

**Queenstown Lakes District Council,
Level 1,
11 – 17 Church Street,
Queenstown.**



Attention – Jade Weinbrecht

Proposed Navigation Safety Bylaw Amendment 2018

This submission is on behalf of the Upper Clutha Angling Club – Circa 70 members.

Executive Summary

Council acknowledges that the existing Navigation Safety Bylaw does not meet the changing use of the Upper Clutha River and environs or the expectations of residents and passive river users.

The rationale for change to the existing bylaws has been well canvassed in previous formal and informal consultations and does not require further elaboration.

Whilst safety issues are paramount other considerations are also important.

Council have addressed in part the safety issue under the Maritime Transport Act 1994 33 M but their proposed amendment falls short in tenure.

Section 33 M (1) (a) and (c) of the Act provides that Council may make a Bylaw to regulate and control the use or management of vessels and to prevent nuisances of persons and things on the water.

The proposed amendments by council do not address section 33 M (1) (a) and (c) of the Maritime Transport Act in any form.
Residents below the bridge will be subject to significant nuisance.

Suggested Remedies

The most effective solution relating to powered craft in the Upper Clutha River would be for Council to enforce the appropriate District Plan provisions which prohibits the use of powered craft on the Upper Clutha River.

Powered craft could operate in the lower Clutha River and beyond but with speed constraints to ensure those residents immediately below the Albert Town bridge would be protected from nuisance by the uplifting of speed limits.

Such a proposal would not impinge the NZ Bill of Rights Act 1990 with the balance of the River available for the operation of powered craft. The river is 300 km long. Council recognize in Clause 7, in the Summary of Statement of Proposal that the Lower Clutha River in particular is seen as attractive for boating because it is wide, has better visibility than the Upper Clutha River and is easily navigable.

Alternative amendment to the current Council proposal

1.1 (a) 'Between 1st December and 31st March no powered vessels may operate in this area unless the powered vessel satisfies one of the following exceptions'....

The Upper Clutha River is widely used for passive activities by a large influx of people during the warmer months whether Easter falls in April or otherwise. The prohibition of powered vessels should, as a minimum, commence on the 1 November and be extended to 30th April.

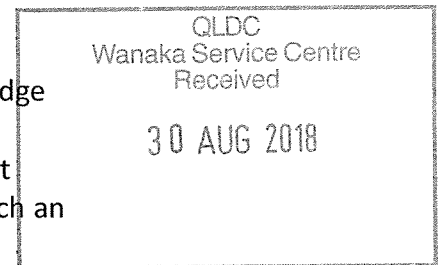
This extension would provide an extended window for the safe use of the Upper Clutha River during a high use period for passive activities. It would also mitigate nuisance, boat wave wash, noise pollution and disruption to the activities of those on or in the river and the wider environs.

Under the proposed clause

1.1 (a) Only operate between 10 am and 12pm? (assumed to be 12 noon) (b) not exceed more than 2 daily trips (single or return trips) ?

These issues require clarification.

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The speed uplifting should be redefined to be below the last Residence on the Lower Clutha River beyond the bridge. Such an amendment would be totally appropriate under the Maritime Transport Act 1994 33 M (1) (a) and (c) of the Act.



Conclusion

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Addendum

The Addendum covers the relevant sections of the **Proposed District Plan** and the continuing sections (under appeal) of the **Operational District Plan**. Both support the prohibition or limits powered craft in the Upper Clutha River.

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21.5.44.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.5.38.

PLEASE NOTE WE WISH TO ATTEND AND SPEAK TO OUR SUBMISSION

G. O. Poole

President

UPPER CLUTHA ANGLING CLUB

[REDACTED]
[REDACTED]

30th August 2018.

QLDC
Wanaka Service Centre
Received

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Policy 21.2.12.5 *Protect, maintain or enhance the natural character and nature conservation values of lakes, rivers and their margins, with particular regard to*

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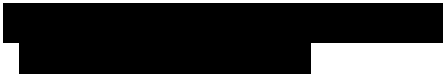
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President

UPPER CLUTHA ANGLING CLUB



Queenstown Lakes District Council

10 Gorge Road

Queenstown, 9300

Attention – Jade Weinbrecht

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Submission from Ian Cole – individual and long term Wanaka resident

Background

I have been a long time member of the Upper Clutha Angling Club, [28yrs], an elected councillor of Otago fish and Game [24 yrs] and current chairman of the Clutha Fisheries Trust

1] The “Upper Clutha” [this submission refers to that section of river immediately upstream from Albert Town Bridge to the outlet of Lake Wanaka] has long been recognised as a special part of the Clutha Rivers 300km length. The UCAC and Fish and Game have historically recognised those values and sought to protect the “peace and serenity” of this rather unique unmodified large river landscape. It is highly regarded by both local, national and international anglers alike. It is recognised as being a “special place” which should be protected.

As well as angling this reach and its shores are increasingly used by a dynamic range of recreational activities. Water activities include swimming, floating, paddle boarding, diving as well as powered and unpowered boating. It should be noted that some activities are very compatible to one another while others, notably powered motor-craft, by their very nature, are intrusive to that peace, serenity and, indeed, safety that other recreationalists seek to enjoy and value in this section of river

2] Surveys of anglers suggest angling effort to be very high between the Lake Wanaka’s outlet and Lake Dunstan. Within that stretch of river, the “Upper Clutha’s” intrinsic natural features have historically

afforded good habitat for sports fish. This, coupled with good meaningful access on both sides of the river enhances its popularity as a fishery

3] Council acknowledges that the existing Navigation Safety Bylaw does not meet the changing use of the Upper Clutha River and environs or the expectations of residents and passive river users. I would endorse council's acknowledgement

4] However, to date, I am perplexed at the process embarked on by council to address this issue. 2017 recommendations by the harbour master to uplift 5 knot restrictions in the name of simplification of regulations and to increase boating safety under a Navigational Safety Bylaw Review were alarming

Resulting submissions received indicated that there were a significant number [90% +?] that were opposed to power boating in the "Upper Clutha". After a misleading "on- line" survey on QLDC's web site, where only limited options were given, there then appears to be a dramatic swing to only 28%? opposed to power craft in the "Upper Clutha"

Are council able to provide details of respondents to this latest survey coupled with residential addresses?

5] The current proposed amendment [3/8/18] fails to reflect concerns for all recreational users of the "Upper Clutha" section of river and the community's aspirations for medium to long term management of power craft on the river. Clearly, within our regions natural resources, facilitation of powered motor craft needs to be identified, embraced and subsequently planned for by council. 21.5.44.1 of the Proposed District Plan appears to be in conflict with the proposed amendment

It is useful to note that many Southland rivers facilitate recreational powered craft but on identified and limited days of the year.

6] So it is with some concern that I note the current proposed amendment recommends a 24/7 permanent speed uplifting between Albert Town Bridge and the Red Bridge. This totally ignores residents' concerns and the wellbeing of all other river users, on or off

the water. How this can be perceived as a responsible council decision reflective of community consultations? Furthermore, it is beyond comprehension that such a proposal is deemed to be in the name of a Navigational Safety Bylaw Review.

