

QLDC Council**27 August 2015****Report for Agenda Item: 15****Department: Operations****Free Walking Tours – New Licence****Purpose**

To consider an application to provide a licence under the Reserves Act 1977 for the purposes of commercial guided walking tours around the Queenstown Bay foreshore areas.

Recommendation

That the Council:

1. **Delegate** approval of a licence to Free Walking Tours Limited on the properties listed below, to the hearings panel established by the Property Subcommittee, if negative submissions are received. If no such submissions are received, or if approved by the hearings panel, the General Manager of Infrastructure is delegated to approve final terms and conditions and the execution authority. Subject to the following specific terms:

Term: Two years

Rent: \$500 + GST per annum base rent, or 7.5% of gross revenue, whichever is the greater

Reviews: Reviewed annually in accordance with CPI General, subject to ratchet clause

Commencement: Upon Signing

Use: Commercially guided walking tours

Insurance: \$2million public liability insurance cover

Advertising: Advertising hoardings and other billboards not permitted

Assignments: With the approval of Council

Special conditions:

- i. Licensee to ensure all rubbish associated with their operation is removed from the area immediately.*
- ii. Max group size of 20 people, plus 1 guide.*
- iii. Sale of merchandise on or about the tracks or trails is not permitted*
- iv. Health and Safety plan to be provided*

2. **Agree** to exercise Ministerial prior consent (under delegation from the Minister of Conservation) to the granting of a licence to Free Walking Tours Ltd over the reserves listed below:

| Description | Authority Responsible | Legal Description | Area | District Plan Zone | District Plan Designation |
|-------------------------|-----------------------|--|-----------|------------------------|---------------------------|
| St Omer Park | QLDC | Section 2 Block XVII, Town of Queenstown, Part Sec 110 Blk XX Shotover SD. Certificate of title OTB1/226. | 1.4670ha | Rural General Zone | 217 – Recreation Reserve |
| Earnslaw Park | QLDC | Sections 6-18, 27, Crown Land Block XV, Queenstown. Certificate of title OT6A/439, OT4D/228, OT94/273, OT223/156, OT223/155, OT41/117, OT2/78, OT33/164 and OT109/87 | 0.1847ha | Queenstown Town Centre | 219 – Recreation Reserve |
| Marine Parade | QLDC | Section 6 BLK L1, Town of Queenstown and Part Marine Parade. Certificate of title 46575. | 0.6600ha | Queenstown Town Centre | 204 – Recreation Reserve |
| Adjacent to Horne Creek | QLDC | Section 1-3, Block LII, Town of Queenstown. Certificate of Title OT18A/765. | 1.3137ha | Rural General Zone | 185 – Recreation Reserve |
| Queenstown Gardens | QLDC | Part section 4, Section 5 and Section 7 Blok L1, Town of Queenstown. Certificate of Title OT18A/765. | 13.4545ha | Rural General Zone | 205 – Recreation Reserve |

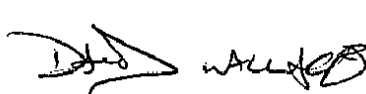
Prepared by:



Dan Cruickshank
Property Manager
APL Property

10/08/2015

Reviewed and Authorised by:



David Wallace
Senior Parks and Reserves
Planner

11/08/2015

Background

- Mark Houliston is the owner operator of Free Walking Tours Queenstown Limited, a newly incorporated company, as of February 2015. He has approached Council in order to seek approval for guided walking tours on the Queenstown Tracks and Trails.
- The applicant has requested a licence from Council to operate on recreation reserve land parcels being traversed as follows:

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5. The Property Sub Committee considered this proposal on the 23rd of July 2015, and the following resolution was passed.

On the motion of Mayor van Uden and Councillor Stammers-Smith it was resolved that the Property Subcommittee:

- 1. Note the contents of this report and in particular;***
- 2. Approve the public notification of the intention to grant a licence to Free Walking Tours Queenstown Limited on the properties, provided as item 8 of this recommendation, for a two year term.***
- 3. Appoint Councillors Stammers-Smith, MacLeod and Aoake who can form a hearings panel, of not less than two councillors, to hear any submissions.***
- 4. Recommend to Council that it delegate authority to the hearings panel to make a final decision on the granting of the licence, over the reserve as provided as item 8 of this recommendation, after hearing any submissions.***
- 5. Recommend to Council that if no submissions are received, or if approved by the hearings panel, the General Manager Infrastructure be delegated authority to approve final terms and conditions and execution.***
- 6. Recommend to Council to grant ministerial consent to the granting of the licence to Free Walking Tours Queenstown Limited over the reserves listed below.***
- 7. Authorise this report and resolve for it to be made available to the public as part of the next Mayor's report to Council.***
- 8. Note this report relates to the following land areas and reserves as provided in Table 1.***

