

**QLDC Council
28 September 2017**

Report for Agenda Item: 6

Department: Finance & Regulatory

Temporary Alcohol Ban on 2-3 December 2017

Purpose

The purpose of this report is to recommend that the Council adopt a temporary alcohol ban to apply in specified areas within Queenstown on the weekend of 2 and 3 December 2017.

Executive Summary

- 1 The police have requested that the Council adopt a 48 hour temporary alcohol ban to apply to specified areas in Queenstown on the weekend which includes 'National Crate Day': 2 - 3 December 2017. The ban is sought to prevent a repeat of high levels of disorder in Queenstown that occurred during the same weekend last year as a part of the 2016 Crate Day event. The disorder included the congregation of large crowd of intoxicated young people during the day in the Village Green. This group engaged in foul language, littering, and caused members of the public to complain about feeling unsafe.
- 2 The increasing popularity of the Crate Day event has resulted in the police having to arrange for extra police staff and resources to be relocated to Queenstown from throughout the Otago region to maintain order during this weekend. There is an increased concern this year as the event also coincides with the 'Nines Carnival' rugby league tournament, which will take place 200 metres from the Village Green.
- 3 The Council has the power to impose a temporary alcohol ban under clause 6 of the Alcohol Ban Bylaw 2014 if satisfied that the statutory criteria in s147B of the Local Government Act 2002 are met. For the reasons outlined in this report, Council staff consider that the statutory criteria is satisfied, and the proposed 48 hour temporary ban is an appropriate and proportionate response to the risk of disorder posed by this event, and it is not an unreasonable limitation of individual rights and liberties.

Recommendation

That Council:

1. **Note** the contents of this report and the recommendation that the Council adopt a temporary alcohol ban on the weekend of 2 and 3 December 2017;
2. **Adopt** pursuant to clause 6 of the Alcohol Control Bylaw 2014 a temporary alcohol ban to apply between 12am Saturday 2 December

2017 until 12am Monday 4 December 2017 within the highlighted area in Attachment C of this report.

3. **Approve** the public notification of this decision by publication in Otago Daily Times, Southland Times, Mirror and Wanaka Sun.
4. **Authorise** the Council's General Manager of Finance and Regulatory to arrange for staff to install appropriate signage in conspicuous locations in or adjacent to the geographical area to be subject to the temporary alcohol ban prior to the weekend of 2-3 December 2017.

Prepared by:



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15/09/2017

Reviewed and Authorised by:



Stewart Burns
General Manager: Finance &
Regulatory

15/09/2017

Background

- 1 The police have approached the Council and requested that a temporary 48 hour alcohol ban is imposed in Queenstown for the weekend of 2-3 December 2017. The temporary alcohol ban is proposed to prevent the consumption of alcohol in public places during the upcoming 'National Crate Day' event, an unofficial event where participants consume a crate of beer during the first weekend of summer. The 'National Crate Day' event has been going for a number of years, but since 2015 the police have noticed a significant uplift in the numbers of people congregating in public places in the district to consume large amounts of alcohol. This has caused significant issues of disorder and placed a strain on police resources.
- 2 During the 2016 Crate Day, a group of young people began drinking alcohol in the Queenstown Village Green from mid-morning. By early afternoon the entire reserve was occupied with a large crowd drinking large quantities of alcohol, with crates of beer kept chilled in Horne Creek. Police describe the crowd as initially good natured, but during the afternoon police became concerned with escalating disorder in the area, including:
 - a. Participants engaging in foul language and deteriorating behaviour to the point where police had serious concerns that violence would occur.
 - b. Police responded to a number of disorderly incidents with interventions such as issuing warnings and using de-escalation techniques. The police say that they exercised restraint on this occasion and decided not to make arrests because of concerns that a strict application of the law to disorderly incidents might inflame the intoxicated crowd and lead to a wider disturbance.

- c. Several members of the public approached the police during the day and expressed concerns that they felt unsafe due to the behaviour and language of the Crate Day participants.
- 3 After the 2016 Crate Day event, Council staff observed a significant amount of alcohol related litter (crates, bottles, etc) left in the Village Green area. Photographs of the litter are contained in **Attachment B**.
- 4 Police consider that there is a significant risk of a repeat or escalation of the disorder observed during the 2016 'Crate Day'. As a result of these concerns, extra police staff and resources have been commissioned from Invercargill and throughout the Otago region for 2-3 December 2017. Police officers based in Queenstown have also been re-rostered for this weekend to ensure there is sufficient capacity to deal with potentially large numbers of intoxicated persons occupying the town centre.
- 5 This year 'National Crate Day' coincides with a popular rugby league tournament, the 'Nines Carnival', which will also be held near the Queenstown town centre at the Memorial Rugby Grounds. This location is approximately 200 metres from the Village Green. Police have concerns that some of those attending the 'Nines Carnival' will use the event as an opportunity to both watch the rugby league and consume alcohol in public as part of 'National Crate Day'. The police assess the likelihood of alcohol related harm, including increased disorder and crime, from this combination of events to be high.