It is utterly irresponsible on the part of council to even contemplate, let alone propose, a total uplift of all speed limits in this section of river for 24hrs a day and 7 days a week.

If that is the level of enlightened forward thinking management of our areas “future recreational resource planning” by QLDC community representatives and QLDC staff then the community should be concerned, deeply concerned.

Decisions sought

7] **Interim** The “Upper Clutha” has no powered craft between Nov 1st – May 1st [with noted exceptions of authorised personnel and or existing resource consent operators between the hours of 10am – 4pm] and that it retains a 5 knot speed limit outside of those months [with noted exceptions as above] That this remain in effect until the QLDC urgently address the review Rule 21.5.44 of the District Plan, with the opportunity for public input.

8] **Interim** That the current “status quo” be retained below the Albert Town Bridge to the Red Luggate Bridge. That this remain in effect until the QLDC urgently address the review Rule 21.5.44 of the District Plan, with the opportunity for public input

Addendum

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River. 21.5.44.10 Clutha River - More than six jet boat race days per year as allowed by Rule 21.5.38.

I wish to be heard in support of my submission

Ian Cole

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

31st August 2018

RE: Queenstown Lakes District Council resolve to adopt the new Navigation Safety Bylaw 2018

To whom it may concern.

The proposal which we whole heartedly support is a good start to managing the river so all users can do so without undue risk.

We commend the council for this practical start.

The reference to a “perceived problem” in terms of a very real risk of an accident between a passive user and a powerboat between the outlet and Albert Town is perhaps a little cynical. Perceived problems are what the entire Health & Safety industry talks about and inaction on this front once someone has highlighted concerns is no longer an excuse. From our family’s observations we believe there is a very real danger of a fatality in the future if the situation remains unaltered. From a family who has experienced a death of a young member we believe the risk is too great not to take the measures you are taking.

The environment in this region is changing quickly and the concept of retaining freedoms we have all known in the past is now unrealistic.

We believe the council has shown a willingness to address this issue. I also commend the NZ Jet Boat Association for playing their part in recognising conditions on the river have changed.

The intrinsic value of the outlet to Albert Town section of the river is to experience it in its natural state. Although our primary concern is the risk to health and safety we believe past historical use should not remain unchanged considering the very large majority of today’s users. As the district plan has alluded this piece of river should eventually become a motorised boat free area. We believe over time this will have a greater appeal to locals and visitors than what we would categorise as a very tame and boring motor boat experience.

We hope the new proposal is adopted without change.



David Ellis

On behalf of the Ellis Family who have been living on the riverbank at Albert Town for the past 68 years.

Rebecca Pitts

From: Jade Weinbrecht
Sent: Friday, August 31, 2018 4:23 PM
To: Rebecca Pitts
Subject: FW: Jet boat access to Clutha river [#490FDP]

From: Giz Tahuri
Sent: Friday, 31 August 2018 3:28 PM
To: Jade Weinbrecht <Jade.Weinbrecht@qldc.govt.nz>
Subject: FW: Jet boat access to Clutha river [#490FDP]

Hi Jade,

Please find below submission for the Navigation Safety Bylaw.

Thanks ☺

Ngā mihi,

Gizela Tahuri

Gizela Tahuri | Senior Customer Services Advisor
Queenstown Lakes District Council
P: +64 3 441 0499
E: gizela.tahuri@qldc.govt.nz

 **QUEENSTOWN
LAKES DISTRICT
COUNCIL**
www.qldc.govt.nz

-----Original Message-----

From: Stewart Anderson
Sent: Friday, 31 August 2018 2:45 PM
To: Queenstown Events Centre Reception
Subject: Jet boat access to Clutha river

Submission to the access of the Upper Clutha River by Jet boats.

I would like to express my wish that the Upper Clutha river should stay open to jet boats.

I have boated that area off and on for 40 years without upsetting any one.

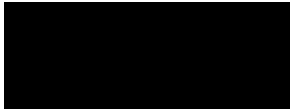
We as a group have always had consideration for other river users, such as fishermen, swimmers or other boaters etc In my experience the vast majority of jet boaters are also fishermen and understand the need to give plenty of consideration to those persons who are fishing the river.

We have at times given excellent help to fishermen on the river to make their day more enjoyable.

We instil in our members rules designed largely to give great consideration to all other river users so that we all might enjoy this wonderful recreational pursuit.

Regards

Stewart Anderson



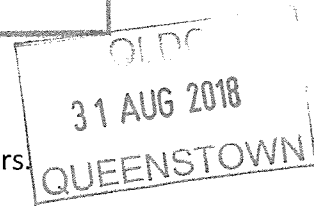
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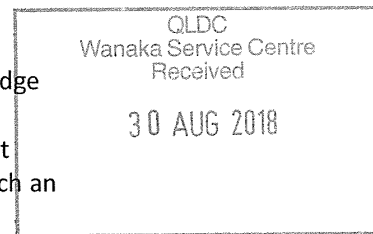
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SUBMISSION ON PROPOSED AMENDMENT TO THE Q.L.D.C. NAVIGATIONSAETY BYLAW 2018

To Queenstown Lakes District Council

By email:

Name of submitter: Katherine McNabb Nicholas Hamilton



We strenuously oppose the proposed amendment to the Navigation Safety Bylaw 2018 amendment clause 37, Schedule 2 and Maps 8-9

We support the status quo, as in the current Navigation Bylaws

It is 60 plus years since the introduction of jet boats to the rivers of New Zealand, jet boating appears to be static in terms of growth of boat numbers on rivers. I undertook research in 2003 and 2004 and again 10 years later in 2014 to 2016 find out what was happening in the jet boat building sector. I have recently revisited that research to bring it up to date. The indications are that boats have continued to be built at around 60 per year. Natural attrition takes place with boats being lost due to either accident or old age. The Marine Industry Association does not have much information regarding jet boats as the manufacturers are often small and are often not members of Marine Industry Association. The Marine Industry Association report that there was an increase 5,000 trailer power boats between 3.5 and 8.5 meters in length. Jet propelled craft are highly manoeuvrable, able to stop within their own length and have a reverse thrust that no other propulsion has, however they are very costly metre for metre alongside other boats. Below from the Maritime NZ recreation page of their web site.

The total number of recreational vessels owned in New Zealand is currently estimated to be about 960,000, with more than half of these being kayaks/canoes and power boats less than 6 metres in length.

Kayaks/canoes are the most popular recreational vessel (with 10% of respondents saying they owned or used a kayak or canoe), followed by power boats under 6m (7%) and dinghies (6%).

Boaties in New Zealand

Location

The largest proportion of New Zealand's recreational boaties live in the upper North Island - 24% live in Auckland, 9% in Waikato, 7% in Bay of Plenty and 5% in Northland.

