

QLDC Council

10 August 2023

Report for Agenda Item | Rīpoata moto e Rāraki take [2]

Department: Strategy & Policy

Title | Taitara : Proposed Alcohol-Free Areas in Public Places Bylaw 2018 for adoption

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to provide information and present options to Council, so that it can make decisions on the draft Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui (the draft bylaw, **Attachment A**), and to present the draft bylaw for adoption.

Executive Summary | Whakarāpopototaka Matua

Officers commenced the process to review the bylaw by undertaking preliminary engagement in late 2022. On 23 March 2023, Council adopted and released a statement of proposal (**Attachment B**), which included the draft bylaw for consultation in accordance with the special consultative procedure, with consultation occurring between 3 April and 5 May 2023.

The hearings panel received written and oral submissions at its meeting on 15 June 2023. The hearings panel proposed changes to the draft bylaw that went out for public consultation. The table below summarises the key aspects of the draft bylaw that went out for formal consultation, and the changes that the hearings panel recommended.

Key aspects of the draft bylaw that went out for consultation	Changes recommended by the hearings panel
Continuation of the year round 8pm – 8am bans for Queenstown and Wānaka.	Continuation of the year-round alcohol-free times for Queenstown and Wānaka, but revise these to be from 6:00 pm to 6:00 am , to reflect feedback from consultation.
Remove the 8pm to 8am year-round ban for Frankton, Arrowtown and Hāwea, as there is insufficient evidence to support these.	Maintain the year-round bans for Frankton, Arrowtown and Hāwea, but change these to 6:00 pm to 6:00 am , and amend the alcohol-free area boundaries, to reflect feedback from consultation.

Key aspects of the draft bylaw that went out for consultation	Changes recommended by the hearings panel
Addition of Christmas and Boxing Day as a permanent ban for Queenstown public places.	Addition of Christmas and Boxing Day as a permanent ban for Queenstown and Wānaka public places.
Continuation of the 27 December – 6 January ban for Queenstown and Wānaka.	No change proposed to this aspect of the draft bylaw by the hearings panel.
Continuation of Crate Day ban for Queenstown.	No change proposed to this aspect of the draft bylaw by the hearings panel.
Remove the Queenstown Winter Festival ban	No change proposed to removing this ban from the draft bylaw by the hearings panel.
Not applicable	Revise the alcohol-free areas for Wānaka, Hāwea, Arrowtown and Frankton, in response to submission and Police input.
Not applicable.	Change the terminology in the draft bylaw from 'ban' to 'alcohol-free areas' to reflect feedback from consultation.
Not applicable.	Recommend that Council consider a subsequent review of the bylaw with a view to implementing 24-hour, 365 day a year alcohol-free areas in specified public places.

This report is seeking a decision from Council to choose its preferred approach.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report.
2. **Note** that on 23 March 2023, Council determined, pursuant to section 155(1) of the Local Government Act 2002 that a bylaw is the most appropriate way of addressing the problem of crime or disorder caused or made worse by the consumption of alcohol in public places.
3. **Determine** prior to making the bylaw, pursuant to section 155(2)(a) of the Local Government Act 2002 that the draft Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui is the most appropriate form of bylaw.

4. **Determine** prior to making the bylaw, pursuant to section 155(2)(b) of the Local Government Act 2002, that the draft Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui does not give rise to any implications under the New Zealand Bill of Rights Act 1990.
5. **Adopt** the draft Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui (**Attachment C**), with the following changes from the draft bylaw that went out for consultation (strike out if change not adopted by Council):
 - a. revise alcohol-free area times to align with 6:00 pm to 6:00 am (currently 8:00pm – 8:00am);
 - b. retain the year-round bans for Frankton, Arrowtown and Hāwea, changing them to be from 6:00 pm to 6:00 am;
 - c. add Christmas and Boxing Day as a permanent ban for Wānaka public places (Queenstown was proposed in the draft bylaw that was consulted on);
 - d. revise the maps for the alcohol-free areas for Wānaka, Hāwea, Arrowtown and Frankton;
 - e. change the terminology in the draft bylaw from ‘ban’ to ‘alcohol-free areas’.
6. **Note** the hearings panel recommendation to investigate 24 hour 365 day a year alcohol-free areas in specified public places.
7. **Note** that in accordance with Section 157 of the Local Government Act 2002, public notice be given of the review of the Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui, advising:
 - a. that the bylaw will come into force on 2 October 2023;
 - b. that copies of the bylaw may be inspected, without fee, at all Council offices.

