

**QLDC Council**  
**25 September 2014**

**Report for Agenda Item: 1**

**Department:**

**Legal and Regulatory**

**Review of the Queenstown Lakes District Council Control of Liquor in Public Places Bylaw 2009**

**Purpose**

- 1 To review the current Queenstown Lakes District Council Control of liquor in Public Places Bylaw 2009.

**Executive Summary**

- 2 The Local Government Act 2002 ("Act") empowers Council to make a bylaw for alcohol control purposes, to prohibit or regulate the control, presence or consumption of alcohol in public places and in vehicles in public places.
- 3 Changes to the Act in December 2013 increased the statutory threshold to demonstrate the need for continuing a bylaw. This requires that Council must be satisfied that the bylaw is a justified reasonable limitation on people's rights and freedoms, that a high level of crime and disorder (being caused or made worse by alcohol consumption) is likely to arise in the area to which a bylaw is intended if the bylaw is not made and that the bylaw is appropriate and proportionate in relation to the likely crime or disorder.
- 4 The proposed bylaw reflects the changes to the legislative framework and a revised definition of public places to reflect the language used in the Sale and Supply of Alcohol Act 2012.

**Recommendation**

- 5 *That Council:*
  - a. **Agree** that the proposed Queenstown Lakes District Council Alcohol Ban Bylaw 2014 be adopted for public consultation.
  - b. **Appoint** a committee of three Councillors for the hearing of submissions on the Queenstown Lakes District Council Alcohol Ban Bylaw 2014.

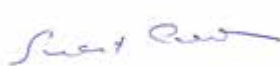
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11/09/2014

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GM – Legal & Regulatory

11/09/2014

## Background

- 6 The Local Government Act 2002 empowers the Council to pass a bylaw to control the consumption or carrying of open vessels of alcohol in public places and to discourage crime and disorder associated with alcohol consumption. It is a Police (not Council) responsibility to enforce the Alcohol Ban Bylaw, and to monitor compliance with it.
- 7 A review of the Queenstown Lakes District Council Control of Liquor in Public Places Bylaw 2009 was undertaken in accordance with the Local Government Act 2002. The review focused on whether the current bylaw meets the needs of the community and is justified as a reasonable limitation on people's rights and freedom. It is also a key project on the Chief Executive's 2014/2015 work plan.
- 8 The implementation of the Local Government (Alcohol Reform) Amendment Act 2012 made a number changes to the Local Government Act 2002 regarding alcohol ban areas, including extending the definition of "public place" to include land generally open to the public (but excluding licensed premises), and revoking the ability to prosecute for breaches of an alcohol ban. The Amendment Act also reconfirms the ability for the Police to issue an infringement (\$250) for alcohol ban breaches as well as the power of arrest.

## Comment

### Police Comments

- 9 The current bylaw prohibits the possession of alcohol in open containers and the consumption of alcohol in public place at specified times in five specified areas (Queenstown, Frankton, Arrowtown, Wanaka and Hawea), including these activities in vehicles.
- 10 The Police were contacted for their comments and recommendations regarding the current bylaw, including the current areas covered and any additional areas that the Police believe need to be included.
- 11 Queenstown  
The Police have acknowledged and supported the continuation of the current bylaw and the 24 hour ban over the New Year (6am on 27<sup>th</sup> December to 6am on 6<sup>th</sup> January) and the Winter Festival periods.
- 12 They have also advised that the year round time restricted ban (10.00pm – 8.00am the following day) provides a reasonable restriction in addressing alcohol related harm and issues. However, more recently, there has been an increase in people drinking and congregating in large numbers on the waterfront by Marine Parade, which has generated examples of disorder. The police have consequently recommended an extension of the alcohol ban times to 8.00pm to 8am the following day, to be more effective in reducing alcohol related harm.

13 Frankton

It is acknowledged that there is no significant recent history of offending on Frankton beach, which may be as a result of the current ban. This area has been used previously by those denied the ability to consume alcohol in the CBD and were displaced to this location, which led to drinking in or around cars.

14 Arrowtown

Alcohol issues identified appear mainly seasonal, with the New Year festivities providing the most issues. The police provide additional staff over this time, which in addition to the bylaw has shown a steady decline in offending over recent years as the bylaw has enabled the police to almost eliminate intoxication in Arrowtown public places.

15 Wanaka

The current bylaw has enabled the Police to reduce alcohol harm, which has had a marked effect on reducing public place violence and disorder. Whilst there was a slight increase of breaches of the bylaw in 2012/2013 (from 14 to 19), the Police support the bylaw and the removal or reduction of the existing restrictions would could lead to an increase in offending.

- 16 There is continued support for the 24 hour ban over New Year, and a recommendation to increase the ban area from Eely Point and along Lakeside Road to reduce the issue of littering of cans and bottles as people approach the ban area.

17 Hawea

There is a request to extend the ban area to include the footpath and foreshore from the camping ground and causeway on Capell Avenue to prevent littering issues, as there is anecdotal evidence of littering along this area from large beach parties.

- 18 Whilst the evidence from the Police is mostly anecdotal, the Police are responsible for the enforcement of the current bylaw, and due consideration should be given to their views.

- 19 It is questionable if the Local Government Act 2002 statutory test is met in the absence of direct evidence to support the Police recommendation to increase the areas in Wanaka and Hawea to meet the new threshold under the Local Government Act 2002.

