

# Submission on 2023-24 Annual Plan

Provided in response to a request for submissions, not to be used for any other purpose without consent.

## Summary

Council asked for feedback on how it is doing. For dogs, Council continues to do badly. This year it invented more ways to breach the Dog Control Act 1996 (DCA/the Act).

The appetite for falsehood has been over-indulged, particularly in the Dog control Annual Report, communications with the Ombudsman, and the consultation documents for this Annual Plan. Dog Control is straight forward and Dunedin dog owners are amongst the most complaint in New Zealand. This is not justifiable.

Essentially this submission acts as an update on the issues that remain outstanding from previous years, and those new for this one.

## Contents

### 1.0 Cease making false statements about changes

#### 2.0 Council has no power to cease issuing current year discs and labels

- The requirement to issue a tag for the current year
- The consequences for dog owners
- How Council financially gains by forcing dog owners to breach the DCA
- Don't claim you won't: No one has forgotten 1 July 2016
- Even more sinister outcomes
- Conclusion

#### 3.0 Refusing to issue current tags has no good purpose

- Life tags are not for life

- Life tags endanger human life
- Life tags endanger dog life

#### 4.0 Solution: Issue *recyclable* current year tags

#### 5.0 The missing 1000 dogs

#### 6.0 Miscellaneous

- Ongoing - lack of transparent fee setting
- Ongoing – over-changing for the forced pre-purchase poo bags
- Ongoing – locking out low income users
- Ongoing – failure to account for the pound
- Ongoing – failure to maintain dog parks
- New – no poundkeeper
- New – Changing signs
- New – Ombudsman Investigations

## 1.0 Cease making false statements about changes

### 1.1. The consultation documentation states fees and charges have not been changed:

#### FEES AND CHARGES

- 5 Fees and charges for Animal Services, Alcohol Licensing, Building Infringement, Environmental Health and Parking Services (enforcement) fees are unchanged. Note some of these fees are set by legislation.

### 1.2. Anyone who wades through the poorly laid out fee schedules discovers that statement

is **false**. Deeply buried is a change from a \$6 replacement fee for a disc or label, to a *new* fee for a thing called a *life long tag*, now limited to a disc only.

microchip implantation	\$40.70	\$40.70	0.00%
Replacement Life Long Tag (round 25x25mm) - new fee		\$1.20	
Adoption fee	\$108.00	\$108.00	0.00%

**1.3.** However, a replacement life long tag is only required if life long tags have been issued.

**1.4.** That means Council is ceasing to issue *current year* labels and discs. The intention to make that significant change is not mentioned in *any* documentation, which means the false statement there is *no change* to fees and charges is also intended to obscure the plan to cease issuing *current year* tags as well. This breaches disclosure obligations.

## 2.0 Council has no power to decide to stop issuing *current year* discs and labels

**2.1.** The Ombudsman is already investigating Council registration processes. That includes the non-statutorily compliant fabricated documents given to the Ombudsman to support the false claim they were used last year. That is dealt with below, but relevant here is that in 2020 the DCC admitted the registration processes breached the DCA, and promised to correct them. It did not and is being investigated. It has just breached the Ombudsman Act 1975 to obstruct that investigation by providing fictional documents to the Ombudsman.

### *The requirement to issue a tag for the current year*

**2.2.** DCA s 46 unambiguously requires the DCC to issue *a label or disc for the registration year* to every owner who provides a properly completed application form and fee. Doing so *makes* registration, and s 42 (2) requires the owner of the dog to attach the label or disc to the dogs neck collar to provide visual proof that has occurred.

#### **46 Issue of label or disc and completion of registration**

- (1) On receipt of the properly completed application form and the applicable dog control fee, the territorial authority shall, unless the registration of that dog in the ownership of that person would be in breach of *section 23* or *section 28*, issue to the owner of the dog a receipt for the fee paid and a label or disc for the registration year, and, upon the issue of such label or disc, registration shall be deemed to have been duly made.
- (2) The owner of the dog shall ensure that the label or disc issued by the territorial authority is attached to a collar worn on the neck of the dog so registered.

