

**Notice of Meeting:**

I hereby give notice that an ordinary meeting of the Regulatory Subcommittee will be held on:

**Date:** **Tuesday 6 October 2020, 1.00 pm**  
**Wednesday 7 October 2020, 2.00 pm**

**Venue:** **Edinburgh Room, Municipal Chambers, The Octagon, Dunedin**

Sandy Graham  
Acting Chief Executive Officer

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**Regulatory Subcommittee****Trading in Public Places****PUBLIC AGENDA**

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**MEMBERSHIP**

**Chairperson** Cr Andrew Whiley

**Members** Cr Christine Garey Cr Marie Laufiso  
Cr Chris Staynes

**Senior Officer** Simon Pickford, General Manager Community Services and Development

**Governance Support Officer** Wendy Collard

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Wendy Collard  
Governance Support Officer

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**Note:** Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.

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**1 APOLOGIES**

At the close of the agenda no apologies had been received.

**2 CONFIRMATION OF AGENDA**

Note: Any additions must be approved by resolution with an explanation as to why they cannot be delayed until a future meeting.

## **DECLARATION OF INTEREST**

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### **EXECUTIVE SUMMARY**

1. Members are reminded of the need to stand aside from decision-making when a conflict arises between their role as an elected representative and any private or other external interest they might have.
2. Elected members are reminded to update their register of interests as soon as practicable, including amending the register at this meeting if necessary.

### **RECOMMENDATIONS**

That the Subcommittee:

- a) **Notes/Amends** if necessary the Elected Members' Interest Register attached as Attachment A; and
- b) **Confirms/Amends** the proposed management plan for Elected Members' Interests.

### **Attachments**

	<b>Title</b>	<b>Page</b>
<a href="#">↓A</a>	Elected Members' Register of Interest	7



Councillor Register of Interest - Current as at 25 September 2020				
Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Andrew Whiley	Owner/Operator	Whiley Golf Inc and New Zealand Golf Travel Ltd	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Director/Shareholder 22 May 2017	Estate of Grace Limited	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Trustee	Japek (Family Trust) - Property Ownership - Dunedin	Duties to Trust may conflict with duties of Council Office.	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Otago Golf Club	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Dunedin South Rotary Club	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Board Member	New Zealand Professional Golfers Assn	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Institute of Directors	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	National Party	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Chairman	Volunteering Otago	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Otaru Sister City Society (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Public Art Gallery Society (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Grow Dunedin Partnership (Council appointment - alternate)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	NZ Masters Games Trust Board (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Dunedin Community House Executive Committee	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Puketai Residential Centre Liaison Committee (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago Peninsula Community Board (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
Christine Garey	Trustee	Garey Family Trust - Property Ownership - Dunedin	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Chair	Creative Dunedin Partnership (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Symphony Orchestra Foundation Board of Trustees (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Theomin Gallery Management Committee (Olveston) (Council appointment)	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Chair	Grants Subcommittee (Council Appointment)	No conflict identified	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
		External family member is a Principal Security Consultant	Major supplier to DCC	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Local Government New Zealand Zone 6 Committee (Council Appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Marie Laufiso	Property Owner	Residential Property	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Trustee	Community Building Trust - Trust Owner of Property 111 Moray Place	Duty to Trust may conflict with duties of Council Office	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Board Member	Otago Mental Health Trust	Potential grants applicant which would result in pecuniary interest. Duty to Trust may conflict with duties of Council Office	Do not participate in consideration of grants applications. If the meeting is in confidential, to leave the room.
	Trustee	Brockville Community Support Trust	Potential grants recipient	Withdraw from discussion and leave the table. If in confidential leave the room. Seek advice prior to the meeting.
	Trustee	Corso Ōtepoti Dunedin Trust	Potential grants recipient	Withdraw from discussion and leave the table. If in confidential leave the room. Seek advice prior to the meeting.
	Member	Dunedin Manufacturing Holdings Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	National Secretary	P.A.C.I.F.I.C.A Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Dunedin Branch Treasurer	P.A.C.I.F.I.C.A Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Dunedin Branch delegate to Arai Te Uru Marae Council	P.A.C.I.F.I.C.A Inc	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Green Party of Aotearoa New Zealand	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Age Concern (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Abrahamic Interfaith Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Refugee Steering Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Otago Settlers Association (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Dunedin Fair Trading Committee (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Deputy Chair	Grants Subcommittee	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Social Well Being Advisory Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.



Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Chris Staynes	Chairman	Cargill Enterprises	Contractor and service provider to DCC	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room.
	Director	Wine Freedom	Supplier to DCC	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room.
	Patron	Otago Model Engineering Society	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Balmacewen Lions Club	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Trustee	Otago Southland Manufacturers Association Trust	Possible co-funder of ED project. Duties to the Trust may conflict with duties of Council	Withdraw from discussion and leave the table. If the meeting is in confidential leave the room. Seek advice prior to the meeting.
	Deputy Chair	Cancer Society of Otago/Southland	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Past President	Patearoa Golf Club	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	President	Balmacewen Lions	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Trustee	CJ and CA Staynes Family Trust - Property Owner - Dunedin and Patearoa	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Director	George Street Wines Limited	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Director/Shareholder	Saddle Hill Investment Trust Limited	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	NZ Association of Amateur Radio and Transmitters	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Board Member	Otago Museum Trust Board (Council appointment)	Duties to Trust may conflict with duties of Council Office. Recipient of Council funding	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Trustee	Theomin Gallery Trust (Council appointment)	Duties to Trust may conflict with duties of Council Office. Recipient of Council funding	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Chairman	Grow Dunedin Partnership (Council appointment)	Duties may conflict with duties of Council Office. Recipient of Council funding	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Dunedin Shanghai Association (Sister City Society) (Council appointment)	Potential grants recipient	Withdraw from discussion and leave the table. If the meeting is in confidential, leave the room. Seek advice prior to the meeting.
	Member	Social Well Being Advisory Group (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.
	Member	Local Government New Zealand Zone 6 Committee (Council appointment)	No conflict identified	Seek advice prior to the meeting if actual or perceived conflict of interest arises.



## PART A REPORTS

### PROPOSED TRADING IN PUBLIC PLACES BYLAW - RESULTS OF CONSULTATION

Department: Customer and Regulatory Services

#### EXECUTIVE SUMMARY

- 1 This report presents a summary of the submissions and other feedback provided during consultation on the proposed Trading in Public Places Bylaw.
- 2 There were 66 submissions made during consultation on the proposed Trading in Public Places Bylaw. The special consultative procedure was used for consultation, as required by the Local Government Act 2002 (the Act). Of these submissions, 67% supported the general direction of the proposed bylaw, 23% do not support its general direction and 11% did not complete this question.
- 3 There was one late submission and it is recommended that the Regulatory Subcommittee (the subcommittee) decides whether to accept this.
- 4 Eleven submitters wish to be heard.

#### RECOMMENDATIONS

That the Committee:

- a) **Accepts** the late submission
- b) **Considers** the results of the consultation on the proposed Trading in Public Places Bylaw
- c) **Makes** recommendations to the Council on the proposed Trading in Public Places Bylaw.

#### BACKGROUND

##### Early review of bylaw

- 5 In March 2019, the Council approved early review of the Mobile Trading and Temporary Stall Bylaw with a view to including rental share scheme operators such as electric scooter companies following the arrival of a rental electric scooter company earlier that year.

##### Proposed new Trading in Public Places Bylaw

- 6 Following a review, a new Trading in Public Places Bylaw was proposed that encompasses a number of additional trading activities.

- 7 The approach was to develop a short bylaw consisting of a wider definition of trading, requirement for traders to have permit to operate, a requirement for operators to comply with permit conditions, penalties for breaches, and enforcement. Permit conditions would sit separately from the bylaw. This approach should be more accessible and simpler for the public. It should also provide greater flexibility should conditions need to be amended or updated, for example with the arrival of unforeseen types of trading.
- 8 In February 2020 the Council approved a draft Trading in Public Places Bylaw and statement of proposal for consultation.

