

Proposed Auckland Transport Trading and Events in Public Places Bylaw 2015

Recommendations

That the Board:

- i. receives and considers the recommendations of the hearings panel on the proposed Auckland Transport Trading and Events in Public Places Bylaw 2015 (“the Bylaw”) contained in the report in Attachment 1;
- ii. receives and considers the “Comparison table between the notified and amended versions of the Auckland Transport Trading and Events in Public Places Bylaw 2015” contained in Attachment 2;
- iii. makes the Bylaw contained in Attachment 3 to take effect on 1 July 2015; and
- iv. authorises the Chief Executive, in consultation with Councillor Krum (as Chair of the hearings panel), to make minor amendments to the Bylaw to correct any identified errors that do not substantially amend the provisions of the Bylaw.

Executive summary

Auckland Transport (AT) has the power to make bylaws regulating trading activities and events on the Auckland Transport system. Auckland Council (AC) has similar powers in relation to the public places it manages.

AC and AT have undertaken a joint review of legacy bylaws relating to trading in public places (or ‘street trading’) that occurs within areas of AC’s jurisdiction for public places (including parks and beaches) and AT’s jurisdiction for roads under the care, management and control of AT.

The governing body of AC and the Board of Directors at AT approved, respectively, a proposed AC Bylaw and a proposed AT Bylaw for joint public consultation.

A joint hearings panel was appointed to hear submissions, deliberate and make recommendations to the governing body of AC on the proposed AC Bylaw and to the Board of Directors of AT on the proposed AT Bylaw. A report of their deliberations is contained in Attachment 1. The report includes recommended changes to the notified text of the AC Bylaw and the AT Bylaw.

The recommendations of the hearings panel were considered by the governing body of AC at its meeting on 26 February 2015. The governing body adopted the AC Bylaw (Attachment 4, for information only) in accordance with the recommendations.

The Board of Directors of AT must now consider the recommendations of the hearings panel and if it is content make the AT Bylaw. A table comparing the AT Bylaw as notified with the AT Bylaw with changes as recommended by the panel is contained in Attachment 2. The AT Bylaw is contained in Attachment 3.

Strategic context

AT seeks to be in line with the strategic direction of the Auckland Plan:

Auckland's transport system is effective and efficient, and provides for the region's social, economic and environmental and cultural wellbeing.

The Bylaw will assist in achieving this outcome by proposing controls which enable and encourage suitable trading activities whilst ensuring public places remain accessible, are safe for pedestrians and other road users, are free of nuisances and are convenient for the enjoyment of the public.

Legacy bylaws

AT and AC are required to review the current legacy council bylaws under sections 61 and 63 of the Local Government (Auckland Transitional Provisions) Act 2010 in accordance with section 46 of the Local Government (Auckland Council) Act 2009.

Bylaw making powers

AC and AT may make bylaws under the LGA02 and the LTA98 convening their respective areas of management and control. AT proposes a new bylaw to regulate public places trading activities under sections 145(a), (b) and (c) and section 146(b)(vi) of the LGA02 and under section 22AB(1)(zi), (zj) and (zk) of the LTA98 to:

- protect the public from nuisance;
- protect promote and maintain public health and safety;
- minimise the potential for offensive behaviour in public places;
- regulate trading in public places (including the regulation of mobile shops); and
- regulate road-related matters including enhancing road safety and protection of the environment.

Background

Review and scope of proposed bylaws

AC and AT have undertaken a joint review of legacy bylaws relating to trading in public places that occurs within areas of AC's jurisdiction for public places (including parks and beaches) and AT's jurisdiction for roads under the care, management and control of AT.

Many of the trading activities covered in each new region-wide AC and AT bylaw were covered in legacy council bylaws.

The AC and AT Bylaws were prepared to provide a region-wide harmonised approach to trading activities and relate to the following particular trading activities:

- markets and stalls;
- mobile shops;
- outdoor dining;
- fundraising (including soliciting or collection of subscriptions or donations);
- offering commercial services;
- distribution of promotional goods or materials;
- street performances and pavement art;
- requirement to obtain approval for events or filming in a public place;
- requirement to obtain approval for trading activities in parks and reserves;
- outdoor display of goods.

Public consultation

On 29 May 2014, the governing body of AC approved the proposed AC Bylaw for public consultation (resolution number GB/2014/49). The Board of Directors of AT considered these matters at its meeting of 29 July 2014 (refer agenda item 10(iii)) and approved a similar AT Bylaw for joint public consultation.

The proposal was publicly notified with a submission period of 4 August 2014 to 4 September 2014. A total of 1409 submissions were received with a further three submissions obtained after the submission period had closed.

Hearings Panel

The joint hearings panel was appointed to hear submissions, deliberate and make recommendations. Panel members included Councillors Krum (Panel Chairperson), Penrose, Casey, Member Glenn Wilcox (Independent Māori Statutory Board) and Mr Rabin Rabindran (Auckland Transport).

Twenty submitters made verbal submissions during three days of hearings held on 27 November 2014, and 15 & 19 December 2014. The hearings panel held its deliberations in public on the 19 December 2014.

Submissions were generally made on the proposed AC Bylaw rather than on both bylaws however the hearings panel treated these as submissions to both. The majority of submitters made submissions, either supporting or opposing specific parts and clauses of the proposed bylaw.

The majority of submissions received (1354 or 95 per cent) were on smokefree outdoor dining areas and other public places. Submitters included organisations such as the Cancer Society, Auckland Regional Public Health Services, Heart Foundation, Te Ara Hā Ora: The National Māori Tobacco Control Service and private individuals. While this topic is beyond the scope of the bylaw in terms of creating smokefree outdoor dining spaces, the hearings panel did hear from submitters.

Twenty submitters made verbal submissions during three days of hearings held. The panel heard from submitters on a range of issues including:

- smokefree outdoor dining spaces (and other activities such as markets, stalls and, events);
- use of shared space areas;
- requests for exemptions from the requirement to obtain approval for community groups, sports clubs, or produce stalls;
- fundraising activities;
- distribution of promotional material and street marketing;
- a tourist operator; and
- healthy food at markets and stalls.

As a result of the submissions, the hearings panel recommend amending a number of clauses to clarify the types of activities the bylaw intends to manage and to correct errors and typographical edits subsequently identified in the notified version of the bylaw. The hearings panel also recommend the inclusion of additional clauses based on submissions and staff advice.

The hearings panel recommend that due to the volume of submissions on smokefree outdoor dining spaces, the Governing Body directs staff to commence the review of the Auckland Council Smokefree Policy in 2015, ahead of the scheduled 2016 timeline, to determine if a bylaw is the most appropriate way for managing smokefree public places.

Changes proposed to the AT Bylaw are summarised under the Issues section below.

Issues and options

Issues

A summary of the changes to the AT Bylaw recommended by the hearings panel is set out below by deliberations topic. Further details can be found in the hearing panel report (Attachment 1) and a clause by clause comparison of the proposed changes can be found in the Comparison Table (Attachment 3).

1. Smoking

Smoking was not explicitly mentioned in the proposed Bylaws, although there was a reference to the Smokefree Policy in relation to deciding an application (clause 10).

There were 1354 submissions on smokefree public places. The majority of the submissions called for the inclusion of smokefree outdoor dining places in the proposed bylaw.

The hearings panel deliberated on the views of the submitters and acknowledged both the written and verbal submissions. The panel recognised however that this issue was not explicitly mentioned in the notified bylaw (noting that there is only one reference to the term 'smokefree' in the bylaw). As a result interested and potentially affected persons and organisations were unaware that the council may impose restrictions and therefore did not make submissions supporting or opposing such measures. The panel recommend to the Governing Body that the scheduled 2016 review of the Smokefree Policy be brought forward to 2015 and that clause 11 ('Approval conditions') be amended to include a requirement that any approval granted must comply with Auckland Council policies and plans, including the Smokefree Policy.

2. Title and commencement date (clause 1 and 2)

The title and commencement date are recommended to be 2015 dates.

3. Interpretation (clause 5)

Some definitions are recommended to be amended. The definitions of 'park' and 'parks management' have been deleted from the AT Bylaw as these terms are only present in the AC Bylaw. The definition of 'street furniture' has been deleted as its deemed unnecessary.

4. Exemptions to holding an approval (clause 7)

It's recommended that the clause be amended to clarify that certain activities, including outdoor fitness operators, amateur organised sports clubs and produce stalls, are exempted from the approval process.

5. Application for approval (clause 9)

A minor amendment has been recommended to clarify the criteria on which an application will be approved.

6. Deciding an application (clause 10)

It's recommended that this clause be amended to require that any guidance AT has regard to when deciding an application must be passed by resolution, so that key stakeholders can be consulted when the guidance is developed.

7. Approval conditions (clause 11)

- The panel has recommended some changes to the conditions that may be included with an approval.
8. Review of approval (clause 14)
The panel has recommended a minor amendment to this clause.
 9. Markets and stalls (clause 15)
The panel has recommended a minor amendment to this clause. Submissions were made in relation to making market and stall trading smokefree. The panel recommended that this be considered as part of the Smokefree Policy review and not under the Bylaw.
 10. Mobile shops (clause 16)
The panel has recommended an additional subclause that provides that conditions can be imposed to mitigate any adverse impacts on local businesses and/or the local environment from mobile shops.
 11. Outdoor dining (clause 17)
The panel recommended additional wording be included to provide that verandas and awnings do not cause obstructions or compromise safety.
 12. Fundraising (clause 18)
The panel recommended an amendment requiring that charities be registered as such by the IRD.
 13. Offering commercial services (clause 19)
The panel recommended a minor amendment to clarify the intention of subclauses (c) and (d).
 14. Distribution of promotional goods
The panel recommended a minor amendment to clarify the intention of subclauses (c) and (d).
 15. Street performers and busking (clause 21)
The panel recommended that a requirement be inserted that street performers and buskers follow any code of conduct, passed by AT by resolution, for street performers.
 16. Events (clause 23)
The panel recommended that the definition of 'filming' be clarified to provide that it does not apply to amateur or private filmmaking.
 17. Outdoor display of goods (clause 24)
The panel recommended fixing some minor drafting errors in this clause.
 18. Non-compliance with conditions of approval (clause 25)
The panel recommended an additional condition be included.

Financial impact

No direct financial impact has been identified for AT to make the Bylaw. The administration and enforcement of the Bylaw will be undertaken by Licensing and Compliance at AC by in accordance with the delegation from AT.

Stakeholder engagement

In addition to the public consultation, the views of the local boards were sought through three rounds of workshops (November 2011, August – September 2012 and, October – November 2013) to discuss the review and obtain feedback on the proposed approach to managing trading and events in public places. Staff presented at a Local Board Chairs Forum (March 2014) and local board members were also encouraged to provide feedback on a People's Panel survey (also conducted in March 2014). The majority of local boards supported the outlined approach - providing regulatory support for the various activities through the trading and events in public places bylaws, requiring approval and charging a fee based on the type of activity.

Legal and regulatory issues

In house lawyers at AT and AC and external solicitors at Simpson Grierson have reviewed and advised on the AC and AT Bylaws.

Next steps

If the Board is minded to make the Bylaw, the Minister of Transport and the public will be notified of the making of the Bylaw in accordance with the requirements in the LTA98.

The Bylaw will come into force on 1 July 2015 to align with the AC Bylaw.

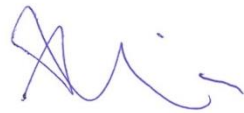


AC will administer and enforce the AT Bylaw. The Social Policy and Bylaws Unit and Licensing and Compliance Services at AC are developing an operations policy and procedures manual to guide staff on the implementation of the Bylaw.

AC will be carrying out a review of the Smokefree Policy in 2015.

Attachments

Number	Description
1	Report of the hearings panel on the proposed Trading and Events in Public Places Bylaw 2015
2	Comparison table between the notified and amended versions of the Auckland Transport Trading and Events in Public Places Bylaw 2015
3	Auckland Transport Trading and Events in Public Places Bylaw 2015
4	Auckland Council Trading and Events in Public Places Bylaw 2015, for information only

Document ownership

Submitted by	Ariarna Hakaraia Legal Counsel (Public law)	
Recommended by	Mario Zambuto General Counsel	
Approved for submission	David Warburton Chief Executive	

Glossary

Acronym	Description
AC	Auckland Council
AT	Auckland Transport
LGA02	Local Government Act 2002
LTA98	Land Transport Act 1998

Report of the Hearings Panel on the proposed Auckland Council Trading and Events in Public Places Bylaw 2015

File No.: CP2014/16403

Purpose

1. To adopt the new Auckland Council Trading and Events in Public Places Bylaw 2015 and to revoke eight legacy bylaws relating to trading and events.

Executive summary

2. On 29 May 2014, the Governing Body approved the proposed Auckland Council Trading and Events in Public Places Bylaw for public consultation (resolution number GB/2014/49). Auckland Transport's Board of Directors considered these matters at its meeting on 29 July 2014 and approved a similar Auckland Transport Trading and Events in Public Places Bylaw for joint public consultation. At the close of the submission period, a total of 1409 submissions were received, with a further three submissions obtained after submissions had closed. Twenty submitters made verbal submissions during three days of hearings. The hearings panel held its deliberations in public.
3. The joint hearings panel was appointed to hear submissions, deliberate and make recommendations. Panel members included Councillors Krum (Panel Chairperson), Penrose, Casey, Member Glenn Wilcox (Independent Māori Statutory Board) and Mr Rabin Rabindran (Auckland Transport).
4. As a result of the submissions, the hearings panel recommend amending a number of clauses to clarify the types of activities the bylaw intends to manage and to correct errors and typographical edits subsequently identified in the notified version of the bylaw. The hearings panel also recommend the inclusion of additional clauses based on submissions and staff advice.
5. The hearings panel recommend that due to the volume of submissions on smokefree outdoor dining spaces (1354 of the 1412 submissions), the Governing Body directs staff to commence the review of the Auckland Council Smokefree Policy in 2015, ahead of the scheduled 2016 timeline, to determine if a bylaw is the most appropriate way for managing smokefree public places.
6. The bylaw is proposed to come into effect from 1 July 2015 to align with the date that the fees and charges associated with a number of trading activities are introduced. The revocation of the legacy bylaw clauses relating to trading and events in public places takes effect from that date.
7. The proposed amended Auckland Council bylaw is attached to this report as Attachment A. A table comparing the notified version and recommended amendments to the bylaw is attached as Attachment B. Auckland Transport's Trading and Events in Public Places Bylaw is attached as Attachment C and is for information purposes only.

Recommendations

That the Governing Body:

- a) receive and adopt the recommendations of the hearings panel on the Auckland Council Trading and Events in Public Places Bylaw 2015.
- b) confirm that pursuant to section 155 of the Local Government Act 2002, the proposed Trading and Events in Public Places Bylaw 2015 is the most appropriate way for managing trading activities and events in public places, and that the proposed bylaw is the most appropriate form of bylaw and is not inconsistent with the

New Zealand Bill of Rights Act 1990.

- c) make the proposed Auckland Council Trading and Events in Public Places Bylaw 2015 (Attachment A to the agenda report) pursuant to Sections 145,146 and 149 of the Local Government Act 2002 and section 22AB of the Land Transport Act 1998 with effect from 1 July 2015.
- d) revoke in full the following legacy bylaws relating to trading and events in public places with effect from 1 July 2015:
 - i) Franklin District Council Trading in Public Places Bylaw 2007
 - ii) Manukau City Council Chapter 7- Events and Trading in Parks and Public Places 2008
 - iii) North Shore City Council - Trading in Public Places Bylaw 2007
 - iv) Papakura District Council - Trading in Public Places Bylaw 2008
 - v) Rodney District Council Chapter 9 – Trading in Public Places 1998
- e) revoke in part the following legacy bylaws relating to trading and events in public places with effect from 1 July 2015:
 - i) Auckland Regional Council Parks Bylaw 2007 (Part 2, clause 6(1)(f))
 - ii) Auckland City Council Public Places Bylaw 2007 (clauses 20.1, 20.6 and 20.7)
 - iii) Waitakere City Council Public Places Bylaw 2010 (Part 5, clauses 13 and 14)
- f) confirm the delegations proposed in Section 3 of the part entitled “Additional information to Auckland Council Trading and Events in Public Places Bylaw” in Attachment A to the agenda report.
- g) direct staff to:-
 - (i) commence the review of the Smokefree Policy during 2015, ahead of the scheduled 2016 timeline, to determine if a bylaw is the most appropriate way to achieve the outcomes of Phase 3 of that policy, which includes smokefree al fresco dining;
 - (ii) review the resources available to ensure the implementation of any smokefree initiatives.
- h) direct staff to report back to the Regulatory and Bylaws Committee on any guidelines or policies developed in consultation with key stakeholders to guide staff involved in the implementation of this bylaw.
- i) authorise the Manager, Social Policy and Bylaws, in consultation with Councillor Krum, as chair of the hearings panel, to make any minor edits or amendments to the Trading and Events in Public Places Bylaw 2015 to correct any identified errors or typographical edits or to reflect decisions made by the Governing Body.

