

### Full Council

17 April 2025

#### Report for Agenda Item | Rīpoata moto e Rāraki take [1]

**Department:** Assurance, Finance & Risk

**Title | Taitara:** Queenstown Lakefront Traders and Activities in Public Places Bylaw 2023

#### Purpose of the Report | Te Take mō te Pūroko

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The purpose of this report is to provide information regarding issues with Queenstown lakefront traders, and options for Council to determine what next steps are appropriate to address these issues.

#### Executive Summary | Whakarāpopototaka Matua

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Queenstown Lakes District Council's ('QLDC') Monitoring and Enforcement Team ('M&E team') has been receiving ongoing public concerns in relation to pop-up stalls operating on the Queenstown lakefront in contravention of QLDC's Activities in Public Places Bylaw 2023 ('the bylaw').

Observations by the M&E team have confirmed that the majority of traders operating in this area are contravening duration of stay and separation requirements prescribed under the bylaw. Despite education and low-level enforcement action, significant non-compliance is still occurring. Elected members have previously indicated that in consideration of the remaining high levels of non-compliance, it would be inappropriate to continue with escalated enforcement action which would include the seizure of pop-up stalls.

A range of feedback has been received and considered by the M&E team from requests for service, business owners, community members, pop-up stall traders and internal stakeholders. Internal stakeholders raised concerns in regard to environmental health compliance and misuse of Council land contributing to damage of Council assets.

At a Council workshop in December 2024, officers presented a range of pathways available for consideration from the feedback received (Attachment A). The three pathways consisted of:

1. Status quo – proceed with escalation of enforcement tools as discussed at the May 2024 workshop including revocation of permits and seizure of stalls for continued non-compliance.
2. Exercise Clause 11.2 of the bylaw and prohibit trading from Queenstown lakefront and potentially other locations.
3. A range of other options including formally reviewing the bylaw, revoking the bylaw, introducing a licence regime/Licence to Occupy/booking scheme, or taking no action.

The advantages and disadvantages of the different pathways were discussed at this workshop. Councillors provided direction at the Council workshop that officers should present at a future Full Council meeting offering a more detailed analysis of the second pathway (prohibition of traders from an area) and its practical implementation.

### Recommendation | Kā Tūtohuka

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That the Council:

1. **Note** the contents of this report;
2. **Adopt** by resolution under Clause 11.2(a) of the Activities in Public Places Bylaw 2023 the prohibition of pop-up stalls indefinitely in the Queenstown Town Centre Zone, with existing pop-up stall permit holders able to continue to trade until their permit expiry date.
3. **Agree** that the cessation of issuing further permits for pop-up stalls within Queenstown Town Centre Zone commences with immediate effect.
4. **Note** that the permit scheme for busking and charity street collection will continue with no changes.

Prepared by:



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27 March 2025

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### Context | Horopaki

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1. Following adoption of the Activities in Public Places Bylaw 2023, Council's M&E Team started receiving complaints concerning pop-up stall holders<sup>1</sup> breaching the bylaw's requirements regarding the duration of stay and separation restrictions on the Queenstown lakefront permitted activity area.
2. In March 2024, Council officers presented (to inform elected members) at a Council workshop the intended next steps to gain compliance. This included exercising a range of enforcement tools including education, formal warnings, revocation of permits, trespassing and seizure of trading equipment. It was intended that through the use of these enforcement tools, the levels of non-compliance would reduce significantly.
3. In December 2024, officers presented again at a Council workshop to provide an update on the work undertaken by the M&E team in the interim in regard to pop-up stalls on the Queenstown lakefront and the challenges in gaining compliance with the bylaw. Officers presented a range of pathways for elected members' consideration. Councillors provided direction at this workshop that officers should present at a future full Council meeting offering a more detailed analysis of pathway two (prohibition of traders from an area) and its practical implementation.
4. This report canvasses information and evidence regarding pop-up stallholder issues, considerations regarding tools available to Council in relation to these issues and an assessment of options to address the issues.

### **Relevant bylaw provisions**

5. QLDC adopted the Activities in Public Places Bylaw 2023 in September 2023.
6. The purpose of the bylaw is to:  
  
*“(a) protect the public from nuisance, protect, promote and maintain public health and safety, and minimise the potential for offensive behaviour in public places;*  
  
*(b) manage and protect Council-owned or controlled land, structures and other property and assets from misuse, damage or loss; and*  
  
*(c) regulate trading in public places.”*
7. Clause 9.1 of the bylaw requires any person wishing to undertake a trading activity<sup>2</sup> in a public place to obtain permission from Council. Currently this is an online registration system and there

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<sup>1</sup> Clause 4.1 of the Activities in Public Places Bylaw 2023 provides that a pop-up stall, “means a stand, stall, structure, vehicle, awning, table or any 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 or a service delivery vehicle carrying goods which have been ordered.”

<sup>2</sup> ‘Trading activity’ in the bylaw includes busking, pop-up stalls and charity street collection

is no limitation to the number of permits issued, no fees imposed, and the permits are valid for one year.

