

Full Council

2 May 2024

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

Department: Property & Infrastructure

Title | Taitara: Approval of Outdoor Dining on Public Space Policy

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to request that Council approves a reviewed Outdoor Dining on Public Space Policy 2024, to replace the Tables and Chairs in Public Space Policy 2020.

Executive Summary | Whakarāpopototaka Matua

The Tables and Chairs in Public Space Policy 2020, has a requirement that it be reviewed every three years.

The reviewed and revised Outdoor Dining on Public Space Policy 2024 is now put forward, to inform Council's management of outdoor dining areas on Council administered public land. The review process has included community and stakeholder feedback sought for the redrafted policy, with responses included in **ATTACHMENT A**. Council is now asked to approve the final version of the policy, which is included as **ATTACHMENT B**.

The terminology of 'table and chair' areas has been revised and changed to 'outdoor dining' areas. For the purpose of this report and consistency, 'outdoor dining' is now used as the descriptive for past and present.

The policy review is part of a greater project to improve how Council administers outdoor dining areas on public land. This also includes setting up a dedicated information page and application portal on Council's webpage, to ensure the customer process is more streamlined and helpful information can be better conveyed. Formalised processes are also being put in place to assist applicants, and in particular how they can progress other permissions such as resource consents and alcohol licences (should these also be necessary depending upon the situation). The expectation is that with improved information, processes and support, that the administration of outdoor dining areas for customers and Council can be improved and made more workable.

In addition, a greater emphasis on active monitoring of outdoor licences will also assist with compliance and ensuring a fair and even playing field for licence holders.

The review of the policy in this Agenda Item is a fundamental component of the greater project to improve how Council administers outdoor dining areas.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Approve** the Outdoor Dining on Public Space Policy 2024, to replace the Tables and Chairs in Public Space Policy 2020;
3. **Resolve** that the Outdoor Dining on Public Space Policy 2024 will come into effect on 2 May 2024 and that Tables and Chairs in Public Space Policy 2020 is revoked on 2 May 2024; and
4. **Note** that the final version of the policy will be reformatted and also include images when it is published to improve its readability and understanding.

Prepared by:



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18 March 2024

Reviewed and Authorised by:



Name: Tony Avery
Title: General Manager Property &
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10 April 2024

Context | Horopaki

1. An outdoor dining area is defined as the use of any public place, under the jurisdiction of the Queenstown Lakes District Council, for the arrangement of furniture used for the consumption of food and beverages in association with a lawfully existing licensed premises, restaurant and /or café.
2. Licence applications for outdoor dining areas are considered in accordance with the *Tables and Chairs in Public Space Policy 2020* (and previously the 2006 version of that policy). The policy and associated licences apply only to Council controlled land, such as reserves, legal road and freehold land, where businesses may set up defined outdoor areas for food and beverages (i.e. outdoor dining).
3. The policy has for the greater part functioned well since 2006, however concerns arose in 2019 that related to how the policy addressed alcohol, in that it placed a blanket prohibition past 10pm when the District Plan had instead become more permissive. This led to a refresh of the policy to reflect contemporary considerations, with the new policy approved by Council in 2020.
4. Whilst the administration of outdoor dining areas was historically handled by Lakes Property Services and a private contractor, it has more recently come in-house. This has resulted in a greater understanding and awareness of the management and administration of outdoor dining areas by Council staff, as well as an appreciation that improvements can be made. These insights and a need to improve processes have informed the scheduled review of the policy, which is a part of a greater project to improve how Council administers outdoor dining on public land.
5. The substantial revisions to the policy from the review are as follows:
 - a. A change in terminology from ‘tables and chairs’ to ‘outdoor dining’ areas, and associated licences.
 - b. A transition from one-year licences (re-considered annually), to licences with a term up to three years, all expiring on the same date on 30 June 2027. Also, aligning licences with the end/beginning of the QLDC financial year, as opposed to November when businesses are focussing efforts on the upcoming busy summer period.
 - c. The removal of specified rentals, fees and charges from the policy itself, to be instead set by a separate Council resolution.
 - d. Acknowledging that there can be a significant commercial benefit for businesses who seek to operate outdoor dining areas on public land.
 - e. Further highlighting the likelihood of areas becoming smokefree and vape-free under policies 2.1 and 2.2. The pathway towards smokefree is a separate policy proposal in its own right that is progressing through other channels. Any outdoor dining licences will need to abide with any Council position in this regard. As any smokefree policy consideration is an inclusive public process, the expectations and outcomes cannot be pre-determined at this stage.

