

Attachment 3 - Attachment 2 Current Activities in Public Places Bylaw 2016(1)



Activities in Public Places Bylaw 2016

Queenstown Lakes District Council

Date of making: 29 September 2016 [minor amendment made on 6 October 2016]

Commencement: 30 November 2016

This bylaw is adopted pursuant to the Local Government Act 2002 and Health Act 1956.

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Part 1 – Preliminary

1 Title and Commencement

- 1.1 This bylaw is the Queenstown Lakes District Council Activities in Public Places Bylaw 2016.
- 1.2 This bylaw comes into force on 30 November 2016.

2 Area within which Bylaw applies

- 2.1 This bylaw applies to the Queenstown Lakes District.

3 Purpose

- 3.1 The purpose of this bylaw is to:
 - (a) protect the public from nuisance;
 - (b) minimise the potential for offensive behaviour in public places;
 - (c) protect, promote and maintain public health and safety;
 - (d) protect land under Council control from misuse, damage or loss; and
 - (e) regulate trading in public places.

4 Bylaw to bind the Crown

- 4.1 Except as provided in section 153 of the Local Government Act 2002, the Crown is bound by the provisions of this bylaw.

5 Delegation

- 5.1 Any of the powers and functions of the Council set out in this bylaw may be delegated by it to its Chief Executive Officer and sub-delegated by the Chief Executive Officer to any other Officer of Council.

6 Interpretation

- 6.1 In this bylaw, unless the context otherwise requires, –

Busker means a person or persons who is or are busking.

Busk means to perform in a public place, including but not limited to the playing of an instrument, singing, dancing, juggling, mime,

puppetry, performance art, conjuring, acrobatics, recitation, undertaking artworks and performing other acts of theatrical or visual form.

Busking and Busking performance have a corresponding meaning.

Council means the Queenstown Lakes District Council.

Enforcement officer means a person appointed to be an enforcement officer or an environmental health officer by the Queenstown Lakes District Council.

Event means an organised, temporary activity that takes place on one or more days including a market, pop-up stall, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon or triathlon. For the purposes of this bylaw an indoor performance, indoor private function, tasting and sampling activity giveaway, sports practice or training is not an event.

Event organiser means a person who has responsibility or oversight of the management, operation or organisation of an event, and includes a person who is an owner, occupier or manager of an event.

Licensed premises has the meaning given in the Sale and Supply of Alcohol Act 2012.

Licensed premises tour organiser means a person who has responsibility or oversight of the management, operation or organisation of an organised licensed premises tour.

Market means a combination of trading activities at a common location, and includes an arts and craft market, farmers' market, and street market day.

Mind altering substance means a substance, whether synthetic or naturally occurring, which may alter consciousness, mood or emotions, or which might intoxicate. It includes psychoactive substances as defined in the Psychoactive Substances Act 2013 and what is commonly known as glue sniffing, but does not include:

- (a) medically prescribed substances ingested by the person for whom they were prescribed;
- (b) substances purchased from a pharmacy without a medical prescription;
- (c) alcohol as defined in the Sale and Supply of Alcohol Act 2012.

Nuisance has the same meaning as given in section 29 of the Health Act 1956 and includes a person, animal, activity or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place.

Organised licensed premises tour means a tour of two or more licensed premises involving a group of persons, that is marketed or advertised to the public or a section of the public in any form. It does not include a privately organised tour of licensed premises that is not marketed or advertised to the public.

Offence means an offence under section 239 of the Local Government Act 2002.

Permission means an official approval granted by the Council under clause 13.1 of this Bylaw.

Pop up stall means a stand, stall, structure, vehicle, awning, table or temporary structure from which goods or services are offered for distribution or sale, and includes a temporary food outlet, or a temporary drinks outlet. It does not include any activity forming part of a market.

Public place means any place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it.

Trading activity means an activity undertaken by any person where goods or services are offered for sale or hire, whether for commercial or charitable purposes.

