



Have your
Say!

Draft Trading in Public Places Bylaw

Our Place: Our District

We are reviewing our Mobile Shops, Stalls and Hawkers Bylaw.

This booklet includes a summary of our proposed changes, the full draft bylaw, and a submission form for your feedback on whether or not you agree with the changes.

We are accepting feedback until 5pm, Thursday 23 June 2022.

Introduction

We are reviewing our current Mobile Shops, Stalls and Hawkers Bylaw and want to hear your feedback on the changes we are proposing to make.

One of the changes we are proposing is to rename the bylaw to “Trading in Public Places Bylaw”, which better describes what the bylaw is about.

The full Draft Trading in Public Places Bylaw is included in this consultation document from page 8.

*Have your
Say!*



***We want
to hear
from YOU!***

**Tell us what you think of
our proposed changes at**

ashburtondc.govt.nz/haveyoursay

The details



Why do we need a bylaw?

The Ashburton District Council acknowledges that when well-managed, mobile shops, stalls and trading in public places helps to attract visitors, and adds character and vibrancy to our district.

A bylaw is necessary to manage and regulate trading in public places within the Ashburton District.

The purpose of the bylaw is to regulate trading in public places in order to protect the public from nuisance and to protect, promote and maintain public health and safety.

What are we proposing?

We believe that many of the issues addressed by the current bylaw remain current and appropriate for the district today. Because of this, we are proposing to keep a lot of our current bylaw, with some changes.

Our bylaw has been updated to ensure consistency with current practice and other Council documents, to ensure that the bylaw is relevant for the district today and in the future.

Proposed changes to the bylaw

KEY CHANGE ONE

BYLAW NAME

We are proposing to rename our Mobile Shops, Stalls and Hawkers Bylaw to 'Trading in Public Places Bylaw'.

WHY?

We believe the new proposed name is clearer and will increase understanding of what the bylaw is about.



Have your
Say!

We are accepting feedback until
5pm, Thursday 23 June 2022.

KEY CHANGE TWO

PERMITTED AND DISCRETIONARY SITES

Permitted sites are areas that traders should be located in, in the first instance. Discretionary sites are those that traders can use for timeframes specified in the bylaw (e.g. during events).

Where a trader wishes to locate in areas outside of the permitted areas, an application must be made to Council, and we will assess the application based on the criteria listed in Schedule 1 Part B of the bylaw.

We are proposing to introduce new permitted and discretionary sites. These include:

Permitted sites

- Old Post Office green area, East Street, Ashburton
- Rowing Club, Lake Hood
- Playground, Huntingdon Avenue, Lake Hood
- South end picnic area, Lake Hood

- East Street Concrete Pad, Ashburton (stalls only)
- Lochhead Subdivision Green Space, Methven (stalls only)
- Chambers Park, Methven (stalls only)
- Railway Terrace East, Rakaia
- Railway Terrace West, Rakaia (stalls only)
- Rakaia Terrace, Rakaia (stalls only)

Discretionary sites

- Havelock Street, Baring Sq East, Ashburton
- Salmon Site, Rakaia (stalls only)

Have a look at the maps on pages 18 to 29 of this consultation document to see where these sites are located.

WHY?

We felt that there were some areas within the district that were missing permitted sites, for example, Rakaia and Lake Hood.



Options considered

OPTION ONE

No change to the bylaw (status quo)

Advantages

- Issues that are currently regulated continue to be regulated

Disadvantages

- Improvements identified during officer review are not resolved

OPTION TWO

Adopt the proposed bylaw

Advantages

- Improvements identified during officer review are resolved

Disadvantages

- There are no disadvantages to this option

**PREFERRED
OPTION**

Relevant determinations:

Council is authorised to make this bylaw under section 145 of the Local Government Act 2002 which states that bylaws may be made for:

- protecting the public from nuisance;
- protecting, promoting and maintaining public health and safety; and
- minimising the potential for offensive behaviour in public places.