8. The duration of stay and separation requirements are governed by the following rules within the bylaw:

*“12 Conditions for busking, pop-up stalls and charity street collection*

*12.1 A person may busk, operate a pop-up stall or undertake charity street collection in a public place provided all of the following conditions are met:*

*...*

*(c) they are at a distance of at least 50 metres from any other busker, pop-up stall holder or person undertaking charity street collection;*

*...*

*(g) they do not remain at the same location for longer than one hour, unless there is a 30 minute break”*

9. The application of the bylaw in regard to duration of stay and separation requirements has remained unchanged from the superseded Activities in Public Places Bylaw 2016.
10. The permitted activity area (referenced as ‘Queenstown lakefront’) at issue is defined by the below map available on QLDC’s website<sup>3</sup>;

**Figure 1:** Queenstown lakefront permitted activity area in the current bylaw.

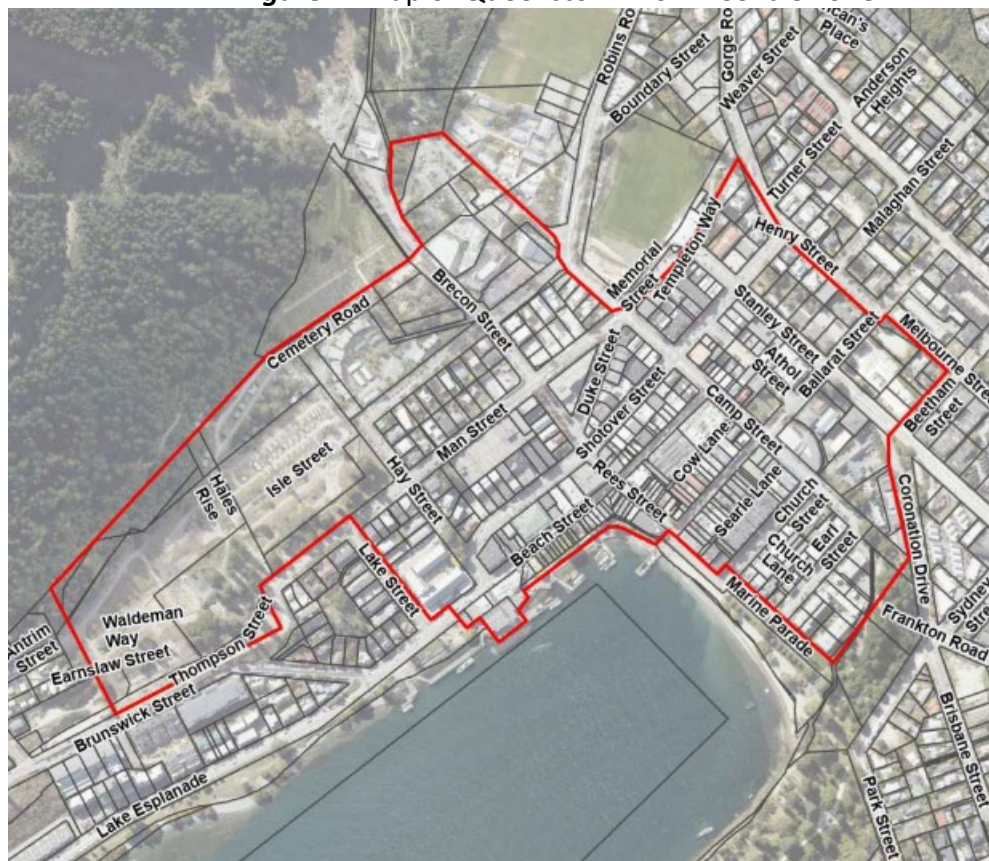


<sup>3</sup> [Busking, Pop-Up Stalls, and Charity Street Collection](#) – GIS Map



11. Buskers, pop-up stalls and charity street collections are authorised to trade within the land parcel highlighted in green above provided the trader complies with permit conditions. This particular parcel of land is surrounded by either Council reserve land or private property where traders are not authorised under their permit.
12. The bylaw provisions require that the 150m stretch of Queenstown lakefront trading area in question is limited to three or four buskers or pop-up stalls.
13. There are a number of locations available to trade under the bylaw in the district including Beach Street and The Mall (Queenstown)<sup>3</sup>, and other locations upon request and approval.
14. Where referenced throughout the report, the 'Queenstown Town Centre Zone' refers to the Proposed District Plan Town Centre Zone boundaries shown on the map below;

**Figure 2:** Map of Queenstown Town Centre Zone.



15. Clause 11.2 of the bylaw permits Council to declare or prohibit permitted activity areas by resolution.

*"11.2 Council may by resolution declare:*

- a. *any public place or part of a public place to be an area where busking, trading or charity street collection activity is permitted or prohibited;*

- b. *any public place or part of a public place to be an area where busking, trading or charity street collection activity is restricted or only permitted in a specific location;*
- c. *a busking, trading or charity street collection activity to be prohibited for any period.”*

16. Council officers continue to receive permit applications to trade. Table 1 below shows a notable increase in the number of permits issued for pop-up stalls between 2020 and 2024. Pop-up stall permits are valid for one year from date of issue.