*Proposed trading activities*

- 9 Proposed activities to come under the bylaw are rental share scheme operations, commercial users of footpaths, street fundraising, street performing and footpath art. This is in addition to mobile traders and temporary stalls which are already covered in the Mobile Trading and Temporary Stall Bylaw. It is proposed these activities continue to be covered under the new bylaw.
- 10 The location of any new specific mobile trading sites will be worked through in consultation with mobile traders. Any proposed new sites will be the subject of separate community engagement and a separate report to the Council as work is developed in accordance with the central city and tertiary precinct upgrades as well as the city as a whole.
- 11 While some activities such as the commercial use of footpaths and street performing already have conditions, they are not currently covered by a bylaw so there is currently no legal requirement to have permits and to comply with conditions.
- 12 For trading activities with current guidance or conditions in place, this was reviewed. There was minimal change to street fundraising, street performing, mobile trading and commercial use of footpaths. If included in the bylaw, conditions for these activities would supersede current guidance and policy.
- 13 Conditions were developed for rental scheme operators, tutoring and footpath art. Conditions for all activities were included with the consultation documents. While consultation focused on what activities should be included in the bylaw, some did comment on the conditions, e.g. busking. Conditions are seen as operational and for staff consideration.

*Smokefree outdoor dining*

- 14 The opportunity was also taken to gauge support for options to promote smokefree outdoor dining in Dunedin. In line with the Smokefree Dunedin Policy which supports the goal of a smokefree Dunedin, two options were provided which would promote smokefree outdoor dining in Dunedin.
- 15 Many other local authorities have smokefree outdoor dining in place through policies and licence conditions. Generally, this would require businesses to provide smokefree signage and to prohibit ash trays. This approach usually depends on promotion of smokefree rather than active enforcement.

### *Pedestrian access*

- 16 The proposed bylaw includes provisions for pedestrian access for trading activities. Pedestrian access is defined as *“a minimum width of unobstructed access for pedestrians must be maintained as follows: 3m in the central business district zone of the 2GP and 1.5m in all other areas”*. This aligns with Second Generation District Plan requirements which were consulted on as part of the review of the District Plan.

## **DISCUSSION**

### **Consultation**

- 17 Consultation on the proposed Trading in Public Places Bylaw, using the special consultative procedure, was carried out from 5pm Wednesday 1 July until 5pm Monday 3 August.
- 18 Methods of consultation included the Dunedin City Council (DCC) website, notices, advertisements and media releases for the Otago Daily Times and The Star and posts on the DCC social media.
- 19 Information was also sent to the Dunedin People’s Panel and distributed through networks for interest groups and stakeholders such as tour operators, disability and older persons, businesses, arts and culture and street fundraisers.
- 20 Earlier in the review, there was pre-consultation with stakeholder groups which informed the options and proposals.

### **Social media**

- 21 Two notices were posted on DCC social media advertising the consultation, one part way through the consultation on 17 July and a reminder that the consultation was closing soon on 30 July.
- 22 This resulted in various discussion, mainly around whether fees would be or should be charged for different activities. There was also some discussion around whether smokefree should be promoted at licenced outdoor dining venues.

### **Submissions**

- 23 66 submissions were received during the consultation period and there was one late submission.
- 24 Of the 66 submissions, 14 were from organisations and the remainder from individuals. Organisations include Southern District Health Board, Lime, Disabled Persons Assembly (DPA), Cancer Society NZ, City Walks and Bookatour.
- 25 The Dunedin Fringe Arts Trust submission about street performing was supported by 31 signatories.

### **Summary of submissions**

- 26 Results of the submissions are summarised by the topics and questions presented in the submission form. Note that while there were 66 submissions in total, not all respondents answered all questions and this is why the total number of respondents varies for each topic.

*General direction of proposed bylaw*

- 27 The submission form asked, *Overall, do you agree with the general direction of the proposed Trading in Public Places Bylaw?*

	Number	%
Yes – agree with general direction	44	67
No – do not agree with general direction	15	23
Did not complete this question	7	11
<b>TOTAL</b>	<b>66</b>	<b>100</b>

- 28 Of those who responded to this question, two thirds (67%) agree with the general direction of the proposed bylaw, 23% do not agree and 11% did not answer this question. (The total does not add up to 100% due to rounding.)

*Rental scheme operators*

- 29 The submission form asked, *“Do you support the proposal that rental scheme operators such as commercial e-scooter companies, must have a permit to operate and must adhere to conditions based on a code of practice?”*

	Number	%
Yes	57	97
No	2	3
<b>TOTAL</b>	<b>59</b>	<b>100</b>

- 30 Of those who responded to this question, 97% support this proposal and 3% do not support it.
- 31 Submitters were asked reasons for their answer and common themes from the 48 responses were that inclusion in the bylaw would help with safety and prevent nuisance, that it would control this activity and that it is appropriate for commercial operators to pay for use of public space.
- 32 Some submitters, such as CCS, DPA and Vision Impairment Charitable Trust Aotearoa (VICTA), want national regulation on things such as e-scooter speed and e-scooter use on footpaths. The New Zealand Transport Agency (NZTA) consulted on a number of related measures in their Accessible Streets Regulatory package earlier this year and it likely that national regulation will be introduced in due course.

