

**TO: EACH MEMBER OF WATERFORD CITY AND COUNTY COUNCIL**

**Report on Draft Waterford City and County Council Casual Trading (Control and Designation) Bye – Laws 2021.**

**Statutory Basis**

The Casual Trading Act 1995 provides a statutory requirement on each local authority to make bye-laws in relation to the control, regulation, supervision and administration of casual trading in its functional area. There is a prescribed procedure for making Casual Trading Bye-Laws, including a statutory public consultation process.

The making of Casual Trading Bye-Laws is a reserved function of the Council.

**Review**

A review of the Casual Trading Bye-Laws was initiated by the Economic Development and Enterprise SPC at their meeting of the 22<sup>nd</sup> July 2020 in order to review the bye - laws operating in the city and county.

Following a number of meetings a pre consultation draft document was presented to the Economic Development and Enterprise SPC meeting of the 2<sup>nd</sup> December. It was agreed to commence formal process for the Draft Waterford City and County Council Casual Trading (Control and Designation) Bye – Laws 2021.

Approval to the commencement of the formal process to make Draft Waterford City and County Council Casual Trading (Control and Designation) Bye – Laws 2021 was given at Plenary meeting of Waterford City and County Council on the 10<sup>th</sup> December 2020.

**Public Consultation Process**

The public consultation process for the Draft Waterford City and County Council Casual Trading (Control and Designation) Bye – Laws 2021 was initiated on 15th December 2020 with the draft document and associated maps published on the Council's website and copies of the documents being made available in the Council offices in Bailey's New Street, Waterford and Civic Offices, Dungarvan from that date. In addition to the above it was added as a Facebook post on 5-1-21

<https://business.facebook.com/357387964422/posts/10157989679109423/> and same on Twitter on 18-12-20 - <https://twitter.com/WaterfordCouncil/status/1339934739566895105>

Notice of the Council's proposal to review Bye-Laws to control and designate casual trading in its administrative area was also published on 15th December 2020 in the Munster Express, and Dungarvan Leader newspapers.

The closing date for submissions / observations which could be made in writing was 29<sup>th</sup> January 2021.

77 submissions were received and issues raised were considered in making recommendations which are outlined in the attached report. The end of the report contains a schedule of all locations where casual trading can be carried out following the adoption of these bye laws.

## **Recommendation**

Following consideration of the draft Waterford City and County Council Casual Trading (Control and Designation) Bye – Laws 2021 as published, and the observations and submissions received as part of the public consultation I recommend the adoption of the proposed Draft Waterford City and County Council Casual Trading (Control and Designation) Bye – Laws 2021 as proposed subject to the recommendations outlined in this report.

Michael Quinn,  
Director of Economic Development & Planning  
8<sup>th</sup> February 2021.

**List of the parties who submitted submissions.**

**Metropolitan District**

**Dunmore East**

<b>Sub. No</b>	<b>Name</b>	<b>Issues raised</b>
1	Mary Merritt	Against, area well served by existing businesses who pay rates and create employment, short tourist season.
2	Adriano Cavaliere	Against proposal, area well served by existing businesses who pay rates and create employment, short tourist season and potential littering.
3	Stephanie Higgins	Against proposal, area well served by existing businesses who provide high quality offering , also potential litter issues
4	Deirdre Higgins	Against proposal, area well served by existing businesses who provide high quality offering
5	Shayne Curtin	For proposal
6	Niall Edmondson	Against due to highly seasonal trade and revenue. There are already 13 eateries within the village,has a environmental study been undertake , the amount of rubbish that will be created , rats etc.
7	Tony Boland	Against proposal as it is a beautiful location and would spoil the scenery and have negative environmental effects.
8	Clifton Foyle	Against, area well served by existing businesses who pay rates and create employment, short tourist season.
9	Nigel O'Sullivan	Against, area well served by existing businesses who pay rates and create employment, short tourist season.
10	Tony Kelly	Against, area well served by existing businesses who pay rates and create employment, short tourist season.
11	Max Fezer	Against due to highly seasonal trade and revenue challenges in current climate. There are already sufficient eateries within the village, also the amount of litter that will be created.
12	Karmele Buitrago	Against, area well served by existing businesses who pay rates and create employment, short tourist season.
13	Peter Power	Against due to highly seasonal trade and revenue challenges in current climate. There are already sufficient eateries within the village, also the amount of litter that will be created
14	Jon Walsh	Against, area well served by existing businesses who pay rates and create employment, short tourist season, traffic congestion, litter and potential anti social activity.
15	Raina Freiberg	Against, area well served by existing businesses who pay rates and create employment, short tourist season, traffic congestion, litter and potential anti social activity.

