

## Statement of Proposal

### DRAFT ALCOHOL CONTROL BYLAW 2018

#### Introduction

The Whakatāne District Council (the Council) has reviewed Part 15: Liquor Control of the Consolidated Bylaw 2008 that is due to expire in 2018.

#### Proposal

The Council proposes to revoke Part 15: Liquor Control of the Consolidated Bylaw and replace it with a stand-alone Alcohol Control Bylaw.

The Draft Alcohol Bylaw 2018 is being released for consultation using the Special Consultative Procedure as outlined in section 86 of the Local Government Act 2002 (the Act). In accordance with section 86 (2) of the Act, Council is required to include the following in a Statement of Proposal:

- A draft of the proposed bylaw;
- The reasons for the proposal; and
- A report on any relevant determinations by Council under section 155 of the Act.

The attached copy of the proposed Whakatane District Council Draft Alcohol Control Bylaw 2018 forms part of this Statement of Proposal.

The Whakatane District Council seeks your views on the Draft Alcohol Control Bylaw 2018.

#### Reasons for the Proposal

Under sections 158 to 160 of the Act, the Council is required to review all bylaws within five years of their adoption and every ten years thereafter.

Council staff have reviewed Part 15: Liquor Control Bylaw 2008 and consider that overall, the bylaw is fit for purpose. The key changes are:

##### ***Times of alcohol bans***

The key change made to the draft bylaw is around the times that alcohol bans are in force. Currently there is a lack of consistency around the times that alcohol bans are in force in different locations.

The Draft Alcohol Control Bylaw 2018 proposes a single timeframe for the entire district during which permanent alcohol bans are in force - between 12.00 noon on Thursday and 12.00 midnight on Sunday.

The current alcohol ban over the Christmas / New Year period extends for two weeks. The Draft Bylaw proposes that this should cover two short periods only - midday on 24 December to midday on 26 December, and midday on 31 December to midday on 1 January.

## ***Location of alcohol bans***

The Local Government (Alcohol Reform) Amendment Act 2012 requires councils to provide evidence showing that an area has a high level of crime or disorder made worse by alcohol consumption before an alcohol ban can be imposed. As a result, some changes have been made to the locations where alcohol is banned, but in general, the locations remain the same as in the current bylaw. These include all beaches, reserves, boat ramps and jetties within the District, as well as roads specifically identified in the maps in Attachment 2.

The current bylaw contains a written description of alcohol ban areas as well as maps depicting the same information with some discrepancies. The Draft Alcohol Control Bylaw 2018 no longer contains written descriptions. The location of alcohol bans is shown only in maps which are easy to read and more precise than a written description.

## **Specific changes made in the Draft Alcohol Control Bylaw 2018**

Table 1 below shows the specific changes that have been made in the Draft Alcohol Control Bylaw 2018.

| <b>Section in existing bylaw</b>                  | <b>Reason for proposed change</b>   | <b>Proposed Change</b>  | <b>Outcome if change approved</b>  | <b>Section in Draft Bylaw</b>   |
|---|---|---|--|---|
| New Sections                                      | Current Bylaw is part of the Consolidated Bylaw and does not contain these sections.  | Add new sections:<br>- Short Title and Commencement<br>- Revocation<br>- Purpose<br>- Interpretation  | All relevant information is contained in a single document.  | S1 Short Title and Commencement<br>S2 Revocation<br>S3 Purpose<br>S4 Interpretation |
| S15.3 Exceptions to Bylaw                         | Current bylaw refers to section 147(3) of the Local Government Act. This is incorrect.  | Refer to section 147 (4) of the Local Government Act.   | Inaccuracy in the current bylaw is corrected.  | S7 Exceptions to Bylaw  |
| S15.3.2 Licensed Premises                         | Current bylaw refers to the Sale of Liquor Act 1989. 2012 legislation replaces this.  | Refer to Sale of Liquor Act 2012.   | Bylaw updated to reflect latest legislation.   | S7 Exceptions to Bylaw<br>(2) Licensed Premises.                                    |
| Attachment 1: S3.1 Liquor Control Areas and Times | Rules relating to alcohol controls in different areas are now the same.<br><br>Text describing locations of each alcohol ban area has been deleted. | Amend this sentence to:<br>The Council has resolved that under clause 6 of the Alcohol Control Bylaw 2018, alcohol controls be imposed on:<br>(1) All beaches, reserves, parks, boat ramps and jetties within the District; and<br>(2) The roads specifically identified in the Whakatāne Central | Bylaw is easier to follow and the locations of alcohol bans are shown on maps.<br><br>These maps can easily be updated if necessary. | Attachment 1:<br>S2 Alcohol Control Areas and Times                                 |