There are also relatively large numbers of recreational boaties in Wellington/Wairarapa (12%), Canterbury (11%) and Otago (9%)

Ramp surveys completed in Wanaka on behalf of Maritime NZ the latest being 2015, show that over 90% of the boats in the area were from outside Wanaka and were only in the area for a short period of time. These percentages are consistent with other areas with significant holiday destinations e.g. Environment Waikato

As above the 960,000 (source Maritime NZ) boats in private ownership of which around 8,000 or some estimates up to 10,000 ,being jet boats. Therefore jet boats represent somewhere between 0.08% and 0.1% of boats in private ownership. The number of jet boats on our waters does not appear to be increasing in line with the nearly doubling over other types of boats in the last 10 years. The advent of the chart plotter/satellite navigation and trailer boats that are 25% -30% cheaper than new jet boats of the same size, has also reduced the numbers that may have entered the market. There is no empirical data regarding either numbers of jet boats being manufactured or being seen on the water.

There is a perception that some private boaters (non club or commercial) create an added risk on rivers. Our experience is that we are now seeing the third generation of one family driving jet boats and that many of the boaters we encounter are vastly experienced, having both many years' experience, on a wide variety of rivers and a some have undertaken formal boating education. These skippers are only likely to represent a 20% of the membership of Jet Boating NZ or similar boating club.

NAVIGATION

Wherever shipping and boating takes place in the world, the operation of vessels is managed by Rules of the Road at sea. In New Zealand these rules apply to all craft on all waters at all times. These rules give effect to the *Convention on the International Regulations for Preventing Collisions at Sea: 1972*, to which New Zealand is a party.

Until the beginning of the 19th century wooden sailing vessels were so slow that there was no need for much in the way of navigation rules. However with the arrival of steamships collisions became more frequent and this led to the gradual introduction of regulations. The first of these regulations were passed on 7th July 1838 by the United States Congress.

In 1846 the British passed a law that required steam vessels to pass port to port and in 1848 added the requirement for steam vessels to show red and green sidelights plus a masthead light. In 1894 the collision regulations became part of the Merchant Shipping Act and so on through until our own Maritime Transport Act 1994 Maritime Rules Part 22 which came into force 1998 replacing the Shipping Regulations of 1988.

Subsection 1 of the Maritime Rules Part 22 refers to the conduct of vessels in any condition of visibility:

Maritime Rules Part 22 Collisions Regulations

22.5 Look out

Every vessel must at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions, so as to make full appraisal of the situation and the risk of collision

22.6 Safe Speed

Every vessel at all times must proceed at a safe speed so that proper and effective action to avoid a collision can be taken and the vessel can be stopped within a distance appropriate to the prevailing circumstances and conditions.

22.9 Narrow channels

- (1) A vessel proceeding along the course of a narrow channel or fairway must keep as near to the outer limit of the channel or fairway which lies on its starboard side as is safe and practicable.*

Further to the international collision rules, we have **Maritime Rules Part 91**, which is the model by law for the regions of New Zealand. This rule came into force on 21 March 2003 and replaces the Water Recreation Regulations 1974. This rule is an enlargement of the rules for all waters in New Zealand and is used with the International Collision Regulations Maritime Transport Act 1994 Rule 22. Local bylaws cannot be inconsistent with Maritime Rule Part 22 or Maritime Rule Part 91.

Maritime Rules Part 91

91.17 River Safety Rules

A person in charge of a vessel on a river must

- (a) Ensure that the vessel keeps to the starboard (right) side of the river channel:*
and
- (b) If going upstream, give way to any vessel coming downstream; and*
- (c) Not operate the vessel unless river and weather conditions permit safe operation of the vessel*

The Rules of the Road at Sea apply to *all* craft on all waters at all times, powered and unpowered. Unpowered vessels, kayaks, stand up paddle boards, rafts, dinghy's are required stay to the starboard side of the river or narrow channel whenever possible.

To say the boating is "unregulated" is simply incorrect. There are numerous rules and regulations governing the operation of all classes of vessels

A boat skipper's responsibility is compliance with these "Rules of the Road at Sea". . Skipper responsibility regardless of the waterway is the first and foremost consideration, whether the vessel is commercial or private, powered or unpowered. Vessels on rivers fall into just two classes of vessel precedent i.e powered (non specific) and unpowered, the former must always give way to the latter.

If a private skipper does not know how to proceed when encountering a commercial vessel, a trained commercial skipper should possess the knowledge (as per Rules 22 & 91) to make a full appraisal of the situation and manage his/her boat and possible risk of collision accordingly.

Private boats do not have to automatically give way to a commercial boat except within the rules, just as on a road a private car does not have to give way to say a bus except where required by the road rules.

Collisions on all waters are rare. However, from time to time boats hit objects rather than each other.

Registration, licensing and boat names do not contribute significantly to saving lives at sea, only with identification after an event. Studies in other jurisdictions confirm this. Education and constant management by the Authority who has the jurisdiction is proven to work. It is the role of the managing authority to be out on the water or around it at entry points (such as ramps and marinas) to work with boaters of all types. While boating organisations have a role to play in education of their own members, it must only be undertaken by those who hold suitable qualifications only (see Rule 91.21 Appointment of Safe Boating Advisors) e.g. Boat Masters or above. Those qualified by experience may not necessarily have the understanding of the wider legislative and safety environment.

Likewise informal consultation about jet boating and river matters have no credence if the authors have no maritime qualifications e.g. I.L.M., S.R.L., Boat Masters. Only formal consultation where there is the empirical data used to make a decision, e.g. boat counts, and accident and incident reports.

The process for an 'uplifting' of the 5 knot rule is laid out in the Q.L.D.C. Navigation and Safety by laws, Part 6, Administrative Provisions.

6.5 Permanent Speed Upliftings

6.5.1 A person may apply to have any speed limit prescribed by this Bylaw uplifted from waters specified in the application, by application in writing to the Council.

6.5.2 *An application under subclause 6.5.1 must not be granted unless the Council is satisfied that:*

- (a) The application has been publicly notified; and*
- (b) The affected persons have had a reasonable opportunity to comment on the application; and*
- (c) The applicant has provided evidence of the consultation undertaken with the affected persons and any navigation safety concerns arising from the consultation process; and*
- (d) The applicant has provided evidence of any measures taken to address any concerns raised by affected persons; and*
- (e) Uplifting the speed limit will not unacceptably increase the risk to navigation safety or endanger persons using the waters that are the subject to the application.*

6.5.3 *The council must consult with the Director of Maritime Safety before granting any application made under subclause 6.5.1 and must notify the Director of Maritime Safety when it grants such an application and must give public notice of the speed uplifting.*

KEY ISSUES

Are the provisions unreasonable?

The provisions at issue are apparently directed towards water safety of river users. There is no evidence or analysis in the draft bylaw proposal of any specific incidents, never the less the proposed provision cuts across the rights currently enjoyed by all boaters using the upper section of the Clutha River.