16	Denis O'Donovan	Against, area well served by existing businesses, potential for traffic congestion and littering
17	Elaine Power	Against, area well served by existing businesses, potential for traffic congestion and littering
18	Ann James	Supports proposal
19	Maura Saddington	Against, area well served by existing businesses who pay rates and create employment, litter and would be unsightly in scenic location.
20	Lyla Colfer	Supports proposal
21	Jessica Colfer	Supports proposal
22	Ralf Pallas.	Against, area well served by existing businesses who pay rates and create employment
23	Olivia Power	Amenities around the coast must be kept free for all people and not a pressurised experience to spend. It is the importance of open spaces, local community, and environment. Going forward villages like Dunmore East need to be celebrated as unspoiled
24	Emer Bailey	Against, area well served by existing businesses, traffic congestion, litter and scenic location.
25	Russ Bailey	Against, area well served by existing businesses, traffic congestion, litter and scenic location.
26	Yvonne Power	Against, area well served by existing businesses who create employment, traffic congestion,
27	Trevor & Valerie Walsh	Against as no traffic or parking plan
28	Margaret Brookes	Against, area well served by existing businesses who pay rates, litter and scenic location.
29	Kallie Anne Colfer	Supports proposal as it will help local traders
30	Colin O Shea	Against, area well served by existing businesses who pay rates and create employment, short tourist season.
31	Mark Dwan	Supports proposal as its the furthest beach from anything else
32	Rachel Hartery	Provides options
33	Aeron James	Supports as village would benefit and it would enhance the area
34	Maria Walsh	Against, area well served by existing businesses, traffic congestion, litter and scenic location

35	Margaret Wilkins	Supports local traders and thinks casual traders should be backed and supported by the council at the moment it would have a totally positive impact on local business when things return to normal

The issues raised in the submissions are categorised under the following:

Unfair on existing businesses who maintain business and employment in a short tourist season, traffic concerns and potential for littering and would be unsightly in scenic location.

Of the 35 submissions received 26 were against the proposal with 9 in support.

**Recommendation**

Amend PART III: Designated Areas and Times of Trading to remove the proposed 2 designated areas on Councillors Strand Car Park.

**Newtown Cove**

1	Maebh Molloy	Proposed an alternative option of a 10ft container to be used at the pitch instead of a van
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The issues raised in the submissions are categorised under the following:

Proposed an alternative option of a 10ft container to be used at the pitch instead of a van.  
Council response Container could create planning issues not suitable.

**Recommendation**

PART III: Designated Areas and Times of Trading for Newtown Cove as per the proposed by laws.

**Tramore**

1	Tom Geraghty	We at Tramore Butchers wish to lodge a complaint to the proposed casual trading for Priests Road Tramore for the increasing of trading spaces for casual traders to 20 and full days trading on Fridays & Saturdays, the current situation is already having a negative effect on our business where our customers are finding it hard to get car parking spaces . A Market in Tramore is a great Idea we think it would make much more sense to have it somewhere like the unused car park on the prom where it will also be more attractive to tourists to the area who would also have plenty of additional parking spaces. Trading in very difficult times and have so much competition with Aldi Lidl Supervalu and Tesco, small business trying to keep local jobs and the carpark is vital for our business to survive as our customers need to have parking.
2	Teresa Wall	Same as No.1
3	Paul O Reilly	Not opposed to a local market selling artisan food ,home produce etc however the numbers of traders needs to be limited also any changes would need to be policed which is not the case at present as there are currently a lot more than 8 traders trading and selling a lot more than home produce. At present the traders are trading every Saturday 9 a.m. to <u>1.p.m</u> And the car park is available for customers and others to <u>park</u> . So totally opposed to increasing the traders hours from 9 to 5pm Fridays and Saturdays, and also 7 days a week in December.
4	Cllr. J. Conway	The Railway Station – Support a maximum of eight pitches. This would give an opportunity to appraise the suitability of the location i.e traffic-wise and amenity-wise, how it would bed in at a location that is so prominent at the entrance to the town, and backed by an architectural gem.

