

Chairperson and Committee Members
REGULATORY MANAGEMENT COMMITTEE

13 JUNE 2013

Meeting Status: **Public**

Purpose of Report: For Decision

**ADOPTION OF THE KAPITI COAST DISTRICT COUNCIL
CONTROL OF ALCOHOL IN PUBLIC PLACES BYLAW 2013**

PURPOSE OF REPORT

1. This report seeks approval to repeal the Kapiti Coast District Council Public Places Liquor Control Bylaw 2007 and replace it with the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013.

SIGNIFICANCE OF DECISION

2. This report does not trigger the Council's Significance Policy, but as required by the Local Government Act 2002, a special consultative process has been undertaken.

BACKGROUND

3. The Regulatory Management Committee approved the release of the Statement of Proposal and Summary of Information on the replacement of the Kapiti Coast District Council Public Places Liquor Control Bylaw 2007 for public consultation on 14 March 2013 (SP-13-807). A special consultative procedure has been undertaken. The submission period was from 21 March 2013 to 22 April 2013. The Statement of Proposal, including the draft bylaw is attached as Appendix 1.
4. As it takes some time to develop and consult on a bylaw, the Council used its powers to designate temporary alcohol-free zones in November 2012 (Liquor Control Temporary Specified Public Place SP-13- 731). The Police and the Kapiti Community Patrol report that the alcohol-free zones have been very effective. The effectiveness of this temporary measure informed the development of the proposed bylaw.

CONSIDERATIONS

Issues

5. This bylaw is only one strand of a wider community and agency plan to reduce alcohol-related crime and harm. Alcohol-related crime and harm remains a significant concern for the community. The Council supports community initiatives to reduce alcohol-related crime and harm, takes an active role in promoting agency collaboration, and is preparing to implement the changes brought about by the Sale and Supply of Alcohol Act 2012. The Medical Officer of Health has commented that the Council, in addressing the bylaw before the development of a Local Alcohol Plan (provided for within the new act), is proceeding in the right and most useful order. This will feed into and add value to a Local Alcohol Plan.
6. This report summarises the submissions received on the proposal to replace the Kapiti Coast District Council Public Places Liquor Control Bylaw 2007. Of the 24 submissions

received, 19 supported the proposed bylaw, four supported the bylaw in part, and one was opposed. As a result of the consultation, two possible changes to the proposed Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013 are discussed.

7. The submission form encouraged the submitters to supply their views on the four main components of the draft bylaw. The five sections of the submission form were:
 - Do you support overnight alcohol-free zones from 9 pm to 6 am in URBAN AREAS Paekākāriki to, Te Horo Beach?
 - Do you support overnight alcohol-free zones from 9 pm to 6 am for the BEACH across the District?
 - Do you support 24 hour seven days a week alcohol-free zones in all skate parks?
 - Do you support the existing 24 hour alcohol-free zones for Ōtaki main streets and travel corridors, with an extension to include Waerenga Road?
 - General Feedback.
8. A list of submitters and submitters' comments are in Appendix 2, grouped according to these five sections.

Overall summary of all comments

9. There was very strong support for all aspects of the bylaw, with reasons for doing so falling into the following groups:
 - public safety - public places should be safe for families, children and older people;
 - reduction in alcohol-related crime and disruption – the submitters support the bylaw as a means to reduce broken glass, property damage, noise, damage to the dunes, and intimidating behaviour;
 - early intervention – submitters want the Police to intervene early before alcohol-related behaviours escalate to crimes against people and property,
 - current use of bylaw - submitters support the bylaw on the basis of the positive effects of the temporary use of the current bylaw.

Summarised comments by section

10. A summary of comments made in each section of the submission forms is provided below.

Overnight alcohol-free zones from 9 pm to 6 am in URBAN AREAS Paekākāriki to Te Horo Beach

11. Of the 24 submitters, 21 supported, 2 opposed and one did not respond to the question of whether they supported the urban zones. Fourteen submitters provided comments in support of the urban areas alcohol-free zone. There were a number of themes within their comments:
 - reducing excessive consumption of alcohol;
 - improving public safety - child, older person and family safety;

- generally reducing the negative social effects of alcohol consumption; and
- improving the use of the Police's time and allowing for early intervention without promoting displacement. Some submissions also commented on the improvements achieved by the temporary alcohol-free zone in place.

12. There were two opposing comments on the basis that:

- the Police do not need the bylaw and have the powers to act when there is a problem, and
- the bylaw is a problem for those needing to travel with opened bottles of alcohol.

Overnight alcohol-free zones from 9 pm to 6 am for the BEACH

13. Of the 24 submitters, 19 supported, three opposed and two did not respond to the question of whether they supported the beach zone. There were 14 submitters who commented in support of the beach alcohol-free zone. The themes were very similar to the comments on urban areas. Most who commented saw the beaches as a public space like any other. They did however comment on additional benefits such as a potential reduction in the incidence of uncontrolled fires, vehicles on beaches and damage to dunes.

