

Attachment F - Overview of minor errors, incorrect references, or other inaccuracies, including recommended solutions

Matter	Description
Clause 3 (Purpose)	The purpose of the bylaw does not refer to the purpose of local navigation safety bylaws to <i>‘ensure maritime safety’</i> as per Section 33M of the Maritime Transport Act 1994. It is recommended that the bylaw’s purpose is amended to reflect this intention. It is recommended that the term <i>‘navigation safety’</i> be used in this instance as the bylaw currently uses the term <i>‘navigation safety’</i> throughout, which in essence has the same meaning as <i>‘maritime safety’</i> and is consistent with the title.
Clause 3 (Purpose)	Addition of reference to <i>‘require the marking and identification of vessels’</i> to the purpose statement of the bylaw to reflect s33M(1)(j) of the MTA, and the fact that it is proposed that the bylaw will provide for vessel identification.
Clause 5 (Delegations)	<p>Addition of an explanatory note to clarify that powers and functions that are delegated are contained in Council’s Register of Delegations, and that some powers are conferred directly on the Harbourmaster and Enforcement Officers:</p> <p><i>‘Explanatory note: The delegations of Council functions under this bylaw are set out in the QLDC Register of Delegations. The Bylaw also contains individual clauses which confer powers directly on the Harbourmaster and/or Enforcement Officers.’</i></p>
Clause 6.1 (definition of ‘Council’)	<p>Amendment to the definition of ‘Council’ to ensure greater consistency with the additional explanatory note at Clause 5 (addition <u>underlined</u>).</p> <p><i>‘Council means the Queenstown Lakes District Council <u>or anyone delegated or authorised to act on its behalf</u>’.</i></p>
<p>Clause 6.1 (definition of ‘GPS Coordinate’)</p> <p><b>And</b></p> <p>Updating all GPS coordinates in the bylaw to reflect the WGS84 Lat-Long system</p>	<p>The bylaw does not contain a definition of GPS coordinate which may create some ambiguity. It is recommended that a definition be included as follows:</p> <p><i>‘GPS or GPS Coordinate(s) means a Global Positioning System used to determine a location using the WGS84 Lat-Long system’</i></p> <p>The bylaw uses a number of GPS coordinates to identify specific features (i.e. ski lanes etc). It is understood that a number of these GPS coordinates are inaccurate. It is recommended that all GPS coordinates in the bylaw be reviewed for accuracy and updated to use the WGS84 Lat-Long system.</p>

