



NOTICE OF MEETING

**Notice is hereby given that Hearings for
Environmental Health Bylaw Consultation to be held
in the Council Chamber, Civic Theatre,
88 Tay Street, Invercargill
on Tuesday 15 October 2024 at 2.00 pm**

Cr D J Ludlow
Cr L F Soper
Cr S J Broad
Cr P M Boyle
Cr R I D Bond
Mrs P Coote - Kaikaunihera Māori - Awarua

MICHAEL DAY
CHIEF EXECUTIVE

Hearings for the Environmental Health Bylaw

15 October 2024 02:00 PM

Agenda Topic	Page
1. Apologies	
2. Declaration of Interest	
3. Hearing Timetable (A5584367)	3
4. Environmental Health Bylaw Hearings and Deliberations (A5554587)	4
4.1 Appendix 1 - Summary of Submissions (A5555287)	7
4.2 Appendix 2 - Draft Amended Environmental Health Bylaw as a Result of Consultation (A5312190)	8
4.3 Appendix 3 - Submissions in to be heard and not to be heard	23
4.3.1 To be heard - Submission 001 - Tom Scott (NPHS) (A5563806)	23
4.3.2 To not be heard – Submission 002 – Brian Robert Nicholson (A5571240)	28
5. Tabled item - Presentation for Submission 1 (A5591948)	29

Hearing Timetable – Environmental Health Bylaw 2024

Hearing	Sub #	Name	Time
	#	Meeting Opened	
1	1	Tom Scott, National Public Health Service	2.10 pm

ENVIRONMENTAL HEALTH BYLAW HEARINGS AND DELIBERATIONS

To: Hearing Panel

Meeting Date: Tuesday 15 October 2024

From: Gillian Cavanagh, Manager- Environmental Services and Rhiannon Suter, Manager – Strategy, Policy and Engagement

Approved: Jonathan Shaw - Group Manager - Consenting and Environment

Approved Date: Monday 7 October 2024

Open Agenda: Yes

Purpose and Summary

This report provides the Hearing Panel with the submissions to the proposed Draft Environmental Health Bylaw 2024 and the details of the submitters who wish to be heard. It also includes an analysis of submissions to assist the hearing panel in their deliberations.

Recommendations

That the Hearings panel:

1. Receives the report "Environmental Health Bylaw Hearings and Deliberations".
2. Receives the submissions (Appendix 3 – To be heard and not to be heard).
3. Notes the submitter to be heard;
 - a. 2.10pm Tom Stott, National Public Health Service.
4. Notes the summary of submissions (A5555287).
5. Agrees/ disagrees with the following proposed changes to the Bylaw:
 - a. Amendment to Section 2.13 which will now require mobile traders (including food truck operators) to provide and remove refuse bins after service from the location in which they have undertaken transactions of their business.

Recommends to Council:

6. To adopt the draft Environmental Health Bylaw 2024 with the changes as agreed in resolution 5.

Background

Early engagement on the proposed locations for food trucks took place in February 2024. Significant positive public feedback was received which has informed this Bylaw consultation.

The Community Wellbeing and Regulatory Committee adopted the Draft Environmental Health Bylaw for consultation on 13 August 2024. The Committee delegated hearings and deliberations to a Hearings Panel made up of Cr Ludlow, Cr Soper, Cr Broad, Cr Boyle, and Cr Bond and Mrs Coote.

As outlined at the time of adoption for consultation, the amendments proposed to the Bylaw are intended to refine its compliance, enforcement, and monitoring provision. The amendments proposed do not have major implications for Council's current administration under the Environmental Health Bylaw, however, the proposed changes will strengthen its operational provisions and provide clarity to its application.

The amended Bylaw was open for consultation between 29 August 2024 and 27 September 2024.

Submissions could be made online through letstalk.icc.govt.nz, via email, by post, or dropped into Te Hīnaki Civic Building, the Public Library, and Bluff Service Centre. Additional targeted communications were sent to food related businesses on the request of the Chamber of Commerce.

Two submissions were received during the consultation period. One submitter has requested to speak to their submission.

Issues and Options

Analysis

1. Healthy Food

The National Public Health Service - Te Whatu Ora submission expressed support for the draft Bylaw and recommended that it be framed to enable healthy behaviour and promote public health.

- **Officer Response**

Council Environmental Health Bylaw, enforced under the Local Government Act 2002 and the Health Act 1956, is primarily intended to enhance the safety and welfare of the public by minimising nuisance and adverse environmental health effects caused to the community, as far as is practicable through legislative means.

The recommendations made in relation to healthy food options are out of the scope of the intention of the Bylaw. Therefore it is recommended that it is not included in the Bylaw.

2. Location for Food Trucks to Operate

Te Whatu Ora submission noted that some of the pre-approved areas for food trucks are within high deprivation areas and requests that the locations are included within the Bylaw.

- **Officer Response**

Council's role under the Food Act is to ensure that food sold to the public is safe. Assessments are not made as to whether food sold by food trucks is healthy.

The food truck locations were selected following significant early engagement with the public which received a very strong positive response with many views shared. The pre-approved locations are intended for administrative and not enforcement purposes. Food trucks no matter where they operate will be subject to the same rules of the Bylaw and Food Act. Instead, the pre-approved areas are designed to reduce administrative load and provide guidance on appropriate areas to operate. There is still the option to request to operate in other areas. As such it is not recommended to include the areas within the Bylaw itself.

3. Litter

Te Whatu Ora recommends strengthening section 2.13 by requiring the operators to provide a refuse receptacle in the vicinity of their operation and that it is picked up and removed at the end of their session.

- **Officer Response**

The recommendation to amend section 2.13 Litter is seen as appropriate and feasible. The amended section is proposed to read as:

"The Licensee or Operator must also provide refuse bins for the duration of service at the location of trading. The refuse bins and any litter in the surrounding area generated by the activities of their trading must be removed after service from the location in which they have undertaken transaction of their business"

4. Iwi and Hapu Engagement

Council received one submission that wanted Council departments and food traders to work with iwi and hapu on the location and size of trading concerning food.