- f. Identifying criteria and considerations related to shared space areas (as recently upgraded in the Queenstown CBD), where pedestrians and vehicles interact without defined curbs and road marking. This is necessary because of the recent upgrades to the Queenstown CBD, and the need to prioritise the function and safety of shared spaces.
 - g. Clearer explanations for the Queenstown Mall, highlighting that retail businesses particularly rely on pedestrian access being encouraged along shop frontages.
 - h. With a transition to a three-year licence, when an outdoor dining area is requested in front of a different tenancy frontage (to that occupied by the applicant/licence holder), written support is required to be provided by the adjoining tenancy *and* landlord for consideration. If written support is not provided, Council staff can engage with the adjoining tenant/landlord to understand any concerns prior to making a decision.
 - i. Requiring better quality plans and information, principally so that licence holders and more importantly their staff, can more clearly understand the confines of their licence areas and the layout of furniture within. This is intended to enable licence holders and their staff, to better appreciate the extent of their licences, and allow for Council to monitor these more effectively.
 - j. Refining the descriptions and expectations associated with furniture, to avoid public areas appearing to be privatised, and to positively contribute to the amenity of the area. This is important to also create a level playing field for licence holders.
 - k. Strengthening requirements associated with advertising and sandwich boards, which are often established without permission.
6. The reviewed 2024 policy is now put to Council for approval. If approved, the 2024 policy will hereafter guide the management and activities of outdoor dining areas and inform the renewal and consideration process for all existing and proposed outdoor dining licences. The intention is that the policy will be reviewed in three years.

Analysis and Advice | Tatāritaka me kā Tohutohu

7. As part of the review process, feedback has been sought from stakeholders (those businesses/persons with current Licences) and the community through the Let's Talk engagement portal. The feedback period went from 27 February 2024 to 24 March 2024, with fifteen persons/entities providing comments (NB: some responses were duplicated or materially similar to others). A summary of the queries and Council officer's associated comments are included as ATTACHMENT A.
8. Overall, the majority of comments related to clarification and queries, and these have been responded to in the attachment. Matters associated with fees and charges are addressed under a separate agenda item, although it is highlighted that historically the rental fees and charges associated with outdoor dining have been low.

9. As part of the 2020 review, the policy was revised to include an expectation that a minimum pedestrian width of 3 metres will be maintained at all times between the licenced area and the edge of the footpath, or as an unobstructed pathway for pedestrians. With the impacts of COVID-19 and a reduction of visitor numbers, this aspect of the policy was not enforced. However, with the return to pre-COVID visitor numbers, and the busyness of the Queenstown CBD in particular, this expectation of a minimum pedestrian pathway will be applied in the upcoming licence consideration process. The likely outcome will be that some licence areas in busy and narrow pedestrian areas will be affected and in some cases may no longer be appropriate.
10. The change from pavement and kerb areas to shared space design, may also limit the opportunities for outdoor dining areas, and may in some cases result in the removal (or relocation) of outdoor dining areas that now affect pedestrian flow.
11. 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.
12. Option 1 Council approves the Policy.

Advantages:

- It is a requirement of the Tables and Chairs in Public Space Policy 2020, that it be reviewed.
- Licences may be up to a three-year term, as opposed to annual re-applications. This will be simpler to manage for both licence holders and Council.
- As part of the licence reconsiderations, Council will seek much clearer and consistent information to allow for the management thereafter of licence areas to be improved.
- The policy will recognise the particular constraints of shared spaces and provide a consideration framework.

Disadvantages:

13. Whilst some licence areas may no longer be successful in obtaining a new licence, the reasons for such will most likely be aligned to the (carried over) 2020 policies that relate to the width of pedestrian areas. A greater emphasis on the consistent implementation of the policy moving forward, may result in disappointment for some businesses as some areas are no longer suitable for outdoor dining.

14. Option 2 Council declines the Policy.

Advantages:

None identified.

Disadvantages:

- A revised policy may need to be prepared, to fulfil the requirement of the Tables and Chairs in Public Space Policy 2020, that it be reviewed.
- All licences will need to be reconsidered annually.
- The policy will not reflect the scenario of new shared spaces, and how pedestrian and vehicles need to interact in these spaces.

15. This report recommends **Option 1** for addressing the matter, because it supports the direction to improve the consideration and administration of outdoor dining areas, given the increasing extent of visitors to the Queenstown and Wānaka CBD areas.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

16. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2021 because it relates to public and Council controlled land.

17. The persons who are affected by or interested in this matter are the general public and users of the public and council controlled land.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

18. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10009 Strategy for growth fails to meet objectives within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.

19. This risk is mitigated because the refreshed policy is intended to provide an improved tool for the management of community assets, being road reserve, reserve and Council freehold land.

Financial Implications | Kā Riteka ā-Pūtea

20. A separate agenda item is proposed at the 2 May 2024 Full Council meeting, to consider financial matters associate with outdoor dining. It is noted that the time Council staff spend on applications and associated approvals, typically far exceeds the associated application or processing fee.

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

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

- Significance and Engagement Policy.
- Long Term Plan/Annual Plan

22. The recommended option is consistent with the principles set out in the named policies.

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

23. As it stands, the variety of outdoor dining licences are not consistent, and are problematic to administer. Legal input is being sought to finalise a single consistent format of licence, which will also acknowledge changes to the policy if agreed by Council.

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

24. 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. This report is within the ambit of Section 10 as it concerns social, economic and environmental considerations.

