

QLDC Council  
24 November 2016

Report for Agenda Item: 9

Department: Property & Infrastructure

Proposed new licence for Fork and Pedal Limited

**Purpose**

The purpose of this report is to consider a proposed new licence and Affected Person Approval ('APA') for Fork and Pedal Limited to operate a commercial walking tour through various reserves in the Queenstown CBD.

**Recommendation**

That Council:

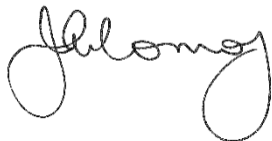
1. **Note** the contents of this report;
2. **Approve** a licence over Section 6 Blk LI TN of Queenstown, Part Recreation Reserve Block XV TN of Queenstown, Sec 17 Blk XV TN of Queenstown, Section 18 Blk XV TN of Queenstown, Section 1 Blk IX TN of Queenstown to Fork and Pedal Limited for guided commercial walking tours subject to the follow terms:

Commencement	1 November 2016
Term	1 year
Renewals	3 of 3 years each by agreement of both parties
Rent	\$500 + GST per annum base rent, or 7.5% of gross revenue, whichever is the greater
Reviews	Upon renewal
Insurance	Requirement to have public liability insurance of \$2 million
Other	Must have resource consent and permit pursuant to obstructions in public places by-law. Must avoid blocking paths and give way to other path users. Council to retain ability to suspend the licence for safety purposes or to avoid large public events. Health and Safety plan to be provided. Must not congregate in front of, or around the

Moa statute, as the grass in this area is easily affected/damaged.

3. **Approve** the Affected Person Approval for the Fork and Pedal operation and delegate signing authority to the Manager Parks and Reserves.
4. **Agree** to the exercise of the Minister's consent (under delegation from the Minister of Conservation) to the granting of a licence over Section 6 Blk LI TN of Queenstown, Part Recreation Reserve Block XV TN of Queenstown, Sec 17 Blk XV TN of Queenstown, Section 18 Blk XV TN of Queenstown, Section 1 Blk IX TN of Queenstown to Fork and Pedal Limited for guided commercial walking tours.
5. **Delegate** signing authority for the licence to the General Manager, Property and Infrastructure.

Prepared by:



Joanne Conroy  
Property Advisor - APL

6/10/2016

Reviewed and Authorised by:



Aaron Burt  
Planner: Parks & Reserves

26/10/2016

## Background

- 1 Fork and Pedal Limited are seeking to set up a new commercial walking tour throughout Queenstown on footpaths and pedestrian trails. Some of the trails and the meeting area are on reserve land so they will require a licence. Approval for using footpaths that are not reserve will be sought under the Control of Activities and Obstructions in a Public Place Bylaw (2010).
- 2 The applicants are currently seeking resource consent and because they are operating on Council land, they will require an affected person approval (APA) to complete the consent. The Property Subcommittee of Council considered both the licence and the APA in August this year. They approved notification of the licence but did not want to consider the APA until the notification process was complete, deferring that decision to Council.
- 3 The reserves concerned are Marine Parade, Earnslaw Park and Brian Smith Park. They are variously known as Section 6 Blk LI TN of Queenstown, Pt Section 74 Blk XX Shotover SD (note this is Lake Wakatipu Foreshore), PT Recreation Reserve Block XV TN of Queenstown, Sec 17 Blk XV TN of Queenstown, Section 18 Blk XV TN of Queenstown, Section 1 Blk IX TN of Queenstown. They are all recreation reserves.

- 4 The operation will involve guiding groups of up to 12 customers, with tours departing twice daily, usually at 10am and 2pm and in any case only one tour in any hour. They will meet at the William Rees Statue, visit Patagonia and then walk along the waterfront towards the Moa Statue. They will then take streets to Brian Smith Park where they will stop and eat takeaways from Fergbaker. The remainder of the tour will be on the streets.
- 5 The Property Subcommittee of Council approved notification of the intention to grant this licence in August 2016, seeking that the rent payable was the same as the licence granted in 2015 to Free Walking Tours, rather than being 10% of 7.5% of turnover as recommended. That recommendation was on the basis that the licence only covers approximately 10% of the route with the balance being on the streets rather than reserves.
- 6 The intention to grant a licence was publicly notified calling for submissions to be made by 28 September 2016. No submissions were received and therefore no hearing was held or required.