### Street fundraising

- 33 The submission form asked, “Should street fundraising be included in the bylaw?”

	Number	%
Yes	31	54
No	26	46
<b>TOTAL</b>	<b>57</b>	<b>100</b>

- 34 Of those who responded, just over half (54%) support the inclusion of street fundraising in the bylaw and 46% do not support it.
- 35 Submitters were asked reasons for their answer. There were 37 responses and common themes for those supporting this were to ensure safety and prevent nuisance. Common reasons for those not supporting this were that there seem to be no problems with this activity, that inclusion in the bylaw could hinder this activity, that it is for charitable purposes and inclusion would be too bureaucratic.

### Street performing/busking

- 36 The submission form asked, “Should street performing, such as busking, be included in the bylaw?”

	Number	%
Yes	30	52
No	28	48
<b>TOTAL</b>	<b>58</b>	<b>100</b>

- 37 Of those who responded, responses were split with just over half (52%) supporting the inclusion of street performing in the bylaw and 48% not supporting it.
- 38 Submitters were asked reasons for their answer and there were 37 responses. For those who think street performing should be included in a bylaw common themes were to prevent nuisance and ensure safety and to provide guidance and control around this activity.
- 39 For those who did not think street performing should be included in a bylaw, common themes were that this would be too restrictive and bureaucratic and it could hinder vibrancy and culture in the city.
- 40 The submission from the Dunedin Fringe Arts Trust was supported with 31 signatories. This submission had concerns with some of the street performing conditions; specifically, pedestrian

access, time allowed to perform, and seeking permission from retailers, which could discourage rather than encourage street performing.

- 41 Staff comment on these issues is that the pedestrian access requirements included in the bylaw aligns with District Plan requirements which had been previously consulted on. The performance time of 60 minutes has not changed, however the set up time of 30 minutes was removed from the conditions. Set up time is still allowed but has not been specified as it is variable for each performer. The condition, requiring performers to have permission from retailers outside whose premises they are performing, was added in response to complaints from some retailers.

#### *Touting*

- 42 The submission form asked, “*Should conditions for touting be included in the bylaw?*”

	<b>Number</b>	<b>%</b>
Yes	46	85
No	8	15
<b>TOTAL</b>	<b>54</b>	<b>100</b>

- 43 Of those who responded, most (85%) support the inclusion of touting in the bylaw and 15% do not support it.
- 44 Submitters were asked reasons for their answer and there were 27 responses. Common themes were this activity should be regulated as it is a commercial activity and that it would prevent nuisance.

#### *Footpath art*

- 45 The submission form asked, “*Should footpath art be included in the bylaw?*”

	<b>Number</b>	<b>%</b>
Yes	27	49
No	28	51
<b>TOTAL</b>	<b>55</b>	<b>100</b>

- 46 Of those who responded, responses were split with 51% not supporting the inclusion of footpath art in the bylaw and 49% supporting it.
- 47 Submitters were asked reasons for their answer and there were 29 responses. Common themes were that including it in a bylaw would be too restrictive, it would hinder vibrancy and discourage culture in the city. A common reason for those who think it should be included in the bylaw were that all trading activities in public places should be regulated.



*Commercial use of footpaths*

- 48 The submission form asked, “Should commercial use of footpaths be included in the bylaw?”

	Number	%
Yes	50	86
No	8	14
<b>TOTAL</b>	<b>58</b>	<b>100</b>

- 49 Of those who responded, the majority (86%) support the inclusion of the commercial use of footpaths in the bylaw and 14% do not support it.

- 50 Submitters were asked reasons for their answer and there were 34 responses. Common themes were that commercial activities should be regulated and pay for public space, that regulation would ensure safety and prevent nuisance.

*Smokefree outdoor dining areas*

- 51 The submission form asked, “Which option do you prefer in relation to the promotion of smokefree licenced outdoor dining?”