**2.3.** *Not issuing a label or disc means the DCC has failed to make registration. That means the dog is not registered:*

### *The consequences for dog owners*

**2.4.** Council infiltrated the *Dunedin Dog Bylaws* Facebook group and gained access to our

materials so there is no need to repeat the information about the registration process. But it does mean Council is secretly making this decision without disclosure in full knowledge of the severe consequences for owners and dogs, which include:

- **\$300 infringement** fee for *failing to register* a dog (s 42)
- **\$3,000 fine** for *failing to register a dog* (s 42)
- **Seizure of a dog in any public place by any person, then impounding** because it is not wearing a collar with a *current registration label or disc* (s 50)
- **Destruction of the dog** without giving notice to the owners because it is *not wearing a current registration label or disc* (s 69)

*How Council financially gains by forcing dog owners to breach the DCA.*

**2.5.** As Council knows no dog owner has a dog that is deemed registered it can churn out infringement notices and post them out for a relatively small cost. That makes it easy to convert the decision *not* to provide a *current year tag* into significant financial gains:

Dogs (as at 31 June 2022)	Infringement Fee	Council's Financial Gain
18609	\$300	<b>\$5,582,700</b>

**2.6.** Refusing to provide *current year tags* is even more lucrative if owners refuse to pay the infringement fee and the dogs are seized:

Dogs (as at 31 June 2022)	Infringement Fee	Impound Fee	1 x Day Boarding Fee	Advert	Notice	Council's Financial Gain
18609	\$300	\$125	\$25	\$12	\$4	<b>\$8,671,794</b>

**3.1.** Dog owners will object. If Council allows them to do so that will trigger the \$34.00 *Withdrawal of Infringement Fee*:

Dogs (as at 31 June 2022)	Withdrawal Fee	Council's Financial Gain
18609	\$34	<b>\$632,706</b>

**2.7.** That illustrates the extent to which this is a monetary exercise. In that regard it is similar to the extent secretly introduced swap fee, and secretly introduced poo bags. The former gained Council thousands. The second *hundreds of thousands*: Council has simply become more efficient at monetising its own legal breaches

*Don't claim you won't: No one has forgotten 1 July 2016*

**2.8.** Denials would not be believable: No one has forgotten the statements made in 2016, and what actually occurred on 1 July 2016. For those with dimming memories, Council refused to send out renewal forms *and* refused to allow owners to apply to register their

dogs without them. Early on 1 July 2016 officials were patrolling the streets looking for dogs . Owner after owner was systematically approached and threatened with infringement fees, penalties, and dog impounding because they were not displaying the new tag.

**2.9.** The targets were initially the elderly. In at least one suburb that commenced with frail and petite elderly *females*. One was harangued that extensively passer-bys intervened to drive the Council official off. This continued until, fortuitously I had a meeting the Chief Legal Officer arranged to deal with another issue by the then CEO.

**2.10.** Council may deny any intention to pursue dog owners, as it did before and after terrifying law-abiding people in 2016. However 2016 showed Dunedin dog owners Council was capable of planning and implementing this *while denying it: Denials are not believable*.

### *Even more sinister outcomes*

**2.11.** Council has a long history of attempting to acquire oppressive powers over law-abiding citizens: The 2017 plan to make them obtain permission and carry permission slips to be in public spaces was thwarted. But during lockdown 2022 Council ignored regulatory restrictions and stopped owners in the streets to force them to turn out their pockets to prove they were carrying poo bags: Actions that exceed the powers granted to the Police.

**2.12.** Without a *tag* for the *current registration year* owners are permanently in breach and Councils plan to refuse to issue one ensures they remain that way. That also allows Council the option of issuing three infringements for the failure to register, then using s 25 of the DCA to disqualify the owner and force them to dispose of their dog.

**2.13.** In addition, as Council knows the dogs are deemed not registered it will claim the right to enter the property at which the dog is ordinarily kept pursuant to s14 of the DCA. That allows it to achieve what it has previously been unable to do: Access properties at whim.

**2.14.** In result, owners who got to public places risk having their dog seized. If they remain at home they risk looking at their window and discovering Council officials in their backyard.

### *Conclusion*

**2.15.** Council's statement there has been no change to dog fees and charges is false. But this is not about the changed fee, it is what the new fee represents. That is Council breaching its obligation to issue *current year tags* which places law-abiding citizens in breach of their legal obligations. That gives Council purported authority to enjoy a significant financial gain *and* subject dog owners to excessively oppressive and intrusive treatment.

