

## Attachment A: Proposed Bylaw



### **DRAFT Activities in Public Places Bylaw 2023** **Ngā ture mahi ki ngā wāhi tūmatanui**

Queenstown Lakes District Council

Date of making: [Insert]

Commencement: [Insert]

This bylaw is ~~adopted pursuant to~~ made under sections 145 and 146 of  
the Local Government Act 2002 ~~and the Health Act 1956~~.

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## Part 1 – Preliminary

### 1 Title and Commencement

1.1 This bylaw is the Activities in Public Places Bylaw 2023.

1.2 This bylaw comes into force on [Insert date].

### 2 ~~Area within which Bylaw applies~~ Application

2.1 This bylaw applies to the Queenstown Lakes District.

### 3 Purpose

3.1 The purpose of this bylaw is to:

- (a) protect the public from nuisance, protect, promote and maintain public health and safety, and minimise the potential for offensive behaviour in public places;
- ~~(b) minimise the potential for offensive behaviour in public places;~~
- ~~(c) protect, promote and maintain public health and safety;~~
- ~~(d)~~ (b) manage and protect Council-owned or controlled land, structures and other property and assets under Council control from misuse, damage or loss; and
- ~~(e)~~ (c) regulate trading in public places.

#### ~~Bylaw to bind the Crown~~

~~Except as provided in section 153 of the Local Government Act 2002, the Crown is bound by the provisions of this bylaw.~~

#### ~~Delegation~~

~~Any of the various powers and functions of the Council as detailed and set out in this bylaw, may be delegated by it, to its Chief Executive Officer and sub-delegated by the Chief Executive Officer to any such other Officer of Council.~~

#### 4 Interpretation

4.1 In this bylaw, unless the context otherwise requires,-

Act means the Local Government Act 2002

~~Busker means a person or persons who is or are busking.~~

Busking means the provision of entertainment on or in a public place, usually while soliciting money or money's worth, and includes but is not limited to, playing an instrument, singing, dancing, juggling, mime, puppetry, performance art, conjuring, acrobatics, recitation, undertaking artworks and performing other acts of theatrical or visual forms. It does not include advertising or promotion in any form.

~~Busking and Busking performance have a corresponding meaning.~~

**Council** means the Queenstown Lakes District Council.

District Plan means Queenstown Lakes District Council District Plan.

**Enforcement officer** means a person appointed to be an enforcement officer by ~~the Queenstown Lakes District~~ Council.

**Event** means an organised, temporary activity that takes place on one or more days including a market, pop-up stall, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon or triathlon. For the purposes of this bylaw an indoor performance, indoor private function, tasting and sampling activity giveaway, sports practice or training is not an event.

**Event organiser** means a person who has responsibility or oversight of the management, operation or organisation of an event, and includes a person who is an owner, occupier or manager of an event.

**Licensed premises** has the meaning given in the Sale and Supply of Alcohol Act 2012.

**Licensed premises tour organiser** means a person who has responsibility or oversight of the management, operation or organisation of an organised licensed premises tour.

**Market** means a combination of trading activities at a common location, and includes an arts and craft market, farmers' market, and street market day.

**Micromobility device** means transportation using small, lightweight vehicles such as bicycles, skateboards, or scooters.

**Mind altering substance** means a substance, whether synthetic or naturally occurring, which may alter consciousness, mood or emotions, or which might intoxicate. It includes psychoactive substances as defined in the Psychoactive Substances Act 2013 and what is commonly known as glue sniffing, but does not include:

- a) medically prescribed substances ingested by the person for whom they were prescribed;
- b) substances purchased from a pharmacy without a medical prescription;
- c) alcohol as defined in the Sale and Supply of Alcohol Act 2012.

~~**Nuisance** has the same meaning as given in section 29 of the Health Act 1956 and includes a person, animal, activity or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place~~

**Organised licensed premises tour** means a tour of two or more licensed premises involving a group of persons using public places as part of the tour, that is marketed or advertised to the public or a section of the public ~~in any form~~. It does not include a privately organised tour of licensed premises that is not marketed or advertised to the public.

**Offence** means an offence under section 239 of the ~~Local Government Act 2002~~ or ~~section 66 of the Health Act 1956~~.

