

**Chairperson and Committee Members**  
REGULATORY MANAGEMENT COMMITTEE

14 MARCH 2013

Meeting Status: **Public**

Purpose of Report: For Decision

**APPROVAL TO CONSULT ON THE DRAFT KAPITI COAST  
DISTRICT COUNCIL CONTROL OF ALCOHOL IN PUBLIC  
PLACES BYLAW 2013**

**PURPOSE OF REPORT**

- 1 This report introduces the Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013 and seeks approval to release the draft for consultation.

**SIGNIFICANCE OF DECISION**

- 2 This report does not trigger the Council's Significance Policy.

**BACKGROUND**

- 3 The Kāpiti Coast District Council has a bylaw which regulates the possession and consumption of alcohol in public places. The current Kapiti Coast District Council Public Places Liquor Control Bylaw 2007 made significant changes to liquor ban areas in Ōtaki, creating 24 hour liquor bans along the main arterial routes of the town. The south of the District has a short Christmas/New Year ban on all Kāpiti Coast beaches and a few small areas such as the Waikanae Skate Park. The current bylaw is attached as Appendix 1. This has proved to be insufficient to address alcohol-related crime incidents in the District.
- 4 Community concern about alcohol-related crime and harm in the District has been heightened by the two deaths at the Kāpiti Lights complex last year. In response, the Council worked with the Police and the community to develop a range of tools to reduce alcohol-related crime and harm. At the request of the Police, the Council used its powers to designate temporary liquor ban areas in November last year (Liquor Control Temporary Specified Public Place SP-12-731).
- 5 The timing of the temporary specified public place liquor ban was intended to cover the period required to decide on a more permanent solution. As resolved at the 29 November 2012 Council meeting (SP-12-731), a draft bylaw and associated proposal have been prepared for consideration.
- 6 Research evaluating the effectiveness of bylaws provided by Regional Public Health supports the use of a bylaw to reduce public place alcohol-related crime in combination with other strategies. The Police and the Council have worked closely with others to reduce alcohol-related public place crime. This work includes:

- effective and increased collaboration between the Police, the Council and the community which has resulted in increased surveillance of licensed premises and monitoring of public areas associated with those places;
- enforcement action being taken against the Retro Bar, which resulted in the cancellation of the liquor licence;
- continued implementation of the Kāpiti Coast Alcohol Action Plan;
- increasing coordination and communication between the Police, the Council, other agencies, licensees and landowners at Kāpiti Lights and environs;
- wider interagency work coordinated through the Kāpiti Coast Liquor Liaison Group;
- the development of an Alcohol Accord, an industry-led initiative, where licensees, the Police, Hospitality Association of New Zealand, Regional Public Health, Health Promotion Agency and the liquor licensing inspector meet to discuss and promote practices that support safe and responsible drinking), and
- work undertaken through the Kāpiti Coast Youth Action Plan.

## CONSIDERATIONS

### Crime

- 7 The Police have provided data describing the current crime picture in Kāpiti. While the level of crime is not extreme, it occurs across the District. The Kāpiti Coast does not have a clear centralised entertainment precinct such as Wellington or Lower Hutt. Alcohol-related crime does tend to focus around liquor outlets, such as in the Kāpiti Lights complex, and it is not as centralised as the city entertainment precincts. The location of crime is also influenced by private parties which are scattered across the District. Many of the incidents occur when party-goers travel from one place to another. Crime is focussed in the travel corridors. This means that a wider liquor ban area is required, while ensuring that the response is a reasonable limitation on people's rights and freedoms, and appropriate and proportionate in light of the evidence.
- 8 The temporary specified public place liquor ban set urban-wide overnight alcohol-free zones throughout the southern part of the District (from Waikanae to Paekākāriki). The temporary specified public place liquor ban provided an immediate but temporary solution to improve both actual and perceived safety in public places in the District.
- 9 The level of concern and the increased understanding about the impact of alcohol-related crime led to the decision to review the bylaw. After an initial review it was decided to replace the current bylaw.