<p>Clause 6.1 (definition of 'Incident')</p>	<p>Amendments to the term '<i>Incident</i>'. This term is used in Clause 39 – 40 of the Bylaw. The definition of '<i>incident</i>' in the MTA excludes '<i>accident</i>', whereas the current bylaw definition of '<i>incident</i>' expressly includes '<i>accident</i>'. It is considered appropriate to ensure alignment with definitions in the MTA. These definitions also engage reporting obligations in respect of MNZ under the MTA, so it is confusing if the terminology is conflicting. ORC's definitions of these terms align to the MTA definitions. The recommended amendments are shown below (additions <u>underlined</u> and deletions <del>struck through</del>):</p> <p><b><i>'Incident means <u>any occurrence, other than an accident, that is associated with the operation of any vessel and affects or could affect the safety of operation.</u></i></b></p>
<p>Clause 6.1 (definition of 'Unseaworthy')</p>	<p>There is currently no other reference to '<i>Unseaworthy</i>' in the Bylaw. As such, it is recommended that the definition of '<i>Unseaworthy</i>' is removed from the bylaw.</p>
<p>Clause 6.1 (definition of 'Vessel')</p>	<p>The definition of vessel does not include reference to 'hydrofoil' which is a new form of vessel that is now commonly used on the district's waterways. Such vessels are known to be powered in some instances. It is recommended that this definition be amended to also reference hydrofoils in limb (h) as follows (addition underlined):</p> <p><i>'...(h) a kiteboard, sailboard, <u>hydrofoil</u> or paddleboard...'</i></p>
<p>Clause 6.1 (definition of 'Underway')</p>	<p>The bylaw includes a definition of 'Underway'<sup>1</sup>. This definition is not referred to at any point in the bylaw, nor is it included in Part 91 of the national Maritime rules. The definition is ambiguous and is not considered to be of any relevance. It is recommended that the definition of 'Underway' be deleted.</p>
<p>Clause 6.1 (definition of 'Maritime Rules')</p> <p><b>And</b> the following clauses:</p> <ul style="list-style-type: none"> <li>- 8.3</li> <li>- 9.2(d)</li> <li>- 9.3(b)</li> <li>- 22.3(b)</li> </ul> <p><b>And</b> the definition of 'lifejacket'.</p>	<p>Addition of an explanatory note related to the definition of Maritime Rules to make the application of national maritime rules clear throughout the bylaw as follows (additions <u>underlined</u>):</p> <p><b><i>'<u>Explanatory note: where specific maritime rules apply, these have been expressly stipulated.</u></i></b></p> <p><u>Consistent with this explanatory note, it is recommended that provisions 8.3, 9.2(d), 9.3(b), 22.3(b) and the existing explanatory note under the definition of 'Lifejacket' are amended to include the specific reference to the applicable Maritime Rule either within the provision or by way of explanatory note.</u></p>
<p>Clause 6.1 (new definition of 'Mishap')</p>	<p>Add new definition for '<i>mishap</i>' as follows (additions <u>underlined</u>):</p> <p><b><i>'Mishap means an event that:</i></b>  <b><i>(a) <u>causes any person to be harmed; or</u></i></b></p>

<sup>1</sup> Underway means that a vessel is not making way, and is not aground, at anchor, or made fast to the shore or other structure

	<p>(b) <u>in different circumstances, might have caused any person to be harmed.</u></p> <p>This is a term defined in the MTA, and is used in ORC’s Navigation Safety Bylaw 2020 at clause 5 which deals with notifying the harbourmaster.</p> <p>It is considered appropriate to align with the definitions in the MTA. This definition also engages reporting obligations in respect of MNZ under the MTA, thus addressing potential ambiguity. ORC’s definitions of these terms align to the MTA definitions, and also uses a definition of ‘<i>mishap</i>’ from the MTA.</p>
<p>Clause 6.1 (definition of ‘Parasailing or Paragliding’)</p>	<p>There is currently no other reference to ‘<i>paragliding</i>’ in the bylaw. As such, it is recommended that the word ‘<i>paragliding</i>’ is removed from this definition.</p>
<p>Clause 6.1 (definition of ‘Powered Vessel’)</p> <p><b>And</b> the following clauses:</p> <ul style="list-style-type: none"> <li>- 8</li> <li>- 8.1</li> <li>- 8.2</li> <li>- 9.4</li> <li>- 33.1</li> <li>- 35.1</li> <li>- 35.1(a)</li> <li>- 35.1(a)(iii)</li> <li>- 35.1(b)</li> <li>- 36.4</li> <li>- 38.1</li> <li>- Map 6 – Kowarau River (table)</li> <li>- Map 8 – Clutha River (table)</li> </ul>	<p>Amend the definition of ‘<i>Powered Vessel</i>’ as follows (deletions <del>struck through</del> and additions <u>underlined</u>):</p> <p><i>‘Power-driven Vessel means any vessel <u>propelled by machinery.</u> <del>that is not solely powered manually or by sail.</del>’</i></p> <p>It is noted that maritime rules, and other Council’s, use the definition of ‘<i>power-driven vessel</i>’ as opposed to powered vessel. It is recommended that this MNZ term and the accompanying definition be adopted for alignment and as it is more straightforward and better reflects the national approach.</p> <p>It is also recommended that other clauses throughout the bylaw that reference ‘<i>Powered Vessel</i>’ also be amended to reflect the amended term, including those referenced in this table to the immediate left.</p>
<p>Clause 9.1(c) (Speed of vessels)</p>	<p>This clause does not accurately reflect the definition of ‘Flag A’ in the bylaw, being ‘<i>the divers flag</i>’. It is recommended that this definition be amended to address this reference.</p> <p>In addition, it is recommended that an explanatory note be added to this provision signposting the amended definition of speed as follows (additions <u>underlined</u>):</p> <p><u>‘Explanatory note: The measurement of speed is defined in clause 6 to mean:</u></p> <p><u>(a) <i>In relation to lakes, the speed through the water; or</i></u></p>