Comment

Scope of temporary ban

- 6 The Alcohol Ban Bylaw 2014 (**Alcohol Bylaw**) (**Attachment A**) currently prohibits the consumption and possession of alcohol in the following specified public places between 10pm and 8am every day:
 - a. the foreshore of Lake Wakatipu from One Mile Roundabout to Park Street including the Queenstown Gardens; and
 - b. the area from the foreshore to an outer boundary formed by and including Lake Esplanade, Lake Street, Man Street, Memorial Street, Stanley Street, Coronation Drive, Park Street to the Lake Wakatipu foreshore area directly adjacent to Queenstown Gardens.
- 7 The police propose to impose a temporary alcohol ban for 48 hours to apply **between 12am Saturday 2 December 2017 until 12am Monday 4 December 2017**. The geographical coverage of the proposed temporary ban will extend the specified public areas in Queenstown in Schedule A of the Alcohol Bylaw to include the Queenstown Recreation Ground. A map of the proposed temporary ban is attached as **Attachment C**.

Grounds for temporary ban

- 8 The Alcohol Bylaw empowers the Council to impose a temporary alcohol ban in a specific area in the district under clause 6 of the Alcohol Bylaw, by Council resolution. In order to justify a temporary 48 hour ban for the weekend of 2 - 3 December 2017, the Council must be satisfied that the following criteria in section 147B of the Local Government Act 2002 are met:
 - a. there is evidence that the area to which the temporary ban is proposed to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area;
 - b. the imposition of the temporary ban is appropriate and proportionate in the light of the evidence; and
 - c. the temporary ban can be justified as a reasonable limitation on people's rights and freedoms.
- 9 The police have also requested that the temporary ban is not limited to a small geographical area, as there is a risk of participants relocating using social media to areas just outside of the temporary ban zone. The area covered by the proposed temporary ban involves all of the specified areas in Queenstown in addition to an extended area surrounding the Queenstown Recreation Grounds.
- 10 Council staff agree that the concerns raised by police and Council staff (including photographs in **Attachment B**) demonstrate that the 2016 Crate Day resulted in a high level of disorder shown to be made worse by alcohol consumption. The extension of the ban to apply over a 48 hour period is an appropriate and proportionate regulatory response to the level of disorder described in this report. The proposed temporary ban will not prevent members of the public consuming alcohol on licensed premises, or at private homes. While a temporary alcohol ban might inconvenience some people, it is targeted and will only last for 48 hours. Therefore, Council staff consider it is not an unreasonable limitation on individual rights and freedoms having regard to the risk of disorder, resulting from the Council taking no action.

Activities in Public Places Bylaw 2016

- 11 Council staff also observe that any large gathering of persons in public for the 'National Crate Day' or 'Nines Carnival' event is likely to require permission from Council under the Activities in Public Places Bylaw 2016. At this stage no application has been received by Council from an event organiser associated with these events. If these events go ahead without Council permission it will be a breach of the Activities in Public Places Bylaw 2016, which is designed to protect the public from nuisance, and minimise potential for offensive behaviour in public places.

Options

12 Option 1 Do nothing

Advantages:

- 13 Members of the public who wish to consume moderate amounts of alcohol between 8am and 10pm in public places can continue to do so. Some members of the community may think that it is only a small minority of participants in the Crate Day event that cause disorder, and that the majority of persons who drink in public are responsible.

Disadvantages:

- 14 The police will be powerless to prevent day-time alcohol consumption in public on the weekend of 2 – 3 December 2017. The police will only be able to intervene where disorderly or criminal conduct is observed, and may have difficulty controlling a large crowd of intoxicated persons. There is likely to be an increase in public disorder, including littering, and may cause some members of the public to feel unsafe.
- 15 **Option 2 Adopt a temporary alcohol ban to apply to the Queenstown area [specified in Attachment C] from 12am Saturday 2 December 2017 until 12am Monday 4 December 2017**

Advantages:

- 16 The proposed temporary ban will give the police preventative enforcement tools to respond immediately to the public consumption of alcohol in breach of the temporary ban. These tools include seizing and removing alcohol in breach of the ban, issuing infringement notices, arresting any person refusing to surrender alcohol or refusing to leave a place subject to the ban, and searching persons or vehicles within the area to ascertain whether alcohol is present.
- 17 A temporary alcohol ban coupled with increased police presence in Queenstown is likely to reduce the risk of disorder and crime posed by the heavy consumption of alcohol during 'National Crate Day'. Members of the public and visitors may feel safer if there is no public consumption of alcohol in the city centre on this weekend.

Disadvantages:

- 18 A temporary alcohol ban may interfere with plans by members of the public to consume alcohol in public on that date, for example, at a wedding or picnic event. Some parts of the community may consider a public alcohol ban to be an overreaction to the bad behaviour of a minority group.

Conclusion

- 19 This report recommends **Option 2** for addressing the matter because Council staff agree with the Police that the consumption of alcohol in Queenstown during the 2016 'Crate Day' resulted in comparatively high levels of disorder when compared with a typical weekend. The police report that large groups of intoxicated young people engaged in foul language, littering and causing members of the public to feel intimidated. Council staff consider that the police proposal to impose a temporary ban in parts of Queenstown for the weekend of 2-3 December 2017 is a proportionate response to the high level of disorder

observed during the 2016 Crate Day, and is not an unreasonable limitation on individual rights and freedoms.

