

QLDC Council  
25 October 2018

Report for Agenda Item: 12

Department: Finance, Legal & Regulatory

Queenstown Lakes District Council Alcohol Restrictions in Public Places  
Bylaw 2018

Purpose

To consider the adoption of the Alcohol Restrictions in Public Places Bylaw 2018<sup>1</sup>, following public consultation and a public hearing.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Accept** the proposal to increase the hours of the current alcohol restrictions in the specified areas e.g. Queenstown CBD from 8.00 pm on any day to 8.00 am the following day;
3. **Accept** the proposal to include alcohol restrictions in the Queenstown CBD from 12.00 am on National Crate Day (or any variation of this event or promotion) of any given year to 12.00 am the following day;
4. **Accept** the title of the bylaw be amended to 'Alcohol Restrictions in Public Places Bylaw 2018', following the hearing panels deliberations;
5. **Adopt** the Alcohol Restrictions in Public Places Bylaw 2018;
6. **Agree** that Council endorses a greater level of collaboration with the Southern District Health Board and NZ Police, to ensure stronger evidence and information is available from them to assist Council's decision making in any future reviews of the bylaw;
7. **Agree** that Council write to Central Government requesting a review of clause 147(b) of the Local Government Act 2002 to allow councils to create more proactive measures to reduce alcohol harm in their communities.

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10/10/2018

Reviewed and Authorised by:



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10/10/2018

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<sup>1</sup> Attachment A

## Background

- 1 On 26 July 2018, Council commenced a special consultative procedure in relation to a review of the Alcohol Ban Bylaw 2014.
- 2 The proposed 'Alcohol Ban Bylaw 2018'<sup>2</sup> and 'Summary of Proposal'<sup>3</sup>, was publicly notified. 41 public submissions were received<sup>4</sup>.
- 3 Three of the 41 public submitters (New Zealand Police, the Southern District Health Board and Ms Rachel Brown on behalf of the Wanaka Alcohol Group) made oral submissions before the Alcohol Ban Bylaw Hearing Panel (hereafter, the 'Panel') at a public hearing<sup>5</sup>.

## Comment

- 4 Following the hearing, the Panel deliberated the written and oral submissions and have made the aforementioned recommendations to Council.
- 5 The Panel highlighted three main topics of discussion, raised in the written and oral submissions;

### Topic 1 - Title of the Bylaw

- 6 The Panel considered the submissions regarding the negative connotations of the word 'ban' in the title of the bylaw and recommends that the title is changed.
- 7 Council officers have considered alternative titles that denote positive connotations and propose that the bylaw is renamed 'Alcohol Restrictions in Public Places Bylaw 2018'.
- 8 New signage and educational promotions reflecting 'Alcohol-Free Zones' instead of 'Alcohol Ban Areas' will also be established.

### Topic 2 - Interpretation of the term 'National Crate Day'

- 9 The Panel recognised that in some submissions there was a misinterpretation of the wording of the proposed bylaw;
- 10 Interpretation (1.4) of the proposed Alcohol Ban Bylaw 2018 reads -

#### ***Specified Period means:***

- (a) *From 8.00 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.*

<sup>2</sup><https://www.qldc.govt.nz/assets/Uploads/Council-Documents/Full-Council-Meetings/2018/26-July-2018/2a.-Alcohol-Ban-Bylaw-2018.pdf>

<sup>3</sup><https://www.qldc.govt.nz/assets/Uploads/Council-Documents/Full-Council-Meetings/2018/26-July-2018/2d.-Statement-of-Proposal.pdf>

<sup>4</sup> Refer to the 'Hearing of submissions on the proposed Queenstown Lakes District Council Alcohol Ban Bylaw 2018' report (attachment C)

<sup>5</sup> Refer to 'Proposed Alcohol Ban Bylaw 2018 Hearing of Submissions' Minutes (attachment D).

