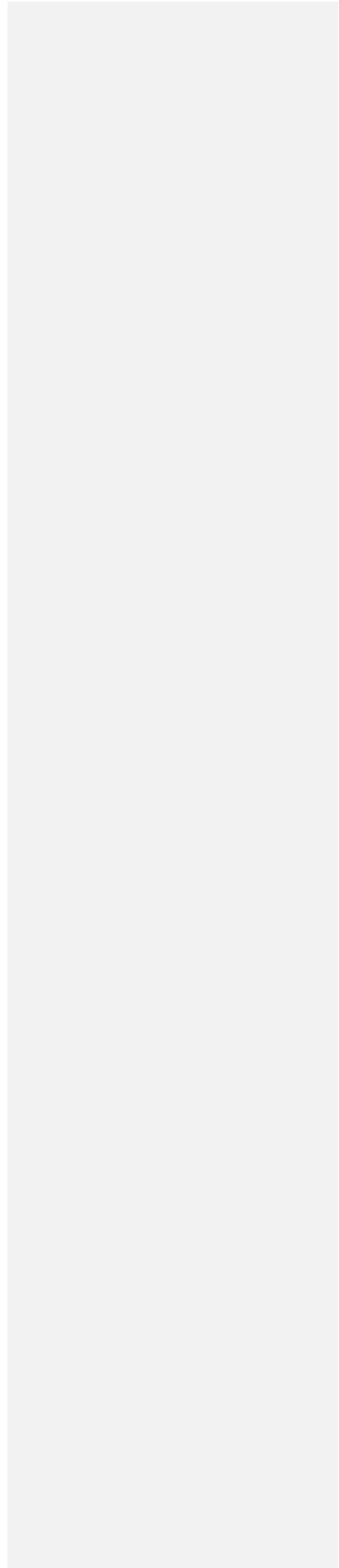


QUEENSTOWN LAKES DISTRICT  
WATERWAYS AND RAMP FEES  
BYLAW 2014



## PART 1 - PRELIMINARY

### 1 Title and Commencement

This Bylaw is the "QUEENSTOWN LAKES DISTRICT WATERWAYS AND RAMP FEES BYLAW 2014".

This Bylaw comes into force on 1 October 2014.

### 2 Area within which Bylaw applies:

This Bylaw applies to the waters, foreshores, lake beds and riverbeds within the territorial boundary of the Queenstown Lakes District Council.

### 3 Purpose

(1) The purpose of this bylaw is to:

- (a) regulate and control the use or management of permits for the use of maritime structures;
- (b) regulate the placing and maintenance of moorings and maritime structures;
- (c) prescribe fees and charges for the performance of administrative functions.
- (d) prescribe offences and penalties for contravening or permitting a contravention of this bylaw.

### 4 Bylaw to bind the Crown

Except as provided in section 153 of the Local Government Act 2002, the Crown is bound by the provisions of this bylaw.

### 5 Delegation

Any of the various powers and functions of the Council as detailed and set out in this Bylaw may be delegated by it to its Chief Executive Officer and sub-delegated by the Chief Executive Officer to any such other Officer of Council or duly appointed Harbourmaster.

### 6 Interpretation

(1) In this bylaw, unless the context otherwise requires—

**commercial activity** means

- (a) making a craft available for charter; or
- (b) operating for hire or reward; or
- (c) any other activity from which a person receives or may receive any reward, fee, benefit, or commission from the use of a maritime structure and includes temporary events;

**contravene** includes fail to comply with;

**Council** means the Queenstown Lakes District Council;

**craft** means—

- (a) any thing capable of being used to carry a person or goods over or under water, whether or not it is self-propelled;
- (b) an aircraft as defined in section 2 of the Civil Aviation Act 1990;
- (c) a hovercraft;

**enforcement officer** means a person appointed to be an enforcement officer by the Queenstown Lakes District Council;

**fee** means the fee for the relevant permit set out in Schedule 1;

**foreshore** means the whole or any part of the bed, shore or banks of a lake or a river as are covered or uncovered by the natural, normal and annual rise and fall of the level of the surface of the lake or river water whether caused by natural means or otherwise and includes any bed, shore or bank of any island within such waters and also includes any lakebed and any riverbed and excludes areas flooded by occasional and irregular flood events;