25. 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	Engagement Feedback
B	Reviewed Policy

ATTACHMENT A – ENGAGEMENT FEEDBACK

FEEDBACK PROVIDED	COMMENT
<p>This seems like another example where the management of Council’s Property Division are setting the rules and then strong arming business into complying.</p> <p>This is another step along the road of council forcing all businesses using council land to pay a 7.5% percentage of gross turnover.</p> <p>Phrases like "Rental rates for an outdoor dining area must align with the Council’s Revenue and Funding Policy and should be set at market rates, with provision for annual review, whilst recognising that the decision on the rental is set by Council resolution."</p> <p>That is council speak for we can charge whatever we please with no recourse or way to challenge any ruling. If a rent was unjust there is no accountability or means to appeal. Council’s Revenue and Funding Policy is not a set of constraints on council, as they can ignore as they please, as has happened to Perky’s.</p> <p>This policy (in fact all rent setting decisions) needs safeguards to stop council price gouging and overreach. With the ability of the business to appeal to an independent body in the case of council overreach.</p>	<p>The policy acknowledges that outdoor dining areas also financially benefit the adjacent business by increasing their presence, patronage and income.</p> <p>The setting of fees and charges is delegated to Full Council, with proposed market rentals based upon an independent valuation.</p> <p>There are no Outdoor Dining Licences in place for Council-owned wharves in Queenstown Bay.</p>
<p>Bond: We are wondering in which height this bond will be set, and if this will also apply to businesses who have held a pavement license without issues in the past.</p>	<p>Since 2006, the policy has always contained the provision for a bond, although it seems that no bonds have been applied. The application of bonds would typically apply in scenarios where damage and a consequent cost on Council seems likely, or to ensure performance if there was an associated</p>

<p>Cost: There is no planned cost structure in the draft. With businesses needing to provide the exact location of tables, I would assume that the cost gets adapted to the amount of seating per sqm, but there is no mention of this. Will the cost structure reflect that there are less tables/guests outside in winter than in summer?</p> <p>Timeframe: With ending all licenses on the same date, I am afraid of quite a backlog of applications. Will there be an interim solution for licenses that were applied for before expiration, but weren't approved in time?</p> <p>Umbrellas: We need to have umbrellas to protect patrons from the sun. But with any form of branding not being allowed, this means that businesses need to buy unbranded umbrellas instead of using the ones they currently have or are provided with. Meaning umbrellas will disappear at the expense of people sitting outside for a meal.</p>	<p>concern. A Full Council resolution sets bond values.</p> <p>Commercial rentals are set by a separate Full Council resolution, having regard to an independent market valuation.</p> <p>Licences have the ability to be carried over if there is a delay in processing. However, the current exercise to review the policy, and bring all outdoor dining areas onto consistent and accurate agreements, is intended to make administration more efficient.</p> <p>All furniture, including umbrellas have always required specific approval under outdoor dining licence agreements and the policy. What has transpired is that numbers of umbrellas, often containing corporate branding or advertising have been established without permission, contrary to licence agreements. The policy still requires that all furniture first needs to be approved (including any changes to furniture) but highlights that outdoor dining areas should not become ad hoc advertising or activation locations.</p>
<p>We are generally in support of the proposed bylaw, but make the following observations:</p> <p>We believe that greater consideration should be given to the effect in granting a license may have on a neighbouring business, and that as a minimum, support or otherwise should be obtained from any neighbouring businesses and building owner, and should be considered as part of the approval process.</p> <p>We believe that where a licensed area encroaches in front of an adjoining</p>	<p>Written approval from an adjoining tenant has been previously required (with such permission not to be unreasonably withheld) to consider applications that extend beyond the frontage of an application premises.</p> <p>The policy has been revised in light of the licence terms now transitioning from one to three years, to require written support from an adjoining landlord also. In light of</p>

<p>business/tenancy, approval must be obtained from both the tenant and the building owner. In some situations, the incumbent tenant may only be short term and may have disregard for the longevity of the approval, or the tenancy may be vacant. With the license being valid for three years, as affected parties, building owners must form part of the process.</p> <p>We believe that greater focus needs to be given to how the licensed area 'presents' when the business is not operational (i.e. what do they do with tables, chairs, umbrellas etc when they are closed). Currently, there is a framework to address the use and form, but nothing detailing the practical element of storage.</p> <p>There is concern that the Property and Infrastructure team are issuing pseudo table and chair licenses under the pretence that they are issued on 'reserve' land and therefore are not bound by the same conditions as noted in the table and chair policy. This needs to be clarified in the policy.</p>	<p>feedback and consideration, the policy put forward now also highlights that an onsite assessment is appropriate to establish any concerns that relate to an adjacent premises, and how they might affect a decision on an application.</p> <p>Areas of street and pavement are typically required to remove all furniture at the end of the day, and onsite storage on public land is not enabled.</p> <p>Some licence areas on recreation reserve adjoining Earnslaw Park, are permitted to leave furniture in situ overnight. However, the assessment of the three-year licences will also look a furniture storage and amenity.</p> <p>The policy provides guidance on the use of Reserve Areas.</p>
<p>3.2 - "Applicants must cover the cost of Council's lawyers preparing and executing the Licence". This is opposed. If need be, this should be incorporated into the licence fee itself, not an additional extra. The Lawyers will not be preparing the licences?</p> <p>3.7 - "The Licence fees can be reviewed annually" An annual market review is excessive; if the licence is for 3 years; the fee should be known for that period. It costs a lot of money for businesses to invest in outdoor dining (furniture, Alcohol Licences, Resource Consents) - businesses should be</p>	<p>Council's lawyers do prepare the licence documents, which need to be accurate and robust given they represent a commercial agreement. However, the application fee is now recommended as a single sum, albeit low in practice.</p> <p>Licence fees can be reviewed annually, albeit that it is a Full Council decision. Market rental values are subject to an independent commercial analysis.</p>

able to budget for the three-year period, without the concern of unknown annual fees.