Prepared by:



Carrie Williams
Policy Manager

17 July 2023

Reviewed and Authorised^vby:



Michelle Morss
General Manager Strategy and Policy

20 July 2023

Context | Horopaki

- Two bylaws are currently under review and are being progressed and consulted on together for efficiency. This includes:
 - Alcohol Restrictions in Public Places Bylaw 2018 in place since November 2018, last reviewed in 2018 and due for review this year. If the review is completed before October 2023, it is eligible for a ten-year review period.
 - Activities in Public Places Bylaw 2016 in place since November 2016 and due for review and will expire if not reviewed prior to September 2023. Once reviewed, it will next have a five-year review requirement.
- Both bylaws have reached the stage in the process for deliberations and adoption. The current progress of the bylaw is set out in the diagram below.



- The review process and key milestones for this bylaw review are summarised below.

Date	Milestone
November 2022	Preliminary engagement – targeted emails to stakeholders as well as the opportunity for anyone in the community to provide general feedback on the bylaw
21 February 2023	Community and Services Committee recommended that Council endorse the draft bylaw for consultation.
23 March 2023	Council resolved to review the draft Alcohol Restrictions in Public Places Bylaw 2018 in accordance with the Special Consultative Procedure and appointed a hearings panel to receive submissions.
3 April – 5 May 2023	Submission period
15 June 2023 and 3 July 2023	Hearings and consideration of options by hearings panel
10 August 2023	Council deliberates and adopts bylaw

The current bylaw

4. The bylaw currently bans alcohol in specified public places (Queenstown, Frankton, Arrowtown, Wānaka and Hāwea) mapped in the bylaw as follows (called ‘specified periods’ in the bylaw):
 - from 8pm to 8am the following day
 - from 6am on the 27 December to 6am on 6 January of the following year
 - any additional period that may be defined by Council by resolution from time to time.
5. The bylaw also has specific bans relating to Queenstown specified public places only, including:
 - National Crate Day 12:00am-12:00am
 - Winter Festival from 6:00am on opening day to 6:00am the day after closing day.
6. The provision in the bylaw to introduce a ban in any additional period as defined by Council resolution has been invoked to ban alcohol on Christmas Day and Boxing Day in 2020, 2021 and 2022, for all specified public places.

The draft bylaw

7. Sections 147(2) and (3) of the Local Government Act 2002 (LGA) empower councils to make bylaws that regulate or control alcohol relative to public places. Sections 147A and 147B set out statutory criteria that are required to be met before a council imposes alcohol bans or other controls in a bylaw or by resolution in a bylaw. The effect of the criteria is to establish an evidential threshold for the imposition of alcohol controls, that is different and higher as compared to other bylaws.
8. The 23 March 2023 report to Council discussed the existing evidence for each ban. The evidence was also included as part of the statement of proposal that went out for public consultation. Based on the existing information and evidence, changes were proposed to the current bylaw, and are marked up in the draft bylaw.
9. The key aspects proposed in the draft bylaw that went out for consultation are:
 - continuation of the year round 8pm – 8am bans for Queenstown and Wānaka
 - remove the 8pm to 8am year-round ban for Frankton, Arrowtown and Hāwea, as there is insufficient evidence to support these
 - addition of Christmas and Boxing Day as a permanent ban for Queenstown public places
 - continuation of the 27 December – 6 January ban for Queenstown and Wānaka
 - continuation of Crate Day ban for Queenstown

- remove the Queenstown Winter Festival ban.
10. Minor changes to the bylaw definitions and clarifications to improve readability and alignment with other legislative changes, are tracked in the draft bylaw. The submissions received for each ban area and time are discussed in more detail below, with hearings panel recommendations.
11. The reason that the bylaw has '2018' at the end and not 2023 is because it is being reviewed inside of the five years since it was last reviewed. Maintaining the same year in the name signals that it is being 'reviewed' not newly 'made'. This is relevant because when a bylaw is reviewed inside the 5-year period, it is eligible next for a 10-year review period (unless Council elects to review it sooner). A 10-year review period is helpful because if the bylaw is working well, it is a significant savings on resources to not have to review it so frequently. Some submitters opposed a 10-year review period in their submission. It is open to Council to review a bylaw at any time, the LGA sets out the maximum allowable review periods.