**Harbourmaster** means a person appointed to be a Harbourmaster for the Queenstown Lakes District under Part 3A of the Maritime Transport Act 1994;

**hovercraft** means a machine designed to be supported in the atmosphere, wholly or partly by air expelled from the machine that forms a cushion extending beneath the machine to the surface of the ground, water, or other portion of the earth's surface;

**launch facility** means a place that -

- (a) is land (whether above or below water) within a 50 metre radius of a ramp; or
- (b) is that part of the foreshore that lies between the water and the Eely Point Reserve legally described as Section 71 Blk XIV Lower Wanaka SD (known as Eely Point); or
- (c) is that part of the foreshore that lies between the water and land legally described as Section 46 Block III Lower Wanaka SD (known as Waterfall Creek);

**maintaining** means as the context requires –

alter, demolish, erect, extend, place, reconstruct, remove, repair a maritime structure or part of a maritime structure in, on, under, or over land located on the foreshore or bed of a lake or river;

**maritime structure** means any building, equipment, device, wharf, jetty, breastwork, or other device or facility fixed to land (whether or not it is located above or below the waterline) but does not include:

- (a) aids to navigation;
- (b) a mooring;
- (c) temporary structures associated with an event with a permit pursuant to clause 26 of the Queenstown Lakes District Council Navigation Safety Bylaw 2014.

**maritime structure permit** means a permit or a combination of permits granted under clause 15;

**mooring** in relation to water, means any weight or article placed in or on the shore or bed of any lake or river for the purpose of securing a craft or any floating structure; and

- (a) Includes any wire, rope, buoy or other device connected to the weight; but
- (b) Does not include an anchor that is normally removed with the craft or floating structure when it leaves the site or anchorage;

**mooring permit** means a permit issued under clause 8 of this bylaw;

**occupy** means as the context requires, erecting, placing or maintaining any structure in, on or over the foreshore or bed of a lake or river where a lease or licence to occupy that part of the foreshore or the bed of a lake or river is or would be necessary, irrespective of whether or not such occupation is to the exclusion of all other persons.

**ramp** in relation to water, means any structure that is—

- (a) provided for launching craft into the water or taking craft out of the water; and
- (b) owned or administered by the Queenstown Lakes District Council;

and includes land, owned or administered by the Council, that lies within 50 metres of a ramp;

**ramp permit** means a permit issued under clause 7 for the use of a ramp to launch a craft into water or to remove it from water;

## **Part 2 – Ramp and Launch Permit Required**

### **7 Permit required to use a ramp or launch facility**

- (1) A person must not use a ramp to launch a craft into the water or take it out of the water unless there is a valid ramp permit for that craft;
- (2) A person must not at a launch facility, launch a craft into the water or take it out of the water using a trailer unless there is a valid ramp permit for that craft;
- (3) The fee payable for a ramp permit is the fee specified in Schedule 1.

## **Part 3 - Mooring Permits**

### **8 Mooring permits**

- (1) No person may place a mooring in any waters or moor or berth any craft in any navigable waters, unless a mooring permit has been obtained.
- (2) The fee payable for a mooring permit is specified in schedule 1.

### **9 -Consideration of application for a moorings permit**

- (1) When considering an application for a moorings permit and the conditions to be imposed under it, the Harbourmaster or the Council may take into account any matter, including but not limited to the following:
  - (a) if the mooring site is located in a mooring zone;
  - (b) if there is adequate space at the mooring site for the proposed mooring and craft;
  - (c) if the mooring is of adequate specifications to accommodate the proposed craft to be moored;
  - (d) if the craft can be safely navigated to and from the mooring site;
  - (e) any public health and safety risks of the mooring site, including if the mooring may diminish the level of safety for other activities in the vicinity, or cause congestion or jostling for position or other unsafe practices;
  - (f) matters relating to the suitability of the applicant to hold a permit;
  - (g) if the applicant has previously been in breach of the permit conditions;
  - (h) if the application fee or permit renewal fee has been paid.

