

QLDC Council
18 December 2014

Report for Agenda Item: 7

Department:

Legal and Regulatory

7: Alcohol Ban Bylaw 2014

Purpose

- 1 To adopt the proposed Alcohol Ban Bylaw 2014.

Recommendation

- 2 *That Council:*
 - a. **Adopt** the proposed Queenstown Lakes District Council Alcohol Ban Bylaw 2014.

Prepared by:



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1/12/2014

Reviewed and Authorised by:



Scott Carran
Legal & Regulatory General
Manager
1/12/2014

Background

- 3 On 25 September 2014, Council resolved to undertake public consultation on the proposed Queenstown Lakes District Council Alcohol Ban Bylaw, as part of Council's review of its bylaws, and as part of the Chief Executive's workplan.
- 4 Council appointed Councillors Gazzard, Stammers-Smith and MacLeod to hear submissions received. Submissions closed on 29 October with 9 submissions being received, of which 2 submitters spoke at a hearing on 10 November 2014.
- 5 Following deliberations, the hearings panel resolved to recommend the proposed Queenstown Lakes District Council Alcohol Ban Bylaw be adopted without amendment.

- 6 The hearings panel also resolved to request the Police to monitor the level of crime and disorder where alcohol consumption has been a contributing factor, to assist in any future review of the Alcohol Ban Bylaw.
- 7 This matter has been actioned with a letter to the Police.
- 8 On 8 August 2014, when the Local Government Act 2002 Amendment Act 2014 came into effect, it places additional requirements on Council regarding its decision making to:
 - a) identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) assess the options in terms of their advantages and disadvantages; and
 - c) if any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga.
- 9 Council had considered these factors when addressing the issues regarding the possession, consumption and bringing alcohol into public places on 25 September 2014, and resolved that a bylaw was the most appropriate method of addressing these matters. There are no amendments recommended following the consultation, therefore no further reconsideration is required.

Comment

Submissions

- 10 In total 9 submissions were received with 2 submitters requesting to appear at the hearing.
- 11 The hearing panel considered the views and preferences of the submitters who identified the following matters for consideration:
 - a) No change to the current ban times or locations;
 - b) Amend the times as recommended by the Police i.e. 8pm to 8am the following day;
 - c) More policing of the ban areas;
 - d) Only have the ban over the New Year period;
 - e) Establish a ban every day;
 - f) Concern regarding the behaviour of some individuals on the beach and the image of Queenstown;
 - g) Concern regarding the amount of littering;
 - h) No control over the amount of alcohol consumption, in contrast to licensed premises;
 - i) Define what is required to fulfil the Local Government Act 2002 regarding evidence to demonstrate a 'high level of crime and disorder made worse by the consumption of alcohol';
 - j) To allow a period of additional evidence collection.

Deliberations

Enforcement

- 12 The panel noted that although the bylaw created the tool to enable enforcement to be undertaken, the enforcement was solely a Police responsibility under the Local Government Act 2002 ("LGA2002"), which can be achieved through warnings, instant fines (\$250), seizing the alcohol or arresting the offender.
- 13 It was agreed that a higher Police presence on the streets would reduce the issues. However, it was also acknowledged that an increased Police presence appeared to be limited by the resources available to undertake this.

Conflicting Views

- 14 The panel acknowledged that alcohol bans are blunt instruments which affect all people regardless of their behaviour. Although some members of the community had wanted to add to the alcohol ban area, others had not supported this, as they themselves enjoyed having picnics (which may involve alcohol consumption) in the areas identified at the times a ban may be imposed.
- 15 The term 'high level' is not defined in the LGA2002, which suggests that it is open to interpretation and could be defined differently for different communities.
- 16 Similarly, the nature of 'evidence' required is not defined in the LGA2002. However, it was agreed that any information or evidence would hold significantly more weight if collected and presented by the Police. The lack of current information resulted in the panel not being satisfied that there was sufficient evidence to support the Police request for the alcohol ban to commence at 8pm. However, by responding to calls received regarding alcohol-related disorder, the Police would be able to build data to corroborate any future change sought to the alcohol ban provisions.

Litter

- 17 A concern regarding the level of littering (empty bottles, cans etc) was raised. Although this matter is directly associated with the consumption of alcohol, it is not a direct issue the bylaw can control. There are other means of addressing this issue through the Litter Act 1979. The size of the bins available and the frequency of the bins being emptied are currently being considered as a separate initiative.

General

- 18 The hearings panel agreed that it was fair to conclude that the low number of submissions indicated that most of the community was satisfied with the provisions proposed in the proposed Alcohol Ban Bylaw.

Bill of Rights

- 19 The objective of the bylaw is to reduce the incidence of alcohol related harm. The restrictions on rights within the bylaw are considered to be a proportionate response to this issue because rights are not affected where the exemptions in clause 7 apply e.g. transporting alcohol in an unopened bottle.
- 20 In passing the Sale and Supply of Alcohol Act 2012, Parliament has determined that any restrictions on rights are not so unreasonable as to be considered unjustifiable in terms of section 4 and 5 of the Bill of Rights Act.
- 21 Parliament is the primary authority for the regulation of matters of complex social policy and parliament has determined that the ability to control alcohol through a local bylaw is a justifiable limitation. Council may defer to Parliament's consideration of this matter, and give effect to Parliament's intention by making the bylaw in the form proposed.

Financial Implications

- 22 The enforcement and implementation of the proposed bylaw is undertaken by the Police. However, there will be some minimal costs to Council arising from the Council's decision as a result of updating the current signage to reflect the modernising of language i.e. a sticker with the word alcohol over the word liquor.

Local Government Act 2002 Purpose Provisions

- 23 The proposed Alcohol Ban Bylaw (Attachment A) achieves the purpose of the Local Government Act as it enables the efficient and effective conduct of Council's regulatory activities regarding the control of alcohol across the district in a fair and reasonable manner.

Council Policies

- 24 The following Council Policies were considered:
 - a) Significance and Engagement Policy: the decision is not significant under the Council's Significance and Engagement Policy.

Consultation

- 25 Council initially undertook pre-consultation with stakeholders in the locations where the current bylaw applies, in addition to the Police.
- 26 Council publicly notified and consulted on the proposed bylaw from 29 September to 29 October in accordance with the Local Government Act 2002, resulting in 9 submissions.

Attachments

- A Report of Hearings Panel
- B Queenstown Lakes District Council Alcohol Ban Bylaw 2014