Temporary drinks outlet means a stall or vehicle, whether self propelled or not, from which drinks are offered or displayed for sale, or from which drinks may be ordered, and includes a coffee cart. It excludes a stall or vehicle that primarily offers goods and/or services other than drinks.

Temporary food outlet means a stall or vehicle, whether self propelled or not, from which food is offered or displayed for sale, or from which food may be ordered. It excludes a stall or vehicle that primarily offers goods and/or services other than food .

- 6.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without any formality.
- 6.3 The Interpretation Act 1999 applies to this Bylaw.

Part 2 – Specific Controls

7 Nuisances

- 7.1 A person must not use a public place to:
- (a) do anything to cause or allow a nuisance to occur.
 - (b) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place.
 - (c) use any material or thing recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person.
 - (d) do anything to cause or allow damage to any property owned or controlled by the Council.

8 Consumption of mind altering substances

- 8.1 A person must not consume, inject or inhale any mind altering substance in a public place.

9 Distribution of leaflets and canvassing

- 9.1 A person must not in connection with a trading activity in a public place:
- (a) deposit leaflets, flyers or other promotional material on any vehicle.
 - (b) distribute leaflets, flyers or other promotional material except within retail premises offering related goods or services for sale or hire provided the owner or occupier has given permission for the distribution to occur.
 - (c) distribute samples unless the distribution of samples occurs within retail premises offering related goods or services for sale or hire provided the owner or occupier has given permission for the distribution to occur.
 - (d) tout, solicit, canvass, entice, or accost any person.

10 Events in public places

- 10.1 An event organiser must not cause or allow an event to occur in a public place, without first obtaining permission from the Council under Part 3 of this bylaw, unless an enforcement officer is satisfied on reasonable grounds that the event organiser does not require permission because the event is:
- (a) of a small scale;

- (b) not open to the public or a section of the public; and
 - (c) is unlikely to cause a nuisance in a public place or risk to public health and safety.
- 10.2 A person must not undertake any trading activity (including a temporary food or temporary drinks outlet) in connection with an event held in a public place unless the event is authorised by permission granted under Part 3 of this bylaw, or the event does not require permission under clause 10.1.
- 10.3 If an enforcement officer has reasonable grounds to believe that an event organiser is not complying with clause 10.1, the enforcement officer may direct the event organiser to close down the event until permission is obtained under Part 3 of this bylaw.
- 10.4 If an enforcement officer has reasonable grounds to believe that permission has been breached, or the event is causing a nuisance in a public place, or it is necessary to protect public health and safety, the enforcement officer may:
- (a) direct that the event organiser comply with any relevant condition of the event permission or to take action to prevent the nuisance from continuing or to protect public health and safety;
 - (b) revoke the event permission if the event organiser does not comply with the enforcement officer's direction in (a), within a reasonable period of time; and
 - (c) issue a direction requiring the event organiser to close down the event if the permission is revoked under (b).
- 10.5 An event organiser must comply immediately with a direction from an enforcement officer under clause 10.3 or 10.4.
- 11 Organised licensed premises tours**
- 11.1 A licensed premises tour organiser must not cause or allow an organised licensed premises tour to occur in a public place, without first obtaining permission from the Council under Part 3 of this bylaw.
- 11.2 No person, agency, or business may sell tickets to, or otherwise promote an organised licensed premises tour that is to occur in a public place unless the tour is authorised by permission from the Council under Part 3 of this Bylaw.
- 11.3 If an enforcement officer has reasonable grounds to believe that a licensed premises tour organiser is not complying with clause 11.1, the enforcement officer may direct the licensed premises tour organiser to stop the organised licensed premises tour until permission is obtained under Part 3 of this bylaw.