### **Comment**

- 7 The foreshore area is covered by the Sunshine Bay to Kelvin Heights Foreshore Reserve Management Plan. Policy S27 of that plan says that “commercial activities of a temporary nature and that are of public benefit shall be considered favourably”. It could be argued that this proposal is of benefit to the public by creating another commercial activity option that is both low impact and of benefit to some local food outlets.
- 8 The Queenstown Bay Foreshore Management Plan was adopted in 2016. It contemplates accommodating “appropriate commercial activity in defined areas that enhance public i.e. safety and access to and enjoyment of the foreshore and adjoining waters provided it does not inappropriately impact on the area’s natural qualities or where passive recreation is promoted”. This proposal is in zone 2 of the plan and allows “consideration of temporary commercial and community activities compatible with the passive recreation use of the reserves.” The proposed activity conforms with the policies.
- 9 The licence would be granted pursuant to the Reserves Act 1977. The suggested terms and conditions are as follow:

Commencement	1 November 2016
Term	1 year
Renewals	3 of 3 years each by agreement of both parties
Rent	\$500 + GST per annum base rent, or 7.5% of gross revenue, whichever is the greater
Reviews	Upon renewal
Insurance	Requirement to have public liability insurance of \$2 million

Other    Must have resource consent and permit pursuant to obstructions in public places by-law. Must avoid blocking paths and give way to other path users. Council to retain ability to suspend the licence for safety purposes or to avoid large public events. Health and Safety plan to be provided. . Must not congregate in front of, or around the Moa statue, as the grass in this area is easily affected/damaged.

10 The reason for these terms being recommended is to allow the applicant to trade for a year and then evaluate if there is any detrimental effect on the public because of congestion. The suggestion in regards to rent is to match the rent set for the Free Walking Tours operation approved in 2015.

11 The applicants will meet all costs incurred in considering this proposal.

### **Options**

12 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.

13 Option 1 To approve a licence and APA to Fork and Pedal Limited to operate guided walking tours through the recreation reserves known as Section 6 Blk LI TN of Queenstown, Pt Section 74 Blk XX Shotover SD (note this is Lake Wakatipu Foreshore), PT Recreation Reserve Block XV TN of Queenstown, Sec 17 Blk XV TN of Queenstown, Section 18 Blk XV TN of Queenstown, Section 1 Blk IX TN of Queenstown subject to the terms and conditions outlined above.

#### *Advantages:*

14 This will enable another commercial activity option for visitors.

15 Will generate income for Council.

#### *Disadvantages:*

16 May result in additional congestion on the reserve paths.

17 Option 2 To approve a licence and APA to Fork and Pedal Limited to operate guided walking tours through the identified recreation reserves subject to different terms and conditions.

#### *Advantages:*

18 As above.

#### *Disadvantages:*

19 As above.

20 Option 3 To decline the application for Fork and Pedal to operate walking tours on the CBD reserves.

### *Advantages*

21 Will avoid any additional congestion that might result from the proposed walking tours.

### *Disadvantages*

22 Will prevent a new commercial activity from operating in the CBD.

23 Will not generate additional income for Council.

24 This report recommends Option1 for addressing this matter as the controls proposed will minimise congestion and in the event it does occur, the activity can be terminated after one year.

### ***Significance and Engagement***

25 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves a commercial operation on reserves in central Queenstown.

### ***Risk***

26 This matter relates to operation risk OR011A Decision Making. The risk is classed as moderate.

### **Financial Implications**

27 As all costs incurred in granting this licence will be met by the applicant, there are no financial implications from this report. Council will earn minimal income from this activity.

### **Council Policies, Strategies and Bylaws**

28 The following Council policies, strategies and bylaws were considered:

- Significance and Engagement Policy
- Sunshine Bay to Kelvin Heights Reserve Management Plan
- Queenstown Bay Foreshore Management Plan

29 The recommended option is consistent with the principles set out in the named policy/policies.

30 This matter is not included in the 10-Year Plan/Annual Plan and does not have any impact on the plan.

### **Local Government Act 2002 Purpose Provisions**

31 The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory

functions in a way that is most cost-effective for households and businesses by enabling a new commercial activity to operate in Queenstown.

- Can be implemented through current funding under the 10-Year Plan and Annual Plan;
- Is consistent with the Council's plans and policies; and
- Would not alter significantly 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.