Significance and Engagement

- 20 This matter is of low/medium significance, as determined by reference to the Council's Significance and Engagement Policy because it is only temporal in nature, and primarily impacts persons who intend to drink in a public on 2-3 December 2017. Some members of the public may also be concerned about the scope of any temporary ban if they are concerned about a repeat of issues experienced during the 2016 'Crate Day'.

Risk

- 21 This matter relates to the operational risk OROO4 – Serious injury to member of community, as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because it involves a ban to prevent the day-time consumption or possession of alcohol in public places.
- 22 Imposing a temporary alcohol ban within Queenstown will reduce the risk to the public by equipping the police with an early intervention tool to prevent public consumption of alcohol.

Financial Implications

- 23 It is anticipated that the costs associated with implementing a temporary alcohol ban can be met with current budgets.

Council Policies, Strategies and Bylaws

- 24 The following Council policies, strategies and bylaws were considered:
- Alcohol Ban Bylaw 2014
 - Activities in Public Places Bylaw 2016
 - Enforcement Strategy and Prosecution Policy
 - Significance and Engagement Policy
- 25 The recommended option is consistent with the principles set out in the named policy/policies.
- 26 This matter is included in the 10-Year Plan. The Council's 10 Year Plan refers to minimising alcohol related harm as a consequence of excessive or inappropriate consumption of alcohol by avoiding and reducing the risk of alcohol related harm to our community, and protecting the image of the district.

Local Government Act 2002 Purpose Provisions

- 27 The recommended option:
- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory

functions in a way that is most cost-effective for households and businesses by reducing risks resulting from the public consumption of alcohol;

- Can be implemented through current funding under the 10 Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly the intended level of service provision for any significant activity undertaken by or on behalf of the Council, or transfer the ownership or control of a strategic asset to or from the Council.

Consultation: Community Views and Preferences

28 The persons who are affected by or interested in this matter are the police, residents and ratepayers of Queenstown District, tourists, local businesses, and persons intending to participate in the 'National Crate Day' and 'Nines Carnival' events.

29 The Council has engaged with the police to ascertain the grounds for the temporary alcohol ban being imposed. Council staff received complaints from members of the public relating to the 2016 Crate Day.

Legal Considerations and Statutory Responsibilities

30 The Local Government Act 2002 requires that the Council must be satisfied that the statutory criteria in section 147B are met before imposing a temporary ban:

- a. there is evidence that the area to which the temporary ban is proposed to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area;
- b. the imposition of the temporary ban is appropriate and proportionate in the light of the evidence;
- c. the temporary ban can be justified as a reasonable limitation on people's rights and freedoms.

31 If the Council adopts the proposed temporary alcohol ban it should publicly notify its decision at least 14 days before the ban is proposed to take effect (s170(3)(a), LGA). The Council should also fix clearly legible notices in conspicuous locations on or adjacent to the places where the proposed temporary alcohol ban will apply (s170(3)(b), LGA). These steps are necessary to enable the police to exercise search powers under s169(2)(a) of the LGA during the temporary alcohol ban.

Attachments

- A QLDC Alcohol Control Bylaw 2014
- B Photographs showing the aftermath of Crate Day 2016 in Queenstown town centre
- C Proposed geographical scope of the temporary alcohol ban

ITEM 6

Attachment A: QLDC Alcohol Control Bylaw 2014

QUEENSTOWN LAKES DISTRICT COUNCIL

ALCOHOL BAN BYLAW 2014

Pursuant to the powers vested in it by the Local Government Act 2002 and the Bylaws Act 1910, Queenstown Lakes District Council makes this bylaw.

1 Title and Commencement

(1) This bylaw is the Queenstown Lakes District Alcohol Ban Bylaw 2014.

(2) The bylaw shall come into force on 22nd December 2014.

2 Objective

(1) The objective of this bylaw is to reduce the potential for alcohol related offensive behaviour and harm, damage, disorder and crime and to promote and improve community health and safety.

(2) This bylaw seeks to achieve its objective by putting in place controls and restrictions on the possession, consumption and carriage of alcohol, in some public places within the Queenstown Lakes District.

3 Interpretation

In this bylaw, unless the context requires otherwise:

Act means the Local Government Act 2002.

Alcohol means a substance—

(a) that—

- (i) is or contains a fermented, distilled, or spirituous alcohol; and
- (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or

(b) that—

- (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
 - (ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or
- (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people

Council means the Queenstown Lakes District Council.

Offence means an offence under Section 239A of the Act that is a breach of this bylaw

Public Place means a place –

- (a) that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but
- (b) does not include licensed premises.

Specified Period means:

- (a) From 10.00 pm on any day to 8.00 am the following day; and
- (b) 6.00 am on 27 December of any given year to 6.00 am on 6 January the following year; and

- (c) 6.00 am on the opening day of the Queenstown Winter Festival to 6.00 am the day after the closing day of the Queenstown Winter Festival; and
- (d) any additional period that may be defined by the Council by resolution from time to time in accordance with clause 5 of this bylaw.

Specified Public Place means a public place defined or listed in Schedule A and such additional place as may be defined by the Council by resolution from time to time in accordance with clause 5 of this bylaw.