	Number	%
Provide an incentive for businesses to promote smokefree outdoor dining by way of discount to their commercial use of footpaths fee i.e. businesses can choose	8	14
Make promotion of smokefree outdoor dining a condition of all commercial use of footpaths permits	34	61
I do not think smokefree should be promoted at licenced outdoor dining premises	14	25
<b>TOTAL</b>	<b>56</b>	<b>100</b>

- 52 Of those who responded to this question, most (61%) support the option of making promotion of smokefree outdoor dining a condition of all commercial use of footpath permits. A quarter do not think smokefree should be promoted at licenced outdoor dining premises and 14% support the option of providing an incentive to businesses to promote smokefree outdoor dining by way of a discount to the commercial use of footpath fee i.e. businesses can choose.

- 53 Submitters were asked reasons for their answer and there were 41 responses. The most common theme for those wanting to promote smokefree outdoor dining was health benefits and that it should be the same as indoor dining. A reason given for those not wanting to promote smokefree was that it would limit choice for smokers.

- 54 The Southern District Health Board, Smokefree Otago, and Cancer Society all submitted to include promotion of vaping-free as well as smokefree as a condition of commercial footpath permits. The Cancer Society would also like smokefree 'outdoor dining' to be extended to 'outdoor hospitality' i.e. outdoor drinking areas and bars as well as dining areas.
- 55 The Vaping Amendment Bill was passed in August 2020 to include vaping in the Smokefree Environments Act 1990. It means that from November 2020 vaping in internal workplaces will be prohibited and that advertising vaping and selling vaping products to under 18 year olds will be prohibited. Schools and early childhood centres will also have to display 'no smoking or vaping' signs'.

### Other Councils

- 56 Approaches of other councils to trading activities were considered when developing the draft bylaw. Most cities with e-scooter rental schemes have bylaws that require permits for their operation. A number of Councils also require permits for activities such as footpath art, street fundraising and street performing such as busking.
- 57 Many other local authorities have smokefree outdoor dining in place through policies and licence conditions. Generally, this requires businesses to provide smokefree signage and to prohibit ash trays. This approach usually depends on promotion of smokefree rather than active enforcement.
- 58 Some Councils include conditions for all trading activities within the bylaw itself, whereas others have shorter bylaws and separate conditions.

### OPTIONS

- 59 There are no options to this report as the purpose is to present a summary of submissions.

### NEXT STEPS

- 60 Next steps are for the Regulatory Subcommittee to consider consultation results and make recommendations to the Council regarding the proposed Trading in Public Places Bylaw.

### Signatories

Author:	Anne Gray - Policy Analyst
Authoriser:	Simon Pickford - General Manager Community Services

### Attachments

	<b>Title</b>	<b>Page</b>
<a href="#"></a>	Draft Trading in Public Places Bylaw	21

## SUMMARY OF CONSIDERATIONS

### ***Fit with purpose of Local Government***

This decision enables democratic local decision making and action by, and on behalf of communities.  
 This decision promotes the social well-being of communities in the present and for the future.  
 This decision promotes the economic well-being of communities in the present and for the future.  
 This decision promotes the environmental well-being of communities in the present and for the future.  
 This decision promotes the cultural well-being of communities in the present and for the future.

### ***Fit with strategic framework***

	Contributes	Detracts	Not applicable
Social Wellbeing Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic Development Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environment Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arts and Culture Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Waters Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Spatial Plan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Integrated Transport Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks and Recreation Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other strategic projects/policies/plans	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

This summary report for consideration has no impact on the strategic framework, however a proposed Trading in Public Places Bylaw has potential to contribute to most strategies in terms of safe and healthy people, compelling destination, active transport modes, low carbon transport options, vibrant city and liveable city.

### ***Māori Impact Statement***

This summary report for consideration has no specific impacts for tangata whenua.

### ***Sustainability***

This summary report for consideration has no specific impacts for sustainability.

### ***LTP/Annual Plan / Financial Strategy /Infrastructure Strategy***

This summary report for consideration has no impacts for these documents.

### ***Financial considerations***

There are no financial implications to this summary report.

### ***Significance***

Significance is assessed as low to medium for Trading in Public Places Bylaw proposals. There was pre-consultation with several stakeholder groups to inform options for proposals. The special consultative procedure was used to consult on proposals, as required by the Local Government Act 2002.

### ***Engagement – external***

External parties have been engaged at various stages of this review includes a Special Consultation procedure.