Under section 155 of the Local Government Act 2002, Council must determine whether or not a bylaw is the most appropriate way of addressing a perceived problem, and whether the bylaw is the most appropriate form of bylaw, and whether or not the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

REQUIRED DETERMINATION	COUNCIL CONSIDERATION
Whether a bylaw is the most appropriate way of addressing a perceived problem	Officers have determined that a bylaw is the most appropriate way of addressing the perceived problem. It is not a legal requirement to have a Trading in Public Places Bylaw, however there is a determined need to manage and regulate traders in public places in the Ashburton District.
Whether the bylaw is the most appropriate form of bylaw	Council's draft Trading in Public Places Bylaw is the most appropriate form of bylaw because it meets the following tests: The bylaw is: <ul style="list-style-type: none"> • Authorised by statute under section 146(b)(vi) of the LGA • Not repugnant to the general laws of New Zealand • Certain and clear • Reasonable • Not overly restrictive, onerous on any person, or impractical.
Whether the bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990	The proposed bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990, nor does it impose any restrictions on any of the rights listed in the Act.



Draft Trading in Public Places Bylaw 2022

Trading in Public Places Bylaw 2022

1. Title

The title of this bylaw is Ashburton District Council Trading in Public Places Bylaw 2022.

2. Purpose

The purpose of this bylaw is to regulate trading in public places in order to protect the public from nuisance and to protect, promote and maintain public health and safety.

3. Related documents

- Ashburton District Council Advertising Signage in Public Places Bylaw
- Ashburton District Council Explanatory Bylaw
- Ashburton District Council Open Spaces Bylaw
- Ashburton District Council Public Places Bylaw
- Ashburton District Council Schedule of Fees and Charges
- Ashburton District Plan
- Fair Trading Act 1986
- Fisheries Act 1996
- Health Act 1956
- Food Act 2014
- Reserves Act 1977.

4. Application

This bylaw applies to public places within Ashburton District.

The provisions of this bylaw do not apply to:

- a) The owner of a fishing boat registered under Part 4 Section 103 of the Fisheries

Act 1996 where the fishing permit allows the sale of fresh fish or shellfish from that boat at the place where it is moored, berthed, or beached; or from a stall within 450m of that place.

- b) Collectors for charitable purposes. Street appeal collectors must make an application through the Customer Services Team at Council.
- c) Street performances (e.g. buskers) and pavement artists. These are addressed in Ashburton District Council's Public Places Bylaw.
- d) Outdoor dining, which is covered by Council's Use of Footpaths for Alfresco Dining Policy.

5. Definitions

In this bylaw, unless the context requires otherwise:

Authorised Officer means any person appointed by the Council to act on its behalf and with its authority.

Bylaw means the Ashburton District Council Trading in Public Places Bylaw 2022.

Council means Ashburton District Council.

District means the district of the Ashburton District Council.

Goods is as defined in the Goods and Services Tax Act 1985.

Hawker means any person who carries or takes about any goods and/or services for sale not in pursuance of any invitation to call with, or of any previous order or request for, such goods, and includes a peddler and any person who exposes for sale any goods and/or services or taken about by him/her, or solicits the custom of any other person; and whether any such person shall carry

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any such goods and/or services or not, but does not include any person who uses any vehicle as a mobile shop.

Keeper in relation to any mobile shop, means the person by whom or on whose behalf any business is carried on by means of that mobile shop.

Permit means authority granted by Ashburton District Council allowing the holder to engage in the sale of goods or services from a mobile shop or stall, or the hawking of goods or services, upon payment of the required fee, upon such terms and for any duration that Council sees fit, including occasionally requiring inspections for health and safety regulations.

Mobile shop means a vehicle, whether self-propelled or not, from which goods and/or services are offered or exposed for sale in a public area (whether or not in pursuance of any invitation to call with the goods and/or services or from which services are offered for sale in the public area); but does not include any vehicle used for the purpose of transporting and delivering goods pursuant to a prior order placed for the delivery of the goods.

Nuisance means to obstruct, annoy or interfere, be it intentionally or unintentionally.

Permitted Area means the identified areas in Part A, Schedule 1 of this bylaw, where trade in public places is permitted to take place.

Public Area means those parts of an outdoor area normally available for use by the general public exclusive or any service or access areas.

Service is as defined in the Goods and Services Tax Act 1985.

Stall means any stand, booth, tent or structure erected, either temporarily or for ongoing use, in any space accessible by members of the public, for the sale of goods or services to members of the public.