Analysis and Advice | Tatāritaka me kā Tohutohu

Legal requirements for the imposition of alcohol restrictions in public places

12. Sections 147(2) and (3) of the LGA empowers councils to be able to make bylaws that regulate or control alcohol relative to public places. Sections 147A and 147B set out statutory criteria required to be met before imposing alcohol bans or other controls in a bylaw or by resolution in a bylaw. The effect of the criteria is to establish an evidential threshold for the imposition of alcohol controls, that is different and higher as compared to other bylaws.
13. If the existing bans in the current bylaw are to continue without amendment, section 147A(2) requires Council to be satisfied that the same levels of crime and disorder are likely to return if the ban does not continue.
14. To introduce a new alcohol ban, section 147A(1) requires Council to be satisfied that there is evidence that there is currently crime and disorder occurring during the proposed ban time, that is linked to alcohol consumption in that place.
15. In addition, section 147A(1)(b)(ii) requires Council to be satisfied that the bylaw is appropriate and proportionate in light of that crime and disorder.
16. The way the legislation is worded means that it requires existing evidence to show crime and disorder linked to alcohol consumption in public places to implement new bylaws; rather than bylaws being used for prevention.

Summary of submissions received

17. Council received 11 submissions on the draft bylaw. Points raised in the feedback are divided by the alcohol ban times and places below, including recommendations made by the hearings panel.

Continuation of 8pm – 8am bans for Queenstown and Wānaka

18. Existing information that was included with the draft bylaw that went out for consultation supported the continuation of a year-round 8pm to 8am bans for Queenstown and Wānaka specified public places. Most submitters supported the bans for these public places. There is sufficient evidence to support the ban and it is proportionate, considering the level of crime and disorder.
19. The presentation by the Queenstown Police at the hearings panel meeting provided information to indicate that starting the alcohol-free times at 8pm means that there had already been significant alcohol consumption in the public places, that is linked to crime and disorder. Additionally, that there is less evidence of alcohol related crime and disorder related to alcohol consumption occurring in the morning part of the 8pm to 8am ban time. Police produced the information and data and spoke to it at **Attachment C** at the hearings panel meeting. This data, whilst presented on a monitor at the hearings panel meeting, was not part of the written submission from Police received during the formal consultation period.
20. Based on this information, the hearings panel recommended that this alcohol-free time be shifted to commence at 6pm and end at 6am. Although some members of the community may oppose this change, there is sufficient evidence to support it, and it is within the scope of the statement of proposal went out for public consultation.

8pm – 8am bans for Frankton, Arrowtown and Hāwea public places

21. There was insufficient evidence to support the continuation of an 8pm to 8am ban in Frankton, Arrowtown and Hāwea available when the draft bylaw was endorsed. The formal consultation process provided an opportunity for stakeholders and the community to provide information to support or oppose these bans.
22. The hearings panel recommends to Council that it retain the alcohol-free areas for these public places, and reducing the size of the alcohol-free public spaces for each of these three communities. Section 147A(2) requires Council to be satisfied that the same levels of crime and disorder are likely to return if the ban does not continue.
23. While maintaining these alcohol-free areas in the bylaw is within the scope of the statement of proposal, officers recommend a cautious approach in determining whether the section 147A(2) criteria are met to continue the existing bans without amendment, in light of the evidence available.

Addition of Christmas and Boxing Day permanent ban

24. Based on the information and evidence available, the draft bylaw that went out for consultation proposed to add Christmas and Boxing Day as permanent bans for Queenstown only (not Wānaka, Frankton, Arrowtown or Hāwea), and that the ban time commence and end at 8am, in line with other permanent bans. The ban was recommended for Queenstown only because there was insufficient evidence of crime and disorder caused by alcohol consumption occurring on these dates for Wānaka, Frankton, Arrowtown or Hāwea.

