

Proposed Alcohol Control Bylaw 2018

TO	Thames-Coromandel District Council
FROM	Michelle Clive - Strategic Planner
DATE	26 June 2018
SUBJECT	Proposed Alcohol Control Bylaw 2018

1 Purpose of report

This report seeks Council determination to review the current Part 4 Liquor Ban of the Consolidated Bylaw 2004. The report also seeks approval of the proposed Alcohol Control Bylaw, accompanying statement of proposal and communication plan for consultation.

2 Background

Legislative requirements

The Local Government Act 2002 (the LGA), section 147, provides for local authorities to create alcohol control bylaws. This section was replaced, on 18 December 2013, by section 4 of the Local Government (Alcohol Reform) Amendment Act 2012. This amendment required that all alcohol control bylaws be reviewed under the new legislative requirements by December 2018, otherwise the existing bylaw will be revoked.

The creation of an alcohol control bylaw empowers the New Zealand Police to enforce an alcohol ban. This means that if someone is drinking alcohol or has it on their person in a public place the Police are able to request that they stop, can dispose of the alcohol, impose a fine, and take further action if required. This does not apply when someone has purchased alcohol and are carrying it in a public place, unopened, to a place which is licensed for liquor consumption or to a private place for its consumption, as long as it is promptly removed from the public place.

The most significant legislative change affecting the review of the current bylaw is that there is now a greater responsibility on councils to justify the alcohol ban. A ban must be a reasonable limitation on rights and freedoms and there must be evidence of a high level of crime or disorder that was caused by alcohol consumption in a public place. Any bylaw must be appropriate and proportionate in the light of the crime or disorder. Previously councils had only to prove alcohol would be present in a public place on a specified day and that it was likely to lead to disorder or offensive behaviour, fighting or assault.

Section 147A of the LGA says:

- (3) *Before making under section 147 a bylaw that is intended to replace an expiring bylaw and is to the same effect (or to substantially the same effect) as the expiring bylaw, a territorial authority must be satisfied that—*
- (a) *the bylaw can be justified as a reasonable limitation on people's rights and freedoms; and*
 - (b) *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; and*
 - (c) *the bylaw is appropriate and proportionate in the light of that likely crime or disorder.*

Current bylaw

Our current Liquor Ban Bylaw (Part 4 - Liquor Ban of the Consolidated Bylaw 2004) provides for temporary and permanent bans of alcohol consumption and possession in public places in our district, including on roads, reserves, playgrounds and beaches. The rules differ by settlement area and around certain events like Beach Hop and Taste of Matarangi.

The Thames-Coromandel district faces two distinct problems with alcohol consumption. The first is common to other parts of the country, where alcohol consumption in high density public places like town centres which have easy access to both on-licence and off-licence venues, have a high risk of alcohol-related crime and disorder occurring. The second is our seasonal influx of holiday makers over December and January, particularly on the east coast of the Coromandel Peninsula, who increase the risk of alcohol related crime and disorder in public places like beaches and reserves where the year round risk is much lower.

3 Issue

The current bylaw is due for review by 18 December 2018 and will be revoked if not reviewed by this date. Council is asked to consider firstly whether to undertake a review of the bylaw, and secondly to adopt a draft bylaw, statement of proposal and communication plan for consultation.

4 Discussion

With the current bylaw lapsing at the end of 2018 staff have identified two options for elected members to consider:

Allow the bylaw to be revoked

The Council could allow the bylaw to be revoked under the legislation by not being reviewed within statutory timeframes, which would mean no alcohol bans will be in place from 18 December 2018 onwards. This could have the potential to cause a significant increase in crime and disorder relating to alcohol and mean the Police do not have the bylaw to enable them to provide effective control.

Review and replace the current bylaw

Council could review the current bylaw and in line with the change to legislative requirements review its current liquor ban areas to ensure there is sufficient evidence to support alcohol control bans as a means to prevent alcohol related crime and disorder. This would ensure a bylaw was in place for the peak summer period when the district has significantly increased visitor numbers.

Issues with the current bylaw

The current bylaw was made under previous legislation therefore needs to be reviewed in light of the new legislation.

Media coverage of Council's Liquor Ban Bylaw is high over the peak summer periods due to the influx of non-resident ratepayers and visitors to the district during that time, and a focus from media outlets both on how New Zealanders are holidaying as well as on crime and disorder issues in visitor hot spots. Alcohol bans attract a high level of public interest and profile; particularly in areas like Whangamata, which sees the largest increase in population over summer for any settlement in the district and has had historic issues of disorderly behaviour due to alcohol consumption and large crowds over this period. Police also receive a high level of public scrutiny as to their enforcement of the bylaw.