## **3.0 Refusing to issue *current* tags has no good purpose**

**3.1.** Councils has not provided any reason for this change. That is also a breach of consultation obligations. On past history Council will make the following arguments:

**Life tags are better for the environment:** There is no proof provided, and:

- *Council made the same claim for the poo bags.* It has since had to admit it did not perform any environmental analysis so had no evidence to support the claims. *Estimates* indicate the bags are environmentally *damaging*, and the only gain is Council's ability to charge dog revenue an administration cost of \$118,000.
- *It depends on what they are made of, where they are sourced and the environmental costs of the current tags:* That is also not disclosed. But if aluminium it is an extractive and toxic product: careful analysis is required.
- *Council isn't concerned about much larger amounts of plastic it creates.* For example it gives away plastic ice-scrapers for free to motorists each winter although it has no obvious power to force rate-payers to fund plastic products like this, the official rubbish bags are plastic when they could be made of less damaging materials, and more: Council's only appears to express concerns about plastic in relation to dog matters, but also only when it gains financially.

**Not issuing a current tag saves money:** No proof is provided, and

- *Council implied that for the forced pre-purchase of dog poo bags, then claimed they were sold at market rates.* It has also admitted it performed no financial analysis so had no actual information for the assertions. Last year I proved owners were being charged well above market rates, and this slide estimated the costs to owners: Council confuses *saving* with exorbitant expense.



- *If the tags saved money dog control fees would be reduced:* Council has not provided the projections to show how savings would reduce fees over time.

**This makes registration easier:** There is nothing difficult about registration.

**Other Councils do it.** No they don't, and the history to this issue is known:

- *Some Councils wrote to the Minister for Internal Affairs complaining the work to register dogs was inconvenient.* The arguments were weak, and based on errors of law and a misunderstanding of the Dog Control Act scheme, and a failure to explain how to adjust the overall scheme to achieve the Act's goals. The Minister was unmoved by complaints by Council they were required to perform work.

- *Across 2021 and 2022 eight Council's changed to the illegal non-current tags: They were not trend-setters, but Council's that could not provide persuasive legal argument so they broke the law. That does not justify Dunedin doing so.*

### *Life tags are not for life*

**3.2.** None of the existing eight have had the temerity to claim the tags are for life. Of the eight Councils, two had to replace them within a few months because they either broke on being attached to the collar, or faded beyond usability. The longest known guarantee for tags is **five years**, which is not the life of a dog. There has been no proof they actually last the life of a dog, and on average it appears to be closer to 1/3: They are not *life long*.

### *Life tags endanger human life*

**3.3.** Two Councils used a type with a smart chip.

- One loaded all dog owner details required to be provided by the Dog Control Act onto the tag so it could be read by any person with a smart phone.
- The other used a tag with a publicly known password but did not tell owners the password needed to be changed with urgency. If not changed third parties can access and change the details, including claiming the dog is their own.

**3.4.** Dog owners are legally required to provide personally identifiable information when they apply to register their dog. DCA s 35 prohibits Council's disclosing that information except to specified people for specified purposes. They do not include placing it on a tag that can be read by anyone with a smart phone, or allowing anyone to change the details.

**3.5.** Many law-abiding citizens have legitimate reasons for choosing not to expose their personal details to the world, and that right is explicitly protected by the DCA.

**3.6.** Vulnerable groups like victims of domestic violence, their children and associates are instantly at real and actual risk of life-threatening harm. Lost tags provide any person with the full name, DOB, address, telephone and usually email of the owner which allows easy identity theft, or simply being tracked for harassment by a stranger of malicious mindset.

**3.7.** The lack of information about the tags ensures owners do not know what Council intends. History indicates it will not be pleasant for the owner, and it appears calculatedly cruel to make owners anxious that they may be facing these consequences in a few months.

### *Life tags endanger dog life*

**3.8.** Council is secretly planning to only provide 2.5cm discs. It is doing so knowing that size is too large for small dogs and creates a trip, catch or entanglement hazard that significantly increases the risk of facial and front assembly injury, or death by strangulation. For active dogs of all sizes, discs create the risk of entanglement and death by hanging.