	(b) <u><i>In relation to rivers, the speed through the water if travelling with the current, or speed over the ground if travelling against the current.</i></u>
Clause 16.2(b) (Prevention of nuisances relating to a Council owned a jetty, wharf, ramp or launch facility)	This clause includes the word 'and' rather than the word 'or' between 16.2 (a) and (b) making the two circumstances set out in the provision mutually dependent for the provisions to apply. This is not considered to be the intention of the provisions which should be mutually exclusive. It is recommended that 'and' be replaced by 'or'.
Clause 22.1(a) (Exceptions to requirements to carry or wear lifejackets)	This clause contains a minor typo where it refers to ' <i>...or other or similar...</i> '. It is recommended that this typo be amended.
Clause 25 (Parasailing) and explanatory note	<p>This clause includes a requirement every person in charge of a vessel that is being used to conduct parasailing to comply with all applicable maritime rules, and safety guidelines issued by the Director. It is recommended that this wording be updated to more accurately reference the most recent '<i>Health and Safety Guidelines for Commercial Parasailing Operations 2022</i>'.</p> <p>Clause 25 contains an explanatory note that includes reference to a specific Maritime New Zealand website that no longer exists. It is not best practice for website links to be included in bylaws as they can be subject to change and become inaccurate. It is recommended that this explanatory note be amended to remove this incorrect reference and instead note that health and safety guidelines for Commercial Parasailing operations are found on the Maritime New Zealand website.</p>
Clause 26 (Whitewater rafting) explanatory note	<p>This explanatory note includes reference to a national Maritime rule (Rule 81) which has been revoked. It is recommended that this reference be removed, and that additional wording be included within the Clause which identifies the most recent requirements for operators under the Health and Safety at Work (Adventure Activities) Regulations 2016 (additions <u>underlined</u> and deletions <del>struck through</del>):</p> <p><i>'Every person in charge of a white water raft that is used to transport fare paying passengers or trainee guides on rivers must ensure the whitewater board is operated and navigated strictly in accordance with the <u>Health and Safety at Work (Adventure Activities) Regulations 2016. applicable maritime rules.</u></i></p> <p><del><i>Explanatory note: Commercial rafting operations will come within the scope of the Health and Safety at Work (Adventure Activities) Regulations 2016 managed by WorkSafe Maritime Rule 81: Commercial Rafting Operations contains the applicable maritime rules.'</i></del></p>