Background

- 8. The hearings panel was appointed to hear submissions, deliberate and make recommendations to the governing body of Auckland Council on the proposed Auckland Council Trading and Events in Public Places Bylaw (resolution no. RBC/2014/21) and to the Board of Directors of Auckland Transport on the proposed Auckland Transport Trading and Events in Public Places Bylaw.
- 9. On 29 May 2014, the Governing Body approved the proposed trading and events in public places bylaw for public consultation (resolution number GB/2014/49). Auckland Transport’s Board of Directors considered these matters at its meeting of 29 July 2014 (refer agenda item 10(iii)) and approved a similar Auckland Transport Trading and Events in Public Places Bylaw for joint public consultation.
- 10. The proposal was publicly notified with a submission period of 4 August 2014 to 4 September 2014. A total of 1409 submissions were received with a further three

submissions obtained after the submission period had closed. Twenty submitters made verbal submissions during three days of hearings held on 27 November 2014, and 15 & 19 December 2014. The hearings panel held its deliberations in public on the 19 of December 2014.

Overview of written and verbal submissions

11. Submissions were generally made on the proposed Auckland Council bylaw rather than on both bylaws however the hearings panel treated these as submissions to both. The majority of submitters made submissions, either supporting or opposing specific parts and clauses of the proposed bylaw.
12. The majority of submissions received (1354 or 95 per cent) were on smokefree outdoor dining areas and other public places. Submitters included organisations such as the Cancer Society, Auckland Regional Public Health Services, Heart Foundation, Te Ara Hā Ora: The National Māori Tobacco Control Service and private individuals. While this topic is beyond the scope of the bylaw in terms of creating smokefree outdoor dining spaces, the hearings panel did hear from submitters.
13. Twenty submitters made verbal submissions during three days of hearings held. The panel heard from submitters on a range of issues including:
 - smokefree outdoor dining spaces (and other activities such as markets, stalls and events);
 - use of shared space areas;
 - requests for exemptions from the requirement to obtain approval for community groups, sports clubs, or produce stalls;
 - fundraising activities;
 - distribution of promotional material and street marketing;
 - a tourist operator and;
 - healthy food at markets and stalls.

Deliberations

14. The hearings panel held its deliberations in public on 19 December 2014. To prepare this report, the matters deliberated on by the hearings panel have been categorised into 18 topic areas (Table one) and are presented in the order that they were discussed.

Table one: Deliberations topics and relevant bylaw clause

Deliberation topic	Bylaw clause
Topic 1 – Smokefree outdoor dining	Not applicable
Topic 2 – Title and commencement date	Clauses 1 and 2
Topic 3 - Interpretation	Clause 5
Topic 4 - Exemptions to holding an approval	Clause 7
Topic 5 – Application for approval	Clause 9
Topic 6 – Deciding an application	Clause 10
Topic 7 – Approval conditions	Clause 11
Topic 8 – Review of an approval	Clause 14
Topic 9 – Markets and stalls	Clause 15
Topic 10 – Mobile shops	Clause 16
Topic 11 - Outdoor dining	Clause 17
Topic 12 - Fundraising	Clause 18
Topic 13 - Offering commercial services	Clause 19
Topic 14 - Distribution of promotional goods	Clause 20
Topic 15 - Street performance / busking	Clause 21
Topic 16 - Events (including filming)	Clause 23
Topic 17 - Outdoor displays of goods	Clause 24
Topic 18 – Non-compliance with conditions	Clause 25

Deliberations Topic 1 – Smokefree outdoor dining

Proposal as publicly notified

15. This issue was not explicitly mentioned in the proposed Auckland Council bylaw, although there was a reference to the Smokefree Policy in relation to deciding an application (clause 10). The accompanying Statement of Proposal did refer to smoking in terms of the impact it has on outdoor dining spaces, however the intent was not to include it in the bylaw. The reason for this was because throughout the bylaw development phase staff took into consideration the scheduled review in 2016 of the Auckland Council Smokefree Policy. Part of this review involves determining whether a bylaw is the most appropriate way for achieving the policy's outcomes such as smokefree outdoor dining.

Matters raised in submissions

16. There were 1354 submissions on smokefree public places. The majority of the submissions were from private individuals and were primarily proformas (this included either an on-line submission formulated by the Cancer Society or a hard-copy form). Common matters raised in the submissions were the negative impacts of smoking on other users of public places and the amenity of an area (littering and odour) and health implications (for both smokers and non-smokers).
17. Ten submitters presented to the hearings panel over the three days of hearings, reiterating the above points about the negative impacts of smoking on users of public places. The panel heard from the Cancer Society, Auckland Regional Public Health and Te Ara Hā Ora: The National Māori Tobacco Control Service as well as verbal submissions from private individuals. All the submissions (both written and verbal) called for the inclusion of smokefree outdoor dining places in the proposed bylaw. Some submitters also requested that markets, stalls and events be included on the grounds there is support for other smokefree public spaces, the bylaw would result in higher compliance rates and, in some states in Australia where it is already regulated it has proven to be an effective approach.

Hearings Panel deliberations

18. The hearings panel deliberated on the views of the submitters and acknowledged both the written and verbal submissions. The panel recognised however that this issue was not explicitly mentioned in the notified bylaw (noting that there is only one reference to the term 'smokefree' in the bylaw). As a result interested and potentially affected persons and organisations were unaware that the council may impose restrictions and therefore did not make submissions supporting or opposing such measures. The panel recommend to the Governing Body that the scheduled 2016 review of the Smokefree Policy be brought forward to 2015 and that clause 11 ('Approval conditions') be amended to include a requirement that any approval granted must comply with Auckland Council policies and plans, including the Smokefree Policy.

Deliberations Topic 2 – Title and commencement date (clauses 1 and 2)

Proposal as publicly notified

19. The notified version had the title "Trading and Events in Public Places Bylaw 2014" as the time of drafting it was anticipated that the bylaw would be adopted in 2014. The date the bylaw comes into effect is 1 July 2015 to align with when the fees associated with some activities are introduced (as per the Long Term Plan).

Hearings panel deliberations

20. No submissions were received on this. Staff recommended to the panel at deliberations that the dates be amended to reflect when the bylaw will be adopted (in 2015) and when it comes into effect. The panel recommend the proposal as amended.

Deliberations Topic 3 – Interpretation (clause 5)

Proposal as publicly notified

21. Clause 5 contains interpretations of terms used in the bylaw.

Matters raised in submissions

22. Twelve submitters commented on a number of terms in the notified bylaw. Most of the submissions commented that definitions of certain terms were too broad and could be open to mis-interpretation. These included the definitions of:

- ‘commercial services’
- ‘event’
- ‘filming’
- ‘mobile shop’
- ‘outdoor display of goods.’

23. Other terms that were commented on included the notified definition of ‘street furniture’, ‘vehicle’ and ‘trading in public place’. Three submissions recommended the inclusion of new definitions including ‘continuous accessible path of travel’, ‘shared space areas’ and, ‘smoke’, ‘smokefree’ and, ‘smokefree signage’.

Hearings panel deliberations

24. The panel noted the comments from the submitters (both written and verbal submissions) and deliberated on all the clauses (including those that were not the subject of any submissions but, were recommended by staff for amending).

25. Following deliberations, the panel recommend that definitions be amended or added. These amendments, plus reasons for changes, are outlined on pages 2 to 10 of **Attachment B** to this report.

Deliberations Topic 4 – Exemptions to holding an approval (clause 7)

Proposal as publicly notified

26. The notified bylaw listed a number of activities that were exempt from the requirement to hold approval. These include outdoor display of goods, council-installed public art, goods or services delivered to private premises and the sale of goods (such as produce) or the offering of services from private premises.

Matters raised in submissions

27. There were seven submissions calling for other activities to be exempt such as small-scale fundraisers and community groups.

28. The panel heard from three submitters on this matter calling for exemptions for the following activities:

- outdoor fitness operators who run boot-camp type activities in parks;
- amateur organised sports clubs such as the North Shore Cricket Club who hold fundraising activities;
- the sale of produce from a produce stall as this is a permitted activity in rural areas in the Unitary Plan.

Hearings panel deliberations

29. The panel recommend that amendments to this clause be made to make it clear that the above activities are exempted from the requirement to obtain approval. In addition, the reference to the sale of goods or offering of services from private premises, as it featured in the notified version, has been removed and replaced with the clause on ‘produce stalls’.

Deliberations Topic 5 – Application for approval (clause 9)

Proposal as publicly notified

30. The notified proposal outlined the process for making an application for an approval including the requirement for it to be made on the prescribed form and the ability for the council to refuse an application based on terms and conditions that the council ‘thinks fit’.

Matters raised in submissions

31. Two submissions were received on this matter. One submission expressed concern that approvals could be granted or refused at the discretion of the council which could potentially lead to unfettered decision making.

Hearings panel deliberations

32. The panel recommend that clause 9(3) – regarding the ability for the council to refuse an application as it thinks fit - be deleted and replaced with a new clause 10(1) to remove any ambiguity.

Deliberations Topic 6 – Deciding an application (clause 10)

Proposal as publicly notified

33. The notified version detailed the process for deciding to grant or refuse an application taking into consideration matters such as location of the activity; specifications of any structures, impact on surrounding environment; the applicant’s suitability and track record and; whether the activity is consistent with any Auckland Council policies and plans, including but not limited to, the Smokefree Policy and gambling policies.

Matters raised in submissions

34. Eight submissions were received on this matter with most stating that there should be an ability for other stakeholders (such as local business associations) to decide an application. A number of submitters expressed concern that decisions could be made based on guidelines developed by the council that may not have been consulted on. Three submitters commented that the provision to be consistent with any council policies or plans may not meet the requirements that the bylaw be reasonable, clear and certain.

Hearings panel deliberations

35. The panel recommend that clause 10(1) be amended with a new clause added (as per comments under paragraph 33) and notified clauses re-numbered to reflect changes. The panel agrees that the reference in the revised clause 10(2) – previously 10(1) - to guidelines approved by the council, should include the terms “by resolution”. The rationale for including “by resolution” is to relieve concerns expressed by some submitters – both in the written and verbal submissions – that guidelines may be made without any consultation with key stakeholders.
36. Other recommendations include replacing “may” with “must” and, amending clause 10(3)(c) to require appropriate mitigation of any potential impact the activity may have on other users of the public place.

Deliberations Topic 7 – Approval conditions (clause 11)

Proposal as publicly notified

37. The notified version outlines the conditions that may be included in an approval ranging from the location of activity, duration and compliance with safety, health and hygiene requirements. There is also a requirement that any trading activity must maintain a minimum unobstructed width of no less than 1.8m.

Matters raised in submissions

38. Eleven submissions were received on this matter. There were a number of comments on the minimum 1.8m footpath clearance with most supporting this requirement. The submission

from Skycity stated that this provision is not appropriate for shared space areas on the basis that these areas generally do not have footpaths. The submission from the Auckland Regional Public Health Service recommended that as part of the condition of an approval being granted, any activity involving the sale of food should be required to name the food types.

Hearings panel deliberations

39. The panel recommend the amendments clause 11 to reflect some of the concerns raised by the submitters as well as comments from staff on editing. These amendments, plus reasons for changes, are outlined on pages 14 and 15 of **Attachment B** to this report.

Deliberations Topic 8 – Review of an approval (clause 14)

Proposal as publicly notified

40. The notified version detailed the process for reviewing an approval. This includes the ability for the council to cancel, amend, or initiate a review of an approval if the activity is likely to interfere with intended council works or urgent action is required to protect health or safety or to minimise nuisances.

Matters raised in submissions

41. One submission was received on this matter calling for the inclusion of the word 'unreasonable' before the word "nuisance".

Hearings panel deliberations

42. The panel recommend, following discussion on this matter and advice from staff, that the word 'unreasonable' is inserted before the term "obstruction" rather than "nuisance" as there are some difficulties in determining what an "unreasonable nuisance" is compared to an "unreasonable obstruction".

Deliberations Topic 9 – Markets and stalls (clause 15)

Proposal as publicly notified

43. The notified version detailed specific conditions that may apply to any person who has approval to run a market or operating a stall (in addition to the general ones outlined in clause 11). Conditions include controls over location of a market and any signs and displays, the type, number and size of stalls within markets and, a requirement to comply with food hygiene regulations where food is to be sold.

Matters raised in submissions

44. Thirteen submissions were received on this matter with most supporting the requirement to obtain approval. The Auckland Regional Public Health Service (ARPHS) recommended the council consider introducing access to health food stalls and markets and they also sought clarification as to who is responsible for non-compliance (the individual stall holders or market organiser). ARPHS and the Cancer Society's submissions called for smokefree markets and stalls. One submitter commented that the word 'exact' (before the word "location" as stated in sub-clause 1(a)) be removed as the council should not be micro-managing locations.

Hearings Panel deliberations

45. The panel noted the submissions regarding smokefree markets and stalls but, as per the comments in paragraph 18, will now be considered as part of the 2015 review of the Smokefree Policy rather than in this proposed bylaw.

Deliberations Topic 10 – Mobile shops (clause 16)

Proposal as publicly notified

46. The notified version detailed specific conditions that may apply to any person who is operating a mobile shop (in addition to the general ones outlined in clause 11). Conditions include controls over the location of a mobile shop and any signs and displays, the hours or days that a mobile shop occupies a space at any one time, types of goods that can be sold and, a requirement to comply with food hygiene regulations where food is to be sold.

Matters raised in submissions

47. Nineteen submissions were received on this topic. Most of the comments focused on the impacts of mobile vendors located in proximity to fixed businesses selling similar products, or near town centres. There were two submissions commenting on the social and economic effects some mobile shop operators who offer a financial service are having on some local areas. Two mobile shop operators commented on the positive impacts they have on the community in terms of offering services such as produce or seasonal products.

Hearings panel deliberations

48. While there were no verbal submissions on this topic, the panel recommend that, based on the written submissions around minimising the effects of mobile shops on local businesses selling similar products, and the impacts on the local environment, that an additional sub-clause (1)(e), be added which requires approved operators to appropriately mitigate any adverse effects.

Deliberations Topic 11 – Outdoor dining (clause 17)

Proposal as publicly notified

49. The notified version detailed specific conditions that may apply to any person who has approval for an outdoor dining area (in addition to the general ones outlined in clause 11). Conditions include the requirement to delineate the outdoor dining area, controls on the number of tables and chairs permitted – including limits on additional seating – and, ensuring that awnings allow for clear visibility.

Matters raised in submissions

50. Seventeen submissions were received on this topic and most were in support of issues such as the requirement to have approval; maintaining a minimum unobstructed width of 1.8m and the need to minimise obstructions from furniture. One submission commented on the requirement for awnings to have clear visibility.

Hearings Panel deliberations

51. The panel deliberated on sub-clause (1)(d) regarding awnings and while they noted the submission on this topic, recommend that based on comments from staff, additional wording be included that they [awnings] should not cause obstructions or compromise safety.

Deliberations Topic 12 – Fundraising (clause 18)

Proposal as publicly notified

52. The notified version detailed specific conditions that may apply to any organisation that has approval to do fundraising (in addition to the general ones outlined in clause 11). Conditions include a requirement that charities are registered with the Department of Internal Affairs, that any collection devices used for appeals are clearly identified, and that information is provided to donors.

Matters raised in submissions

53. There were 27 submissions on this topic. Overall the majority of submissions supported continuing the regulation of this activity by a bylaw. A number of the submissions

commented on the role of the Public Fundraising Regulatory Association (PFRA) in regulating and monitoring face to face fundraising. The PFRA in its submission recommended amending one of the clauses to make it a requirement that charities are registered with the Inland Revenue Department.

Hearings panel deliberations

54. The panel noted the written and verbal submission from the PFRA and their comments that the proposed bylaw is an appropriate way for regulating fundraising activities. It also agreed to amend sub-clause (1)(a) to include a reference to the Inland Revenue Department. The panel also recommend the inclusion of an additional sub-clause to manage the location and hours of collections as per the written submission from Heart of the City.

Deliberations Topic 13 – Offering commercial services (clause 19)

Proposal as publicly notified

55. The notified version outlines the specific conditions that may apply to any operator who has approval to offer a commercial service (in addition to the general ones outlined in clause 11). Examples of this activity include the hire of recreational equipment (such as bikes and kayaks) or guided tours. Conditions include controls on location - including whether there are multiple sites – and the quality and standards of services being offered. There were also conditions on minimising the potential impact on local businesses and residential areas.

Matters raised in submissions

56. Nine submissions were received on this topic. Four submitters supported the requirement for these operators to obtain approval and generally agreed with the set of conditions for this activity, in particular the one on minimising the impact on local businesses and the local environment. While one submitter opposed any approvals being given to outdoor fitness operators on the grounds that they should not be able to monopolise public spaces, two submitters recommended exemptions for this activity.