Temporary Alcohol Ban Area means an area described in a resolution of the Council made under this bylaw in which the prohibitions under clause 4 are temporarily in place in the public places within the area and during the times, days or dates specified in the resolution.

Vehicle means a vehicle as defined in section 2 of the Land Transport Act 1998, but does not include an ambulance, fire engine or police vehicle.

4 Prohibitions

(1) The following acts are prohibited:

- (a) The consumption of alcohol in any Specified Public Place during any Specified Period;
- (b) The possession of alcohol in any Specified Public Place during any Specified Period;
- (c) The bringing of alcohol into any Specified Public Place during any Specified Period; and
- (d) The consumption and possession of alcohol in a vehicle in any Specified Public Place during any Specified Period.

5 Additions to Specified Periods and Specified Public Place by resolution

(1) The Council may from time to time (by resolution adopted following use of the special consultative procedure, as set out in sections 83 and 156 of the Act) define any additional period to be included within the meaning of Specified Period as defined in this bylaw.

(2) The Council may from time to time (by resolution adopted following the use of the special consultative procedure, as set out in sections 83 and 156 of the Act) define any additional area to be included within the meaning of Specified Public Place as defined in this bylaw.

(3) Every resolution made under clause 5.1 or clause 5.2 above shall be publicly notified at least 14 days before it shall take effect.

6 Temporary Alcohol Ban Areas

(1) The Council may declare a Temporary Alcohol Ban Area by resolution which will describe the specific area and the times, days or date during which the prohibitions imposed under clause 4 apply to any public place in that area;

(2) Before the Council declares a Temporary Alcohol Ban Area it will comply with sections 77 – 82 of the Act;

(3) Any resolution made under clause 6.1 shall be publicly notified at least 14 days before it shall take effect.

7 Exemptions

- (1) The bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container. –
- (a) the transport of that alcohol from premises that adjoin a Specified Public Place during any period when, under the Sale and supply of Alcohol Act 2012 it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the Specified Public Place;
 - (b) the transport of that alcohol from outside a Specified Public Place for delivery to premises that adjoin the Specified Public Place, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012.
 - (c) the transport of that alcohol from outside a Specified Public Place to premises that adjoin a Specified Public Place –
 - (i) by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
 - (ii) from those premises to a place outside the Specified Public Place by a resident of those premises, provided the alcohol is promptly removed from the Specified Public Place.
- (2) This bylaw does not apply to any areas or activities where the sale or consumption of alcohol is authorised by any licence issued under the Sale and Supply of Alcohol Act 2012, including:
- (a) any public place which is part of a licensed premises' outdoor area, where permission to occupy the area has been granted by the Council.
 - (b) any public place that is subject to a special licence issued by the Council for the term of that licence;
 - (c) any vehicle in a public place to which a licence under the Sale and Supply of Alcohol Act 2012 applies;
 - (d) any event held in a public place at which alcohol is served pursuant to a caterer's licence endorsed pursuant to section 38 of the Sale and Supply of Alcohol Act 2012;

8 Police powers of search in Temporary Alcohol Ban Areas

- (1) This bylaw authorises members of the Police to exercise the power of search under section 169(2)(a) of the Act for the purposes of section 170(2) of the Act in relation to any area which has been declared a Temporary Alcohol Ban Area by resolution of the Council under clause 6.
- (2) Subject to clause 8.3 below, the powers of search contemplated under clause 8.1 can be exercised by the Police immediately and without further notice.
- (3) Clause 8.1 only applies if the resolution declaring a Temporary Alcohol Ban Area provides that clause 8.1 of this bylaw will apply.

9 Penalties

- (1) Every person who breaches this bylaw commits an offence
- (2) Every person who commits an offence under this bylaw is liable to a penalty under the Local Government Act 2002.

10 Signage

- (1) Where it is practicable and reasonable to do so, the Council will erect signage within public places covered by this bylaw to provide information to the public about the restrictions imposed under the bylaw. The size, location and terms of the signage will be at the Council's discretion.
- (2) To avoid any doubt, the absence of signage in any public place does not authorise a breach of this bylaw.

11 Dispensing Powers

- (1) The Chief Executive of the Council may waive full compliance with any provisions of this bylaw in any case where the Chief Executive is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person or business without any corresponding benefit to the community.
- (2) The Chief Executive may in his discretion impose conditions of any such waiver granted under clause 11(1).

12 Revocations

- (1) The Queenstown Lakes District Council Control of Alcohol in Public Places Bylaw 2009 is revoked.

This bylaw is made under the provision of the Local Government Act 2002 by resolution of the Queenstown Lakes District Council at a meeting of the Council on 18 December 2014 and publicly notified on 20 December 2014.

SCHEDULE A

The areas identified below are those areas which have been classified as Specified Public Places in relation to which the prohibited acts as defined in clause 4 of this bylaw apply during any Specified Period.

