

QLDC Council
10 December 2020

Report for Agenda Item | Rīpoata moto e Rāraki take: 3

Department: Finance, Legal & Regulatory

Title | Taitara Temporary Christmas Day and Boxing Day 2020 Alcohol Ban – Queenstown and Wānaka

PURPOSE OF THE REPORT | TE TAKE MŌ TE PŪRONGO

- 1 The purpose of this report is to decide whether to declare a Temporary Alcohol Restriction Area in the CBD of both Queenstown and Wānaka on Christmas and Boxing days 2020.

EXECUTIVE SUMMARY | WHAKARĀPOPOTOTANGA MATUA

- 2 The police have approached the Council and asked the Council to declare a 48 hour temporary alcohol restriction area under the Alcohol Restrictions in Public Places Bylaw 2018. The restriction area identified by the police is the Queenstown and Wānaka CBD for Christmas Day and Boxing Day 2020. The restriction is sought to prevent high numbers of people gathering in the identified areas consuming large quantities of alcohol, which in the past has caused the congregation of large crowds, foul language, littering and large amounts of rubbish left behind.
- 3 The temporary restrictions would effectively cover from 8:00am on Christmas Day (Friday) through until 6:00am on Sunday 27 December. The current restrictions come into force from 6:00am on 27 December of any year until 6:00am on 6 January the following year.
- 4 The Council has the power to impose a temporary alcohol restriction areas in accordance with clauses 1.7 to 1.13 of the Alcohol Restrictions in Public Places Bylaw 2018 (attachment A) if satisfied that the statutory criteria in s.147B of the Local Government Act 2002 is met.

RECOMMENDATION | NGĀ TŪTOHUNGA

That Council:

1. **Note** the contents of this report; and

Either:

2. **Declare**, by resolution, that temporary alcohol restriction areas be implemented between 8:00am Friday 25 December to 6:00am Sunday 27 December 2020 within the highlighted areas in Schedule 3 map (7) Queenstown, and map (8) Wānaka (attachment B) of this report for both Queenstown and Wānaka; and

3. **Authorise** public notification of the alcohol restriction area by publication in the Otago Daily Times, Southland Times, Mirror, Mountain Scene and the Wānaka Sun, along with placing information on online forums such as QLDC's Facebook page and website; and
4. **Authorise** officers to display appropriate signage in conspicuous locations in or adjacent to the geographical areas to be subject to the temporary ban.

Or:

5. **Decide**, not to declare a temporary alcohol restriction area.

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25/11/2020

Reviewed and Authorised by:



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30/11/2020

CONTEXT | HOROPAKI

- 1 The police have approached the Council and asked for a temporary 48 hour alcohol ban to be imposed in both the Queenstown and Wānaka CBDs for Christmas Day and Boxing Day 2020. The temporary alcohol ban is proposed to prevent the consumption of alcohol in public places, predominantly during Christmas Day where “orphans” (mainly made up of foreign workers and holidaymakers) tend to congregate and consume alcohol.
- 2 The Alcohol Restrictions in Public Places Bylaw 2018 enables Council to impose temporary alcohol restriction areas by resolution. The temporary restriction should describe the specific zones and the times, days or dates during which the prohibitions in the Bylaw should apply. The Bylaw requires the Council to comply with the requirements of sections 77 to 82 of the Local Government Act (LGA) before declaring a temporary alcohol restriction area. These matters are addressed below in the consultation section of this report.
- 3 In addition to the decision-making provisions of the LGA (sections 77-82), the Act also sets out criteria that must be considered when making resolutions pursuant to an alcohol bylaw. When doing so, the Council 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.
- 4 Anecdotally, Council knows that during both the 2017 and 2018 Christmas Days, the Queenstown Bay beach front and reserve was occupied with large crowds (hundreds of people) drinking large quantities of alcohol. Police describe the crowd as initially good natured, but during the afternoons police have become concerned with potential escalation of disorder in the area, including:
 - a. Participants engaging in foul language and deteriorating behaviour to the point where police had serious concerns violence may occur.
 - b. Police say that they have exercised restraint on previous occasions and decided not to make arrests due to concerns that a strict application of the law in relation to disorderly incidents might inflame the intoxicated crowd and lead to a wider disturbances.
- 5 After the 2017 and 2018 Christmas Days, Council staff observed a significant amount of alcohol related litter (crates, bottles, boxes, etc) left on the Queenstown Beach and reserve area.

