

QLDC Council  
30 June 2016

**Report for Agenda Item: 11**

**Department: Finance & Regulatory**

**Local Alcohol Policy - Update**

**Purpose**

The purpose of this report is to update Council on if a local alcohol policy is needed and when.

**Recommendation**

That Council:

1. **Note** the contents of this report;
2. **Agree** that the Queenstown Lakes District Council should undertake an alcohol needs assessment in conjunction with the Accident Compensation Corporation by December 2016 (subject to ACC funding availability);
3. **Agree** that the Queenstown Lakes District Council develop an Alcohol Strategy within 12 months following the Accident Compensation Corporation needs assessment and the Health Promotion Agency research on density is released;
4. **Accept** that the Queenstown Lakes District Council will not proceed with the development of an Local Alcohol Policy until an alcohol needs assessment and alcohol strategy are undertaken to determine where a local alcohol policy is necessary; and
5. **Agree** that an update on the need for a Queenstown Lakes District Local Alcohol Policy is reported back to Council within 12 months of the adoption of an Alcohol Strategy.

Prepared by:



Lee Webster  
Manager; Regulatory

14/06/2016

Reviewed and Authorised by:



Stewart Burns  
General Manager; Finance  
and Regulatory

14/06/2016

## **Background**

- 1 On 30 June 2015, Council resolved that the Manager; Regulatory should report back to Council by 30 June 2016, determining if a local alcohol policy (“LAP”) is needed and if so, when <http://www.gldc.govt.nz/assets/Uploads/Council-Documents/2015-Full-Council-Agendas/30-June-2015/Item-10/10-Local-Alcohol-policy-report.pdf>
- 2 Following this meeting, Council established a working party, consisting of the Mayor, Councillors Aoake and Lawton, Police, Medical Officer of Health, Jen Mitchell (Alcohol Licensing Inspector) and Licensees for both on and off licensed premises in Queenstown and Wanaka. The purpose of the working party was to discuss the need for an LAP using information we already have regarding alcohol related harm and the issues identified in our community. The working party also discussed some recent case law regarding LAPs and the ability to have a precautionary LAP e.g. an LAP that reduces trading hours, as this reduces access to alcohol and therefore assists in the minimisation of harm caused by the excessive or inappropriate consumption of alcohol.
- 3 The working party met only once, discussing most of the details above, against what can be included in an LAP. An email to all parties in May 2016 to request any other aspects for consideration was sent and no items/topics were raised by the working party to be discussed (at this stage), hence a further meeting has not been scheduled.
- 4 The Police attended a Council Workshop on 8 March 2016 to advise Council of the Police position regarding LAPs and understanding the need for local information to support an LAP. The Police were undertaking work to obtain information that may assist Council in its decision making on this matter.

## **Comment**

### **National LAP Status**

- 5 The Sale and Supply of Alcohol Act 2012 (“Act”) provides the discretionary ability for a territorial authority (“TA”) to develop an LAP.
- 6 There are currently eight LAPs in place across New Zealand, which account for 13 TAs, as five TAs have a shared LAP.
- 7 There are a further 15 Provisional Local Alcohol Polices (“PLAP”), which are awaiting appeals to the Alcohol Regulatory Licensing Authority (“ARLA”) to determine their outcome.
- 8 Where an LAP is developed, the Act requires that it must be reviewed within 5 years of its adoption. None of the eight LAPs in place have been reviewed to determine the success of these to date.

### **Health Promotion Agency**

- 9 The Health Promotion Agency (“HPA”) is an evidence-based organisation and Crown entity which undertakes work in a variety of areas to promote health and

wellbeing, prevent disease and assist in the prevention of illness and injury and also to reduce personal, social and economic harm. Importantly, this work includes alcohol.