## **SUMMARY OF CONSIDERATIONS**

### ***Engagement - internal***

There has been internal engagement during this review with staff from Transportation, Customer and Regulatory Services (Building, Compliance, Parking), Parks and Recreation, Solid Waste, Enterprise Dunedin, Events and Community Development, in-house legal counsel, Governance, Property, City Development, City Planning, Ara Toi and Corporate Policy.

### ***Risks: Legal / Health and Safety etc.***


There are no identified risks to this summary report for consideration.

### ***Conflict of Interest***

There is no known conflict of interest.

### ***Community Boards***

This summary report for consideration has no specific implications for Community Boards. Community Board had the opportunity to make a submission.

TRADING IN PUBLIC PLACES BYLAW 2020			
 <b>DUNEDIN</b> CITY COUNCIL   kaunihera a-rohe o Ōtepoti			
Trading in Public Places Bylaw 2020			
Approved by:	The Council		
Date approved:			
Date of effect:		Reviewed:	
Next review date:	Five years after date of effect	DOC ID:	

This bylaw is made by the Dunedin City Council under sections 145 and 146 of the Local Government Act 2002 (LGA 2002).

*Explanatory note: This bylaw should be read in conjunction with the conditions for each trade area:*

- Mobile shop trading
- Commercial use of footpaths
- Street performing
- Street fundraising
- Rental scheme operations
- Touting and
- Footpath art.

*Conditions can be found on the Dunedin City Council website along with the Trading in Public Places Bylaw.*

## **1 SHORT TITLE**

This bylaw is the Dunedin City Council Trading in Public Places Bylaw 2020.

## **2 APPLICATION**

2.1 This bylaw applies to Dunedin City.

2.2 This bylaw does not apply to any act that is done by:

- 2.2.1 A member of the emergency services in the course of carrying out a statutory duty; or
- 2.2.2 In accordance with a valid contract for services with the Council.

## **3 PURPOSE**

3.1 This bylaw provides reasonable controls to protect health and safety, to protect the public from nuisance and to regulate trading in public places.

- 3.2 Explanatory notes are not part of this bylaw and the Council may add, amend or delete explanatory notes at any time without amending the bylaw.

#### 4 DEFINITIONS

- 4.1 In this bylaw, unless context otherwise requires:

<b>Act</b>	Means the Local Government Act 2002
<b>Authorised Officer</b>	Means an officer or other person appointed by the Council to perform duties or give permissions under this bylaw.
<b>Busking</b>	To play music or perform entertainment in a public place, usually while soliciting money or money's worth.
<b>Council</b>	Means the Dunedin City Council and includes any person authorised by the Council to act on its behalf.
<b>Footpath</b>	Means the part of the road built mainly for pedestrians and includes the edging, kerb and channelling, grass berm and a footbridge.
<b>Footpath art</b>	Means temporary images or drawings created either directly on to the pavement or on removable surfaces such as, but not limited to, paper or plastic, laid out on the pavement but does not include any advertising in any form on the footpath.
<b>Hawker</b>	Means any person who attempts to sell goods or services to any person in a public place without: <ul style="list-style-type: none"> <li>a. Invitation; or</li> <li>b. Request for such service; or</li> <li>c. Prior orders</li> </ul>
<b>Mobile shop</b>	Means a vehicle from which a trading operation is conducted. It does not include a service delivery vehicle carrying goods which have been ordered.
<b>Mobile trading</b>	Includes any trade from a mobile shop; and trading from a stall.
<b>Operator</b>	Means the permit holder and a person in control of the trading operation.
<b>Peddler</b>	Means a travelling seller of small items.
<b>Pedestrian access</b>	Means a minimum width of unobstructed access for pedestrians must be maintained as follows: 3m in the central business district zone of the 2GP and 1.5m in all other areas.
<b>Permit</b>	Includes any written or oral permission given by the Dunedin City Council under this bylaw.
<b>Person</b>	Includes a corporation sole, a body corporate and unincorporated