**3.9.** A dogs throat area is sensitive. Reports from other dog owners are that the tags are sharp and have cut owners trying to attach them to the collar, and cut dogs afterwards. They can be broken and bend causing puncture or blunt trauma injury to the highly sensitive trachea, veins and nerves. This is an unacceptable risk to knowingly inflict.

**3.10.** The DCA requires dogs to wear the tags every day, all day. They move with the slightest movement of the dog, including breathing. A metal disc, by design, jangles. One Council was forced to replace them after numerous complaints from humans who could not cope with the constant noise. Many also reported increased anxiety and stress in their dogs, including increased barking that stopped when the tags were removed: Dogs hearing is far superior to humans, and the new tags were connected to anxiety-fuelled nuisance behaviours: By design these tags compromise dog welfare.

**3.11. In a complete mockery of the anti-plastic justification the Council that replaced them to address the noise nuisance replaced them with *plastic* tags.**

## **4.0 Solution: Issue *recyclable* current year tags**

**4.1.** The issue with registration tags is *not how long* they are issued for: That is legally prescribed and is *not* negotiable. However *what* they are made of is Councils discretion. It can choose recyclable plastic tags, and the decision not to do so approaches reprehensible.

**4.2.** It is also *not* corrected by refusing to provide dog owners with a current registration tag as planned: That is the *wrong* solution to the *wrong* problem.

**4.3.** One Council has already replaced non-recyclable plastic tags with ones that are recyclable. That resolves all the problems with *not current metal tags identified above*. The tags are also made in New Zealand, by a New Zealand company which supports local business, and helps address the problem of disposing of plastic waste.

**4.4. As Council claims to be concerned about sustainability, and procurement decisions are intended to support local business, Council really cannot justify failing to follow suit.**

**4.5.** Further Dunedin is home to a plastics manufacturer known for their commitment to recycling, innovative ability to develop techniques to explore new ways to reuse plastic in new product, and nimbleness. Their prices are well-accepted as competitively affordable, and that applies doubly to products supplied within Dunedin.

**4.6.** Council cannot justify not exploring recyclable tags produced by New Zealand manufacturers, especially a manufacturer located in Dunedin.

## **5.0 The missing 1000 dogs**



5.1. Every year I identify the many ways Council’s statements about income and expenditure are questionable. That is part of the issue being considered by the Ombudsman.

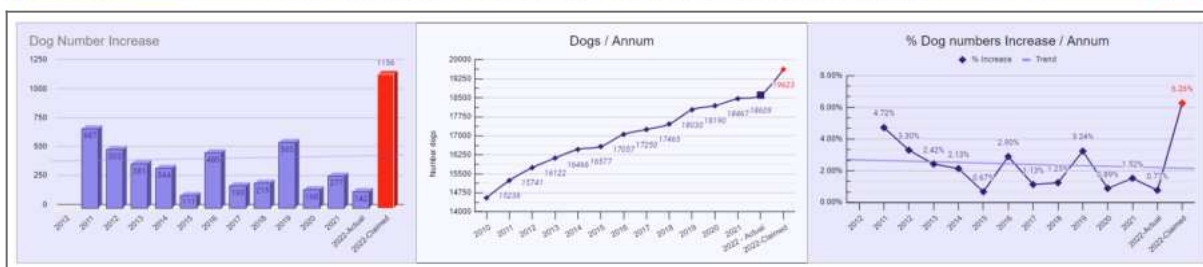
5.2. This year the obvious issue is the claims dog numbers increased by over 1000 to total more than 19,000. That was asserted to explain the *sudden discovery* of \$126,000 after I identified that was roughly the amount being laundered out of the dog control account using the administration charges for the pre-purchase, not compostable poo bags. I stated:

*There is no evidence dog numbers have increased by the amount required. Council claims the increase is about 5%. Basic mathematics shows that will not produce \$126,000. The increase required is over 6%, and that is not believable given Dunedin history:*

5.3. In typical fashion Council *doubled-down* on its position and explicitly referred to the new 1000+ dogs multiple times during 2021-2022 and 2022-2023, including this quarter.

