

QLDC Council  
29 September 2016

Report for Agenda Item: 1

Department: Finance and Regulatory

Activities in Public Places Bylaw 2016

Purpose

To consider the adoption of the proposed Queenstown Lakes District Council Activities in Public Places 2016.

Recommendation

That Council:

1. **Note** the contents of this report;
2. **Accept** the recommendation from the Activities in Public Places Bylaw hearing panel to adopt the Bylaw and formalise the permit conditions for Licenced Premises Tours; and
3. **Adopt** the proposed Queenstown Lakes District Council Activities in Public Places Bylaw 2016, to be implemented on Monday 31 October 2016 and direct officers to publicly notify the Council's decision.
4. Agree that the Licensed Premises Tour Permit Conditions be reported back to Council after 12 months of operation.

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14/09/2016

Reviewed and Authorised by:



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General Manager; Regulatory  
and Finance GM

14/09/2016

## Background

- 1 On 28 April 2016, Council approved the Proposed Queenstown Lakes District Nuisance Bylaw 2016 for public consultation, following a review of the Control of Activities and Obstructions in Public Places Bylaw 2010 <http://www.qldc.govt.nz/assets/Uploads/Council-Documents/Full-Council-Agendas/2016/28-April-2016/Item-6/6-Nuisance-Bylaw-Report.pdf>.
- 2 Formal consultation was conducted from 30 April 2016 – 30 May 2016, with 545 submissions received (Attachment A – Consultation Summary Report).
- 3 A hearing was conducted on 9 August 2016.

## Comment

- 4 The Local Government Act 2002 (“LGA 2002”), enables Council to make a Bylaw to address local issues and provides the ability to operate proactively to:
  - a) Protect the public from nuisance;
  - b) Protect, promote, and maintain public health and safety; and
  - c) Minimise the potential for nuisance behaviour in public places.
- 5 It was identified that from the 585 submissions received 40 were duplicates, i.e. the same submitter entered the exact same submission more than once. These duplications were removed leaving a total of 545 submissions.
- 6 When informing submitters (by email) of the hearing date and times, we received approximately 130 emails bounce back as undeliverable. The majority of these emails were found to be from Facebook email addresses or overseas Hotmail accounts.
- 7 Nine responses were received from submitters who advised that they had no knowledge of the proposed Bylaw, that they did not make a submission and that they had no knowledge of how their email address could have been used to make a submission.
- 8 27 submitters advised that they wished to speak to their submission at the hearing.
- 9 A hearing was held on the 9 August with a hearing panel consisting of Mayor Vanessa Van Uden, Councillor MacLeod and Councillor Ferguson. 19 submitters were heard at the hearing which included employees, directors and affiliates of the main bar crawls within Queenstown, Police, Medical Officer of Health, Alcohol Inspector and Downtown Queenstown (Attachment B – hearing/ deliberations minutes).
- 10 Although 27 submitters advised that they wished to be heard only 19 were heard at the hearing because of being unable to attend due to work/life commitments, no longer wishing to be heard or no response received from notification of the hearing.