- **Officer Response**

Council's approach to issuing food licences and mobile trading licences under the Food Act 2014 and the Environmental Health Bylaw involves working with the licence applicants and where applicable engaging with parties affected this will involve but not limited to Iwi, Hapu and food traders. No changes are recommended to the Bylaw.

Next Steps

Following the deliberations of the Hearings Panel, the Bylaw will be finalised and brought to the Council for adoption. It is to be noted that the cover page of the bylaw will be amended to state "Environmental Health Bylaw 2024" when it is presented to Council for adoption.

Attachments

1. Summary of Submissions (A555287).
2. Draft amended Environmental Health Bylaw as a result of consultation (A5312190)
3. Submissions in to be heard and not to be heard:
 - a. To be heard - Submission 001 - Tom Scott (NPHS) (A5563806).
 - b. To not be heard – Submission 002 – Brian Robert Nicholson (A5571240).

Hearings for the Environmental Health Bylaw - Environmental Health Bylaw Hearings and Deliberations (A5554587)

A5554587

Submission No.	Full Name	Organisation	Do you want to stay up to date on other Council consultation and engagements?	I would like to speak on my submission	Do you support the amended Draft Environmental Health Bylaw?	What is your submission on the amended Draft Environmental Health Bylaw?	Submission Summary	Officer Response (if required)	Note
001	Tom Scott	Te Whatu Ora		Yes	Yes	Te Whatu Ora submitted feedback on the draft amended Environmental Health Bylaw, expressing support while recommending improvements to enhance public health. It highlighted that many pre-approved food truck locations are in remote or high-deprivation areas, limiting consumers' access to healthy food. As a solution, Te Whatu Ora suggested incentivizing the sale of healthier food options and incorporating this into the licensing process under section 2.4. They also recommended strengthening litter management by requiring food truck operators to provide and remove refuse bins after service. Additionally, the submission commended the Council for its extensive alcohol ban under section 3.3 of the draft	Te Whatu Ora submitted feedback on the draft amended Environmental Health Bylaw, expressing support while recommending improvements to enhance public health. It highlighted that many pre-approved food truck locations are in remote or high-deprivation areas, limiting consumers' access to healthy food. As a solution, Te Whatu Ora suggested incentivizing the sale of healthier food options and incorporating this into the licensing process under section 2.4. They also recommended strengthening litter management by requiring food truck operators to provide and remove refuse bins after service. Additionally, the submission commended the Council for its extensive alcohol ban under section 3.3 of the draft	The recommendations made in relation to the inclusion of conditions to incentivise the sale of healthy food options in the Bylaw are outside the scope of its intended outcomes. NPHS's recommendation in relation to section 2.13 Litter is seen as appropriate and Officers recommends that their suggestion be reflected in the draft bylaw for adoption.	
002	Brian Robert Nicholson			No	Yes with amendments	The submissions prefer that Council departments and Food traders work with Iwi and Hapu on the location and size of trading concerning food	The submissions prefer that Council departments and Food traders work with Iwi and Hapu on the location and size of trading concerning food	Council's approach to issuing food licences and mobile trading licences under the Food Act 2014 and the Environmental Health Bylaw involves working with the licence applicants and engaging with all parties affected this will involve but not limited to Iwi, Hapu and food traders.	

Invercargill City Council

Environmental Health Bylaw

Draft for consultation



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CONTENTS

SECTION.....	Page
1. General Provisions	
1.1 Short Title And Commencement.....	4
1.2 Interpretation	4
1.3 Fees And Charges.....	6
1.4 Dispensing Power	6
1.5 Name And Address To Be Supplied	6
1.6 Licences Held Under Rescinded Bylaws	6
1.7 Appeals	7
1.8 Offences And Penalties.....	7
2. Mobile Trading	
2.1 Purpose Of Part 2.....	7
2.2 Mobile Traders To Be Licensed.....	8
2.3 Applications.....	8
2.4 Issue Of Licence.....	8
2.5 Duration Of Licences	8
2.6 Licence To Be Carried	8
2.7 Nuisance, Annoyance Or Danger To Any Person	8
2.8 Liability Insurance	9
2.9 Name To Be Displayed	9
2.10 Hazardous Substances	9
2.11 Trading Limits	9
2.12 Pre-Approved Locations For Food Trucks.....	10
2.13 Litter.....	10
2.14 Licence May Be Revoked.....	10
2.15 Sales From Boats Exempt	10
3. Alcohol	
3.1 Purpose Of Part 3.....	10
3.2 Operation	11
3.3 Alcohol Ban Affected Area.....	11
3.4 Hours And Days Of Operation	11
3.5 Temporary Alcohol Ban.....	11
3.6 Exemptions.....	12
3.7 Police Powers	12
4 Solvent Abuse	
4.1 Purpose of Part 4	14
4.2 Prohibition	14
<u>5. Untidy Private Properties And Disused Materials</u>	
5.1 Purpose Of Part 5.....	14
5.2 Operational Provisions	14
5.3 Notice	14
5.4 Council May Complete The Work.....	15
5.5 Council May Recover Its Costs	15

1. General Provisions

A Bylaw of the Invercargill City Council made in pursuance of the powers contained in the Health Act 1956 and the Local Government Act 2002. The primary purpose of the Bylaw is to enhance the safety and welfare of the public by minimising nuisance and adverse environmental health effects caused to the community, as far as is practicable through legislative means.

1.1 Short Title And Commencement

This Bylaw shall be known as the Invercargill City Council Bylaw 2008/2– Environmental Health and shall come into force on 7 November 2017, (includes amendments on 6 March 2019, 7 November 2019 and 1 November 2024).

This Bylaw replaces any other Environmental Health Bylaws created by Invercargill City Council.

1.2 Interpretation

In this Bylaw, unless the context otherwise requires:

AFFECTED AREA: Means all land in the Invercargill City District.

ALCOHOL: Means a substance:

- (a) that:
 - (i) is or contains a fermented, distilled or spirituous liquor; and
 - (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or
- (b) that:
 - (iii) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
 - (iv) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or
- (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.

AUTHORISED OFFICER: Means any officer appointed by Council as an enforcement officer under Section 177 of the Local Government Act 2002 as an enforcement officer with powers of entry as prescribed by sections 171-174; the Sale and Supply of Alcohol Act 2012 or the Health Act 1956.