Comment

6. Free Walking Tours Limited is applying for a licence to undertake guided walking trips for groups of up to 42 people (inclusive of 2 guides) along existing tracks located on recreation reserve land administered by Queenstown Lakes District Council. Each tour is proposed to last between 2 and ½ hours. Where customers exceed 20 people, the group would be split into two, and the tours would be staggered. Group sizes have been restricted to 20 as per Property Sub Committee consultation. It should be noted that a recent agenda item for Cycle Tours NZ was approved by Council in June 2015, conditional to a maximum group size of 12 persons including 2 guides. This approval covered a number of commuter trails, whereas the trails requested by Free Walking Tours are predominantly in town centre and are already well used by walkers and tourists.
7. The proposal will use existing paths and trails within Queenstown and the network of foreshore trails extending from the Queenstown Gardens to St Omer Park as per Appendix A.
8. The tour proposed will provide customers with an entertaining and educational experience. The planned routes will visit landmarks and historical buildings, and

will include information and stories about local Maori, early settlers, mining and tourism within the area.

9. The proposed start location is the War Memorial Arch on Marine Parade, with a finishing point at St Omer Park. The applicants believe that they will not significantly increase the number of people already in these areas, as they are both public places already utilised by many tourists and locals to gather and relax. Both start and finish locations are within walking distance of many accommodation complexes and numerous public carparks. The activity also has no need for any permanent operations base, and will have a home based office to handle all administrative support.
10. The applicant has provided a management plan (Appendix C), which it will follow in order to reduce any effects on other businesses operating in the area. The guides will follow the proposed tour routes at all times, which utilises zebra crossings where possible, and safe road crossing techniques where no crossing is available.
11. The licence fee proposed is to be the greater of \$500 plus GST or 7.5% of gross revenue, pursuant to the Community Pricing policy.
12. It has also been noted that alternative tour options during large events (such as Winter Festival) will be planned ahead of time, to ensure disruption is minimised to any other licenced or permitted events.
13. The applicant has obtained resource consent for this activity and understands that the licensing process is separate to that of the consenting and that there is no obligation by Council to then enter into a licence.
14. Due to the length of occupation, temporary permits issued under the Reserves Act 1977 are not appropriate as they only provide for activities up to 6 days consecutively. In order to issue a licence over recreation reserve, Council must first advertise the intention to grant a licence, and hear any opposing submissions received. Advertising in the Mirror commenced on the 29th of July, and at the date of this report being drafted, no submissions have been received. Notification formally closes on the 28th of August 2015.
15. Due to the notification period finishing the day after the Council meeting on 27th August 2015 the report recommends that the final decision is delegated to the hearings panel established by the Property Subcommittee, if negative submissions are received. If no such submissions are received, or if approved by the hearings panel, it is recommended the General Manager of Infrastructure is delegated to approve final terms and conditions and the execution authority. This ensures that if submissions are received they can be properly considered without a decision being pre-determined however if no submissions are received the activity can be granted without further delay.

Options

- 19 Option 1- To grant a new licence over the Recreation Reserves listed to Free Walking Tours, with a term of two years.
- 21 *Advantages*: Supporting commercial recreational tourism in the district, enhancing opportunities for businesses and workers in the region.

- 22 Council contributes significant time and money in maintaining trails across the district. By approving this commercial operator, Council will receive income from the use of trails that could be contributed towards track upkeep.
- 22 *Disadvantages:* Planned guided tours may increase the number of users on the tracks, creating potential friction/conflict with existing users.
- 23 Option Two – To grant a new licence to Free Walking Tours, subject to other terms and conditions.
- 24 *Advantages:* There may be a benefit to Council or the operator if other terms and conditions are varied.
- 25 *Disadvantages:* The applicant may not agree to different terms and conditions.
- 26 Option Three: To decline the request to grant a licence for Free Walking Tours.
- 27 *Advantages:* Fewer groups will decrease potential friction with existing users and declining the licence will avoid these conflicts.
- 28 *Disadvantages:* Council contributes significant time and money to maintaining trails across the district. Income from commercial operators that could be used for track maintenance will not be forthcoming if the licence is refused.
- 29 There would be less opportunity for commercial recreational tourism in the district, affecting both businesses and workers.
- 30 This report recommends **Option One** for addressing the matter as it will create an additional tourist activity in the area, supporting other business and the community as a whole.

Significance and Engagement

- 31 This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy because it involves Council significant assets and is of importance to the Queenstown Lakes District and the community. It is consistent with policy and strategy and does not impact on Council's capability and capacity.

Risk

- 32 This matter relates to the operational risk OR027, delivering levels of service as documented in the Council's risk register. The risk is classed as medium.
- 33 This matter relates to this risk because it promotes the use of an open space for a specific purpose, requiring a different level of ground service for the community. This report therefore recommends that risk OR027 is tolerated and that the operational risks associated with granting the licence are considered at the time a decision on the application is made.
- 34 This matter also relates to operational risk OR11 decision making – working within legislation. The risk is classed as low. The matter relates to this risk because the options highlighted require the Council to follow a regulatory process

in order to grant a licence. A variety of operational risks (such as meeting levels of service, regulatory compliance and the health and safety risks associated with parties using reserves land) are triggered when the Council considers whether or not to grant the licence requested by Free Walking Tours. This report recommends that risk OR11 is tolerated. Deferring consideration of operational risks will not affect Council's ability to manage those risks in this case.