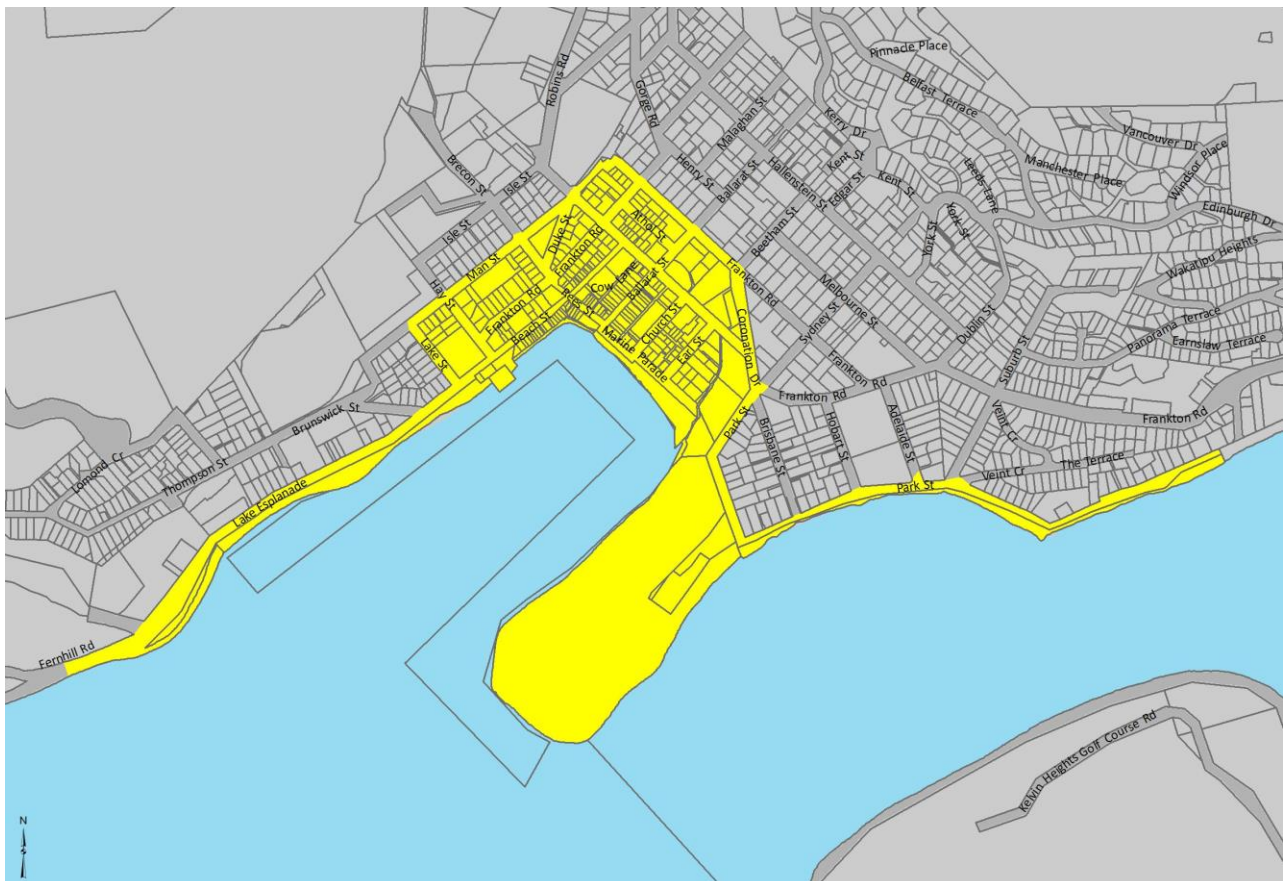
(1) Queenstown

- (i) The whole of the Lake Wakatipu foreshore area from the One Mile Roundabout to Park Street and including the Queenstown Gardens; and
- (ii) The area from the foreshore to an outer boundary formed by and including the following street and road reserves:

Lake Esplanade
Lake Street
Man Street
Memorial Street
Stanley Street
Coronation Drive
Park Street to the Lake Wakatipu foreshore area directly adjacent to the Queenstown Gardens

Explanatory note:

This note and the associated map is not part of the bylaw, but is included to illustrate the location of the Specified Public Place described in this schedule.