5.3 "Written consent must be provided each year as this provides the opportunity for the siting of adjacent Outdoor Dining Areas to be reviewed in the event that the ground floor occupier's consent is withdrawn, or a new owner occupies the premises.

Where an existing licence has been granted for a first floor restaurant to occupy the public space on the ground floor adjacent to the building, and the ground floor tenancy then applies for an Outdoor Dining Area Licence, the ground floor tenancy will have priority for the area. Licence agreements for first floor premises will contain a termination clause for such scenarios".

This is opposed. if the GF premises is occupied by a new owner during the term of the licence – then the new owner inherits the consent for the remainder of the term. Annual consent collection appears to be a waste of time for all parties, including Council Staff.

5.6 - This section is unclear; better wording and diagrams will assist.

5.7 - "Assessments for outdoor dining areas must recognise the need to balance a variety of users and place emphasis on the safety and function of the shared space for its primary purpose to meet the needs of pedestrian and vehicle flow. Because of potential conflicts, including parking needs, outdoor dining opportunities may be limited or significantly restricted".

Assuming this section refers to Beach Street. The new street works, that being a 'shared space' were sold to the community

The wording of the Policy is considered to be appropriate to retain. The prioritisation of ground floor premises has been in place since 2006. Licences can also be assigned, and this is quite commonplace.

Section 5.7 relates to shared space areas, which also include Beach Street. The ability for outdoor dining spaces to occur in shared space areas is balanced with the needs of the shared space to still function for pedestrians and vehicles. Safety is a significant consideration.

<p>as a way of creating exactly what this policy aims to do – at 1.0 "providing an active street frontage that is vibrant, dynamic, comfortable and attractive. They provide a space for social interaction and the opportunity to withdraw from pedestrian movement in the street and rest while observing street activity".</p> <p>Section 5.7 contradicts this vision. The term "discretion of Council" is too widely used and does not put any boundaries in place for Council Staff - which causes issues when staff turnover, the 'rules' are constantly changing one week to the next.</p>	<p>The policy seeks to highlight that there should be no assumed right to have an outdoor dining licence. This is reinforced by the ability of Council to exercise its discretion.</p>
<p><i>Note: this feedback has been duplicated in five responses</i></p> <p>We support Hospitality New Zealand's submission. In particular we would like some transparency on the new fee structure, and how this is calculated. Outdoor dining adds vibrance to our town and therefore should be encouraged by Council instead of overcharged.</p>	<p>The fee structure and market value analysis are covered in the separate Agenda Item specifically addressing rental and fees, noting that rentals and fees to date have been very low.</p>
<p>I ask QLDC to maintain the level of outdoor dining that is currently within the town centres. Not only does Alfresco dining lift the vibrancy of a town centre community, it also builds and promotes a safer environment with extra lighting, extra late-night activities and extra people around enjoying the outdoors. I would like Council to encourage outdoor dining as it is good for the community.</p>	<p>This aligns with the intent of the policy.</p>
<p>Hospitality NZ endorses outdoor dining in our regions. Not only does Alfresco dining lift the vibrancy of a town centre community, it also builds and promotes a safer environment with extra lighting, extra</p>	

late-night activities and extra people around enjoying the outdoors. We would like Council to encourage outdoor dining as it is good for the community.

In principle, we support the proposed outdoor dining policy. We do however have three key areas we would like to raise concerns and points of clarification.

Firstly, a proposed schedule of licence fees should be included in the document. While we recognise that some level of subjectivity on fees should be allowed for (given some locations may be more valuable than others), a proposed baseline rate should be included to allow for objectivity and transparency regarding licence fees.

Secondly, regarding Clauses 2.6 (Rights of Access) and 4.3 (Suspension of a licence for works likely to threaten safety), we propose these clauses are amended to require a pro rata refund of the licence fee to the Licensee should any disruptions to the use of an Outdoor Licence Area last more than one week (seven days). Licensees have applied for the outdoor licence and invested in providing an attractive and comfortable place for people to relax on the basis they can increase revenue. It is appropriate that any disruption should be compensated.

Finally, we question the ban on umbrella advertising and the intended outcome behind this. Some venues have entered into agreements with key suppliers around provisions of outdoor amenities such as umbrellas, and changing this requirement has a bearing on such agreements.

Licence Fees have previously been included in the Policy itself.

Should such a scenario transpire, this can be discussed with the particular licence holder on a case-by-case basis.

