
Draft Alcohol Control Bylaw - Consultation

Record no: R/22/7/32541
Author: Chris Rout, Senior policy analyst
Approved by: Fran Mikulicic, Group manager democracy and community

Decision Recommendation Information

Purpose

- 1 The purpose of this report is to present the draft Alcohol Control Bylaw 2022 (the 'draft bylaw') for Council to endorse, and an associated Statement of Proposal for Council to adopt, for public consultation.

Executive summary

- 2 The Alcohol Control Bylaw 2015 (the 'current bylaw') was made by Council for the purpose of addressing the problem of crime and disorder caused or made worse by the consumption of alcohol in specified public places within the District. The current bylaw prohibits the consumption and possession of alcohol within defined areas ('alcohol free areas'), and also allows Council to establish further temporary alcohol free areas within the District as required.
- 3 Currently, only the central area of Te Anau has an alcohol free area established under this bylaw. The current bylaw is included with this report as Attachment A.
- 4 The current bylaw will automatically expire on 9 December 2022. In order for an alcohol control bylaw to continue past this date, Council will need to adopt a new bylaw.
- 5 With no bylaw, the possession and consumption of alcohol within the alcohol free area in Te Anau will cease to be prohibited and Council will lose the ability to establish further temporary alcohol free areas. Losing the preventative deterrent and enforcement benefits associated with the consumption of alcohol in this area is likely to lead to increased incidence of crime and disorder, reduced public perception of safety along with negative economic impacts within the community.
- 6 Staff have undertaken preliminary engagement with Police (attachment B) and community boards to help inform the continued need for an alcohol control bylaw and the content of the draft bylaw. This feedback has identified the current bylaw is working effectively within the current alcohol free area, and there were no further alcohol control areas identified at this time.
- 7 A Statement of Proposal, including the draft bylaw, is included with this report as Attachment C. The draft bylaw will have substantially the same effect as the current bylaw with no significant changes proposed. The style and structure of the bylaw has been updated. Other small changes are discussed in the body of this report.
- 8 If Council endorses the draft bylaw and adopts the Statement of Proposal for consultation, staff will undertake a consultation process in accordance with the Special Consultative Procedure from 8am 29 August 2022 to 5pm 29 September 2022.

Recommendation

That the Council:

- a) **receives the report titled “Draft Alcohol Control Bylaw - Consultation” dated 5 August 2022.**
- b) **determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.**
- c) **determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.**
- d) **determines pursuant to section 155(1) of the Local Government Act 2002 that a bylaw is the most appropriate way of addressing the problem of crime or disorder caused or made worse by the consumption of alcohol in public places.**
- e) **determines pursuant to section 155(2)(a) of the Local Government Act 2002 that the draft Alcohol Control Bylaw 2022 is the most appropriate form of bylaw.**
- f) **determines pursuant to section 155(2)(b) of the Local Government Act 2002, that the draft Alcohol Control Bylaw 2022 does not give rise to any implications under the New Zealand Bill of Rights Act 1990.**
- g) **endorses the draft Alcohol Control Bylaw 2022.**
- h) **adopts and releases the Statement of Proposal outlined in attachment C for consultation in accordance with the Special Consultative Procedure outlined in sections 83 and 86 of the Local Government Act 2002, from 8am Monday 29 August 2022 to 5pm Thursday 29 September 2022.**

Background

- 9 The current bylaw sets the alcohol free areas within the District, where the consumption and possession of alcohol in public places are prohibited.
- 10 While the current bylaw is District-wide, its practical effect to date has been limited to Te Anau, which is the only township with an alcohol free area. No additional alcohol free areas have been considered by Council.
- 11 Council was required to review the current bylaw within 5 years, by 9 December 2020 to facilitate its continuation. Due to a number of factors this review date was not met, and Council has moved into a two year grace period to allow time to replace the current bylaw, if needed, before it expires.