<p>Clause 31 (Special events)</p>	<p>Clause 31 refers to <i>'special events'</i>. The term <i>'special events'</i> is somewhat ambiguous as it does not accurately relate to the nature of the events that are being managed – being temporary events.</p> <p>It is recommended that the term <i>'special events'</i> be amended to <i>'temporary events'</i> throughout the bylaw. It is noted that Part 91 of the national Maritime rules also uses the term <i>'temporary'</i> as opposed to <i>'special'</i> when referring to this type of waterway activity.</p>
<p>Clause 36.1 and 36.4 (Kawarau River)</p>	<p>It is recommended that these Clauses be amended to cover any <i>'person'</i> operating the vessel rather than just a person <i>'in charge'</i> of a vessel as follows (additions <u>underlined</u> and deletions <del>struck through</del>):</p> <p><u><i>'36.1 No person may rest or stop a vessel in t</i></u><del><i>The areas immediately below the "downstream" gate and above the "upstream" gate at the Kawarau Falls Dam are not to be used as rest or stop areas by any vessel.'</i></del></p> <p><u><i>'36.4 No person may operate a power-driven vessel</i></u> <del><i>No powered vessels may operate on that part of the Kawarau River located downstream from the confluence between the Kawarau River and below the Arrow River.'</i></del></p>
<p>Part 6 (Incidents and near misses) including Clauses:</p> <ul style="list-style-type: none"> <li>- 39</li> <li>- 39.1</li> <li>- 40</li> <li>- 40.1</li> </ul>	<p>The definition of <i>'incident'</i> in the MTA excludes <i>'accident'</i>, whereas the current bylaw definition of <i>'incident'</i> expressly includes <i>'accident'</i>. It is considered appropriate to align with the definitions in the MTA (see other amendments recommended in this attachment). These definitions also engage reporting obligations in respect of MNZ under the MTA, so it is confusing if the terminology is conflicting. ORC's definitions of these terms align to the MTA definitions.</p> <p>The current drafting of Clause 39.1 can be simplified and aligned with ORC's bylaw by removing the criteria (a) – (d) and updating the definitions of <i>'incident'</i> and <i>'mishap'</i> as recommended elsewhere in this attachment. At present the Clause lists four potential scenarios where an incident (and sometimes an incident that is an accident) would need to be reported to the Harbourmaster. This results in two layers of criteria, the criteria in the definition of each term and then the criteria in (a) – (d). This results in two layers of criteria which is more difficult to interpret and apply. All of the (a) – (d) scenarios should either fall within the MTA definitions of <i>'incident'</i> or <i>'accident'</i> or <i>'mishap'</i>.</p> <p>Clauses 40 and 40.1 can be deleted as the reporting obligations in amended above mentioned Clauses have been expanded to cover any accident, incident or mishap.</p>

<p>Clause 54.6(c) (Exemptions approved by the Harbourmaster)</p> <p><b>And</b> Clause 35.1(a)(ii) (Clutha River / Mata-Au)</p>	<p>Clause 54 provides the Harbourmaster with the capability to grant exemptions from parts of the bylaw. Clause 54.6(c) prevents the Harbourmaster from granting an exemption for an activity that has a prohibited activity status in ‘the Queenstown Lakes District Plan’.</p> <p>Clause 35.1(a)(ii) identifies a number of activities that are permitted under the Queenstown Lakes District Plan as being exempt from the prohibition of powered vessels on the Clutha River / Mata-Au between 1 December and 30 April.</p> <p>It is noted that QLDC is currently undergoing a multistage district plan review. This means some parts of the district are managed under the Operative District Plan (<b>ODP</b>), and other parts (now much of the district) is managed under the Proposed District Plan (<b>PDP</b>). Lakes and rivers are zoned ‘Rural’ under the both the ODP and PDP.</p> <p>It is appropriate for Clause 54.6 and Clause 35.1(a)(ii) to be amended as follows to reflect that there may be relevant considerations under either district plan (additions <u>underlined</u> and deletions <del>struck through</del>):</p> <p>Clause 54.6(c) - <i>‘for an activity that has prohibited activity status within <u>any district plan rule having legal effect in the District</u> <del>the Queenstown Lakes District Plan</del>; or’</i></p> <p>Clause 35.1(a)(ii) – <i>‘<del>it is carrying out one of the following permitted activities under</del> <u>the Queenstown Lakes District Plan rule that has legal effect, with the permission of the Harbourmaster.</u>’</i></p>
<p>Clause 56.1(b)(i) (Non-compliance with conditions of a permit)</p>	<p>Clause 56.1 sets out the steps that can be taken where a holder of any permit issued under the bylaw does not comply with the terms and conditions of a permit.</p> <p>Clause 56.1(b) provides for a review of permits and such a review may result in three outcomes. 56.1(b)(i) requires the word ‘or’ to be added to the end of the sentence for the subject outcomes to occur independent of one another (if that situation is relevant). As such, the following addition is recommended (addition underlined):</p> <p>‘(b) review the permit, which may result in:</p> <ul style="list-style-type: none"> <li>(i) amendment of the permit; <u>or</u></li> <li>(ii) suspension of the permit; or</li> <li>(iii) cancellation of the permit’</li> </ul>
<p>Part 8 (Commercial vessels – Clauses 44 and 45)</p>	<p>The subject provisions set out a suite of requirements relating to the licencing of commercial vessels. It is noted that the licencing of commercial vessels is managed by Maritime New Zealand on the basis of national Maritime rules.</p>