Year:	Number of permits issued for pop-up stalls:
2020	<b>31</b>
2021	<b>49</b>
2022	<b>52</b>
2023	<b>115</b>
2024	<b>133</b>

**Table 1:** Number of permits issued under the bylaw for pop-up stalls from 2020 – 2024.

## Information and evidence regarding pop-up stallholder issues

### **Monitoring & Enforcement Team summary of observations**

- 17. There has been an observed increase of traders along the Queenstown lakefront which is likely attributable to the recovery of tourism following COVID-19. With the increase of tourism in Queenstown, the number of traders appears to have increased to gain business from the higher traffic along the lakefront.
- 18. Prior to this increase in trading on Queenstown lakefront, the lower presence of traders did not warrant large-scale enforcement action at the time, and the M&E Team was not receiving complaints of this nature.
- 19. In comparison to pop-up stalls, buskers and charity street collections have not generated the same concerns. Observations by officers indicate that buskers and charity street collections generally undertake these activities for shorter periods of time and move frequently in contrast to pop-up stall holders.
- 20. As the user conflicts identified within this report were not present to this degree previously, more stringent conditions have not been set under the Activities in Public Places Bylaw 2023, or the superseded bylaw. Historically, low permit numbers have been appropriately managed via an online self-registration system, and fees have not been set due to it being a self-registration system.
- 21. Following receipt of concerns from members of the public, between November 2023 and January 2024, the M&E team gathered observational data to understand the nature and scale of the non-

compliance occurring from traders on the Queenstown lakefront. In summary, there were between 6 – 22 traders occupying the 150m stretch of trading area during the monitored period.

22. In March 2024, the M&E team presented at a public Council workshop to inform elected members the intended next steps to gain compliance. This included exercising a range of enforcement tools including education, formal warnings, revocation of permits, trespassing and seizure of trading equipment. It was intended that through the use of these enforcement tools, the levels of non-compliance would reduce significantly. Following the Council workshop in March 2024, the continuation of education and extensive monitoring was undertaken in the period between March and July 2024.
23. Between July 2024 and September 2024, the M&E team began issuing formal warnings to unlawful traders on the Queenstown lakefront.
24. Observational data recorded through monitoring identified an unwillingness from the majority of pop-up stall holders to comply.
25. From July to September 2024, 20 formal warnings were issued to 15 pop-up stall holders within the Queenstown lakefront parcel for breaching separation, duration requirements and failure to display a valid permit. Upon receipt of formal warnings, stall holders expressed challenges to several conditions in the bylaw reportedly restricting their ability to comply.
26. Of the 15 stall holders provided with formal warnings, an estimated 50% remained in situ, breaching duration of stay and separation requirements. Additionally, Council officers have observed new stall holders establishing themselves and operating unlawfully in this location.
27. On average, observations in October/November 2024 identified that there are 8-10 stall holders continuing to operate within the Queenstown lakefront land parcel for extended periods of time. These stall holders were made up of existing traders (those issued with formal warnings) and newcomers. Duration of stay and separation requirements under the bylaw continue to be breached despite significant education and issuance of formal warnings.
28. In 2025, observations of the area show an increase in the number of stalls present within the Queenstown lakefront and continued high level of non-compliance.
29. In consideration of continued and increased non-compliance of stall holders and the challenges identified including concerns of health and safety of council officers the M&E team is reluctant to exhaust further resource to escalate enforcement action in line with agreed actions at the Council workshop (March 2024). The subsequent enforcement steps initially intended were to revoke permits and seize stalls for re-occurring offenders. The challenges identified below indicate that escalating enforcement action of this nature may not be the most effective route to address ongoing misuse of this particular land parcel and the remaining high levels of non-compliance.

### **Nature of complaints received**

30. Council continues to receive complaints from members of the public. From December 2024, Council received seven complaints in regard to pop-up stalls operating on the Queenstown lakefront. These complaints contain reference to:

- Congestion and accessibility of the lakefront – pedestrians being impeded by presence of multiple stalls.
- Equity – Inconsistency between rates for established commercial premises verse zero cost for a permit to trade under the 2023 bylaw.
- Concern that ensuring amenity values are maintained is not being achieved in regard to allowing equal opportunity for traders to use an area of land that is in high demand.
- Concern that permits continue to be issued as there is currently no cap on number of permits issued.
- Poor quality of some traders' displays affecting the image of the Queenstown lakefront.
- Stallholders storing their stall in perpetuity on Council land overnight or when not in use.
- Concern regarding food safety standards.

31. In January 2025, QLDC's Environmental Health Team undertook a monitoring programme of pop-up stalls registered with QLDC under the Food Act 2014 operating on the Queenstown lakefront. Of the nine operators monitored, all were identified to have issues with food safety requirements. The key safety food requirements consisted of the following:

- Hand washing facilities
- Cleaning and sanitising
- Temperature control
- Safe storage of food

32. The nine operators were contacted by QLDC's Environmental Health Team, and appropriate enforcement action was undertaken. Where concerns were raised in regard to pop-up stalls registered with other authorities, the Environmental Health Team completed referrals to the appropriate authority for their investigation.

33. In comparison to pop-up stalls, buskers and charity street collections have not generated the same concerns. In consideration of this, officers are not recommending extending a prohibition to busking or charity street collections.