Trade is as defined in the Commerce Act 1986.

6. Permit

- 6.1. No person, in any public place, shall solicit trade or engage in the sale of goods or services of any description whatsoever without having first obtained a permit from Council.
- 6.2. Every person wishing to sell goods in a public place shall make an application to the Council on the prescribed form and submit the application accompanied by the relevant fee.
- 6.3. A separate permit shall be required for each vehicle or stall used and the appropriate fee must be paid per vehicle or stall.
- 6.4. No permit issued shall be transferable to any other person.
- 6.5. Council may issue temporary permits for an activity at its discretion.
- 6.6. Permits shall be in the form prescribed by the Ashburton District Council and shall take effect as indicated on the permits.
- 6.7. At all times while operating in trade in a public place, hawkers or keepers of a mobile shop or stall must carry and be able to produce that permit to any Police Officer or Authorised Officer on request.
- 6.8. In addition to a permit to operate a mobile shop, stall, or as a hawker other licenses or permits may be required.

7. Fees

- 7.1. Fees payable are set by resolution of Council from time to time and prescribed in the Ashburton District Council Schedule of Fees and Charges.

Trading in Public Places Bylaw 2022

8. Local authority may prescribe conditions

- 8.1. Council may, either upon the issue of any permit to any hawker or keeper of a mobile shop or stall, or at any time by notice in writing:
 - 8.1.1 Prescribe any condition or conditions which the hawker or keeper of a mobile shop or stall must carry out trade or business in compliance with.
- 8.2. Where a vehicle is to be used for the sale of food for human consumption, it shall be a condition of the permit that no vehicle other than that specified in that permit or shall be used without the approval of the Council.
- 8.3. Any hawker or keeper of a mobile shop or stall who fails to comply in all respects with any such condition commits an offence against this bylaw.

9. Location of mobile shops and stalls

- 9.1. In the first instance, mobile shops or stalls should be located in the areas identified as 'permitted areas' in Part A, Schedule 1.
- 9.2. Where a mobile shop or stall wishes to locate in areas outside of the permitted areas, an application must be made to Council. Council will assess the application based on the criteria specified in Part B, Schedule 1. Council have the discretion to grant or deny the permit based on this criteria.
- 9.3. Whilst it is a permitted site, no more than a total of three mobile shops or stalls may operate concurrently from the Ashburton Domain Layby site at any given time.

- 9.4. Council's Authorised Officers shall only grant a permit for a mobile shop, stall or hawker to be located within a permitted site which is Recreation Reserve land for the purposes of the Reserves Act 1977, if the use meets the requirements of sections 53 and 54 of the Reserves Act 1977.

Explanatory note: Traders should be aware of the conditions and restrictions that may exist in Council's Reserve Management Plans. These can be viewed here: <https://www.ashburtondc.govt.nz/ashburton-district/Plans,-Reports-and-Strategies/other-council-plans/reserve-management-plans>

10. Trading hours

- 10.1. No hawker, mobile shop or stall shall be operated for business on any public place in or adjacent to a residential area, in the time between 10pm and 8.30am the following morning, unless prior permission has been given by Council.

11. Musical chimes

- 11.1. Musical chimes or other audible devices for attracting customers to a mobile shop or stall may be operated in a reasonably modulated manner.
- 11.2. No such chimes or other audible device shall be operated within 300 metres of any place of public worship while a service is in progress or any hospital or similar institution licensed under the Health Act 1956.

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12. Markets

- 12.1. A permit may be issued by Council for the operation of a Market in the Ashburton District. Specific requirements pertaining to this permit will be made as Council sees fit.
- 12.2. Council may, either upon the issue of any market permit, or at any time by notice in writing:
 - 12.2.1. Prescribe any condition or conditions which the market must carry out trade or business in compliance with.

13. Charities and community groups

- 13.1. Charities and community groups may be exempt from site restrictions within schedule 1 of this bylaw, upon discretion by a Council Authorised Officer.