25. All submitters who answered this question supported the addition of Christmas and Boxing Day as permanent bans for Queenstown public places.
26. Evidence used to support the previous temporary ban resolutions is relied on to support a permanent ban. There is adequate qualitative information of crime and disorder due to alcohol consumption in Queenstown on these dates in the years prior to the temporary alcohol bans being in place.
27. The hearings panel recommends that the permanent ban for Christmas and Boxing Day be added to the bylaw for both Queenstown and Wānaka public places, and that the timings for these bans be adjusted to commence and end at 6pm and 6am, in order to align with the year round bans for these public places.
28. While introducing a permanent alcohol-free area in the bylaw for Wānaka from 6am Christmas and ending at 6am the day after Boxing Day is within the scope of the statement of proposal, officers recommend a cautious approach in determining whether the section 147A(1) criteria are met, in light of the evidence available.

Continuation of 27 December – 6 January ban for Queenstown and Wānaka

29. The draft bylaw that went out for consultation proposed to continue the ban for Queenstown and Wānaka public places between 27 December and 6 January of the following year. Information from stakeholders and Police indicates that crime and disorder due to public alcohol consumption continues to be an issue for Queenstown and Wānaka public places during this time.
30. When the bylaw went out for consultation, there was insufficient evidence to support the continuation of the holiday ban for Frankton, Arrowtown and Hāwea, therefore the draft bylaw proposed to remove the ban for these places in the bylaw over these dates.
31. For Queenstown, seven submitters answered this question. Five supported the continuation of this ban, one person was neutral, and one person did not support this ban.
32. For Wānaka, seven submitters answered this question. Four supported the continuation of this ban for Wānaka public places for this period, two people were neutral and one person opposed this ban. The submitter who opposed the ban viewed that there was sufficient evidence shown to support a ban from 29 December to 3 January, but not for the 10 days proposed. They requested that Police provide more evidence of crime and disorder for the full date range proposed or adjust the ban timing accordingly.
33. The Police presentation showed information that supports the continuation of the alcohol-free area in Wānaka between these dates. This included data from December and January for the years 2019 through to 2022 showing that these months have materially more occurrences involving alcohol, as compared to the rest of the year.
34. The panel recommendation to support this provision in the bylaw for Queenstown and Wānaka public places is within the scope of the statement of proposal, and there is sufficient information and evidence for its continuation in the bylaw.

Continuation of Crate Day ban for Queenstown

35. The Crate Day ban for Queenstown was added to the bylaw as an outcome of the 2018 bylaw review. The definition of National Crate Day in the bylaw is flexible as it provides for any variation of this event e.g. a popularised, alcohol-focussed, free public event. Evidence used to support this ban when it was introduced is relied on as the evidential basis to support its continuation, alongside the ongoing national uptake and popularity of this event.
36. The draft bylaw continues the Crate Day ban for Queenstown and proposes that the ban times be adjusted to commence at 8am on the date of Crate Day and end at 8pm the next day, in line with the other permanent bans. All eight submitters who answered this question supported the continuation of this ban.
37. The hearings panel recommended to continue the alcohol ban for Crate Day in Queenstown and adjust the timing to commence at 6am on the day of Crate Day and end at 6am the next day, for consistency and to align with other timings proposed by the hearings panel. This adjustment is within the scope of the statement of proposal.
38. Council may implement temporary bans by resolution where there is evidence of a high level of crime and disorder due to consumption of alcohol, and that the ban is proportionate in light of the evidence, can be justified as a reasonable limitation on people's rights and freedoms.

Removal of Queenstown Winter Festival ban

39. Over the past several years, and exacerbated by COVID-19, the Queenstown Winter Festival event has reduced such that Police have reduced the resources previously engaged to regulate public alcohol consumption. Police no longer consider that there is evidence of crime and disorder due to public drinking to support a ban but will monitor with a view to advocating for reinstatement of a permanent or temporary ban if warranted.
40. The statement of proposal that was accompanied by the draft bylaw stated that it was proposed to remove this ban. One submission opposed removing this ban but did not provide any evidence of crime and disorder to support its continuation.
41. The hearings panel supported the recommendation that it be removed, in line with the draft bylaw.