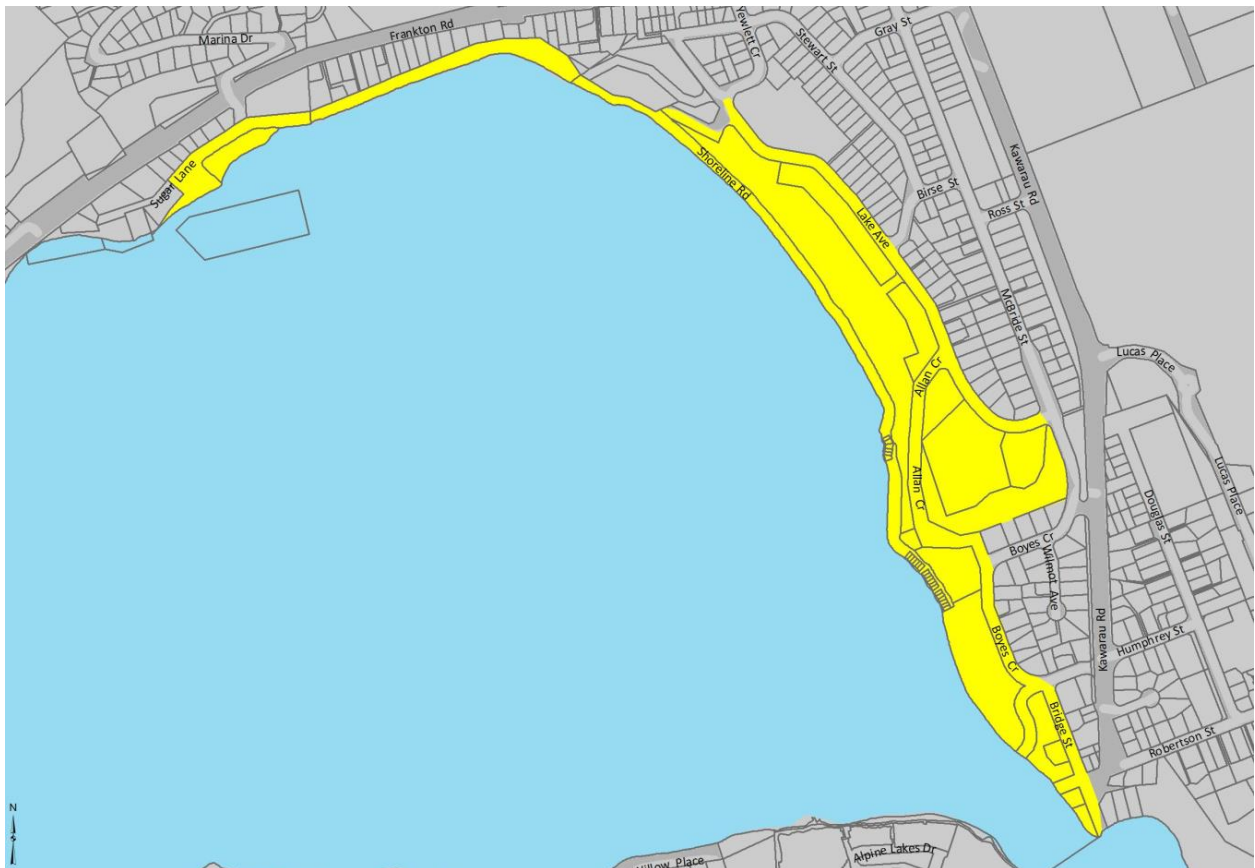
(2) Frankton

- (i) The whole of the Lake Wakatipu foreshore from the Kawarau Bridge to Frankton Marina, and
- (ii) The area from the foreshore to an outer boundary formed by and including the following streets and road reserves:

Bridge Street
Boyes Crescent
Allan Crescent
McBride Street (from Boyes Crescent to Lake Avenue)
Lake Avenue
Frankton Beach
Sugar Lane

Explanatory note:

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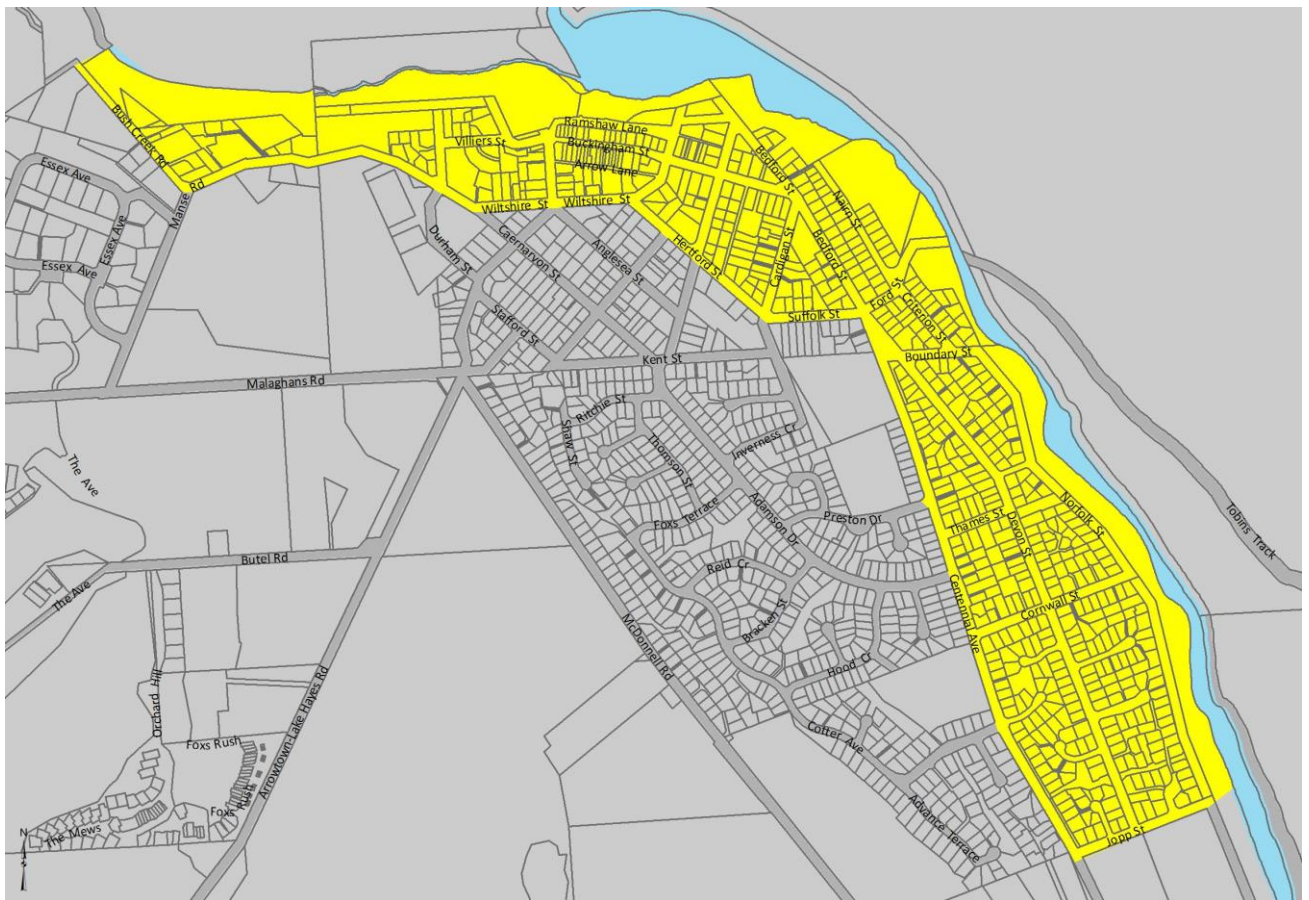
(3) Arrowtown