### **Feedback from traders**

34. It has been identified through the process of undertaking enforcement action that there are a number of challenges to consider when assessing next steps. Some of these are listed below:



- Traders have reportedly found it difficult to move every hour due to the manoeuvrability of their stalls including concerns with health and safety of moving hot equipment used for cooking.
- The traders are competing with each other to locate within the Queenstown lakefront. As there is currently no cap on the number of permits issued, the number of traders exceeds the availability of space when operating lawfully. The congestion observed within this location is resulting from traders failing to comply with their permits which is creating capacity issues. It is considered unfair to those complying with the bylaw, if the behaviour of those non-complying is preventing new traders from obtaining permits.
- Negative and competitive behaviour between stall holders has increased with undertaking enforcement action, with some traders reportedly becoming abusive in some circumstances.
- The traders have explored other areas to operate but reportedly have largely been unsuccessful due to the lack of available land for this purpose. Additionally, there is concern of costs to set up a lawful location to trade in the nature and scale in which they wish to operate.
- For the traders that attempted locating in other permitted activity areas, they reportedly had negative interactions with established surrounding commercial premises and reverted back to the Queenstown lakefront.
- The majority of traders have set up their stalls as their main income and rely on trading as a full-time occupation. Operating in this nature does not align with the intent of the bylaw.
- Some traders identified the difficulties of Council's M&E team to determine which trader was non-complying with separation requirements as an enforcement officer cannot be present at all times. This means it is difficult to identify and observe which trader arrived first versus subsequent traders arriving and establishing within 50 metres of the original trader.

35. The majority of traders would like the continuation of trading to be permitted in this area and have identified the following benefits for them and the general public:

- Provides opportunities for locally owned businesses to establish themselves.
- Provides income and employment opportunities for locals.
- Provides cheap alternative food options for locals and visitors.
- Allows for fluctuation in vendors depending on visitor numbers.
- Good avenue for traders to locate in between attending events.
- Attracts visitors to the Queenstown lakefront area.

36. A number of traders have provided feedback on potential solutions. A summary of this feedback is provided below. A further analysis of these proposals is canvassed under 'Analysis and Advice'.

- Introduce fees for traders.
- Introduce requirements for traders to have public liability insurance.

- Introduce further regulations for traders e.g. more stringent rules on size and type of stall, require health and safety standards.
- Increase trading opportunities in this area from 3-4 traders.
- Undertake escalated enforcement action for those non-complying.

37. Suggestions from traders largely focus on a shift to a licence regime which would necessitate changes to the bylaw and include full consultation, as the changes are more than minor (s.156 Local Government Act 2002 (LGA)).

38. Council officers continue to receive feedback from traders operating in this area following the December 2024 Council workshop. The further feedback received is consistent with the pathways previously presented at the December workshop.

***Impacts of stallholder issues on Earnslaw Park Market***

39. There is currently a market (Creative Queenstown Markets) that occurs on Saturdays (and periodically on Fridays) on Earnslaw Park which is in close proximity to the Queenstown lakefront land parcel in question.

40. Creative Queenstown Market is an artisan homemade market managed via a reserves licence issued by Council. The criteria for any stall holders wishing to partake is that any goods being sold at the market must be made by the individual stallholder and not be manufactured or imported items. Food stall holders are not accepted by the market.

41. Concerns have been raised by those partaking in the market that the presence of stall holders operating under the bylaw outside of the market are selling cheaper and imported goods as there are no restrictions under the bylaw that determines the nature of what they are selling, provided they are not causing a nuisance. Feedback from the market additionally raised concerns with the impact of food stall holders locating themselves in close proximity to the market (in breach of 200 metre separation requirements for an event) and reportedly creating offensive odours that linger on their merchandise.

***Input from Destination Queenstown***

42. Officers have engaged with Destination Queenstown (DQ) in relation to lakefront trading. DQ recognises the vibrancy that such activities add to Queenstown. It acknowledges the need to address the issues around congestion, amenity values and in particular, ensuring that there is equity between lakefront trading and adjacent commercial premises.

**Considerations and tools to address pop-up stallholder issues**

***Creation of Leases for Stallholders***

43. The M&E team is responsible for trading activity under the bylaw however, the land is managed by the Property & Infrastructure Team.
44. The land on the waterfront, which is currently identified as a permitted area, is part of the lakebed land parcel. This area is subject to a Special Lease of Crown Land under s.67(2) of the Land Act 1948. This Lease sets out the Terms and Conditions for the use of the land and was entered into with QLDC on 28 August 2019 for a 30-year term.
45. This is important because any efforts to create a lease to individual traders could be contrary to, or at least inconsistent with, the purpose of the Special Lease, and at least some of the Terms and Conditions of the Lease including:
- *The lease was granted for a Permitted Use – namely the “housing of an existing paved and boardwalk area [...]”: Clause 2.1.*
  - *Obligations to take full and proper precautions to comply including, but not limited to, public safety [...]: Clause 7.1(a);*
  - *To keep the land tidy of rubbish: Clause 7.1(c);*
  - *Council is not to assign without consent: Clause 8.1; and*
  - *Public right of entry (Clause 13.1):*
    - *Public have the right to enter on foot and remain on the land at all times, provided that:*
    - *The public cannot interfere with the Permitted Use of the Land; and*
    - *The Lessee (Council) shall be permitted to at times to restrict public access to the Land for any reason which is necessary to ensure compliance with the Terms and Conditions of the Lease.*
46. Leases for this area for individual traders is not tenable.
47. Leases are created for defined areas, for a specified period of time, giving tenants exclusive use of that area. Leases are not interchangeable between different tenants. Licences to occupy (LTO) give licensees the right to occupy a defined area and have similar implications. The remaining permitted areas within the Queenstown CBD area (excluding the lakefront area discussed above) are very public, highly foot trafficked road reserves. Neither of these mechanisms are therefore considered suitable to resolve this matter.
48. Additionally, introduction of a leasing model would require provision of additional resources that are not currently budgeted for. Such a model could incur additional legal, enforcement and court costs that could be significant.

