



# Nuisance Bylaw 2016

Queenstown Lakes District Council

Date of making: [Insert]

Commencement: [Insert]

This bylaw is adopted pursuant to the Local Government Act 2002 and Health Act 1956.

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## Part 1 – Preliminary

### 1 Title and Commencement

1.1 This bylaw is the Queenstown Lakes District Council Nuisance Bylaw 2016.

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

### 2 Area within which Bylaw applies

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;
- (b) minimise the potential for offensive behaviour in public places;
- (c) protect, promote and maintain public health and safety;
- (d) protect land under Council control from misuse, damage or loss; and
- (e) regulate trading in public places.

### 4 Bylaw to bind the Crown

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

### 5 Delegation

5.1 Any of the powers and functions of the Council 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 other Officer of Council.

### 6 Interpretation

6.1 In this bylaw, unless the context otherwise requires, –

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

**Busk** means to perform in a public place, including the playing of an instrument, singing, dancing, juggling, mime, puppetry, performance

art, conjuring, aerobatics, recitation, undertaking artworks and performing other acts of theatrical or visual form. **Busking** and **Busking performance** have a corresponding meaning.

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

**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, and includes a person to whom a fee is paid by participants as consideration for participating in the 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.

**Mind altering substance** means a substance, whether synthetic or naturally occurring, which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes a psychoactive substance 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) nicotine;
- (d) caffeine;

- (e) 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 and that:

- (a) is marketed or advertised to the public or a section of the public in any form; and
- (b) involves participants paying a fee to a licensed premises tour organiser as consideration for participating in the organised licensed premises tour.

It does not include a privately organised tour of licensed premises involving a group of persons, unless it satisfies (a) and (b) above.

**Offence** means an offence under section 239 of the Local Government Act 2002.

**Permit** means an official approval granted by the Council under clause 13.1 of this Bylaw.

**Pop up stall** means a stand, stall, structure, vehicle, awning, table or 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.

**Public place** means 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.

**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 .

- 6.2 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.
- 6.3 The Interpretation Act 1999 applies to this Bylaw.

## **Part 2 – Specific Controls**

### **7 Nuisances**

- 7.1 A person must not use a public place to:
- (a) do anything to cause or permit a nuisance to occur;
  - (b) wilfully obstruct, disturb or interfere with any other person in their use or enjoyment of that public place; or
  - (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.

### **8 Consumption of mind altering substances**

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

### **9 Distribution of leaflets and canvassing**

- 9.1 A person must not in connection with a trading activity in a public place:
- (a) deposit leaflets, flyers or other promotional material on any vehicle.
  - (b) distribute leaflets, flyers or other promotional material 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 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) tout, solicit, canvass, entice, or accost any person.

**10 Events in public places**

10.1 An event organiser must not cause or permit an event to occur in a public place, without first obtaining a permit from the Council under Part 3 of this bylaw, unless an enforcement officer is satisfied on reasonable grounds that the event organiser does not require a permit 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.

*Explanatory Note: For the avoidance of doubt, an events permit is not a substitute for any other regulatory approvals that may be required for the event, including resource consents.*

10.2 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 a permit granted under Part 3 of this bylaw, or the event does not require a permit under clause 10.1.

10.3 If an enforcement officer has reasonable grounds to believe that an event organiser is not complying with clause 10.1, the enforcement officer may direct the event organiser to close down the event until a permit is obtained under Part 3 of this bylaw.

10.4 If an enforcement officer has reasonable grounds to believe that an event permit has been breached, or the event is causing a nuisance in a public place, or it is necessary to protect public health and safety, the enforcement officer may:

- (a) direct that the event organiser comply with any relevant condition of the event permit or to take action to prevent the nuisance from continuing or to protect public health and safety;
- (b) revoke the event permit if the event organiser does not comply with the enforcement officer's direction in (a), within a reasonable period of time; and
- (c) issue a direction requiring the event organiser to close down the event if the permit is revoked under (b).

10.5 An event organiser must comply immediately with a direction from an enforcement officer under clause 10. 3 or 10.4.

**11 Organised licensed premises tours**

- 11.1 A licensed premises tour organiser must not cause or permit an organised licensed premises tour to occur in a public place, without first obtaining a permit from the Council under Part 3 of this bylaw.
- 11.2 If an enforcement officer has reasonable grounds to believe that a licensed premises tour organiser is not complying with clause 11.1, the enforcement officer may direct the licensed premises tour organiser to stop the organised licensed premises tour until a permit is obtained under Part 3 of this bylaw.
- 11.3 If an enforcement officer has reasonable grounds to believe that an organised licensed premises tour permit has been breached in a public place, or the organised licensed premises tour is causing offensive behaviour or a nuisance in a public place, the enforcement officer may:
- (a) direct that the licensed premises tour organiser comply with any relevant condition of the event permit or to take action to prevent the offensive behaviour or nuisance from continuing;
  - (b) revoke the organised licensed premises tour permit if the licensed premises tour organiser does not comply with the enforcement officer's direction in (a), within a reasonable period of time; and
  - (c) issue a direction requiring the licensed premises tour organiser to stop the organised licensed premises tour if the permit is revoked under (b).
- 11.4 A licensed premises tour organiser must comply immediately with a direction from an enforcement officer under clause 11.2 or 11.3.