Wānaka alcohol-free area maps

42. The draft bylaw that went out for consultation did not propose any changes to the maps for the alcohol-free areas in public places for Queenstown and Wānaka to the current bylaw. The maps have been updated to improve readability.
43. For Wānaka public places, four people supported the current ban areas, two people were neutral and one was against the current ban area. The person who did not support the current ban areas queried whether there is sufficient evidence of crime and disorder for the lakefront between the Yacht Club and Eely Point, Meadowstone and MacPherson Streets, the Wānaka Golf Course, and

asked why Lismore Park is not included. They also viewed that the ban area should not include the public places within residential neighbourhoods.

44. The Police presentation included a map of 'hot spots' for Wānaka, showing calls for services where alcohol was a contributing factor¹. Based on this, and the qualitative information provided by Police and other submitters, the hearings panel recommended the addition of Lismore Park to the alcohol-free area in Wānaka. Also as an outcome of this information, the hearings panel proposed to reduce the size of the specified public place for Wānaka, to exclude the golf course and Meadowstone area public places.
45. There is sufficient evidence to support these changes, and they are within the scope of the statement of proposal.

24-hour, 365 day a year ban for Wānaka and Queenstown public places

46. Five submitters provided written feedback in favour of a 24-hour, 365 day a year alcohol ban for Wānaka and Queenstown public places.
47. Police also requested that Council consider a 24-hour, 365 day a year ban when the bylaw was reviewed in 2018 and are of the view that it would prevent harm in Queenstown and Wānaka public places and remain consistent with other authorities both within Aotearoa New Zealand and internationally.
48. At the hearings panel meeting, Police and other submitted reiterated their request that Council consider a 24-hour, 365 day a year alcohol ban, as a preventative measure.
49. The hearings panel expressed support for a 24-hour, 365 day a year ban for Queenstown and Wānaka public places, but acknowledged that this a substantial departure from the draft bylaw that went out for consultation, and further consultation would be required before Council could import this into the draft bylaw.
50. Accordingly, the panel recommended that Council consider a subsequent review of the bylaw in the near future, with a view to implementing a 24-hour, 365 day a year ban in specified public places in the district. Whilst it is open to Council to review a bylaw at any time, review of this bylaw is not currently included in the work programme for the short term. If prioritised, officers would need to consider what other bylaw work would need to be deferred.

Alternative wording to 'alcohol ban'

51. Te Whatu Ora | National Public Health Service requested that Council consider alternative wording to 'alcohol bans', such as 'alcohol-free areas' or 'alcohol-free zones'. This was also raised when the bylaw was last reviewed in 2018. Council agreed that new signage and educational material promote 'alcohol-free zone', however the original wording remained in the bylaw.
52. The hearings panel supported this change in wording, and this change is within the scope of the statement of proposal. Accordingly, the name of the draft bylaw has been changed to the Alcohol-

¹ Police presentation to hearings panel, slide 14, Attachment D to this report.

Free Areas in Public Places 2018 and ‘alcohol-free areas’ instead of the term ‘bans’ has been used in the bylaw, where practical. Signage and educational material will also be updated.

Summary of recommendations by the hearings panel

53. The recommendations from the hearings panel to the draft bylaw from what went out for consultation include:

- shifting the timing of all alcohol-free times to 6pm to 6am, to reflect Police evidence and information
- maintain the year-round bans for Frankton, Arrowtown and Hāwea that were proposed to be removed in the draft bylaw that went out for consultation, but change these to 6:00 pm to 6:00 am, and contract the alcohol-free areas in these communities, to reflect feedback from consultation
- the addition of Christmas and Boxing Day as a permanent ban for Queenstown as well as Wānaka public places (only Queenstown was proposed in the draft bylaw that went out for consultation)
- change the terminology in the draft bylaw from ‘ban’ to ‘alcohol-free areas’ to reflect feedback from submitters.
- recommend that Council consider a subsequent review of the bylaw with a view to implementing 24-hour, 365 day a year alcohol-free areas in Queenstown and Wānaka.

Options and Analysis

54. 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.

55. **Option 1:** Accept all recommendations from the hearings panel and adopt the Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui.

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • Police retain an enforcement tool to help address crime and disorder associated with consumption of alcohol within specified public places. • Acts as a deterrent to the public consumption of alcohol in specified public places. 	<ul style="list-style-type: none"> • The limitation of rights and freedoms to possess and consume alcohol within certain public places would be retained, and there is a risk that some of the bans areas will be challenged. • The bylaw would be inconsistent with some feedback requesting fewer ban areas than what is proposed.