Financial Implications

35 The licence fee proposed is to be the greater of \$500 plus GSR or 7.5% of gross revenue, pursuant to the Community Pricing Policy.

36 The cost of the licence documents and advertising will be met by the applicant.

Council Policies, Strategies and Bylaws

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

38 Community Facility Funding Policy 2011 – Rent calculated at 7.5% gross revenue is consistent with the policy.

39 Sunshine Bay to Kelvin Heights Reserve Management Plan 1991 - The activity conforms with the management plan section 4.2(G28) whereby 'the establishment of a commercial use on recreation reserves will require authority pursuant to the relevant provisions contained in the Reserves Act 1977'

40 Queenstown Gardens Reserve Management Plan 2006 – The activity conforms with the management plan section 7.1, providing for low impact commercial recreational opportunities.

41 This matter is not included in the 10-Year Plan/Annual Plan.

- Approving the licence will not add to planned revenue or expenditure over and above existing property provisions.

Local Government Act 2002 Purpose Provisions

42 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 permitting an event which positively effects the community, and promotes Queenstown both domestically and internationally; and
- 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

43 Council is conducting consultation in accordance with section 54(1)(d) and 119 of the Reserves Act 1977, requiring public notification of the intention to grant a

licence over recreational reserve. To the date of writing this report, no submissions have been received.

- 44 Consultation is underway with the Friends of the Garden and the RSA, and the outcome of this will be presented to the Council meeting.
- 45 The persons who are affected by or interested in this matter are local residents/ratepayers of the Queenstown Lakes District with an interest in the recreation reserves.

Attachments

- A: Free Walking Tours – Management Plan
- B: Free Walking Tours – Route Plan
- C: Free Walking Tours – Stops on Route

Appendix A – Free Walking Tours Queenstown Management Plan

Free Walking Tours Queenstown Management Plan

Version 1, ?? June 2015

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 foreshore trails used by Free Walking Tours Queenstown.

The terms of this management plan are intended to provide a common basis for undertaking Free 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

Free Walking Tours Queenstown (FWTQ) has received a permit to conduct free 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.

Free Walking Tours Queenstown is in the process of applying for a license for resource consent under the Resource Management Act 1991, for the use of the foreshore trails extending from the Queenstown Gardens to St Omer Park (inclusive). Once consent is received FWTQ shall ensure that the operation is conducted at all times in accordance with the terms and conditions of the License and Resource Consent.

FWTQ 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 40 customers and two guides, with any given group inclusive of customers and guides not exceeding 42 people. Typically we expect to have 10-20 customers and one guide. Where customers exceed 30-40, 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

FWTQ 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 foreshore trails are paramount and shall guide all decisions made with respect to the operation of Free Walking Tour's.

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

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

4.1 Free Walking Tours Queenstown Code of Conduct

Free Walking Tours Queenstown 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. When crossing roads, give way to traffic.
- e. Stick to the trails and footpaths, do not walk on the road unless you are crossing and it is safe to do so.
- f. Use existing rubbish bins for waste, and/or take rubbish out with them once the tour has finished.
- g. 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 FWTQ 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.

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

5.1 General Obligations

FWTQ 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 FWTQ 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 Queenstown Gardens to St Omer 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 FWTQ 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

FWTQ 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 Council's regulatory agent Lakes Environmental Ltd, noting the date, time and nature of the issue, incident or complaint.

If requested FWTQ shall submit an Annual Report to Lakes Environment within 10 days of the anniversary of the grant of its resource consent. The Annual Report shall incorporate:

- a. Any complaints received by Council, including through Lakes Environmental.
- 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 Lakes Environmental Ltd 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.

Free Walking Tours Queenstown Route Plan

A map of Queenstown, New Zealand, showing a red route with 21 numbered stops. The route starts at the town center, goes to the lake, and then follows the coast. Key locations include Queenstown Gardens, Saint Omer Park, and Lake Esplanade.

Free Walking Tours Queenstown Stopping Points

- 1. The Fallen Soldiers Memorial Archway**
- 2. Botanical Gardens Bridge**
- 3. Small Wharf**
- 4. Lookout on corner of Gardens**
- 5. Sailing boat**
- 6. Botanical Gardens Bridge**
- 7. Native Garden**
- 8. Citizens Advice Bureau**
- 9. Cookie Time**
- 10. St Peter's Church**
- 11. Vesta (William's Cottage)**
- 12. Masonic Lodge**
- 13. Sasso (Dux de lux)**
- 14. The Mall**
- 15. The Cow Restaurant**
- 16. Corner by Glassons looking across to the Mountaineer building**
- 17. Eicharts and Rees statue**
- 18. Moa statue in the waterfront park**
- 19. Steamer Wharf – Earnslaw**
- 20. New artwork on St Omer's Park land**
- 21. Atlas**