		Priests' Road – recommend a maximum 50% increase 12 pitches in all. Again, it is a <u>VERY</u> hazardous locus for traffic, with an almost constant flow of traffic in and out of Super Valu at these times, and sightlines are poor left and right. Parking is also tight, with heavy usage for the Church, Paul's, The Tramore Butcher and the CU. I really think twenty would be dangerously excessive here
5	Declan Downey	Priest Rd. Concerns causes very limited car parking, affecting existing businesses as they sell similar products. The proposal to use the area at the old train station simply makes more sense. The road is wider, parking is much better and it's more attractive for casual trading.
6	Vivienne Ridgard.	Old Railway Station - no objection in the main to the area at the Old Railway Station been opened up for trading purposes. However the preferred and open to consideration parts of the bye law leaves the interpretation very open. Arts and crafts most welcome as would anything along those lines. However a serious objection to any kind of food stalls been allowed to set up in the area, you see vendors selling everything from ice cream to soft drinks to preparing rolls and sandwiches on site. Furthermore days of trading running from 1 <sup>st</sup> January to 31st December opposed as it is allowing casual trading in the area 7 days a week all year round. Market stalls should be an added service or attraction to the area on weekends when footfall is naturally higher. It is also imperative that these licence holders pay their share of commercial rates.
7	Alan Dooly	Old Railway Station Concerns re Trading time : market trading time in most European cities is between 8am - 1pm , on 1 weekend day, either Saturday or Sunday not both. Believe that is a fair allocation for trading. Trading Numbers: Feel that a maximum of 10 traders is more than enough considering there is already 2 other markets within the town. Set up Casual Trading Monitoring Committee. Putting a Facebook roster page in place to make sure traders don't feel they own there patch and that each trading application to trade gets a fair trading allocation of dates. This would be beneficial to the customers. Making sure daily trader numbers doesn't exceed allocation. 50-50 mix of food traders to craft traders. Conflict of Interest. Monitoring of trade crossovers between traders and established businesses in the area. e.g traders selling coffee when there are 6 established coffee selling businesses within 100 metres. Food Safety: making sure that each food vendor adheres to Food Safety protocols e.g hot water facility, etc.
8	Gary Bourke	Prom - Casual Trading that has been conducted on the Prom for the last number of years basically involves Traders selling products out of the back of Vans it gives a very poor image of Tramore  Trading Hours - The new Bye Laws proposes to extend the Casual trading from April – end September. If the Bye law is approved Casual Traders will have the same trading period as businesses and also can trade 7 days a week ( no other County in Ireland allow Casual traders trade 7 days a week)  Unfair competition - Don't have operate or maintain buildings, pay rates, register for VAT, pay Insurance including Public Liability, don't have to provide Chip & Pin facilities even more relevant since covid  Old Railway station - If Casual Traders are to operate all year to make it fair they should be charged at least €150 a week of their pitch otherwise current business in the area will not be able to complete  If railway square was to operate as a Country market at weekends like other parts of the country we wouldn't have an issue with that.

9	Darragh O'Connor	Promenade car park - Creates unfair competition as they are not subject to the same costs like Rates and upkeep of premises etc. Objection to the proposed elongation of Trading period and time. The days of trading period in which the casual trading is permitted is set out in the proposal as 7 days a week 1 <sup>st</sup> of April to the 31 <sup>st</sup> Of September. I think it is unfair competition and that really the period of casual trading in this area needs to be reduced to one day a week or a half day a week not 7 days of the week.
10	Anthony O'Reilly	Promenade car park Creates unfair competition as they are not subject to the same costs like Rates and upkeep of premises etc.  Old Railway station – Supports as it has the potential to enhance the area. Of note permitted the sale of goods that are “considered to be beneficial to the mix or diversity of products available for sale” along with Artisan produce. Contends that if casual trading is to continue at the Promenade car-park then the same criteria that applies at The Railway Station site should apply there.
11	Waterford Chamber of Commerce	Promenade car park - Creates unfair competition alternative offering should be allowed.  Old Railway station - is most welcome and we look forward to seeing that develop in the months ahead.

The issues raised in the submissions are categorised under the following:

**Priests Road:** The proposed casual trading increasing the trading spaces for casual traders to 20 and full days trading on Fridays & Saturdays, will have a negative effect on business due to loss of car parking spaces and selling of competing products also local business creates employment.

**Old Railway Station, Strand Street:** Concerns re numbers of pitches considering the location. Arts and crafts vendors welcomed, objections to food stalls been allowed to set up in the area. Issues with casual trading in the area 7 days a week all year round. Unfair on business in area due to rates as traders don't have the overheads so fees should be increased to remove unfairness. Location is more suitable for weekend country market.

**Promenade Car Park** Traders selling products out of the back of Vans gives a very poor image of Tramore. Issue with extended trading times, and unfair competition

#### Recommendation

**Priests Road:** Amend PART III: Designated Areas and Times of Trading to remove the proposed 20 designated areas to the existing 8 designated areas with no change to trading times.

**Old Railway Station:** Amend PART III: Designated Areas and Times of Trading to reduce designated area to 12 trading spaces due to concerns regarding effect on existing businesses, traffic and parking

**Promenade Car Park:** Amend PART III: Designated Areas and Times of Trading to reflect current trading times.

#### Waterford City - Cultural Quarter

1	Ed Cahill	Cultural Quarter -Supports high quality locally produced arts and crafts goods and locally produced cultural and artisan food products, high quality collection of traders in the heart of the Cultural Quarter will add much needed vibrancy and animation, particularly to the pedestrianised portion of O'Connell Street on the weekends. Noted overlap of outdoor seating areas and Casual trading areas on mapping of O Connell St.
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2	Keith Daniels	Supports proposal but wants to avoid same food offering as Phoenix Yard Market
3	Waterford Chamber of Commerce	Scope to extend the areas identified within the city centre, to include areas such as the William Vincent Wallace Plaza.