### **Consultation: Community Views and Preferences**

32 The persons who are affected by or interested in this matter are the residents/ratepayers of the Queenstown Lakes District community.

33 The proposal was publicly notified calling for submissions so the public have had the opportunity to consider and comment on the proposal.

### **Attachments**

A Fork and Pedal application

## **FORK AND PEDAL LIMITED**

### **PROPOSAL TO OBTAIN A PERMIT UNDER CONTROL OF ACTIVITIES AND OBSTRUCTIONS IN PUBLIC PLACES BYLAW (2010)**

**To** Queenstown Lakes District Council  
Private Bag 50072  
QUEENSTOWN 9343

1. **Fork and Pedal Limited** (t/a Fork & Pedal Tours), whose registered address is 7 Kilmister Grove, Lower Hutt, wishes to obtain a permit to use public road reserve under the Council's Control of Activities and Obstructions in Public Places Bylaw (2010). Detail are described below:

A permit is sought to establish and operate guided food walking tours on established footpaths and pedestrian trails within Queenstown town centre.

The proposal involves groups with a maximum of 12 customers and one guide, with any given group inclusive of customers and guides not exceeding 13 people. Where customers exceed 12, we will split the group and send out two trips with a staggered start. We will be visiting specialty food stores, historical buildings and landmarks along the route. Trips are conducted within daylight hours (morning and afternoon) and operate 7 days a week, any day of the year. Each tour will last from 2 – 2.5 hours.

The Fork and Pedal Limited proposal involves multiple applications to the Queenstown Lakes District Council for a license under the Reserves Act, a permit to use public road reserve under the Council's Control of Activities and Obstructions in Public Places Bylaw (2010) and the resource consent in terms of the Queenstown Lakes District Plan for the use of land administered under the District Plan. An application for a licence under the Reserves Act will also be submitted, it is my understanding that this will bypass the need for an Affected Party Approval by Queenstown Lakes District Council.

2. **The names and addresses of the owner and occupier (other than the applicant) of land to which the application relates are as follows:**

Queenstown Lakes District Council  
Private Bag 50072  
QUEENSTOWN 9348

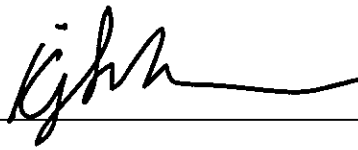
3. **The location of the proposed activity is as follows;**

Fork and Pedal Tours are located on the established footpaths and pedestrian trails within Queenstown town centre, Low Density Residential Area and the network of foreshore trails extending from the Marine Parade to Earnslaw Park, and Brian Smith Park. A plan of the location of the route proposed to be taken by the applicant is contained within Appendix B.

For the purposes of this application, the proposal relates to use of public road reserve under the Council's Control of Activities and Obstructions in Public Places Bylaw (2010).

4. **Management Plan**

Refer to attached management plan



12/07/16

Kate Scrimshaw, Managing Director, Fork and Pedal Limited

Address for Service: 7 Kilmister Grove  
Lower Hutt 5011

Telephone: 027 344 1704

Email: [kate@forkandpedal.co.nz](mailto:kate@forkandpedal.co.nz)

Invoicing Address: Fork and Pedal Limited  
7 Kilmister Grove  
Lower Hutt 5011

Attachments:

Appendix A - Fork and Pedal Route Plan

Appendix B - Management Plan



## **Appendix B - Fork and Pedal Tour Management Plan July 2016**

### **1. Introduction**

The purpose of this Management Plan is to establish the process and procedures for maintaining the safety of the activity for customers and other users of the pedestrian paths used by Fork and Pedal Limited.

The terms of this management plan are intended to provide a common basis for undertaking Walking Tours along all trails and paths used in the operation, irrespective of the ownership of the land.

The Management Plan details limitations on the nature of the activity (granted by license and resource consent), the role and responsibilities of guides, safety procedures, measures to minimize nuisance and maintain public amenity, a process for monitoring the activity and lastly to review these procedures.

### **2. Background**

Fork and Pedal Tours is in the process of applying for a permit to operate walking tours under the Control of Activities and Obstructions in a Public Place Bylaw (2010) from the Queenstown Lakes District Council Legal and Regulatory Team.

Fork and Pedal Tours is in the process of applying for a license for resource consent under the Resource Management Act 1991, for the use of the foreshore Marine Parade to Earnslaw Park (inclusive) and Brian Smith Park on Shotover Street. Once consent is received Fork and Pedal Tours shall ensure that the operation is conducted at all times in accordance with the terms and conditions of the License and Resource Consent.