### **10 Conditions of permit**

- (1) The terms and conditions upon which a mooring permit may be granted include, but are not limited to the following:
  - (a) the location of the mooring;
  - (b) the type, size and length of the specified craft that may be attached to the mooring;
  - (c) the design and specifications of the mooring;
  - (d) maintenance requirements;
  - (e) the type of buoy or float with which the owner of a mooring must mark the location of the mooring when it is not being used by a craft;
  - (f) a condition requiring the applicant to produce a certificate of currency for a policy of insurance for the craft, the mooring or both the craft and the mooring;
- (2) The permit holder as named in the permit shall pay to the Council the application or permit renewal fee specified in schedule 1, together with such permit fee as specified in schedule 1;

### **11 Maintenance and construction requirements**

- (1) The Harbourmaster or the Council may set mooring maintenance and construction guidelines for any type or class of mooring and set controls governing the weight, size and length of mooring components.
- (2) The owner of a swing mooring or a pile mooring must maintain his or her mooring in a proper state of condition and repair and must comply with the mooring guidelines set by the Harbourmaster or the Council.
- (3) The owner of a mooring must obtain a current mooring inspection certificate for the mooring and the certificate of inspection must be provided to the Harbourmaster.
- (4) A mooring owner may carry out maintenance after removing the mooring from the water, provided the inspection fee has been paid and arrangements are made by the mooring owner for inspection of the mooring by a suitably qualified person and the payment any licence fee prior to the mooring being reinstated.
- (5) The Harbourmaster or the Council may require a suitably qualified person to inspect, on behalf of the owner, all the components of pile moorings at suitable intervals and notify the mooring owner if parts must be replaced or if maintenance must be carried out. Replacement of parts or maintenance must be carried out within the advised timeframe. Replacement of the piles will be notified and coordinated by the Harbourmaster or the Council at the recommended guideline interval.
- (6) The Harbourmaster or the Council may cancel the mooring permit for any mooring that does not hold a current mooring inspection certificate and may remove or sell the mooring and any craft occupying the mooring.
- (7) All costs associated with the inspection, maintenance and replacement of components must be borne by the mooring owner.

### **12 Liability of the council**

- (1) Owners shall take all care to ensure that the mooring is used in a lawful manner, and use moorings at their own risk.
- (2) The council is not liable for:
  - (a) any damage to a craft whether the damage is caused by a third party, a natural disaster or event, natural processes or by any other cause;
  - (b) any damage to craft which have not been securely moored;
  - (c) any damage to a craft which results from any actions taken by the Harbourmaster to secure a craft, in the event of a storm or other adverse event;
  - (d) any actions or omissions of the Harbourmaster or any other officer of the Council in the performance of any duties, functions or powers in respect of this bylaw.

### **13 Powers of Harbourmaster or the Council with respect to moorings and craft on moorings**

- (1) The Harbourmaster or the Council may at any time after giving written notice, cancel a mooring permit where the permit holder fails to comply with the terms and conditions of the mooring permit or any other clause under this section of the bylaw.
- (2) If a mooring permit has been cancelled, the Harbourmaster or the Council may require the mooring owner to remove the mooring. The mooring owner must remove the mooring within the timeframe specified by the Harbourmaster or the Council.
- (3) the Harbourmaster or the Council may remove any mooring, and any craft occupying the mooring if:
  - (a) a mooring permit has been cancelled and the owner has not removed the mooring within the time frame specified by the Harbourmaster;
  - (b) the mooring permit fee is unpaid for a period greater than 2 months from the due date;
  - (c) the mooring is unauthorised under the Regional Plan or District Plan or is unlicensed pursuant to the provisions of this bylaw.
- (4) The Harbourmaster or the Council may detain any mooring or craft together with the contents of the craft until the actual costs of removing the mooring and storing the craft have been paid.

- (5) If the costs of removal or storage have not been paid within two months of removal, the Harbourmaster or the Council may sell the mooring and/or craft and its contents to recover the debt.