Section 33M (1) Maritime Transport Act states that a regional council is empowered to make bylaws

Before commencing the process for making a bylaw, a local authority is required to:

7.1 Determine whether a bylaw is the most appropriate way of addressing the perceived problem; and if so

7.1 Whether the proposed bylaw is the most appropriate form of bylaw;

7.3 Whether the bylaw gives rise to any implications under the New Zealand Bills of Rights Act 1990

.

Data based decisions or hearsay

Informal consultation about jet boating and river matters have no credence if the authors have no maritime qualifications e.g. I.L.M., S.R.L., Boat Masters. Only formal consultation where there is the empirical data used to make a decision, e.g. boat counts, accident and incident reports.

The use of anecdotal evidence to make such a substantial change to a system is troubling. Empirical data must be the only basis for making change for safety. Perception that something is dangerous is just that, perception only. When examined, a view of boating behaviour by a trained person and using the legal framework may show that the boater was behaving in a lawful manner.

Just because you don't like the behaviour doesn't make it wrong.

It is a requirement of the Maritime Transport Act Section 31 that all accidents, incidents and mishaps are reported to Maritime New Zealand (sits above reporting to the Harbour Master) as soon as is practicable after the event. There is an on line system for doing so. The accidents reports, which are the empirical data, received from Maritime NZ show that there have only been 11 jet boats incidents on rivers with uplifted regulations reported since 2009, and that they were all single boat accidents. This equals 1.6 incidents a year. These statistics are collected to be studied to look at education of the boating public first and foremost. Legislative change takes many years and requires a focus on saving lives and a cost benefit to the public of New Zealand. A request has been filed under the Official Information Act for all accident and incident reports on the Upper Clutha, records only available from 2009. It is anticipated that the information will be available at the hearing, 11th September 2018

The Albert Town ramp has been used for commercial boat launching for at least 30 years.

The lower Waimakariri River is arguably the most boated piece of river in the country. Braided and without the wide sections of excellent visibility as found in the Clutha. Up to 40 boats can access the river over a day on a busy weekend. This lower section of river is also used by jet skiers, kayakers,

swimmers, four wheel drivers, motor bikers, walkers with their dogs swimming. We have boated with swimmers jumping into our jet streams as we go past as they find it fun. Jet boats have used this section of river since 1954 and even though the conurbation of Christchurch has grown to nearly half a million, this stretch of river multiple uses present no problems. No recorded incidents of powered craft versus unpowered craft or swimmers

Online comments

Have no rigour and are just comments with there is no accountability to produce data or qualification. Often these comment processes are used by those that don't like an activity and have no understanding of the jurisdictional issues and wish to vent. While the activity has been taking place since the 1950's on the Upper Clutha River and was accepted in the District Plan and accommodations made for time restraints, there seems to be a specious move by some residents to rid the river of something they don't like. Promulgating bylaws following an anonymous online survey seems to be at best unwise but sits outside proper process.

Has the Q.L.D.C fulfilled the requirements of the Local Government Act 2002 Section 83, Special Consultative Procedure?

Using legislation for a collateral purpose

The current navigation and safety bylaw regime is consistent with the District Plan and reflects a thorough consultation process with the introduction of the R.M.A. **Any changes to the Navigation Bylaw e.g. prohibition of boating must be consistent with the District Plan and have gone through a full planning process. To use the Navigation and Safety Bylaw to manage 'effects' is ultra vires**

The two decisions from the Environment Court KAWARAU JET V QUEENSTOWN WATER TAXIS demonstrate clearly that the Resource Management Act is about the activity and attempts to use it for safety did not persuade the court. The court was clear that Navigation and Safety Rules were there to manage the traffic. The reverse is equally true as in this situation where it would seem that those that don't like motorised boating are supporting a prohibition of same using Navigation and Safety Bylaws

Commercial craft and recreational craft are not distinguished in an uplifting regime. Upliftings are about exceeding 5 knots, steering rules and not the activity.

There is no mechanism in the maritime legislation which allows for commercial craft on an uplifted river to be allowed to boat when motorised boating is prohibited. If the Bylaw is changed to prohibit motorised craft, **it would prohibit all motorised craft, recreational and commercial could not be limited to just one or two operators.** Prohibition belongs in the District Plan.

Exemptions for the use of a river by motorised boats to travel at over 5 knots can be obtained on a case by case basis using the ability to obtain a Special Reserved Area permit (see Maritime Rule 91) usually used for an event of a short duration i.e. one day at a time. There is no mechanism to exempt two commercial operators on long term basis on a non-uplifted river, let alone where motorised boating is prohibited for a period every year.

Schedule 2 of the proposed Navigation bylaw quite clearly states the speed uplifting between Lake Wanaka Outlet to Albert Town Bridge as applying from 1 April to 30 Nov between the hours of 10am and 6pm. This is inconsistent with Part 5 para 35 (a) (i) and (ii), which would allow powered commercial vessels (and other specified craft) from 1 Dec to 31 March, at which time it is unclear whether the river either has a 5knt speed restriction in place or a 'no powered vessels' requirement. This would be a prohibition for any vessel, as virtually all waterways permit vessels to travel at speeds of up to 5knts without restriction.

If this clause were to be enacted, QLDC would effectively be giving sole commercial rights to said stretch of river, similar the Shotover Jet empowering Act 1978 (Harbours Act) for vessels in the Shotover gorge.

A river either has a speed uplifting or is restricted to 5knts, covering all craft. Navigation Bylaws may specify navigation restrictions e.g. Kawarau river Zoological Gardens, but must also be compatible with permitted activities as per the District Plan

THERE IS NO MECHANISM TO DEAL WITH EXEMPTION FROM A PROHIBITION FOR ALL CLASSES OF MOTORISED VESSELS.

THERE SEEMS TO BE CONFUSION WITH REMOVING UPLIFTINGS AND PROHIBITION. MOTORISED BOATS MAY TRAVEL AT 5 KNOTS WITH THE REMOVAL OF THE UPLIFTING. IT DOES NOT PREVENT THEM FROM USING THE RIVER. HOWEVER NO VESSELS CAN USE A PROHIBITED AREA, Ref KAWARAU RIVER BELOW ARROW JUNCTION

Attachment 1, QLDC Email.

From: Charlie Evans <Charlie.Evans@qldc.govt.nz>

Sent: Monday, 13 August 2018 10:39 AM

[REDACTED] plication - Kawarau Jet Services Holdings Ltd (RM150546)

Good morning Katherine,

Thank you for your email.

The processing planner for this application has advised that there is nothing that would preclude the applicant for applying for another consent, however it couldn't be approved because of prohibition under the Navigation Bylaws. Therefore he thinks that there is a low chance of this happening.

I hope this information helps.

Kind Regards

Charlie

Charlie Evans Planning Support Planning & Development	
Queenstown Lakes District Council	
DD: +64 3 450 0355 P: +64 3 441 0499	
charlie.evans@qldc.govt.nz	

We reserve the right to speak to our submission and to produce additional material at hearing.