Hearings panel deliberations

57. The panel noted the written and verbal submission from an outdoor fitness operator recommending that this activity be exempted from the requirement to obtain approval on the grounds that it would deter people from engaging in physical activity. The panel recommend that this type of commercial service be included in the activities listed under clause 7 ('Exemptions'). The panel also noted and accepted the staff's recommendation that the notified version of sub-clauses (1)(c) and (1)(d) – on minimising the impact on local businesses, local environments and residential areas - be amended to read more clearly.

Deliberations Topic 14 – Distribution of promotional goods and materials (clause 20)

Proposal as publicly notified

58. The notified version outlines the specific conditions that may apply to any person or organisation that has approval to distribute promotional goods and materials (in addition to the general ones outlined in clause 11). Conditions include controls on location - including whether there are multiple sites – and the quality and standards of services being offered. There were also conditions on minimising the potential impact on local businesses and residential areas and that any goods or materials being distributed are not discriminatory, objectionable or cause serious offence.

Matters raised in submissions

59. Twelve submissions were received on this topic. Over half the submitters supported the requirement to obtain approval to minimise any potential impacts such as excessive littering and obstructions. Conversely, one submitter opposed any controls on small businesses that rely on leaflet drops to generate business while a further two submitters objected to any regulation on the content of the material on the grounds that it is inconsistent with freedom of

expression. One of the submissions was from an organisation (Experiential Marketing Association of New Zealand – EMANZ) that represents the industry undertaking this activity. Their submission detailed how this is an emerging activity and supported the proposal to regulate it.

Hearings panel deliberations

60. The panel noted the written submissions and verbal presentation from EMANZ and agreed that this activity should be controlled by a bylaw. The panel also noted and accepted the staff's recommendation that the notified version of sub-clauses (1)(c) and (1)(d) – on minimising the impact on local businesses, local environments and residential areas - be amended to read more clearly.

Deliberations Topic 15 – Street Performance / busking (clause 21)

Proposal as publicly notified

61. The notified version of the bylaw outlined the conditions for street performers / buskers which include restrictions on approaching individuals for money; that all practicable steps must be done to minimise harm and; that any street performances involving the use of dangerous materials or objects obtain a special street performance approval.

Matters raised in submissions

62. Twelve submissions were received on this topic. Five submitters supported the requirement for street performers to obtain approval with a further five commenting that business associations should be able to have a role in approving applications. The submission from the Heart of the City recommended adding another clause requiring street performers to comply with a code of conduct.

Hearings panel deliberations

63. The panel noted the written submissions on this activity and recommend that a new sub-clause be added requiring street performers to follow any code of conduct, approved by the council by resolution, for street performances.

Deliberations Topic 16 – Events (clause 23)

Proposal as publicly notified

64. The notified version of the bylaw outlined additional matters that need to be taken into consideration when deciding to grant approval for an event (in addition to those specified in clause 10 of the bylaw - 'Deciding an application'). These include considering whether there is a prior booking of the space requested and the two events cannot reasonably take place at the same time and whether there will be significant disruption to traffic flows or any impacts on public safety.

Matters raised in submissions

65. Fourteen submissions were received on this topic. Submitters generally supported the requirement for event (and filming) organisers to obtain approval with a further three in favour of allowing business associations to have a role in approving applications. Two submitters commented on the impact the proposal could have on amateur filmmakers stating that the wording of the bylaw could be interpreted to mean that any person filming in a public place, whether for personal or commercial reasons, would require approval.

Hearings panel deliberations

66. The panel noted the written submissions and have accepted staff's recommendations that the definition of filming (as defined in clause 5 of the bylaw) be amended to clarify that it does not apply to amateur or private filming. The panel also accepted staff's recommendation that the term 'filming' be added to both the title of the clause and sub-clauses.

Deliberations Topic 17 – Outdoor display of goods (clause 24)

Proposal as publicly notified

67. The notified version of the bylaw outlined the conditions for any person displaying goods outside their business. While this activity is exempt from the requirement to obtain approval (as per clause 7 of the bylaw under 'Exemptions') there are still conditions that must be complied with. These include ensuring outdoor displays do not impede pedestrian or vehicle movement; are placed immediately adjoining the relevant premises and do not contain weapons or firearms or are dangerous. Additionally, they must not be placed on a carriageway, driveway/footpath, crossing, grass verge or traffic island.

Matters raised in submissions

68. Ten submissions were received on this topic. One submitter opposed the exemption for outdoor displays on the grounds that other activities such as outdoor dining had to gain consent and pay fees. Three submitters commented on the impact of displays on pedestrian movement with one noting that they are not permitted in the Auckland CBD. There were several submissions recommending that the terms 'footpath' and 'driveway' should be removed.

Hearings panel deliberations

69. The panel noted the written submissions and recommend amending 'footpath' and 'driveway' as per comments from several submitters. The panel accepted the staff's recommendation on a minor editing amendment.

Deliberations Topic 18 – Non-compliance with conditions of approval (clause 25)

Proposal as publicly notified

70. The notified version of the bylaw outlines the process for dealing with any person who does not comply with the conditions of their approval. This includes issuing a written warning; reviewing the approval and enforcing any breach of the bylaw as provided for under the Local Government Act 2002, Land Transport Act 1998, Health Act 1956 or Litter Act 1979. It also summarises the result of a review of any approval which could include amendment, suspension or withdrawal.

Matters raised in submissions

71. Two submissions were received on this topic. Skycity's submission recommended that an additional condition as a result of any review should be that 'no further action' is required. The submission from the Ministry of Business, Innovation and Employment suggested that the council look at implementing systems to deal with operators who breach their approval through unsatisfactory trading practices or malpractice.

Hearings panel deliberations

72. The panel noted the written submissions and recommend adding an additional condition.

Consideration

Local board views and implications

73. The views of the local boards were sought through three rounds of workshops (November 2011, August – September 2012 and, October – November 2013) to discuss the review and obtain feedback on the proposed approach to managing trading and events in public places. Staff presented at a Local Board Chairs Forum (March 2014) and local board members were also encouraged to provide feedback on a People's Panel survey (also conducted in March 2014). The majority of local boards supported the outlined approach - providing regulatory support for the various activities through the trading and events in public places bylaws, requiring approval and charging a fee based on the type of activity.

Māori impact statement

74. Council staff presented at two hui in 2013 to discuss trading and events in public places. No issues were identified as having a significant impact on Māori and most of the feedback focused on ensuring that the any bylaw and associated controls would enable participation in trading activities and events and support individuals and communities to develop and sustain both managerial and entrepreneurial capabilities.

General

75. The proposed bylaw has been developed through pre-consultation with political, internal and external stakeholders, including elected members of the Governing Body (Regulatory and Bylaws Committee Working Party), Auckland Transport, all local boards, council departments and units, and other council controlled organisations, business associations, disability groups, trading operators and key industry stakeholders.
76. The panel would like to thank all those who contributed to the consultation process. The contributions from submitters and other stakeholders have been greatly appreciated.

Implementation

77. The Social Policy and Bylaws unit together with Licensing and Compliance Services are developing an operations policy and procedures manual to guide staff on the implementation of this bylaw. Staff will be reporting back to the Regulatory and Bylaws Committee on this policy manual and any other guidelines that are developed in relation to this bylaw (such as those for shared space areas and mobile shops).
78. The implementation requirements of any smokefree initiatives that are developed as a result of the review of the Smokefree Policy in 2015 will be a key consideration. This includes reviewing requirements for monitoring and enforcement, signage and public communications.

**PLEASE CHANGE THE AUTHOR'S NAME TO HEARINGS PANEL CHAIR
COUNCILLOR DENISE KRUM**

Attachments

No.	Title	Page
A	Auckland Council Trading and Events in Public Places Bylaw 2015	
B	Comparison between notified and amended version of the Auckland Council bylaw.	
C	Auckland Transport Trading and Events in Public Places Bylaw 2015	

Signatories

Authors	Rebekah Stuart-Wilson - Principal Policy Analyst
Authorisers	Stephen Town - Chief Executive

Comparison between notified and amended versions of the proposed Auckland Transport bylaw (as discussed at Deliberations)

Note: (Additional wording: underlined Deletions: ~~struck through~~)

Clause	Proposed Trading and Events in Public Places Bylaw (as notified)	Proposed Trading and Events in Public Places Bylaw (proposed amendment)	Reason for amendment
Title page	Pursuant to the Local Government (Council) Act 2009, and the Land Transport Act 1998 the Governing Body of Auckland Council make the following bylaw.	Pursuant to the <u>Local Government Act 2002</u> , Local Government (<u>Auckland</u> Council) Act 2009, and the Land Transport Act 1998 the Governing Body of Auckland Council make the following bylaw.	Drafting amendment to include reference to “Local Government Act 2002” and, “Auckland”.
1	Title This bylaw is the Auckland Transport Trading and Events in Public Places Bylaw 2014.	Title This bylaw is the Auckland Transport Trading and Events in Public Places Bylaw 2014 <u>2015</u> .	The bylaw will now be adopted in 2015.
2	Commencement This bylaw comes into force on DD month 2015.	Commencement This bylaw comes into force on DD month <u>1 July 2015</u> .	This bylaw will come into effect on the 1 st of July to align with the date that the associated fees and charges come into effect.
3	Application This bylaw applies to public places under the care, control and management of Auckland Transport.	Application his bylaw applies to public places under the care, control and management of Auckland Transport.	
4	Purpose (1) The purpose of this bylaw is to provide for the control of events and trading in public places by: (a) regulating trading activities and the conduct of persons selling or offering goods or services in public places by requiring approval from the council, Auckland Transport or other council controlled organisation; (b) regulating events and filming in roads and other public places by requiring operators to	Purpose (1) The purpose of this bylaw is to provide for the control of events and trading in public places by: (a) regulating trading activities and the conduct of persons selling or offering goods or services in public places by requiring approval from the council, Auckland Transport or other council controlled organisation; (b) regulating events and filming in roads and other public places by requiring operators to obtain an approval;	

	<p>obtain an approval;</p> <p>(c) setting general and specific conditions for trading and events in public places to ensure that appropriate standards of health and safety, pedestrian and vehicle access and visual amenity are maintained;</p> <p>(d) prescribing for fees in respect of any approval in relation to matters specified in subclauses (1)(a) and (b).</p>	<p>(c) setting general and specific conditions for trading and events in public places to ensure that appropriate standards of health and safety, pedestrian and vehicle access, and visual amenity are maintained;</p> <p>(d) prescribing for fees in respect of any approval in relation to matters specified in subclauses (1)(a) and (b).</p>	
<p>5</p>	<p>Interpretation</p> <p>(1) In this bylaw, unless the context otherwise requires,—</p> <p>Act means the Local Government Act 2002 or Land Transport Act 1998 as the context requires.</p> <p>amenity means the natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.</p> <p>approval means a licence, permit or other form of approval granted under this bylaw and includes all conditions to which the approval is subject.</p> <p>Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.</p> <p><i>Explanatory note: section 4(1) states: “Auckland means the area within the boundaries determined by the Local Government Commission under section 33(1) (as that determination is given effect to by Order in Council under section 35(1)).”</i></p> <p>charity means a non-profit organisation that raises</p>	<p>Interpretation</p> <p>(1) In this bylaw, unless the context otherwise requires,—</p> <p>Act means the Local Government Act 2002 or Land Transport Act 1998 as the context requires.</p> <p>amenity means the natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.</p> <p>approval means a licence, permit or other form of approval granted under this bylaw and includes all conditions to which the approval is subject.</p> <p>Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.</p> <p><i>Explanatory note: section 4(1) states: “Auckland means the area within the boundaries determined by the Local Government Commission under section 33(1) (as that determination is given effect to by Order in Council under section 35(1)).”</i></p> <p>charity means a non-profit organisation that raises</p>	