- 10 The HPA undertake various pieces of research to assist others e.g. territorial authorities, where there is a lack of information or evidence on a subject. Examples of this research include the pattern of drinking on an occasion, attitudes and behaviour towards alcohol etc [http://www.hpa.org.nz/research-library/research-publications?keys=alcohol&date\\_filter%5Bvalue%5D%5Byear%5D=&tid=All&=Search](http://www.hpa.org.nz/research-library/research-publications?keys=alcohol&date_filter%5Bvalue%5D%5Byear%5D=&tid=All&=Search)
- 11 One of the criteria a territorial authority can consider for an LAP is the density of alcohol licences or types of alcohol licences. Density matters were initially included in the joint LAP for Tauranga/Western Bay of Plenty and Wellington's provisional LAPs however both LAPs were appealed.
- 12 ARLA, on considering these appeals, ordered Tauranga City Council and Western Bay of Plenty District Council, and Wellington City Council to reconsider certain elements of their respective LAPs, which included the density elements as ARLA deemed these aspects of their LAPs unreasonable in the light of the object of the Act.
- 13 Tauranga City Council and Western Bay of Plenty District Council resubmitted their LAP having deleted the clause relating to density (regarding where off-licensed premises can be located) and Wellington City Council is still in the process of reconsidering the density element of its LAP before resubmitting this to ARLA.
- 14 The HPA are currently undertaking research regarding density and the level of impact that an increased density of licensed premises can have on a community.
- 15 This research is expected to have national significance, which could be used to determine the impact of alcohol related harm in our community using this evidence. This research is expected to be completed and released in the coming few months.

### **Local Information**

- 16 In 2013, following the implementation of the Act, the Police and the Medical Officer of Health provided reports to Council regarding alcohol related harm in our community, in accordance with the Act.
- 17 Following this, there has been no additional local information provided to demonstrate the on-going issues regarding alcohol. E.g. to establish if the level of alcohol related harm is increasing/decreasing or has plateaued, or if the introduction of the Act has seen an improvement and to what degree.
- 18 Following the implementation of the Act and recent case law, it is established that councils can take a precautionary approach to the introduction of an LAP e.g. a reduction of the maximum trading hours, providing the content is in accordance

with the object of the Act to minimise the harm caused by the excessive or inappropriate consumption of alcohol.

- 19 Council would not need to provide evidence of the need to reduce the maximum trading hours, but would need to demonstrate how reducing access to alcohol can assist in minimising the harm caused from excessive or inappropriate consumption of alcohol. It would be the responsibility of any opposition of this to prove otherwise.
- 20 However, to support Council's reasoning for a precautionary approach, if local information was obtained on a regular basis, to compare this to the baseline data obtained in 2012, this would show the trending of the issues to assist Council in its decision making, which would reduce the risk of any successful appeals to the LAP.
- 21 The Accident Compensation Corporation ("ACC") has recently worked with the Wanaka Alcohol Group ("WAG") to undertake a needs assessment of alcohol related issues specifically for Wanaka. The report for this work is due in the coming few weeks, which may identify actions and projects needed to reduce alcohol related harm.
- 22 Following a recent meeting including Council's Regulatory Manager, ACC and Southern District Health Board, a proposal was discussed to undertake a needs assessment of the alcohol related issues for the Queenstown Lakes District.
- 23 It is proposed that if a needs assessment was undertaken from the information we currently have, and also utilised information from other agencies and organisations on alcohol related harm, along with the 2012 baseline data from the Police and Medical Officer of Health, areas where other work and projects are needed could be identified. It is proposed that the needs assessment and comparative data would assist in determining and possibly developing an LAP.

## **Strategy**

- 24 While an LAP may provide some benefit to the community to reduce alcohol related harm, if a strategy was developed (following a needs assessment) this could also consider the objectives and aims of other community stakeholders e.g. Police, Public Health South, Wanaka Alcohol Group, Jigsaw etc, to enable Council to determine what areas of work could have the greatest positive impact, and where and LAP could provide the most successful reduction of alcohol related harm across the district.
- 25 It is recommended that prior to the advancement of any LAP, a needs assessment is undertaken with ACC and an alcohol strategy is developed to determine the objectives to be achieved regarding the reduction of alcohol related harm across our community.

## **Options**

- 26 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.

## 27 Option 1 Status Quo – No LAP

### *Advantages:*

28 Reduced costs, review of success of the LAPs of other TAs

29 If there is no LAP developed, there are no day to day staffing costs regarding the development of this. In addition there are no litigation costs of a likely challenge to any LAP that the Council developed.