- (i) The north–eastern boundary being formed by the area 50m to the north of Bush Creek river bank, including Bush Creek Reserve, 100m either side of the Arrow River to the point where the Arrow Irrigation Company pipeline crosses the river, 50m to the north of the Arrow River and including Wilcox Green, O’Callaghan Reserve and the Arrow River 150th Anniversary walking track to and including the bridge to the south of Jopp Street; and
- (ii) The area from the north –eastern boundary to an outer boundary formed by and including the following streets and road reserves:

Bush Creek Road
Manse Road
Caernarvon Street
Wiltshire Street
Hertford Street
Suffolk Street
Centennial Avenue
Jopp Street

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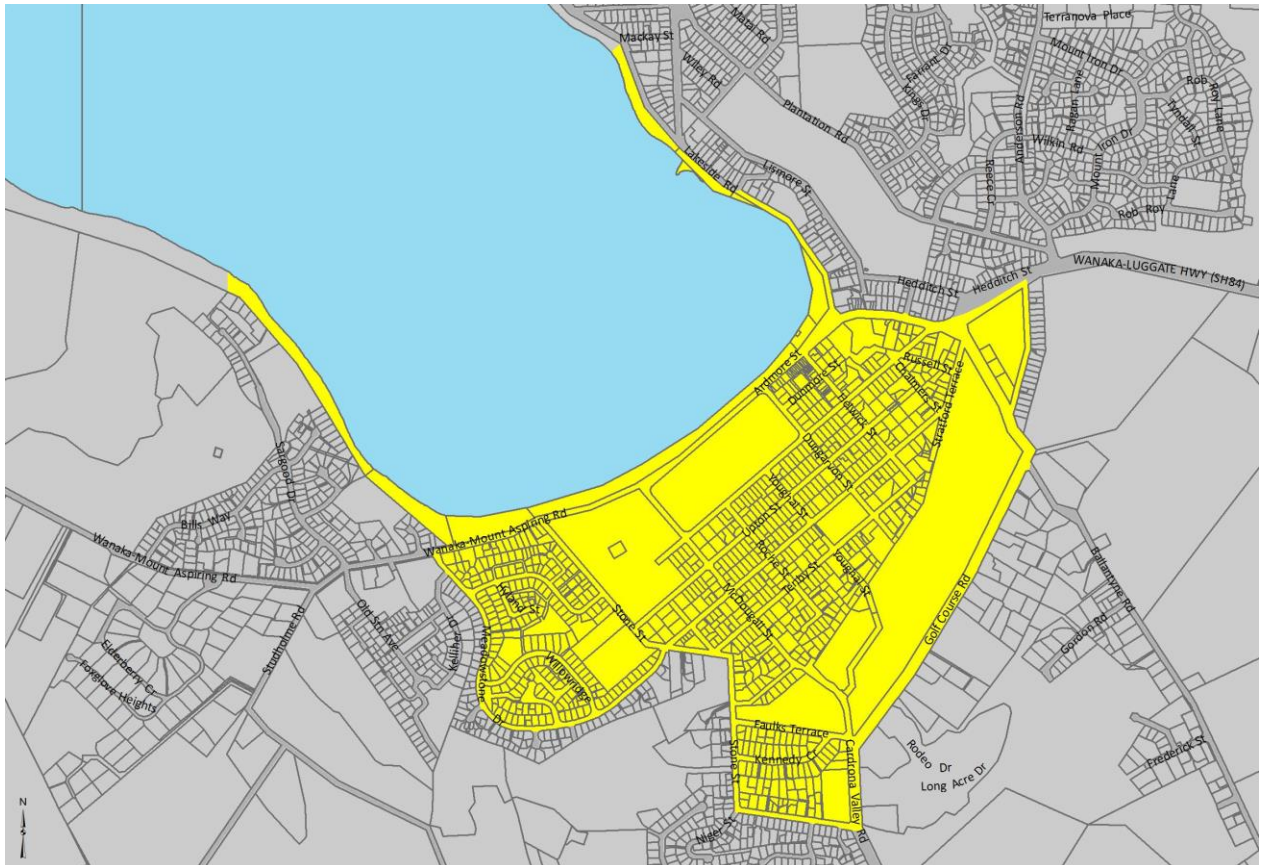
(4) Wanaka