<p>funds for the benefit of the needy, a community group, an environmental cause, or the benefit of the public.</p> <p>commercial services means selling or hiring any goods or services which are offered or provided in a public place in exchange for payment, reward or otherwise. This includes, but is not limited to, the production and sale of personal portraits, hiring recreational equipment or, any other service of any kind whatsoever.</p> <p>council means the governing body of the Auckland Council or any person delegated or authorised to act on its behalf.</p> <p>council controlled organisation has the same meaning as substantive council controlled organisation in the Local Government (Auckland Council) Act 2009.</p> <p><i>Explanatory note: section 4(1) states: “substantive council-controlled organisation”—</i> <i>(a) means a council-controlled organisation that is either wholly owned or wholly controlled by the Council and either—</i> <i>(i) is responsible for the delivery of a significant service or activity on behalf of the Council; or</i> <i>(ii) owns or manages assets with a value of more than \$10 million; and</i> <i>(b) includes Auckland Transport.</i></p>	<p>funds for the benefit of the needy, a community group, an environmental cause, or the benefit of the public.</p> <p>commercial services means selling or hiring any goods or services which are offered or provided in a public place in exchange for payment, reward or otherwise. This includes, but is not limited to, the production and sale of personal portraits, hiring recreational equipment or, any other service of any kind whatsoever.</p> <p><u>continuous accessible path of travel means an uninterrupted route to or within premises or buildings that provides access to all services and facilities.</u></p> <p>council means the governing body of the Auckland Council or any person delegated or authorised to act on its behalf.</p> <p>council controlled organisation has the same meaning as substantive council controlled organisation in the Local Government (Auckland Council) Act 2009.</p> <p><i>Explanatory note: section 4(1) states: “substantive council-controlled organisation”—</i> <i>(a) means a council-controlled organisation that is either wholly owned or wholly controlled by the Council and either—</i> <i>(i) is responsible for the delivery of a significant service or activity on behalf of the Council; or</i> <i>(ii) owns or manages assets with a value of more than \$10 million; and</i> <i>(b) includes Auckland Transport.</i></p>	<p>Staff support the inclusion of the term ‘continuous accessible path of travel’ as per submission from the Blind Foundation.</p>
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<p>dangerous materials and objects means any material or object that pose risk or hazard to the public and performers. Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements or anything giving off heat or toxicity that could harm or damage the public or the environment. Dangerous objects include chainsaws, knives, whips, spears, swords, spikes and sharp objects of any kind that could harm the public or performers.</p> <p>event means an organised temporary activity that takes place on one or more days including an organised gathering, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon or triathlon. For the purposes of this bylaw a performance, private function, tasting and sampling activity, giveaway, market, sports practice or training that takes place indoors is not an event.</p> <p>filming means the recording of images, moving or still, whether on film or by video tape, electronically or by any other means, but excludes the still or video recording of a wedding ceremony or other private celebration or event or the recording of current affairs or news for immediate release.</p> <p>footpath means a path or way principally designed for, and used by, pedestrians.</p>	<p>dangerous materials and objects means any material or object that pose risk or hazard to the public and performers. Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements or anything giving off heat or toxicity that could harm or damage the public or the environment. Dangerous objects include chainsaws, knives, whips, spears, swords, spikes and sharp objects of any kind that could harm the public or performers.</p> <p>event means an organised temporary activity that takes place on one or more days including an organised gathering, parade, protest, wedding, private function (which is independent of premises), festival, concert, celebration, multi-venue sports event of a significant scale, fun run, marathon, duathlon or triathlon. For the purposes of this bylaw <u>an indoor</u> performance, <u>indoor</u> private function, tasting and sampling activity, giveaway, market, sports practice or training that takes place indoors is not an event.</p> <p>filming means the recording of images, moving or still, <u>for commercial purposes or at a scale that might unduly obstruct use of a public place,</u> whether on film or by video tape, electronically or by any other means, but excludes the still or video recording of a wedding ceremony or other private celebration or event or the recording of current affairs or news for immediate release.</p> <p>footpath means a path or way principally designed for, and used by, pedestrians.</p>	<p>Staff support amending definition of 'event' as per submission from North Shore Cricket Club that the current wording could be interpreted to include sports training and practice activities that take place outdoors but will retain "organised gathering" as this is consistent with the definition of an 'event' in other bylaws (Solid Waste, Signage).</p> <p>Staff support amending definition of filming based on submissions that the notified version may unintentionally capture personal photography and video type activities.</p>
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	<p>fundraising umbrella organisation means any organisation recognised by the council as coordinating fundraising activities across charities, and includes the Public Fundraising Regulatory Association.</p> <p>market means the whole of the place and the whole of the activity, where more than one stall at a common location where goods and / or services are offered for sale or hire, whether for commercial or charitable purposes.</p> <p>market operator means any person who operates a market.</p> <p>mobile shop means a vehicle, whether self-propelled or not, standing on a road or other public place and from which:</p> <ul style="list-style-type: none"> (a) goods are offered or exposed/displayed for sale; or (b) goods may be ordered (whether or not in pursuance of an invitation to call with the goods); or (c) services are offered for sale; (d) but does not include: (e) any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order being placed; or (f) a mobile library. <p>outdoor display of goods means the display of goods and / or services in a road or other public place adjacent to business premises, and includes any display structure</p>	<p>fundraising umbrella organisation means any organisation recognised by the council as coordinating fundraising activities across charities, and includes the Public Fundraising Regulatory Association.</p> <p>market means the whole of the place and the whole of the activity, where more than one stall at a common location where goods and / or services are offered for sale or hire, whether for commercial or charitable purposes.</p> <p>market operator means any person who operates a market.</p> <p>mobile shop means a vehicle, whether self-propelled or not, standing on a road or other public place and from which:</p> <ul style="list-style-type: none"> (a) goods are offered or exposed/displayed for sale; or (b) goods may be ordered (whether or not in pursuance of an invitation to call with the goods); or (c) services are offered for sale; (d) but does not include: (e) any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order being placed; or (f) a mobile library. <p>outdoor display of goods means the display of goods and/or services in a road or other public place adjacent to business premises, and includes any display structure</p>	<p>As per submission, staff support removing “and/or services” to avoid ambiguity.</p>
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	<p>outdoor dining (alfresco) means a road or other public place used by an adjacent business premise for the purpose of providing food or drink.</p> <p>pavement art means temporary images or drawings created either directly on to the pavement or on removable surfaces such as paper or plastic laid out on the pavement. Advertising on the pavement is not considered pavement art under this bylaw.</p> <p>pavement artist means any person or persons who create pavement art for the purposes of public exhibition.</p> <p>park means-</p> <p>(a) any land vested in or administered by the council under the provisions of the Reserves Act 1977; or</p> <p>(b) any park, domain or recreational area under the control or ownership of the council or council controlled organisation</p> <p>parks management plan means an adopted management plan for any regional or local park.</p> <p>person includes a corporation sole, a body corporate, and an unincorporated body.</p> <p>premises means any separately occupied land, building, or part of the same.</p>	<p>outdoor dining (alfresco) means a road or other public place used by an adjacent business premise for the purpose of providing food or drink.</p> <p>pavement art means temporary images or drawings created either directly on to the pavement or on removable surfaces such as paper or plastic laid out on the pavement. Advertising on the pavement is not considered pavement art under this bylaw.</p> <p>pavement artist means any person or persons who create pavement art for the purposes of public exhibition.</p> <p>park means-</p> <p>(a) any land vested in or administered by the council under the provisions of the Reserves Act 1977;</p> <p>or</p> <p>(b) any park, domain or recreational area under the control or ownership of the council or council controlled organisation</p> <p>parks management plan means an adopted management plan for any regional or local park.</p> <p>person includes a corporation sole, a body corporate, and an unincorporated body.</p> <p>premises means any separately occupied land, building, or part of the same.</p> <p><u>produce stall has the same meaning as in the Unitary Plan.</u></p>	<p>Staff recommend amending wording for clarity. Staff also recommends removing reference to “park” as it only applies to the Auckland Council version.</p>
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	<p>public place means any place that, at any material time, is owned, managed, maintained or controlled by Auckland Transport.</p> <p>road has the meaning given by the Local Government Act 1974. <i>Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—</i> <i>(a) immediately before the commencement of this Part was a road or street or public highway; or</i> <i>(b) immediately before the inclusion of any area in the district was a public highway within that area; or</i> <i>(c) is laid out by the council as a road or street after the commencement of this Part; or</i> <i>(d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or</i> <i>(e) is vested in the council as a road or street pursuant to any other enactment;—</i> <i>and includes—</i> <i>(f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is</i></p>	<p><u><i>Explanatory note: “produce stall” means a place where farm produce or handcrafts produced on the site are sold and includes:</i></u> <ul style="list-style-type: none"> <u><i>• the sale of plants</i></u> <u><i>• the sale of food from ‘occasional food premises’ as defined in section 2 of the Food Hygiene Regulations 1974 as it was in December 2012.</i></u> <p>public place means any place that, at any material time, is owned, managed, maintained or controlled by Auckland Transport.</p> <p>road has the meaning given by the Local Government Act 1974. <i>Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—</i> <i>(a) immediately before the commencement of this Part was a road or street or public highway; or</i> <i>(b) immediately before the inclusion of any area in the district was a public highway within that area; or</i> <i>(c) is laid out by the council as a road or street after the commencement of this Part; or</i> <i>(d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or</i> <i>(e) is vested in the council as a road or street pursuant to any other enactment;—</i> <i>and includes—</i> <i>(f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is</i></p> </p>	<p>Staff support the inclusion of this definition following a comment on one of the submissions regarding exemptions for produce stalls as it is an permitted activity in rural areas under the Unitary Plan.</p>
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<p><i>declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:</i></p> <p><i>(g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;— but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989</i></p> <p>sound performance means performance that involves amplification, musical instruments or other noise making objects or loud voices.</p> <p>special street performance approval means any street performance including dangerous materials, objects or animals.</p> <p>stall means a stand, stall, structure, vehicle, awning, table or temporary structure from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place.</p> <p>street furniture means any structure installed by or</p>	<p><i>declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:</i></p> <p><i>(g) every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;— but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roding Powers Act 1989</i></p> <p>sound performance means performance that involves amplification, musical instruments or other noise making objects or loud voices.</p> <p><u>shared space area</u> means an area specified as a shared zone under the Auckland Transport Traffic Bylaw 2012 or a road declared to be a pedestrian mall pursuant to the Local Government Act 1974.</p> <p>special street performance approval means any street performance including dangerous materials, objects or animals.</p> <p>stall means a stand, stall, structure, vehicle, awning, table or temporary structure from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place.</p> <p>street furniture means any structure installed by or</p>	<p>Staff recommend deleting this clause as not necessary.</p>
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<p>with the approval of the council or Auckland Transport in a public place and includes the following: pole, rubbish bin, telephone box, planter box, letterbox, seat, parking meter and bus shelter.</p> <p>street performance / busking means the provision of entertainment on or in a public places, and includes playing an instrument, singing, dancing, juggling, mime, puppetry, performance art, conjuring, aerobatics, recitation, undertaking artworks and performing other acts of theatrical or visual forms.</p> <p>trading goods means all structures, items, furniture, screens, barriers, objects, stalls, signs, vehicles, and any other equipment associated with the trading activity.</p> <p>trading in a public place means an activity 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"> (a) markets and stalls; (b) mobile shops; (c) outdoor dining; (d) fundraising for a charitable cause, soliciting of any subscription or collection of any one-off or on-going donation; (e) offering commercial services in a public place; (f) distribution of promotional goods and materials; (g) outdoor display of goods; (h) street performance / busking (i) pavement art. 	<p>with the approval of the council or Auckland Transport in a public place and includes the following: pole, rubbish bin, telephone box, planter box, letterbox, seat, parking meter and bus shelter.</p> <p>street performance / busking means the provision of entertainment on or in a public place, and includes playing an instrument, singing, dancing, juggling, mime, puppetry, performance art, conjuring, aerobatics, recitation, undertaking artworks and performing other acts of theatrical or visual forms.</p> <p>trading goods means all structures, items, furniture, screens, barriers, objects, stalls, signs, vehicles, and any other equipment associated with the trading activity.</p> <p>trading in a public place means an activity 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"> (a) markets and stalls; (b) mobile shops; (c) outdoor dining; (d) fundraising for a charitable cause, soliciting of any subscription or collection of any one-off or on-going donation; (e) offering commercial services in a public place; (f) distribution of promotional goods and materials; (g) outdoor display of goods; (h) street performance / busking (i) pavement art. 	
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<p>trading activity has a corresponding meaning to trading in a public place.</p> <p>vehicle has the meaning given by the Land Transport Act 1998. <i>Explanatory note: section 2(1) states: Vehicle-</i> <i>(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and</i> <i>(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but</i> <i>(c) does not include-</i> <i>(i) a perambulator or pushchair;</i> <i>(ii) a shopping or sporting trundler not propelled by mechanical power;</i> <i>(iii) a wheelbarrow or hand-trolley;</i> <i>(iv) a pedestrian-controlled lawnmower;</i> <i>(v) a pedestrian-controlled agricultural machine not propelled by mechanical power;</i> <i>(vi) an article of furniture;</i> <i>(vii) a wheelchair not propelled by mechanical power;</i> <i>(viii) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;</i> <i>(ix) any rail vehicle.</i></p> <p>(2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, standards, bylaws, regional plan rules, condition of a resource</p>	<p>trading activity has a corresponding meaning to trading in a public place.</p> <p><u>Unitary Plan means any proposed or operative plan made by the council under the Resource Management Act 1991</u></p> <p>vehicle has the meaning given by the Land Transport Act 1998. <i>Explanatory note: section 2(1) states: Vehicle-</i> <i>(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and</i> <i>(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but</i> <i>(c) does not include-</i> <i>(i) a perambulator or pushchair;</i> <i>(ii) a shopping or sporting trundler not propelled by mechanical power;</i> <i>(iii) a wheelbarrow or hand-trolley;</i> <i>(iv) a pedestrian-controlled lawnmower;</i> <i>(v) a pedestrian-controlled agricultural machine not propelled by mechanical power;</i> <i>(vi) an article of furniture;</i> <i>(vii) a wheelchair not propelled by mechanical power;</i> <i>(viii) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;</i> <i>(ix) any rail vehicle.</i></p> <p>(2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, standards, bylaws, regional plan rules, condition of a resource</p>	
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	<p>consent; a reserve management plan prepared under the Reserves Act 1977, a park management plan prepared under the Local Government Act 2002 or any controls specified under this bylaw from time to time.</p> <p>(3) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 or the Land Transport Act 1998 and used in this bylaw, but not defined, has the meaning given by that Act.</p> <p>(4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.</p> <p>(5) The Interpretation Act 1999 applies to this bylaw</p>	<p>consent; a reserve management plan prepared under the Reserves Act 1977, a park management plan prepared under the Local Government Act 2002 or any controls specified under this bylaw from time to time.</p> <p>(3) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 or the Land Transport Act 1998 and used in this bylaw, but not defined, has the meaning given by that Act.</p> <p>(4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.</p> <p>(5) The Interpretation Act 1999 applies to this bylaw</p>	
6	<p>Requirement to hold an approval</p> <p>(1) A person must hold an approval issued by Auckland Transport to undertake the following activities in public places:</p> <p>(a) trading in a public place;</p> <p>(b) events;</p> <p>(c) filming.</p>	<p>Requirement to hold an approval</p> <p>(1) A person must hold an approval issued by Auckland Transport to undertake the following activities in public places:</p> <p>(a) trading in a public place;</p> <p>(b) events;</p> <p>(c) filming.</p>	
7	<p>Exemptions to holding an approval</p> <p>(1) Notwithstanding clause 6 (1), the following are exempted from the requirement to obtain an approval under this bylaw so long as they comply with any relevant guidelines, standards, controls, policies or codes of practice set by Auckland Transport;</p>	<p>Exemptions to holding an approval</p> <p>(1) Notwithstanding clause 6 (1), the following are exempted from the requirement to obtain an approval under this bylaw so long as they comply with any relevant guidelines, standards, controls, policies or codes of practice set by resolution of Auckland Transport;</p>	<p>Staff support the amendments to this clause, following submissions – including the oral submissions – on issues such as an outdoor fitness operation, North Shore Cricket Club’s concerns regarding approvals for</p>

	<p>(a) outdoor display of goods;</p> <p>(b) art installed on public places by Auckland Transport;</p> <p>(c) goods or services delivered to private premises or service delivery vehicles such as milk vendors or newspaper delivery to private residences or businesses;</p> <p>(d) the sale of goods (e.g. produce) or offering of services (e.g. hair stylist) from private premises.</p>	<p>(a) outdoor display of goods;</p> <p>(b) art installed on public places by Auckland Transport;</p> <p>(c) goods or services delivered to private premises or service delivery vehicles such as milk vendors or newspaper delivery to private residences or businesses;</p> <p>(d) the sale of goods (e.g. produce) or offering of services (e.g. hair stylist) from private premises.</p> <p>(d) classes and training provided by outdoor fitness operators;</p> <p>(e) regular sporting activities carried out by amateur organised sport clubs;</p> <p>(f) the sale of produce from a produce stall adjacent to the property where it was grown.</p> <p><i>Explanatory note:</i> Operators with any outdoor displays of goods are still required to comply with the conditions set out in clause 24 of this bylaw.</p>	<p>amateur sports clubs and produce stalls. Staff also support addition of an explanatory note as per submission that cross-reference should be made to outdoor displays of goods.</p>
8	<p>Designated public places</p> <p>(1) Auckland Transport, from time to time, by resolution, designate a specific road or part of a road or public place where all trading activities or any specified category of trading are prohibited to ensure public safety, prevent nuisance, minimise obstructions or mis-use of public place.</p>	<p>Designated public places</p> <p>(1) Auckland Transport may, from time to time, by resolution, designate a specific road or part of a road or public place where all trading activities or any specified category of trading are prohibited to ensure public safety, prevent nuisance, minimise obstructions or mis-use of public place.</p>	
9	<p>Application for approval</p> <p>(1) Applications for approval must be made in the prescribed form, describe the activities in respect of which the approval is sought and be accompanied by further supporting information as</p>	<p>Application for approval</p> <p>(1) Applications for approval must be made in the prescribed form, describe the activities in respect of which the approval is sought and be accompanied by further supporting information as</p>	

	<p>Auckland Transport may require to enable processing of the application.</p> <p>(2) The holder of an existing approval may apply to Auckland Transport for a renewal of that approval.</p> <p>(3) Approvals may be granted or refused at the discretion of Auckland Transport, upon such terms and conditions as Auckland Transport thinks fit.</p>	<p>Auckland Transport may require to enable processing of the application.</p> <p>(2) The holder of an existing approval may apply to Auckland Transport for a renewal of that approval.</p> <p>(3) Approvals may be granted or refused at the discretion of Auckland Transport, upon such terms and conditions as Auckland Transport thinks fit.</p>	<p>Staff support deleting this clause and replacing with a new clause 10 (1) as per comments raised in the submission from Skycity.</p>
<p>10</p>	<p>Deciding an application</p> <p>(1) The decision to grant or refuse an application for an approval together with any conditions on the approval, may be made in accordance with any relevant guidelines approved by Auckland Transport specified under this bylaw from time to time.</p> <p>(2) In deciding to grant or decline an application for approval Auckland Transport may consider the following matters:</p> <p>(a) the location of the activity and whether it is likely to cause a nuisance, obstruction or a hazard to pedestrians or vehicular traffic ;</p> <p>(b) the specifications of any furniture, structures, equipment, vehicles and other items to be used for the activity;</p> <p>(c) the impacts on the surrounding environment as a result of noise, smell, glare, light spill ,appearance or any other effects;</p>	<p>Deciding an application</p> <p>(1) <u>Subject to compliance with this clause, Auckland Transport may grant (with or without conditions) or refuse any application for approval at its discretion.</u></p> <p>(1) (2) The decision to grant or refuse an application for an approval together with any conditions on the approval, may <u>must</u> be made in accordance with any relevant guidelines approved by Auckland Transport, <u>by resolution</u>, specified under this bylaw from time to time.</p> <p>(2) (3) In deciding to grant or decline an application for approval Auckland Transport may <u>must</u> consider the following matters:</p> <p>(a) the location of the activity and whether it is likely to cause a nuisance, obstruction or a hazard to pedestrians or vehicular traffic ;</p> <p>(b) the specifications of any furniture, structures, equipment, vehicles and other items to be used for the activity;</p> <p>(c) the impacts on the surrounding environment <u>and users</u> as a result of noise, smell, glare, light spill ,appearance or any other effects <u>and; whether these impacts have been</u></p>	<p>Staff recommend adding a new clause 10(1) as per above comment. Note re-numbering of subclauses.</p> <p>Staff recommend adding “by resolution” to ensure that any guidelines that are developed to guide the decision making process regarding approvals have been formally endorsed by the council (e.g Regulatory and Bylaws Committee).</p> <p>Staff also recommend replacing “may” with “must”.</p> <p>Staff support amendments / additions to clauses following comments in submissions that consideration of the potential</p>