***Restricting or prohibiting trading under the bylaw***

49. Officers have considered whether restricting or prohibiting trading along the Queenstown lakefront by resolution is appropriate.
50. Council may make a resolution in accordance with clause 11.2 of the bylaw and also in accordance with s.151(2) of the LGA.
51. Section 151(2) provides that, *“a bylaw may leave any matter or thing to be regulated, controlled, or prohibited by the local authority by resolution either generally, for any specified classes of case, or in a particular case.”*
52. Council would be required to reach a conclusion and determine that due to detrimental effects to the amenity values of the Queenstown lakefront and wider Queenstown Town Centre Zone, user conflict and inequity, that the advantages of having no stall holders in this area currently outweigh benefits of having stall holders for a discrete or indeterminate period of time. Council needs to be satisfied that despite material efforts to achieve compliance within the current permit system, it is unable to meet the purposes of the bylaw to protect, promote and maintain public health and safety, minimise the potential for offensive behaviour in public places as well as regulate trading in public places in relation to the Queenstown lakefront. The basis for such a position would be that robust and significant evidence and complaints have arisen since the 2023 bylaw was adopted in relation to this area, such that continuing to allow trading is now untenable.
53. Under the bylaw at clause 11.2, Council may, by resolution:
- [...] Declare:
- (a) any public place or part of a public place to be an area where busking, trading or charity street collection activity is permitted or prohibited;*
- (b) any public place or part of a public place to be an area where busking, trading or charity street collection activity is restricted or only permitted in a specific location;*
- (c) a busking, trading or charity street collection activity to be prohibited for any period*
54. If Council were to resolve to prohibit trading from the Queenstown lakefront area or Queenstown Town Centre Zone, or prohibit trading for any period, it could not immediately enforce the prohibition on existing permit holders.
55. This resolution cannot apply retrospectively and cannot remove rights granted and authorised by the current regime. A permit enables traders to use public spaces in accordance with the Bylaw where ordinarily this would be an unlawful activity. Where a trader is granted a permit, it is entitled to rely on the law at the time the permit is granted. Unless the trader has breached the conditions of the permit, or otherwise breaches the Bylaw, the trader may continue to rely on the permit to trade. Council should not terminate a permit before its expiry without proper cause.



56. Table 2 below shows the number of valid permits issued to pop-up stalls, and their respective expiry dates if Council resolves to prohibit trading from an area;

Month of expiry:	Number of permits due to expire:
Jun-25	10
Jul-25	11
Aug-25	12
Sep-25	11
Oct-25	15
Nov-25	19
Dec-25	26
Jan-26	19
Feb-26	13
Mar-26	5

**Table 2:** Number of pop-up stall permits consented to continue operating until their respective expiry dates if a prohibition is invoked.

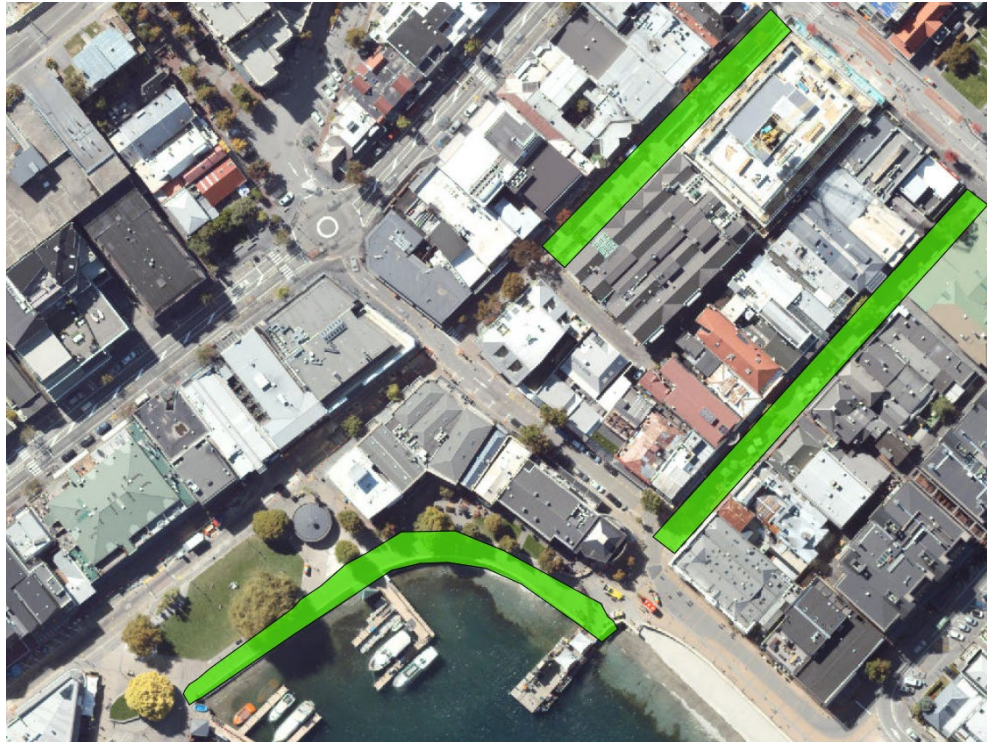
57. If Council determines that it wishes to prohibit pop-up stalls from an area, this would be operationalised by ceasing the permit scheme for pop-up stalls for the prohibited area so that this type of permit could not be renewed.