5.4. That contradicts the numbers reported in the Dog Control Annual Report, to the Department of Internal Affairs and entered in the National Dogs Database. In all places Councils records an increase of **142 dogs**: 1014 less than required 1000+ to achieve \$126,000. Fra from the claimed *spike*, it was the **second lowest increase since 2012**:

	2012	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022-Actual	2022-Claimed
<b>Total dogs</b>	14551	15238	15741	16122	16466	16577	17057	17250	17465	18030	18190	18467	18609	19623
<b>Number Increase</b>		687	503	381	344	111	480	193	215	565	160	277	142	1156
<b>% Increase</b>		4.72%	3.30%	2.42%	2.13%	0.67%	2.90%	1.13%	1.25%	3.24%	0.89%	1.52%	0.77%	6.26%



5.5. Displaying the figures in charts and marking Councils’ claimed 1000+ increase in red makes Council's 1000+ dogs instantly questionable. It is not believable that Council over-estimated the actual trickle of new dogs ten-fold in this way. Even if it was, it has been known since the end of registration year 2022 so continuing to falsely assert 1000+ new dogs is unjustifiable. That commitment to 1000+ extra dogs produces two possibilities:

- The statements about the increased dog numbers are false, and the source of the \$126,000+ is more likely one of those suggested, such as using the poo bags to launder that money out of the dog account every year in breach of DCA s 9.
- Council provided false information in the Dog Control Report, to DIA, and has failed to enter the new dogs into the national database which hides the \$126,000+ income, and make it untraceable *for the life of the dogs*.

5.6. Either option has the result of confirming Council’s explanations around dog revenue and expenditure are increasing in questionability.



## 6.0 Miscellaneous

6.1. Council has also continued the usual issues, while adding more. In summary:

### *Ongoing - lack of transparent fee setting*

6.2. Council continues to fail to comply with s 37 & 68 of the DCA to set fees to recover costs. Lack of transparency has escalated to claiming fees are not changing when they are.

### *Ongoing – over-changing for the forced pre-purchase poo bags*

6.3. Council continues to force the pre-purchase *not-compostable* poo bags. It no longer attempts to claim they are compostable, so they are just expensive bags.

6.4. Allowing them to be collected at the same time does not change that it is illegal to force owners to purchase over-priced bags from a country that eats dogs with an unknown environmental cost. Claims they would be posted to those who requested was problematic and some owners who struggled to get to a service centre reporting being telephoned and pressured to drive to a service centre to save Council effort. Others waited for many months then finally received them by *hand-delivery*.

6.5. Council still fails to provide information such as how many dog owners actually take up their rolls. Anecdotal reports remain about 25%. The bags are over-priced, environmentally destructive, and the scheme is shambolic: The only benefit appears to be the ability to launder about \$120,000 from dog revenue using the expensive administration fee.

### *Ongoing – locking out low income users*

6.6. Despite claiming concern about low income members of the community Council did not reconsider its secret decision to stop selling single rolls of poo bags to walk-in purchasers. It has retained the minimum purchase of 10 rolls in full knowledge that eliminates the one helpful feature of poo bags, which was to allow low income users to buy a roll or so when at a service centre for other reasons such as using the library or computers.

6.7. The rolls are now packed in boxes of six rolls: The boxes have to be broken down to create the minimum purchase of 10 rolls which means a minimum purchase of blocks of 10 makes no sense except to increase work for no reason. Council could just as easily break the boxes open and allow single purchases, or reduce the minimum purchase to block of six. Failing to do so indicates this is not about providing poo bags, just justifying charging the excessive \$1.06/roll admin fee to launder money from dog revenue into the general account.

**6.8. I consider that specifically targetting low income users to lock them out in this manner is morally unjustifiable.**

*Ongoing – failure to account for the pound*

**6.9.** Council has still not provided information about pound facilities, and the related fees and charges. The contract has not been subject to the legally required public review.

*Ongoing – failure to maintain dog parks*

**6.10.** Failures to maintain dog parks continues. In Kew the crash hazard installations designed to look like solar powered lights, but not providing illumination remain. After years explaining how to fix the gap in vehicle entrance, Council finally leaned an off-cut from a nearby building site against the gap. Dogs push it over to escape and leave it as a trip hazard for anyone cutting the corner. The weave poles have not been fixed, the invisible human shelter continues to be invisible. Large branches continue to fall off trees while owners are in the park.