Katherine McNabb and Nicholas Hamilton

QUALIFICATIONS AND EXPERIENCE OF THE SUBMITTERS

KATHERINE MCNABB

I have the following relevant experience and qualification in navigation and safety matters

I have been recognised as an expert witness in the Environment Court since 2002. My specific area is the interface of the Resource Management Act and navigation and safety rules in jet boating.

I have been sailing/power boating since 1960 and a commercial skipper since 1995 (see Q.L.D.C.)

My experience includes, keelers (commercial and recreational), jet commercial and recreational, and passenger craft up to 24 metres. Includes owning a commercial jet business and a charter yacht. Areas of experience include inland, coast and offshore both islands. For the last ten I have been back in the Marlborough Sounds. This area comprises 1/6th of New Zealand's coastline with an extraordinary variety of craft and conditions. I also spend three months in Wanaka each year.

Royal Coastguard Boating Education Tutor 10 years including foundation level recreational through to commercial certifications, preparation for Part 35 qualifications and the Certificate in Domestic Marine Operations course for Skipper Restricted Limits.

I hold the following qualifications

- Maritime NZ Inshore Launch Master which includes any craft up to 24 meters to 20 nautical mile limit.
- High speed endorsement for Maritime NZ Inshore Launch Master.
- Local Launch Operator Maritime NZ
- Royal Yacht Association International Certificate of Competency for Sail, up to 200 tonnes and 60 nautical miles from safe haven.
- Royal Yacht Association International Certificate of Competency for Power up to 10 metres and 60 nautical miles from safe haven.
- Royal Yacht Association Coastal Skipper, Yacht

- Radar Operators Certification
- MROC Radio Operators Certification
- Boat Master CBES
- Licence to Operate a Jet Boat, Q.L.D.C. 1995
- I am a Maritime NZ safe Boating Advisor and have been since 2004
- Coastguard Boating Education Board Member since 2011
- CBES curriculum development committee
- National Certificate in Adult Education 2016
- National Rivers Officer for Jet Boating NZ 1999-2004 (under the name Jameson)
 - Jet Boating NZ (formerly NZ Jet Boat Association) National Rally Lady Hamilton trophy 2003, runner up 2000, 2001, 2002, 2004, 2005
 - Jet Boating NZ First Team National Rally 2003
 - Autographic Best Presented and Prepared Boat National Rally 2002, 2003
 - Canterbury Jet Boater of the Year 2004
 - Cant Branch NZJBA Lady's trophy Rally Series, 2002,2003,2004,2005,2006
 - Cant Branch NZJBA Waimakariri Ladies Challenge 2002, 2003, 2004,2005

NICHOLAS JOHN HAMILTON

2014:	Commercial Jet Boat Licence (river)
2001:	M.S.A. Authorised Person. Commercial Jetboating. Rule 80 (Checks and company audits)
1997:	M.S.A Commercial Launch Master. Nelson Polytech
1987:	Restricted R.T Operators Certificate.

1987: M.S.A Local Launch Master. Queenstown

1982: Local Authority Licence (Queenstown) for Commercial Jetboat operations.

1982: Christchurch Polytech, Supervisors Course.

Current: Winter 2015, 2016, 2017 shuttle bus driver, lift operator, Porters ski area

October 2014 – March 2016: Casual Commercial jet boat driver, Waimak Alpine Jet, Waimak Gorge, Springfield

September 2005 – 2012: Set up and operated Nelson Sailing Adventures, Tasman Bay Area. Commercial charter operation

Feb 2000- April 2000 Twin Rivers Jet Ltd, Queenstown.

1 of 2 senior boat drivers, daily operations and customer services.

Nov 1999- Jan 2000 Queenstown Rafting Ltd, Queenstown

Coach driver for rafting clients, on Skippers Canyon/Shotover River and Kawarau River.

July 1999- Nov 1999 Tourism Holdings Ltd. Queenstown

Front desk at Queenstown Airport, Marketing, and Ground crew

March 1999 - June 1999 Medraft Tourism, Antalya, Turkey

Operational organizer for Jet boat company

Nov 1998-March 1999 Tourism Holdings Ltd, Queenstown & Mt Cook bases

Front desk and ground crew

Oct 1997- Nov 1998 Helijet Ltd Queenstown.

Jet boat driver, Senior driver, Operations Manager, on Kawarau and Shotover Rivers

Jan 1997-Oct 1997 Nelson Polytech followed by overseas travel.

Sat and passed CLM at Nelson Polytech, followed by 3 months traveling in Australia

Sept 1987-Aug 1997 Helijet Ltd Queenstown

Jet boat driver rising to Senior driver on Kawarau and Shotover Rivers

Aug 1990-Oct 1992 Paraflight N.Z.

Operations Manager, Skipper. On Lake Wakatipu

Feb 1989-April 1990 Walter Peak Tours,

Launchmaster. On 20mtr Catamaran and Fiordlander class vessels on Lake Wakatipu

Feb 1988-Oct 1989 Hydrofoil Cruises, Queenstown

Launchmaster. On 40ft, 17passenger Hydrofoil

Sept 1982-Sept 1987 Kawarau Jet Services,

Owner-Operator. Commercial jetboat operation on Lake Wakatipu and the Kawarau River

Skills & Accomplishments

For the last 23 years I have been involved with the tourist industry in Queenstown Nelson and Canterbury.

Firstly with my own business as an owner/operator of Kawarau Jet Services, then Nelson Sailing Adventures Ltd, then more recently as an employee. In my own business and the one I managed I covered everything from marketing to staff training to engineering. As an employee I have further been involved with marketing, driver training, safety management and the monitoring staff performance in these areas.

was gained.

Since 2008 I have been an expert witness in the environment court in Queenstown in relation to commercial jet boating safety on the Kawarau and Lower Shotover rivers.

Vessels Employed On.

M.V. Tiger Lily 1. (Walter Peak Cat) 19m. 2x 8V92T

M.V. Cecil Peak. 15m. 2x8V72

Hydrofoil Meteor 111. 11.8m. 1x375hp Chrysler Marine V8.

Para 1. 27ft. Cairns Custom Craft 2x 175hp outboards.

EasyRider Wildcat 350 10.8 metre sailing catamaran

Numerous commercial jetboats all petrol powered V8's.

Other vessels include: Watertaxi
13 mtr Sailing Vessel
15 mtr Powercat

Experience

My Maritime qualifications and experience are as follows:

- Commercial Jetboating from 1982 to 2005. Maritime New Zealand ("MNZ") driver approval, Queenstown Lakes District Council Commercial Skippers licence 1998;
- Maritime NZ tickets held: Local Launchmaster Licence (LLL) 1987 upgraded to Commercial Launchmaster (CLM) 1996;
- Authorised person for jetboating Maritime Safety Rule part 80 2002 to 2005;
- Appointed by MNZ as a Safe Boating Advisor;
- Commercially jetboated the Lower Shotover River, Kawarau River, including the Goldfields area, Waimakariri Gorge, Upper Buller Gorge;
- Total hours commercial boating would exceed 18000 hrs;
- Operating charter sailing catamaran Nelson/Tasman Bay from October 2005 until March 2012.