Initial feedback from stakeholders

Strategic planning and regulatory services staff have met with each Community Board in May to seek feedback on how the current Bylaw bans in their area are working, and what bans they would like to see going forward. This feedback has been taken into account in producing the draft bylaw for review.

Staff have been contacted by the New Zealand Motor Caravan Association (NZMCA) in advance of the review of alcohol control bylaws. They have asked Council to consider the implications of liquor bans on NZMCA members whilst freedom camping. An exemption for self-contained vehicles in designated camping areas within public places covered by an alcohol ban has been included in the draft bylaw and both NZMCA and NZ Police have indicated they are satisfied with this exemption.

Staff have met with local NZ Police staff to discuss proposed changes to the Bylaw, and have had discussions with national NZ Police staff in the alcohol harm unit. NZ Police have given initial feedback that they do not support the move from all day alcohol bans over the summer period on beaches and adjoining reserves to an evening only ban (in the draft bylaw as 7pm-7am). NZ Police were also clear in their initial feedback that they considered an early staff suggestion that the draft bylaw only treat consumption of alcohol in a public places as an offence (as opposed to possession) as unworkable, which staff have agreed with and taken into account in the draft bylaw.

No response has been received from the Department of Conservation.

Evidence of alcohol related crime and disorder

The Police provided Council with the alcohol infringement offence notice data from 18 December 2013 to 31 December 2017. They also provided a general report of crime and disorder for the district over the same period. From this data, staff have identified two areas of concern for alcohol related crime and disorder in the bylaw to reflect the needs of the district.

Town Centre permanent bans

The data provided by police shows a consistent level of crime and disorder in public places over the year in the district (peak periods reflect an increase of crime and disorder relative to the population increase). Police have advised a conservative assumption that 30% of all crime and disorder in a public place is linked to alcohol consumption.

The proposed bylaw reflects that town centres are where both on-licenced and off licenced premises are located, which increases the occurrence of public drinking and alcohol related crime and disorder. Town centres also have high population density throughout the day and in the evenings, which increases the risk towards members of the public as well as the number of people who may be potential offenders.

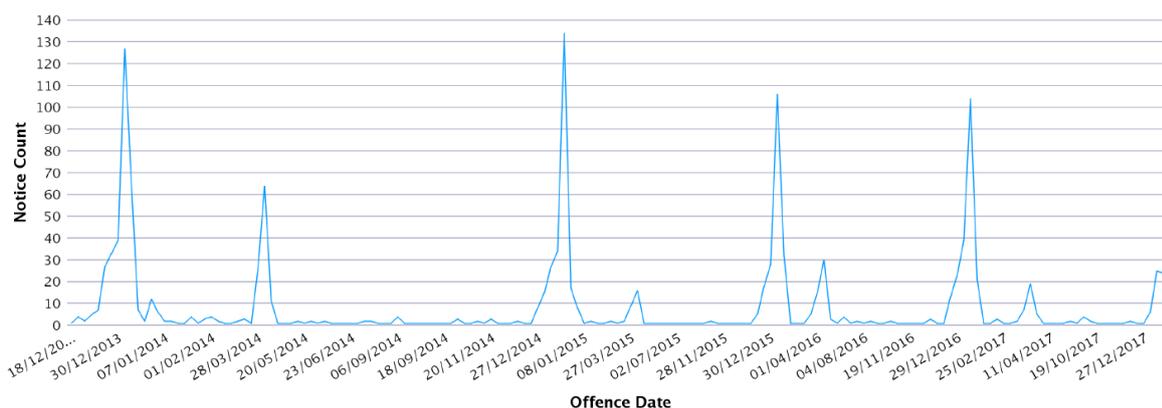
After considering the data from Police and the nature of town centres, staff advise that placing a ban in town centres around the district all year round is justified.

East Coast summer peak period evening bans

Data from Police shows 81% of all alcohol ban infringements were given between the hours of 7pm to 7am in the period December 2013 to December 2017. There is also data to support that there is an obvious increase in breaches of the current bylaw over the peak summer period, which aligns with the large increase in people staying in East Coast settlements between 20 December and 9 February.

In the past three years there has also been a noticeable increase in infringements issued over Easter Weekend; however this increase is significantly lower than the infringements issued over summer. A ban over the Easter Weekend has not been included in the

proposed bylaw as staff do not consider it reasonable to restrict alcohol possession in public places after considering the available data.