**6.11.** Other parks are in the same condition, except East Taieri. That confirms Councils views that those with a community board fare better than those reliant on generally elected Council members, and which it continued by resolving not to alter representation arrangements last review.

**6.12.** East Taieri is well designed, well appointed, immaculately maintained and continuously improved. The difference between the tiny, appallingly designed, never repaired, unsafe Kew where users are not considered worth shelter from the rain and wind or constantly failing branches cannot be justified: All dog owners pay the same fees. Caversham has one of the highest densities of dogs. Favouring one group of residents over another is discrimination.





**6.18.** That is confirmed by the recent decision for Council staff to prepare a report on *ponding, seating, gravel, lighting, signage and car parking* in East Taieri.

- The *prison-yard* at Forrester Park was built by fencing around an area that ponds deeper than the height of the dogs eligible to use it.
- All of Shand & Kew become ankle-deep slippery mud for all of winter.
- Kew users paddle through above-ankle water to get in one gate, the other lacks an airlock and is on an angle that becomes too slick for some to use.
- Rotary Park is barren and wind-swept with no protection.
- East Taieri lights work, Kew's do not. The lights in other parks are inadequate.
- Kew has 5-minute parking in the immediate vicinity. The closest to Shand is limited to an hour. Rotary parking can be difficult to navigate for those with unsteady balance. East Taieri is the only park with dedicated parking and opens onto the pictured road.



**6.19.** The Rotary Club offered to improve Rotary Park last Annual Plan because they built the agility equipment and were disappointed it had not been maintained or improved. In 2016 groups tried to arrange a group to husband Shand Park and were contemptuously rebuffed. In 2001 Kew was confirmed for drainage work. The funding was not approved for the 2001-2002, but was scheduled to be done in the future.

**6.20.** *East Taieri* wants more of *all* the amenities it already has, and that all other parks lack, and Council commits resources to performing a full analysis of the Park and preparing a report for *more* improvements: This is brazen discrimination that is unjustifiable.

### *New – no poundkeeper*

**6.21.** Section 8 of the Impounding Act 1955 requires Council to appoint a poundkeeper. It has notified the removal of the poundkeeper and appointment of a deputy. It has *not*

appointed a new poundkeeper. That is a breach of the Impounding Act.

### New – Changing signs

**6.22.** Council is undertaking a review of signage. Opposite is a picture of a new sign requiring dogs *on leash* on a road that was specifically discussed by Council in 2016, and explicitly resolved to be off leash: The sign contradicts Council’s resolution, and the Bylaw, and has been erected in direct breach of s 42(1)(b) of the Local Government Act 2002.

**6.23.** This is one of many examples around the city and there is no doubt dog access is being systematically removed or significantly restricted in all the areas where Council disagreed with paid officials anti-dog advocacy for denying law-abiding citizens access to public places without any reasons to do so.



### New – Ombudsman Investigations

**6.24.** The Ombudsman has completed investigating 3 Council decisions about requests for dog related official information. He required Council to provide the information in all cases. For one he issued a formal decision and required Council to apologise although that was not requested by the complainant.

**6.25.** Noteworthy was Council arguing for two years then admitting the information did not exist. That is arguing for argument sakes and is neither balanced, or prudent expenditure of rate payer money. It also confirmed Council’s assessment of legal obligations is badly wrong.

**6.26.** Council undertook to cease writing self-lauding statements and representing them as submissions in submission summaries. The Ombudsman made critical comments about the how submissions are presented. Council is being watched to determine if it improves.

**6.27.** The Ombudsman is still working through the investigations into *registration, reporting, fee setting and Policy/Bylaw*. Council’s denial it conducted advertising in 2022, and used a four page shambolic document it provided as the registration application form have been dealt with: It is not helpful to provide the Ombudsman with fabricated evidence.

**6.28.** However the fictional application form omitted mandatory dog owner education such as the explanation about the tag for the *current registration year*. That leaves the disturbing impression Council is refusing to provide owners with the statutorily prescribed information so they remain ignorant of their rights and obligations, and are therefore unaware of when Council is breaching them.