



Proposed Alcohol Control Bylaw

Statement of Proposal

Introduction

Kawerau District Council ('KDC') are proposing to replace the outdated Liquor Control Bylaw 2009 with a new proposed Alcohol Control Bylaw to help reduce alcohol related crime and disorder by controlling the possession and consumption of alcohol in public places.

KDC are now seeking feedback from the community on the proposed bylaw and this document outlines the proposed bylaw and process to provide feedback.

Why are KDC proposing a New Alcohol Control Bylaw

The last update of the Liquor Control Bylaw was completed in 2009. Since this time, the Sale and Supply of Alcohol Act 2012 has come into force. On undertaking a review of the existing bylaws, KDC established the Liquor Control Bylaw 2009 was out of date and the development of a new bylaw was required.

Purpose of the Proposed Alcohol Control Bylaw

The Local Government Act 2002 ('LGA') enables territorial authorities, like KDC, to make bylaws for the purpose of protecting the public from nuisance, protecting, promoting and maintaining public health and safety and minimising the potential for offensive behaviours in public places¹.

The bylaw aims to reduce the incidents of alcohol related crime and disorder through the establishment alcohol-free areas enabling Police and Council to better promote and maintain public health and safety within the central district.

What is the problem to be resolved?

The problem to be addressed is the alcohol related crime and disorder which occurs within the central district and at both the Cemetery and Stoneham Walk.

The existing bylaw with minor changes had been in place since 2004. However, in the last few years Police had been unable to effectively use the existing bylaw to control alcohol related crime and disorder due to the bylaw requiring updates. Police advise this has negatively impacted on their enforcement abilities around alcohol related disorder in the alcohol-free area in the central district.

KDC sought feedback from the Police who advised they are continuing to see ongoing issues of alcohol related disorder and assaults and believe a new bylaw is required to enable Police to better protect the community from alcohol related disorder and offensive behaviours within the central district.

When the Liquor Control Bylaw was first implemented in 2004 and later reviewed in 2009, the incidents of crime and disorder at the Cemetery and Stoneham walk reduced. The reporting of

¹ Local Government Act 2002, s 145

disorder in these areas remain low, having had the benefit of being protected with a bylaw. It is likely the disorder in these areas would increase if the alcohol-free areas were removed.

KDC is satisfied the bylaw is a reasonable limitation on people's rights and freedoms and is appropriate and proportionate considering the crime and disorder that is likely if the bylaw is not reinstated.

Is the bylaw the most appropriate way to address the problem?

KDC believes the Alcohol Control Bylaw is the most appropriate way to address alcohol related harm while providing the most effective way to protect the public from nuisance, promote and maintain public health and safety and minimise alcohol related offensive behaviour in public places.

Police support the proposed Alcohol Control Bylaw as it provides an effective tool to prevent and manage public nuisance behaviour. Enforcement through the bylaw is instant and has less of a community impact than other options available to Police.

Is the bylaw the most appropriate form of bylaw?

The previous Liquor Control Bylaw 2009 has previously operated well. This proposal recommends the Alcohol Control Bylaw be adopted, and while changes have been made to the form and content, it has substantially the same effect as the previous bylaw, maintaining alcohol free zones while enabling KDC to make one off dispensations on a case-by-case basis.

KDC considers the proposed Alcohol Control Bylaw to be in the most appropriate form of a bylaw as it clear, not overly restrictive or impractical, focuses on key areas, is not repugnant to general laws of New Zealand and is authorised by s145 and s147 of the LGA.

Implications under the New Zealand Bill of Rights Act 1990

The New Zealand Bill of Rights Act 1990 details rights and freedoms in relation to life and security of people; democratic and civil rights; non-discrimination and minority rights; search, arrest, and detention; criminal procedure and right to justice.

The LGA empowers territory authorities to lawfully adopt alcohol-free areas within their district. While the proposed bylaw enables Police and Council to ask people to leave or to stop consuming alcohol within the alcohol-free areas, the restrictions are considered fair and reasonable and in the best interest of public health and safety within the district.

This bylaw does not restrict the movement of people who are not in possession of alcohol or those drinking alcohol in private premises.

KDC does not consider the proposed Alcohol Control Bylaw gives rise to any unjustified implications under the New Zealand Bills of Rights Act 1990.

Summary of Proposed Changes

The Liquor Control Bylaw 2009 is now out of date and KDC are proposing to replace this with a new Alcohol Control Bylaw. While the proposed Alcohol Control Bylaw will have substantially the same effect as the previous bylaw, there are some changes in the document to be noted.