I have extensive experience in operating commercial jet boats that include:

- Owner of KJet from August 1982 until selling in September 1987. Kawarau River;

- Helijet Adventures 1987 to 1999 on the Kawarau River; and on the Lower Shotover river from mid 1990s until end of 1999;
- Goldfields Jet, Cromwell, 1998 to early 1999;
- Twin Rivers Jets 2000, 2001. Relief driving. Kawarau and Lower Shotover Rivers;
- Waimak Alpine Jet 2002, 2003, 2005. Relief driving. Waimakariri Gorge;
- Buller Experience Jet 2001 to 2006, Relief driving, advisor. Buller Gorge, Murchison;
- Mapua Adventures 2000, 2004/5, Casual driver, Waimea estuary tours;
- MedJet, Turkey, 1999.
- Experience as an expert witness for navigation and safety, especially jet boats
- In depth knowledge of relevant maritime legislation.
- Understands OSH in commercial boat operation

30 August 2018

Queenstown Lakes District Council
10 Gorge Road
Queenstown, 9300
services@qldc.govt.nz

Submission on the Proposed Amendment to Queenstown Lakes District Council Navigation Safety Bylaw 2018

This submission is made on behalf of the Otago Fish and Game Council.

Submitter Details

Contact person: Nigel Paragreen, Environmental Officer



N. Paragreen
.....

30 August 2018
.....

Introduction and Fish and Game Representation

- [1] The Otago Fish and Game Council (Fish and Game) is the statutory management authority for sports fish and game bird species.
- [2] To fulfil parts of the Council's statutory obligations under the Conservation Act (1987), Fish and Game takes an active role participating planning processes. In this planning process, the relevant statutory functions Fish and Game is seeking to fulfil is:

26Q Functions of Fish and Game Councils

(1) The functions of each Fish and Game Council shall be to manage, maintain, and enhance the sports fish and game resource in the recreational interests of anglers and hunters, and, in particular, — ...

(e) in relation to planning, —

(i) to represent the interests and aspirations of anglers and hunters in the statutory planning process; and

(vii) to advocate the interests of the Council, including its interests in habitats:

- [3] In the 2016/2017 year, Fish and Game sold roughly 29,000 licences across Otago to hunters and anglers, meaning the organisation likely represents tens of thousands of individuals in its statutory functions.
- [4] The Clutha River within the Queenstown Lakes District is a popular angling destination identified as nationally significant in the Otago Sports Fish and Game Bird Management Plan 2015-2025. It offers exciting angling opportunities in rural and natural settings with easy access from close population centres. The river is popular with locals and has clear tourism appeal, bringing benefit to the region. Critically, the area referred to as the upper Clutha encompasses the Dean's Bank Fishery, which is an internationally renowned fly fishery. For anglers, the Clutha is a special place which must be protected.

- [5] Surveys of angling effort suggest that the Clutha River from Wanaka to Lake Dunstan since 1995 show very high use. Use in the 2014/2015 period, which is historically very low, still represented over 20% of total angling pressure on the total length of the Clutha (Unwin, 2016).

Angling days per year	2014/2015	2007/2008	2001/2002	1994/1995
	6,670 ± 1,330	20,900 ± 3,220	20,160 ± 2,760	11,440 ± 2,130

(Unwin, 2016)

- [6] This stretch is heavily used by a range of other recreational activities such as swimming, floating, powered boating, unpowered boating and diving. Some recreational activities are complementary, others are incompatible. It's critical that these many competing uses be managed to provide a wide spectrum of recreation opportunities for the benefit of all water users.
- [7] The proposed bylaw both improves and reduces this goal on the Clutha. For the lower Clutha, the status quo would be preferable. For the upper Clutha it is an improvement on the current situation; however, there are improvements which must be made.

Decisions sought

- [8] Fish and Game seeks that the Queenstown Lakes District Council ('QLDC') review Rule 21.5.44 of the District Plan, with the opportunity for public input, as a matter of urgency.
- [9] In relation to the proposed bylaw, at least the following amendments be made and that it be reviewed so it is consistent with the above district plan process, should that occur. The reasoning for these changes is set out in points 10-13.

a. On the Upper Clutha River (between the Lake Wanaka Outlet and Albert Town Bridge):

- i. *Between 1 December and ~~31 March~~ 30 April: no powered vessels may operate in this area, unless the powered vessel satisfies one of the following exceptions:*
 1. *it is expressly authorised to operate in this area by a resource consent issued by the Council, provided that between 15 January and 1 February the powered vessel shall:*
 - a. *only operate between 10am and 12pm; and*
 - b. *not exceed more than two daily trips.*
 2. *it is carrying out a permitted activity under the Queenstown Lakes District Plan.*
 3. *it is being operated by the Harbourmaster or Deputy Harbourmaster for the purposes of exercising his or her functions under the Act or ensuring compliance with this bylaw.*
- ii. *Between 1 April May and 30 November any powered vessel operating in this area is subject to a 5 knot speed limit (outside of the timed uplifting: 10am – 6pm during summer and 10am – 4pm during winter).*

- b. *A permanent speed uplifting to be implemented on the Lower Clutha River (between Albert Town Bridge and the Red Bridge). Retain the status quo on the lower Clutha.*

- [10] *Extension of upper Clutha prohibition:* Easter is a high use period on the upper Clutha for all recreational users. It is exceptionally dangerous for powered boats to be travelling at high speed around high densities of passive recreation users, such as swimmers, floaters or anglers. At a minimum, the prohibition for powered craft on the upper Clutha should be extended past this period, to the end of April.
- [11] *Introduction of winter speed uplifting time restrictions:* Many users prefer recreational activities around dusk. Anglers in particular prefer dawn and dusk because it provides a better chance of catching fish. In winter months, this means anglers will be put in harms way as there is the potential for powered vessels to be operating in low or no light conditions, up to 6pm. Unless winter time restrictions are put into place, there is a safety risk to water users at dusk.
- [12] *Lower Clutha:* Although this stretch is used less than the upper Clutha area, there is still a reasonable level of use by passive recreation users, such as anglers or swimmers. The high level of use across the stretch is demonstrated above in the National Angler Survey results, shown in Figure 1 above. As with the above point, craft travelling at speed in low and no light conditions craft pose a safety risk to those users as they are not easily visible. The status quo, which allows a speed uplifting during daylight hours, is preferable from a safety perspective.
- [13] *Nuisance:* Powered boats can become a nuisance by disturbing other water users. The lack of winter specific timing for the speed uplift on the upper Clutha and timed uplift restrictions at all on the lower Clutha will lead to such disturbances during the evenings, when many water users reasonably expect an experience undisturbed by loud noises. Users disturbed by noise are not only in stream recreation users but also the users of river margins, like walkers and homeowners. For anglers, the loud noise and physical disturbance caused by a craft travelling at speed can spook fish and ruin the chance of a catch. It is reasonable that powered boating be restricted at these key times to limit nuisance for the wider public.