	body.
<b>Public place</b>	<p>Means an area that is of a public nature, is open to or used by the public, and which is owned, managed, maintained or controlled by the 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.</p> <p><i>Explanatory note: Reserves and beaches are also governed by the Reserves Act and the Reserves and Beaches Bylaw.</i></p>
<b>Reserve</b>	Has the meaning given by the Reserves Act 1977.
<b>Stall</b>	Means, whether portable or not, any stand, structure or device, awning, table, display board established for the purposes of selling any goods.
<b>Street fundraising</b>	Means any co-ordinated and organised event by organisations who ask for, or seek, any subscription, collection or donation from members of the public. It includes street appeals and the sale of any item where an undertaking has been given that all or some of the proceeds will be given to charity.
<b>Touting</b>	Means to solicit business, usually in a direct or persistent way, and to attempt to persuade someone to give something, such as money, for a specific purpose.
<b>Trade</b>	Means to carry out a trading activity.
<b>Trading activity</b>	<p>Means an activity, whether one-off or a series of activities whether temporary or permanent, undertaken by any person or organisation involving the sale of goods in a public place or the offering of a commercial service for payment, reward or otherwise, including but not limited to:</p> <ul style="list-style-type: none"> <li>• Stalls</li> <li>• Mobile shops</li> <li>• Outdoor drinking and dining</li> <li>• Distribution of promotional goods and materials</li> <li>• Outdoor display of goods</li> <li>• Rental scheme operations</li> <li>• Street performing/busking</li> <li>• Touting</li> <li>• Hawking</li> <li>• Peddling</li> <li>• Footpath art</li> <li>• Signage including stencils</li> <li>• Fundraising for a charitable cause, soliciting of any subscription or collection of any one-off or ongoing donation</li> </ul>
<b>Trading</b>	Has a corresponding meaning to trading activity.

2GP	Dunedin City District Plan
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- 4.2 Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Act, unless the context plainly requires a different meaning.

## 5 EXPLANATORY NOTES

- 5.1 Explanatory notes are not part of this bylaw and the Council may add, amend or delete explanatory notes at any time without amending the bylaw.
- 5.2 *Explanatory note: Explanatory notes are used for a number of reasons, including to explain the intent of a clause in less formal language, to include additional helpful information, or because the information may be subject to change and need to be updated before the bylaw itself has to be updated.*

## 6 TRADING ACTIVITIES IN PUBLIC PLACES

- 6.1 No person may undertake a trading activity in a public place without written permission obtained under this bylaw.
- 6.2 A permit issued under this clause is subject to terms and conditions that the Council thinks fit in respect of the proposed trading activity.
- 6.3 Permit holders must comply with the conditions of the permit and any applicable code of practice.
- 6.4 Terms and conditions specified in a permit may include without limitation, such matters as:
- 6.4.1 The name of the permit holder
  - 6.4.2 The duration of the permit holder
  - 6.4.3 The location to which the permit applies
  - 6.4.4 The type of trading activity allowed by the permit
  - 6.4.5 The hours of trade allowed by the permit.

## 7 APPLICATION FOR PERMISSION

- 7.1 An application for a permit must be made in writing and on the appropriate form provided by the Council (if any).
- 7.2 Every applicant must provide all the information requested.



- 7.3 A permit must be obtained in respect of each trading activity to be carried out by the applicant.

*Explanatory note: A person carrying out multiple trading activities must obtain an individual permit for each trading activity.*

- 7.4 The Council may set application and other fees for permissions under this bylaw.

#### **8 PERMIT MAY BE ALTERED, SUSPENDED, CANCELLED**

- 8.1 The Council may, in its discretion, on giving notice to the permit holder, review, withdraw or alter any permission given under section 6 of this bylaw.

- 8.2 The Council may immediately without notice, alter, suspend or cancel any permit given under section 6 of this bylaw if:

- 8.2.1 Permit conditions are being breached
- 8.2.2 Urgent works are required in the public place where the permit applies
- 8.2.3 Urgent action is required to protect the public in the public place where the permit applies.

- 8.3 Where a permit has been suspended or cancelled the permit holder must immediately remove any vehicle, stall, goods and materials used in the permitted trading activity from the public place.

#### **9 PERMIT NOT TRANSFERABLE**

- 9.1 A permit granted under this bylaw is not transferable to any other person.
- 9.2 A person granted with a permit for one trading activity cannot transfer the permit to any other trading activity to be carried out by the person.

#### **10 PEDESTRIAN ACCESS IN PUBLIC PLACES**

- 10.1 All permit holders must ensure that pedestrian access is maintained in public places at all times and that they, and their audience, do not block footpaths, doorways, bus stops, fire escapes or roads.