The issues raised in the submissions are categorised under the following:

Importance of high quality locally produced arts and crafts goods and locally produced cultural and artisan food products, high quality collection of traders. Extend to casual trading to William Vincent Wallace Plaza.

#### **Recommendation**

PART III: Designated Areas and Times of Trading for Waterford Cultural Quarter as per the proposed bye laws. Submission for inclusion for casual trading on William Vincent Wallace Plaza premature.

### **Woodstown**

1	Brendan Grogan	<p>1. Section 21 refers to diesel generators. -Provision should be made to limit the dB level to 50-65 dB. -Cables and services should not be allowed to cross the main thoroughfare from a H&amp;S aspect.</p> <p>2. General. -Council bye laws are largely neither obeyed nor enforced.</p>
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The issues raised in the submissions are categorised under the following:

Noise level, cables and services should not be allowed to cross the main thoroughfare from a H&S aspect.

#### **Recommendation**

PART III: Designated Areas and Times of Trading for Woodstown as per the proposed Bye -Laws.

### **Comeragh District**

1	Kieran O Connor	Suggested Kilclooney woods -(Times of Trading 8am to 9pm weekends & public holidays October 1st to March 31st. Each day April 1st to Sept.30th)
2	Economic Development Waterford City & County Council	Change the trading days for Main Street Kilmacthomas from Wednesday to Thursday. This change is to accommodate the existing Fish monger who trades there.
3	Cllr. L Brazil	Include Stradbally village due to setting up of local farmers market
4	Críostóir Ó Faoláin	Against the removal of Bunmahon and Mahon Falls.

The issues raised in the submissions are categorised under the following:



Include Kilclooney woods, change day of trading in Kilmacthomas to include existing trading day and include Stradbally due to setting up of local farmers market. Retain Bunmahon and Mahon Falls. It should be noted Council do not own the Lands at Kilclooney Woods. Need met by existing businesses in Bunmahon and Mahon Falls.

**Recommendation**

PART III: Designated Areas and Times of Trading in Comeragh District as per the proposed Bye –Laws subject to

- a) Changing Main St. Kilmacthomas trading day to Thursday and
- b) Including 5 designated pitches in Stradbally Village trading times Saturday 9am to 5pm

**Dungarvan & Lismore District**

1	Darren Conroy	Requesting the inclusion of the kitchen hole in Cappoquin and was hoping to organize a community Market in the Tallow at The Ramp Boreen (Hydes Park).
2	Kieran O Connor	Suggested Castleside of Clonea -(Times of Trading 8am to 9pm weekends & public holidays October 1st to March 31st. Each day April 1st to Sept.30th)

The issues raised in the submissions are categorised under the following:

The inclusion of the area known as the *Kitchen Hole* on the Cappaquin to Lismore Road and provision at the Castleside in Clonea

Comment on issues. The area known as the *Kitchen Hole* is unsafe from a traffic safety perspective and existing businesses cater for needs in Clonea.

**Recommendation**

No changes to PART III: Designated Areas and Times of Trading in proposed Bye –Laws.

**Tallow**

1	Cllr. John Pratt, Tallow Tidy Towns Tallow Community Council	Propose the creation of a total of 10 casual trading spaces in the Car Park in Tallow and to retain the 2 spaces in The Square. Located in a very safe area of town with plenty parking see this as a forward thinking and positive move for the town. Tallow has shown great foresight during all of lockdown and trade is brisk despite restrictions, numerous artists, artisan food producers and cottage industries in the area and see the market weekly as a way of supporting them while encouraging visitors and customers to the town. We also envisage that Tallow will be included in future years in the slow food trail as part of the West Waterford Festival of Food
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The issues raised in the submissions are categorised under the following:

Increase casual trading spaces in Town Centre Car Park from 6 spaces to 10 and retain the 2 casual trading spaces at Tallow Square

**Recommendation**

Amend PART III: Designated Areas and Times of Trading in proposed Bye –Laws to include 10 trading spaces Town Centre Car Park instead of 6 and reverse the proposal to de-designate the 2 spaces on Tallow Square.