History of the Alcohol Control Bylaw

- 12 The first alcohol control bylaw was adopted in 2003 following request by Te Anau Police in response to behavioural issues associated to New Years celebrations. It covered just the New Year period and part of central Te Anau. In 2005 the alcohol ban became year-round, and the alcohol free area in Te Anau was expanded slightly.
- 13 Council adopted the current bylaw on 9 December 2015. The current bylaw imposes the same alcohol free area whereby people are not permitted to consume or possess alcohol within, or bring alcohol into, the specified area in Te Anau. In most of the alcohol free area the ban applies at all times, and in other areas (such as on the Lake Front, Lions Park and in Te Anau Gardens) the ban is only during the hours of darkness. The current bylaw does however allow for transporting alcohol in an unopened container, in the alcohol free area.
- 14 The current bylaw also has wider District application. Council, by resolution, is able to implement additional temporary alcohol free areas at any time for public places within the District where there is evidence of a high level of crime or disorder which has been caused or made worse by alcohol consumption in those public places.

Police feedback

- 15 From pre-engagement conducted in September 2021, staff sought input from Police to help inform review of the bylaw. During July 2022, staff sought further feedback from Police on the potential implications of the current bylaw not being replaced, specifically whether a high level of crime and disorder is likely to arise in the current alcohol free area. Te Anau Police provided further feedback in a subsequent phone discussion.
- 16 Police support continuing the bylaw in its current form, and have provided evidence of the reducing trend in disorder occurrences, excess breath alcohol offences, drunk custody/detox events and alcohol-related demand (which includes calls for service - incidents not classed as offences) since the full-year alcohol ban was introduced in 2005. Evidence produced by the police also shows that of the drunk custody/detox events that have occurred between 2005 and 2021, a reasonable proportion of these occurred within the alcohol free area.
- 17 Police note their application of the current bylaw in Te Anau follows a graduated response model. Officers apply discretion beginning with polite education, providing people the opportunity to dispose of their alcohol or leave the area, but they are able to escalate to enforcement measures as circumstances necessitate, starting with the removal of alcohol, through issuance of infringement fines, up to arrest and court appearance.
- 18 Police confirm the graduated response minimises the need for enforcement action and their experience is that, for the majority of cases, bylaw education is sufficient to resolve a situation before escalation is required and/or any associated crime or disorder occurs. They note these interactions occur throughout the year and arise with more frequency during large events in Te Anau, most notably the Christmas and New Year's holiday period, the Te Anau Rodeo, the Fiordland Big 3 hunting competition and various car rallies which conclude in Te Anau during the year.
- 19 There are no available statistics for preventative education interactions as they are not reportable events for Police, however Police opinion is that without a bylaw they both lose a deterrent to alcohol consumption in central Te Anau and education will become ineffective, requiring their

enforcement approach to adjust. They will need to shift from preventing crime or disorder incidents to responding to incidents, which are caused or made worse by the consumption of alcohol in central Te Anau, once they have occurred.

- 20 In correspondence with Council staff, Police also raised that both Riverton and the Mavora Lakes camping areas have required extra Police resourcing over key holiday periods due to alcohol-related disorder. However, they have acknowledged that Riverton has improved with a recent shift to more family-focussed celebrations and that the scale of the disorder and traffic offending at the Mavora Lakes has been 'limited numbers' and benefitted from increased patrolling and education.

Community boards' feedback

- 21 In November/December 2021, Council staff approached each community board seeking their preferred approach to providing feedback on the current bylaw, either providing feedback at that time, or later during the formal consultation period. All community boards agreed to providing feedback at the time.
- 22 Four out of nine of the community boards supported the continuation of the current bylaw without further amendment. The remaining five community boards provided no specific feedback on the current bylaw.

Issues

- 23 Because the current bylaw was not reviewed by 9 December 2020, it is scheduled to be automatically revoked on 9 December 2022 and cannot be amended or extended. For an alcohol control bylaw to continue beyond 9 December 2022, a new draft bylaw will need to be made by Council.
- 24 Staff are seeking Council to endorse the draft bylaw, proposed to replace the current bylaw, to be released and adopt the associated Statement of Proposal for public consultation.
- 25 The variations proposed under the draft bylaw are considered minor technical changes from the current bylaw, with no significant changes proposed. The changes include:
- updated title to the Alcohol Control Bylaw 2022
 - will apply from 9 December 2022
 - some terms have been capitalised
 - Remove repeal of the previous bylaw, this occurs automatically.