## **11 PROHIBITED MOBILE SHOP TRADING AREAS**

11.1 Unless specific permission has been granted, holders of mobile shop trading permits are prohibited from trading in the following areas:

- 11.1.1 George Street from the Octagon to Albany Street
- 11.1.2 Princes Street from the Octagon to Jetty Street
- 11.1.3 Lower Stuart Street from the Octagon to Moray Place
- 11.1.4 Moray Place
- 11.1.5 The Octagon except for specified spaces in the central carriageway
- 11.1.6 Wickliffe Square except for specified spaces.

## **12 THE COUNCIL MAY FROM TIME TO TIME RESOLVE**

12.1 The Council may from time to time resolve to:

- 12.1.1 Declare any public place or part of a public place to be an area where a trading activity is prohibited
- 12.1.2 Declare any public place or part of a public place to be an area where a trading activity is restricted and only permitted in a specific location
- 12.1.3 Declare an activity to be a trading activity
- 12.1.4 Declare a trading activity to be prohibited for any period.

## **13 BREACH OF BYLAW**

13.1 A person breaches this bylaw when they:

- 13.1.1 Breach any provision in this bylaw
- 13.1.2 Breach any conditions of a permit granted under clause 6 of this bylaw.
- 13.1.3 Fail to carry out any action reasonably required by an Authorised Officer under this bylaw.

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

13.3 Every person that has had a permit suspended or cancelled must immediately cease trading until such time that the Council may permit them to resume.

## **14 PENALTIES**

14.1 Every person who breaches this bylaw commits an offence and is liable on conviction to a fine not exceeding \$20,000 as set out in the Local Government Act 2002.

- 14.2 Any property involved in the commission of an offence against the Local Government Act 2002 which includes a breach of this bylaw, may be seized and impounded by the Council in accordance with that Act.

## 15 RIGHT OF REVIEW

- 15.1 Any applicant affected by a decision made under this bylaw may apply in writing to the Chief Executive for a review of this decision within 14 days after receiving notification of the decision.

## 16 ADDITIONAL INFORMATION TO THE TRADING IN PUBLIC PLACES BYLAW 2020

This additional information does not form part of the bylaw. It contains information to help users understand, use and maintain the bylaw. This information may be updated at any time.

<b>Relevant Legislation:</b>	Local Government Act 2002 Reserves Act 1977 Land Transport Act 1998
<b>Associated Documents:</b>	Roothing Bylaw Reserves and Beaches Bylaw General Policies of the Reserves Management Plan Dunedin City District Plan Conditions for busking/street performers Conditions for touting Conditions for rental scheme operators Conditions for mobile shop traders Conditions for commercial use of footpaths Conditions for street fundraisers Conditions for footpath art
<b>History of bylaw:</b>	Initial resolution that bylaw appropriate Bylaw in place for xx years Resolution to revoke MITS bylaw and make Trading in Public Places Bylaw xx date

## SPEAKING SCHEDULE

Department: Civic

## EXECUTIVE SUMMARY

- 1 Please find attached the speaking schedule as at 24 September 2020.

## Signatories

Author:	Wendy Collard - Governance Support Officer
Authoriser:	Clare Sullivan - Team Leader Civic

## Attachments

	Title	Page
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Trading in Public Places Bylaw Speaking Schedule as at 24 September 2020			
Date	Time	Name	Submission Number
6 October 2020	1.10 pm	Catherine Thomas and Debby Newton, Southern District Health Board	783224
6 October 2020	1.20 pm	Sophie Carty, Cancer Society NZ Otago/Southland	782047
6 October 2020	1.40 pm	Sonja Mitchell	782439
6 October 2020	1.50 pm	Chris Ford, Disabled Persons Assembly NZ (DPA)	783226
6 October 2020	2.10 pm	Dr Lynley Hood, Visual Impairment Charitable Trust Aotearoa	783230
6 October 2020	2.20 pm	Lauren Mentjox, Lime	783232
6 October 2020	2.40 pm	Mary O'Brien, CCS Disability Action	783234
6 October 2020	2.50 pm	Katrina Toovey	779154
Afternoon Tea Break			
6 October 2020	3.30 pm	John Marrable and Simon Fogarty	782057
6 October 2020	3.40 pm	Harry Pleace	783240
6 October 2020	4.00 pm	Jayde Regassa, Albion Café	783603