**Abbeyside Dungarvan**

1	Cllr Tomas Phelan	The use of am or pm for 12 o'clock can be ambiguous because it's not definitive whether it's midday or midnight that's being referred to. In this case does 12pm mean midday or midnight? Would the current occupant have to re-apply for that area or does their occupancy
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		continue indefinitely? how does that process work? Trading times should remain unchanged to allow for trading up to 2am as has historically been the case.
2	Louise O Donnell	Retain existing trading times

The issues raised in the submissions are categorised under the following:

Retain the existing trading times

**Recommendation**

Amend PART III: Designated Areas and Times of Trading in proposed Bye –Laws to reinstate current trading times.

**Greenway Durrow Car Park**

1	Jack Mcgrath	In favour of the proposal to create a pitch at Durrow car park on the Waterford Greenway.
2	John Morrissey	In favour of the proposal to create a pitch at Durrow car park on the Waterford Greenway
3	Cllr. C.D. McGuinness	Supports proposal to create a pitch at Durrow car park. Conditions on licensed trader to ensure sufficient bins in the vicinity of the pitch during trading hours and ensure these are emptied regularly.  - Packaging should be compostable or recyclable where possible.  - the food and drink offering should be of excellent quality with an emphasis on locally sourced produce.
4	Garvan Cummins	There is already a pub and shop at Durrow and has become a major focal point of the Greenway and seen as an iconic stop for many. Would not like to see proposed Casual Trading area competing with them due to sustainability of their business. However if that business was not there proposals would be welcome.
5	Laurence and Aine Walsh	Would not like to see proposed Casual Trading area competing with existing business. If the business not there good idea with certain conditions.

The issues raised in the submissions are categorised under the following:

General support for existing established business.

**Recommendation**

Amend PART III: Designated Areas and Times of Trading in proposed Bye –Laws at Durrow Carpark to remove the proposal for casual trading as a satisfactory offering will be provided at Durrow Train Station, Shanacool

**General Submissions**

1	Environment Dept. Waterford City & County Council	Suggested text for inclusion in the byelaws in order to comply with the Council's Single Use Plastics Policy
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The issues raised in the submissions are categorised under the following:

Suggested text supplied to include in Bye –Laws in order to comply with the Council’s Single Use Plastics Policy.

**Recommendation**

Sections 2 and 6 which reference waste management will be amended to include the suggested text below in order to comply with the Council’s Single Use Plastics Policy.

*The provision or sale of any single use plastic product at these events will be prohibited; this includes bottles, cutlery, containers, single use sachets, plates, straws, etc. Compostable or reusable alternatives must be used instead of single use plastic. The Food waste bin(s) should clearly state that the plates, cups, etc are compostable and can be placed in this bin.*

2	Roads Department Waterford City & County Council	Suggested section for inclusion in the byelaws in order to incorporate Beach Trading Policy.
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The issues raised in the submissions are categorised under the following:

Suggested text supplied to include in Bye –Laws in order to in order to incorporate Beach Trading Policy.

**Recommendation**

Section 7 will be amended to include the following section

7.5 Beach Trading Licences

Beach trading includes the sale of goods or services, the hire of equipment or the provision of tuition on a beach. Beach Trading licences are limited to the beaches listed in the “First Schedule” to the Beach Bye-Laws. In determining whether to permit beach trading at a selected site, the Council will consider the following:-

- i. Any effect on road safety, arising from the siting of the pitch or from customers visiting or leaving;
- ii. Any loss of amenity caused by noise, traffic, smell or other nuisance;
- iii. The provisions of any existing Bye-laws (incl. Parking and Beach Bye-laws) or other regulations governing matters such as waiting restrictions, parking, etc;
- iv. Any potential obstruction of pedestrian or vehicular access;
- v. Any obstruction to the safe passage of pedestrians or beach users;
- vi. The safe access and egress of customers and staff from the pitch and immediate vicinity;
- vii. The impact on local businesses;
- viii. The impact on the character of the area;
- ix. The nature of goods or services which may be sold from any pitch will be as specified in the application process. No substantial change to the products/services sold will be permitted without referral back to the Roads Department;
- x. All Beach Trading Licences are renewed on a specific annual date, renewal forms will be posted out in January each year by the Roads Department.
- xi. A licence granted by the Council shall be valid for a period of twelve (12) months after date of issue, in the case of a licence for an activity, or for the duration of the event in the case of a licence granted for an event.
- xii. All licences issued are subject to the terms and conditions of the Beach Bye-Laws.
- xiii. Applicants providing water sports tuition will be required to meet and provide evidential proof of compliance / certification with the relevant current standards with respect to standards as may be prescribed or recommended by the Irish Surfing Association, Irish Water Safety and any other standards as may be determined by the Council.
- xiv. Applicants must submit all the required documentation as set out in the Beach Trading Application form, with the relevant fee.
- xv. First time applicants should contact the Administrative Officer, Roads Department to request an application form.