Factors to consider

Legal and statutory requirements

- 26 Council is bound by the Local Government Act 2002 (LGA) when setting bylaws related to alcohol control.
- 27 Section 160A of the LGA automatically revokes any bylaw two years after the last date it was eligible for review. For the current bylaw, section 158 required review before 9 December 2020, as this was not undertaken, revocation is scheduled to occur on 9 December 2022.

- 28 Council cannot avoid the revocation of the current bylaw, although it may elect to revoke it early and/or make another new bylaw, subject to completing formal public consultation process.
- 29 Council is empowered by sections 145, 147 and 147A-C of the Local Government Act 2002 to make bylaws to control the consumption, bringing into and possession of alcohol in public places to reduce alcohol related harm.
- 30 In order for Council to establish a new bylaw, the base determination, notification and consultation procedures for making bylaws, set out under sections 155,156 and 157 of the LGA, apply.
- 31 Section 147A sets additional specific criteria for alcohol control bylaws. The criteria for replacing an expiring alcohol control bylaw requires future levels of crime and disorder to likely be at a 'high level', this is higher than the threshold which applies to continuing the current bylaw if the review requirements were met, which in comparison required the same levels of crime and disorder being likely to return if the bylaw did not continue.
- 32 If the current bylaw lapses without a new bylaw being adopted, Council will be required to meet a further higher threshold to re-establish an alcohol control bylaw, this requires evidence of a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area. This may prevent a future bylaw being implemented promptly if the adoption of the draft bylaw is deferred or delayed.
- 33 It is proposed to consult on the draft bylaw using the Special Consultative Procedure outlined in sections 83 and 86 of the LGA. Staff believe this consultation method is appropriate (in relation to the LGA and Council's Significance and Engagement Policy) as:
- the draft bylaw restricts people's rights to possess and consume alcohol in alcohol free areas within the District.
 - impact crime and disorder caused or made worse by the consumption of alcohol in public places.
 - impact public perception of safety.
 - social harm impacts to local communities
 - economic impacts to local businesses.
- 34 The Special Consultative Procedure requires that Council adopts a formal Statement of Proposal, has a consultation period of not less than one month, and allows people to present their views to Council in a manner that enables spoken interaction, such as by having a hearing.
- 35 It is proposed that Council will make the Statement of Proposal as widely available as is reasonably practicable (in accordance with section 83 of the LGA), and encourage people to give feedback, by:
- placing advertisements in local newspapers
 - promoting the consultation on Council's Facebook pages

Council

10 August 2022

- having the Statement of Proposal accessible on Council's 'Make it Stick' website and in all of its offices
- encouraging community boards to make a submission through the community leadership reports that go to each community board.

Determinations

36 Before making a bylaw, Council must make the determinations required under section 155 of the LGA. Set out below is the assessment by staff for each required determination.

Most appropriate way of addressing the perceived problem

- 37 Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem or issue. Council have previously made the determination that a bylaw is the most appropriate way of addressing the problem of crime or disorder caused or made worse by the consumption of alcohol in public places within the District with the adoption of successive bylaws in 2003, 2005 and 2015.
- 38 Across New Zealand, bylaws remain a common method used by territorial authorities to restrict the possession and/or consumption of alcohol in public places and remain an effective tool used by Police to reduce and quickly address associated harm, including disorderly behaviour and criminal offending.
- 39 Staff believe an alcohol control bylaw is the most appropriate option compared with having no bylaw, or implementing alternative preventative measures including community engagement and education measures and/or additional alcohol licensing measures.