<p>Clause 52.1(a)(b) (Administrative requirements)</p> <p>Clause 53.1 (Fees and charges)</p> <p>Clause 56 - (Non-compliance with conditions of a permit or licence)</p>	<p>Commercial activities operating on the district’s lakes and rivers are also subject to the provisions of the Proposed District Plan.</p> <p>As such, references to commercial vessel licencing are superfluous and officers recommend that they be deleted.</p>
<p>Schedule 1 (Map of Queenstown Lakes District)</p>	<p>The bylaw contains a map of the district which does not provide the desired level of accuracy concerning boundary definition or details on waterbodies which cross the territorial boundary. It is recommended that this map be updated to provide the necessary level of accuracy.</p>
<p>Schedule 2 (Speed upliftings and access lanes – Clause 1(i))</p>	<p>Officers recommend that an explanatory note be added to Clause 1(i) of Schedule 2 to make it clear that the bylaw’s 5 knot speed limit applies to waterbodies that are not identified in Table 1 of the bylaw as being subject to a speed uplifting.</p> <p>It is recommended that this explanatory note be read as follows (additions <u>underlined</u>):</p> <p><u><i>Explanatory Note: If the waterbody is not listed below a 5 knots speed limit applies, unless otherwise stipulated by Clause 9 or elsewhere in this bylaw.</i></u></p>
<p>Table 2 – Access Lanes (Queenstown Bay)</p>	<p>Table 2 – Access Lanes of the bylaw details high speed access lanes on Lake Whakatipu. The Queenstown Bay reference includes GPS coordinates that have now been updated in Map 1 (with no material change in location) to the ‘WGS84 Lat-Long system’. It is not necessary for Table 2 to reference these coordinates when they are included in Map 1.</p>
<p>Clause 36 - Kawarau River and Map 6 in Schedule 2</p>	<p>The drafting of this clause was an issue considered in the related bylaw prosecution case QLDC v O’Sullivan.</p> <p>Officers recommend that the bylaw be amended to address this interpretation clarified through this case by revising the use of the word ‘<i>below</i>’ in Clause 36.4 and Map 6 in Schedule 2 (where it refers to part of the Kawarau River below the Arrow River) to more accurately reflect the intent of where powered vessels are not permitted to operate.</p> <p>It is recommended that Clause 36.4 and Map 6 in Schedule 2 be amended as follows (additions <u>underlined</u> and deletions <del>struck through</del>):</p> <p><u><i>No powered vessels may operate on that part of the Kawarau River located downstream from the confluence between the Kawarau River and <del>below</del> the Arrow River</i></u></p>

Clause 37 (Shotover River)	The clause refers to the previous version of the Shotover River Bylaw. It is recommended that this reference be updated here (and throughout the bylaw) to reference the 2021 Shotover River Bylaw.
Clause 61 (Savings)	<p>This clause deals with administrative matters regarding resolutions or other decisions etc made under previous versions of QLDCs navigation safety bylaw.</p> <p>It is recommended that this clause be updated to refer to previous resolutions or other decisions etc that have been made under the 2018 bylaw on the basis that the 2025 bylaw will replace the 2018 bylaw.</p> <p>It is also recommended that the reference to the '<i>Queenstown Lakes District Waterways and Ramp Fees Bylaw 2014</i>' be deleted on the basis that the next version of the bylaw need not make reference to another bylaw that has since been revoked and no new decisions would have been made under it since the 2018 bylaw was made by Council.</p>
Te reo Māori references	The bylaw requires a number of amendments to reflect correct te reo Māori placenames, and to include other te reo Māori additions. It is recommended that these amendments be undertaken to reflect QLDCs commitment to Te reo Māori.