<ul style="list-style-type: none"> • Facilitates continued low levels of crime and disorder associated with the consumption of alcohol in the district. • There would be no negative economic impact to businesses due to the impacts and perception of crime and disorder associated with the consumption of alcohol in specified public places. • Council retains the ability to establish alcohol bans by resolution if LGA requirements are met. • Adopting the draft bylaw facilitates the timely completion of the bylaw review process. 	<ul style="list-style-type: none"> • There may be some confusion due to changing the ban time to 6:00 pm – 6:00 am from 8:00 pm - 8:00 am. • There is time and costs associated with implementation.
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

56. **Option 2:** That Council accept some of the recommendations of the hearings panel, and adopt a final version of the Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui.

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • Police retain an enforcement tool to help address crime and disorder associated with consumption of alcohol within Queenstown and Wānaka public places. • Ensures that rights and freedoms to possess and consume alcohol within specified public places in the district are appropriate and proportionate considering the evidence of crime and disorder that is linked to the consumption of alcohol in public places. • Acts as a deterrent to the public consumption of alcohol in central Queenstown and Wānaka. • Facilitates continued low levels of crime and disorder associated with the 	<ul style="list-style-type: none"> • May not respond to some of the recommendations raised in the submissions. • There may be an increase in alcohol-related crime and disorder in public places where alcohol bans are removed. • The existing limitations of rights and freedoms to possess and consume alcohol within certain specified public places in the district are retained. • The potential to move alcohol consumption in specified public places to other locations is continued, that some people may not support. • There is time and costs associated with implementation.

<p>consumption of alcohol in Queenstown and Wānaka.</p> <ul style="list-style-type: none"> • There would be no negative economic impact to businesses due to the impacts and perception of crime and disorder associated with the consumption of alcohol in Queenstown and Wānaka public places. • Council retains the ability to establish alcohol bans by resolution if LGA requirements are met. • Adopting an amended draft bylaw facilitates the timely completion of the bylaw review process. 	
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

57. **Option 3:** That Council not adopt the draft Alcohol-Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui, or propose a different way forward.

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • There would be no limitations of rights and freedoms to possess and consume alcohol within any public places in the district, which some people in the community may support. • There would be reduced time and cost associated with implementation of the bylaw. 	<ul style="list-style-type: none"> • The bylaw would lapse. • Police would lose a preventative and enforcement tool to help address crime and disorder associated to consumption of alcohol within specified public places. • The deterrent to public consumption of alcohol in specified public places would cease. • Having no alcohol ban areas may increase crime and disorder associated with the consumption of alcohol within specified public places. • There may be a negative economic impact to businesses due to the impacts and perception of crime and disorder associated with the consumption of alcohol in specified public places.

	<ul style="list-style-type: none">• There may be a reduced public perception of safety.• Council would have no ability to establish alcohol bans by resolution if LGA requirements are met.
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

58. This report recommends that Council proceed with **Option 2**. The advantages of this option are that it ensures that the changes to the draft bylaw meet LGA requirements, regulates crime and disorder associated with the consumption of alcohol in public places, whilst balancing individual rights and freedoms.

59. The hearings panel recommended that Council consider a subsequent review of the bylaw, to consider 24-hour, 365 day a year alcohol-free areas for certain public places. Council may review the bylaw at any time. Given review of this bylaw is not included in the current work programme for the short term, if prioritised, officers would need to consider what other bylaw work would need to be deferred. Accordingly, it is not included as a recommendation to this report, but it is open to Council add it as a recommendation.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

60. This matter is of low significance, as determined by reference to the Council’s Significance and Engagement Policy because:

- the matters have minimal to moderate impact on the community
- the proposal will not change the level of services provided by Council, or Council’s capacity
- there is a low level of financial consequence in adopting the recommended option.

61. The persons who are affected by or interested in this matter are residents/ratepayers and visitors to the Queenstown Lakes District.