## Proposal

- 10 The intention of the draft bylaw is to:
- Introduce an overnight alcohol-free zone (9 pm to 6 am) for the entire length of the beach, foreshore and dunes within the jurisdiction of the Kapiti Coast District Council.
  - Introduce overnight alcohol-free zones (9 pm to 6 am) for public places in the urban areas of Paekakariki, Raumati South, Raumati, Paraparaumu, Paraparaumu Beach, Otaihanga, Waikanae and Waikanae Beach, Peka Peka Beach and Te Horo Beach.
  - Introduce 24 hour alcohol-free zones in all skate parks and adjoining public places within the jurisdiction of the Kapiti Coast District Council.
  - Retain the existing 24 hour alcohol-free zones for Otaki main streets and travel corridors, with a extension to include Waerenga Road. Remove the existing Thursday to Sunday Liquor Ban for Otaki Beach and foreshore and replace this with the beach zone described above.
- 11 In addition to the establishment of the above alcohol free zones, the bylaw has been reviewed and redrafted to cater for legislative changes due to come into force in December 2013 (involving changes to the liquor bylaw provisions in the Local Government Act 2002 and the introduction of the Sale and Supply of Alcohol Act 2012).

## Beaches

- 12 The beach connects the Kāpiti Coast communities, and dividing it up into different zones with different rules could lead to displacement occurring. Community members have been concerned that the bylaw should not interfere with responsible alcohol consumption, for instance a picnic or fish and chips by the beach during the evening in daylight hours. The overnight urban wide alcohol-free zone still allows alcohol to be used responsibly during the day and is not considered to be unreasonably restrictive. Therefore, an overnight alcohol-free zone is recommended on the entire length of the beach.

## Urban Wide Overnight Alcohol-Free Zone

- 13 The Alcohol Free Zones contained in the draft bylaw are similar to the temporary specified public place liquor ban. The temporary specified public place liquor ban covered the urban areas of the District with the exclusion of Ōtaki. The draft bylaw recommends the same urban wide coverage for the south of the District, but includes Te Horo and Peka Peka and continues to exclude Ōtaki. The Ōtaki Police report that the 2007 Bylaw addresses most of the Ōtaki community's needs. They support the designation of an overnight alcohol-free zone along the beach and have requested an extension of the current areas to include Waerenga Road.
- 14 The use of the temporary specified public place liquor ban has demonstrated that establishing the wider alcohol-free zones has been very effective. The Police have monitored the temporary specified public place liquor ban and, whilst the results can only be partially attributed to the alcohol-free zones, they report that it has been highly effective:
- Public place violence was down by 11% for December 2012 and 22% for January 2013 as compared to the same time last year.

- Public place disorder was down by 40% for December 2012 and 82% for January 2013 as compared to the same time last year.

15 The wider alcohol-free zones have also prevented displacement. Notably, the problems around the Kāpiti Lights complex do not appear to have moved to another part of the District.

### **Skate Parks**

16 Currently a 24 hour seven days of the week ban only applies to the Waikanae Skate Park. Traditionally skate parks have needed strong management. In particular, there is concern about the Paraparaumu Skate Park. A 24 hour seven days of the week alcohol-free zone is recommended for all skate parks in the District, which will provide consistency and a clear message to users.

### **Te Horo**

17 Consideration was given as to whether the bylaw could be used to help address issues at Sims Road. There have been ongoing complaints about freedom camping, which is no longer permitted on Sims Road under the Council's policy. Security staff report that they are unable to ask campers to leave when they have been consuming alcohol. Legal advice was received, which cautioned against using the bylaw in these circumstances. If the problems at Sims Road are in fact caused by freedom camping, trying to fix them through the alcohol bylaw could ultimately lead to the Council being challenged on the basis that this is an improper use of the bylaw-making power.

### **Transition**

18 The current temporary specified public place covers the higher risk times of Christmas, Summer and Easter. If accepted, the draft bylaw can be enacted in time to ensure the required coverage into the future.

### **Human Rights**

19 It is a requirement that the implications under the New Zealand Bill of Rights Act 1990 are addressed and that the bylaw not be inconsistent with that Act. For the following reasons, any infringement of the rights and freedoms in the Act are considered reasonable:

- the existence of alcohol-related crime and harm on Kāpiti Coast communities, about which there is a very high level of concern in the community;
- the proven effectiveness of the recent temporary specified public place liquor ban in improving community safety, and
- the high level of support in the community for alcohol-free zones.