All umbrellas (and furniture) have always required formal approval under the Policy and the licence agreement, including changes to the design. What has transpired, is that many premises have simply established branded and advertising umbrellas without any required permission. The intent of outdoor dining areas is that they are not commercialised or act as an activation for an adjacent business, but are a public area that can accommodate associated outdoor dining.

<p>Please see Republic Hospitality Limited’s comments on the proposed Outdoor Dining Policy below:</p> <ul style="list-style-type: none"> - The Policy refers to “Outdoor Dining” as opposed to “Tables and Chairs” as per the previous policy. There are a number of premises that operate as a bar/tavern rather than a café/restaurant. The Policy should be updated to reflect that it will still apply to premises where the use of the outdoor areas are not directly associated with dining. - The definition of “Outdoor Dining Area” (Section 1.1) refers to areas “...used for the consumption of food and beverages...”. As above, the Policy should be updated to reflect that it will still apply to premises where the use of the outdoor areas are not directly associated with dining. The definition could include food and/or beverages, for example. - Section 2.1 requires “No loud speaker, amplifier, relay or other audio equipment shall be installed or used in association with the Outdoor Dining Area.” There will be instances where approval has been obtained via a resource consent process to allow for outdoor speakers (and the relevant noise assessments undertaken), and as such the Policy should be updated to account for any activities that have been approved by the RC process. - Section 3.1 relates to the licence period for any new licence. What happens to existing licences? Will existing licences be carried over on an annual rolling basis? - Section 3.2 now requires the applicant to cover the cost of Council’s lawyers fees. This appears to be a new addition to the Policy. The costs associated with this should be 	<p>Note: This feedback has been duplicated under the names of different premises.</p> <p>The policy also makes reference to “licenced premises” which covers premises which operate as a bar/tavern.</p> <p>It is considered that the policy can retain its position on the use of amplifiers etc on public land that is reserve and road.</p> <p>All current licences are for a one-year term. It is now proposed to have all licences for a term up to tree years, although the expiry date will be the same.</p> <p>Council lawyers prepare the agreement, and sometimes this cost can vary significantly. However, this reference has now been removed from the policy in favour of a set</p>
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provided as part of the Policy document so that applicants are aware of any additional charges that may be payable.

- Section 3.4 states that all current licence holders need to re-apply for an Outdoor Dining Licence on expiry. The Policy document should clarify if this means that a new licence will be required every three years (or whatever the defined term is), or if existing licences can be continued on a rolling annual basis. The requirement to re-apply every three years comes at additional time and cost to the applicant for the QLDC processing / lawyer fees etc.

- Section 3.4 also states that decisions are to be made within 2-4 weeks (or longer if the application is deficient). We made an application to vary an existing Tables & Chairs licence on 10/01/2024 (+10 weeks ago). At the time of submitting this feedback form, we have not had even an email acknowledgement from the Property Team regarding this application, despite multiple efforts to follow up on the matter. The Policy should reflect accurate processing timeframes.

- Section 3.5 confirms that the supply and consumption of alcohol within an Outdoor Dining area requires an alcohol licence, and a resource consent may also be required. Therefore, the approval for the hours of operation for the supply and consumption of alcohol sits with the alcohol licencing and resource consenting processes, and not the Outdoor Dining Policy. As such, any variations/amendments to operational hours should not require an amendment to the Outdoor Dining Area Licence as this is covered by separate QLDC processes. Confirmation of this in the Policy document would be beneficial.

application fee. It should be noted that the application fee is low, and not reflective of typical time/costs that can occur.

As it stands, licence holders need to re-apply annually. The proposed change to a potential three-year licence/or expiry on 30 June 2027, offers more time and also aligns with the next review of the policy.

The review of the policy is part of a greater project to improve how Council can address applications and variations for outdoor dining. It is expected that a dedicated information and application portal on Council's website will soon go live. Because the policy review process has been progressed this year, applications received in recent months for variations have been put on hold. We are checking how this was communicated.

A variation to an outdoor dining Licence may still be required, if there is a change to the hours of operation (beyond those initially applied for/granted).