14. Request to move or relocate

- 14.1. Every permitted hawker, or keeper of a mobile shop or stall shall, upon request by any police officer or Council Authorised Officer, relocate to any other street, part of the street, or public place as indicated by that officer.
- 14.2. Any person who fails to comply with any request made by any police officer or Council Authorised Officer pursuant to Clause 14.1 thereof commits an offence against this bylaw.

15. Breaches of bylaw – compliance and enforcement

- 15.1. Every keeper of a mobile shop or stall, or person operating as a hawker, who breaches this bylaw, must on request of an Authorised Officer immediately stop the activity. Any person failing to comply with such a request commits a further offence against this bylaw.
- 15.2. Any person who breaches this bylaw may be prohibited from holding a permit for such period as the Council or Authorised Officer shall determine.
- 15.3. Any person found to be operating as a keeper of a Mobile Shop or Stall, or as a Hawker, who does not hold a valid permit for that activity commits a further offence against this bylaw.
- 15.4. Breaches of this bylaw may also result in an application being made to the District Court for an injunction to restrain the keeper/hawker from the activity that they have been involved in.
- 15.5. Any person who breaches this bylaw may be prosecuted for any such breach and is liable upon summary conviction to a fine, as provided for under the Local Government Act 2002 (which specifies a fine not exceeding \$20,000), and may also be liable to penalties under other legislation.



Schedules

Schedule 1

Part A: Permitted sites

Permitted sites

The following are permitted sites:

Site name	Location	Mobile Shops /Stalls	Power
Havelock Street cul-de-sac	Ashburton	Both	No
Ashburton Domain Layby	Ashburton	Both	No
Old Post Office green area	Adjacent to 390 East Street, Ashburton	Both	No
Rowing Club, Lake Hood	Ashburton	Both	No
Playground, Lake Hood	Huntingdon Avenue, Ashburton	Both	No
South End Picnic Area, Lake Hood	Ashburton	Both	No
East Street Concrete Pad	Ashburton	Stalls only	No
East Street Footpath	242 East Street, Ashburton	Stalls only	No
The Square	Main Street, Methven	Stalls only	No
Mt Hutt Memorial Hall	160 Main St, Methven	Both	Yes
Lochhead Subdivision green space	Lochhead Crescent, Methven	Stalls only	No
Chambers Park	Spaxton Street, Methven	Stalls only	No
Railway Terrace East	Rakaia (proposed dump station)	Both	No
Railway Terrace West	Rakaia	Stalls only	No
Rakaia Terrace	Rakaia	Stalls only	No

Schedule 1

Discretionary sites

The following are discretionary sites, during the timeframes specified:

Site name	Location	Mobile Shops / Stalls	Power	Timeframe
East Street	Ashburton	Both	Yes (outside clock tower)	One off events as agreed by an Authorised Officer
West Street Car Park	Ashburton	Both, for the purposes of a Market	Yes	During weekends and after 5pm weekdays
Havelock Street, Baring Square East	Ashburton	Both	Yes	One off events as agreed by an Authorised Officer
Salmon Site	9 Railway Terrace, Rakaia	Stalls only	No	One off events as agreed by an Authorised Officer

Schedule 1

Part B: Criteria for determining other sites

An Authorised Officer may use discretion to permit mobile shops and stalls to trade at sites other than those listed in Part A, Schedule 1.

There must be good reason why the permitted sites are not suitable and the proposed site must be consistent with the following criteria:

- Mobile shops and stalls must be located in areas controlled by speed limits of 50km or less.
- Mobile shops and stalls must be at least 100 metres (nearest point to nearest point) from any business premises selling like goods or services.
- There must be adequate and safe roadside customer parking available at the site.

In addition, in deciding to grant or decline an application for an alternative site, the following must be taken into consideration:

- (a) the nature of the activity;
- (b) the location and duration of the activity;
- (c) the degree to which public use of the street or public place will be maintained;
- (d) whether it is likely to cause a nuisance, obstruction or a hazard to pedestrians or vehicular traffic;
- (e) the potential impacts on the surrounding environment (including immediately adjacent stakeholders) as a result of noise, smell, glare, light spill, appearance or any other effects.