BUILDING: Means a temporary or permanent movable or immovable structure intended for the purpose for occupation by people, animals, machinery or chattels.

COUNCIL: Means the Invercargill City Council.

CITY: Means the City of Invercargill.

DISPOSE: Means to remove to a bona fide automotive dismantling or recycling facility or landfill or green waste facilities or business.

DISTRICT PLAN: Means the Invercargill District Plan pursuant to the Resource

Management Act 1991.

EXPIRY DATE: Means 28 days after the date of the service of the notice or any such other date as may be specified by Council in any notice served.

HOME BASED BUSINESS: Means any commercial or non-commercial business or profession which is undertaken from the home(s) of any owner(s) and/ or occupier(s) and in keeping with the District Plan rules for Home based business have limited street visibility.

LICENSSED PREMISES: Means any premises for which a licence is held under the Sale and Supply of Alcohol Act 2012.

LICENSEE: Means a person and/or a company who holds a licence issued by Council but not limited to a mobile trading licence under this Bylaw and an person or an entity who holds a licence under the Sale and Supply of Alcohol Act 2012

LONG GRASS: Is grass that is over 25 cm long and is unkempt (unless it is within the Rural Zone).

MATERIAL OR THING: Means, but is not limited to:

- (a) Building material or equipment associated with building activities;
- (b) Household goods / furniture;
- (c) Litter (as defined in the Litter Act 1979);
- (d) Manure;
- (e) Paper and cardboard;
- (f) Metal;
- (g) Plastics;
- (h) Timber;
- (i) Tyres;
- (j) Vehicles; and/ or
- (k) Waste.

MIND ALTERING SUBSTANCE: Means any glue, solvent, drug or other substance whether synthetic or naturally occurring which alters consciousness, mood or emotions, intoxicates or induces pleasurable sensations (but does not include alcohol or nicotine) and may cause persons seeking those effects to behave in a disorderly manner or give the appearance of acting in a drunken manner.

MOBILE TRADING: Means a vehicle (whether self-propelled or not) from which goods and / or services are offered for sale.

NUISANCE means:

- (a) The same meaning given by section 29 of the Health Act 1956; and
- (b) Includes a person, animal, thing, or circumstance causing unreasonable interference with the peace, comfort or convenience of another person whether or not that person is in a public place; but
- (c) Does not include impacts to visual amenity.

NOXIOUS PLANT: Means plants contained under the [Southland Regional Pest Management Plan - Environment Southland](#). It also includes all species under the genus Bambusa (Bamboo).

OCCUPIER(S) : Means the occupier(s) is the person who is in possession of the land

and exercises day to day control over it and includes tenants.

OWNER(S) : Means the registered proprietor of the land.

OVERGROWN VEGETATION: Means overgrown vegetation on a private property and includes any vegetation that is impeding or spilling onto any public right-of-way, including streets, sidewalks, strips, alleys and road corridor.

PRIVATE PROPERTY: Means any parcel of land and/or building capable of being transferred, sold, rented, leased, or otherwise disposed of separately from any other parcel of land and/or building(s).

PUBLIC PLACE: Means a place:

- (a) That is under the control of Council; and/or
- (b) That is open to, or being used by, the public, whether or not there is a charge for admission; and
- (c) Includes a road, whether or not the road is under the control of Council and
- (d) Any part of a public place.

PUBLIC RIGHT OF WAY: Means public roads, footpaths and any other public access.

RESERVE: Means any park, garden, plantation, forest, open space or ground set aside for public recreation or enjoyment and which is controlled or administered by Council.

RURAL ZONE: Means the area defined as the Rural Zone in the Invercargill City District Plan.

1.3 Fees And Charges

All fees and charges under this Bylaw are prescribed in Council's Annual Plan or Long Term Plan.

1.4 Dispensing Power

It shall be lawful for the Group Manager - Consenting and Environment to dispense with any of the following requirements of this bylaw where, in the opinion of the Group Manager - Consenting and Environment, full compliance would needlessly cause harm, loss or inconvenience to any person or business without corresponding benefit to the community.

1.5 Name And Address To Be Supplied

If it appears that any person is committing or has committed any offence under the provisions of this Bylaw Council may require such person to desist from such offence and may require that that person supply their real name in full, and their residential address. If any person after being so required fails to supply such information or gives incorrect information that person commits a further offence against this Bylaw.

1.6 Licences Held Under Rescinded Bylaws

All licences issued under any provision of any Bylaw repealed shall after the coming into force

of this Bylaw be deemed to have been issued under the corresponding provision of this Bylaw and be subject to its provisions, provided that Council may notify the holder of any licence of an earlier date of termination than would have applied had this Bylaw not been passed and may require the holder to reapply for a licence under the provisions of this Bylaw.

1.7 Appeals

An owner(s) or occupier(s) have the right to appeal under this bylaw within seven days of service of a Notice or Decision. Appeals are required to be made in writing and either emailed, posted or delivered to the Te Hīnaki Civic Building or Bluff Service Centre. All appeals should include the appellant's contact information, specifics of what is being appealed, specifics of any defence or mitigation to support the appeal and what redress is being sought. If applicable, there is a Hearing Lodgement Fee that you may be required to pay before the appeal can be heard. Please refer to Council's [Fees and Charges](#) for further information.

Email to: service@icc.govt.nz, attention Manager – Environmental Services

Post or deliver: Manager – Environmental Services
Invercargill City Council
101 Esk Street
Private Bag 90104
Invercargill 9840

Deliver: Manager – Environmental Services
Invercargill City Council – Bluff Service Centre
98 Gore Street
Bluff

In the event of an objection, the matter will be referred to Council's Hearings Panel for determination.

1.8 Offences And Penalties

Every person (s) who breaches this Bylaw is those who fail to comply with:

- (a) Any clauses, provisions, rules, restrictions, limitations, and/ or obligations set out in this Bylaw;
- (b) Part 2 of this Bylaw;
- (c) Section 4.2 of the Bylaw; and/ or
- (d) Section 5.3 of the Bylaw.

Is liable on conviction to a fine not exceeding \$20,000 under Section 242 of the Local Government Act 2002 and to a fine set out in Council's schedule of Fees and Charges.