<ul style="list-style-type: none">- Section 4.4 states that “The Council may also suspend the licence by giving at least 30 days written notice to the licensee if the Council or any other external bodies require the site for events, festivals, footpath maintenance or works, or for any other purpose.” We consider that events, festivals and any other purpose should be excluded from this list and restricted only to footpath maintenance and works. - Section 5.5 refers to applications within a reserves area to undergo a separate public process. Will this apply to premises that are already in existence and have been operating under approved licences previously? - Section 5.7 refers to shared spaces. It would be beneficial if “Shared Spaces” was defined in the Policy document. - Section 5.7 requires all furniture to be removed at the days close of business and prior to 12am. This may not be possible in all instances, such as those where the indoor premises operates beyond the outdoor operational hours. This is also contradictory to Section 2.3 which provides allowance for furniture to be secured in place. - Section 6.4 relates to gas heaters. We consider that the Policy should also include the use of electric heaters, if they have been approved via the resource consent process, and are located amongst other furniture (tables, chairs, heaters, umbrellas etc). - Section 6.7 refers to compliance with the “Operational District Plan”. The is likely to cause confusion between the Operative District Plan (ODP) and Proposed District Plan (PDP). It is suggested that this is reworded to refer to the current District	<p>This aspect of the policy has been in place for a number of years and is necessary so an event etc. that might have a significant benefit to the community (including local businesses), can be prioritised.</p> <p>The Reserves Act 1977 presides over all commercial activities on Recreation Reserves, and this has always been the case for outdoor dining and how applications have been assessed.</p> <p>Section 5.7 describes shared spaces.</p> <p>All furniture in shared spaces should be removed at the end of the day. This is typical for other areas of legal road, although some areas of Recreation Reserve do enable furniture to be left in situ.</p> <p>Electric heaters can be problematic because of the cables/trip hazards, and also given the presence of water. Gas heaters are assessed on a case-by-case basis.</p> <p>Applicable District Plan provisions will always prevail and can be established.</p>
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<p>Plan, current Planning Framework, or something similar to avoid any unnecessary confusion.</p>	
<p>Please see Captains Queenstown Limited’s comments on the proposed Outdoor Dining Policy below:</p> <ul style="list-style-type: none"> • The Policy refers to “Outdoor Dining” as opposed to “Tables and Chairs” as per the previous policy. There are a number of premises that operate as a bar/tavern rather than a café/restaurant. The Policy should be updated to reflect that it will still apply to premises where the use of the outdoor areas are not directly associated with dining. • The definition of “Outdoor Dining Area” (Section 1.1) refers to areas “...used for the consumption of food and beverages...”. As above, the Policy should be updated to reflect that it will still apply to premises where the use of the outdoor areas are not directly associated with dining. The definition could include food and/or beverages, for example. • The Policy document makes several references to Council’s “absolute discretion”. In these instances, would there be an opportunity for the applicant/licence holder to have a right of reply? • Section 2.6 refers to rights of access and stipulates that notice will be given to the licence holder. Confirmation of the minimum notice period should be included in the Policy document. • Section 3.1 relates to the licence period for any new licence. What happens to existing licences? Will existing licences be carried over on an annual rolling basis? 	<p>Note: this feedback is materially the same as the one above, so not all comments have been responded to.</p> <p>Rights of access can apply to emergencies, and works that may need to be prioritised.</p> <p>All current licences expire annually and have no rights of renewal. The intention is to bring all current one-year licences onto a consistent licence agreement that is reflective of the onsite situation and policy.</p>

- Section 3.1 requires all plans to be at a scale of 1:50. In most instances, this would require multiple pages to accurately dimension the plans. We request that this requirement is reconsidered and amended to require 'scaled plans' rather than requiring a specific scale.

- Section 3.2 now requires the applicant to cover the cost of Council's lawyers fees. This appears to be a new addition to the Policy. The costs associated with this should be provided as part of the Policy document so that applicants are aware of any additional charges that may be payable.

- Section 3.4 states that all current licence holders need to re-apply for an Outdoor Dining Licence on expiry. The Policy document should clarify if this means that a new licence will be required every three years (or whatever the defined term is), or if existing licences can be continued on a rolling annual basis. The requirement to re-apply every three years comes at additional time and cost to the applicant for the QLDC processing / lawyer fees etc.

- Section 3.4 also states that decisions are to be made within 2-4 weeks (or longer if the application is deficient). We made an application to vary an existing Tables & Chairs licence on 20/02/2024 (+4 weeks ago). At the time of submitting this feedback form, we have not had even an email acknowledgement from the Property Team regarding this application, despite multiple efforts to follow up on the matter. The Policy should reflect accurate processing timeframes.

- Section 3.5 confirms that the supply and consumption of alcohol within Outdoor Dining areas requires an alcohol licence, and

Plans at 1:50 can be accommodated on a single page, and in the experience of staff, can be easily achieved given the size of an outdoor dining area.

Section 3.2 has been revised to remove additional lawyers fees. A fixed application fee is proposed.

Communications and advice will be sent to all current licence holders, and the website landing page for outdoor dining is intended to be comprehensive.

As mentioned, with the review of the policy this year, variations received in the past months have been placed on hold, as there is a goal to bring all outdoor dining areas into a consistent licence format prior to 1 July this year and that will involve a comprehensive assessment of proposals. We are now checking this advice has been helpfully conveyed to recent applicants.

a resource consent may also be required. Therefore, the approval for the hours of operation for the supply and consumption of alcohol sits with the alcohol licencing and resource consenting processes, and not the Outdoor Dining Policy. As such, any variations/amendments to operational hours should not require an amendment to the Outdoor Dining Area Licence as this is covered by separate QLDC processes. Confirmation of this in the Policy document would be beneficial.

- Section 3.7 relates to licence fees, however the document does not provide any indication of these fees. The Policy document should be updated to include details of Council's rental assessment process.

- Section 5.4 requires a minimum width of 3.0m for footpaths. This will not be possible in all circumstances. The Policy does however allow for lesser widths in limited circumstances. It is assumed that those outdoor areas currently operating with an approved lesser width will continue to have approval going forward.