Proposed Bylaw

The proposed bylaw and statement of proposal for public consultation is included as **Attachment A**.

The proposed bylaw focuses on permanent bans and seasonal bans separately. Permanent bans (24 hours a day, 365 days a year) are proposed for all town centre areas which have both on-licence and off-licence premises. These areas are narrowly defined around the commercial area of the town centre to best focus on crime and disorder in busy areas where alcohol is readily available for purchase and have premises for consumption. This retains existing permanent bans in Thames, Coromandel and Whitianga and will introduce permanent bans in Matarangi, Cooks Beach, Hahei, Tairua, Pauanui and Whangamata. Permanent bans are being removed from Long Bay and Oamaru Bay.

Seasonal bans are set around the peak summer period and associated visitor and non-resident ratepayer influx. These bans are currently haphazard around the district and staff have tried to achieve consistency for the district's east coast settlements with the view that inconsistent bans between these settlements will influence where visitors stay and potentially shift problems from one area to another. Staff have also tried to make the necessary restrictions on peoples' ability to consume alcohol in a public place as reasonable as possible, by reducing the areas covered by these seasonal bans to beaches and adjoining reserves and to apply them only between the hours of 7pm and 7am, from 20 December to 9 February. This timeframe covers the key visitor period including New Year, Auckland Anniversary and Waitangi Day.

As a result, the scope of seasonal bans is proposed to be reduced in all areas they currently apply with smaller areas covered by the ban, and reduced dates and times. Staff consider that this is an appropriate level of alcohol control to give Police an effective tool to manage and prevent alcohol related crime in a public place while not unreasonably restricting peoples' ability to consume alcohol in a public place. Staff consider the proposed bylaw is consistent with the intention of section 147 of the LGA.

No event based bans are being provided for in the proposed bylaw, as the dates and time of events change. Instead, alcohol bans for an area where events are to be held can be set by Council resolution as a temporary ban where deemed appropriate.

Below is a table which summarises the changes between the current and proposed bylaw:

Current Bylaw	Proposed Bylaw
<p>Events</p> <p><u>Te Puru Gala</u> - Either the first or second Saturday of November each year dependent on weather. 4:00pm to 4:00am of that night at Te Puru School, Te Puru over the beach, foreshore and reserves adjoining SH25 north of the Te Puru Stream within the Te Puru township.</p> <p><u>Whangamata Beach Hop</u> - As set annual by the organisers in the Whangamata urban area including all public roads, beaches and reserves.</p> <p><u>Scallop Festival</u> - As set annually by the organisers, Whitianga CBD including all public places, reserves and beaches.</p>	<p>Events shall have a temporary alcohol ban established by Council resolution where required.</p>
<p>Whangamata Location: Whangamata urban area - all public places including roads, beach and reserves and all beach and reserves areas in Onemana and Opoutere.</p> <p>Time: From 4:00pm on 23 Dec to 4:00pm on 6 January, Auckland Anniversary Weekend, Easter weekend, Queens Birthday weekend, Labour Weekend, any other weekend where a public holiday falls on a Friday or Monday.</p>	<p>Whangamata Town Centre (as indicated in maps) 24 hours a day, 365 days a year. Includes Williamson Park.</p> <p>Time/date restricted ban - Beaches and adjoining reserves (as indicated in maps) including Onemana and Opoutere 7pm to 7am, from 20 December to 9 February.</p>
<p>Tairua-Pauanui Location: Tairua and Pauanui urban areas - all public places including roads, beach and reserves and all beach and reserves areas.</p> <p>Time: From 4:00pm on 23 Dec to 4:00pm on 6 January, Auckland Anniversary Weekend, Easter weekend, Queens Birthday weekend, Labour Weekend, any other weekend where a public holiday falls on a Friday or Monday.</p>	<p>Tairua-Pauanui Town Centres (as indicated in maps) 24 hours a day, 365 days a year. Includes Tairua and Pauanui.</p> <p>Time/date restricted ban - Beaches and adjoining reserves (as indicated in maps) 7pm to 7am, from 20 December to 9 February.</p>
<p>Thames Location: The central area bounded by Burke Street in the north, Fenton Street in the South, Rolleston Street and Karaka Road up to the bridge over to bella Street in the east, aligned through to the foreshore in the west, including the monument.</p> <p>Time: Every day of every year for twenty hour hours every day</p> <p>Location: Kauaeranga Valley Road within the Forest Park.</p>	<p>Thames Town Centre (as indicated in maps)</p> <p>24 hours a day, 365 days a year.</p>