	<p>(d) the suitability of a person to hold an approval taking into account any known past operational issues and the applicant's experience and track record;</p> <p>(e) where applicable, whether an applicant is a registered charity or a member of a registered organisation;</p> <p>(f) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol policy and gambling policies.</p> <p>(3) Any person who has an application declined or revoked by Auckland Transport may apply in writing for a review of the decision and Auckland Transport may review it accordingly.</p>	<p><u>appropriately mitigated;</u></p> <p>(d) the suitability of a person to hold an approval taking into account any known past operational issues and the applicant's experience and track record;</p> <p>(e) where applicable, whether an applicant is a registered charity or a member of a registered organisation;</p> <p>(f) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol policy and gambling policies.</p> <p>(3) (4) Any person who has an application declined or revoked by Auckland Transport may apply in writing for a review of the decision and Auckland Transport may <u>must</u> review it accordingly.</p>	<p>impacts on other users of the space needs to be stated.</p> <p>While there was a recommendation in two submissions that clause 11(1) (a) be replicated in clause 10, staff conclude that this is unnecessary.</p> <p>Staff recommend a minor amendment to sub-clause (f).</p>
<p>11</p>	<p>Approval conditions</p> <p>(1) The conditions upon which an approval is granted may include, but are not limited to, the following:</p> <p>(a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;</p> <p>(b) the duration of the approval;</p> <p>(c) the location of the activity including the minimum clear widths of footpaths required for pedestrian access;</p> <p>(d) a requirement that the activity is not located in a public place (including near intersections, bus stops, vehicle crossings, accessways or service lanes) in a way that it is likely to cause a nuisance, obstruction or hazard to pedestrian and vehicle access;</p>	<p>Approval conditions</p> <p>(1) The conditions upon which an approval is granted may include, but are not limited to, the following:</p> <p>(a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;</p> <p>(b) the duration of the approval;</p> <p>(c) the location of the activity, <u>taking into account the surrounding land uses and street layout, and</u> the minimum clear widths of footpaths required for pedestrian access;</p> <p>(d) a requirement that the activity is not located in a public place (including near intersections, bus stops, vehicle crossings, accessways or service lanes) in a way that it is likely to cause a nuisance, <u>unreasonable</u> obstruction or hazard to pedestrian and vehicle access;</p>	<p>Staff support amendments / additions to clauses following comments in submissions that consideration of the potential impacts on other users of the space needs to be stated.</p> <p>Staff support additions to clauses following submissions from Skycity and Blind Foundation, which are:</p> <ul style="list-style-type: none"> • New sub-clause (e)

	<p>(e) requiring compliance with a traffic management plan</p> <p>(f) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;</p> <p>(g) safety, health and hygiene requirements;</p> <p>(h) the requirement for public liability insurance;</p> <p>(i) restrictions on the use of amplified music/sound.</p> <p>(2) Notwithstanding subsection(1) any trading activity involving use of the footpath must maintain a minimum unobstructed footpath width of no less than 1.8 metres.</p>	<p><u>(e) that a continuous accessible path of travel is provided for;</u></p> <p>(e) <u>(f) requiring compliance with a traffic management plan and/or any waste management and minimisation plan;</u></p> <p><u>(g) requiring compliance with any guidelines or conditions for shared space areas;</u></p> <p>(f) <u>(h) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;</u></p> <p>(g) <u>(i) safety, health and hygiene requirements;</u></p> <p>(h) <u>(j) the requirement for public liability insurance;</u></p> <p>(i) <u>(k) restrictions on the use of amplified music/sound;</u></p> <p><u>(l) requiring compliance with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol policy and gambling policies.</u></p> <p>(2) Notwithstanding subsection(1) any trading activity involving use of the footpath must maintain a minimum unobstructed footpath width of no less than 1.8 metres.</p>	<ul style="list-style-type: none"> • Amendment to subclause (f) – which was previously (e). • New sub-clause (g) • New sub-clause (l) <p>Note re-numbering of sub-clauses (e) to (k).</p> <p>Staff support the comments from some submitters regarding reference to waste management plans.</p> <p>Staff note the comments from Skycity that a 1.8metre footpath width is not considered appropriate for shared spaces and should not apply to these areas, however a shared space area does not have a footpath (nor the conventional devices associated with one such as kerbs, lines and signals) which clause 11(2) applies to. The inclusion of a new sub-clause at (g) is aimed at recognising shared space areas.</p>
12	<p>Fees</p> <p>(1) Auckland Transport may prescribe fees for an approval, including fees to process an application, to review an existing approval and to inspect trading activities and charges for the period of the approval.</p>	<p>Fees</p> <p>(1) Auckland Transport may prescribe fees for an approval, including fees to process an application, to review an existing approval and to inspect trading activities and charges for the period of the approval.</p>	

13	<p>Display of an approval</p> <p>(1) Unless exempted by Auckland Transport a person with an approval issued by Auckland Transport must prominently display their approval so that it is able to be read by the public at all times during activities.</p>	<p>Display of an approval</p> <p>(1) Unless exempted by Auckland Transport a person with an approval issued by Auckland Transport must prominently display their approval so that it is able to be read by the public at all times during activities.</p>	
14	<p>Review of an approval</p> <p>(1) Auckland Transport may cancel, amend or initiate a review of an approval issued under this bylaw if:</p> <p>(a) the activity is likely to interfere with intended works undertaken by or on behalf of the council or Auckland Transport or a network utility operator that it is entitled by statute to undertake in a public place and provided all otherwise necessary authorisation is obtained;</p> <p>(b) if urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions;</p> <p>(c) the activity authorised in the approval is likely to impact on public health and safety or cause a nuisance, obstruction or damage.</p>	<p>Review of an approval</p> <p>(1) Auckland Transport may cancel, amend or initiate a review of an approval issued under this bylaw if:</p> <p>(a) the activity is likely to interfere with intended works undertaken by or on behalf of the council or Auckland Transport or a network utility operator that it is entitled by statute to undertake in a public place and provided all otherwise necessary authorisation is obtained;</p> <p>(b) if urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions;</p> <p>(c) the activity authorised in the approval is likely to impact on public health and safety or cause a nuisance, <u>unreasonable</u> obstruction or damage.</p>	<p>Staff support the amendment to clause 14(1) (c) as per submitter's comments.</p>
15	<p>Markets and stalls</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for markets and stalls</p> <p>(a) the exact location of the market and any associated signs and displays;</p> <p>(b) the type, number, size and position of stalls and any trading goods used within a market;</p> <p>(c) where food is to be sold, requirements for</p>	<p>Markets and stalls</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for markets and stalls</p> <p>(a) the exact location of the market and any associated signs and displays;</p> <p>(b) the type, number, size and position of stalls and any trading goods used within a market;</p> <p>(c) where food is to be sold, requirements for</p>	<p>Staff support the amendment to clause 15(1) as per submitter's comments.</p>

	compliance with food hygiene regulations.	compliance with food hygiene regulations.	
16	<p>Mobile shops</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for mobile shops:</p> <ul style="list-style-type: none"> (a) the exact location of the mobile shop and any associated signs and displays; (b) the hours or days that the mobile shop occupies a public place at any one time; (c) the types of goods that may be sold from the mobile shop; (d) where food is to be sold, requirements for compliance with food hygiene regulations. 	<p>Mobile shops</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for mobile shops:</p> <ul style="list-style-type: none"> (a) the exact location of the mobile shop and any associated signs and displays; (b) the hours or days that the mobile shop occupies a public place at any one time; (c) the types of goods that may be sold from the mobile shop; (d) where food is to be sold, requirements for compliance with food hygiene regulations; (e) <u>any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses and / or the local environment arising or likely to arise from the mobile shop.</u> 	Staff support the additional clauses as per submitters' comments, particularly on the ones relating to impact on local businesses.
17	<p>Outdoor dining</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for outdoor dining:</p> <ul style="list-style-type: none"> (a) a requirement that the approval holder delineate the exact operating location of the outdoor dining area; (b) the numbers of tables and chairs permitted; (c) that no additional tables and chairs are to be placed in the public place without approval from Auckland Transport; (d) that any front and side awnings that have been given approval allow for clear visibility. 	<p>Outdoor dining</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for outdoor dining:</p> <ul style="list-style-type: none"> (a) a requirement that the approval holder delineate the exact operating location of the outdoor dining area; (b) the numbers of tables and chairs permitted; (c) that no additional tables and chairs are to be placed in the public place without approval from Auckland Transport; (d) that any front and side awnings that have been given approval allow for clear visibility, 	Staff recommend an inclusion to sub-clause (d) to ensure that awnings are not only clear but minimise obstructions. Staff note the comment from a submitter that awnings should allow for opaque sides however from a safety aspect they should provide

		and, do not obstruct the passage or compromise the safety of any persons.	for clear visibility
18	<p>Fundraising</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for fundraising:</p> <p>(a) a requirement that the applicant is registered as a charity with the Department of Internal Affairs;</p> <p>(b) that boxes, bags, clothing or collection devices used for charity appeals or fundraising organisations must clearly identify the appeal or organisation;</p> <p>(c) that a collector must provide information on the charity to subscribers / donors.</p>	<p>Fundraising</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for fundraising:</p> <p>(a) a requirement that the applicant is registered as a charity with the Department of Internal Affairs or be approved as a donee organisation by the Inland Revenue Department;</p> <p>(b) that boxes, bags, clothing or collection devices used for charity appeals or fundraising organisations must clearly identify the appeal or organisation;</p> <p>(c) that a collector must provide information on the charity to subscribers / donors;</p> <p>(d) the locations and hours of collections.</p>	<p>Staff support the addition to clause 1(a) as per the submitter’s (PFRA) comment as this makes it clearer to any fundraising applicant the requirements for applying for approval.</p> <p>Staff also support the inclusion of clause 1(d).</p>
19	<p>Offering commercial services</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for offering commercial services:</p> <p>(a) the intended location including whether there are multiple sites;</p> <p>(b) the quality and standard of services being offered;</p> <p>(c) any potential impact on local businesses and the local environment;</p> <p>(d) any potential impact on residential areas.</p>	<p>Offering commercial services</p> <p>(1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for offering commercial services:</p> <p>(a) the intended location including whether there are multiple sites;</p> <p>(b) the quality and standard of services being offered;</p> <p>(c) any potential impact on local businesses and the local environment;</p> <p>(d) any potential impact on residential areas.</p> <p>(c) any additional conditions reasonably required to appropriately mitigate any adverse impact</p>	<p>While a submission was made to remove the words “quality” staff support that these be retained. Staff who are assessing the applications will apply discretion to ensure that commercial operators are not disadvantaged.</p> <p>Staff recommend re-wording sub-clauses (c) and (d).</p>

		<p>on local businesses, residential areas, and/or the local environment arising or likely to arise from the commercial service.</p>	
<p>20</p>	<p>Distribution of promotional goods and materials (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for the distribution of promotional goods or materials:</p> <ul style="list-style-type: none"> (a) the intended location including whether there are multiple sites; (b) the quality and standard of promotional goods or materials being offered; (c) any potential impact on local businesses and the local environment; (d) any potential impact on residential areas; <p>(e) a requirement that the promotional goods or materials being distributed:</p> <ul style="list-style-type: none"> i. are not discriminatory and do not advocate discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993; ii. are not objectionable within the meaning of the Films, Videos and Publications Classification Act 1993; iii. do not cause or have the potential to cause widespread or serious offence to members 	<p>Distribution of promotional goods and materials (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for the distribution of promotional goods or materials:</p> <ul style="list-style-type: none"> (a) the intended location including whether there are multiple sites; (b) the quality and standard of promotional goods or materials being offered; (c) any potential impact on local businesses and the local environment; (d) any potential impact on residential areas. (c) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses, residential areas, and/or the local environment arising or likely to arise from the distribution of promotional goods or material; <p>(e) (d) a requirement that the promotional goods or materials being distributed:</p> <ul style="list-style-type: none"> i. are not discriminatory and do not advocate discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993; ii. are not objectionable within the meaning of the Films, Videos and Publications Classification Act 1993; iii. do not cause or have the potential to cause widespread or serious offence to members 	<p>Staff recommend re-wording sub-clauses (c) and (d). Note re-numbering of notified sub-clause(e).</p>

	<p>of the public; iv. do not threaten harm; v. do not incite or counsel any person to commit any offence; vi. are not defamatory.</p>	<p>of the public; iv. do not threaten harm; v. do not incite or counsel any person to commit any offence; vi. are not defamatory.</p>	
21	<p>Street Performance / busking (1) Street performers must not approach individuals requesting money or solicit funds in a way that is likely to impact with any other person in their use of that public place (2) Street performers must take all practicable steps to ensure that their performance causes no harm to themselves or members of the public. (3) Street performers must obtain a special street performance approval to use dangerous materials or objects.</p>	<p>Street Performance / busking (1) Street performers must not approach individuals requesting money or solicit funds in a way that is likely to impact with any other person in their use of that public place (2) Street performers must take all practicable steps to ensure that their performance causes no harm to themselves or members of the public. (3) Street performers must obtain a special street performance approval to use dangerous materials or objects. (4) Street performers must follow any code of conduct, approved by Auckland Transport by resolution, for street performances.</p>	<p>Staff support the inclusion of clause 4 as per submission.</p>
22	<p>Pavement artists (1) A person with an approval to create pavement art in a public place must use materials that can be washed off with water without leaving any residue. Materials must not be slippery or likely to impact on public safety. (2) Advertising is not permitted in pavement art. (3) Auckland Transport may, from time to time, designate specific areas where pavement artists are permitted or prohibited.</p>	<p>Pavement artists (1) A person with an approval to create pavement art in a public place must use materials that can be washed off with water without leaving any residue. Materials must not be slippery or likely to impact on public safety. (2) Advertising is not permitted in pavement art. (3) Auckland Transport may, from time to time, designate specific areas where pavement artists are permitted or prohibited.</p>	
23	<p>Events (1) In addition to decisions regarding an application for approval as specified in Clause 10 Auckland Transport will consider the following matters when</p>	<p>Events and Filming (1) In addition to decisions regarding an application for approval as specified in Clause 10 Auckland Transport will consider the following matters when</p>	<p>Staff support the inclusion of the term 'filming' and explanatory note for clarity.</p>

	<p>assessing an application for an event approval:</p> <ul style="list-style-type: none"> (a) whether there is a prior booking of the public place and the two events cannot reasonably take place at the same time, or (b) whether there will be significant disruption to traffic flows or public passage, or (c) any impacts on public safety. 	<p>assessing an application for an event or filming approval:</p> <ul style="list-style-type: none"> (a) whether there is a prior booking of the public place and the two events or filming activity cannot reasonably take place at the same time, or (b) whether there will be significant disruption to traffic flows or public passage, or (c) any impacts on public safety. <p><i>Explanatory note: Film approval applications are handled by Screen Auckland, which is the film office for the Auckland region and operates as part of Auckland Tourism Events and Economic Development.</i></p>	
<p>24</p>	<p>Outdoor displays of goods</p> <p>(1) All outdoor business displays must:</p> <ul style="list-style-type: none"> (a) not impede the movement of pedestrians or vehicles, create or likely to cause danger or obstruction to any person; (b) not be in a public place outside the business hours of the business; (c) be moved to another part of the public place if directed by Auckland Transport to do so; (d) be placed immediately adjoining the premises from which the good and services displayed may be purchased; (e) not display knives or firearms or be dangerous or offensive; (f) not be placed in a carriageway, driveway, footpath, crossing, grass verge or traffic island. 	<p>Outdoor displays of goods</p> <p>(1) All outdoor business displays of goods must:</p> <ul style="list-style-type: none"> (a) not impede the movement of pedestrians or vehicles, create or be likely to cause danger or obstruction to any person; (b) not be in a public place outside the business hours of the business; (c) be moved to another part of the public place if directed by Auckland Transport to do so; (d) be placed immediately adjoining the premises from which the good and services displayed may be purchased; (e) not display knives or firearms or be dangerous or offensive; (f) not be placed in a carriageway, driveway, footpath, vehicle crossing, grass verge or traffic island. 	<p>Staff recommend a minor editing amendment so that wording is consistent.</p> <p>Staff recommend a minor editing amendment to ‘driveway/footpath crossing’ as several submitters commented on removing reference to “driveway” and “footpath. This was a drafting error.</p>

<p>25</p>	<p>Non-compliance with conditions of approval</p> <p>(1) Where a person does not comply with the conditions of the approval Auckland Transport may take one of more of the following steps:</p> <p>(a) Issue a written warning to the approval holder, which may be considered as evidence of a prior breach of an approval condition during any subsequent review of the approval;</p> <p>(b) Review the approval where:</p> <p>i. a person has failed to meet the conditions of their approval or any other requirements of any relevant criteria, policy or guidelines approved by Auckland Transport;</p> <p>ii. a person that holds an approval fails to meet any written instructions in a notice issued by Auckland Transport within the time specified in that notice;</p> <p>(c) Enforce any breach of this bylaw, as provided for in the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956 and/or Litter Act 1979.</p> <p>(2) A review of an approval, may result in:</p> <p>(a) amendment of the approval; or</p> <p>(b) suspension of the approval; or</p> <p>(c) withdrawal of the approval.</p>	<p>Non-compliance with conditions of approval</p> <p>(1) Where a person does not comply with the conditions of the approval Auckland Transport may take one of more of the following steps:</p> <p>(a) Issue a written warning to the approval holder, which may be considered as evidence of a prior breach of an approval condition during any subsequent review of the approval;</p> <p>(b) Review the approval where:</p> <p>i. a person has failed to meet the conditions of their approval or any other requirements of any relevant criteria, policy or guidelines approved by Auckland Transport;</p> <p>ii. a person that holds an approval fails to meet any written instructions in a notice issued by Auckland Transport within the time specified in that notice;</p> <p>(c) Enforce any breach of this bylaw, as provided for in the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956 and/or Litter Act 1979.</p> <p>(2) A review of an approval, may result in:</p> <p>(a) amendment of the approval; or</p> <p>(b) suspension of the approval; or</p> <p>(c) withdrawal of the approval; or</p> <p>(d) further action.</p>	<p>Staff support the comment in a submission that an additional condition under clause 25(2) should be that “no further action” is required.</p>
<p>26</p>	<p>Removal of material or things</p> <p>(1) Auckland Transport may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing;</p> <p>(2) That the approval holder be liable for all costs of</p>	<p>Removal of material or things</p> <p>(1) Auckland Transport may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing;</p> <p>(2) That the approval holder be liable for all costs of</p>	

	repair to any damage or cleaning to the footpaths that is caused by the trading activity.	repair to any damage or cleaning to the footpaths that is caused by the trading activity.	
27	<p>Exceptions</p> <p>(1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.</p>	<p>Exceptions</p> <p>(1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.</p>	
28	<p>Bylaw breaches</p> <p>(1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956.</p> <p>(2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.</p>	<p>Bylaw breaches</p> <p>(1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956.</p> <p>(2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.</p>	



An Auckland Council Organisation

Trading and Events in Public Places Bylaw 2015

Te Ture ā-Rohe Te Mahi Tauhokohoko me nga Takunetanga ki ngā Wāhi Marea 2015

Board of Auckland Transport

Resolution

on

31 March 2015

Pursuant to the Local Government Act 2002, Local Government (Auckland Council) Act 2009, and the Land Transport Act 1998 the Governing Body of Auckland Transport make the following bylaw

Explanatory note:

The Local Government (Auckland Council) Act 2009 provides for Auckland Council and Auckland Transport to make bylaws under the Local Government Act 2002 and Land Transport Act 1998 to allow trading in public places with reasonable controls. The bylaw also includes clauses on events and filming in public places. Public places includes streets, roads, parks, recreation grounds and other public land owned, managed or under the control of Auckland Council and its council controlled organisations, including Auckland Transport.