- 6 In this case, no quantitative data has been provided to demonstrate that there is a high level of crime that is made worse by alcohol consumption in the CBD areas.
- 7 It is possible to conclude from the anecdotal information above that the consumption of alcohol in the CBD areas, combined with the number of people that gather on Christmas and Boxing Days, does result in a high level of disorder.
- 8 On the basis that the Council can be satisfied of a high level of disorder, it must also consider whether the restriction is an appropriate and proportionate response in light of the information above, and whether it is a reasonable limitation on people's rights and freedoms.
- 9 At present, the Bylaw imposes an alcohol restriction on both the CBD areas from 8:00pm on any day to 8:00am the following day. The proposed temporary alcohol restriction will address the consumption of alcohol during Christmas day before 8:00pm.
- 10 Information provided by the police would suggest that the worst of the behaviour displayed in these areas occurs after the 8:00pm time when the existing restriction applies. Therefore, Councillors must consider whether it is necessary to impose the restriction earlier, or whether a more appropriate response could be to do more to move people away from the area at 8:00pm.
- 11 In 2019 ambassadors contracted by Council were located in the Queenstown beach area to assist those needing reminders of when the alcohol ban starts, where to get taxis, food and beverages, and to call for assistance should this be required. Police also have a presence in these areas to move people on when the alcohol restriction kicks in. If the temporary restriction was to be implemented, ambassadors would also have a presence on the beach fronts to remind people of the alcohol restrictions.
- 12 It is also relevant to the Council's decision that a large number of people who are present on the beach during Christmas and Boxing Days are typically migrant workers who are away from home. We do not know what impact Covid-19 will have on the number of people at the beach and CBD areas during Christmas and Boxing Days 2020.
- 13 Police consider that there is a risk of a repeat of the large crowd numbers, or an escalation of the disorder that was observed during Christmas Day 2019. However, the number of police staff rostered on will influence the effectiveness of the restrictions during the day.
- 14 The ordinary New Year alcohol restriction runs from 6:00am on 27 December on any given year, to 6:00am on 6 January the following year.

ANALYSIS AND ADVICE | TATĀRITANGA ME NGĀ TOHUTOHU

- 15 **Option 1: Adopt a temporary alcohol ban to apply to the Queenstown CBD and Wānaka CBD areas [specified in Attachment B] from 8:00am Friday 25 December to 6:00am Sunday 27 December 2020.**

Advantages:

- 16 Potential offensive behaviour, disorder, damage, harm and rubbish issues are reduced significantly by having fewer people in the areas consuming alcohol.
- 17 Achieve the bylaw, and Sale and Supply of Alcohol Act's objectives by putting in place controls and restrictions around the possession, consumption and carriage of alcohol in the areas of the Queenstown CBD and Wānaka CBD.

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, those persons wishing to come to the area for a quiet drink on the day. Some parts of the community may consider a public alcohol ban to be an overreaction to the bad behaviour of a minority group.

19 Option 2: Status Quo. Do nothing this year*Advantages:*

- 20 Further evidence of high levels of crime or disorder (as required under section 147B of the Local Government Act 2002) is made worse by consumption of alcohol in the areas may be gathered. For the first time, members of the alcohol team will be out monitoring the Queenstown beachfront area on Christmas Day taking photos and videos of the activities taking place. There is limited data from Police around numbers of infringements for breach of the alcohol ban that have been issued, arrests made in relation to activities taking place in the area, or drink drivers attributed with the area. To request such data would require an Official Information Request to the Police National Headquarters and it is anticipated that it would take some time to collate the intelligence information requested.

Disadvantages:

- 21 The activities taking place on the beachfront areas will continue to occur or escalate. Police may have limited staffing resources to be able to provide a quick response if this occurred.
- 22 This report recommends either **Option 1** or **Option 2** for addressing the matter.
- 23 Advice: The Council are reminded that the vast majority of people on the Queenstown beachfront on Christmas Day in the past have been made up of foreign nationals (i.e. migrant workers, backpackers, and holidaymakers). Due to Covid-19, approximately 15,000 migrant workers have left New Zealand (limited numbers remain in this district) and our borders remain closed to international tourists. For Christmas Day 2019, colder weather conditions played a part in the smaller numbers of people gathered on the Queenstown beachfront compared to 2017 and 2018 where there were significantly higher numbers of people on the beach due to warmer and sunnier weather conditions.

- 24 Given the Covid-19 situation, it could be considered that the potential numbers of people who will gather on the Queenstown beachfront will be significantly lower this year i.e. fewer than the numbers seen in 2019.
- 25 When the temporary alcohol restrictions were implemented for Crate Day in 2017, then completely encompassed into the Bylaw as a permanent restriction in 2018, the changes were carried out with anecdotal evidence only using photographs supplied by Police. No quantitative data was provided.