2. Mobile Trading

2.1 Purpose Of Part 2

To licence and control mobile traders in public places under the control of Council.

2.2 Mobile Traders To Be Licensed

No person may engage in mobile trading without first obtaining a Mobile Trading Licence under this Bylaw. The holder of the licence shall observe and comply with all conditions recorded on the licence.

2.3 Applications

All applications for a Mobile Trading Licence shall be made on the form supplied by Council. Council will require the applicant to provide any/ all such information as is necessary for proper consideration of the application, including but not limited to:

- (a) Vehicle warrant of fitness and registration; and/ or
- (b) Electrical certificate; and/ or
- (c) Road user certificate; and/ or
- (d) LPG cylinder annual inspection certificate - from a registered craftsman gasfitter; and/ or
- (e) A copy of the applicant's public indemnity or liability insurance; and/ or
- (f) Food licence if the licence application involves food trucks.

2.4 Issue Of Licence

Each application will be evaluated on a case-by-case basis and Council may include conditions to applications as it views appropriate to prevent any potential creation of nuisance to public health and to ensure the safe and efficient operation of the transport network.

2.5 Duration Of Licences

Mobile Trading Licence(s) issued under this Bylaw shall be valid for not more than one year from their date of issue and, if not revoked, may be renewed by payment of a further annual fee, prescribed under Council's Fees and Charges.

The Mobile Trading Licence is not transferable to another person. If the business or vehicle is sold or transferred to another person, Council must be notified within 14 working days. The new owner will be required to apply for a licence and will not be permitted to use any mobile shop or food truck until a licence is issued by Council.

2.6 Licence To Be Carried

The Mobile Trading Licensee must carry the licence at all times while engaged in mobile trading and must show it to any Police Officer, or Authorised Officer on demand. The Mobile Trading licence will only apply to the vehicle to which the registration number is specified on the licence. The use of any other vehicle that is not registered to a mobile trading licence will not be permitted without prior written consent from Council.

The Mobile Trading Licence is valid during the hours specified on the licence.

2.7 Nuisance, Annoyance Or Danger To Any Person

The licensee or operator shall operate any mobile trading approved by Council through a Mobile Trading licence, in such a manner as to avoid causing any

nuisance, annoyance or danger to any person and/ or public.

2.8 Liability Insurance

The licensee shall carry insurance cover to cover the direct damage to vehicles and public liability (Third Party Insurance) in connection with the vehicles.

2.9 Name To Be Displayed

The name of the licensee and details of the products for sale shall be displayed on any stall or vehicle used in connection with the mobile trading.

2.10 Hazardous Substances

All LPG cylinders must be stored securely outside the mobile shop or food truck and total no more than 100kg LPG net content. If the mobile shop or food truck is likely to be unattended at any time while in a public place, the cylinders shall be secured against tampering.

2.11 Trading Limits

- (a) Mobile Trading is allowed only on successful completion of an application for mobile trading by Council.
- (b) Unless permission has been applied for and granted from the appropriate Council departments, Council prohibits all holders of Mobile Trading Licences from trading in the following areas:
 - (i) Any or all Park or Reserve (including car parks and roads in Reserves, and Wachner Place), permission from Council's Manager - Parks and Resrves is required.
 - (ii) Any or all Roads (including State Highways), permission from Council's Manager - Strategic Asset Planning is required.
 - (iii) Restricted Areas including:
 - Within 100 metres of another permanent commercial business selling the same products, and
 - Within 50 metres of any intersection or pedestrian crossing where people visiting the site may be placed in danger.
- (c) Section 2.11 (iii) does not refer to home based businesses.
- (d) The Licensee or operator of any Mobile Trading shall remain stationary as required for the transaction of business with customers and shall remain stationary on any site as permitted in their Mobile Trading licence issued by Council.
- (e) The Licensee or operator shall when requested by any Police Officer or Authorised Officer of Council, alter their position or move from place to place on any road or public place as directed.
- (f) Should the Licensee or operator fail to comply with the provisions of Conditions or if the Mobile Trading is left unattended in any road or Public Place it shall be lawful for any Police Officer or Authorised Officer mentioned in Section 2.11 (e) to move the Mobile Trading to any safe position.

2.12 Pre Approved Locations For Food Trucks

Council have identified a list of locations that it views as most appropriate for food trucks (Link will be added). This section only applies to food trucks and not any other Mobile Trading.

The Mobile Trading Licensee who wishes to operate their food trucks in the pre-approved locations for food trucks must adhere to all provisions of Section 2 of this Bylaw, and to the appropriate conditions of the Roading and Traffic Bylaw 2022, the Footpath Management Policy, the Food Act 2014 and the Health Act 1956.

Council reserves the right to amend the list of pre-approved locations for food trucks from time to time as it sees appropriate. Any such amendment to the list of pre-approved locations will not be subject to a Special Consultative Procedure under Section 83 of the Local Government Act 2002, however, will be subject to appropriate public engagement in accordance with Council's Significance and Engagement Policy.

2.13 Litter

The Licensee or Operator must also provide refuse bins for the duration of service at the location of trading. The refuse bins and any litter in the surrounding area generated by the activities of their trading must be removed after service from the location in which they have undertaken transaction of their business.

2.14 Licence May Be Revoked

A Mobile Trading Licence may be revoked by Council if:

- (a) Licensee in connection with Mobile Trading, permits a breach of any provision of this Bylaw or any other law, Bylaw and/ or any regulations.
- (b) Licensee fails to observe the conditions of the Mobile Trading Licence.
- (c) Permits any unlicensed person to operate as a trader in connection with the Mobile Trading usually carried out by the Licensee.
- (d) The complaints made on Mobile Trading have substantive impacts on public health determined by Council.
- (e) Any appeal can be made under Section 1.7

2.15 Sales From Boats Exempt

Nothing in this Bylaw shall apply to any sale of fish by the owner of a fishing vessel, provided that the fishing boat is registered under Section 103 of the Fisheries Act 1996 and in respect of which a boat fishing permit is for the time being in force, where he, or a person appointed by him in that behalf, sells fresh fish or fresh shellfish (being fresh fish or fresh shellfish taken from that boat in accordance with the conditions of the permit) from that boat at the place where it is moored, berthed, or beached or from a stall (including a vehicle used as a stall) within 450 metres of that place.

