

Statement of Proposal

Draft Activities in Public Places Bylaw 2023

1 INTRODUCTION

The purpose of the Activities in Public Places Bylaw 2016 includes protecting the public from nuisance, and currently contains specific provisions including:

- a ban on the consumption of mind-altering substances in public places
- a ban on the distribution of leaflets in connection with a trading activity in a public place
- requiring permission for events in public places
- requiring permission for organised licensed premises tours in public places (commercial pub crawls)
- requiring registration for busking in public places.

There is a separate statement of proposal for the Alcohol Restrictions in Public Places Bylaw 2018, that is also being reviewed. That bylaw prohibits the possession and consumption of alcohol in specific public places, dates and times within Queenstown Lakes District.

The Activities in Public Places Bylaw 2016 has been in place since November 2016, is due for review and will expire if not reviewed prior to September 2023. Though the designation of the permissible locations for activities like busking, pop-up stalls and charity collection sit outside the bylaw, Council is reviewing and seeking feedback on these permitted sites, alongside the bylaw review.

This statement of proposal is prepared under sections 83 and 86 of the Local Government Act 2002 (LGA) and contains:

- a copy of the draft Activities in Public Places Bylaw 2023 (the 'draft bylaw')
- information about the proposed amendments, including Council's determinations under section 155 of the LGA
- the reasons for the proposed amendments
- how you can have your say
- timetable for consultation.

2 PROPOSED CHANGES

Council is proposing the following amendments in the draft bylaw:

- amending the definition of 'trading activity' so that it includes the commercial hire of micromobility devices in public places so that these devices may also be regulated via the bylaw. This includes dockless e-scooters, but in the future could also include e-bikes and other similar devices
- amendments that ensure trading activities are separately covered in the bylaw instead of just in connection with an event
- amending the current ban on the distribution of leaflets needing to be in connection with a trading activity in a public place. This will now capture leaflets and material handed out in a public place in relation to any commercial activity or business. In addition, there is an amendment to clarify that the primary purpose for this ban is to prevent litter
- providing that Council can, by resolution, specify certain public places or parts of public places where trading activities and busking are permitted

- minor changes to the bylaw definitions, and to clarify and to improve readability and align with other legislative changes
- September 2023 commencement date.

All proposed amendments are identified in the draft bylaw by way of tracked changed text (~~strike through~~ and underline) included in the statement of proposal. Council proposes the new bylaw will come into effect in September 2023.

3 THE REASON FOR THE PROPOSAL

The key reasons for this proposal are to:

- address issues relating to activities occurring in public places, including trading, busking, events, the consumption of mind altering substances, the distribution of leaflets and licenced premises tours
- seek community views on the issues covered by the draft bylaw
- seek community views on the draft bylaw
- to encourage people to give feedback on the draft bylaw
- to let people know how they can give feedback.

The 23 March 2023 Council report contains more detailed information on these points:

<https://www.qldc.govt.nz/your-council/council-documents/agendas-minutes/full-council>.

4 HOW YOU CAN HAVE YOUR SAY

Anyone can make a submission online at <https://letstalk.qldc.govt.nz>. Submissions will be accepted from 8am on 3 April 2023 and must be received by 5pm on 5 May 2023.

All submissions should state:

- the submitter's name
- the submitter's contact details
- whether or not the submitter would like to speak to Council about this matter.

Copies of this statement of proposal and draft bylaw may be obtained at no cost from either of the Council offices at 10 Gorge Road, Queenstown, 47 Ardmore Street, Wānaka, any Council library within the Queenstown Lakes District or the Council website: at <https://letstalk.qldc.govt.nz>. If you need help submitting please contact Council at 03 441 0499, or call in to one of Council's offices. All written submissions made to Council will be acknowledged and made available to the public.

Council intends to hold a hearing in June 2023. This is when anyone who has made a written submission and who has said they would like to speak to Council, can do so. This meeting will be open to the public. If you indicate you would like to be heard, Council staff will get in touch with you to arrange a time for you to speak at the hearing either in person or via audiovisual link. If at the hearing you have any requirements, please let us know.

5 TIMETABLE FOR CONSULTATION

The dates below outline the timetable for the consultation process. Any changes to these dates will be publicly advised on Council’s Facebook page and website.

Date	Activity
23 March 2023	Council adopted the proposal for consultation
3 April 2023	Consultation period begins (8am)
5 May 2023	Consultation period ends (5pm)
June 2023	Oral submissions heard by Council hearing panel (date to be confirmed)
18 August 2023	Deliberations and adoption by Council

6 INFORMATION ABOUT THE PROPOSAL

Background

Council has the power under the Local Government Act 2002 to make bylaws to protect the public from nuisance, protect, promote, and maintain public health and safety and minimise the potential for offensive behaviour in public places.

Council undertook preliminary engagement during November 2022 to gather information as to what stakeholders view as the main issues with the existing bylaw.