#### **14 Transfer of ownership and termination of mooring licences**

- (1) An application for the transfer of a mooring permit must be made in the prescribed form, and be accompanied by payment of the application and processing fees and such further supporting information as the Harbourmaster or the Council may require to enable processing of the application.
- (2) When a permit holder applies to the Harbourmaster or the Council seeking approval for the transfer of a mooring permit to another person, the Harbourmaster or the Council may approve the transfer if:
- (a) all mooring permit fees, including the transfer fee are fully paid;
  - (b) the mooring has a current inspection certificate required under this bylaw;
  - (c) the mooring specification and design are adequate to accommodate the proposed craft to be moored;
  - (d) the new mooring owner agrees to the terms and conditions specified in the original licence.

### **Part 4 – Maritime Structure Permits**

#### **15 Permit required to occupy and use maritime structures, or foreshore**

- (1) No person may occupy (in whole or part) any maritime structure, or foreshore without first obtaining either a Maritime Structure Permit (Commercial) or a Maritime Structure Permit (Non-commercial);
- (2) Any person occupying a maritime structure must obtain a Maritime Structure Permit (Commercial) if:
- (a) significant commercial activities occur at that maritime structure; or
  - (b) the occupier receives or may receive any reward, fee, benefit, or commission from any use of that maritime structure;
- (3) No person may use for the purpose of a commercial activity, any maritime structure (in whole or part) controlled by the Council without first obtaining a commercial activity permit;
- (4) The fees payable for a Maritime Structure Permit (Commercial) or a Maritime Structure Permit (Non-Commercial) are as specified in Schedule 1;
- (5) The fees payable for a Commercial Activity Permit are as specified in Schedule 1;
- (6) All maritime structures that are jetties or similar such structures are available for the general use of the public and are not for the sole and private use of the permit holder, however the holder of a Maritime Structure (Commercial) Permit or a Commercial Activity Permit has preferential use of an area described in the permit;

#### **16 Consideration of application for maritime structure permits**

- (1) In respect of any maritime structure permit the permit holder must:
- (a) maintain the maritime structure in a safe and acceptable condition;  
~~obtain a certificate of inspection from a structural engineer to certify the structural integrity of the structure before any permit is granted or renewed;~~
  - (b) make any such repairs and carry out any maintenance as directed by the Harbourmaster or the Council.
  - (c) provide evidence that, where required, the following have been obtained:
    - (i) any resource consent in respect of the maritime structure and pursuant to the provisions of the Resource Management Act 1991; and
    - (ii) any building consent for the Structure pursuant to the provisions of the Building Act 1991;

- (2) Where more than one commercial activity permit is granted, the priority of use will be specified by Council or the Harbourmaster in the conditions of the permit;
- (3) The permit holder as named in the permit shall pay to the Council the application or permit renewal fee specified in schedule 1, together with the applicable annual permit fee as specified in schedule 1.

#### **17 Conditions of Maritime Structure Permits**

- (1) Any maritime structure permit shall only apply to that area:
  - (a) of the foreshore ~~and bed~~ of a lake or river as is detailed and identified on the permit issued by the Council; and
  - (b) that area of the maritime structure as is detailed and identified on the permit issued by the Council;
- (2) The Council shall specify which area(s) of the maritime structure are to be made available for use by members of the public;
- (3) The expiry of the permit shall be stated on the permit.
- (4) Further terms and conditions attached to any permit to ~~erect, occupy or use~~ a maritime structure may include:
  - (a) the precise location of the structure described by GPS referencing;
  - (b) design and specification criteria;
  - (c) inspection certificate;
  - (d) maintenance requirements;
  - (e) requirements as to safety;
  - (f) requirements to meet guidelines as set by the Council;
  - (g) any other matters the Harbourmaster or Council considers relevant;

#### **18 Consideration of Application for Commercial Activity Permit**

- (1) The Council shall give public notice of its intention to grant an application for a commercial activity permit;
- (2) The permit shall only apply to that area of the maritime structure as is detailed and identified on the permit issued by the Council;

#### **19 Conditions of Commercial Activity Permits**

- (1) The term of the permit shall be clearly stated on the permit;
- (2) The Council may impose any conditions it considers appropriate;
- (3) The applicant must provide evidence that, where required, the following have been obtained:
  - (a) any resource consent in respect of the maritime structure and pursuant to the provisions of the Resource Management Act 1991; and
  - (b) any building consent for the Structure pursuant to the provisions of the Building Act 1991;
  - (c) the written consent of the landowner, owner and occupier of the structure;
- (4) The fees payable for a commercial activity permit are the fees specified in Schedule 1;