*Definition of "Beach" to be included in No. 5 Interpretation*

"Beach" refers to the area of the seashore and the foreshore. The words "seashore and foreshore" are defined in the Foreshore Act, 1933 (as amended). For the purposes of these bye-laws a "beach" shall include: any strand and/or area immediately adjacent to the foreshore consisting of a natural accumulation of sand/sand dunes and/or stones and/or shingle, which can be in either public or private ownership, any public parking place, footpath, public realm area, public open space or roadway that is immediately adjacent to the beach, together with the foreshore waters for a distance of 300 meters seaward from the shore and as listed on the First Schedule to the Beach Bye-Laws.

3	Thomas Doyle	Against proposals no location provided
4	Nicole Murray	Against proposals no location provided
5	Megan Duffy	Against proposals no location provided
6	Sylvester Murray.	It would be nice to see the council consider including a designated trading area at Ceann Heilbhic for food, snacks and non alcoholic beverages. There is an opening in this area for this, as it would draw visitors to this very scenic part of West Waterford and also service the needs of locals.
7	Sean Fitzpatrick	Against proposals no location provided
8	Cllr. C.D. McGuinness	Include a designated trading area at Ceann Heilbhic All food and drink traders, across all districts, should be required by way of Special.  Condition, to identify their business name on their packaging
9	Cllr Tomas Phelan	See submission below
10	Cian Ó Conchúir	Include a designated trading area at Cé Heilbhic for the sale of high-quality street-food, drinks and snacks possibly at the lay by opposite Murray's Pub, or in the vicinity of Cé Heilbhic. The operator should be required to have all signage in Irish, or at a minimum, bilingual in Irish/ English, and should be required to ensure that service is available bilingually. The food and drink offering should be of exceptional quality, with an emphasis on locally sourced ingredients
11	Deuglan O Reagain	Highlighted the omission of the Ghaeltacht area of An Rinn in the proposed designation within the draft bye laws. Helvick Head has the unique selling point of having a working fishing harbour and presents entrepreneurial opportunity to optimise the food offering that could enhance the current first class dining experience in the Dungarvan area.
12	Críostóir Ó Faoláin	Wants the designation of Helvic Head included.

Councillor Tom Phelan submission	Council Responses
Have the requirements regarding paint marking or colour brick, and regarding size of area been enforced to date? If not there should be an allowance/amnesty to permit current licence holders to continue as-is if they don't currently meet these requirements. Or else these requirements should be removed.  Who is expected to do the paint marking or installation of the	The definition here is taken from the 1995 Casual Trading Act.  For the 2017 bye laws the Council did not mark out the pitches as it was expected that they would need to be reviewed after 3 years, instead the location was clearly defined in the licence.

<p>colour brick?</p> <p>Also, the definition, and further references throughout the bye-laws, would be clearer by specifying that Trading Place and Trading Pitch are interchangeable terms with the same meaning, because trading pitch is used frequently in the bye-laws.</p>	<p>Council required under the act to defined the location.</p> <p>Council are responsible for all markings.</p> <p>No confusion has arisen to date, the term pitch is the generally accepted term by traders whereas trading place is a term used in 1995 Casual Trading Act.</p>
<p>This imposes an impractical, and in many cases impossible, requirement of stall holders to remove their stall at the end of each day's trading. Apart from the issue of what constitutes a stall not being defined, this poses a problem for traders who have licence to trade on consecutive days and who have large units that cannot easily be dismantled daily (and for which there may be no need to do so apart from the requirement to comply with this section of this bye-law).</p> <p>In relation to height there should be an exemption for current casual traders with units in excess of 2.5 metres in height.</p>	<p>Stalls by their very nature are meant to be temporary and easily removable.</p> <p>Large units that are not easily dismantled would not normally be permitted. The units at Youghal Bridge and Abbeyside are legacy units and would not be permitted again.</p> <p>Council can amend the height restriction wording to remove this restriction.</p>
<p>Does "person" here also include legal entities where a licence may be held by a company?</p>	<p>Yes. Wording is taken from the act.</p>
<p>Can text be inserted here, or elsewhere appropriate, to make it clear that casual traders holding licences under the outgoing bye-laws will continue to hold them without change following repeal of the previous bye-laws, and to clarify that their trading places are not considered vacant and they do not have to re-apply for them by virtue of the repeal and replacement of the outgoing bye-laws?</p>	<p>It is an important principle under the act that traders must renew their licence each year and that the Council has the right to refuse a renewal.</p> <p>However wording can be added to the allocation policy to include a right of first refusal for existing traders where Council have no objection to the trading continuing.</p>
<p>Consideration should be given to make express provision for the temporary suspension of licences if deemed appropriate to do so on grounds of public emergency (e.g. to prevent lack of social distancing during pandemic), subject to an appeals mechanism.</p>	<p>Only Central Government can declare a public emergency and they set the restrictions.</p>
<p>This section provides that the area within which a licence holder can trade is to be described in their licence OR delineated by a paint marking. However, in the earlier section of the document dealing with Trading Places it is provided that the area in which the licence holder can trade will be described in their licence AND be delineated by paint marking or different colour brick. These provisions are inconsistent with each other. It would be more practical for the area within which the trader can operate to be clearly described in their licence, with physical delineation required only where there is room for doubt, and not as an additional requirement.</p>	<p>The wording will need to be amended to remove the inconsistency. The policy of "or" should be used.</p>