Additional policy considerations

- [14] Fish and Game does not agree with the policy analysis provided in the QLDC Statement of Proposal. There are a number of provisions from legislation and local plans which Fish and Game feels were poorly interpreted or not properly considered. These are outlined below:
- [15] *Maritime Transport Act (1994):* Section 33M allows the establishment of bylaws for the purpose of ensuring maritime safety, this is referenced as the section considered by the QLDC in the development of the navigation safety bylaw. Among safety concerns, the prevention of nuisances is mentioned in this section as an objective of such a bylaw. This results in a significantly restricted scope for the bylaw, scope which does not fit with the community's expectation. At the previous bylaw hearing in 2017, I noted anecdotally that the bulk of the submissions in opposition to the speed uplifting were on grounds of safety, nuisance and loss of amenity for existing recreation activities. Fish and Game considers that the proposed bylaw will unreasonably affect angling amenity, as well as the amenity of other recreation activities. However, the restricted scope under the Maritime Transport Act (1994) means that these concerns, and the concerns of a great portion of the community, need not be considered. For this reason, Fish and Game does not consider the bylaw to be an appropriate planning instrument to set this regulation.
- [16] *Consistency with the Resource Management Act (1991) ('RMA'):* Section 33M(2)(d)(i) of the Maritime Transport Act (1994) directs that the bylaw not be inconsistent with the RMA. In considering if the proposed bylaw will meet this section, I briefly consider the purpose and the relevant provisions in Section 7 of the RMA, which are set out below:

<i>RMA Provision</i>	<i>Is the proposed bylaw inconsistent?</i>
<p>5(1) The purpose of this Act is to promote the sustainable management of natural and physical resources.</p> <p>5(2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—</p> <ul style="list-style-type: none"> (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment. 	<p>Yes – the use of surface the water resource which allows powered vessels to travel at speed during in areas which exhibit high recreational use. As noted above, there are clear safety concerns for the proposed bylaw. The reduction in amenity for many popular activities calls into question the ability of the proposed bylaw to enable the provision of social and cultural well-being.</p> <p>In addition to this, the provision asks for the consideration the reasonably foreseeable needs of future generations. In the Queenstown Lakes District context, population and tourism growth will lead to increased demand for water and river margin based recreation, while the area of waterbodies available for recreation remain the same. Essentially, in the reasonably foreseeable future, surface water will become an increasingly valuable and intensively used resource. As discussed in 7(b), powered boating is not an efficient use of limited surface water resources as it benefits a few at the cost of many, so the bylaw would be inconsistent with 5(2)(a)</p>
7(b) the efficient use and development of natural and physical resources:	<p>Yes – when considering the efficiency of the proposed bylaw, one would look to maximise social utility for the stretch of surface water. Anecdotally, this will likely require a range of broadly compatible recreational activities so that a maximum number of people from across the region can utilise the stretch at once. Powered vessels travelling at high speed benefit a small number of recreational users and significantly impact many widely practiced activities and as such, it is not an activity which I would expect to maximise social utility. Rather, it would benefit a small number of boat owners to the detriment of many other water users.</p>
7(c) the maintenance and enhancement of amenity values:	<p>Yes – existing amenity values will not be enhanced or maintained for many activities on both the upper and lower Clutha. Rather, they will be diminished.</p>

[17] *District Plan:* The District Plan provides guidance on the use of surface waters and the use of powered craft on the Clutha River which should also be considered. From the Proposed Plan, Objective 21.2.12 and policies 21.2.12.2, 21.2.12.5, 21.2.12.6 and 21.2.12.9 set out guidance to enable people access to a wide range of recreational experiences, to protect maintain or enhance natural character and to consider adverse effects of commercial boating activities. Many of these policies are subject to appeals, and therefore relevant provisions from the Operational District Plan, which contain stronger language, should also be considered. Fish and Game does not believe the proposed bylaw meets with these provisions, when taken together. It would be a major oversight for the same council's bylaw and district plan to be inconsistent.

[18] In addition to this, Rule 21.5.44 from the Proposed District Plan casts doubt on the legality of the activities regulated by the proposed bylaw.

21.5.44 *The use of motorised craft on the following lakes and rivers is prohibited, except where the activities are for emergency search and rescue, hydrological survey, public scientific research, resource management monitoring or water weed control, or for access to adjoining land for farming activities.*

- **21.5.44.1** *Hawea River.*
- **21.5.44.2** *Commercial boating activities on Lake Hayes.*
- **21.5.44.3** *Any tributary of the Dart and Rees rivers (except the Rockburn tributary of the Dart River) or upstream of Muddy Creek on the Rees River.*
- **21.5.44.4** *Young River or any tributary of the Young or Wilkin Rivers and any other tributaries of the Makarora River.*
- **21.5.44.5** *Dingle Burn and Timaru Creek.*
- **21.5.44.6** *The tributaries of the Hunter River.*
- **21.5.44.7** *Hunter River during the months of May to October inclusive.*
- **21.5.44.8** *Motatapu River.*
- **21.5.44.9** *Any tributary of the Matukituki River.*
- **21.5.44.10** *Clutha River - More than six jet boat race days per year as allowed by Rule 21.5.38.*

- [19] A reasonable interpretation of this rule may be that motorised craft are prohibited from operating on the Clutha, with the exception of jetboat races. While this rule remains in its current form, the proposed bylaw will be contradictory and current boating activities on the Clutha are in question. This must be resolved as a matter of urgency, otherwise the two documents may create two sets of competing rules for the one activity. Fish and Game proposes that the QLDC undertake a review of the use of powered vessels on the Clutha river at a district plan level, with input from the public.
- [20] In recent years, Fish and Game has asked the QLDC to provide more comprehensive guidance on surface water by developing a non-statutory surface water recreation plan which draws together safety, environmental and social factors to guide decision makers. That this bylaw is inconsistent with other planning documents is a symptom of this lack of guidance. A document of this nature is critical for managing the region's surface water in the years to come as the population and recreation demand grows.

Conclusion

- [21] The bylaw proposal raises serious safety and nuisance concerns for Fish and Game and should not be adopted by the QLDC in the proposed form.
- [22] The proposal is inconsistent with legislation and planning documents and this must be resolved urgently.
- [23] A non-statutory surface water recreation plan should be developed for the region to guide processes such as this and avoid conflict.
- [24] Fish and Game would like the opportunity to speak to this submission at a hearing.

Work cited

Unwin, M. J. (2016). *Angler Usage of New Zealand Lake and River Fisheries*. Christchurch: National Institute of Water and Atmospheric Research.