### **Part 5 - General Provisions**

#### **20 Authority to issue permits and collect fees**

- (1) The Council may issue any maritime structure permit;
- (2) The Council or the Harbourmaster may—
  - (a) issue any of the other permits set out in Schedule 1; and
  - (b) authorise any person to issue any of the other permits set out in Schedule 1.
- (c) authorise any person to collect any of the fees set out in Schedule 1
- (3) The Council may exercise its discretion to waive, in whole or part, any fee payable on receipt of written application.

## 21 Validity of permits

- (1) Any permit issued under the authority of this bylaw is valid—
- (a) for the period set out in Schedule 1 for the relevant type of permit; and
  - (b) if the fee for that type of permit has been paid to the Harbourmaster, the Council or a person authorised to issue a permit under clause 18 of this bylaw.
- (2) Any permit is not valid if it has been altered.

## 22 Non-compliance with conditions of a permit

- (1) Where a holder of any permit does not comply with the terms and conditions of the permit, the Council or Harbourmaster may take one or more of the following steps:
- (a) Issue a written warning to the holder of the permit, which may be considered as evidence of a prior breach of a permit condition during any subsequent review of the permit;
  - (b) Review the permit, which may result in:
    - (i) amendment of the permit; or
    - (ii) suspension of the permit; or
    - (iii) withdrawal of the permit.
  - (c) Enforce any breach of this bylaw, as provided for under the Act, maritime rules and/or the Local Government Act 2002 and regulations.
- (2) There will be no refund of fees if any permit is withdrawn.
- (3) Any permit required by this bylaw must be kept on board the craft or carried by the holder and must be produced forthwith on request by the Harbourmaster, an enforcement officer or police officer.

## 23 Offences

- (1) Every person who contravenes these bylaws commits an offence and is liable on conviction to the penalty set out in [reference to regulations/order in council].
- (2) Every person who -
- (a) uses a ramp, or a launch facility together with a trailer, to launch a craft into the water or to take a craft out of the water;
  - (b) uses a mooring;
  - (c) occupies a maritime structure;
- without the specified permit commits an offence.
- (3) If the Harbourmaster or Enforcement Officer have reasonable cause to believe an offence has been committed by any person, an infringement notice in respect of that offence may be served on that person.
- (4) The Harbourmaster or Enforcement Officer may deliver the infringement notice (or a copy of it) to the person alleged to have committed the offence personally or by post, addressed to that person's last known place of residence.
- (5) A person does not contravene this bylaw if that person proves that the act or omission was in compliance with the directions of the Harbourmaster, an enforcement officer or police officer.
- (6) A person does not contravene this bylaw if that person proves that the act or omission was in compliance with a concession granted by the Council.

## 24 Penalties

- (1) Every person who commits an offence under clause 23(1) is liable on conviction to the penalty set out in [refer to order in Council].
- (2) Every person convicted of an offence under clause 23(2) is liable to a fine not exceeding \$70 and, in the case of a continuing offence under clause 23(2), \$100 for each day on which the offence continues.



**25 Fees**

- (1) The fees for specified permits are prescribed in the applicable table in schedule 1.
- (2) The prescribed fees are inclusive of goods and services tax.
- (3) Where a charge fixed in accordance with schedule 1 is, in any particular case, inadequate to enable the Council to recover its actual and reasonable costs in respect of the application, the Council may require the person who is liable to pay the charge, to also pay the Council's actual costs.

**26 Revocations**

- (1) The following clauses of the Queenstown Lakes District Navigation Safety Bylaw 2009 are revoked:
  - (a) Clauses 4.1 – 4.6 regarding foreshore licences and public structure licences;
  - (b) Clause 4.7 - which relates to moorings licences.