20 The proposed draft bylaw, particularly the proposed alcohol free zones, is a reasonable limitation on people's rights and freedoms, and an appropriate and proportionate response to the problems identified with alcohol in public places.

### **Consultation and Legislative Requirements**

21 A special consultative procedure is required by the Local Government Act 2002. This is outlined in the Statement of the Proposal (Appendix 2). The release of the draft bylaw will allow for community consultation.

- 22 As the special consultative procedure is required, the Statement of Proposal must comply with sections 83 and 86 of the Local Government Act 2002. Under section 86, the Statement of Proposal must include:
- the draft bylaw to be adopted;
  - a statement that the existing bylaw is to be revoked;
  - a statement of the reasons for the proposal; and
  - a report addressing the determinations under section 155.
- 23 The determinations under section 155 are:
- determining that a bylaw is the most appropriate way of addressing the problem;
  - determining that the proposed bylaw is the most appropriate form of bylaw, and
  - determining whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990, and ensuring that it is not inconsistent with that Act.
- 24 In addition, to comply with the Bylaws Act 1910, it is necessary to ensure the provisions of the proposed bylaw are:
- i. within the powers of the Council to make it under sections 145 and 147 of the Local Government Act 2002;
  - ii. are not repugnant to the laws of New Zealand; and
  - iii. are not unreasonable.
- 25 After consideration, it is determined that this bylaw meets the three objectives stated above.

### **Financial Considerations**

- 26 As this initiative has been triggered by unforeseen events, the costs associated with design, printing, installation and on-going replacement and repair of signage were not been budgeted for in the 2012-2022 long term plan, nor have the costs associated with an ongoing media campaign.
- 27 However, the recommended draft bylaw is consistent with the recent temporary specified public place liquor ban. This consistency will minimise additional signage and communication costs if the bylaw adopted after consultation is largely consistent with the most recent temporary specified public place liquor ban. There will be more significant costs if signage erected for the temporary specified public place liquor ban is inconsistent with the new bylaw. It is estimated that a budget of \$16,000 is required for legal costs, to provide signage and publicise the bylaw if the temporary specified public place liquor ban signage does not need to be replaced.
- 28 The estimated costs of \$16,000 will be funded from within [existing budgets](#).

## **Legal Considerations**

- 29 As noted above, there are risks associated with the New Zealand Bill of Rights Act. Council officers have sought to reduce those risks through undertaking consultation with the community and working closely with the Police on this issue.

## **Delegation**

- 30 The Committee has delegated authority to approve the draft bylaw for public consultation:

### **Section B.2, Bylaws**

- 7.12 Authority to review all or any Council bylaws, to approve draft bylaws for public consultation, to hear submissions, and to recommend to the Council amendments to the bylaws.

## **Consultation**

- 31 The review of the bylaw will follow the special consultative procedure as prescribed in sections 83 and 86 of the Local Government Act 2002.

## **Policy Implications**

- 32 This proposal complements other Council initiatives, such as being a White Ribbon Council, and the work on the Kāpiti Coast Alcohol Action Plan.

## **Tāngata Whenua Considerations**

- 33 During the development of the Kāpiti Coast Alcohol Action Plan, concerns were expressed over alcohol-related crime and harm within the District by members of all three Iwi. Late last year a hui held at the Waikanae Marae expressed grave concern about the impact of alcohol on the health and wellbeing of the Iwi.

## **Publicity Considerations**

- 34 A communication plan has been developed in line with the normal publicity used to encourage community participation in the consultation process. There will also be publicity to support public compliance with the bylaw once it has been adopted similar to the communication strategies that proved to be effective for the temporary specified public place liquor ban: newspaper advertising, radio and posters targeted at youth.

## RECOMMENDATIONS

- 35 That the Committee approves the release of the Statement of Proposal and Summary of Information within Attachment 2 to report SP-13-807 on the draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013 for public consultation, subject to any amendments made by the Committee.

**Report prepared by:**

**Approved for submission by:**

Sam Hutcheson

Gael Ferguson

**Senior Social Wellbeing Advisor**

**Group Manager, Strategy & Partnerships**

## ATTACHMENTS:

Appendix 1: Current Bylaw

Appendix 2: Summary of Information & Statement of Proposal