<p>I would be in favour of further amending this section, or making provision elsewhere, for district councils to have the autonomy to add or remove trading pitches within their district, on foot of vote of the district council further to recommendation from CE or his nominee OR further to motion/resolution emanating from a councillor or councillors in that district, and irrespective of whether or not the existing number of designated pitches in the district is exceeded.</p>	<p>The designation of trading places is a reserved function.</p>
<p>The word "as" or "so" would appear to be missing here.</p> <p>Also, there should be provision expressly made for reasons for the move to be made know to affected trader(s) in writing in advance of the change, including informing them of a right to appeal.</p>	<p>Wording to be amended.</p> <p>The intention of the section is to allow the council to move unused pitches, not move established traders</p>
<p>Reference to "a suitable receptacle" should be revised to "suitable receptacles" to align with the Waste Management (section 6) provisions requiring multi-bin system, later in the document.</p>	<p>Noted:</p> <p>The report will reflect the submission from the Environment Department.</p>
<p>Is this requirement currently being complied with generally, and being enforced?</p>	<p>The new online application system will allow for greater compliance as the trader will have a soft copy of their licence</p>
<p>This provision could be problematic. In addition to not defining what constitutes a stall, it does not take account of traders who need to employ more than 2 people to meet customer demand (and thus alleviate potential congestion at trading places), and by requiring trading within one metre of the stall it is possible that there could be complication for larger units that have sufficient space to allow for social distancing between workers in the context of the current (and possible future) pandemic.</p>	<p>This condition is required to ensure that stalls do not try "selling from the Hand" and essentially set up additional trading areas without a licence.</p> <p>Public Health measure such as Social distancing are defined by Central Government public health policy.</p>
<p>Might this requirement to produce a medical certificate be contrary to privacy rights under GDPR? Would the council be able to demonstrate a legitimate interest in seeing such a certificate that would satisfy the Data Protection Commission?</p>	<p>Council will seek advice on this.</p>
<p>Are licences permitted to be held by companies, as opposed to individuals, and if so is the licence issued to a designated representative of that company, and would they then be so required to be present as provided for in this section, which would be impractical and unnecessary?</p>	<p>This section means that when issued a licence the licensee must trade and not leave the location empty without cause or explanation. It does not mean that the actual person must be present, they may have a member of staff operate the stall</p>
<p>Would electronic evidence suffice instead of a paper trail? And if so, can this provision be updated accordingly?</p>	<p>Paper trail is a general description for record keeping and ability to demonstrate the provenance of the items being sold.</p>
<p>Should this section be qualified to make it clear that a 4 week absence if of no consequence if it falls outside the period allowed for under the trading licence?</p>	<p>Would not be required as no trading is allowed outside of the times defined in the byelaws.</p>
<p>Does this requirement unintentionally preclude the use of more</p>	<p>This only precludes petrol generators.</p>