**27 Savings**

- (1) Any regulations made in respect of the Queenstown Lakes District Council Navigation Safety Bylaw 2009 shall be deemed to have also been made in respect of the Queenstown Lakes District Council Waterways and Ramp Fees Bylaw 2014; and
- (2) Any licence, consent, permit, dispensation, permission or other form of approval previously issued under the Queenstown Lakes District Council Navigation Safety Bylaw 2009 continues in force but:
  - (a) expires on the date specified in that approval; or
  - (b) if no expiry date is specified, expires on 30 June 2015; and
  - (c) can be renewed only by an application made and determined under this bylaw.
- (3) Any application for a licence, consent, dispensation, permission or other form of approval which is the subject of this bylaw that is filed after this bylaw is made and before the day on which this bylaw commences must be dealt with by the Harbourmaster or the Council as if it had been made under this bylaw.
- (4) Nothing in this bylaw shall affect the expiry or operation of a concession that has been granted by the Queenstown Lakes District Council prior to the commencement of this bylaw.

**28 History**

Section 33R of the Maritime Transport Act 1994 provides that a Regional Council may impose fees in respect of any land, building, equipment, or other property that is owned by the council and operated for maritime-related purposes.

By deed of delegation, the Otago Regional Council has transferred its powers, functions and duties within the boundary of the Queenstown Lakes District to the Queenstown Lakes District Council (section 33X of the Maritime Transport Act 1994). The delegation also provides for the transfer of the power to make bylaws under the Local Government Act 2002 and the Maritime Transport Act 1994 to the Queenstown Lakes District Council.

**Schedule 1 - Fees:**

(1) the fees for permits issued under this bylaw are prescribed as follows:

<b>Ramp Permit for any Ramp in district and Launch Permit for specified Launch Facilities in district</b>		
<b>Valid Period</b>	<b>Fee per Non-Commercial Craft (\$)</b>	<b>Fee per Commercial Craft (\$)</b>
Up to 24 hours	5.00	5.00
1 October – 30 June	40.00	60.00
1 July 2015 – 30 June 2016	50.00	70.00
1 July 2016 – 30 June 2017	50.00	70.00

<b>Maritime Structure Permits (Non-commercial)</b>	
<b>Valid Period</b>	<b>Fee Per Maritime Structure (\$)</b>
12 months commencing 1 July and ending 30 June	
<b>Application fee and permit renewal fee</b>	120
<b>Fee per size of maritime structure</b>	
Up to 15m <sup>2</sup>	115
15m <sup>2</sup> up to 28m <sup>2</sup>	230
28m <sup>2</sup> up to 56m <sup>2</sup>	460
57m <sup>2</sup> up to 84m <sup>2</sup>	750
84m <sup>2</sup> and over	920

<b>Maritime Structure Permits (Commercial)</b>	
<b>Valid Period</b>	<b>Fee Per Maritime Structure (\$)</b>
12 months commencing 1 July and ending 30 June	
<b>Application fee and permit renewal fee</b>	200
<b>Fee per maritime structure (Occupy)</b>	
Up to 15m <sup>2</sup>	As specified in annual plan
15m <sup>2</sup> up to 28m <sup>2</sup>	As specified in annual plan
28m <sup>2</sup> up to 56m <sup>2</sup>	As specified in annual plan
57m <sup>2</sup> up to 84m <sup>2</sup>	As specified in annual plan
84m <sup>2</sup> and over	As specified in annual plan

<b>Commercial Activity on Council Controlled Maritime Structure</b>	
<b>Valid Period</b> 12 months commencing 1 July and ending 30 June	<b>Fee Per Commercial Activity on Public Maritime Structure (\$)</b>
<b>Application fee and permit renewal fee</b>	120
<b>Fee per use of maritime structure</b>	As specified in annual plan

<b>Mooring Permit Fees</b>		
<b>Valid Period</b>	<b>Fee Non-commercial craft fee per mooring (\$)</b>	<b>Fee Commercial Craft Fee per mooring (\$)</b>
1 October 2014 – 30 June 2016	332.50	As specified in annual plan
1 July 2016 - 30 June 2018	380.00	As specified in annual plan
<b>Application and permit renewal fee</b>	120.00	200.00
<b>Application to transfer mooring permit</b>	120.00	200.00