3. Alcohol Ban

3.1 Purpose Of Part 3

For better crowd control, public safety and the prevention of the consumption, possession and/ or bringing of alcohol in public places under the control of Council.

3.2 Operation

Council (subject to any licences or special licences that may be in force at any particular time) prohibits the consumption of, the bringing of and/ or the possession of alcohol in the Alcohol Ban Affected Area during the hours and days of operation of the Bylaw.

3.3 Alcohol Ban Affected Area

The public place is bounded by and inclusive of the following streets:

- (a) Herbert Street from the corner of Herbert Street and Dee Street to the corner of Herbert Street and Kelvin Street.
- (b) Kelvin Street from the corner of Herbert Street and Kelvin Street to the corner of Victoria Avenue and Kelvin Street but excluding Alice Street east of Kelvin Street.
- (c) Victoria Avenue from the corner of Victoria Avenue and Kelvin Street east along Victoria Avenue to its termination and thence in a straight line to Queens Drive (so as to include the Gala Street Reserve) and Queens Drive south onto the intersection of Queens Drive and Tay Street.
- (d) Elles Road from the intersection of Queens Drive and Tay Street to the corner of Elles Road and Tweed Street.
- (e) Tweed Street from the corner of Tweed Street and Elles Road to the corner of Tweed Street and Liddell Street.
- (f) Liddell Street from the corner of Liddell Street and Tweed Street to Leven Street, Leven Street on to Liffey Street.
- (g) Liffey Street to its intersection on Fox Street.
- (h) Fox Street from the corner of Fox Street and Liffey Street to the corner of Fox Street and Dee Street.
- (i) Dee Street from the corner of Dee Street and Fox Street to the corner of Dee Street and Herbert Street.

The Alcohol Ban Affected Area is to be adequately signposted to inform the community of their responsibilities.

3.4 Hours And Days Of Operation

The Alcohol Ban is in operation 24 hours of every day.

3.5 Temporary Alcohol Ban

Council may from time to time make a resolution:

- (a) Prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods:
 - (i) the consumption of alcohol in a public place; and/ or
 - (ii) the bringing of alcohol into a public place; and/ or
 - (iii) the possession of alcohol in a public place, and/ or
 - (iv) in conjunction with a prohibition relating to alcohol under paragraphs (i) to (iii) the presence or use of a vehicle in a public places.
- (b) Within a specified public place or places.

3.6 Exemptions

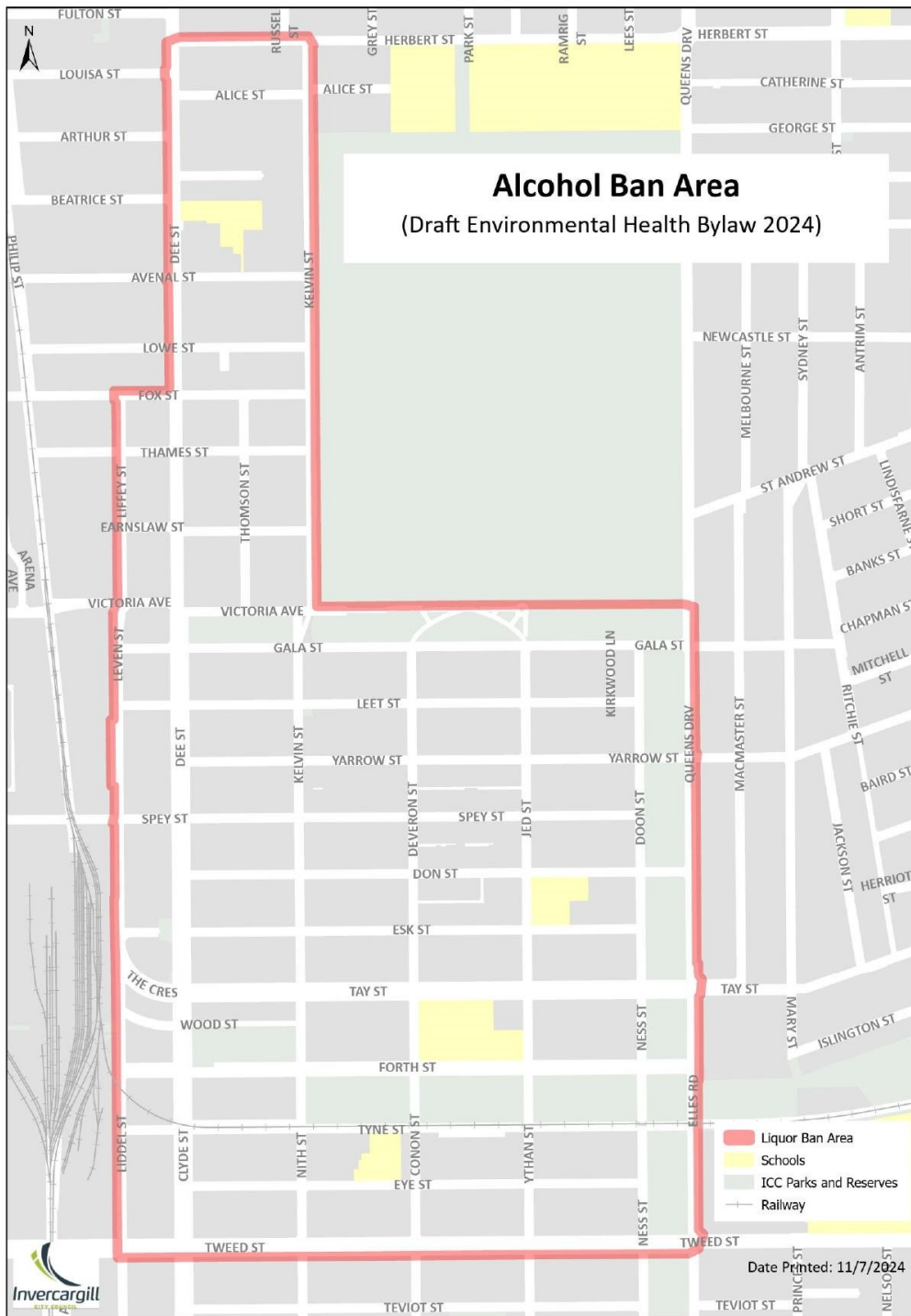
The exemptions set out in section 147(3) of the Local Government Act 2002 apply to this Bylaw. This Bylaw does not prohibit, in the case of alcohol in an unopened bottle or other unopened container:

- (a) The transport of that alcohol from licensed premises that adjoin a public place during any period when, under the Sale and Supply of Alcohol Act 2012, it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place.
- (b) The transport of that alcohol from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of alcohol under the Sale and Supply of Alcohol Act 2012.
- (c) The transport of that alcohol from outside a public place to premises that adjoin a public place:
 - (i) By, or for delivery to, a resident of those premises or by their bona fide visitors; or
 - (ii) From those premises to a place outside the public place by a resident of those premises, provided the alcohol is promptly removed from the public place.