environmentally friendly options?	
Unless this provision is clarified/qualified it could impose a legal obligation on traders who are licenced to operate daily and consecutively to dismantle their stalls/units each day outside of the daily hours in which they are permitted to trade.	The wording of this condition is intentional so as to impose such an obligation. The only exceptions are the units at Youghal Bridge and Abbeyside which are legacy units.
This does not make provision for semi-permanent units in relation to which there is and has historically been permission for consecutive daily trading, which necessitates overnight parking of trading unit. This provision should be revised accordingly so as not to create potential legal peril for such traders.	Outside of trading hours the trader must obey the Control of Parking Bye Laws and the Road Traffic Acts.
The wording may benefit from revision to make allowance for electronic records such as emails or screenshots of emails.	The wording is taken from the Casual Trading Act, 1995.
The inclusion of "unless otherwise specified" here could serve to render ineffective the cap on fees of €1,250. Where else, other than it this section, might a fee in excess of €1250 be specified and by whom? This seems to be too open ended.  Is there any licence holder currently paying more than €1250?	Fees are outlined in the Bye -Laws
Is the word "at" superfluous here?	noted
Is this a reserved function or an executive function?  Would a revision of fees require a revision of the bye-laws, thus requiring a vote by Council members?	This is a reserved function but can be done as part of the Budgetary process.
Is this being enforced currently, in particular in relation to vendors of food and beverages that result in waste material (e.g. disposable coffee cups, etc.) that are often a source of litter in public places?	The Litter wardens monitor as required
Is there scope to amend here to encourage/require relevant traders to have multiple bins for segregation of waste generated by their customers' use of their products as opposed to only being required to segregate the waste that they themselves produce in preparation of product for sale as covered in section 6.1?	In practice waste generated by customers is considered "black waste" and cannot be segregated as you cannot guarantee that the waste is free from contamination.
The inclusion of Davitts Quay and Parnell St in Dungarvan (or Dungarvan town centre generally) may be required if necessary to facilitate the lawful erection of stalls in future in the event that they are required as part of the Dungarvan/West Waterford Festival of Food or similar events.	Not required, festivals are covered by Special Event Licences.
Besides the designated areas that are already in existence or are proposed in the Dungarvan Lismore district, I would like to see provision made to allow for additional locations, namely but not limited to the following in particular: Clonea Strand (castle end car park), the layby at the scenic overlook at the Sweep (near Windgap) on the N25 coming from Cork outside Dungarvan. These are two examples of places that are popular with tourists and also locals and which can be prone to litter which would be	Inclusion of additional Locations:  Clonea Strand – Displacement issue, Local businesses already there.

<p>more controlled if there were traders there selling beverages etc. The hours of operation could be similar to those proposed for Shanacool in relation to Clonea castle end, and similar to Youghal Bridge in relation to the Sweep.</p>	<p>Layby on the Sweep – Roads (and TII) do not want any Casual Trading along the N25</p>
<p>Abbeyside TRADING HOURS SHOULD BE KEPT AT 5PM TO 2AM.</p>	<p>Noted</p>
<p>Maps 2020/CS-SL020 (Shanacool/Old Train Station) and 2020/CS-SL021 (Durrow Car Park) do not specify where exactly at those locations the single permitted trader in each case will be allowed to set up. This is in contrast to Map 2020/CS-SL019 (Strand Side Car Park, Abbeyside, Dungarvan) for example, which shows the quite specific location within that car park where the single trader permitted at that location is allowed to operate. In the case of SL020 and SL021 does this mean that the trader permitted at each location will be allowed to move around within the area covered in each case, as opposed to be being confined to a particular spot within each location?</p>	<p>The areas are deliberately large to allow for optimal positioning of the casual trading spot. Once agreed the precise spot will be defined in the licence. Movement of the spot will not be permitted.</p>

The issues raised in the submissions are categorised under the following:

A request for the Council to provide a designated trading space in Helvic Head

**Recommendation**

PART III: Designated Areas and Times of Trading in proposed bye –laws at to be amended to include Helvic Head Carpark. Days of Trading: All Year, times of trading: 8 am to 10pm each day 1st January to 31st December



<b>Metropolitan District</b>	<b>No. of Pitches</b>	<b>Submissions on draft Bye laws</b>
Waterford City John Roberts Square	20	No Submissions received
Tramore Promenade Car Park	6	Please refer to attached Report
Tramore Priest Road Car Park	8	Please refer to attached Report
Tramore Newtown Cove Car Park	1	Please refer to attached Report
Tramore Old Railway Station	12	Please refer to attached Report
Woodstown Lower Car Park (L470761)	1	Please refer to attached Report
Waterford Greenway Bilberry Greenway Car Park	1	No Submissions received
Waterford Greenway Killoteran Greenway Car Park	1	No Submissions received
Waterford Cultural Quarter O'Connell Street	10	Please refer to attached Report

<b>Comeragh District</b>	<b>No. of Pitches</b>	<b>Submissions on draft Bye laws</b>
Annestown Beach Car Park	2	No Submissions received
Ballymacarbery Melody's Car Park	1	No Submissions received
Portlaw TheSquare	2	No Submissions received
Kilmacthomas Old Train Station	6	No Submissions received
Kilmacthomas Main Street	1	Please refer to attached Report
Stradbally	5	Please refer to attached Report

<b>Dungarvan and Lismore District</b>	<b>No. of Pitches</b>	<b>Submissions on draft Bye laws</b>
Dungarvan Farmers MarketGrattan Square	20	No Submissions received
Youghal Bridge Car Park	1	No Submissions received
Tallow Square	2	Please refer to attached Report
Tallow Town Centre Car Park	10	Please refer to attached Report
Abbeyside, Dungarvan Public Car Park, L3152 Strandside North	1	Please refer to attached Report
Waterford Greenway Durrow Old Train Station (Shanacool)	1	Please refer to attached Report
Clashmore Main Street (Raheen Quay Walk Entrance)	1	No Submissions received
Helvic Head Carpark	1	Please refer to attached Report