Information about the draft bylaw

- Commercial hire of micromobility devices (e-scooters). The key change recommended in the draft bylaw is to add the commercial hire of micromobility devices in public places to the definition of ‘trading activity’ so these devices may also be regulated via the bylaw. This enables Council to regulate the hire and parking of micromobility devices on public land, by requiring permission from Council for this activity. Trading activities are also being treated separately from events, and conditions and restrictions may be provided for in the bylaw or by Council resolution.
- Ban on the consumption of mind altering substances in public places. Police have advised that this ban is a useful tool for them with respect to butane/ solvent abuse in public places, primarily by itinerant individuals, as these are mind altering substances for which there is no directly applicable legislation to prevent offensive behaviour prior to the solvent abuse occurring. It is proposed to maintain the current provisions in the bylaw.
- Ban on the distribution of leaflets in connection with a trading activity in a public place. The current bylaw applies to leafletting in connection with a trading activity in a public place. The extent of this provision is not

clear given leaflet distribution can be for businesses beyond those that trade in a public place. It is proposed to clarify and increase the scope of this provision, to address leaflets and material handed out in a public place in relation to any commercial activity or business. An explanatory clause has been added to the draft bylaw to clarify that the purpose of the ban is to address littering in relation to the distribution of leaflets and other material.

- Requiring permission for events in public places. It is proposed to maintain the provisions in the current bylaw for events in public places. Currently an event organiser is required to obtain permission from Council, and the bylaw enables Council to impose certain conditions on the event permission.
- Requiring permission for organised licensed premises tours in public places (pub crawls). The current bylaw provisions in relation to organised licensed premises tours are maintained in the draft bylaw. The bylaw requires that tour organisers need Council permission where a tour occurs in any public places. Conditions may be imposed, such as designated times of operation, the ratio of staff to patrons and a limit on group size.
- Requiring registration for busking in public places and review of permissible sites. The current bylaw requires prospective buskers (as well as pop up stalls and charity street collectors) to register via an application form on Council's website. If the applicant does not meet the busking conditions, they are required to apply for a permit. It is not proposed to change this system. To address concerns raised in the preliminary feedback regarding the Queenstown lakefront around perceived detrimental effects of busking due to noise and crowding, it is proposed to review the permitted sites for busking that the bylaw applies to, with a view to ensuring that they are located a reasonable distance from areas particularly sensitive to disruption or noise from busking activity. It is proposed to add a specific clause for Council to make resolutions to decide on permitted busking areas (and permitted trading areas). The bylaw does not apply to activities on reserves land, which is governed by the Reserves Act 1977.

As with the formal review, or making, of any bylaw, it is open to Council to consider other amendments that could be included in the bylaw.

During the consultation process, Council may consider community views that seek to:

- make changes to the issues that are regulated in the draft bylaw
- add additional issues that are regulated by the draft bylaw
- make additional changes to the draft bylaw
- not adopt a bylaw.

Before adopting the final bylaw, with any additional amendments, Council will consider whether there has been adequate consultation and, under section 155 of the LGA, must determine that a bylaw is the most appropriate way of addressing the perceived problems, that the proposed bylaw is in the most appropriate form, and that it does not give rise to any implications under the New Zealand Bill of Rights Act 1990. Council has also made these determinations in relation to the draft bylaw.

7 DETERMINATIONS UNDER SECTION 155 OF THE LGA

Council is empowered to make the bylaw in accordance with the Local Government Act 2002 which requires Council to make the following determinations.

The draft bylaw is the most appropriate way of addressing the perceived problems – The bylaw is an effective tool used by Council to regulate problems associated with trading, busking, events, the consumption of mind altering

substances, the distribution of leaflets and licenced premises tours in public places. Council has resolved that a bylaw is the most appropriate way to address the problems associated with activities in public places.

The draft bylaw is the most appropriate form of bylaw - Council resolved that the draft bylaw is the most appropriate form of bylaw. The draft bylaw enables Council to regulate the commercial hire of micromobility devices. Permission conditions may be added through a policy by resolution, when Council has more information as to specific issues that require regulation that are consistent with Council's bylaw making powers.

The draft bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990 - The draft bylaw prohibits the use of mind altering substances in public places. As its purpose is to protect and promote public safety, this ban does not unreasonably interfere with any of the rights in the New Zealand Bill of Rights Act 1990. The proposed increase in the scope of the ban on the distribution of leaflets in the draft bylaw does not unreasonably restrict freedom of expression because it is restricted to leaflets that are in relation to a business or event. In addition, an explanatory clause has been added to the bylaw to clarify that the purpose of the provision relates to the littering, not limiting freedom of expression. The other issues covered in the draft bylaw permit certain activities to occur (events, licensed premises tours, busking, trading), provided that certain conditions are met to ensure that these activities do not cause a nuisance to other members of the community. Council has resolved that the provisions of the draft bylaw do not unreasonably interfere with any of the rights granted by the New Zealand Bill of Rights Act 1990.

8 WHAT HAPPENS NEXT?

After it has received written and oral submissions, Council will make decisions on the draft bylaw which is proposed to occur on 18 August 2023. Council may make other changes to the draft bylaw in response to feedback, but anything that is a significant departure from the options set out in this proposal may require further consultation.

Council will consider the following options about how to proceed:

- **Option 1** – adopt the draft bylaw
- **Option 2** – adopt an amended bylaw
- **Option 3** – do not adopt the draft bylaw (the current bylaw will expire in September 2023)