14. Two submitters were concerned about the starting time of the beach alcohol-free zone and suggested that it be linked to sunset rather than a set time.

15. Three submitters were opposed on the basis that:

- beach users should be able to consume alcohol on the beach after 9 pm;
- the bylaw would discourage spontaneous community gatherings, and
- the bylaw would make consumption of alcohol in summer during daylight hours illegal.

24 hour seven days a week alcohol-free zones in all skate parks

16. Of the 24 submitters, 21 supported, one opposed and two did not respond to the question of whether they supported the skate-park zones. There were 14 submitters who commented in support of this. Comments focused on the purpose of the skate parks as being for young people and children. There was a strong consensus that alcohol should not be in skate parks.

17. Three submitters raised concerns about the 24 hour alcohol-free zone in Campbell Park. Areas adjacent to the District's skate parks have been included in the alcohol-free zone to prevent displacement and for Paekākāriki the proposed zone includes the whole of Campbell Park.

Existing 24 hour alcohol-free zones for Ōtaki main streets and travel corridors, with an extension to include Waerenga Road

18. Of the 24 submitters, 20 supported, none opposed and four did not respond to the question of whether they supported the Ōtaki zone. Those who did not respond generally commented that they did not know the Ōtaki area. There were 12 submitters who made supporting comments regarding the Ōtaki alcohol-free zone. Views and wording were almost identical to comments for the urban and beach areas above. The following are where the comments differed:

- Ōtaki needs to have alcohol-free zones as well as the rest of the District to provide consistency;
- a generally supportive submitter expressed concern that it is heavy-handed and not sufficiently targeted, and
- that the zone would support business and reduce shoplifting and violence and is targeted to the needs of Ōtaki.

19. There were no comments specifically opposing the proposed bylaw provisions for Ōtaki.

General feedback

20. All 24 submitters made general comments, and most were supportive of the bylaw. Comments such as 'a very responsible piece of social legislation', 'an extremely good bylaw which will help the police and make local residents feel much happier', and 'Go for it!!!' are fairly typical. The comments spanned the themes already identified, such as:

- safety for young and old;
- early intervention - support for early intervention which reduces bad behaviour associated with alcohol and does not create displacement of problem behaviours;
- police resources – submitters saw the bylaw as promoting good use of police resources;
- impact on business – submitters felt that the bylaw would support business; and
- wider work to reduce alcohol-related harm – submitters were supportive of other work, including the development of a Local Alcohol Policy.

21. Concerns were largely around the targeting of the bylaw. Comments included: that it is a 'heavy-handed' approach to policing and that it 'makes a criminal of someone who has done nothing wrong'. There was some concern about the impact of the alcohol-free zones on events being held in public places.

Discussion of concerns expressed:

22. While a significant majority of submitters did not have concerns about the proposed bylaw, some submitters did. Most of these concerns related to how the bylaw would be enforced. As the Police is the enforcement agent, these concerns were discussed with them. The bylaw needs to be a balance of promoting public safety without unreasonably impinging on civil liberties. The key concerns are discussed below: timing, events in public places, enforcement and discretion, and Campbell Park. Options for responding to these concerns are provided for the timing of the zones and Campbell Park.

Timing

23. Some submitters questioned the fixed timing of the alcohol-free zones, concerned that there would be periods of the year when it was light after 9 pm or dark for some time before 9 pm. There was particular concern about the impacts on beach users and therefore four beach alcohol-free zone options are explored:

Options for the beach zone:

- Option 1: Keep the beach alcohol-free zones the same as the proposed urban zones - 9 pm to 6 am every day. This option keeps the rules very simple and easy to understand but does not address the concerns expressed by submitters

that people fishing or otherwise enjoying the beach after 9 pm in the summer will be effected.

- Option 2: Reduce the beach alcohol-free zone to 10 pm to 6 am, but keep the urban alcohol-free zones from 9 pm to 6 am. This option would allow for alcohol to be consumed later while engaging in summertime activities. This option addresses the concerns of the submitters but makes enforcement of the bylaw more complex as the beach and urban zones are alongside each other. Due to the nature of the District, there is a significant area where the beach and urban areas are adjacent.
- Option 3: Use the legal hours of darkness, as provided for in the NZ Road Code, to determine the timing of the beach alcohol-free zone. This would address the relationship between the zone and daylight hours, it would however increase the complexity of the bylaw.
- Option 4: Reduce both the proposed beach and urban alcohol-free zones to 10 pm to 6 am. This would ensure that there is consistency and less confusion about where the beach and urban rules apply. Consistency is important as alcohol-related problem behaviour is very mobile in this District; a simple rule reduces the chances of displacement of these behaviours. Pushing back the start time of the proposed urban and beach ban would however increase the hours of darkness which fall within the alcohol-free zone time for most of the year and reduce the window for the Police to intervene early.