3.7 Police Powers

Pursuant to this Bylaw the Police have the following powers:

- (a) The power to arrest without a warrant a person contravening the Bylaw; and/ or
- (b) The power to arrest without a warrant a person who refuses to leave a public place after being requested to do so; and/ or
- (c) The power to arrest without a warrant a person who refuses to surrender alcohol that is in their possession in breach of the Bylaw; and/ or
- (d) The ability to search without a warrant a vehicle in, entering or about to enter the public place subject to the Bylaw for the purpose of ascertaining whether or not the vehicle contains alcohol; and/ or
- (e) The ability to search a container in the possession of any person in, entering or about to enter the public place, subject to the Bylaw, for the purpose of ascertaining whether or not the container contains alcohol; and/ or
- (f) The ability to seize and remove alcohol and its container if the alcohol is in a public place in breach of the Bylaw.



4. Solvent Abuse

4.1 Purpose Of Part 4

For the prevention of harm to individuals and for public safety in public places under the control of Council.

4.2 Prohibition

No person shall knowingly in any public place, consume, inject, inhale or sniff any Mind Altering Substance, except as prescribed for that person for a medical condition, which may cause that person to behave in a disorderly manner or give the appearance of the person acting in a drunken manner.

5. Untidy Private Properties And Disused Materials

5.1 Purpose of Part 5

To promote and maintain public health and safety by protecting the public from nuisances caused by disused material or things, long grass, noxious plants, and overgrown vegetation likely to harbour vermin from untidy private properties.

5.2 Operational Provisions

- (a) The Owner(s) and/or Occupier(s) of any private property must:
- (i) not allow any Material or Thing to be deposited, accumulated, used, processed, or stored under their control in a manner that may harbour or cause a Nuisance; and/ or
 - (ii) maintain their property to be free from Overgrown Vegetation, Long Grass and/ or Noxious Plants that may harbour vermin or cause Nuisance.
- (b) Owner(s) and/or Occupier(s) of land upon which overgrown vegetation, long grass and/ or noxious plants are situated and overhang and cause obstruction to Public Rights of Way including accessibility for people with disability, must trim and/ or remove the trees, shrubs or other plants so that they are a minimum of 2.5 metres from the public right of way.
- (c) Authorised Officers – all officers authorised under Section 174 or Section 177 or paragraph 32 of Schedule 7 of the Local Government Act 2002, shall possess and produce on request warrants of authority and evidence of identity.
- (d) An Authorised Officer may enter at any reasonable time any Private Property believed to contain elements that contravene or may contravene this Bylaw and may take any photographs or other evidence necessary to establish that a breach of the Bylaw has occurred.

5.3 Notice

Council may serve a notice upon the Owner(s) and/or Occupier(s) of any Private Property in breach of section 5.2 requiring the Owner(s) and/or Occupier(s) prior to the expiry date to:

- (a) Remove any Material or Things that are or may provide harbourage for vermin and

- cause nuisance; and/ or
- (b) Cut down, remove and generally clear the land from all Overgrown Vegetation, Long Grass and/or Noxious Plants; and/or
 - (c) Trim any or all Overgrown Vegetation, Long Grass and/or Noxious Plants overhanging and causing obstruction to a Public Right of Way, so that the trees or shrubs or other plants are a minimum of 2.5 metres above the Public Right of Way; and/or
 - (d) Remove any or all Overgrown Vegetation, Long Grass and/or Noxious Plants overhanging and causing obstruction to the Public Right of Way.

5.4 Council May Complete The Work

If any person on whom a Notice has been served under Section 5.3 fails or neglects to do any act or thing specified in the Notice prior to the expiry date, or fails or neglects to do any act or thing in such manner as may be so specified in the Notice prior to the expiry date, Council may without further notice to the person served will undertake the work.

5.5 Council May Recover Its Costs

If any work is carried out by Council or its agent on any land pursuant to 5.4 above then the full cost of undertaking any work including all labour, materials and other charges incurred shall be recovered from the registered proprietor of the land. Council may also register these costs as a charge upon the land pursuant to the Land Transfer Act 2017.

A5563806

Health New Zealand
Te Whatu Ora

23 September 2024

The Chief Executive
Invercargill City Council
Private Bag 90104
INVERCARGILL

Tēnā koe Michael

Submission on Environmental Health Bylaw

1. Thank you for the opportunity to submit on your Environmental Health Bylaw. This submission has been compiled by the National Public Health Service (NPHS) Te Waipounamu region, Health New Zealand – Te Whatu Ora. NPHS Te Waipounamu services the South Island including Invercargill City.
2. NPHS recognises its responsibilities to improve, promote and protect the health of people and communities of Aotearoa New Zealand under the Pae Ora (Healthy Futures) Act 2022 and the Health Act 1956.
3. Pae Ora requires the health sector to protect and promote healthy communities and health equity across different population groups by working together with multiple sectors to address the determinants of health.
4. NPHS is focused on the achievement of equitable health outcomes. We use the Ministry of Health's definition of equity:

In Aotearoa New Zealand people have differences in health that are not only avoidable, but unfair and unjust. Equity recognises different people with different levels of advantage require different approaches and resources to get equitable health outcomes.¹

General Comments

5. We welcome the opportunity to comment on your Environmental Health Bylaw.
6. Health and wellbeing are influenced by a wide range of factors beyond the health sector. These factors are often referred to as the 'social determinants of health', and can be described as the