- 11 The proposed inclusion of licensed premises tours under the bylaw was the key topic of concern for submitters, who generally wished to continue with the existing informal arrangements that had been in place since 2012. It should be noted that the intention to include them through a permit system was not based on any complaints, though there is anecdotal concern of the size and behaviour of some tours becoming an imposition on other members of the public. The proposed graduated permits system will simply provide greater formality around matters of conduct, ratios, standards for guides, etc that mirror some of the current informal expectations. It will also ensure that any new providers have a clear understanding about what the standard is that Council and the community will be expecting. Other points raised through the submission process were concerns with the connotation of a “nuisance” bylaw, and the request also to require permits for buskers.
- 12 Initial deliberations were held after the hearing on 9 August (see minutes in Attachment B).
- 13 During the course of the submission hearing on 9 August 2016 the directors of Big Night Out, Jealous Panda and Kiwi Crawl requested a meeting to discuss the possible permit conditions that may be imposed in the event the Bylaw was passed.
- 14 A meeting was held on 23 August 2016 in which a representative from Big Night Out, Jealous Panda and Kiwi Crawl attended to discuss the proposed licensed premises tour permit conditions (Attachment C). The proposed conditions and subsequent comments (Attachment D) were forwarded to the hearing panel for consideration.
- 15 Further Council deliberations were held on 31 August 2016, recommending the proposed Queenstown Lakes District Council Activities in Public Places Bylaw 2016 for adoption (Attachment E and Attachment F).
- 16 It was recommended through the deliberations that the name of the Bylaw be changed, that ‘Licenced Premises Tours’ remain in the Bylaw, that the permit conditions connected to ‘Licenced Premises Tours’ be formalised, that free commercial Licenced Premises Tours be included in the Bylaw and that busking and pop up stalls would require an online registration process.

## **Options**

- 17 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.
- 18 Option 1 No Bylaw
  - 19 *Advantages:* Less bureaucratic
  - 20 Without a Bylaw, some of the community may see this as a positive and Council as being less bureaucratic.
    - 21 *Disadvantages:* No enforcement capability

22 While not having a bylaw would be easier for users it would make it difficult to hold users to any form of account. The bylaw provides the ability to establish some baseline standards, ensure that participants are known and registered (where permits are used) and ultimately provides some compulsion on users to work within some accepted parameters.

### 23 Option 2 Adopt Proposed Bylaw

24 *Advantages:* A Bylaw that meets the community needs.

25 The proposed bylaw recognises and provides for a range of activities which involve individuals and companies utilising the public street scape to provide a service or business. The bylaw recognises that this use is not carte blanche and that users need to be mindful that these are public share spaces, and that the use of this should be controlled by setting appropriate rules and restrictions. The bylaw provides this level of guidance.

26 *Disadvantages:* Bylaws need to be policed, and may require enforcement. However, this is a cost that will only be incurred if partners are not operating within the established framework.

27 The proposed Bylaw includes aspects that not everyone one in the community agrees with e.g. bar crawl companies.

28 This report recommends Option 2 for addressing the matter as this will be the most effective option for addressing our community's needs. The Bylaw will provide a framework for the perceived nuisance that is caused in several areas in our community.

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

29 This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy because of the community interest in the topics and the impacts on our community as a whole are small.

### ***Risk***

30 This matter related to the operational risk OR004 as documented in the Council's risk register. The recommended option considered above migrates the risk by Treating the risk - putting measures in place which directly impact the risk.

### **Financial Implications**

31 There are minimal operational cost implications resulting from the decision regarding the review of this Bylaw. These costs will be met through current budgets.

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

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

- The Control of Activities and Obstructions in Public Places Bylaw 2010
- Local Approved Products Policy 2015

- Enforcement Strategy and Prosecution Policy
- Waste Management Strategy

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

34 This matter is included in the 10-Year Plan/Annual Plan

35 Volume 1 – Our Long Term Council Outcomes to encourage compliance and to protect the interests of the district

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

36 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 providing the framework to enable the vibrancy of activities in public places, with controls in place where appropriate;
- 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.
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### **Consultation: Community Views and Preferences**

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

38 The Council has conducted formal consultation, a hearing and a meeting with the directors of Big Night Out, Jealous Panda and Kiwi Crawl on the proposed Bylaw in which the panel recommended changes that are now present in the final Activities in Public Places Bylaw 2016.

### **Attachments**

- A Consultation Summary Report
- B Hearing/deliberation minutes
- C Licenced Premises Tours permit conditions
- D Licenced Premises Tours operator comments on permit conditions
- E Queenstown Lakes District Activities in Public Places Bylaw 2016 – Tracked Changes
- F Queenstown Lakes District Activities in Public Places Bylaw 2016 – Clean