Schedule 2

Permitted sites: mobile shops & stalls

The following are permitted sites for mobile shops and stalls:

Havelock Street cul-de-sac



Schedule 2

Ashburton Domain Layby

Limited to 3 shops/stalls at any one time



Old Post Office green area

[illegible]

An aerial photograph showing a coastal area. Two land parcels are highlighted with orange outlines. The left parcel contains a large, light-colored building with a flat roof. The right parcel is an open, light-colored lot. A road runs along the top of the parcels, and a body of water is visible on the right side. A purple line, possibly a utility or boundary line, runs along the road. A black 'X' mark is visible in the top left corner of the image.

Schedule 2

Playground, Lake Hood

Huntingdon Avenue, Ashburton



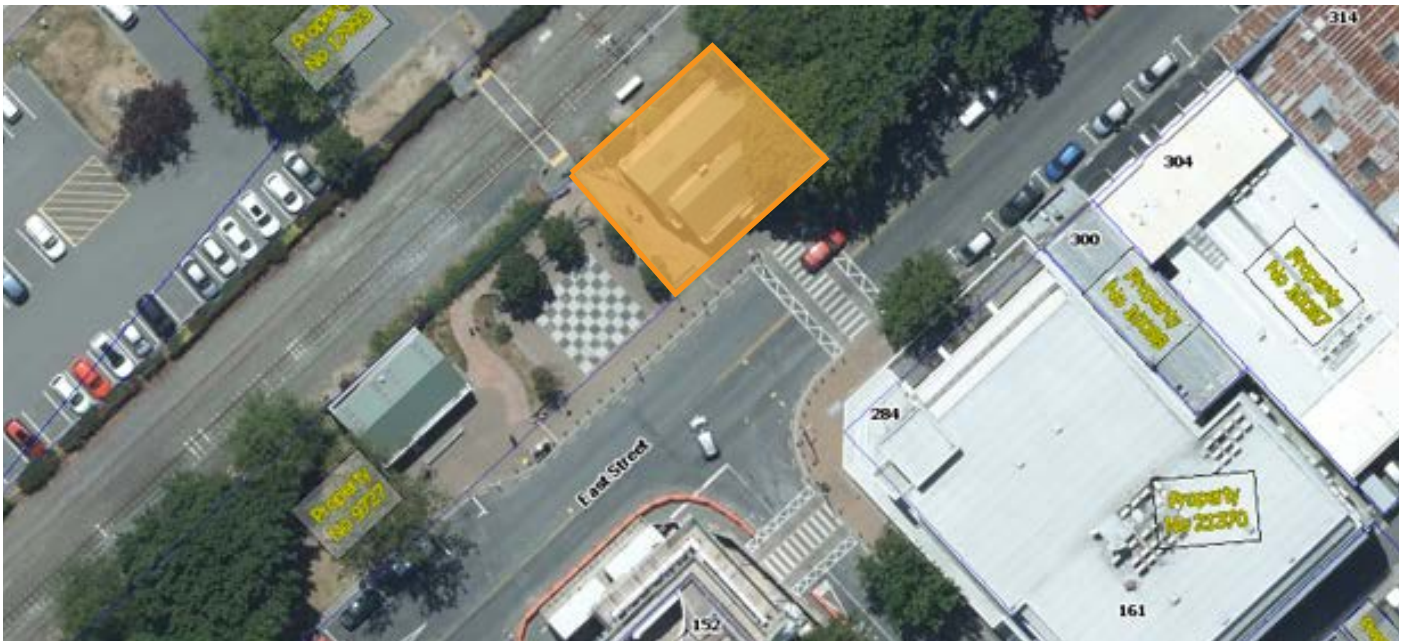
South End Picnic Area, Lake Hood



Schedule 2

East Street Concrete Pad

Stalls only



East Street Footpath

242 East Street, Ashburton

Stalls only



Schedule 2

The Square

Main Street, Methven
Stalls only



Mt Hutt Memorial Hall

160 Main Street, Methven



Schedule 2

Lochhead Subdivision greenspace

Lochhead Crescent, Methven
Stalls only



Chambers Park

Spaxton Street, Methven
Stalls only



Schedule 2

Railway Terrace East, Rakaia



Railway Terrace West, Rakaia

Stalls only



Schedule 2

Rakaia Terrace, Rakaia

Stalls only



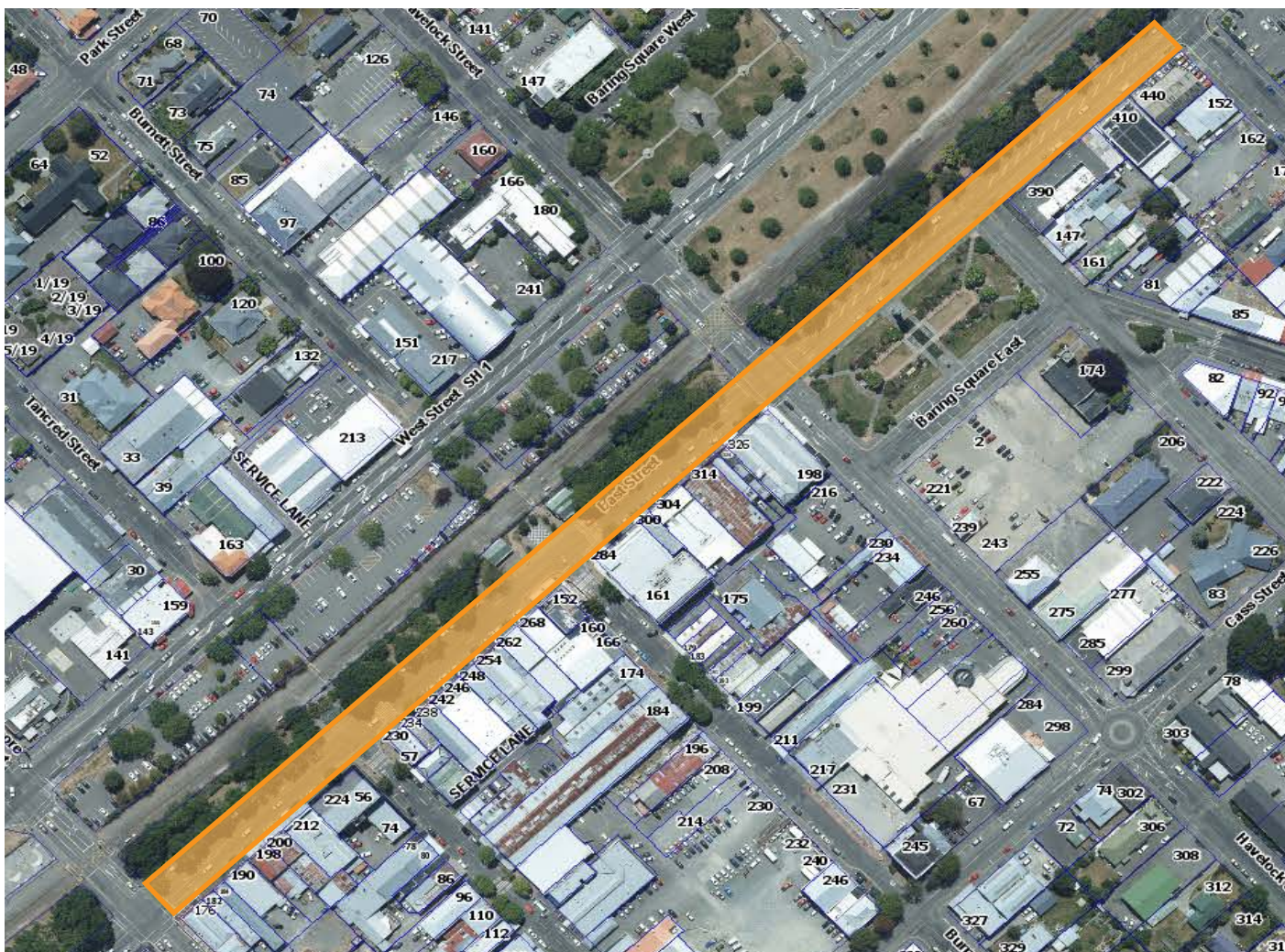
Schedule 2

Discretionary Sites

The following are discretionary sites for mobile shops and stalls during the timeframes specified:

East Street

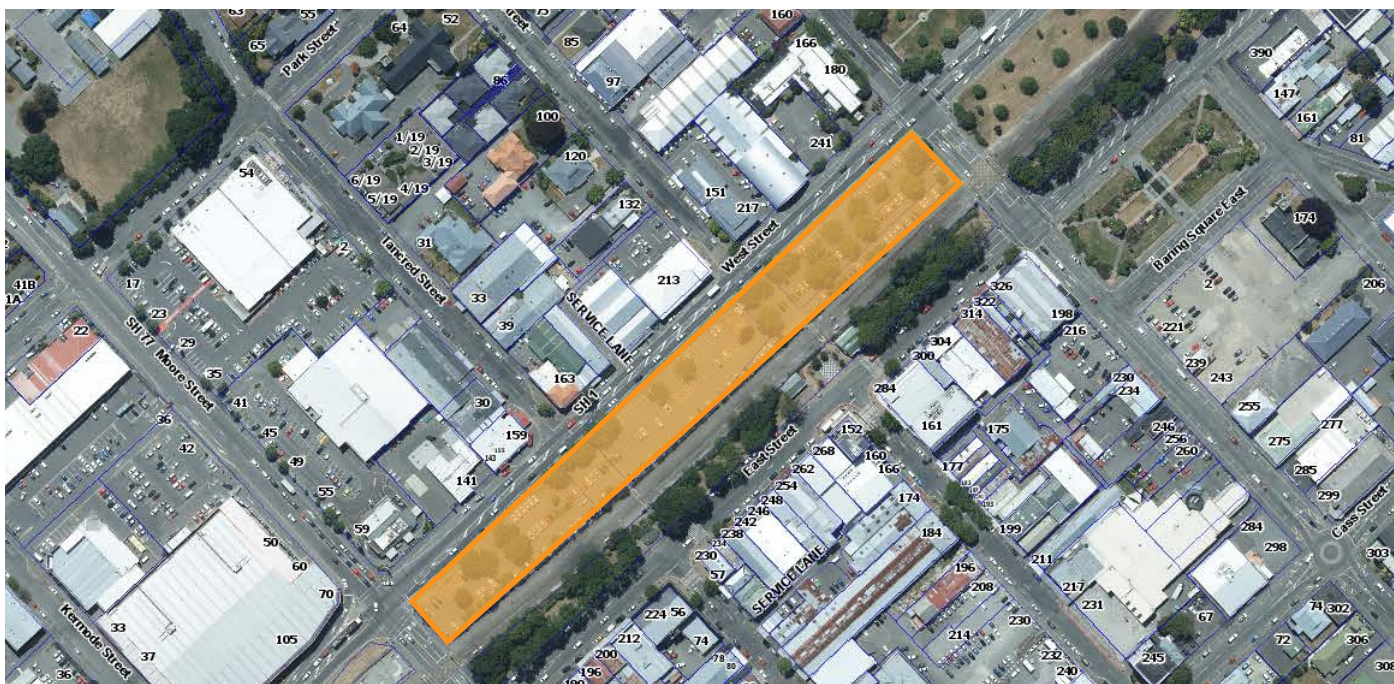
One-off events as agreed by an Authorised Officer



