

QLDC Council
26 June 2014

Report for Agenda Item 9

Department:

Legal and Regulatory

9. Proposed Enforcement Strategy and Prosecution Policy.

Purpose

- 1 To approve a new Queenstown Lakes District Council Enforcement Strategy and Prosecution Policy.

Recommendation

- 2 *That Council:*
 - a. **Approve** the proposed Queenstown Lakes District Council Enforcement Strategy and Prosecution Policy.

Prepared by:



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11/06/2014

Reviewed and Authorised by:



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11/06/2014

Background

- 3 The Chief Executive's work plan requires the development of an Enforcement Strategy.
- 4 The Enforcement Strategy will set out the Council's enforcement and prosecution objectives, priorities and activities.
- 5 As part of the development of the Enforcement Strategy, Council's existing Enforcement and Prosecution Policy was reviewed.
- 6 The Council adopted the current Queenstown Lakes District Council Enforcement and Prosecution Policy on 19 March 2004.
- 7 It was determined that the current Queenstown Lakes District Enforcement and Prosecution Policy should be replaced and updated to reflect the Council's Enforcement goals and priorities from 1 July 2014.

Comment

Enforcement Strategy

- 8 The proposed Enforcement Strategy and Prosecution Policy will assist Council in prioritising and targeting enforcement action where it is appropriate and where it is most needed.
- 9 The proposed strategy identifies the Council's goals and priorities regarding enforcement action, along with the community outcomes in a regulatory context. It assesses the current and historic trends for each regulatory activity and identifies what the 'areas of focus' for on-going enforcement are.
- 10 The strategy outlines how the Council will achieve its goals through:
 - a) Self-Compliance: this reduces the cost and time to Council of enforcing various regulations. The strategy specifies the principles to foster a high level of self-compliance;
 - b) Enforcement: The considerations to determine the level of enforcement response;
 - c) Fairness: Council will strive to conduct itself in a manner that public see to be fair and reasonable, to promote public respect for the laws being enforced; and
 - d) Interagency Collaboration: Council will work with other agencies in order to effectively achieve desired community outcomes.
- 11 The Enforcement Strategy and Prosecution Policy will help enable Council to ensure the efficient use of staff resources to provide effective enforcement outcomes.
- 12 The proposed strategy provides clear details as to what the community can expect from Council regarding enforcement action to address non-compliance with various regulations.
- 13 It outlines the principles for Council taking enforcement action, what enforcement options are available and the reason for the response taken.

Prosecution Policy

- 14 After a review of the current Enforcement and Prosecution Policy it was decided to prepare a new Prosecution Policy to clearly identify the procedures in relation to prosecutions by Council.
- 15 The proposed prosecution policy is based on the Solicitor General's Prosecution Guidelines, which was developed by Crown Law to assist regulatory agencies which have a prosecution function.
- 16 Prosecution is the most significant enforcement tool Council has, and should only be undertaken where the non-compliance meets both an evidential and public interest test.
- 17 Public confidence in Council taking prosecutions is imperative. It is therefore equally important that the community understands how Council decides to prosecute (or not) in a fair and consistent manner.
- 18 The proposed prosecution policy outlines the decision making framework and the process for taking a prosecution.

Financial Implications

- 19 There are no direct financial or budgetary implications regarding the implementation of a new enforcement strategy or prosecution policy. However, there will be staff resourcing implications due to the strategic priority areas identified.

Local Government Act 2002 Purpose Provisions

- 20 Section 10 of the Local Government Act 2002 ("LGA2002") identifies a key purpose of local government is to undertake good quality regulatory functions in the most cost-effective way.
- 21 Having an enforcement strategy assists in the identification of priority areas to enable the efficient use of resources for the present and any future issues.

Council Policies

- 22 The following Council Policies were considered:
 - Queenstown Lakes District Council Enforcement and Prosecution Policy: this policy has been reviewed and updated to reflect the Council's enforcement goals and priorities, 10 years after the policies were adopted;
 - Policy on Significance: the matters being reported on are not significant as they do not meet the thresholds specified within the policy;
 - Annual Plan/10-Year Plan: the proposed strategy and policy will assist in undertaking Councils regulatory activities, and in meeting community outcomes.

Consultation

- 23 No external consultation has been undertaken in the development of the strategy or the review of the prosecution policy.

Publicity

24 There will be publicity regarding both the Enforcement Strategy and Prosecution Policy to:

- a) Educate the community as to what is expected from them to assist in increasing the level of self-compliance; and
- b) Advising the community as to what enforcement action they can expect from Council.

Attachments

- A Queenstown Lakes District Council Enforcement Strategy and Prosecution Policy
- B Enforcement Action Plan