|                      |   |   |   |  |
|----------------------|---|---|---|--|
|                      |   | Business District, Hillcrest Road (including the Seaview Road carpark), the Heads and River Edge park, the Kopeopeo Central Business District, Ōtarawairere, Kōhī Point Scenic Reserve, Tāneatua, Murupara, Te Teko and Edgecumbe as shown in the maps in <b>Attachment 2.</b>  |   |  |
| S3.2 Permanent Basis | <p>Permanent alcohol bans start and finish at different times in different locations around the District. Creates confusion.</p> <p>Text describing locations of alcohol bans is not easy to interpret. Discrepancies exist between the written text and the maps in the current bylaw. Legal advice is that clear maps are better.</p> | <p>Replace times and locations of alcohol bans with the following:</p> <p><b>Permanent Basis</b><br/>(1) The acts referred to in section 5 of the Whakatane District Council Alcohol Control Bylaw 2018 are prohibited on a permanent basis on the days and hours from 12.00 noon Thursday to 12.00 midnight Sunday.</p> <p><b>Christmas / New Year Period</b><br/>The acts referred to in section 5 of the Whakatāne District Council Alcohol Control Bylaw 2018 are prohibited between midday 24 December to midday on 26 December and midday on 31 December to midday on 1 January.'</p> <p>Delete all remaining text in this section which outlines locations of alcohol ban.</p> | <p>Bylaw is simplified and easier to read.</p> <p>Alcohol bans in all locations within the District take place at the same time.</p> <p>Confusing descriptive text is removed and locations are shown on maps only.</p> <p>These maps can easily be updated if necessary.</p> | Attachment 1: S2 Alcohol Control Areas and Times |

## Other options to the proposed bylaw considered

Council considered two other options:

- Keeping the existing bylaw
- Having no bylaw at all.

Council considers that the proposed bylaw is the most appropriate method to address all issues relating to the control of alcohol in the District.

Alcohol misuse can only be managed by bylaws and Section 147 of the Act gives territorial authorities the authority to make bylaws for its district for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, any or all of the following:

- (a) The consumption of alcohol in public places;
- (b) The bringing of alcohol into public places;
- (c) The possession of alcohol in public places.

Without a bylaw, Council would be unable to fulfil its responsibilities under section 145 of the Act to protect the public from nuisance, protect, promote, and maintain public health and safety and to minimise the potential for offensive behaviour in public places.

## Council's ability to make an Alcohol Control Bylaw

The Act sets out the procedure for making a bylaw. The Council is required under section 155 of the Act to determine whether a bylaw is the most appropriate way to address perceived problems. Section 155 (1) of the Act requires the Council to determine whether a bylaw is the most appropriate way to address perceived problems and section 155(2) requires Council to determine whether the proposed bylaw:

- Is the most appropriate form of bylaw; and
- Gives rise to any implications under the New Zealand Bill of Rights Act 1990.

The proposed bylaw is the most appropriate form to address issues relating to controlling nuisances and promoting and managing public health because it meets the following tests:

- The bylaw is authorised by statutory authority under the Local Government Act 2002;
- The bylaw is not repugnant to the general laws of New Zealand;
- The proposed bylaw is certain and provides clear direction;
- The bylaw is reasonable; and
- The bylaw is not overly restrictive, onerous on any one person, or impractical.

There are no implications under the New Zealand Bill of Rights Act. The draft bylaw does not place any limits on freedom of movement, expression or association, and does not isolate any particular social group in terms of the Act. In addition, any offences under the bylaw will require a judicial process through the Courts.

Section 156 of the Act requires the Council to use the Special Consultative Procedure set out in section 83 of the bylaw and continues to apply.

## Consultation and Submissions

Council invites the community to give us feedback on the proposed Bylaw to assist it in the decision-making process.

The formal consultation process will take place between **12 March and 12 April 2018**. Council will hold a hearing in May 2018.

Any person or organisation is welcome to make a submission on the Draft Alcohol Control Bylaw 2018. The Council take into account all submissions when it decides on the final content of the bylaw.

Copies of the Statement of Proposal are available on Whakatane District Council's website <http://www.whakatane.govt.nz>

Hard copies are available from:

- Whakatane District Council 14 Commerce Street, Whakatane
- Whakatane Library 49 Kahahoroa Drive, Whakatane
- Edgecumbe Library 38 College Road, Edgecumbe
- Ohope Library 4 Harbour Road, Ohope
- Murupara Library / Service Centre Civic Square, 48 Pine Drive, Murupara

Formal submissions may be made:

Online: <http://www.whakatane.govt.nz>

Post to: Alcohol Control Bylaw, Private Bag 1002,  
Whakatane 3158.

Deliver to: Alcohol Control Bylaw, Whakatane District Council, 14 Commerce Street,  
Whakatane.

Email to: [submission@whakatane.govt.nz](mailto:submission@whakatane.govt.nz) Attention Bylaw Review

Informal submissions can be made by commenting on our Facebook page at <http://www.facebook.com/WhakataneDistrictCouncil>

### **Submissions close at 5pm on Friday 12 April 2018.**

Submitters should note that their submission will be copied and made available to the public after the submission period closes.

Submission should include your name, address, telephone number and email address and should state if you wish to speak to Council in support of your submission. The Council will contact in writing, all submitters who wish to be heard to advise the confirmed time, date and venue of the hearing.