This explanatory note is for information purposes only and does not form part of this bylaw.

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1 Title

This bylaw is the Auckland Transport Trading and Events in Public Places Bylaw 2015.

2 Commencement

This bylaw comes into force on 1 July 2015.

3 Application

This bylaw applies to public places under the care, control and management of Auckland Transport.

**Part 1
Preliminary provisions**

4 Purpose

- (1) The purpose of this bylaw is to provide for the control of events and trading in public places by:
- (a) regulating trading activities and the conduct of persons selling or offering goods or services in public places by requiring approval from the council, Auckland Transport or other council controlled organisation;
 - (b) regulating events and filming in roads and other public places by requiring operators to obtain an approval;
 - (c) setting general and specific conditions for trading and events in public places to ensure that appropriate standards of health and safety, pedestrian and vehicle access and visual amenity are maintained;
 - (d) prescribing for fees in respect of any approval in relation to matters specified in subclauses (1)(a) and (b).

5 Interpretation

- (1) In this bylaw, unless the context otherwise requires,—

Act means the Local Government Act 2002 or Land Transport Act 1998 as the context requires.

amenity means the natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

approval means a licence, permit or other form of approval granted under this bylaw and includes all conditions to which the approval is subject.

Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.

Explanatory note: section 4(1) states: "Auckland means the area within the boundaries determined by the Local Government Commission under section 33(1) (as that determination is given effect to by Order in Council under section 35(1))."

charity means a non-profit organisation that raises funds for the benefit of the needy, a community group, an environmental cause, or the benefit of the public.

commercial services means selling or hiring any goods or services which are offered or provided in a public place in exchange for payment, reward or otherwise. This includes, but is not limited to, the production and sale of personal portraits, hiring recreational equipment or,

any other service of any kind whatsoever.

continuous accessible path of travel means an uninterrupted route to or within premises or buildings that provides access to all services and facilities.

council means the governing body of the Auckland Council or any person delegated or authorised to act on its behalf.

council controlled organisation has the same meaning as substantive council controlled organisation in the Local Government (Auckland Council) Act 2009.

Explanatory note: section 4(1) states: “substantive council-controlled organisation”—

(a) means a council-controlled organisation that is either wholly owned or wholly controlled by the Council and either—

(i) is responsible for the delivery of a significant service or activity on behalf of the Council; or

(ii) owns or manages assets with a value of more than \$10 million; and

(b) includes Auckland Transport.

dangerous materials and objects means any material or object that pose risk or hazard to the public and performers. Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements or anything giving off heat or toxicity that could harm or damage the public or the environment. Dangerous objects include chainsaws, knives, whips, spears, swords, spikes and sharp objects of any kind that could harm the public or performers.

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

filming means the recording of images, moving or still, but excludes the recording of a private celebration or event, personal or amateur photography, a home video type activity or, the recording of current affairs or news for immediate release.

footpath means a path or way principally designed for, and used by, pedestrians.

fundraising umbrella organisation means any organisation recognised by the council as coordinating fundraising activities across charities, and includes the Public Fundraising Regulatory Association.

market means the whole of the place and the whole of the activity, where more than one stall at a common location where goods and / or services are offered for sale or hire, whether for commercial or charitable purposes.

market operator means any person who operates a market.

mobile shop means a vehicle, whether self-propelled or not, standing on a road or other public place and from which:

- (a) goods are offered or exposed/displayed for sale; or
- (b) goods may be ordered (whether or not in pursuance of an invitation to call with the goods); or
- (c) services are offered for sale;

but does not include:

- (d) any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order being placed; or
- (e) a mobile library.

outdoor display of goods means the display of goods in a road or other public place adjacent to business premises, and includes any display structure

outdoor dining (alfresco) means a road or other public place used by an adjacent business premise for the purpose of providing food or drink.

pavement art means temporary images or drawings created either directly on to the pavement or on removable surfaces such as paper or plastic laid out on the pavement. Advertising on the pavement is not considered pavement art under this bylaw.

pavement artist means any person who create pavement art for the purposes of public exhibition.

person includes a corporation sole, a body corporate, and an unincorporated body.

premises means any separately occupied land, building, or part of the same.

produce stall has the same meaning as in the Unitary Plan.

Explanatory note: "produce stall" means a place where farm produce or handcrafts produced on the site are sold and includes:

- the sale of plants
- the sale of food from 'occasional food premises' as defined in section 2 of the Food Hygiene Regulations 1974 as it was in December 2012.

public place means any place that, at any material time, is owned, managed, maintained or controlled by Auckland Transport.

road has the meaning given by the Local Government Act 1974.

Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—

- (a) immediately before the commencement of this Part was a road or street or public highway; or
- (b) immediately before the inclusion of any area in the district was a public highway within that area; or
- (c) is laid out by the council as a road or street after the commencement of this Part; or
- (d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or
- (e) is vested in the council as a road or street pursuant to any other enactment;— and includes—
- (f) except where elsewhere provided in this Part, any access way or service lane which before the commencement of this Part was under the control of any council or is laid out or constructed by or vested in any council as an access way or service lane or is declared by the Minister of Works and Development as an access way or service lane after the commencement of this Part or is declared by the Minister of Lands as an access way or service lane on or after 1 April 1988:

- (g) *every square or place intended for use of the public generally, and every bridge, culvert, drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within the limits thereof;—*
but, except as provided in the Public Works Act 1981 or in any regulations under that Act, does not include a motorway within the meaning of that Act or the Government Roadway Powers Act 1989

shared space area means an area specified as a shared zone under the Auckland Transport Traffic Bylaw 2012 or a road declared to be a pedestrian mall pursuant to the Local Government Act 1974.

sound performance means performance that involves amplification, musical instruments or other noise making objects or loud voices.

special street performance approval means any street performance including dangerous materials, objects or animals.

stall means a stand, stall, structure, vehicle, awning, table or temporary structure from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place.

street performance / busking means the provision of entertainment on or in a public place, and includes playing an instrument, singing, dancing, juggling, mime, puppetry, performance art, conjuring, aerobatics, recitation, undertaking artworks and performing other acts of theatrical or visual forms.

trading goods means all structures, items, furniture, screens, barriers, objects, stalls, signs, vehicles, and any other equipment associated with the trading activity.

trading in a public place means an activity 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:

- (a) markets and stalls;
- (b) mobile shops;
- (c) outdoor dining;
- (d) fundraising for a charitable cause, soliciting of any subscription or collection of any one-off or on-going donation;
- (e) offering commercial services in a public place;
- (f) distribution of promotional goods and materials;
- (g) outdoor display of goods;
- (h) street performance / busking
- (i) pavement art.

trading activity has a corresponding meaning to **trading in a public place**.

Unitary Plan means any proposed or operative plan made by the council under the Resource Management Act 1991.

vehicle has the meaning given by the Land Transport Act 1998.

Explanatory note: section 2(1) states: Vehicle-

- (a) *means a contrivance equipped with wheels, tracks, or revolving runners on which it*

- moves or is moved; and*
- (b) *includes a hovercraft, a skateboard, in-line skates, and roller skates; but*
 - (c) *does not include-*
 - (i) *a perambulator or pushchair;*
 - (ii) *a shopping or sporting trundler not propelled by mechanical power;*
 - (iii) *a wheelbarrow or hand-trolley;*
 - (iv) *a pedestrian-controlled lawnmower;*
 - (v) *a pedestrian-controlled agricultural machine not propelled by mechanical power;*
 - (vi) *an article of furniture;*
 - (vii) *a wheelchair not propelled by mechanical power;*
 - (viii) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;*
 - (ix) *any rail vehicle.*
- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, standards, bylaws, regional plan rules, condition of a resource consent; a reserve management plan prepared under the Reserves Act 1977, a park management plan prepared under the Local Government Act 2002 or any controls specified under this bylaw from time to time.
- (3) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 or the Land Transport Act 1998 and used in this bylaw, but not defined, has the meaning given by that Act.
- (4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.
- (5) The Interpretation Act 1999 applies to this bylaw.

Part 2 General

6 Requirement to hold an approval

- (1) A person must hold an approval issued by Auckland Transport to undertake the following activities in public places:
- (a) trading in a public place;
 - (b) events;
 - (c) filming.

7 Exemptions to holding an approval

- (1) Notwithstanding clause 6 (1), the following are exempted from the requirement to obtain an approval under this bylaw so long as they comply with any relevant guidelines, standards, controls, policies or codes of practice set by resolution of the council or Auckland Transport:
- (a) outdoor display of goods;
 - (b) art installed on public places by Auckland Transport;
 - (c) goods or services delivered to private premises or service delivery vehicles such as milk vendors or newspaper delivery to private residences or businesses;
 - (d) classes and training provided by outdoor fitness operators

- (e) regular sporting activities carried out by amateur organised sport and recreational groups;
- (f) the sale of produce from a produce stall

Explanatory note: Operators with any outdoor displays of goods are still required to comply with the conditions set out in clause 24 of this bylaw.

8 Designated public places

- (1) Auckland Transport may, from time to time, by resolution, designate a specific road or part of a road or public place where all trading activities or any specified category of trading are prohibited to ensure public safety, prevent nuisance, minimise obstructions or mis-use of public place.

Part 3

Approvals and other administrative matters

9 Application for approval

- (1) Applications for approval must be made in the prescribed form, describe the activities in respect of which the approval is sought and be accompanied by further supporting information as Auckland Transport may require to enable processing of the application.
- (2) The holder of an existing approval may apply to Auckland Transport for a renewal of that approval.

10 Deciding an application

- (1) Subject to compliance with this clause, Auckland Transport may grant (with or without conditions) or refuse any application for approval at its discretion.
- (2) The decision to grant or refuse an application for an approval together with any conditions on the approval, may be made in accordance with any relevant guidelines approved by resolution of Auckland Transport, specified under this bylaw from time to time.
- (3) In deciding to grant or decline an application for approval Auckland Transport must consider the following matters:
 - (a) the location of the activity and whether it is likely to cause a nuisance, obstruction or a hazard to pedestrians or vehicular traffic ;
 - (b) the specifications of any furniture, structures, equipment, vehicles and other items to be used for the activity;
 - (c) the impacts on the surrounding environment and users as a result of noise, smell, glare, light spill ,appearance or any other effects and; whether these impacts have been appropriately mitigated;
 - (d) the suitability of a person to hold an approval taking into account any known past operational issues and the applicant's experience and track record;
 - (e) where applicable, whether an applicant is a registered charity or a member of a registered organisation;
 - (f) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy , local alcohol and gambling policies.
- (4) Any person who has an application declined or revoked by Auckland Transport must

apply in writing for a review of the decision and Auckland Transport must review it accordingly.

11 Approval conditions

- (1) The conditions upon which an approval is granted may include, but are not limited to, the following:
 - (a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;
 - (b) the duration of the approval;
 - (c) the location of the activity, taking into account the surrounding land uses and street layout and the minimum clear widths of footpaths required for pedestrian access;
 - (d) a requirement that the activity is not located in a public place (including near intersections, bus stops, vehicle crossings, accessways or service lanes) in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;
 - (e) that a continuous accessible path of travel is provided for;
 - (f) requiring compliance with a traffic management plan and/or any waste management and minimisation plan;
 - (g) requiring compliance with any guidelines or policies for shared space areas;
 - (h) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;
 - (i) safety, health and hygiene requirements;
 - (j) the requirement for public liability insurance;
 - (k) restrictions on the use of amplified music/sound;
 - (l) requiring compliance with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol and gambling policies.
- (2) Notwithstanding subsection(1) any trading activity involving use of the footpath must maintain a minimum unobstructed footpath width of no less than 1.8 metres.

12 Fees

- (1) Auckland Transport may prescribe fees for an approval, including fees to process an application, to review an existing approval and to inspect trading activities and charges for the period of the approval.

13 Display of approval

- (1) Unless exempted by Auckland Transport a person with an approval issued by Auckland Transport must prominently display their approval so that it is able to be read by the public at all times during activities.

14 Review of an approval

- (1) Auckland Transport may cancel, amend or initiate a review of an approval issued under this bylaw if:
 - (a) the activity is likely to interfere with intended works undertaken by or on behalf of the council or Auckland Transport or a network utility operator that it is entitled by

- statute to undertake in a public place and provided all otherwise necessary authorisation is obtained;
- (b) if urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions;
 - (c) the activity authorised in the approval is likely to impact on public health and safety or cause a nuisance, unreasonable obstruction or damage.

Part 4 Trading and events in public places

15 Markets and stalls

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for markets and stalls
 - (a) the location of the market and any associated signs and displays;
 - (b) the type, number, size and position of stalls and any trading goods used within a market;
 - (c) where food is to be sold, requirements for compliance with food hygiene regulations.

16 Mobile shops

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for mobile shops:
 - (a) the exact location of the mobile shop and any associated signs and displays;
 - (b) the hours or days that the mobile shop occupies a public place at any one time;
 - (c) the types of goods that may be sold from the mobile shop;
 - (d) where food is to be sold, requirements for compliance with food hygiene regulations.
 - (e) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses or the local environment arising or likely to arise from the mobile shop.

17 Outdoor dining

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for outdoor dining:
 - (a) a requirement that the approval holder delineate the exact operating location of the outdoor dining area;
 - (b) the numbers of tables and chairs permitted;
 - (c) that no additional tables and chairs are to be placed in the public place without approval from Auckland Transport;
 - (d) that any front and side awnings that have been given approval allow for clear visibility, and, do not obstruct the passage or compromise the safety of any persons.

18 Fundraising

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for fundraising:
- (a) a requirement that the applicant is registered as a charity with the Department of Internal Affairs or, be approved as a donee organisation by the Inland Revenue Department;
 - (a) that boxes, bags, clothing or collection devices used for charity appeals or fundraising organisations must clearly identify the appeal or organisation;
 - (b) that a collector must provide information on the charity to subscribers / donors;
 - (c) the locations and hours of collections.

19 Offering commercial services

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw Auckland Transport can impose the following conditions on an approval for offering commercial services:
- (a) the intended location including whether there are multiple sites;
 - (b) the quality and standard of services being offered;
 - (c) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses, residential areas, or the local environment arising or likely to arise from the commercial service.

20 Distribution of promotional goods or materials

- (1) In addition to any of the approval conditions specified under clause 11 of Auckland Transport can impose the following conditions on an approval for the distribution of promotional goods or materials:
- (a) the intended location including whether there are multiple sites;
 - (b) the quality and standard of promotional goods or materials being offered;
 - (c) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses, residential areas, or the local environment arising or likely to arise from the commercial service;
 - (d) a requirement that the promotional goods or materials being distributed:
 - i. are not discriminatory and do not advocate discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993;
 - ii. are not objectionable within the meaning of the Films, Videos and Publications Classification Act 1993;
 - iii. do not cause or have the potential to cause widespread or serious offence to members of the public;
 - iv. do not threaten harm;
 - v. do not incite or counsel any person to commit any offence;
 - vi. are not defamatory.