The key differences between the proposed bylaw and the previous bylaw are detailed in the table below:

Key Differences	Reason
Change the bylaw name from Liquor Control Bylaw to Alcohol Control Bylaw	For consistency with the Sale and Supply of Alcohol Act 2021 and amendments to the LGA.
Update references to the 'Sale of Liquor Act 1989' to the 'Sale and Supply of Alcohol Act 2012'	For consistency with the Sale and Supply of Alcohol Act 2021 and amendments to the LGA.
Replace references to 'liquor' with 'alcohol'.	For consistency with the Sale and Supply of Alcohol Act 2021 and amendments to the LGA.
Update the Explanatory Statement	To remove duplication of statements.
Contents expanded	Clause 4 – Application of the Bylaw was updated and broken down into separate clauses to improve clarity and ability to locate information.
Update to clause 2 - Purpose	Statement simplified
Update clause 3 – Interpretation Include definitions for alcohol, bylaw, offence and vehicle. Removed definition for Restricted Liquor Area and Specified Time Amended definition of Public Place	Updated for consistency with current legislation and bylaw. Removed definitions no longer used in proposed bylaw.
Clause 4 – Application of Bylaw replaced with new provisions	Clause updated and broken down into separate clauses to improve clarity and ability to locate information.
New clause 4 – Alcohol-Free Area defined	Defines what an alcohol-free area is and what is prohibited – including bringing, possessing and consuming alcohol in the area including the use of a vehicle to undertake those behaviours within the area.
New clause 5 – Temporary Alcohol-Free Area which enables Council, by notified resolution, to specify a public place alcohol-free for set events or timeframes.	To enable control of alcohol-free public events, held outside of alcohol-free areas.
New Clause 6 – Special Licences Enables the sale and supply of alcohol with an approved special licence in a specified alcohol-free area for a special event	Part of the previous clause 4 restated for clarification. Application timeframe included for public reference.
New Clause 7 – Dispensation Enables the possession and consumption of alcohol with an approved dispensation, in a specified alcohol-free area for a special event. Includes requirement for Police consultation and advertising at applicant's expense.	Part of previous clause 4 restated for clarification. Include the requirement police consultation and advertising to better inform the public and minimise the risk of false notification of breaches of the bylaw.
New Clause 8 – Exceptions to Bylaw Sets out exceptions around transporting unopened alcohol and the sale, supply and consumption of alcohol on licenced premises within alcohol-free areas.	Part of previous clause 4
Clause 9 – Offences and Breaches Updated to include information on what amounts to a breach of the bylaw.	Previous clause 5 Amendments added for clarification.
Clause 10 – Notices New provision to enable notices of direction to be issued advising of actions required to comply with bylaw.	To better enable enforcement steps to be undertaken by Police and Council.
Clause 11 – Powers of arrest, search and seizure	Previous clause 6 Updated to align with legislation.
Clause 12 – Penalties Infringement penalties included	New provision added for clarification.
Schedule Alcohol-Free Area updated to include maps of all areas. Alcohol-Free Area extended along Tamarangi Drive to include the area between Islington Street and Short Street.	To enable clearer understanding and visual reference of alcohol-free area. To address vehicles parking on roadside during sports events and drinking at edge of alcohol-free area.

Options Considered by Council

In accordance with s77 of the LGA, KDC has considered all reasonably practicable options available. The advantages and disadvantages associated with each option are detailed in the table below. KDC is proposing to proceed with Option 1.

Option	Advantages	Disadvantages
<p>1 – Replace the outdated Liquor Control Bylaw with the proposed Alcohol Control Bylaw.</p> <p>Recommended Option</p>	<p>Provides KDC and Police with a tool to help control harmful consumption of alcohol in public places.</p> <p>Supports a reduction in alcohol-related harm (e.g. crime and nuisance).</p> <p>Promotes and maintains public health and safety.</p> <p>Provides an appropriate balance between regulatory controls and the rights of the community to enjoy alcohol responsibly.</p>	<p>Staff time and costs associated with consultation.</p>
<p>2 – Do not adopt a new Alcohol Control Bylaw</p>	<p>Savings in staff time and costs associated with consultation</p>	<p>Removes the ability to control the possession and consumption of alcohol in public places, which may result in an increase in alcohol related crime and disorder.</p>

Have your say

The consultation period for the proposed Alcohol Control Bylaw will begin on 18 July 2022 and conclude at 5pm on 19 August 2022.

This is your opportunity to let Council know what you think of the proposed Alcohol Control Bylaw. There are many different ways you can tell us what you think.

You can:

- Visit our Website – kaweraudc@govt.nz and use our online submission form
- Email – submissions@kaweraudc.govt.nz
- Facebook – DM (direct message) your submission
- Drop in – Hard copy of submission form to Council Office
- Post – Chief Executive, Kawerau District Council, Private Bag 1004, Kawerau 3169

Copies of the Statement of Proposal and the proposed Alcohol Control Bylaw are available on our website or from our office.

Hearing

Please tell us if you would like to attend a hearing to speak to Council in support of your submission. Please ensure you include a telephone number and email address to enable us to contact you to arrange a time for your presentation. We will assume you don't want to be heard unless you tell us you do.

Hearings will be held on 30 August 2022.