CONSULTATION PROCESS | HĀTEPE MATAPAKI:

> SIGNIFICANCE AND ENGAGEMENT | TE WHAKAMAHI I KĀ WHAKAARO HIRAKA

- 26 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it is only temporary in nature and primarily impacts on those persons who intend to drink in public on Christmas Day. There are also potential impacts on the environment and Council staff in that there could be less rubbish left behind requiring collection if the change is approved. Counter to this however, is the Council's Community Vision under the Ten Year Plan of "Vibrant Communities" and it could be public perception that their community views and freedoms are being too restricted by the implementation of this temporary ban.
- 27 Police have engaged with Council to seek the implementation of a temporary ban on Christmas Day 2020 (as well as on the Wānaka foreshore) to reduce the number of people drinking on the beachfront and to mitigate any potential issues which may arise for the activities taking place there. No public consultation has taken place in relation to the temporary restrictions sought.
- 28 The persons who are affected by or interested in this matter are police, local businesses (predominantly Novotel adjacent to the beachfront reserve area), tourists, and persons intending on using the area on Christmas Day, including the gardens.
- 29 The Council has already participated in a full Council workshop on 29 October 2020 whereby the Police sought for this restriction to be implemented with the ultimate request being a 24/7 year round ban of alcohol consumption for set areas in the district. As the temporary ban option is able to be implemented within a short timeframe, this is the preferred option for the time being.

> MĀORI CONSULTATION | IWI RŪNANGA

- 30 The Council has not undertaken any consultation with local Iwi in this instance. However, when the 24/7 year round restriction is being assessed, the Iwi will be part of the consultation process then.

RISK AND MITIGATIONS | NGĀ RARU TŪPONO ME NGĀ WHAKAMAURUTANGA

- 31 This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK00006 Ineffective Management of Social Nuisance Issues within the QLDC Risk Register. This risk has been assessed as having a moderate inherent risk rating.

- 32 The approval of Option 1 to implement the temporary restriction will support the Council by allowing implementation of additional controls for this risk. This shall be achieved by providing the police with additional powers to warn people to stop consuming alcohol in the areas or to issue them with infringement notices on the spot.

FINANCIAL IMPLICATIONS | NGĀ RITENGA Ā-PŪTEA

- 33 It is anticipated that the costs associated with implementing a temporary restriction can be met within current budgets.

COUNCIL EFFECTS AND VIEWS | NGĀ WHAKAAWEAWE ME NGĀ TIROHANGA A TE KAUNIHERA

- 34 The following Council policies, strategies and bylaws were considered:

- Alignment and consideration of the principles of the Vision Beyond 2050 have been given and include Thriving People, Deafening Dawn Chorus, and Pride in Sharing our Places.
- Alcohol Restrictions in Public Places Bylaw 2018
- Activities in Public Places Bylaw 2016
- Enforcement Strategy and Prosecution Policy
- Significance and Engagement Policy
- Queenstown Bay Foreshore Reserve Management Plan
- Queenstown Gardens Reserve Management Plan (Part 1 & 2)
- Wānaka Lakefront Reserves Management Plan

The options provided are consistent with the principles set out in the named policies.

- 35 This matter is included in the Ten Year Plan. The Council's Ten Year Plan refers to enforcement and monitoring of licensed premises and events to ensure compliance with the Sale and Supply of Alcohol Act 2012. Under "Bylaw Enforcement" development of an Alcohol Strategy to reduce alcohol related harm in our community.

LEGAL CONSIDERATIONS AND STATUTORY RESPONSIBILITIES | KA TURE WHAIWHAKAARO, ME KĀ TAKOHAKA WAETURE

- 36 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.

37 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 as well as providing for clearly legible notices in conspicuous locations on or adjacent to the places where the proposed temporary alcohol ban will apply (s.170(3)(b), LGA). These steps are necessary to enable the police to exercise search powers under the LGA during the temporary alcohol ban.

LOCAL GOVERNMENT ACT 2002 PURPOSE PROVISIONS | TE WHAKATURETURE 2002 O TE KĀWANATAKA Ā-KĀIKA

38 The preferred option:

- Can be implemented through current funding under the Ten 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.

ATTACHMENTS | NGĀ TĀPIRIHANGA

A	Alcohol Restrictions in Public Places Bylaw 2018
B	Schedule 3 - Proposed geographical scope of the temporary alcohol ban