**Options in relation to clause 11.2 of the bylaw**

***Extent of affected trading areas***

58. There are three permitted trading areas within the Queenstown Town Centre Zone that are currently available for trading under the bylaw. These are the Queenstown lakefront, Beach Street and The Mall – this is captured on the map below;

*Figure 3: Extent of permitted trading areas under the bylaw within the Queenstown Town Centre Zone.*



59. In accordance with Clause 11.2 of the bylaw, it is the decision of elected members to determine the extent of a prohibition of pop-up stalls. For this matter at hand, consideration must be had towards whether the prohibition is enacted for solely the Queenstown lakefront, or the entirety of the Queenstown Town Centre Zone.
60. The M&E team anticipates there would be flow-on effects if Council determines to cease pop-up stalls solely on the Queenstown lakefront. It is expected that pop-up stalls would migrate to other permitted areas within the Queenstown Town Centre Zone (such as Beach Street and The Mall) and continue to trade in contravention of the bylaw.
61. The Beach Street and The Mall trading areas are not considered appropriate to cater for an influx of traders. This is because both Beach Street and The Mall have been designed with specific street furniture (raised gardens, seating, lampposts) positioned to ensure an unobstructed pathway for pedestrians and maintaining view corridors for the shopfronts of retail businesses. Any ad-hoc location of stallholders in these areas will replicate the issues being experienced on the lakefront and exacerbate the negative interactions with the established surrounding commercial premises. There would also be an ongoing cost for maintenance of the new streetscape e.g. removal of fat, waste and oil residue.

### ***Timing***

62. As an outcome of a resolution under clause 11.2, it would be necessary for Council to consider whether this is a permanent or temporary position until a longer-term solution is found.

63. Given the post-COVID-19 trend of increasing visitor numbers and, consequently, greater foot traffic along the lakefront, officers do not anticipate that the issues related to lakefront trading—such as congestion and health and safety concerns—will diminish in the short term. However, it remains within the Council’s discretion to review its decision at any time.
64. If prohibition in the Queenstown Town Centre Zone is the Council’s decision, officers are also seeking approval from elected members on the timeframe for its implementation. Council officers suggest introducing a prohibition with immediate effect, with existing pop-up stall permit holders able to continue to trade until their permit expiry date.
65. Currently, permits for pop-up stalls are still being applied for and issued by Council. Officers are seeking direction on ceasing the issuance of permits for pop-up stalls for the prohibited area indefinitely with immediate effect.

### ***Alternative sites***

66. There are no other viable options on Council land within the Queenstown Town Centre Zone to permit pop-up stalls to trade. However, as has been done in other places in the district, it is open to traders to explore suitable options on private land within the Town Centre Zone.
67. The M&E team has recently observed an increase in the establishment of ‘market style’ arrangements to locate pop-up stalls on private property within the Queenstown Town Centre Zone. This can be observed on Man Street and Shotover Street. A similar initiative has been undertaken in Wānaka on Brownston Street pictured below:

**Figure 4:** Food stall arrangement on private property in Wānaka.





***Proposed approach to monitoring and enforcement for a prohibition under the bylaw***

68. If Council resolves to prohibit trading from the Queenstown lakefront or the entirety of the Queenstown Town Centre Zone, Council's M&E team will implement a staggered enforcement approach through extensive education and signage over a period of time. Continuation of observed non-compliance will result in escalated enforcement action in accordance with the enforcement tools previously identified. This would entail the seizure of non-complying pop-up stalls.
69. Pop-up stalls holding valid permits to operate within the Queenstown Town Centre Zone, issued within the past year as specified in Table 1, would not be subject to a prohibition with immediate effect. These stalls may continue operations in accordance with the conditions of their permits until their respective expiry dates (Table 2). Compliance monitoring will be conducted to ensure adherence to permit conditions. In cases of non-compliance, permits will be revoked pursuant to the bylaw. Should non-compliance persist following permit revocation, further enforcement action will be taken in accordance with the previously outlined enforcement measures.
70. Enforcement against those that continued to trade in this area in contravention to such a resolution would be via prosecution, and they would be liable to pay a fine not exceeding \$20,000 (LGA s.242(4)). Prosecution is assessed on a case-by-case basis against QLDC's Enforcement Strategy and Prosecution Policy and would need to meet the public interest and evidential test in accordance with the Solicitor General's Prosecution Guidelines. Costs to Council in undertaking legal proceedings must be considered alongside the benefits that undertaking escalated enforcement yields, such as deterring further offending.