- 11.4 If an enforcement officer has reasonable grounds to believe that an organised licensed premises tour permission has been breached in a public place, or the organised licensed premises tour is causing offensive behaviour or a nuisance in a public place, the enforcement officer may:
- (a) direct that the licensed premises tour organiser comply with any relevant condition of the organised licensed premises tour permission or to take action to prevent the offensive behaviour or nuisance from continuing;
 - (b) revoke the organised licensed premises tour permission if the licensed premises tour organiser does not comply with the enforcement officer's direction in (a), within a reasonable period of time; and
 - (c) issue a direction requiring the licensed premises tour organiser to stop the organised licensed premises tour if the permission is revoked under (b).
- 11.5 A licensed premises tour organiser must comply immediately with a direction from an enforcement officer under clause 11.3 or 11.4.
- 12 Busking**
- 12.1 A person may busk in a public place provided all of the following conditions are met:
- (a) the busker has registered his or her details in the Council online busking register and agreed to comply with all busking conditions;
 - (b) the busker is at a distance of at least 50 metres from any other busker;
 - (c) the busker is at a distance of at least 3 metres from any residential, retail or commercial premises unless the busker has permission of the owner or occupier of the premises to busk at a closer distance;
 - (d) the busker does not obstruct pedestrian flow;
 - (e) the busker does not perform in the same location for longer than one hour, unless there is a 30 minute break between performances;
 - (f) the busker does not use an amplified sound system;
 - (g) the busker does not perform in a manner that in the reasonable opinion of a Council officer causes or is likely to cause an injury or nuisance to any person or damage to any property owned or controlled by the Council;

- (h) the busker does not at any time argue, intimidate, insult or abuse the public; and
 - (i) The busker does not perform within 200 metres of the area designated for an event authorised by Council.
- 12.2 A busker who cannot meet all of the conditions in clause 12.1 of this bylaw must not busk except as authorised by:
 - (a) permission obtained prior to commencing a busking performance under Part 3 of this bylaw; or
 - (b) a resource consent issued by the Council.
- 12.3 If an enforcement officer has reasonable grounds to believe that a busker is not complying with the conditions in clause 12.1 above, or the conditions of a busking permission, or is causing offensive behaviour or a nuisance in a public place, the enforcement officer may direct that the busker:
 - (a) comply with any relevant condition or to take action to prevent the offensive behaviour or nuisance from continuing; and
 - (b) if the busker does not comply with the enforcement officer's direction in (a) within a reasonable time, the enforcement officer may:
 - (i) revoke the busking permission;
 - (ii) direct the busker to cease the busking performance; and
 - (iii) direct that the busker move to a new location.
- 12.4 A busker must comply immediately with a direction from an enforcement officer under clause 12.3.

Part 3– Permissions

13 Application for Council permission

- 13.1 The Council may grant permissions for an event, an organised licensed premises tour, or a busking performance.
- 13.2 When deciding whether to issue permission under this bylaw, the Council may have regard to:
 - (a) whether the proposed activity may result in an undue restriction on vehicle traffic or pedestrian flow;
 - (b) whether the proposed activity may pose a risk to public health and safety;

- (c) whether the proposed activity may pose a risk to council property;
 - (d) whether the proposed location of the activity is appropriate given the nature and scale of the activity proposed;
 - (e) whether the proposed activity may cause a nuisance; and
 - (f) whether the proposed activity is consistent with any applicable Council policies and plans.
- 13.3 The Council may grant permission under this clause subject to the conditions for that proposed activity set out in this part of the bylaw.
- 14 Conditions for event permission**
- 14.1 When granting an event permission, the Council may impose conditions, including, but not limited to:
- (a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;
 - (b) the duration of the permission;
 - (c) the location of the activity, taking into account the surrounding land uses and street layout and the minimum clear widths of footpaths required for pedestrian access;
 - (d) a requirement that the activity is not located in a public place in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;
 - (e) that a continuous accessible path of travel is provided for;
 - (f) requiring compliance with a traffic management plan and/or any waste management and minimisation plan;
 - (g) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;
 - (h) safety, health and hygiene requirements;
 - (i) the requirement for public liability insurance;
 - (j) restrictions on the use of amplified music/sound; and
 - (k) requiring compliance with relevant Council policies and plans.
- 14.2 An event organiser must ensure that the event does not breach the conditions of the permission issued under clause 14.1.

