



Draft Alcohol Bylaw: Statement of Proposal

Introduction

Tararua District Council seeks your views on its Draft Alcohol Bylaw 2024.

The current Alcohol Bylaw was adopted in 2018 and is now due for review.

This statement of proposal is prepared under sections 83 and 86 of the Local Government Act 2002 (LGA) and contains:

- a copy of the draft Alcohol Bylaw 2024 (the 'draft bylaw')
- information about the proposed amendments, including Council's determinations under section 155 of the LGA;
- the reasons for the proposed amendments;
- how you can have your say; and
- timetable for consultation.

In summary, Council is proposing to retain the content of the current Alcohol Bylaw 2018 with changes proposed to the drafting to improve clarity, consistency, structure and readability and to reflect updated wording and phrases used in legislation; and to reflect that Council is likely to revoke its Administration Bylaw in the future.

Council is not proposing any changes to the current alcohol control (ban) areas.

Proposal

This statement of proposal relates to the review of the Alcohol Bylaw. The bylaw is prepared under sections 145, 147A and 155 of the LGA.

The Council proposes that:

- (a) a new bylaw that regulates alcohol (the Alcohol Bylaw 2024) should be made;
- (b) the Alcohol Bylaw 2018 be revoked once the Alcohol Bylaw 2024 comes into force.

The key changes are summarised in this Statement of Proposal and are set out in the draft bylaw (**Attachment 1**).

Proposed Changes

The main changes are summarised below (only substantive changes are listed):

- Using the term 'alcohol' instead of liquor.
- Placing the exclusion (for unopened bottles or containers) into an explanatory note, as it is explicitly provided for in section 147 of the LGA.
- Using the term 'Alcohol Ban Area' instead of 'Designated Public Place', to make the meaning and purpose of such areas more easily understood.
- Creating the ability for persons to apply to Council for a consent for any activity that would otherwise be in breach of the bylaw; and the ability for Council to issue a consent with conditions for such activities.
- Simplifying the powers of arrest, search and seizure provisions in the bylaw by reference to the powers available to the Police under the LGA (and the requirements on the Police under the LGA when exercising such enforcement powers), noting that bylaw copies legislation provisions.

Reason for Proposal

Background

Council is empowered by sections 145, 147 and 147A-C of the LGA to make bylaws to control the consumption, bringing into and possession of alcohol in public places to reduce alcohol related harm.

A number of changes have been made to the wording and definitions found in the legislative framework for alcohol bans since the Alcohol Bylaw 2018 was made and include (for example) replacing references to the word liquor with the word alcohol.

Legal Framework

Sections 147A of the LGA requires Council to determine whether the proposed bylaw –

- Can be justified as a reasonable limitation on people's rights and freedoms; and
- A high level of crime or disorder (being crime or disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply if the bylaw is not made (or if an alcohol ban is already operative, then Council must be satisfied that a high level of alcohol-related crime and disorder is likely to arise in the area without the bylaw being made); and
- is the most appropriate and proportionate way of addressing the perceived problem.

Council must also determine, pursuant to section 155 of the LGA, whether:

- A bylaw is the most appropriate way to of addressing the perceived problem;
- The draft bylaw is the most appropriate form of bylaw; and
- The draft bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Council must also comply with the general decision-making requirements in sections 76 to 82 of the LGA in that it must identify and consider all reasonably practicable options and the community's views.

Is a bylaw the appropriate means to deal with a problem?

The purpose of the Alcohol Bylaw is to enhance safety and the public enjoyment of public places within the District by providing for the control of alcohol in certain public places to reduce alcohol related harm.

The perceived problem is crime or disorder caused or made worse by the consumption of alcohol in public places.

The draft Alcohol Bylaw continues to enable Council and Police to control the possession and consumption of alcohol in certain public places to reduce alcohol related harm as opposed to having no bylaw and relying only on education and information; or relying only on general legal requirements. A bylaw also better promotes or achieves community outcomes (such as health and safety) in a more integrated and efficient manner than having no bylaw.

The draft bylaw aligns with the LGA purposes above and is consistent with the approach taken by other local authorities of a similar size and nature.

In terms of the impact of these options on the Council's capacity to meet present and future needs in relation to any statutory responsibility, it is believed that Council and the Police have the capacity and resources to monitor and enforce the proposed bylaw.

Is the bylaw in the appropriate form?

The draft bylaw focuses on specific locations (and timeframes) in the district where Council considers that a high proportion of offences committed are alcohol-related, and also a high proportion of offences are committed in public places. The draft bylaw is consistent with Council document standards and has been written in plain English so far as possible. It is therefore considered to be the most appropriate form of bylaw as it provides for greater certainty and is enforceable by the Police.

The final form of the bylaw will be determined after the Council has heard and considered submissions as part of a consultation process using the special consultative procedure.

Is the bylaw consistent with the New Zealand Bill of Rights Act 1990?

While the draft bylaw provides that people can be asked to leave public places that are subject to a permanent or temporary alcohol ban, it is considered that the restrictions are fair and reasonable in the interest of public health and safety. This draft bylaw does not restrict the movement of people who are not in possession of alcohol or those drinking alcohol in private premises. Therefore, the Alcohol Bylaw is considered to be consistent with the New Zealand Bill of Rights Act 1990 and does not raise any implications under this Act.

Following the prescribed special consultative procedure set out in section 83 of the LGA Council will consider the final draft of the proposed bylaw and its New Zealand Bill of Rights Act 1990 implications, if any.

Does the justification for the bylaw exist as required by legislation?

Council is satisfied that there is a high level of alcohol-related crime and disorder in Dannevirke, Pahiatua, and (during the Christmas-New Year period) Akitio, and that a high level of alcohol-related crime and disorder is likely to arise in those areas if the current alcohol control areas were revoked. Council considered a range of options with respect to the timing and area that each proposed ban should apply. Council considers that the proposed alcohol bans in the specified public places are a reasonable limitation on people's rights and freedoms, and that a bylaw is an appropriate and proportionate response.

Consultation

In making, amending or revoking a bylaw, Council must use the Special Consultative Procedure set out in section 83 of the LGA. Council has prepared and adopted the draft bylaw for public consultation. Any person can make a submission on the draft bylaw and we invite you to have your say.

The following dates are relevant to the consultation process:

- (a) Council resolved to undertake public consultation regarding the Proposal at the Strategy, Growth and Planning Committee meeting on 13 February 2024
- (b) Submissions open on 1 July 2024
- (c) Submissions close on 31 July 2024

Submissions will be heard before the Strategy, Growth and Planning Committee on 7 August 2024, with Council considering the outcome of the consultation process and its decision at a Council meeting some time following the hearing date, and likely to be on 28 August 2024.

The key point to note is that consultation opens on 1 July 2024 and closes on 31 July 2024.

You are encouraged to participate in this important consultation process.

There are several ways you can have your say. A submission form is provided with this document, or you can fill in your submission online.

How to get your submission to us:

Mail to: Draft Alcohol Bylaw
Taranua District Council
PO Box 115
Dannevirke 4942

Email to: submissions@tararua.govt.nz

Deliver to: Council offices in Eketāhuna, Pahiatua, Woodville or Dannevirke

Online: <https://www.tararua.govt.nz/publications/consultation/current-consultation>

This Statement of Proposal is issued pursuant to section 155 of the LGA and in compliance with sections 76AA, 82, 83 and 148 of the LGA.

Bryan Nicholson
Chief Executive