***Review of the bylaw***

71. It is also open to Council to bring forward the review of the 2023 bylaw, as a council may choose to review a bylaw at any time inside the statutory review periods. Given the evidence of problems relating to the Queenstown lakefront area, it could propose changes to the way trading activity is regulated.
72. It should be noted that when a bylaw is reviewed, all aspects of that bylaw may be considered; the bylaw also regulates use of psychoactive substances in public places, event permits, pub crawl licences and permits commercial e-scooters. Council is required to consult, via the Special Consultative Procedure, on potential changes with the community on all aspects of the bylaw. If Council chose to review the 2023 bylaw now, it would need to consider:
- resources required to develop a new framework to regulate trading in public places, that would be regulated via the bylaw, but would require material design, implementation and administrative staff resourcing costs.
  - the bylaw development process typically takes 18 months to two years complete to ensure a robust outcome, which means that reviewing the bylaw would not address the issues presented in this report in a timely manner.



- that work programmes in the Policy and M&E teams would be re-prioritised and would involve other planned work being deferred or not occurring.

73. Accordingly, officers consider that measures under clause 11.2 of the bylaw provide a more efficient, cost-effective solution that can be implemented in the short to medium term.

### **Analysis and Advice | Tatāritaka me kā Tohutohu**

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74. 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.

75. **Option 1** Prohibit by resolution (under clause 11.2 of the Activities in Public Places Bylaw 2023) pop-up stalls indefinitely in the **Queenstown Town Centre Zone**. This option includes a determination to cease the issuance of permits within Queenstown Town Centre Zone with immediate effect. This prohibition would come into effect immediately. Pop-up stalls with current permits would be permitted to trade in this prohibited location in accordance with their permit until their respective expiry dates. Buskers and charity street collections would remain permitted to trade in the Queenstown Town Centre Zone in accordance with approved permits.

#### *Advantages:*

- Alleviates congestion along the Queenstown lakefront. A prohibition would discourage new traders from congregating in this area, it would address health and safety concerns by improving mobility, address food safety concerns, and reduce anti-social competitive behaviour among traders.
- Proactively prevents negative flow-on effects to other trading areas in the Queenstown Town Centre Zone.
- A clear prohibition is more straightforward to enforce.
- Complaints received by members of the public would be addressed.
- Provides opportunity for existing permit holders to trade in this prohibited location in accordance with their permit until their respective expiry dates.

#### *Disadvantages:*

- Traders wishing to locate in this high demand area for their main source of income are no longer able to do so.
- The removal of pop-up stalls would not be supported by all as they are a point of interest and provide cheaper food options.

76. **Option 2** Prohibit by resolution (under Clause 11.2 of the Activities in Public Places Bylaw 2023) pop-up stalls indefinitely on the **Queenstown lakefront**. This option includes a determination to cease the issuance of permits within the Queenstown lakefront with immediate effect. The prohibition would come into effect immediately. Pop-up stalls with current permits would be permitted to trade in this prohibited location in accordance with their permit until their respective expiry dates. Buskers and charity street collections would remain permitted to trade on the Queenstown lakefront in accordance with approved permits.

*Advantages:*

- Alleviates congestion along the Queenstown lakefront. A prohibition would discourage new traders from congregating in this area, it would address health and safety concerns by improving mobility, address food safety concerns, and reduce anti-social competitive behaviour among traders.
- A clear prohibition is more straightforward to enforce.
- Complaints received by members of the public would be addressed.
- Provides opportunity for existing permit holders to trade in this prohibited location in accordance with their permit until their respective expiry dates.

*Disadvantages:*

- May result in other permitted areas such as Beach Street and The Mall (Queenstown) and Buckingham Street (Arrowtown) experiencing negative issues as traders move to other areas.
- Impacts on traders wishing to locate in a high demand area for their main source of income.

77. **Option 3** Prohibit by resolution (under Clause 11.2 of the bylaw) pop-up stalls for a defined period of time (e.g. 6 months – 1 year) in the **Queenstown Town Centre Zone**. This option includes a determination to cease the issuance of permits within Queenstown Town Centre Zone with immediate effect. The prohibition would come into effect immediately. Pop-up stalls with current permits would be permitted to trade in this prohibited location in accordance with their permit until their respective expiry dates. Buskers and charity street collections would remain permitted to trade in the Queenstown Town Centre Zone in accordance with approved permits.

*Advantages:*

- Alleviates congestion along the Queenstown lakefront. A prohibition would discourage new traders from congregating in this area, it would address health and safety concerns by improving mobility, address food safety concerns, and reduce anti-social competitive behaviour among traders.

- Proactively prevents negative flow-on effects to other trading areas in the Queenstown Town Centre Zone.
- Enables M&E Team to enforce clear prohibition.
- Complaints received by members of the public would be addressed.
- Allows Council to revisit its position after the time period lapses.

*Disadvantages:*

- Impacts on traders wishing to locate in a high demand area for their main source of income.
- Provides uncertainty for traders for long term investments.