- Section 5.4 seeks to discourage chairs sitting with their backs facing the pedestrian pathway. While this may be reasonable in relation to roads, this will not be possible in all instances adjoining public walkways. For example, some premises are surrounded by walkways on all sides and therefore it is unreasonable to impose, as compliance cannot be achieved. The applications should be considered on a case by case basis, and approvals granted where appropriate to do so.

- Section 5.6 seek to restrict Outdoor Dining Areas inside or between veranda posts. The

Rentals and fees are a separate Full Council resolution.

This requirement was put in place under the 2020 policy refresh, although with covid and a reduction in visitor numbers it has not been enforced. With a return to pre-covid visitor numbers, this policy will be applied.

The particular policy provides for an assessment on a case by case basis, but is clear that there can be a concern with rear facing chairs if there is a likelihood of conflicts with other users of pavements.

reasoning behind this is to allow pedestrian access – however, it is unlikely that pedestrians will use the areas between the veranda post, unless directly associated with the use of, and access to, the outdoor dining areas. We request that the requirement for outdoor dining areas to be outside any veranda posts is reconsidered and aligns with actual use of a pedestrian walkway.

- Section 5.7 relates to chairs backing into areas where people might be present. Similar to the comment above, we request that the requirement is reconsidered and aligns with actual use of pedestrian walkways.

- Section 5.7 requires all furniture to be removed at the days close of business and prior to 12am. This may not be possible in all instances, such as those where the indoor premises operates beyond the outdoor operational hours. This is also contradictory to Section 2.3 which provides allowance for furniture to be secured in place.

- Section 6.2 requires tables and chairs to be “uniform in style and design”. A number of premises have an existing Tables & Chairs licence that do not necessarily have uniform furniture – for example, where furniture has been passed down from business to business. Will furniture that has previously been approved by QLDC, that is not necessarily uniform in nature, be permitted to remain? It would be onerous to require an applicant to replace perfectly good furniture, not to mention the associated costs and concerns relating to landfill and dumping of furniture.

- Section 6.3 requires the clearance height of umbrellas needs to be 2.2 and cannot be used as advertising or branded. We request that this requirement is reconsidered, as

It is considered that the policy as written with the outside of the verandah posts being the delineation offers a better outcome for pedestrian use and amenity.

This requirement has been part of the policy since 2006 and intended to ensure consistency.

A number of licence areas have established umbrellas without permission (required both under the policy and licence agreements), and these often now also

<p>there are issues with an umbrella height of 2.2m – this height requires a larger diameter to assist with balance, they are at higher risk of catching the wind, and will potentially encroach further beyond existing approved licenced areas. It is considered that the size/height should be assessed on a case by case basis and approval granted where appropriate to do so. A number of existing premises have branded umbrellas, and again it is considered that this requirement is assessed on a case by case basis and approval granted where appropriate to do so. If branding is to be removed, will QLDC give applicants appropriate time to obtain new covers and/or replace the existing umbrellas. There are also associated concerns relating to landfill and the dumping of perfectly useful branded umbrellas.</p> <ul style="list-style-type: none"> • Section 6.7 refers to compliance with the “Operational District Plan”. The is likely to cause confusion between the Operative District Plan (ODP) and Proposed District Plan (PDP). It is suggested that this is reworded to refer to the current District Plan, current Planning Framework, or something similar to avoid any unnecessary confusion. 	<p>contain branding and advertising. The policy is clear on the expectations around furniture.</p>
<p>Thank you for the chance to respond to the proposed policy. There are several points of concern for existing licence holders:</p> <p>In multiple instances the use of the phrase “Outdoor Dining” could be construed to exclude existing use for drinking without “dining” as is currently allowed under Alcohol Licence and Resource Consents. Could this be altered to a more inclusive term.</p> <p>Sec 1.2 mentions “commercial rentals” but</p>	

there is no discussion of how this is measured, comparisons between different areas nor an indication of possible values.

Sec 2.1 discusses smokefree and vapefree policy. Has Council considered the implications of asking customers to remove themselves from the managed area to smoke and potentially drop their cigarette butts in the streets.

Sec 2.2 requires operators to tidy up waste within the area but could not compel the same for a customer moving out of the area to smoke. Similar rules introduced in Australia led to increased litter in the streets that businesses did not feel obliged to clean up.

Sec 2.2 also requires paving to be kept clean. It has been noted that the mechanical street sweeper managed by the QLDC often moves through public areas after businesses have already set up their street furniture so is therefore not maintained by Council.

Sec 2.3 states that street furniture must be removed overnight / outside of trading hours but Sec 5.7 requires furniture to be removed entirely prior to midnight. However some businesses have a licence to operate past midnight so furniture can not always be brought inside by that time. This should be approved on a case by case basis.

Sec 2.6 Rights of Access should have a defined minimum notice period and notice format. Will the notice be by email, phone call or other means. What process will be in place to ensure the notice has been received by the correct person? Obviously, this does not apply to emergency services. If Council requires any significant period of closure for maintenance (say over one week) will a pro-rata refund of licence fees be applied?