- (i) The whole of the Lake Wanaka foreshore area from Sunrise Bay/ Edgewater to Penrith Park; and
- (ii) The area from the foreshore to an outer boundary formed by and including the following streets and road reserves:

Meadowstone Drive
Stone Street
Golf Course Road
Macpherson Street
State Highway 84
Ardmore Street

Explanatory note:

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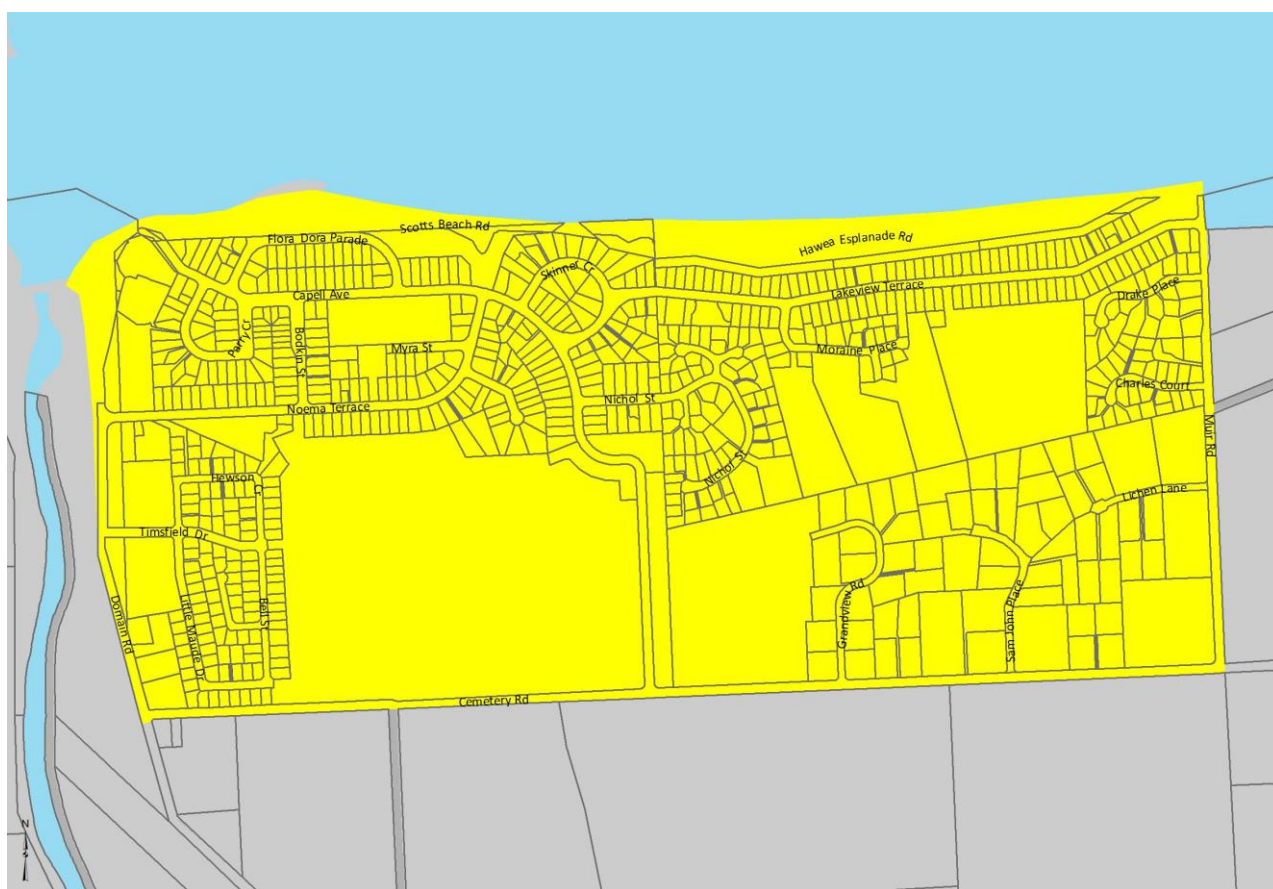
(5) Lake Hawea

- (i) The whole of the Lake Hawea foreshore area from Domain Road to Muir Road;
and
- (ii) The area from the foreshore to an outer boundary formed by and including the
following streets and road reserves:

Muir Road
Cemetery Road
Domain Road

Explanatory note:

This note and the associated map is not part of the bylaw, but is included to illustrate the location of the Specified Public Place described in this schedule.



Attachment B: Photographs showing the aftermath of Crate Day 2016 in Queenstown town centre



















Attachment C – Proposed geographical scope of the temporary alcohol ban