Current Bylaw	Proposed Bylaw
<p>Time: 4:00pm on 23 Dec to 4:00pm on 6 January, Auckland Anniversary Weekend, Easter weekend, Queens Birthday weekend, Labour Weekend, any other weekend where a public holiday falls on a Friday or Monday.</p>	
<p>Mercury Bay Location: All public places including roads, beaches and reserves in Whitianga from the area of Cook Drive through, bounded by Bryce Street to Hannan Road, to Albert Street, where it will extend northward to The Esplanade, to the foreshore and Ferry Landing on Purangi Road incorporating the Ferry Landing Cemetery Car park to the Ferry Landing Car park and Ferry Shelter area.</p> <p>Time: From 8pm to 8am every day of the year.</p> <p>Location: All public places including roads, beaches and reserves in Whitianga/Wharekaho, Cooks Beach/Ferry Landing, Hahei, Hot Water Beach, Matarangi, Whangapoua, Kuaotunu, Otama, Opito Bay and Matapoua Bay.</p> <p>Time: From 4:00pm on 23 Dec to 4:00pm on 6 January, Auckland Anniversary Weekend, Easter weekend, Queens Birthday weekend, Labour Weekend, any other weekend where a public holiday falls on a Friday or Monday.</p>	<p>Mercury Bay Town Centres (as indicated in maps)</p> <p>24 hours a day, 365 days a year. Includes Whitianga, Matarangi, Cooks Beach and Hahei.</p> <p>Time/date restricted ban - Beaches and adjoining reserves which includes Whitianga, Matarangi, Rings Beach, Cooks Beach, Hahei, Hot Water Beach, Ferry Landing, Ohuka (Brophy's) Beach, Wharekaho, Opito Bay, Otama, Kuaotunu and Kuaotunu West (as indicated in maps) 7pm to 7am, from 20 December to 9 February.</p>
<p>Coromandel-Colville Location: All public places including roads, beaches and reserves in Oamaru Bay, Long Bay and Tucks Bay (excluding Long Bay motor camp) and Coromandel Town - all of Kapanga Road and Wharf Road, From Kapanga/Tiki Road intersection to Whangapoua Road intersection.</p>	<p>Coromandel Coromandel Town Centre (as indicated in maps) 24 hours a day, 365 days a year.</p>

New Zealand Bill of Rights Act

Council is required to consider whether the proposed bylaw may have any implications under the New Zealand Bill of Rights Act 1990. Restriction of peoples' ability to consume or possess alcohol in a public place does have Bill of Rights Act implications which Council must consider.

Staff advise however that any implications under the New Zealand Bill of Rights Act are reasonable and justified in preventing alcohol related crime and disorder, meeting the tests under both the Bill of Rights Act and section 147 of the LGA.

The Council will also have an opportunity to consider any implications under the New Zealand Bill of Rights Act before adoption of the final bylaw.

Consultation

Should Council endorse the proposed Alcohol Control Bylaw for consultation, the consultation would be undertaken for a period of one month from 29 June 2018 to 30 July 2018. Hearings would take place on 28 August 2018.

A communication plan **Attachment B** outlines the proposed approach to prompt a conversation about the bylaw between Council and the residents and ratepayers in the district.

Consultation will be held in accordance with the special consultative procedure required under the Local Government Act 2002.

5 Suggested Resolution(s)

That the Thames-Coromandel District Council:

1. Receives the 'Proposed Alcohol Control Bylaw 2018' report dated 5 June 2018.
2. Determines that a bylaw is an appropriate mechanism to manage and prevent alcohol related crime and disorder in public places, and that the proposed bylaw is the most appropriate form of bylaw.
3. Determines that the proposed Alcohol Control Bylaw restrictions on rights under the New Zealand Bill of Rights Act 1990 are reasonable and justified in preventing alcohol related crime and disorder in public places in the district.
4. Approves the Statement of Proposal and Proposed Alcohol Control Bylaw for public consultation from 29 June to 30 July 2018.

References-Tabled/Agenda Attachments

Attachment A *Statement of proposal and proposed Alcohol Control Bylaw 2018*

Attachment B *Communication Plan - proposed Alcohol Control Bylaw 2018*

Attachment A

Attachment A - Statement of proposal and proposed Alcohol Control Byla...

Attachment B