Schedule 2

West Street Car Park

For the purposes of a market
During weekends and after 5pm weekdays



Havelock Street, Baring Square East

One-off events as agreed by an Authorised Officer



Schedule 2

Salmon Site, Rakaia

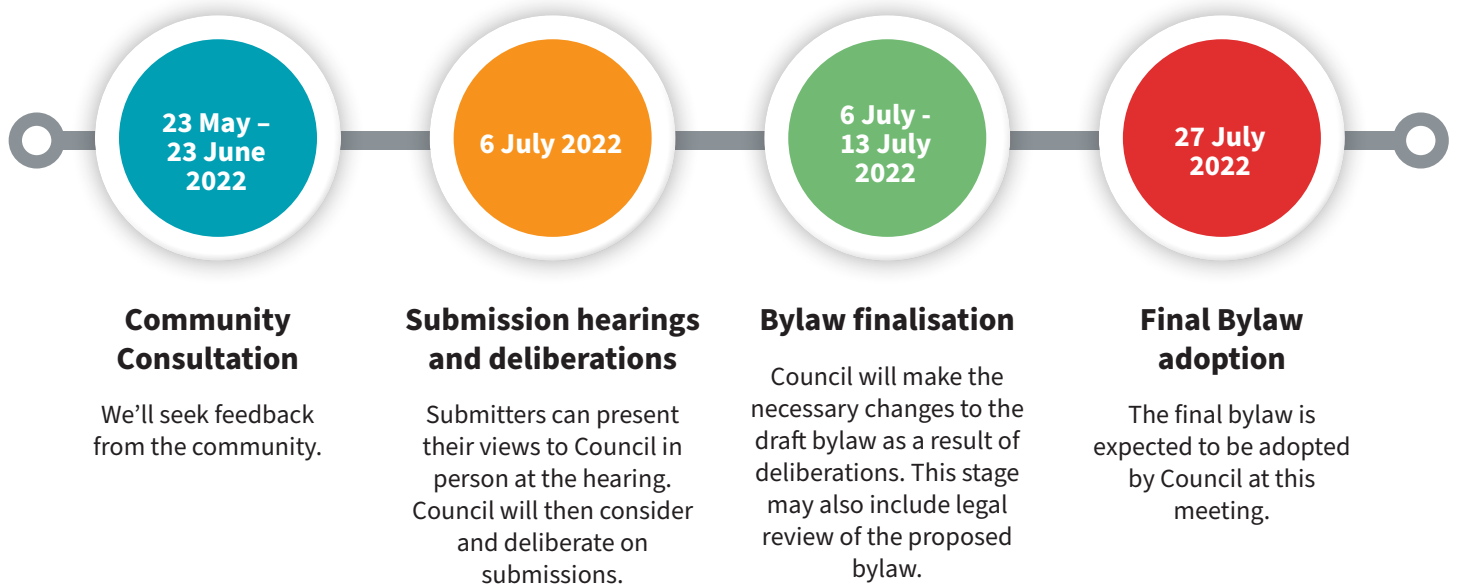
Stalls only

One-off events as agreed by an Authorised Officer



What happens next?

Project Timeline



We are accepting feedback until 5pm, Thursday 23 June 2022.

The easiest way to provide your feedback is to complete the form online at ashburtondc.govt.nz

Alternatively, you can provide feedback by filling in the attached submission form and getting it back to us using one of the following methods:



FREEPOST TO

Ashburton District Council
Freepost 230444
PO Box 94
Ashburton 7740



ONLINE AT

ashburtondc.govt.nz/haveyoursay



IN PERSON

Dropping it off at:
Ashburton District
Council reception –
5 Baring Square West



EMAIL TO

submissions@adc.govt.nz



We are reviewing our Mobile Shops, Stalls and Hawkers Bylaw. Your view is important to us, and we encourage you to make a submission. Written submissions can be made to the Council up **until 5pm, Thursday 23 June 2022.**

*Have your
Say!*

*We want to hear
from YOU!*

Tell us what you think of
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ashburtondc.govt.nz/haveyoursay

**Please note all submissions are public documents and will be made available on Council's website.*

Submissions presented in the form of a petition or accompanied by multiple signatures will be treated as a single submission.

Your details

First name: _____ Last name: _____

Organisation (if appropriate): _____

Street number: _____ Street name: _____

Suburb / Town / RD: _____ Postcode: _____

Phone: _____ Email: _____

Do you wish to speak in support of your submission at the hearing?

(If no boxes are ticked, it will be considered that you do not wish to be heard)

☐

Yes: The hearing is expected to be held in the Council Chamber on **Wednesday 6 July 2022**. Please note that hearings are live-streamed to our online channels.

☐

No: I do not wish to speak in support of my submission and ask that the following written submission be fully considered.

I intend to present:

☐

In Person

☐

Virtually

Signature: _____

Date: _____



Draft Trading in Public Places Bylaw is available from ashburtondc.govt.nz/haveyoursay

You can submit on any or all of the questions below. You don't have to complete every question.

1 Do you agree that this bylaw should be renamed to "Trading in Public Places Bylaw"?

☐ Yes ☐ No

2 Do you agree with any of the proposed changes to permitted or discretionary sites? Which sites do you agree or disagree with?

☐ Yes ☐ No

3 Do you have any other comments?

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