

QLDC Council

26 November 2015

Report for Agenda Item: 12

Department: Finance and Regulatory

Water Supply Bylaw 2015

Purpose

To adopt the proposed Queenstown Lakes District Council Water Supply Bylaw 2015.

Recommendation

That Council:

1. **Adopt** the proposed Queenstown Lakes District Council Water Supply Bylaw 2015.
2. **Authorise** officers to make further minor changes to the Queenstown Lakes District Council Water Supply Bylaw 2015 without further recourse to the Council, where this is necessary to:
 - i. Fix identified minor errors and / or omissions; and
 - ii. Ensure continuity with other proposed provisions.

Prepared by:



Anthony Hall
Principal Enforcement Officer

10/11/2015

Reviewed and authorised by:



Lee Webster
Manager; Regulatory

10/11/2015

Background

- 1 On 27 August 2015, Council resolved to undertake public consultation on the proposed Queenstown Lakes District Council Water Supply Bylaw 2015. <http://www.qldc.govt.nz/assets/Uploads/Council-Documents/2015-Full-Council-Agendas/27-August-2015/Item-6/6-Proposed-Water-Supply-Bylaw-covering-report.pdf>
- 2 Councillors Gazzard, Lawton and Cocks were appointed to hear submissions received.
- 3 Submissions closed on the 29 September 2015, with one submission being received, and the submitter not wishing to be heard.
- 4 In addition a matter was raised by Councillor Gilmour regarding Council's ability to fix water leaks on private land.
- 5 Deliberations took place on 3 November 2015, and the hearings panel resolved to recommend to Council that the proposed Queenstown Lakes District Council Water Supply Bylaw 2015 be adopted with an amendment to clause 8.6 to remove the reference to excessive water and clarification regarding the terms 'ordinary use', 'extraordinary use' 'ordinary supply' and 'extraordinary supply'.
- 6 Clause 8.6 of the proposed bylaw has been amended and the new bylaw format has changed the numbering to clause 25.1 and 25.2.
- 7 Legal advice has been sought regarding definitions for the terms 'ordinary use', 'extraordinary use' 'ordinary supply' and 'extraordinary supply'. This advice has determined that the definitions of ordinary use and extraordinary use are not necessary.

Comment

- 8 The key matters raised from the submission were:

- Concerned with section 8.6 – Metering.

It appears that there is no definition of what is excessive water use. There is a danger of a subjective decision being made on the water usage of a particular ratepayer, fitting a meter and charging them.

- Charging:

Currently charged \$180 per annum for the Water Supply Charge. With the large percentage of unoccupied houses in installing meters must surely outweigh any additional water charges by volume. Unless the council is planning for the average water charge to be increased to cover the metering costs.

Deliberations

- 9 Consideration was given to a submission report from Anthony Hall (Principal Enforcement Officer) which set out the details of the submission received and the amendments sought by the submitter.
- 10 The hearing panel noted the submitter's concern that excessive water use was not defined, but acknowledged that it was not possible to define excessive water use until the water meter trial currently underway had concluded. Accordingly, it was agreed that reference to excessive water use should be removed from clause 8.6.
- 11 Consideration was given to the submitter's concern that the cost of installing water meters and charging users had the potential to out-weigh the revenue generated. Instead, the submitter favoured water use restrictions or metering all and charging by volume used.
- 12 The panel were advised until the end of the water meter trial, the Council could not determine 'excessive use'. Accordingly, clause 8.6 was amended to remove the reference to providing the Council with the ability to fit a meter and charge for excessive water use.
- 13 There was further discussion about the definition of 'ordinary use' and 'extraordinary use'. The panel observed that the definitions provided in the draft Bylaw were of 'extraordinary supply' and 'ordinary supply' and clarification of the terminology was necessary before adopting the Bylaw. Mr Hall undertook to obtain legal advice on which terms were preferable and whether it would be stronger to provide both definitions. The legal advice received is that the Bylaw does not require the additional definitions.
- 14 Consideration was also given to the matter raised by Councillor Gilmour that Council should have the ability to enter private land to fix water leaks and charge the land owner for the works, when necessary. The report noted that under the Local Government Act the Council already had the ability to enter private land to undertake works and charge the land owner. It was noted therefore that no change to the text of the Bylaw was necessary.

Options

- 15 This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002:

16 Option 1 No Bylaw

Advantages:

17 Less regulation.

18 Without a Bylaw, there are no rules in place to be complied with.

Disadvantages:

19 No ability to restrict water use when necessary.

20 Without a Bylaw, there are no controls in place to deal with the control of water.

21 Option 2 Revised Bylaw*Advantages:*

22 The ability to restrict the use of water when necessary and take enforcement action.

23 The ability to install water meters, to better inform decision making regarding water usage.

Disadvantages:

24 Current system does not reward users to conserve water.

25 This report recommends **Option 2** for addressing the matter.

Significance of Engagement

26 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because the Bylaw is relevant to the management of Council's water supply infrastructure which is a strategic asset.

Risk

27 This matter related to the operational risk OR003 'Deliver infrastructure services', as documented in the Council's risk register. The risk is classed as low to moderate.

28 This matter relates to this risk in a situation of an extreme event (drought / long-lead time infrastructure failure) and water restriction provisions under the bylaw are necessary to mitigate the risk.

Financial Implications

29 There are no operational or capital expenditure requirements or other budget or cost implications resulting from the decision.

Council Policies, Strategies and Bylaws

30 The following Council policies, strategies and bylaws were considered:

- Policy for the Provision of New Water Supply and Sanitary Sewer Connections.
- Enforcement Strategy and Prosecution Policy 2014

- Water Supply Bylaw 2008
- QLDC Land Development and Subdivision Code of Practice

31 The recommended option is consistent with the principles set out in the named policies.

32 This matter is included in the 10 Year Plan under Part Two.

Local Government Act 2002 Purpose Provisions

33 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 ensuring that water is used in the most effective manner possible at present until such time that the water meter project has been concluded.
- 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

34 Council's Chief Engineer has been consulted and advised the proposed Bylaw is fit for purpose.

35 The special consultative procedure has been undertaken in accordance with the Local Government Act 2002 to implement this Bylaw giving the community the opportunity to submit and ensure the required consultation process has taken place.

36 Council will publicly notify the adoption of the new Bylaw.

Attachments

- A Hearing Panel Report on Proposed Queenstown Lakes District Council Water Supply Bylaw 2015
- B Queenstown Lakes District Council Water Supply Bylaw 2015