~~**Permission** means an official approval granted by the Council under clause 13.1 of this Bylaw~~

**Pop up stall or mobile shop** means a stand, stall, structure, vehicle, awning, table or any temporary structure from which

goods or services are offered for distribution or sale, and includes a temporary food outlet, or a temporary drinks outlet. It does not include any activity forming part of a market or a service delivery vehicle carrying goods which have been ordered.

**Public place** means a place that is open to or used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from that place, and which is owned, managed, maintained or controlled by Council. It includes any road, street, footpath, court, alley, lane, park, recreation ground, sports field, reserve, beach, pedestrian mall, cycle track, accessway, squares and carparks.

*Explanatory note: Reserves and beaches are governed by the Reserves Act 1977. ~~any place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it.~~*

**Trading activity** means an activity undertaken by any person ~~where goods or services are offered for sale or hire, whether for commercial or charitable purposes involving the sale of goods, or the offering of a commercial service for payment, reward or otherwise, in a public place, including but not limited to: pop up stalls, mobile shops, micromobility device rental scheme operations, temporary drinks outlet or temporary food outlet. A trading activity may be temporary or permanent or occur on a one-off basis or as a series of activities.~~

**Trade and Trading** has a corresponding meaning to trading activity.

**Temporary drinks outlet** means a stall or vehicle, whether self propelled or not, from which drinks are offered or displayed for sale, or from which drinks may be ordered, and includes a coffee cart. It excludes a stall or vehicle that primarily offers goods and/or services other than drinks.

Temporary food outlet means a stall or vehicle, whether self propelled or not, from which food is offered or displayed for sale, or from which food may be ordered. It excludes a stall or vehicle that primarily offers goods and/ or services other than food.

- 4.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made,

amended and revoked without ~~any formality amending the bylaw.~~

4.3 ~~The Interpretation Act 1999 applies to this Bylaw.~~

## **Part 2 – Activities in Public Places**

### **5 Nuisances Behaviour prohibited in public places**

5.1 A person ~~must not use~~in a public place ~~to~~may not:

- (a) do anything to cause or allow a nuisance to occur.
- (b) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place.
- (c) use any material or thing recklessly or in a manner which may intimidate, be dangerous, be injurious to or cause a nuisance to any person.
- (d) do anything to cause or allow damage to any property owned or controlled by Council.

### **6 Consumption of mind altering substances in public places**

6.1 A person must not consume, inject or inhale any mind altering substance in a public place.

### **7 Distribution of leaflets and canvassing**

7.1 ~~The primary purpose of this clause is to prevent littering in public places.~~

7.2 A person must not ~~litter or otherwise cause a nuisance in connection with a trading activity~~ in a public place by:

- (a) depositing leaflets, flyers or other promotional material relating to any commercial activity or business on any vehicle.
- (b) ~~distribute-distributing~~ leaflets, flyers or other promotional material relating to any commercial activity or business ~~except within retail premises offering related goods or services for sale or hire provided the owner or occupier has given permission for the distribution to occur.~~
- (c) ~~distribute-distributing~~ samples ~~unless the distribution of samples occurs within retail premises offering related~~

~~goods or services for sale or hire provided the owner or occupier has given permission for the distribution to occur.~~

- (d) ~~touting~~, ~~soliciting~~, ~~canvassing~~, ~~enticeenticing~~, or ~~accosting~~ any person.

## **8 Busking in public places**

- 8.1 A person may busk in a permitted busking area approved by Council under clause 11 of this bylaw if they have registered in the Council online busking register and agreed to comply with the busking conditions in clause 12 of the bylaw.

## **9 Trading activities, events and organised licenced premises tours in public places**

- 9.1 No person may undertake or allow any other person to undertake on their behalf, a trading activity, event or organised licenced premises tour in a public place without permission obtained under this bylaw from Council.

- 9.2 Permission issued under this bylaw is subject to terms and conditions that Council deems appropriate in respect of the proposed trading activity.

- 9.3 Terms and conditions specified in a permit may include conditions identified in Part 3 of this bylaw and may also include, without limitation:

- (a) the name of the permit holder;
- (b) the duration of the permit;
- (c) the location to which the permit applies;
- (d) the type of trading activity allowed by the permit; and
- (e) the hours of trade allowed by the permit.

- 9.4 Permit holders must comply with the terms and conditions of the permit.