78. **Option 4** Prohibit by resolution (under Clause 11.2 of the bylaw) pop-up stalls for a defined period of time (e.g. 6 months – 1 year) on the **Queenstown lakefront**. This option includes a determination to cease the issuance of permits within the Queenstown lakefront with immediate effect. The prohibition would come into effect immediately. Pop-up stalls with current permits would be permitted to trade in this prohibited location in accordance with their permit until their respective expiry dates. Buskers and charity street collections would remain permitted to trade on the Queenstown lakefront in accordance with approved permits.

*Advantages:*

- Alleviates congestion along the Queenstown lakefront. A prohibition would discourage new traders from congregating in this area, it would address health and safety concerns by improving mobility, address food safety concerns, and reduce anti-social competitive behaviour among traders.
- Enables M&E Team to enforce clear prohibition.
- Complaints received by members of the public would be addressed.

*Disadvantages:*

- May result in other permitted areas such as Beach Street and The Mall (Queenstown) and Buckingham Street (Arrowtown) experiencing similar issues as traders move to other areas.
- Impacts on traders wishing to locate in a high demand area for their main source of income.
- Provides uncertainty for traders for long term investments.

79. **Option 5** Status quo - proceed with escalation of enforcement tools. This would include the seizure of non-complying pop-up stalls.

*Advantages:*

- Observed reduction in congestion with decrease of traders.
- Complaints received by members of the public may be reduced.
- Would be consistent with the current approach to permitting pop-up stalls in the bylaw.

*Disadvantages:*

- Achieving compliance will be costly to Council, due to challenge from stall holders.
- Does not address the challenges in determining non-compliance under the bylaw.
- Occupation of this area in general attracts other traders to operate in this location. Ongoing resource will be required to maintain separation requirements.
- Encourages competitive behaviour between stall holders to secure their spots.
- Possible resistance from traders.
- Aggression towards Council staff and difficult process. Police required to undertake seizures.

80. **Option 6** Leases or Licences – Proceed with a Lease or Licence approach. A leased or licence approach would only be applicable to Council land that is not subject to a Special Lease of Crown Land (this means a leased or licence approach could not be imposed on the Queenstown lakefront).

*Advantages:*

- Council would receive revenue at a market rental rate.

*Disadvantages:*

- Leases to individual permit holders are a legal property right assigned to individuals which would be contrary to the conditions of the underlying lease and would legally fetter the use of the Lakefront by the public.
- The legal and financial burdens in administering leases or licences are out of proportion to the scale of activities for which a lease might be sought.



- Enforcement of Council's rights under a lease would also be protracted, and the costs of Court judgements to enforce these rights, would be difficult to justify to ratepayers.
- Costs associated with managing the leases would outweigh the benefits to ratepayers and to Council.

81. This report recommends **Option 1** for resolving the matter. Options 1,2,3 and 4 will enable Council to address the concerns received, as well as enabling Council's M&E Team to enforce a clear prohibition. Option 1 is recommended as it best addresses anticipated flow-on effects, and addresses the complaints received that relate to pop-up stalls. The M&E team does not expect the demand for pop-up stalls in the Queenstown Town Centre Zone, along with related issues, to resolve on their own after a set period. It is therefore recommended that the prohibition is indefinite until further review is required.

### Consultation Process | Hātepe Matapaki

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#### Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

82. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because the matters have minimal to moderate impact on the community, although parts of the community will have interest in this issue:
- the matters have minimal to moderate impact on the community, and the community has an interest in this issue;
  - the proposal will not change the level of services provided by Council, or Council's capacity; and
  - there is a low level of financial consequence as a result of adopting the recommended option.
83. The persons who are affected by or interested in this matter are traders, residents, ratepayers and visitors to the Queenstown Lakes District and industry stakeholders.
84. The Council has sought feedback from a range of stakeholders including traders and affected parties through interactions, monitoring and complaints received.

#### Māori Consultation | Iwi Rūnaka

85. No specific iwi consultation has been undertaken as it was not deemed to be necessary.

### Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

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86. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK10026 Ineffective enforcement within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating as this matter is considered high profile and of international interest.

87. The approval of the recommended option will allow Council to implement additional controls for this risk. This will be achieved by enabling clear direction for Council's Monitoring and Enforcement Team by providing effective regulations in addressing non-compliance.

### **Financial Implications | Kā Riteka ā-Pūtea**

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88. The recommended option (alongside options 2-4) of prohibiting traders from certain areas would not have significant financial implications. Option 5 may have financial implications for Council.

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

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

- Travel to a Thriving Future, Queenstown Lakes' Regenerative Tourism Plan
- QLDC's Enforcement Strategy and Prosecution Policy
- Activities in Public Places Bylaw 2023

90. The recommended option is consistent with the principles set out in the named policy and bylaw.

91. This matter is included in the Long Term Plan/Annual Plan as it is not anticipated to carry significant financial implications further to standard resourcing.

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

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92. Queenstown Lakes District Council has authority to administer and regulate the use of public places within the District.

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

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93. 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 recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

94. The recommended option:

- Can be implemented through current funding under the Long Term 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	Council Workshop Presentation from December 2024
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