## **Review of Queenstown Lakes District Council Control of Liquor in Public Places Bylaw 2009**

- 20 Following the changes to the Local Government Act 2002, there is now a requirement that before making a bylaw intended to replace an expiring bylaw, Council must be satisfied that a high level of crime or disorder (being crime and disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply if the bylaw is not made. The bylaw must also be appropriate and proportionate in relation to that likely crime or disorder.

- 21 The information from the Police at this time regarding the additional areas in Wanaka and Hawea, does not provide the necessary evidence to demonstrate a high level of crime and disorder to justify the inclusion of the additional areas in the bylaw. More litter bins in these areas may address the issues identified by the Police.
- 22 It is recommended that the current bylaw continues, but is updated to reflect the language used and the definition of "Public Place" in the Sale and Supply of Alcohol Act 2012.
- 23 The proposed bylaw does not include an increase in the ban restriction hours from 10pm to 8pm as recommended by the Police. It is acknowledged that the waterfront near Marine Parade and Lake Esplanade gets very busy during summer months and some evidence has been provided of disorder and complaints from family groups and adjacent hotels. However, it is questionable at this time whether there is sufficient evidence to demonstrate that a high level of crime and disorder would occur if it was not included in the banned areas.
- 24 Statements have also been received from Eichardts Private Hotel and the Novotel Hotel that support the comments from the Police. The statements include further anecdotal information regarding the general behaviour of some people, volumes of alcohol consumed, noise (late into the evening), vandalism, littering, trespassing on private property and general disturbance of guests, which is more prevalent after 8pm.
- 25 The proposed bylaw retains the current alcohol ban times to continue the reduction of alcohol related crime and disorder by providing effective enforcement tools in areas when and where they are likely to be most effective.
- 26 The signage for the proposed bylaw will be amended to replace liquor with alcohol to reflect the language used in the Sale and Supply of Alcohol Act and the bylaw.
- 27 The limitation on people's rights and freedoms are considered not to breach the New Zealand Bill of Rights Act, because the freedom of movement remains for all with alcohol that is not open or consumed in the ban areas, the restriction is between limited periods of time and it is likely that the level of crime and disorder in the areas currently covered in the existing bylaw will increase without it.

## **Alternatives**

- 28 The following alternatives have been considered in reviewing the current bylaw:
  - a) Education
  - b) Existing legislation

### 29 Education

Public education is a useful tool, which is used in various enforcement situations. However, education alone is unlikely to be sufficient to enforce compliance.

### 30 Existing legislation

The Sale and Supply of Alcohol Act 2012 does not provide restrictions for the control of alcohol in public places.

31 A bylaw is required for the effective enforcement.

## **Options**

32 The following options are available for consideration in reviewing the bylaw:

- a) Consultation on the proposed bylaw
- b) Consultation on a proposed bylaw with extended hours and extended alcohol ban areas

### 33 Proposed Bylaw (Recommended)

The current bylaw has provided an effective enforcement tool for the Police in reducing crime and disorder caused or made worse by alcohol consumption in the areas identified.

34 From the preliminary consultation with the Police, the statutory test to retain the areas covered by the current bylaw are met and it is likely that the removal of any of the areas covered would likely lead to a high level of crime and disorder caused or made worse by alcohol consumption in those areas.

### 35 Extended Bylaw

The Police have identified additional areas in Wanaka and Hawea that would assist in addressing littering issues over busy weekends and particularly New Year, where bottles and cans have been deposited prior to entering the Alcohol Ban areas.

36 The Police have also recommended an increase in alcohol ban times in Queenstown to address large numbers of people congregating on the waterfront near Marine Parade, and to a lesser extent along Lake Esplanade, which generates complaints and disorder. Currently the times are from 10pm to 8am. The Police are recommending 8pm to 8am.

37 The evidence provided is anecdotal and the introduction of additional areas in the bylaw is disproportional to the littering issue identified, which may be addressed through the provision of more litter bins.

38 An increase in alcohol ban times needs to be accompanied by sufficient information to meet the Local Government Act 2002 statutory test, so that Council can be satisfied that a high level of crime or disorder (being crime and disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply if the bylaw is not made. The bylaw must also be appropriate and proportionate in relation to that likely crime or disorder.

- 39 The Council can reconsider both the proposed additional areas and the increase in alcohol ban times when sufficient evidence is available to meet the statutory test.

### **Financial Implications**

- 40 Whilst the enforcement and implementation of the proposed bylaw is undertaken by the police; there may be some cost implications arising from Council's decision as a result of the need for new or updated signage.

### **Local Government Act 2002 Purpose Provisions**

- 41 The proposed Alcohol Bylaw in Attachment (A) achieves the purpose of the Local Government Act as it enables the efficient and effective conduct of Councils regulatory activities regarding the control of alcohol across the district.

### **Council Policies**

- 42 The following Council Policies were considered:
- Council's Policy on Significance – The decision is not significant at this time under the Council's Policy on Significance. However, any increase in ban areas or an increase in ban times may be significant.

### **Consultation**

- 43 Council contacted the community, village and residential associations, in addition to the police to undertake preliminary consultation. These stakeholders were considered appropriate to consult as they were associations in the locations where the current bylaw applies.
- 44 It is acknowledged that the preliminary consultation provides a limited view of the need and location of alcohol ban areas. However the consultation process is likely to have been sufficient to identify the key areas needed.
- 45 No preliminary consultation response was received from some of the groups contacted. However, they will have the opportunity along with the rest of the community to make a formal submission through the special consultative procedure.

### **Attachments**

- A Proposed Queenstown Lakes District Council Alcohol Ban Bylaw 2014
- B Statement of Proposal
- C Summary of the Statement of Proposal