## **Part 3 – Permissions**

### **10 Application for ~~Council~~ permission**

- 10.1 Council may grant permissions for a trading activity, event, or an organised licensed premises tour, or ~~a busking performance~~. Unless Council specifies otherwise, an application for a permit

must be made in writing, on the appropriate form provided by Council (if any), and supported by any information required by the Council.

10.2 When deciding whether to issue permission under this bylaw, Council may have regard to:

- (a) whether the proposed activity may result in an undue restriction on vehicle traffic or pedestrian flow;
- (b) whether the proposed activity may pose a risk to public health and safety;
- (c) whether the proposed activity may pose a risk to Council property;
- (d) whether the proposed location of the activity is appropriate given the nature and scale of the activity proposed;
- (e) whether the proposed activity may cause a nuisance; and
- (f) whether the proposed activity is consistent with any-all applicable Council policies and plans.

10.3 Council may grant permission under this clause subject to the conditions for that proposed activity set out in the bylaw.

**11 Permitted trading activity areas and permitted busking areas**

11.1 Unless specific permission has been granted, the holders of any permission may only busk or trade in the places or areas approved by Council.

11.2 Council may by resolution declare:

- (a) any public place or part of a public place to be an area where busking or a trading activity is approved or prohibited;
- (b) any public place or part of a public place to be an area where busking or a trading activity is restricted or only permitted in a specific location;
- (c) a trading activity to be prohibited for any period.

**12 Conditions for busking**

- 12.1 A person may busk in a public place provided all of the following conditions are met:
- (a) The busker has registered his or her details in the Council online busking register and agreed to comply with all busking conditions;
  - (b) the busker agrees to perform in a permitted busking area;
  - (c) the busker is at a distance of at least 50 metres from any others;
  - (d) the busker is at a distance of at least 3 metres from any residential, retail or commercial premises unless the busker has the permission of the owner or occupier of the premises to busk at a closer distance;
  - (e) the busker does not perform within 200 metres of the area designated for an event authorised by Council; and
  - (f) the busker does not obstruct pedestrian flow;
  - (g) the busker does not perform at the same location for longer than one hour, unless there is a 30 minute break between performances;
  - (h) the busker does not use an amplified sound system;
  - (i) the busker does not perform in a manner that in the reasonable opinion of a Council officer causes or is likely to cause injury or nuisance to any person or damage to any property owned or controlled by Council;
  - (j) the busker does not at any time argue, intimidate, insult or abuse the public;
  - (k) any other condition in the reasonable opinion of a Council officer is necessary to reduce the likelihood of the busking performance causing an injury or nuisance to any person.
- 12.2 A busker who cannot meet all the conditions in clause 12.1 of this bylaw must not busk except as authorised by:
- (a) permission obtained prior to commencing a busking performance under clause 10 of this bylaw; or
  - (b) a resource consent issued by Council.

- 12.3 If an enforcement officer has reasonable grounds to believe that a busker is not complying with the conditions in clause 12, or is causing offensive behaviour or nuisance in a public place, the enforcement officer may direct that the busker:
- (a) comply with any relevant conditions or to take action to prevent the offensive behaviour or nuisance from continuing;
  - (b) if the busker does not comply with the enforcement officer's direction in (a) within a reasonable time, the enforcement officer may:
    - (i) revoke the busking permission;
    - (ii) direct the busker to cease the busking performance;
    - (iii) direct that the busker move to a new location.
- 12.4 A busker must comply immediately with a direction from an enforcement officer under clause 12.3.

### **13 Conditions for event permission**

- 13.1 An event organiser must not cause or allow an event to occur in a public place, without first obtaining permission from Council under Part 3 of this bylaw, ~~unless except where~~ a Council officer is satisfied on reasonable grounds that the event organiser does not require permission because the event is:
- (a) of a small scale;
  - (b) not open to the public or a section of the public; and
  - (c) is unlikely to cause a nuisance in a public place or risk to public health and safety.
- 13.2 When granting an event permission, Council may impose conditions, including, but not limited to:
- (a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;
  - (b) the duration of the permission;
  - (c) the location of the ~~activity~~event, taking into account the surrounding land uses and street layout and the minimum clear widths of footpaths required for pedestrian access;

- (d) a requirement that the ~~activity event~~ is not located in a public place in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;
- (e) that a continuous accessible path of travel is provided for;
- (f) requiring compliance with a traffic management plan and/or any waste management and minimisation plan;
- (g) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;
- (h) safety, health and hygiene requirements;
- (i) the requirement for public liability insurance;
- (j) restrictions on the use of amplified music/sound; and
- (k) requiring compliance with the District Plan and any other relevant Council policies and plans.