Most appropriate form of bylaw

- 40 Council is also required to determine whether the proposed bylaw is the most appropriate form of bylaw before it makes its decision. Staff believe the draft bylaw is the most appropriate form of bylaw. It is a minor revision of the current bylaw which has been in place since December 2015, it allows the alcohol free area within Te Anau to be easily enforced by Police and provides the flexibility to respond to any need to establish additional temporary alcohol free areas within the District where a high level of crime or disorder arises. It reflects the feedback provided by community boards and Police.

Bill of Rights

- 41 Council is required to determine whether the draft bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (the BoR Act), which grants certain civil and political rights to people in New Zealand. In accordance with section 5 of the BoR Act, 'the rights and freedoms contained in the Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'.
- 42 While the draft bylaw provides that people can be asked to leave, or to stop consuming alcohol in alcohol free areas, people are still able to enjoy alcohol responsibly in licensed premises and private premises along with the lake front and park during daylight hours. Alcohol control bylaws prevent harm to the community and their adoption by Council is restricted by sections 147 and

147A-C of the LGA. Staff believe the provisions of the draft bylaw do not unreasonably interfere with any of the rights in the BoR Act.

Criteria for replacing an expiring alcohol control bylaw

- 43 Section 147A of the LGA sets criteria Council must be satisfied to make bylaws related to alcohol control purposes. Where the draft bylaw is intended to replace the current bylaw, subsection 147(3) applies. Set out below is the assessment by staff for each criterion Council must be satisfied of.

Reasonable limitation on people's rights and freedoms

- 44 Expanding on the general BoR Act determination above, Council must also be satisfied before adopting the draft bylaw, that it can be justified as a reasonable limitation of people's rights and freedoms. The draft bylaw will limit the rights and freedoms of persons 18 years and older to possess and consume alcohol within any defined alcohol free areas.
- 45 The ability to establish additional alcohol free areas by separate resolution of Council, does not by itself limit people's rights and freedoms. This is required to be separately considered under section 147B of the LGA prior to establishment of any additional alcohol free areas.
- 46 If the proposed draft bylaw comes into force the alcohol free area will be limited within the central township in Te Anau. It does not impact possession or consumption of alcohol within private or licensed premises within, or outside of, that area. Staff believe the limitation on people's rights and freedoms are reasonable to prevent harm arising from crime and disorder caused or made worse by the consumption of alcohol within the alcohol free area.

High level of crime or disorder is likely to arise in the area

- 47 Council must be satisfied that a high level of crime or disorder is likely to arise in the area to which the draft bylaw is intended to apply. This is on the basis that the crime or disorder would either be caused, or made worse, by alcohol consumption in the area concerned and there was no bylaw in place.
- 48 As noted above from Police feedback, using historical statistics under the current bylaw is not useful for identifying whether a high level of alcohol related crime and disorder will arise without a bylaw in place. Observations and experience from Police interactions arising from alcohol being consumed or possessed within the current alcohol free area however remains as a critical indicator.
- 49 As most Police interactions arising related to alcohol being consumed or possessed within the current alcohol free area are resolved through bylaw education, it is reasonable to foresee that without a bylaw in place, the ability of Police to educate and in turn prevent alcohol related crime and disorder occurring within the current alcohol free area is reduced significantly.
- 50 With no bylaw in place to act as a deterrent, education and enforcement tool, staff believe the absence of preventative education may lead to crime and disorder, caused or made worse by the consumption of alcohol within the current alcohol free area, being likely to increase to high levels relative to the extremely low numbers currently identified by Police.

Appropriate and proportionate in the light of likely crime or disorder

- 51 Council must also be satisfied that the alcohol control bylaw is appropriate and proportionate to the crime and disorder likely to arise in central Te Anau without a bylaw in place identified above.
- 52 Police have noted in their feedback that current drunk and detox offending in Te Anau is concentrated in the current alcohol free area; the draft bylaw proposes this area remains the same. The timing of the ban along the lake front and within the park is also limited to outside of daylight hours.
- 53 Staff believe that the bylaw is appropriate and proportionate to the crime and disorder likely to arise which is caused or made worse by the consumption of alcohol within the current alcohol free area.