21 Street performance/busking

- (1) Street performers must not approach individuals requesting money or solicit funds in a way that is likely to impact with any other person in their use of that public place.

- (2) Street performers must take all practicable steps to ensure that their performance causes no harm to themselves or members of the public.
- (3) Street performers must obtain a special street performance approval to use dangerous materials or objects.
- (4) Street performers must follow any code of conduct, approved by the council or Auckland Transport by resolution, for street performances.

22 Pavement artists

- (1) A person with an approval to create pavement art in a public place must use materials that can be washed off with water without leaving any residue. Materials must not be slippery or likely to impact on public safety.
- (2) Advertising is not permitted in pavement art.
- (3) Auckland Transport may, from time to time, designate specific areas where pavement artists are permitted or prohibited.

23 Events and Filming

- (1) In addition to decisions regarding an application for approval as specified in Clause 10 Auckland Transport will consider the following matters when assessing an application for an event or filming approval:
 - (a) whether there is a prior booking of the public place and the two events or, filming activities, cannot reasonably take place at the same time, or
 - (b) whether there will be significant disruption to traffic flows or public passage, or
 - (c) any impacts on public safety.

Explanatory note: Film approval applications are handled by Screen Auckland, which is the film office for the Auckland region and operates as part of Auckland Tourism Events and Economic Development.

24 Outdoor displays of goods

- (1) All outdoor displays of goods must:
 - (a) not impede the movement of pedestrians or vehicles, or be likely to cause danger to any person;
 - (b) not be in a public place outside the business hours of the business;
 - (c) be moved to another part of the public place if directed by Auckland Transport to do so;
 - (d) be placed immediately adjoining the premises from which the good and services displayed may be purchased;
 - (e) not display knives or firearms or be dangerous or offensive;
 - (f) not be placed in a carriageway, driveway/vehicle crossing, grass verge or traffic island.

Part 5 Enforcement powers

25 Non-compliance with conditions of approval

- (1) Where a person does not comply with the conditions of the approval Auckland Transport may take one of more of the following steps:
 - (a) Issue a written warning to the approval holder, which may be considered as evidence of a prior breach of an approval condition during any subsequent review of the approval;
 - (b) Review the approval where:
 - i. a person has failed to meet the conditions of their approval or any other requirements of any relevant criteria, policy or guidelines approved by Auckland Transport;
 - ii. a person that holds an approval fails to meet any written instructions in a notice issued by Auckland Transport within the time specified in that notice;
 - (c) Enforce any breach of this bylaw, as provided for in the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956 and/or Litter Act 1979.
- (2) A review of an approval, may result in:
 - (a) amendment of the approval; or
 - (b) suspension of the approval; or
 - (c) withdrawal of the approval; or
 - (d) no further action.

26 Removal of material or things

- (1) Auckland Transport may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing;
- (2) That the approval holder be liable for all costs of repair to any damage or cleaning to the footpaths that is caused by the trading activity.

27 Exceptions

- (1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.

Part 6 Offences and penalties

28 Bylaw breaches

- (1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956.
- (2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.

Part 7
Savings, transitional provisions and revocations

29 Savings and transitional provisions

- (1) This clause applies to:
 - (a) Auckland Regional Council Parks Bylaw 2007;
 - (b) Auckland City Council No 20 - Public Places Bylaw 2008;
 - (c) Franklin District Council Trading in Public Places Bylaw 2008;
 - (d) Chapter 7 (Events and Trading in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;
 - (e) Part 3 (Trading in Public Places) of the North Shore City Council Bylaw 2000;
 - (f) Papakura District Council Trading in Public Places Bylaw 2008;
 - (g) Chapter 5 (Trading in Public Places) of the Rodney District Council General Bylaw 1998;
 - (h) Waitakere City Council Public Places Bylaw 2010.
- (2) Any resolution or other decision made under the bylaws referred to in clause 29 (1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by Auckland Transport under this bylaw.
- (3) Any approval, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in clause 29 (1) continues in force but:
 - (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, expires 12 months from the date that this bylaw becomes effective; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (4) Any application for an approval, consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in clause 29(1) that was filed before the day on which this bylaw commences must be dealt with by Auckland Transport under the relevant former bylaw in clause 29(1).

30 Revocations

- (1) The following bylaws are revoked to the extent these relate to the regulation of trading in a public place.
 - (a) Auckland Regional Council Parks Bylaw 2007 (Part 2);
 - (b) Auckland City Council No 20 - Public Places Bylaw 2008 (clauses 20.6 – 20.7);
 - (c) Franklin District Council Trading in Public Places Bylaw 2008;
 - (d) Chapter 7 (Events and Trading in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;
 - (e) Part 3 (Trading in Public Places) of the North Shore City Council Bylaw 2000;
 - (f) Papakura District Council Trading in Public Places Bylaw 2008;
 - (g) Chapter 5 (Trading in Public Places) of the Rodney District Council General Bylaw 1998;
 - (h) Waitakere City Council Public Places Bylaw 2010 (Part 5).



Trading and Events in Public Places Bylaw 2015
***Te Ture ā-Rohe Te Mahi Tauhokohoko me nga Takunetanga
ki ngā Wāhi Marea 2015***

(as at 26 February 2015)

Governing Body of Auckland Council

Resolution in Council

26 February 2015

Pursuant to the Local Government Act 2002, Local Government (Auckland Council) Act 2009, and the Land Transport Act 1998 the Governing Body of Auckland Council make the following bylaw.

Explanatory note:

The Local Government (Auckland Council) Act 2009 provides for Auckland Council and Auckland Transport to make bylaws under the Local Government Act 2002 and Land Transport Act 1998 to allow trading in public places with reasonable controls. The bylaw also includes clauses on events and filming in public places. Public places includes streets, roads, parks, recreation grounds and other public land owned, managed or under the control of Auckland Council and its council controlled organisations, including Auckland Transport.

This explanatory note is for information purposes only and does not form part of this bylaw.

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1 Title

This bylaw is the Auckland Council Trading and Events in Public Places Bylaw 2015.

2 Commencement

This bylaw comes into force on 1 July 2015.

3 Application

This bylaw applies to Auckland.

**Part 1
Preliminary provisions**

4 Purpose

- (1) The purpose of this bylaw is to provide for the control of events and trading in public places by:
- (a) regulating trading activities and the conduct of persons selling or offering goods or services in public places by requiring approval from the council, Auckland Transport or other council controlled organisation;
 - (b) regulating events and filming in roads and other public places by requiring operators to obtain an approval;
 - (c) setting general and specific conditions for trading and events in public places to ensure that appropriate standards of health and safety, pedestrian and vehicle access and visual amenity are maintained;
 - (d) prescribing for fees in respect of any approval in relation to matters specified in subclauses (1)(a) and (b).

5 Interpretation

- (1) In this bylaw, unless the context otherwise requires,—

Act means the Local Government Act 2002 or Land Transport Act 1998 as the context requires.

amenity means the natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

approval means a licence, permit or other form of approval granted under this bylaw and includes all conditions to which the approval is subject.

Auckland has the meaning given by the Local Government (Auckland Council) Act 2009.

Explanatory note: section 4(1) states: "Auckland means the area within the boundaries determined by the Local Government Commission under section 33(1) (as that determination is given effect to by Order in Council under section 35(1))."

charity means a non-profit organisation that raises funds for the benefit of the needy, a community group, an environmental cause, or the benefit of the public.

commercial services means selling or hiring any goods or services which are offered or provided in a public place in exchange for payment, reward or otherwise. This includes, but is not limited to, the production and sale of personal portraits, hiring recreational equipment or, any other service of any kind whatsoever.

continuous accessible path of travel means an uninterrupted route to or within premises or buildings that provides access to all services and facilities.

council means the governing body of the Auckland Council or any person delegated or authorised to act on its behalf.

council controlled organisation has the same meaning as substantive council controlled organisation in the Local Government (Auckland Council) Act 2009.

Explanatory note: section 4(1) states: “substantive council-controlled organisation”—

(a) means a council-controlled organisation that is either wholly owned or wholly controlled by the Council and either—

(i) is responsible for the delivery of a significant service or activity on behalf of the Council; or

(ii) owns or manages assets with a value of more than \$10 million; and

(b) includes Auckland Transport.

dangerous materials and objects means any material or object that pose risk or hazard to the public and performers. Dangerous materials include flammable materials and chemicals, fire, fireworks, smoke, flares, heated elements or anything giving off heat or toxicity that could harm or damage the public or the environment. Dangerous objects include chainsaws, knives, whips, spears, swords, spikes and sharp objects of any kind that could harm the public or performers.

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

filming means the recording of images, moving or still, for commercial purposes or at a scale that might unduly obstruct use of a public place, but excludes the recording of a private celebration or event or the recording of current affairs or news for immediate release.

footpath means a path or way principally designed for, and used by, pedestrians.

fundraising umbrella organisation means any organisation recognised by the council as coordinating fundraising activities across charities, and includes the Public Fundraising Regulatory Association.

market means the whole of the place and the whole of the activity, where more than one stall at a common location where goods and / or services are offered for sale or hire, whether for commercial or charitable purposes.

market operator means any person who operates a market.

mobile shop means a vehicle, whether self-propelled or not, standing on a road or other public place and from which:

- (a) goods are offered or exposed/displayed for sale; or
- (b) goods may be ordered (whether or not in pursuance of an invitation to call with the goods); or
- (c) services are offered for sale;

but does not include:

- (d) any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order being placed; or
- (e) a mobile library.

outdoor display of goods means the display of goods in a road or other public place adjacent to business premises, and includes any display structure

outdoor dining (alfresco) means a road or other public place used by an adjacent business premise for the purpose of providing food or drink.

pavement art means temporary images or drawings created either directly on to the pavement or on removable surfaces such as paper or plastic laid out on the pavement. Advertising on the pavement is not considered pavement art under this bylaw.

pavement artist means any person who creates pavement art for the purposes of public exhibition.

park means-

- (a) any land vested in or administered by the council under the provisions of the Reserves Act 1977; or
- (b) any park, domain or recreational area under the control or ownership of the council or council controlled organisation

parks management plan means an adopted management plan for any regional or local park.

person includes a corporation sole, a body corporate, and an unincorporated body.

premises means any separately occupied land, building, or part of the same.

produce stall has the same meaning as in the Unitary Plan.

Explanatory note: "produce stall" means a place where farm produce or handcrafts produced on the site are sold and includes:

- the sale of plants
- the sale of food from 'occasional food premises' as defined in section 2 of the Food Hygiene Regulations 1974 as it was in December 2012.

public place means any place that, at any material time, is owned, managed, maintained or controlled by the council or council controlled organisation and is open to or, being used by the public, whether free or on payment of a charge. It includes any road, footpath, public square, grass verge, berm, public gardens, reserves and parks, beaches, wharves, breakwaters, ramps and pontoons, foreshore and dunes, access ways, recreational grounds and sports fields.

road has the meaning given by the Local Government Act 1974.

Explanatory note: section 315 states: Road means the whole of any land which is within a district, and which—

- (a) immediately before the commencement of this Part was a road or street or public highway; or
- (b) immediately before the inclusion of any area in the district was a public highway within that area; or
- (c) is laid out by the council as a road or street after the commencement of this Part; or
- (d) is vested in the council for the purpose of a road as shown on a deposited survey plan; or

- (e) *is vested in the council as a road or street pursuant to any other enactment;—
and includes—*
- (f) *except where elsewhere provided in this Part, any access way or service lane which
before the commencement of this Part was under the control of any council or is laid out or
constructed by or vested in any council as an access way or service lane or is declared by
the Minister of Works and Development as an access way or service lane after the
commencement of this Part or is declared by the Minister of Lands as an access way or
service lane on or after 1 April 1988:*
- (g) *every square or place intended for use of the public generally, and every bridge, culvert,
drain, ford, gate, building, or other thing belonging thereto or lying upon the line or within
the limits thereof;—
but, except as provided in the Public Works Act 1981 or in any regulations under that Act,
does not include a motorway within the meaning of that Act or the Government Roadway
Powers Act 1989*

shared space area means an area specified as a shared zone under the Auckland Transport Traffic Bylaw 2012 or a road declared to be a pedestrian mall pursuant to the Local Government Act 1974.

sound performance means performance that involves amplification, musical instruments or other noise making objects or loud voices.

special street performance approval means any street performance including dangerous materials, objects or animals.

stall means a stand, stall, structure, vehicle, awning, table or temporary structure from which goods and / or services are offered for distribution or sale and which is erected, placed or maintained in or on a public place.

street performance / busking means the provision of entertainment on or in a public place, and includes playing an instrument, singing, dancing, juggling, mime, puppetry, performance art, conjuring, aerobatics, recitation, undertaking artworks and performing other acts of theatrical or visual forms.

trading goods means all structures, items, furniture, screens, barriers, objects, stalls, signs, vehicles, and any other equipment associated with the trading activity.

trading in a public place means an activity 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:

- (a) markets and stalls;
- (b) mobile shops;
- (c) outdoor dining;
- (d) fundraising for a charitable cause, soliciting of any subscription or collection of any one-off or on-going donation;
- (e) offering commercial services in a public place;
- (f) distribution of promotional goods and materials;
- (g) outdoor display of goods;
- (h) street performance / busking
- (i) pavement art.

trading activity has a corresponding meaning to **trading in a public place**.

Unitary Plan means any proposed or operative plan made by the council under the Resource Management Act 1991.

vehicle has the meaning given by the Land Transport Act 1998.

Explanatory note: section 2(1) states: Vehicle-

- (a) *means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and*
 - (b) *includes a hovercraft, a skateboard, in-line skates, and roller skates; but*
 - (c) *does not include-*
 - (i) *a perambulator or pushchair;*
 - (ii) *a shopping or sporting trundler not propelled by mechanical power;*
 - (iii) *a wheelbarrow or hand-trolley;*
 - (iv) *a pedestrian-controlled lawnmower;*
 - (v) *a pedestrian-controlled agricultural machine not propelled by mechanical power;*
 - (vi) *an article of furniture;*
 - (vii) *a wheelchair not propelled by mechanical power;*
 - (viii) *any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;*
 - (ix) *any rail vehicle.*
- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, standards, bylaws, regional plan rules, condition of a resource consent; a reserve management plan prepared under the Reserves Act 1977, a park management plan prepared under the Local Government Act 2002 or any controls specified under this bylaw from time to time.
- (3) Unless the context requires another meaning, a term or expression that is defined in the Local Government Act 2002 or the Land Transport Act 1998 and used in this bylaw, but not defined, has the meaning given by that Act.
- (4) Any explanatory notes and attachments are for information purposes, do not form part of this bylaw, and may be made, amended and revoked without formality.
- (5) The Interpretation Act 1999 applies to this bylaw.

Part 2 General

6 Requirement to hold an approval

- (1) A person must hold an approval issued by the council to undertake the following activities in public places:
- (a) trading in a public place;
 - (b) events;
 - (c) filming.
- (2) No person may undertake any trading activity in a park or reserve unless all the appropriate approvals have been applied for and granted by the council.

7 Exemptions to holding an approval

- (1) Notwithstanding clause 6 (1), the following are exempted from the requirement to obtain an approval under this bylaw so long as they comply with any relevant guidelines, standards, controls, policies or codes of practice set by resolution of the council:
 - (a) outdoor display of goods;
 - (b) art installed on public places by the council or council controlled organisation;
 - (c) goods or services delivered to private premises or service delivery vehicles such as milk vendors or newspaper delivery to private residences or businesses;
 - (d) classes and training provided by outdoor fitness operators;
 - (e) regular sporting activities carried out by amateur organised sports clubs;
 - (f) the sale of produce from a produce stall adjacent to the property where it was grown.

Explanatory note: Operators with any outdoor displays of goods are still required to comply with the conditions set out in clause 24 of this bylaw.

8 Designated public places

- (1) The council may, from time to time, by resolution, designate a specific road or part of a road or public place where all trading activities or any specified category of trading are prohibited to ensure public safety, prevent nuisance, minimise obstructions or mis-use of public place.

Part 3

Approvals and other administrative matters

9 Application for approval

- (1) Applications for approval must be made in the prescribed form, describe the activities in respect of which the approval is sought and be accompanied by further supporting information as the council may require to enable processing of the application.
- (2) The holder of an existing approval may apply to the council for a renewal of that approval.

10 Deciding an application

- (1) Subject to compliance with this clause, the council may grant (with or without conditions) or refuse any application for approval at its discretion.
- (2) The decision to grant or refuse an application for an approval together with any conditions on the approval, must be made in accordance with any relevant guidelines approved by resolution of the council, specified under this bylaw from time to time.
- (3) In deciding to grant or decline an application for approval the council must consider the following matters:
 - (a) the location of the activity and whether it is likely to cause a nuisance, obstruction or a hazard to pedestrians or vehicular traffic ;
 - (b) the specifications of any furniture, structures, equipment, vehicles and other items to be used for the activity;
 - (c) the impacts on the surrounding environment and users as a result of noise, smell, glare, light spill ,appearance or any other effects and; whether these impacts have been appropriately mitigated;
 - (d) the suitability of a person to hold an approval taking into account any known past operational issues and the applicant's experience and track record;
 - (e) where applicable, whether an applicant is a registered charity or a member of a registered organisation;

- (f) whether the activity is consistent with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol and gambling policies.
- (4) Any person who has an application declined or revoked by the council must apply in writing for a review of the decision and the council may review it accordingly.