Fork and Pedal Tours shall ensure that their walking tours occur predominantly within the formed tracks within the reserve areas subject to its license.

The operation involves groups with a maximum of 12 customers and one guide, with any given group inclusive of customers and guides not exceeding 13 people. Typically we expect to have 2-12 customers and one guide. Where customers exceed 12, we will split the group and send out two trips at the same time, with a slight delay between. Trips are conducted within daylight hours (morning and afternoon) and operate 7 days a week, any day of the year. Each tour last for 2 – 2 ½ hours.

### **3. Guides**

Fork and Pedal Tours shall ensure that guides receive appropriate instruction in the operation of the walking tours.

It is the responsibility of the Guides to ensure:

1. Ensure customers are not under the influence of alcohol, drugs or other substances.
2. Undertake adequate customer training in accordance with the procedures detailed within Section 4.2 below.
3. Instruction for the procedure for crossing roads.
4. Monitoring customers throughout the tour.
5. Inform customers of any immediately relevant information pertaining to their safety.
6. Provide customers with an entertaining, relevant, and informative tour.

#### 4. Safety Procedures

The safety of customers and other public users of the pedestrian paths are paramount and shall guide all decisions made with respect to the operation of Fork and Pedal Tours.

It is the responsibility of Fork and Pedal Tours to ensure each tour is provided with guided supervision. The roles and responsibilities of guides are detailed in Section 3 above.

Fork and Pedal Tours shall ensure all customers are familiar with and have agreed to comply with the Code of Conduct.

##### 4.1 Fork and Pedal Tours Code of Conduct

Fork and Pedal Limited has established a 'Code of Conduct' to ensure the safety of its customers and other users of the public trails where the operation occurs.

The Code of Conduct requires all walkers to:

- a. Be careful and considerate of others.
- b. Respect other pedestrians and give way when appropriate.
- c. When walking side by side ensure there is plenty of room left for other pedestrians.
- d. On the narrower areas of the route (i.e. on the trail around the gardens) to minimise the conflict between tour groups and other pedestrians we will require customers to walk in a straight line behind the guide to ensure the free flow of pedestrian/cycle traffic.
- e. When crossing roads, give way to traffic.
- f. Stick to the trails and footpaths, do not walk on the road unless you are crossing and it is safe to do so.
- g. Use existing rubbish bins for waste, and/or take rubbish out with them once the tour has finished.
- h. Obey applicable laws and regulations.

#### 5. Nuisance and Public Amenity

The activity is being undertaken entirely on public land, including the foreshore reserves used by the public and administered by the Queenstown Lakes District Council. This imposes a duty of care of Fork and Pedal Tours to conduct the operation in a manner that respects the rights of other track users and to maintain the amenity values present within this area.

Fork and Pedal Tours seeks to maintain and protect the amenity values for other track users through general obligations relating to the operation of Fork and Pedal Tours as well as more specific procedures relating to special events and activities occurring on reserves.

##### 5.1 General Obligations

Fork and Pedal Tours shall not allow any tour group to use the reserve paths in a manner that would constitute a nuisance or annoyance to any other person lawfully on or using the reserve tracks. In particular, guides must ensure that Fork and Pedal Tour groups:

- Give way to other track users
- Avoid blocking paths
- Slow down in anticipation of any known hazards or to enable safe passage of other track users.

## 5.2 Special Events and Activities

The reserve areas and trails extending from the Marine Parade to Earnslaw Park (inclusive) and Brian Smith Park host special events and activities that result in times of high pedestrian use. These include, but are not limited to:

- Loading and unloading of the Earnslaw on Steamer Wharf;
- Market Days on Earnslaw Reserve;
- Winter Festival activities – Mardi Gras, Street Parade, etc;
- ANZAC Day Parade

The process used by Fork and Pedal Tours to avoid it becoming a nuisance or annoyance during these times is to:

- Identify the times and dates of key events and activities.
- Plan routes for tours that wherever possible travel around areas being used for events involving high numbers of pedestrians.
- Where alternative routes are not available seek to minimize potential conflict by adjusting travel times through these areas.
- Where activities or events do occur that cannot be avoided, exercise good judgment to wait, and proceed only once it is safe to do so.
- In extreme situations where the only route available cannot be passed without compromising safety and/or causing nuisance to other users, proceed back along the path and return to starting point.