SUBMISSION ON PROPOSED AMENDMENT TO NAVIGATION SAFETY BYLAW 2018

J.W. COWIE

INTRODUCTION

1. I have been a property owner in Albert Town since 1972 and my family, relatives and friends have been regular passive users of the section of the upper Clutha River from the Lake Outlet to the Albert Town Bridge ever since. We highly value the river and its surrounds for its natural, recreation and intrinsic values. I am also an owner of a 5.8 metre power boat.
2. In October 2017 my wife and I made a detailed submission opposing changes to the Navigation Safety Bylaw 2017 as it applied to the Clutha River, namely the proposed liberalisation of the speed limit for powered craft. However, like many others who submitted at the time we put the case to Council to restrict powered craft on this section of the River primarily for safety reasons, but also for its natural conservation values, which are clearly stated in Section 4 of the QLDC District Plan. In fact, I'm sure it came as a surprise to many, including some Councillors and Council officials, that Section 4 of the Plan makes a very strong case to have the Upper Clutha River made powered craft free.
3. It is therefore heartening to see in the latest proposed amendment 2018 QLDC:
 - has 'listened' to the clear majority of people who submitted in 2017;
 - is going some way to enacting the recommendations in it's own District Plan and
 - is looking to the future by offering some protection to the increasing numbers of passive users of the Upper Clutha and it's environment.
4. I have submitted in favour of the proposed amendment to the Navigation Safety Bylaw 2018, but with the following provisos or qualifications:
 - The period of the proposed powered craft ban, 01 December to 31 March is too short and should include all of April.
 - The commercial operators' exemption to the ban should only be temporary and be phased out over time in accordance with provisions contained in their Resource Consents for review of the consent.
 - The recommendation for a permanent 'speed uplifting' on the section of the River from the Albert Town Bridge to the Red Bridge be reviewed in favour of the status quo.

QUALIFICATIONS TO THE PROPOSED AMENDMENT TO NAV. SAFETY BYLAW 2018

5. **Proposed Amendment 1.1 (a).** I fully support a summer ban on powered vessels from 01 December to 31 March, however the period is not long enough because it doesn't include the Easter holidays, the last high-use period of the summer on the River by passive users. The ban should therefore be extended to include April - 01 December to 30 April each year.
6. **Proposed Amendment 1.1 (a) (i).** While I acknowledge the right of powered vessel Resource Consent holders to be exempt from the proposed ban (above), I believe this exemption should be temporary, until such time as the commercial operators' resource consents come up for review or they voluntarily withdraw from the Upper Clutha. The inescapable fact is that the safety of passive users on the River is compromised when high speed jet boats are operating in the same space,

regardless of the experience and so called professionalism of the operator. Previous NZ-wide accidents and incidents bear this out.

7. **Proposed Amendment 1.1 (a) (i) (A) (B).** Notwithstanding my comment in the Paragraph 6. I applaud a reduced operating frequency on the River by the commercial operators during this period. Of course any extension to this fortnight period would be welcome especially in January and February.

8. **Proposed Amendment 1.1 (a) (ii) (iii).** No problem with these exemptions, although I would not like to see any increase in exemptions for purely powered vessel sports events.

9. **Proposed Amendment 1.1 (b).** OK, except I support a reduction of the 'winter' period to 01 May to 30 November.

10. **Proposed Amendment 1.2.** I am particularly concerned with this proposed amendment and am at a loss as to it's origin and purpose, because it allows powered craft operators uncontrolled access to the Lower Clutha 24/7 and to travel at any speed. Where, in proposing this change, has any consideration been given to:

- the Albert Town residents who live downstream of the Bridge - a stretch of river about 500m - who would now have no protection from noise and disturbance potentially from dawn to dusk, and possibly even longer;
- the people, many of them local residents, who utilise this short stretch of river near their homes for recreation, especially swimming, but also the ambience of a river side walk or picnic;
- the fishers who like to fish undisturbed at dawn and especially dusk along the length of the Lower Clutha; and lastly and paradoxically
- the powered craft operators themselves whose safety on the river would be seriously compromised when travelling at speed in low light or darkness!

11. **In short, this proposed amendment has to be dropped and at a minimum the status quo retained.** However, the residents downstream of the Bridge are deserving of additional consideration, in that powered craft launch at the Bridge and proceed downstream, and under the current Bylaw they are able to travel at open speed, (excluding the seasonal time restrictions). Speed is not the only issue here though - operators often execute turns and sweeps and high speed passes close to the Bridge and riverbank. Aside from noise and disturbance they pose a real safety risk in a highly used area. **There has to be an all-day speed restriction introduced into the Bylaw from the Bridge to at least the last residence on the River.**

12. I am aware jet boaters argue that travelling upstream against the current at a 5 knot speed restriction is impractical and inefficient. If that is the case then the Bylaw should be amended to include wording along the lines of:

- a. The maximum speed limit descending the river from the A.T. Bridge to the last residence on the true right of the River is 5 knots.
- b. Travelling upstream from the last residence on the true right of the River to the A.T. Bridge, all powered craft operators are to travel at the minimum efficient speed and with the minimum possible noise and disturbance.

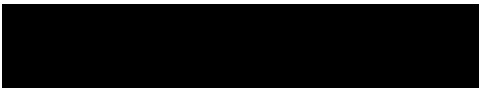
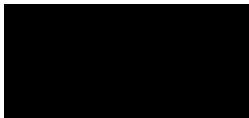
There may of course be a better way to more effectively express the second restriction.

SUMMARY STATEMENT

13. While I applaud the initiative taken by Council and its officials on proposing this amendment to the current Navigation Safety Bylaw, in particular the ban on powered craft on the Upper Clutha for four months of the summer, I nonetheless have reservations about some aspects of the Amendment and would like to see changes made specifically to three of them, two immediately and the third in due course. They are:

- a. That the period of the ban be increased to include April.
- b. That the exemptions granted to two commercial Resource Consent holders be reviewed in due course with a view to including them in the ban on the Upper Clutha section of the River.
- c. That Amendment 1.2 be removed completely from the proposal, firstly in favour of the current status quo, but in turn that that be modified to include operating restrictions over the approximately 500 metres of the River from the A.T. Bridge to at least the last downstream residence.

Jim Cowie



Dear Mr Webster

Thank you for forwarding to Keith Manch on 6 August 2018 the draft amendment to the QLDC navigation safety bylaw for comment. I note that these bylaws are currently being publicly consulted. This feedback is being provided in accordance with s33M of the Maritime Transport Act, which is aimed at ensuring that Councils do not adopt bylaws that are contrary to national navigation safety legislation.

In that context, there is just one matter that Maritime NZ believes may not be in alignment with the Maritime Transport Act. It is in respect to the requirement that powered vessels are expressly authorised to operate under a resource consent issued by the Council. This appears to be a form of licensing and limits the time and number of trips during a specific date range. In terms of the requirement to be authorised by a resource consent, this may be problematic if it is interpreted as covering commercial as well as recreational vessels. Under s.33M(2)(c) of the Maritime Transport Act a navigation bylaw may not impose licensing requirements in respect of any aspect of commercial shipping operations that is subject to any requirement contained in any maritime rule. The intention of the bylaw is clear, but to whom it applies (that is, recreational or commercial vessels (or both)) is less so. If commercial vessels are covered by the restriction, alignment with the s.33M(2)(c) requirement may need to be met by Council to avoid these bylaws being ultra vires.

Yours sincerely

Louise Dooley
Principal Policy Advisor