- (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) 12.00 am on National Crate Day *(or any other similar event or promotion)* of any given year to 12.00 am on the following day for the public areas in Queenstown defined in Schedule 2; and
  - (e) any additional period that may be defined by the Council by resolution from time to time in accordance with clauses 1.6 to 1.8 of this bylaw.
- 11 The Police and members of the public in some written submissions indicated that they interpret the words '*(or any other similar event or promotion)*' as a clause that could be utilised to enforce a 'ban' on other event days, such as Christmas Day and St Patricks Day.
- 12 In the media coverage of the public hearing, Josh Walton's online report for the Otago Daily Times on 15<sup>th</sup> September 2018 stated "*The proposed bylaw would also ban events and promotions similar to Crate Day, which Sgt Haggart said could involve extending restrictions to cover Christmas*"<sup>6</sup>.
- 13 The intention of this wording is to capture all *variations* of National Crate Day only, e.g. if the promoters of Crate Day choose to change the day or title of the event. The clause is *not* intended to be used to restrict alcohol on other event days.
- 14 Council officers propose that the wording in the bylaw is changed to –

***Specified Period means:***

- (a) From 8.00 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) 12.00 am on National Crate Day *(or any variation of this event or promotion)* of any given year to 12.00 am on the following day for the public areas in Queenstown defined in Schedule 2; and
- (e) any additional period that may be defined by the Council by resolution from time to time in accordance with clauses 1.6 to 1.8 of this bylaw.

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<sup>6</sup><https://www.odt.co.nz/regions/queenstown/%E2%80%98crate-day%E2%80%99-slammed-hearing>

### Topic 3 - Evidence

15 During the deliberations after the hearing, the Panel discussed whether or not the Crate Day 'ban' area, which is proposed only for the Queenstown CBD, should be district wide. Council Officers advised the Panel of the legislative restrictions which states that evidence is required to justify any resolutions.

16 The Local Government Act 2002 states –

[Section 147B]

Criteria for making resolutions relating to bylaws

*Before making under section 151 a resolution relating to a bylaw under section 147, a territorial authority must be satisfied that—*

*(a) there is evidence that the area to which the bylaw applies (or will apply by virtue of the resolution) 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; and*

*(b) the bylaw, as applied by the resolution,—*

*(i) is appropriate and proportionate in the light of the evidence; and*

*(ii) can be justified as a reasonable limitation on people's rights and freedoms.*

17 The harm and disorder on Crate Day submitted by Police and members of the public are specific to the Queenstown CBD. Due to the lack of evidence of issues elsewhere in the district, Council Officers advised that a district wide ban is not appropriate or proportionate.

18 The Police and the Southern District Health Board proposed 24 hour alcohol restrictions. The Panel deliberated this notion but concluded that more evidence is required, in accordance with Section 147B of the Local Government Act 2002, to assist Council in its decision making.

19 The Panel acknowledged that section 147B of the Local Government Act 2002 restricts Council to a 'reactive' approach, rather than a 'proactive' approach in dealing with alcohol related harm and disorder in the community. The Panel recommend Council seek to have this clause reviewed by Central Government.

### **Options**

20 Option 1 Status Quo – decline to adopt the Alcohol Restrictions in Public Places Bylaw 2018.

*Advantages:*

21 The desires of some submitters will be met by maintaining the status quo, allowing them to continue to consume alcohol in public places until 10.00 pm any day and on National Crate Day.

*Disadvantages:*

- 22 There is evidence of an increase in alcohol related harm incidences on National Crate Day. If the bylaw is not adopted, Police will be fewer controls to deal with these matters.
- 23 Option 2 Partial adoption of the Alcohol Restrictions in Public Places Bylaw 2018 – adopt *either*;
- i. Additional alcohol restrictions to include National Crate Day, or;
  - ii. An increase in the hours included in the current alcohol restrictions, from 10.00 pm to 8.00 am the following day to 8.00 pm to 8.00 am the following day.

*Advantages:*

- 16 The advantage of adopting only the Crate Day restrictions is that controls can be used by Police on this day to manage alcohol related harm and disorder associated with this event. However, on any other day, members of the public can continue to consume alcohol in public places until 10.00 pm.
- 17 The advantage of adopting only the cause to increase the hours on any day will mean that on annual event days, such as National Crate Day, Saint Patricks Day and Christmas Day, enforcement measures can take place earlier than in previous years, e.g. from 8.00 pm instead of 10.00 pm.