Commercial rentals and fees are addressed by a resolution of Full Council, and are not specified in the policy itself.

Smoke free and vape free will be the topic of a dedicated policy process.

On occasion, access to a licence area may need to take precedence because of an imperative need by Council that may have implications for others.

Sec 3.1 asks for a plan at scale 1:50. In some cases this will require a format larger than the typical A4 size. Does Council have the capacity to scan larger documents into their digital storage for future reference as it has already been found not to hold some documents previously lodged for this purpose due to their size.

Sec 3.2 requires the applicant to cover the cost of Council's lawyers to prepare and execute the licence without giving an indication of what those costs might be. Applicants should have this information to make a decision on the cost/benefits of making an application.

Sec 3.4 refers to renewing a licence which could be at the absolute discretion of the QLDC. Under what circumstances would or could the QLDC deny a renewal of a licence that has been integral to the operation of the business. We note that variations "will take approximately two to four weeks", however current applications are known to be unacknowledged and unprocessed after that amount of time. Will a full application be required for existing licence holders every three years or will there be a short form renewal process available.

Sec 3.6 Change of Ownership had been incorrectly labelled 3.7

Sec 3.7 Licence fees there should be an indication or link to a discussion paper for the cost of licensing. Again the process for review the market rent should be more transparent.

Sec 3.8 Bonds. Once again the level of bond value should be part of this discussion.

Applications will be received electronically, and this includes plans.

This has been revised in the policy now put forward. A flat fee is proposed.

As it stands, licences are for one year and only renewed at Council's discretion.

Rentals and fees are a separate resolution, and will be published in the dedicated outdoor dining landing page (and online application).

Sec 4.3 and 4.4 Suspension of licence for works. One month of works before a pro-rata refund is too long for an operating business to lose. This should be a shorter period say one week.

Sec 5.4 Pavements being required to maintain 3m of clear space seems extreme. There are almost no pavements in Queenstown where a 3m clear space would leave enough room for an Outdoor Dining Licence.

Sec 5.6 Queenstown Mall Requiring the space between verandah posts to be considered as footpath rather than part of the licenced area in nonsensical. Does Council expect pedestrians to zig zag along the footpath in and out of those spaces? Can this be managed on a case by case basis considering the width of the verandah posts and the width of the footpath?

Sec 5.7 Shared spaces requires furniture to be removed prior to midnight. See response to Sec 2.3 above where some businesses operating past midnight cannot comply with this.

Sec 6.2 requires furniture to be uniform in style and design. Will existing licence holders be offered “grandpa rights” where furniture has been acceptable in the past but may be of 2 different styles due to being inherited from 2 different previous operators. Consolidating the style of furniture will come at significant cost to operators and would lead to unnecessary landfill.

Sec 6.3 Umbrellas. 1) Requiring umbrellas to have a clearance of 2.2m when open has a number of issues against it. a) almost no standard commercially available umbrellas have this clearance

This requirement is from 2020 and will be assessed for all 2024 proposals.

The delineation is also for the sake of amenity, and assisting the draw of pedestrians along shop frontages, so that retail premises who rely on displays can benefit.

Council will consider the conditions of licences that have been in place and will also seek assurance that approved furniture in those licences is the same that might be onsite.

Umbrellas have been previously discussed.

unless they are of such significant diameter they would extend past most licenced areas
b) The higher the umbrella the less effective the shade is below it which is a health and safety issue for customers with regard to sun protection

c) the required extra height and diameter makes them more likely to catch the wind and become unstable

d) taller umbrellas create a greater health and safety risk to the staff members who are required to re-locate them twice each day.

e) a standard door height is only 2m so this higher requirement seems extreme.

2) Refusing the use of branding or advertising on umbrellas should be considered on a case by case basis or a more fulsome reason should be given for this rule. If operators are required to replace branded umbrellas (which have usually been provided by suppliers with a signed agreement) will time be given to the end of the life of the existing covers to reduce unnecessary landfill with perfectly viable umbrellas.

Sec 6.4 : Can further information please be provided regarding gas heaters on the phrase "... where their mass and presence can detract from the amenity of the area" . What does this even mean?

Sec 6.5 Other furniture. There seems to be a conflict between the idea of no furniture that walls off or separates the dining area from the public space with that of ensuring the furniture remains inside the licenced area. Surely the moderate use of low barriers to keep the furniture in place could allow better control of the areas. Ironically Council is proposing heavily regulating these areas controlled by fully licenced operators who have massive compliance costs and overheads but is seemingly washing their hands of the issues

created by the out of control street traders that are flouting their longstanding but unpoliced rules. Queenstown promotes itself as an International Tourism Destination yet a lot of the overly restrictive rules in this proposed policy would be seen as old-fashioned and even ridiculous by a lot of those international customers. Finally a lot of hospitality owners in Queenstown that have existing outdoor licences based the purchase of their business on the basis that the outside area is part of the business. Many have decades of an existing use history and a reasonable expectation of that continuing with minimal changes. Significant changes to this policy could detrimentally affect the value of some businesses in Queenstown.