62. Council has consulted on this matter in line with the Special Consultative Procedure.

Māori Consultation | Iwi Rūnaka

63. Council contacted Te Ao Marama and Aukaha to invite any feedback at the pre-engagement and the formal consultation stages of the review of this bylaw.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

64. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK00018 Damage to the Environment - noise pollution events and facilities and RISK00038 Lack of Alignment - strategies and policies within the QLDC Risk Register. This risk has been assessed as having a low inherent risk rating.

65. The approval of the recommended option will support the Council by allowing it to retain the risk at its current level. This shall be achieved by regular review of this bylaw to ensure that it responds appropriately to the issues in the district regarding alcohol control in public places.

Financial Implications | Kā Riteka ā-Pūtea

66. Costs associated with this work, such as staff time and advertising, are proposed to be met within current budgets. There would be additional costs and resourcing if Council chooses to review the bylaw to consult on a 24 hour, 365 day a year alcohol-free areas in specified public places.

67. There are no proposed changes in the draft bylaw to current operational practice.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

68. The following Council policies, strategies and bylaws were considered:

- the outcomes and principles of Vision Beyond 2050
- QLDC Annual Plan
- the QLDC Ten Year Plan 2021-31.

69. The recommended option is consistent with the principles set out in the named instruments.

70. Provision for bylaw review is included in the Ten Year Plan/Annual Plan.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

71. The LGA sets out the obligations of Council when making or reviewing bylaws. Council is empowered by sections 145, 147 and 147A-C of the Act to make bylaws to control the consumption, bringing, and possession of alcohol in public places to reduce alcohol related harm. The base determination, notification and consultation procedures set out under sections 155, 156 and 157 of the LGA, apply. The draft bylaw, statement of proposal and associated reports have been legally reviewed.

72. Council is empowered by sections 145, 147 and 147A-C of the LGA to make bylaws to control the consumption, bringing, and possession of alcohol in public places to reduce alcohol related harm. Section 147A sets additional specific criteria for alcohol control bylaws.

73. Council has undertaken consultation on the draft bylaw in accordance with the special consultative procedure outlined in sections 83 and 86 of the LGA.

Determinations

74. As part of the bylaw review process, Council is required to make determinations under section 155 of the LGA. Set out below is the assessment for each required determination.

Most appropriate way of addressing the perceived problem

75. Council determined, when adopting its statement of proposal for consultation on 23 March 2023, that a bylaw is the most appropriate way of addressing the problem of crime or disorder caused or made worse by the consumption of alcohol in public places within the district.

76. Across New Zealand, bylaws remain a common method used by local authorities to restrict the possession and/or consumption of alcohol in public places, and remain an effective tool used by Police to reduce and quickly address associated harm, including disorderly behaviour and criminal offending.

77. An alcohol control bylaw is the most appropriate option, as compared with having no bylaw, or implementing alternative preventative measures including community engagement and education measures and/or additional alcohol licensing measures.

Most appropriate form of bylaw

78. Council is required to determine whether the proposed bylaw is the most appropriate form of bylaw before it makes its decision. The draft bylaw is the most appropriate form of bylaw as the alcohol-free areas are set out to be easily enforced by Police and it provides the flexibility to respond to any need to establish additional temporary alcohol-free areas within the district where a high level of crime or disorder arises. It reflects feedback provided by Police and the wider community within the criteria set by the LGA.

New Zealand Bill of Rights Act 1990

79. Council is required to determine whether the draft bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA), which grants certain civil and political rights to people in New Zealand. In accordance with section 5 of the NZBORA, 'the rights and freedoms contained in the Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'.

80. While the draft bylaw provides that people can be asked to leave, or to stop consuming alcohol in alcohol-free areas, they are still able to enjoy alcohol responsibly in licensed premises and private premises in the specified public places during the alcohol-free times. Alcohol control bylaws prevent harm to the community and their adoption by Council is restricted by sections 147 and 147A-C of the Act. The provisions of the draft bylaw do not unreasonably interfere with any of the rights in the NZBORA.

Additional criteria for alcohol control bylaws

81. Before adopting an alcohol control bylaw, Council is required to be satisfied of the criteria under section 147A of the Act. As the draft bylaw is proposed to review the current bylaw, as well as introduce new alcohol-free times, subsection 147A(2) and (3) apply. Set out below is the assessment by staff for each s 147A criterion.