11 Approval conditions

- (1) The conditions upon which an approval is granted may include, but are not limited to, the following:
 - (a) the designated times of operation (hours and days) including limitations on the hours of set up and pack down;
 - (b) the duration of the approval;
 - (c) the location of the activity, taking into account the surrounding land uses and street layout and the minimum clear widths of footpaths required for pedestrian access;
 - (d) a requirement that the activity is not located in a public place (including near intersections, bus stops, vehicle crossings, accessways or service lanes) in a way that it is likely to cause a nuisance, unreasonable obstruction or hazard to pedestrian and vehicle access;
 - (e) that a continuous accessible path of travel is provided for;
 - (f) requiring compliance with a traffic management plan and/or any waste management and minimisation plan;
 - (g) requiring compliance with any guidelines or policies for shared space areas;
 - (h) specifications on the use of any furniture, structures, equipment, vehicles and other items associated with the activity;
 - (i) safety, health and hygiene requirements;
 - (j) the requirement for public liability insurance;
 - (k) restrictions on the use of amplified music/sound;
 - (l) requiring compliance with Auckland Council policies and plans, including but not limited to, the Auckland Plan, Smokefree Policy, local alcohol and gambling policies.
- (2) Notwithstanding subsection(1) any trading activity involving use of the footpath must maintain a minimum unobstructed footpath width of no less than 1.8 metres.

12 Fees

- (1) The council may prescribe fees for an approval, including fees to process an application, to review an existing approval and to inspect trading activities and charges for the period of the approval.

13 Display of approval

- (1) Unless exempted by the council a person with an approval issued by the council must prominently display their approval so that it is able to be read by the public at all times during activities.

14 Review of an approval

- (1) The council may cancel, amend or initiate a review of an approval issued under this bylaw if:
 - (a) the activity is likely to interfere with intended works undertaken by or on behalf of the council or Auckland Transport or a network utility operator that it is entitled by

- statute to undertake in a public place and provided all otherwise necessary authorisation is obtained;
- (b) if urgent action is required to protect the public from unhygienic, unsafe or hazardous conditions;
 - (c) the activity authorised in the approval is likely to impact on public health and safety or cause a nuisance, unreasonable obstruction or damage.

Part 4 Trading and events in public places

15 Markets and stalls

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for markets and stalls
 - (a) the location of the market and any associated signs and displays;
 - (b) the type, number, size and position of stalls and any trading goods used within a market;
 - (c) where food is to be sold, requirements for compliance with food hygiene regulations.

16 Mobile shops

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for mobile shops:
 - (a) the exact location of the mobile shop and any associated signs and displays;
 - (b) the hours or days that the mobile shop occupies a public place at any one time;
 - (c) the types of goods that may be sold from the mobile shop;
 - (d) where food is to be sold, requirements for compliance with food hygiene regulations;
 - (e) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses or the local environment arising or likely to arise from the mobile shop.

17 Outdoor dining

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for outdoor dining:
 - (a) a requirement that the approval holder delineate the exact operating location of the outdoor dining area;
 - (b) the numbers of tables and chairs permitted;
 - (c) that no additional tables and chairs are to be placed in the public place without approval from the council;
 - (d) that any front and side awnings that have been given approval allow for clear visibility, and, do not obstruct the passage or compromise the safety of any persons.

18 Fundraising

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for fundraising:

- (a) a requirement that the applicant is registered as a charity with the Department of Internal Affairs or, be approved as a donee organisation by the Inland Revenue Department;
- (b) that boxes, bags, clothing or collection devices used for charity appeals or fundraising organisations must clearly identify the appeal or organisation;
- (c) that a collector must provide information on the charity to subscribers / donors;
- (d) the locations and hours of collections.

19 Offering commercial services

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for offering commercial services:
 - (a) the intended location including whether there are multiple sites;
 - (b) the quality and standard of services being offered;
 - (c) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses, residential areas, or the local environment arising or likely to arise from the commercial service.

20 Distribution of promotional goods or materials

- (1) In addition to any of the approval conditions specified under clause 11 of this bylaw the council can impose the following conditions on an approval for the distribution of promotional goods or materials:
 - (a) the intended location including whether there are multiple sites;
 - (b) the quality and standard of promotional goods or materials being offered;
 - (c) any additional conditions reasonably required to appropriately mitigate any adverse impact on local businesses, residential areas, or the local environment arising or likely to arise from the distribution of promotional goods or material;
 - (d) a requirement that the promotional goods or materials being distributed:
 - i. are not discriminatory and do not advocate discrimination based on one or more of the prohibited grounds of discrimination set out in the Human Rights Act 1993;
 - ii. are not objectionable within the meaning of the Films, Videos and Publications Classification Act 1993;
 - iii. do not cause or have the potential to cause widespread or serious offence to members of the public;
 - iv. do not threaten harm;
 - v. do not incite or counsel any person to commit any offence;
 - vi. are not defamatory.

21 Street performance/busking

- (1) Street performers must not approach individuals requesting money or solicit funds in a way that is likely to impact with any other person in their use of that public place
- (2) Street performers must take all practicable steps to ensure that their performance causes no harm to themselves or members of the public.
- (3) Street performers must obtain a special street performance approval to use dangerous materials or objects.
- (4) Street performers must follow any code of conduct, approved by the council by resolution, for street performances.

22 Pavement artists

- (1) A person with an approval to create pavement art in a public place must use materials that can be washed off with water without leaving any residue. Materials must not be slippery or likely to impact on public safety.
- (2) Advertising is not permitted in pavement art.
- (3) The council may, from time to time, designate specific areas where pavement artists are permitted or prohibited.

23 Events and Filming

- (1) In addition to decisions regarding an application for approval as specified in Clause 10 the council will consider the following matters when assessing an application for an event or filming approval:
 - (a) whether there is a prior booking of the public place and the two events or, filming activities, cannot reasonably take place at the same time, or
 - (b) whether there will be significant disruption to traffic flows or public passage, or
 - (c) any impacts on public safety.

Explanatory note: Film approval applications are handled by Screen Auckland, which is the film office for the Auckland region and operates as part of Auckland Tourism Events and Economic Development.

24 Outdoor displays of goods

- (1) All outdoor displays of goods must:
 - (a) not impede the movement of pedestrians or vehicles, or be likely to cause danger to any person;
 - (b) not be in a public place outside the business hours of the business;
 - (c) be moved to another part of the public place if directed by the council to do so;
 - (d) be placed immediately adjoining the premises from which the good and services displayed may be purchased;
 - (e) not display knives or firearms or be dangerous or offensive;
 - (f) not be placed in a carriageway, driveway/vehicle crossing, grass verge or traffic island.

Part 5 Enforcement powers

25 Non-compliance with conditions of approval

- (1) Where a person does not comply with the conditions of the approval the council may take one or more of the following steps:
 - (a) Issue a written warning to the approval holder, which may be considered as evidence of a prior breach of an approval condition during any subsequent review of the approval;
 - (b) Review the approval where:
 - i. a person has failed to meet the conditions of their approval or any other requirements of any relevant criteria, policy or guidelines approved by the council;
 - ii. a person that holds an approval fails to meet any written instructions in a notice issued by the council within the time specified in that notice;

- (c) Enforce any breach of this bylaw, as provided for in the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956 and/or Litter Act 1979.
- (2) A review of an approval, may result in:
 - (a) amendment of the approval; or
 - (b) suspension of the approval; or
 - (c) withdrawal of the approval; or
 - (d) no further action.

26 Removal of material or things

- (1) The council may recover from the person who committed the breach of this bylaw the appropriate costs in connection with the removal of the material or thing;
- (2) That the approval holder be liable for all costs of repair to any damage or cleaning to the footpaths that is caused by the trading activity.

27 Exceptions

- (1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.

Part 6 Offences and penalties

28 Bylaw breaches

- (1) A person who fails to comply with this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002, and/ or the Land Transport Act 1998 and/or the Health Act 1956.
- (2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.

Part 7 Savings, transitional provisions and revocations

29 Savings and transitional provisions

- (1) This clause applies to:
 - (a) Auckland Regional Council Parks Bylaw 2007;
 - (b) Auckland City Council No 20 - Public Places Bylaw 2008;
 - (c) Franklin District Council Trading in Public Places Bylaw 2008;
 - (d) Chapter 7 (Events and Trading in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;
 - (e) Part 3 (Trading in Public Places) of the North Shore City Council Bylaw 2000;
 - (f) Papakura District Council Trading in Public Places Bylaw 2008;
 - (g) Chapter 5 (Trading in Public Places) of the Rodney District Council General Bylaw 1998;
 - (h) Waitakere City Council Public Places Bylaw 2010.
- (2) Any resolution or other decision made under the bylaws referred to in clause 29 (1) remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by the council under this bylaw.

- (3) Any approval, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in clause 29 (1) continues in force but:
 - (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, expires 12 months from the date that this bylaw becomes effective; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (4) Any application for an approval, consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in clause 29(1) that was filed before the day on which this bylaw commences must be dealt with by the council;
 - (a) under the relevant former bylaw in clause 29(1).

30 Revocations

- (1) The following bylaws are revoked to the extent these relate to the regulation of trading in a public place.
 - (a) Auckland Regional Council Parks Bylaw 2007 (Part 2);
 - (b) Auckland City Council No 20 - Public Places Bylaw 2008 (clauses 20.6 – 20.7);
 - (c) Franklin District Council Trading in Public Places Bylaw 2008;
 - (d) Chapter 7 (Events and Trading in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;
 - (e) Part 3 (Trading in Public Places) of the North Shore City Council Bylaw 2000;
 - (f) Papakura District Council Trading in Public Places Bylaw 2008;
 - (g) Chapter 5 (Trading in Public Places) of the Rodney District Council General Bylaw 1998;
 - (h) Waitakere City Council Public Places Bylaw 2010 (Part 5).

Additional Information to Trading and Events in Public Places Bylaw 2015

This document contains matters for information purposes only and do not form part of any bylaw. They include matters made pursuant to a bylaw and other matters to assist in the ease of understanding, use and maintenance.

The information contained in this document may be updated at any time.

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Section 1
History of Bylaw

Action	Description	Date of Decision	Decision Reference	Commencement
Make	<p>Following trading in public places bylaws in force on 31 Oct 2010 deemed to have been made by Auckland Council</p> <p>(a) Auckland Regional Council Parks Bylaw 2007; Part 2, definition of “trading” and clause 6.1(f)</p> <p>(b) Auckland City Council No 20 Public Places Bylaw (2008); clauses 20.1; definitions of “busking”, “events”, “licence”, “licensee”, “street performances”, “street trading”</p> <p>(c) Franklin District Council Trading in Public Places Bylaw 2008;</p> <p>(d) Chapter 7 (Events and Trading in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;</p> <p>(e) Part 3 (Trading in Public Places) of the North Shore City Council Bylaw 2000;</p> <p>(f) Papakura District Council Trading in Public Places Bylaw 2008;</p> <p>(g) Chapter 5 (Trading in Public Places) of the Rodney District Council General Bylaw 1998;</p> <p>(h) Waitakere City Council Public Places Bylaw 2010.. Clause 5 (d), (i), (k) – (m), (o), (p), (r), (s) and Part 5.</p>	01 Nov 2010	Section 63 Local Government (Auckland Transitional Provisions) Act 2010	01 Nov 2010
Revoke	<p>The following clauses in</p> <p>(i) Auckland Regional Council Parks Bylaw 2007; Part 2, definition of “trading” and clause 6.1(f)</p> <p>(j) Auckland City Council No</p>	26 February 2015		1 July 2015

Action	Description	Date of Decision	Decision Reference	Commencement
	<p>20 Public Places Bylaw (2008); clauses 20.1; definitions of “ busking”, “events”, “licence”, “licensee”, “street performances”, “street trading”; 20.6 – 20.7;</p> <p>(k) Franklin District Council Trading in Public Places Bylaw 2008;</p> <p>(l) Chapter 7 (Events and Trading in Parks and Public Places) of the Manukau City Consolidated Bylaw 2008;</p> <p>(m) Part 3 (Trading in Public Places) of the North Shore City Council Bylaw 2000;</p> <p>(n) Papakura District Council Trading in Public Places Bylaw 2008;</p> <p>(o) Chapter 5 (Trading in Public Places) of the Rodney District Council General Bylaw 1998;</p> <p>(p) Waitakere City Council Public Places Bylaw 2010: Clause 5 (d), (i), (k) – (m), (o), (p), (r), (s) and Part 5.</p>			
Make	Trading and Events in Public Places Bylaw 2015	26 February 2015	TBC	1 July 2015

**Section 2
Related Documents**

Document Title	Description of Document	Location of Document
Decision Minutes and Agenda	Decisions on submissions to proposed trading bylaw	www.aucklandcouncil.govt.nz
Hearings Report	Background and summary of submissions to proposed trading bylaw	www.aucklandcouncil.govt.nz
Trading and Events in Public Places Statement of Proposal	Provides background to the trading in public places bylaw	www.aucklandcouncil.govt.nz

Document Title	Description of Document	Location of Document
Long Term Plan	Outlines financial plans	www.aucklandcouncil.govt.nz
Annual Plan	Sets fees	www.aucklandcouncil.govt.nz
The Local Government Act 2002	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
The Health Act 1956	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Land Transport Act 1998	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Local Government (Auckland Council) Act 2010	Provides certain functions, duties, powers and penalties to make and enforce this bylaw	www.legislation.govt.nz
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws	www.legislation.govt.nz
Interpretation Act 2009	Provides for certain matters related to the interpretation of bylaws	www.legislation.govt.nz

Section 3 Delegations

Clause	Function, Duty, Power to be Delegated	Delegated Authority	Date of Delegation Decision	Decision Reference	Commencement of Delegation
All	All powers, duties and functions.	Licensing and Compliance department – Tier 4 (Managers) Tier 5 (Team leaders) Tier 6 (bylaws officers) Parks, Sport and	26 February 2015	TBC	1 July 2015

Clause	Function, Duty, Power to be Delegated	Delegated Authority	Date of Delegation Decision	Decision Reference	Commencement of Delegation
		Recreation department – Tier 4 (Managers) Tier 5 (Team leaders) Tier 6 (Parks rangers and Parks Advisors)			
8	Designated public places	Regulatory and Bylaws Committee	26 February 2015	TBC	1 July 2015
7(1) 10(2)	Guidelines approved by resolution of the council.	Regulatory and Bylaws Committee	26 February 2015	TBC	1 July 2015
23	Events and Filming – process applications and approval	<u>Events</u> - (Community Development Arts and Culture) or; Auckland Tourism, Events and Economic Development <u>Filming</u> - Screen Auckland	26 February 2015	TBC	1 July 2015

Section 4

Enforcement Powers

Legislative Provision	Description of Legislative Provision
Part 8 of Local Government Act 2002	162 Injunctions restraining commission of offences and breaches of bylaws 163 Removal of works in breach of bylaws 164 Seizure of property not on private land 165 Seizure of property from private land 168 Power to dispose of property seized and impounded 171 General power of entry 172 Power of entry for enforcement purposes 173 Power of entry in cases of emergency 175 Power to recover for damage by wilful or negligent behaviour 176 Costs of remedying damage arising from breach of bylaw 178 Enforcement officers may require certain information 183 Removal of fire hazards 185 Occupier may act if owner of premises makes default 186 Local authority may execute works if owner or occupier defaults 187 Recovery of cost of works by local authority 188 Liability for payments in respect of private land
Health Act 1956	23 General powers and duties of local authorities in respect of public health 30 Penalties for permitting or causing nuisances 33 Proceedings in respect of nuisances 34 Power to abate nuisance without notice 65 General provisions as to bylaws 66 Penalties for breach of bylaws 137 Offences punishable on summary conviction

Section 5

Offences and Penalties

Legislative provision	Description of offence	Fine	Infringement fee	Other penalty
	A person who fails to comply with Parts 2, 3 and 4 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Local Government Act 2002 and/or the Health Act 1956.	Under section 242 of the Local Government Act 2002 person who is convicted of an offence against a bylaw is liable to a fine not exceeding \$20,000. Under section 22AB(1)(b) of the Land Transport Act 1998 is liable to the fine in the LTA.	nil	

Legislative provision	Description of offence	Fine	Infringement fee	Other penalty
		not to exceed \$500 Under section 66 of the Health Act 1956, a person who breaches a bylaw is liable to a fine not exceeding \$500 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day on which the offence has continued.		