*Disadvantages:*

- 18 The disadvantage of adopting only the alcohol restrictions on Crate Day and not an increase in hours alcohol is restricted on any day, is that the Police have fewer enforcement tools on any day until 10.00 pm. The Police submit that to have these tools earlier in the day would be beneficial in contributing towards the management of alcohol related harm in the community.
- 19 The disadvantage of adopting the bylaw with only an increase in alcohol restricted hours and not the inclusion of Crate Day, is that the Police will have fewer enforcement tools until 8.00 pm.

20 Option 3 Adopt the Alcohol Restrictions in Public Places Bylaw 2018*Advantages:*

- 21 The bylaw provides Police with additional enforcement tools, thus addressing the issues reported by the community, which include alcohol related harm and disorder on National Crate Day, as well as the issues submitted by Police after 8.00 pm on 'normal' days.

*Disadvantages:*

- 22 Some submitters are not supportive of 24 hours alcohol restrictions on National Crate Day and/or an increase in alcohol restricted hours on any day.

- 23 An increase in Police resources will be required to manage the enforcement of the bylaw on National Crate Day and for an additional two hours on a daily basis.
- 24 This report recommends **Option 3**, which enables appropriate and proportionate alcohol restrictions in public places, in accordance with the Local Government Act 2002.

### **Significance and Engagement**

- 25 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because the matter has a low impact on the environment culture and people of the District. There will only be a low number of organisations that will be affected by this policy.

### **Risk**

- 26 This matter relates to the strategic risk SR3 "Management Practice – working within legislation", as documented in the Council's risk register. The risk is classed as moderate. This matter relates to this risk because the current policy is required to be reviewed under section 158 of the Local Government Act 2002.
- 27 The review of the current Bylaw mitigates risk by enabling any amendments that will address the issues raised by Police within the community.

### **Financial Implications**

- 28 The costs associated with the review, adoption of the new bylaw and associated replacement signage and notifications will be met from current budgets and resources.

### **Council Policies, Strategies and Bylaws**

- 29 The following Council policies, strategies and bylaws were considered:
- a. Alcohol Ban Bylaw 2014
  - b. Local Government Act 2002
  - c. Bill of Rights Act 1990
  - d. Enforcement and Prosecution Policy
  - e. Finance Policy
  - f. 10 Year Plan
  - g. Significance and Engagement Policy
  - h. QLDC Ten Year Plan (TYP)
- 30 The current Alcohol Ban Bylaw 2014 will be revoked, should the 'Alcohol Restrictions in Public Places Bylaw 2018' be adopted.
- 31 This matter is included in the District's Ten Year Plan to develop an alcohol strategy to reduce alcohol related harm in the community.

## Local Government Act 2002 Purpose Provisions

32 The recommended option:

- Will help meet the current and future needs of communities for good-quality local public services and performance of regulatory functions in a way that is most cost-effective for households and businesses by providing a bylaw that meets the needs of the community;
- 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

33 The persons affected by or interested in this matter are residents and ratepayers of the Queenstown District, tourists, and any other users of the District's public places.

34 The Council publicly consulted using the special consultative procedure on the proposed bylaw.

35 41 public submissions were received, with two of these heard by the Hearing Panel at the public hearing.

## Legal Considerations and Statutory Responsibilities

36 The power to make the proposed bylaw is set out in section 147 of the Local Government Act 2002. In accordance with the Act, the Council can make bylaws to prohibit or control the consumption and possession of alcohol in public places. A ban must be justified as a reasonable limitation on people's rights and freedoms and there must be evidence of a high level of crime or disorder that is caused by alcohol consumption.

## Attachments

- A Alcohol Restrictions in Public Places Bylaw 2018 (clean)
- B Alcohol Restrictions in Public Places Bylaw 2018 (track changes)
- C Agenda for hearing of submissions (includes officer report and full submissions) *(not attached in hard copy)*  
<https://www.qldc.govt.nz/assets/Uploads/Council-Documents/Hearings/Alcohol-Ban-Bylaw-2018/Alcohol-Ban-Bylaw-2018-Agenda-Hearing-of-submissions-14-September-2018.pdf>
- D Minutes of hearing of submissions to the proposed Alcohol Ban Bylaw 2018