Reasonable limitation on people's rights and freedoms

82. Council is required to be satisfied before adopting the draft bylaw, that it can be justified as a reasonable limitation of people's rights and freedoms. This is a more specific subset of the general NZBORA determination above. The draft bylaw will limit the rights and freedoms of persons 18 years and older to possess and consume alcohol within the specified public places and times.

83. The ability to establish additional specified public places and times by separate resolution of Council, does not by itself limit people's rights and freedoms. This is required to be separately considered under section 147B of the LGA prior to establishment of any additional alcohol ban areas.

84. If the proposed draft bylaw comes into force, the specified public places will be limited within the central area of certain communities, as reflected in the amended maps. It does not impact possession or consumption of alcohol within private or licensed premises within, or outside of, those areas.

85. Officers recommend a cautious approach in determining whether the section 147A criteria are met to support the addition of Wānaka permanent bans for Christmas and Boxing Day, as well as maintaining the alcohol-free areas for Frankton, Arrowtown and Hāwea, to ensure that these are a reasonable the limitation on people's rights and freedoms to prevent harm arising from crime and disorder "caused or made worse by" the consumption of alcohol within the alcohol ban areas.

Crime or disorder

86. For the alcohol bans in the current bylaw, Council is required to be satisfied there is evidence that the level of crime or disorder experienced before the bylaw was made (and linked to alcohol consumption in these areas and times), is likely to return to the specified public areas, if the bans in the bylaw do not continue. The evidence provided by Police and other key stakeholders for each alcohol ban was included in the statement of proposal, and the submissions booklet to the hearings panel report. The Police presented further data via public presentation at the Committee hearing, which Police spoke to during their oral submissions.

87. As most Police interactions arising related to alcohol being consumed or possessed within the current alcohol ban areas are resolved through bylaw education, it is reasonable to foresee that without a bylaw in place, the ability of Police to educate and in turn prevent alcohol-related crime and disorder occurring within the current alcohol-free area is reduced significantly.

88. With no bylaw in place to act as an education and enforcement tool, the absence of preventative education may lead to crime and disorder, caused or made worse by the consumption of alcohol

within the current alcohol ban areas in Queenstown and Wānaka, being likely to increase relative to the low numbers currently identified by Police. This applies to the proposed 6pm to 6am year-round bans for both Queenstown and Wānaka, the addition of Christmas and Boxing Day as a permanent ban for Queenstown, as well as the Crate Day and the 27 December to 6 January ban for Queenstown and Wānaka.

89. Officers recommend a cautious approach in determining whether the section 147A criteria are met to support the addition of Wānaka permanent bans for Christmas and Boxing Day, as well as maintaining the alcohol-free areas for Frankton, Arrowtown and Hāwea. Council may choose to impose bans in the absence of more evidence, but risk such bans being challenged.

Appropriate and proportionate in the light of crime or disorder

90. Council must also be satisfied that the alcohol control bylaw is appropriate and proportionate to the crime and disorder likely to arise in the ban areas without a bylaw in place.
91. The proposed 6pm to 6am year-round bans for both Queenstown and Wānaka, the addition of Christmas and Boxing Day as a permanent ban for Queenstown, as well as the Crate Day and the 27 December to 6 January ban for Queenstown and Wānaka are appropriate and proportionate, because these bans focus on specific dates and times where there is evidence of crime and disorder due to alcohol consumption in public places. The comment above in exercising caution for the addition of a Wānaka permanent ban for Christmas and Boxing Day, as well as maintaining the alcohol-free areas for Frankton, Arrowtown and Hāwea also applies here, in order to show that these proposed bans are appropriate and proportionate.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

92. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. The draft bylaw promotes and improves community health and safety by reducing the potential for alcohol related offensive behaviour and harm, damage, disorder, and crime. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act and:
- 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 significantly alter 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 | Kā Tāpirihaka

A	Marked up version - Alcohol Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui, changes recommended by hearing panel highlighted
B	Statement of proposal
C	Clean version - Alcohol Free Areas in Public Places Bylaw 2018 / Ngā ture aukatinga waipiro i ngā wāhi tūmatanui, changes recommended by hearing panel highlighted
D	Police presentation to hearings panel, 15 June 2023
E	Current Alcohol Restrictions in Public Places Bylaw 2018