**12 Busking**

- 12.1 A person may busk in a public place provided all of the following conditions are met:
- (a) the busker is at a distance of at least 50 metres from any other busker;
  - (b) the busker is at a distance of at least 3 metres from any residential, retail or commercial premises unless the busker has permission of the owner or occupier of the premises to busk at a closer distance;
  - (c) the busker does not obstruct pedestrian flow;
  - (d) the busker does not perform in the same location for longer than one hour, unless there is a 30 minute break between performances;

- (e) the busker does not perform between the hours of 10pm and 8am;
  - (f) the busker does not use an amplified sound system;
  - (g) the busker does not perform in a manner that in the reasonable opinion of a Council officer causes or is likely to cause an injury or nuisance to any person; and
  - (h) the busker does not at any time argue, intimidate, insult or abuse the public.
- 12.2 A busker who cannot meet all of the conditions in clause 12.1 of this bylaw must not busk except as authorised by:
- (a) a permit obtained prior to commencing a busking performance under Part 3 of this bylaw; or
  - (b) a resource consent issued by the Council.
- 12.3 If an enforcement officer has reasonable grounds to believe that a busker is not complying with the conditions in clause 12.1 above, or the conditions of a busking permit, or is causing offensive behaviour or a nuisance in a public place, the enforcement officer may direct that the busker:
- (a) comply with any relevant condition or to take action to prevent the offensive behaviour or nuisance from continuing; and
  - (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 permit;
    - (ii) direct the busker to cease the busking performance; and
    - (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.

### **Part 3– Permits**

#### **13 Application for a permit**

- 13.1 The Council may issue an events permit, an organised licensed premises tour permit, or a busking permit.
- 13.2 When deciding whether to issue a permit under this bylaw, the 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 location of the activity is appropriate given the nature and scale of the activity proposed;
- (d) whether the proposed activity may cause a nuisance; and
- (e) whether the proposed activity is consistent with any applicable Council policies and plans.

13.3 The Council may issue a permit under this clause subject to the conditions for that proposed activity set out in this part of the bylaw.

#### **14 Conditions for event permit**

14.1 When issuing an events permit, the 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 permit;
- (c) the location of the activity, 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 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 relevant Council policies and plans.

14.2 An event organiser must ensure that the event does not breach the conditions of the permit issued under clause 14.1.

14.3 An event organiser must ensure that a permit is either displayed during the event or can be produced when requested to do so by an enforcement officer.

## **15 Conditions for organised licensed premises tour permit**

15.1 When issuing an organised licensed premises tour permit, 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 duration of the permit;
- (c) a limit on group size for each organised licensed premises tour;
- (d) measures for dealing with intoxicated persons and persons involved in intimidatory or other offensive behaviour;
- (e) 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;
- (f) safety, health and hygiene requirements;
- (g) restrictions on the use of amplified music/sound; and
- (h) requiring compliance with other Council bylaws including the Alcohol Ban Bylaw 2014 and any applicable Council policies and plans.

15.2 A licensed premises tour organiser must ensure that the organised licensed premises tour does not breach the conditions of the permit issued under clause 15.1.

15.3 A licensed premises tour organiser must ensure that a permit can be produced when requested to do so by an enforcement officer.

## **16 Conditions for busking permit**

16.1 When issuing a busking permit, the Council may impose conditions, including, but not limited to:

- (a) the minimum distance between the applicant and another busker;
- (b) the minimum distance from any retail premises;

- (c) measures to mitigate obstructions to pedestrian flow;
- (d) duration of busking performance and breaks between busking performances;
- (e) the hours during which the performance can occur;
- (f) the maximum volume of the busking performance;
- (g) whether amplified sound can be used; and
- (h) 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.

16.2 A busker must ensure that the busking performance does not breach the conditions of the permit issued under clause 16.1.

16.3 A busker must ensure that a permit can be produced when requested to do so by an enforcement officer.

## **17 Request for review of original decision**

17.1 A person may request in writing for the Council to review its decision to:

- (a) decline an application for a permit under this bylaw;
- (b) impose certain conditions under this bylaw; or
- (c) revoke a permit under this bylaw..

17.2 The Council has a discretion to review the original decision, and to either:

- (a) confirm its original decision;
- (b) amend the conditions in the permit; or
- (c) issue a new permit.

## **18 Fees**

18.1 The Council may by resolution prescribe fees for a permit, including fees to process an application, to review an existing permit, to review a decision to decline or revoke a permit, and to inspect trading activities for the period of the permit.

## Part 4 – Enforcement

### **19 Enforcement**

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

### **20 Offences and Penalties**

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

### **21 Revocations**

- 21.1 The Control of Activities and Obstructions in Public Places Bylaw 2010, including any amendments, is revoked.