13.3 A person must not undertake any trading activity (including a temporary food or temporary drinks outlet) in connection with an event held in a public place unless the event is authorised by permission granted under Part 3 of this bylaw, ~~or the event does not require permission under clause x.~~

#### **14 Conditions for organised licensed premises tour permission**

14.1 When granting an organised licensed premises tour permission, the Council may impose conditions, including, but not limited to:

- (a) the designated times of operation (hours and days) for the organised licensed premises tour;
- (b) the ratio of staff involved in conducting tours to patrons;
- (c) the duration of permission;
- (d) a limit on group size for each organised licensed premises tour;
- (e) measures for dealing with intoxicated persons and persons involved in intimidatory or other offensive behaviour;

- (f) a requirement that the organised licensed premises tour is not conducted in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;
- (g) safety, health and hygiene requirements;
- (h) restrictions on the use of amplified music/sound;
- (i) requiring compliance with other Council bylaws including the ~~Alcohol Ban Bylaw 2014~~ Alcohol Restrictions in Public Places Bylaw 2018 (or successor bylaw) and any applicable Council policies and plans; and
- (j) requiring all staff members involved in conducting tours to:
  - (i) attend a host responsibility qualification or similar course or provide in-house training approved by an enforcement officer; and
  - (ii) attend crowd control training or provide in-house training approved by an enforcement officer.

14.2 A licensed premises tour organiser must ensure that written confirmation of permission can be produced when requested to do so by an enforcement officer. ~~A licensed premises tour organiser must ensure that the organised licensed premises tour does not breach the conditions of the permission granted under clause xx.~~

## 15 Request for review of original decision

- 15.1 A person may request in writing for Council to review its decision to:
- (a) decline an application for permission under this bylaw;
  - (b) impose certain conditions under this bylaw or any permission granted by Council; or
  - (c) ~~or~~ revoke any permission under this bylaw.
- 15.2 ~~The~~ In determining any review, Council ~~has a discretion to review the original decision, and may decide~~ to either:
- (a) confirm its original decision; or

- (b) amend the conditions ~~in the~~imposed on any permission;  
or
- (c) issue a new permission.

## **16 Fees**

16.1 Council may by resolution prescribe fees for:

- (a) permission granted under Part 3 of this bylaw;
- (b) processing an application;
- (c) reviewing an existing permission or a decision to decline or revoke permission; and
- (d) inspecting trading activities for the period of the permission.

## **Part 4– Enforcement**

### **17 Breach of bylaw**

17.1 A person breaches this bylaw when they:

- (a) breach any provision in Parts 2 or 3 of this bylaw;
- (b) breach any conditions of a permit granted under Part 3 of this bylaw;
- (c) fail to carry out any action reasonably requested by an enforcement officer under this bylaw.

17.2 A breach of this bylaw may result in the permit being suspended or cancelled.

17.3 Every person that has had a permit suspended or cancelled must immediately cease the activity or activities for which the permit was given, trading, until such time that Council may permit them to resume.

### **18 Enforcement**

18.1 The Council may use its powers under the ~~Local Government Act 2002~~ and Health Act 1956 to enforce this bylaw.

### **19 Offences and Penalties**

19.1 Every person who contravenes this bylaw commits an offence.

19.2 Every person who commits an offence against this bylaw is liable to the penalty imposed under section 242 of the Local Government Act 2002.

**20 Revocations and savings**

20.1 The Activities in Public Places Bylaw 2016 including all amendments is revoked

20.2 Any approval, permit or other act of authority which originated under or was continued by the bylaw revoked in clause 20.1 that is continuing at the commencement of this bylaw, continues to have full force and effect for the purposes of this bylaw, but is subject to the application of any relevant clauses in this bylaw.

20.3 The revocation of the bylaw under clause 20.1 does not prevent any legal proceedings, criminal or civil, being taken to enforce that bylaw and such proceedings continue to be dealt with and completed as if the bylaw had not been revoked.

*Explanatory Note:*

*The Queenstown Lakes District Council Activities in Public Places Bylaw 2023 was adopted pursuant to a resolution passed by the Queenstown Lakes District Council on xx 2023 pursuant to the Local Government Act 2002 and Health Act 1956*