### *Disadvantages:*

30 Without an LAP, there are likely to be more alcohol licences issued in accordance with the Act. Arguably there are potential reductions to alcohol related harm that are not being realised as a result of not having an LAP.

## 31 Option 2 Develop and implement an LAP

### *Advantages:*

32 Clarity regarding alcohol licences, reduce alcohol related harm

33 An LAP could provide further clarity to the community on the number of licences permitted, by type and location (if Council wanted to restrict the density of alcohol licences).

34 Arguably, there would be a reduction of alcohol related harm if an LAP was implemented with a reduction of maximum trading hours.

### *Disadvantages:*

35 Any draft LAP is likely to be challenged, and the litigation to defend this could be expensive.

36 An appeal against a draft LAP would be heard by ARLA, which may require Council to remove certain aspects of the LAP.

## 37 Option 3 Undertake an alcohol needs assessment and develop an alcohol strategy

### *Advantages:*

38 Provides local information, direction on what is needed and measurable targets

39 Undertaking a needs assessment would assist in identifying the information available and missing to demonstrate where an LAP could assist. This would also identify work that is needed to provide information to assist Council in its decision to develop an LAP or not.

40 Having a strategy would enable Council to identify what the community outcomes are, to provide visibility to our community on what Council is trying to achieve, how and when.

*Disadvantages:*

- 41 Time and costs, negative perception
- 42 An alcohol needs assessment study will take time and money to undertake, which some may see as a further delay to the development of an LAP. This may be perceived in a negative manner by some, who believe an LAP is needed immediately with trading hours reduced.
- 43 This report recommends **Option 3** for addressing the matter, as this option will provide Council with the most clarity regarding the needs regarding alcohol related harm, what other work needs to be considered to address the needs of our community and where an LAP, if necessary, will give the most effect.

***Significance and Engagement***

- 44 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because of the level of community interest, the decision will impact on the people of the district.

***Risk***

- 45 This matter related to the operational risk OR004 – Serious injury to a member of the community and 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 these risks because an LAP could assist in the reduction of alcohol related harm in our community, but it is also a strategic risk to ensure that Council is working within the requirements of the Sale and Supply of Alcohol Act regarding monitoring and enforcement.
- 46 The recommended option considered above mitigates the risk by: Treating the risk - putting measures in place which directly impact the risk.

**Financial Implications**

- 47 There could be some financial implications for the undertaking of an alcohol needs assessment of approximately \$10,000. This work has not been budgeted for, however Council is in consultation with ACC which has indicated that it may be in a position to fund this. If funding is not provided, an additional report would be provided to Council for consideration.
- 48 The development of an alcohol strategy will require officer time to work with other key community stakeholders, however it is not anticipated that there will be additional costs outside the budget.
- 49 There is a budget established 2016/2017 (\$70,000) for any litigation to challenge an LAP once developed.

**Council Policies, Strategies and Bylaws**

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

- Enforcement Strategy and Prosecution Policy
- Liquor Licensing Policy
- Alcohol Ban Bylaw

51 The recommended option is consistent with the principles set out in the named policy/policies.

52 This matter is included in the 10-Year Plan/Annual Plan

- Volume 1 – Regulatory Functions and Services

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

53 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 establishing clear areas of interest to reduce alcohol related harm, with measurable targets to be achieved;
- 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**

54 The persons who are affected by or interested in this matter are all residents and ratepayers of the Queenstown Lakes district community, iwi, visitors and organisations who are dealing with alcohol related harm.

55 The Council has previously undertaken an on-line survey regarding alcohol related harm in our community when considering an LAP. Council has also worked with the Police and Medical Officer of Health to request information (2013) to assist Council in its decision making regarding the need for an LAP.

56 The responses from the community varied, and will continue to vary as to the desire and need for an LAP. Some agencies e.g. Police and Medical Officer of Health have identified their desire for an LAP e.g. to reduce the maximum trading hours.

57 Once an LAP is developed, this would be consulted on following the special consultative procedure.