## 6. Monitoring

Fork and Pedal Tours shall keep a record of the operation of the activity, including a log of the number of trips, size of groups and number of daily customers.

Any issues or complaints made by a member of the public shall be forwarded in writing to the Queenstown Lakes District Council, noting the date, time and nature of the issue, incident or complaint.

If requested Fork and Pedal Tours shall submit an Annual Report to Queenstown Lakes District Council within 10 days of the anniversary of the grant of its resource consent. The Annual Report shall incorporate:

- a. Any complaints received by the Queenstown Lakes District Council.
- b. A summary of the number of daily trips, size of groups and customers.
- c. Any changes proposed to the Management Plan to improve safety or amenity of other track users.

## 7. Review

The consent holder may submit to Queenstown Lakes District Council a review of this Management Plan at any stage to update the procedures or processes detailed in this document arising from monitoring undertaken in accordance with Section 6 above and/or and further limitations imposed on the nature of the operation through other statutory approvals.

## **Fork and Pedal Tours Map Legend / Stopping Points**

### **1. The William Rees Statue**

Meet group and introduce tour.

### **2. Patagonia Chocolates (New store opening in July where pumpkin patch used to be)**

Walk a few meters to Patagonia Chocolates.  
Food tasting.

### **3. Moa Statue**

Walk along the waterfront path to the Moa Statue.  
Information stop

### **4. Fergbaker**

Turn right onto Beach Street and walk until you reach Rees Street. Wait for the whole group and cross Rees Street and then cross Beach Street on the zebra crossing. Walk along Beach Street and turn right onto Shotover Street and stop at Fergbaker.  
Food tasting.

### **5. Brian Smith Park**

If Fergbaker is busy we will take the group to Brian Smith Park to eat the food. Wait for the whole group and cross via the zebra crossing to Brian Smith Park. The guides will ensure all rubbish/recycling is put in the bins provided.

### **6. Bespoke Kitchen**

Head up Brecon Street steps and wait for the whole group at the top. Cross Main Street and continue up Brecon Street to Bespoke Kitchen on Isle Street.  
Food Tasting

### **7. Opposite Queenstown Primary (looking up at the gondola)**

Head down Isle Street until you get to the Zebra crossing by the Queenstown Primary School. Wait for the whole group and cross the road. Walk a little further down the road and stop opposite the Queenstown Primary School field. Group instructed not to block the path and stand in single file.  
Information stop.

### **8. Raeward Fresh**

Continue down Robins Road and instruct the group to be careful when walking through the carpark to the entrance.  
Food tasting.

## **9. 1876**

From Raeward Fresh follow Gorge Road until you get to the zebra crossing at the corner of Shotover Street and Stanley Street. Wait for the whole Group and cross over Shotover Street. Follow Stanley Street until you get to the zebra crossing on the corner of Stanley Street and Ballarat Street. Wait for the whole group and cross over Stanley Street and stop in front of 1876 on Ballarat Street where the footpath widens. Advise the group to stay close to the fence so they don't block the path.  
Information Stop.

## **10. Rata Restaurant**

Walk down the lane and stop in front of Rata Restaurant  
Information Stop

## **11. Taco Medic**

Walk back out to Ballarat Street and head towards Camp Street. Wait for the whole group at the zebra crossing on the corner of Ballarat Street and Camp Street. Cross Camp Street and head towards Searle Lane. Walk down Searle Lane keeping to the left hand side to avoid cars.  
Food Tasting

## **12. Cup & Cake**

Head down the lane way to Cup & Cake.  
Food Tasting

## **13. Botswana Butchery**

Head out onto Church Street and cross the road and turn right. Turn left onto Marine Parade and stop outside Botswana Butchery. Advise group to stand single file and not block the footpath.  
Information stop

## **14. Rees Statue**

Cross Marine Parade and turn right and return to the Rees Statue along the waterfront trails. The tour will officially finish here but the guide will offer to lead the group to Smiths Craft Beer Bar so they can finish with a drink together.

## **15. Smith's Craft Beer Bar**

Head along Rees street until you reach Shotover Street and cross at the Zebra Crossing. Show group where Smith's Craft Beer Bar is and the tour is complete.

## Appendix A – Fork and Pedal Tours Route Map