¹ Ministry of Health – Manatū Hauora (2024, July 2). Achieving equity. <https://www.health.govt.nz/about-ministry/what-we-do/achieving-equity>

environmental, economic and social conditions in which people are born, grow, live, work and age.²

7. The diagram³ below shows how these determinants of health are complex and interlinked. Initiatives to improve health outcomes and overall quality of life must involve organisations and groups beyond the health sector, such as local government, if they are to have a collective impact.⁴

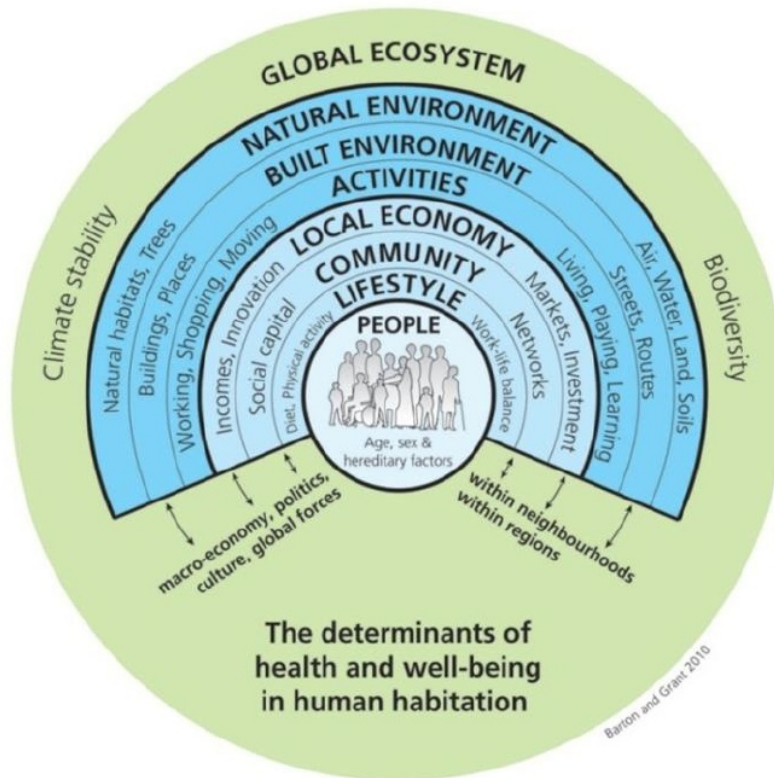


Figure 1: Social determinants of health

8. We support Invercargill City’s Environmental Health Bylaw that serves to regulate mobile trading, alcohol ban areas, solvent abuse, untidy private properties and disused materials or things within the Invercargill City District.
9. We have had previous dialogue with the Invercargill City on mobile food shops in the vicinity of Invercargill Hospital. We have also provided input regarding the fact that many of them sell food that is high in saturated fat and/or sugar and that they often operate in low-income communities.

² Public Health Advisory Committee. (2004). *The Health of People and Communities. A Way Forward: Public Policy and the Economic Determinants of Health*. Public Health Advisory Committee.

https://mohlibrary.softlinkhosting.co.nz:443/liberty/OpacLogin?mode=BASIC&openDetail=true&corporation=default_corp&action=search&queryTerm=uid%3D%225e0914be0a5a01e27fdf294000051624%22&editionUid=5e0914be0a5a01e27fdf294000051624&operator=OR&url=%2Fopac%2Fsearch.do

³ Barton, H. & Grant, M. (2006). A health map for the local human habitat. *The Journal of the Royal Society for the Promotion of Health*, 126(6), 252-253.

<https://journals.sagepub.com/doi/10.1177/1466424006070466>

⁴ McGinnis J.M., Williams-Russo P. & Knickman JR. (2002). The case for more active policy attention to health promotion. *Health Affairs*, 21(2), 78-93.

<https://www.healthaffairs.org/doi/abs/10.1377/hlthaff.21.2.78>

Specific Comments

10. *Clause 2.4: Issue of Licence*

We submit this provision should not only contain conditions to prevent any potential creation of nuisance to public health, but it should also contain provisions that serve to enable and promote healthy food.

It is our view that the general powers and duties of local authorities under the Health Act 1956 include improvement and promotion of public health as well as protection⁵.

11. *New Provision Relating to Incentives for the Sale of Healthy Food*

NPHS recommends Invercargill City Council consider incorporating incentives to support food truck vendors selling healthy food options.

Unhealthy commodities, including processed foods that are high in salt, fat and sugar, as well as alcohol and tobacco, are leading risk factors for chronic non-communicable diseases. The burden of non-communicable diseases on health systems globally, including in New Zealand, is substantial, and it is expected to increase dramatically in the next 20 years⁶. These diseases include CVD, type 2 diabetes and obesity⁷. It is our view that food sold in mobile shops in Invercargill tends to be processed, high in fat and in some cases sugar. They also tend to operate in locations where there are few or no other food options.

Unfortunately, mobile food truck vendors have received very little attention in public health literature⁸. A study of several Midwest municipalities in the United States found that in Chicago, food truck vendors who sold fruit and vegetables paid a reduced licencing fee and had longer permitted operating hours⁹. The paper indicated Chicago City's intention to waive licencing fees for food truck operators who sold healthy food in low-income communities⁹. Other incentives included mentorship programmes for new food truck operators. Another study notes the role of mobile food vendors for everyday food for asylum-seeking populations in Australia and through that an increased incentivisation for vendors to provide nutritious healthy food⁹.

In the event an incentivisation programme is chosen, there will need to be a clear definition of eligibility for the incentive. The summary on the key information from the Eating and Activity Guidelines for New Zealand Adults¹⁰ would provide a good basis for compliance with any incentive. It is clear that mobile shops selling food with a high fat and/or sugar content exclusively would not be in a position to attract an incentive.