- 14.3 An event organiser must ensure that written confirmation of permission is either displayed during the event or can be produced when requested to do so by an enforcement officer.
- 15 Conditions for organised licensed premises tour permission**
- 15.1 When granting an organised licensed premises tour permission, the Council may impose conditions, including, but not limited to:
- (a) the designated times of operation (hours and days) for the organised licensed premises tour;
 - (b) The ratio of staff involved in conducting tours to patrons;
 - (c) the duration of permission;
 - (d) a limit on group size for each organised licensed premises tour;
 - (e) measures for dealing with intoxicated persons and persons involved in intimidatory or other offensive behaviour;
 - (f) a requirement that the organised licensed premises tour is not conducted in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;
 - (g) safety, health and hygiene requirements;
 - (h) restrictions on the use of amplified music/sound;
 - (i) requiring compliance with other Council bylaws including the Alcohol Ban Bylaw 2014 and any applicable Council policies and plans; and
 - (j) requiring all staff members involved in conducting tours to:
 - (i) attend a host responsibility qualification or similar course or provide in-house training approved by an enforcement officer; and
 - (ii) attend crowd control training or provide in-house training approved by an enforcement officer.
- 15.2 A licensed premises tour organiser must ensure that the organised licensed premises tour does not breach the conditions of the permission granted under clause 15.1.
- 15.3 A licensed premises tour organiser must ensure that written confirmation of permission can be produced when requested to do so by an enforcement officer.

16 Conditions for busking permission

- 16.1 When granting a busking permission, the Council may impose conditions, including, but not limited to:
- (a) the minimum distance between the applicant and another busker;
 - (b) the minimum distance from other permitted events;
 - (c) the minimum distance from any retail premises;
 - (d) measures to mitigate obstructions to pedestrian flow;
 - (e) duration of busking performance and breaks between busking performances;
 - (f) the hours during which the performance can occur;
 - (g) the maximum volume of the busking performance;
 - (h) whether amplified sound can be used; and
 - (i) any other condition in the reasonable opinion of a Council officer is necessary to reduce the likelihood of the busking performance causing an injury or nuisance to any person.
- 16.2 A busker must ensure that the busking performance does not breach the conditions of the permission granted under clause 16.1.
- 16.3 A busker must ensure that written confirmation of permission can be produced when requested to do so by an enforcement officer.

17 Request for review of original decision

- 17.1 A person may request in writing for the Council to review its decision to:
- (a) decline an application for permission under this bylaw;
 - (b) impose certain conditions under this bylaw; or
 - (c) revoke permission under this bylaw.
- 17.2 The Council has a discretion to review the original decision, and to either:
- (a) confirm its original decision;
 - (b) amend the conditions in the permission; or
 - (c) issue a new permission.

18 Fees

- 18.1 The Council may by resolution prescribe fees for:
- (a) permission granted under Part 3 of this bylaw;
 - (b) processing an application;
 - (c) reviewing an existing permission or a decision to decline or revoke permission; and
 - (d) inspecting trading activities for the period of the permission.

Part 4 – Enforcement

19 Enforcement

- 19.1 The Council may use its powers under the Local Government Act 2002 and Health Act 1956 to enforce this bylaw.

20 Offences and Penalties

- 20.1 Every person who contravenes this bylaw commits an offence.
- 20.2 Every person who commits an offence against this bylaw is liable to the penalty imposed under section 242 of the Local Government Act 2002.

21 Revocations

- 21.1 The Control of Activities and Obstructions in Public Places Bylaw 2010, including any amendments, is revoked.

Explanatory Note:

The Queenstown Lakes District Council Activities in Public Places Bylaw 2016 was adopted pursuant to a resolution passed by the Queenstown Lakes District Council on 29 September 2016 pursuant to the Local Government Act 2002 and Health Act 1956.

Mayor:

Janessa van Uden

Chief Executive Officer:

[Signature]