24. Option 1 is recommended as it provides clarity and has strong community support. A simple consistent bylaw is easier to understand and to enforce and provides a good window for the Police to intervene early. The Police will continue to use discretion as the circumstances dictate.

Events in public places

25. Concern was expressed about the impact of the alcohol-free zones on events being held in public places. There are provisions in place for residents who want to BYO or sell alcohol in alcohol-free zones. Residents are able to apply for an exemption for BYO. They also need to apply for a special license if they want to sell alcohol. No change is recommended to the proposed bylaw.

Enforcement and Discretion

26. Submitters' concerns in relation to enforcement and discretion ranged from the inappropriate use of the bylaw by the Police, to the Police not enforcing the bylaw sufficiently. One submitter expressed concerns about the carriage of unfinished or open bottles.
27. Some submitters were concerned that the bylaw is insufficiently targeted at those causing the trouble. The Police do have powers to deal with disorder and similar type offending often associated with alcohol, however the intention of the alcohol-free zone is that it can be used as a tool to prevent this type of offending.
28. The Council's role is to draft and adopt bylaws to support the wellbeing of the District. Enforcement, in this case, is the responsibility of the Police. The Police have discretionary powers when dealing with a wide variety of statutory enactments and are used to applying discretion. This discretion is not particular to bylaws and cannot be included within the text of the bylaw. The Council and Police will continue to monitor the effectiveness of bylaws to ensure its objective is met. No change is recommended to the proposed bylaw.

Campbell Park

29. Submitters expressed concern about the impact of the alcohol-free zone surrounding the Paekākāriki skate park. As the proposed zone includes the whole of Campbell Park, submitters were concerned that this would affect other users of the park including picnickers, sports ground users, and those organising and attending community events. Two options are offered for consideration:

Options for Campbell Park

- Option 1: Reduce the area of the proposed 24 hour/seven days per week alcohol-free zone within Campbell Park to include the skate park, playground, and a ten metre perimeter of both. This solution has been proposed by the Paekākāriki Community Board. This option maintains consistent rules for skate park users across the District. It also avoids unintended impacts on other users, while providing a buffer zone so that alcohol is not being consumed immediately adjacent to the skate park. It is however not as simple to understand, as there will be no obvious line demarcating the area included and excluded.
 - Option 2: Remove the 24 hour/seven days per week alcohol-free zone from Campbell Park. This would mean that the 9 pm to 6 am alcohol-free zone applied. This option would provide a simple rule for the whole of Campbell Park but not provide a consistent rule for all skate park users across the District. However, the Police are not as concerned about current behaviours at Campbell Park as they are at other skate parks. It must also be noted that there was very strong support in the submissions for a district- wide alcohol-free zone for all skate parks.
30. Option 1 is recommended as it responds to local community needs and provides consistency for skate park users. It is recommended that the effectiveness of this solution be monitored and that the Paekākāriki Community Board provide feedback.
31. Once the Council has made decisions, staff will draft responses to notify submitters of decisions made and to respond to points raised.

Financial Considerations

32. It is estimated that a budget of \$12,000 is required to provide signage and publicise the bylaw if the temporary specified public place liquor ban signage does not need to be replaced. This will be funded from within existing budgets.
33. If the times within the bylaw were to change in the urban areas then most of the existing signage would need to be removed and replaced adding a further \$16,000 outside the current budget to implement the bylaw.

Legal Considerations

34. A special consultative procedure, as required by the Local Government Act 2002, has been undertaken.

Delegation

35. The Committee has delegated authority to recommend the bylaw to the Council for adoption.

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

36. The review of the bylaw has followed the special consultative procedure as prescribed in sections 83 and 86 of the Local Government Act 2002. Feedback from this consultation will contribute to the development of a Local Alcohol Policy (LAP) should the Council decide to begin the process of creating a LAP.

Policy Implications

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

Tangata Whenua Considerations

38. 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 iwi.

Publicity Considerations

39. A communications plan was developed to encourage community participation in the consultation process. There will need to be publicity to encourage public compliance with the bylaw if adopted. This will be similar to that used for the temporary specified public place liquor ban, as it was effective.

RECOMMENDATIONS

40. That the Committee recommends to the Council that it revokes the Kapiti Coast District Council Liquor Control Bylaw 2007 and approves the adoption of the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013, attached as Appendix 1 of the Statement of Proposal attached to this report, subject to any amendments made by the Committee.

Report prepared by:

Approved for submission by:

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Attachments:

- Appendix 1: Current bylaw
- Appendix 2: Summary of Information & Statement of Proposal for replacing the Kapiti Coast District Council Control of Liquor in Public Places Bylaw 2007
- Appendix 3: List of Submitters & Submission Summaries