⁵ Health Act 1956: Section 23 - General powers and duties of local authorities in respect of public health. Accessed from: <https://www.legislation.govt.nz/act/public/1956/0065/latest/DLM306680.html>

⁶ Watkins, D.; Hale, J.; Hutchinson, B.; Kataria, I.; Kontis, V.; Nugent, R. Investing in non-communicable disease risk factor control among adolescents worldwide: A modelling study. *BMJ Glob. Health* 2019, 4, e001335

⁷ US Department of Agriculture & US Department of Health and Human Services (2015) 2015–2020 Dietary Guidelines for Americans, 8th ed. Accessed September 2024 from: <http://health.gov/dietaryguidelines/2015/>

⁸ Edward V. Wallace: *J Public Health Policy*. 2021; 42(2): 271–280. Published online 2021 Feb 10. doi: 10.1057/s41271-021-00274-1 Accessed from Sept 2024 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7874560/#:~:text=We%20found%20that%20developing%20more,outcomes%20in%20low%20income%20neighborhoods>

⁹ McKay FH, Dunn M. Food security among asylum seekers in Melbourne. *Aust N Z J Public Health*. 2015 Aug;39(4):344-9. doi: 10.1111/1753-6405.12368. Epub 2015 Jun 11. PMID: 26094650; PMCID: PMC4744670.

¹⁰ Ministry of Health New Zealand 2020: Eating and Activity Guidelines for New Zealand Adults: Summary of Guidelines Statements and key related information. Accessed from: https://www.tewhatora.govt.nz/assets/For-the-health-sector/Health-sector-guidance/Active-Families/eating-and-activity-statements-for-new-zealand-adults-summary-of-guidelines-statements-and-key-related-information-jan_21.pdf

12. We are aware that in other jurisdictions mobile traders selling alcohol in an on-licence situation have been established. While we are of the view that there are provisions within the Sale and Supply of Alcohol Act (2012) to manage this, we bring this possibility to your attention as without some very stringent controls, mobile traders selling alcohol pose significant health and safety risks.

13. **Clause 2.12: Pre-Approved Locations for Food Trucks**

Given that mobile food vendors have different overheads than food shops, we understand why they need to be located in a way that limits competition between them. Having said that their remote location will often mean that consumers are left with little choice when they need to access food in these locations. This, and the fact that at least half the pre-approved locations are in areas of high deprivation, is the reason why we are encouraging Invercargill City Council to incentivise healthy food options.

14. We advocate that the list of pre-approved locations needs to be part of the bylaw so that it cannot be changed without a proper consultative process.

15. **Clause 2.13 Litter**

The requirement for licensees or operators to remove any litter from the surrounding area of the Mobile Trading Vehicle that has been generated by the activities of their trading is supported. We are also of the view that this should be strengthened through requiring the operators to provide a refuse receptacle in the vicinity of their operation and that it is picked up and removed at the end of their session.

16. **3.3 Alcohol Ban Affected Areas**

We commend Invercargill City Council on a significant alcohol ban area that includes the Central Business District, a significant space to the South and North, as well as five blocks to the West to include Otakaro Park and the Water Tower Reserve.

Conclusion

17. NPHS Te Waipounamu supports Invercargill City Council with its Environmental Health Bylaw.

We recommend that the bylaw is framed in a way that enables healthy behaviour as the Health Act 1956 empowers councils to promote public health. We would like to see mobile food vendors encouraged to sell more healthy food options.

We also support Invercargill City Council's extensive alcohol ban.

18. NPHS Te Waipounamu wishes to be heard with respect to this submission.

19. Thank you for the opportunity to submit on Invercargill City Council's Environmental Health Bylaw.

Ngā mihi,



Vince Barry
Regional Director
National Public Health Service
Te Waipounamu Region

Contact details

Tom Scott
NPHS Te Waipounamu
034769746
Tom.scott@southjerndhb.govt.nz

A5571240

Make a submission

letstalk.icc.govt.nz



Environmental Health Bylaw 2024



Personal details

Full name:

Brian Robert Nicholson

(Required)

Email:

No email

(Required)

Contact Phone:

[Redacted]

(Required)

Postcode:

9810

(Required)

1. Do you wish to present your submission to the Mayor and Councillors in person?

Yes

No

2. Do you support the Environmental Health Bylaw?

Yes

Yes with amendments

No

3. What is your submission on the Environmental Health Bylaw?

ALL City Council departments / Food Traders
All of them - work in with "ALL" Maori Iwi /
hapu tribes - Locations - size - (traders) -

4. Would you like to receive emails about future consultations?

Yes

No

hard copy DX mail couriers

Please attach extra sheets of paper if required.

How do I make a submission on the Environmental Health Bylaw 2024?

The easiest way is to submit online using the survey form at letstalk.icc.govt.nz

Alternatively, you can pick up a submission form and drop one off at Te Hīnaki Civic Building at 101 Esk St, the Invercargill Public Library or the Bluff Service Centre.

You can also email the Policy team at policy@icc.govt.nz



Post: Submission – Environmental Health Bylaw 2024
Invercargill City Council
Private Bag 90104
Invercargill 9840

Submissions are due by 5pm, 27 September 2024.



Environmental Health Bylaw 2024

A5591948

TABLED AT
15 OCTOBER 2024
MEETING

Invercargill City Council – Environmental Health Bylaw

Submission of the National Public Health Service

Te Kāwanatanga o Aotearoa
New Zealand Government

Health New Zealand
Te Whatu Ora

Key Points

- **Food Trucks and Healthy Food**
- **Litter**
- **Alcohol Ban Areas**



Food Trucks and Healthy Food

- Unhealthy food that is often processed and is high in salt, fat and sugar
- It is an unhealthy commodity along with tobacco and alcohol
- The rates of non-communicable diseases such as heart disease, diabetes and obesity are increasing globally
- The burden of non-communicable disease does not fall equally across society in that more poor people suffer these effects.
- Food trucks often exclusively sell unhealthy food.
- Food trucks often have captive market that can be in poorer parts of town.
- Food trucks need to be encouraged/ incentivised to sell healthy food that complies with the New Zealand Nutrition guidelines.



Litter

- We support food truck operators asked to remove any litter from the vicinity of their vehicles.
- We believe this could be strengthened by asking them to provide their own rubbish bins

Alcohol Ban Areas

- We fully support Invercargill City Council's extensive alcohol ban area

Questions

Te Kāwanatanga o Aotearoa
New Zealand Government

Health New Zealand
Te Whatu Ora