Community views

- 54 Staff have sought feedback from Police and community boards on this matter which has been summarised within the background section of this report.
- 55 If Council adopts the Statement of Proposal and endorses the draft Alcohol Control Bylaw 2022 for public consultation, the public will be formally consulted using the special consultative procedure, this will enable Council to better understand community views on this issue.

Costs and funding

- 56 Costs associated with consultation and adoption of the alcohol control bylaw will be met within current Council budgets. Costs will include staff time and advertising.

Policy implications

- 57 The Combined Local Alcohol Policy 2019, agreed between Invercargill City Council and Southland District Council, recognises that alcohol misuse is a significant social and public health problem which impacts the social and economic wellbeing of the community. While the principal focus of that policy is to provide safe environments for the responsible sale, supply and consumption of alcohol, it also prioritises reducing harm caused by alcohol misuse and identifies the role that alcohol control bylaws play by committing to maintaining the existing bylaws within the District. Remaking an alcohol control bylaw is consistent with the commitments made by Council under this policy.

Analysis

Options considered

- 58 Staff have identified two practicable options for how Council could proceed.
- option 1 – endorse the draft bylaw and adopt the Statement of Proposal for consultation.
 - option 2 – do not endorse the draft bylaw or adopt the Statement of Proposal

Analysis of Options

Option 1 – endorse the draft bylaw and adopt the Statement of Proposal for consultation.

<i>Advantages</i>	<i>Disadvantages</i>
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<ul style="list-style-type: none"> • police retain a preventative and enforcement tool to help address crime and disorder associated to consumption of alcohol within central Te Anau public places • deterrent to public consumption of alcohol in central Te Anau • continued low levels of crime and disorder associated to consumption of alcohol within central Te Anau public places • no negative economic impact to Te Anau businesses • public perception of safety is retained • ability to establish temporary alcohol bans in the District if required. 	<ul style="list-style-type: none"> • retains the existing limitations of rights and freedoms to possess and consume alcohol within central Te Anau public places • potentially moves alcohol consumption in public places to other locations • time and cost associated with consultation and implementation.
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Option 2 –do not endorse the draft bylaw or adopt the Statement of Proposal

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> • no limitations of rights and freedoms to possess and consume alcohol within central Te Anau public places • reduced time and cost associated with consultation and implementation of a bylaw. 	<ul style="list-style-type: none"> • police will lose a preventative and enforcement tool to help address crime and disorder associated to consumption of alcohol within central Te Anau public places • deterrent to public consumption of alcohol in central Te Anau ceases • increased crime and disorder associated to consumption of alcohol within central Te Anau public places • negative economic impact to Te Anau businesses from the impacts and perception of crime and disorder • reduced public perception of safety • no ability to establish temporary alcohol bans in the District if required.

Assessment of significance

- 59 It has been identified that the decisions made in this report are not significant in relation to the LGA and Council’s Significance and Engagement Policy.
- 60 Council has to assess the significance of all the issues it considers. This includes assessing the extent people are likely to be affected or interested in the matter. During the later stages of

reviewing this bylaw, such as when the decision is made to adopt the final bylaw, the degree of importance of this matter may reach the threshold of being a significant decision.

Recommended option

- 61 Staff recommend that Council proceed with Option 1 and adopt the Statement of Proposal and endorse the draft Alcohol Control Bylaw 2022, subject to any amendments as Council sees fit, for consultation in accordance with Special Consultative Procedure.

Next steps

- 62 If endorsed, the draft Alcohol Control Bylaw 2022 and Statement of Proposal will go out for public consultation commencing 8am 29 August 2022 through to 5pm 29 September 2022.
- 63 It is intended that the written submissions received will be presented to Council and a hearing on this matter will take place at a yet to be scheduled meeting around late November 2022.
- 64 Staff would then present the Alcohol Control Bylaw 2022 for deliberation and adoption at a yet to be scheduled meeting early December to come into effect from 9 December 2022.

Attachments

- A Alcohol Control Bylaw 2015
- B Police Feedback Alcohol Control Bylaw
- C Statement of Proposal - Draft Alcohol Control Bylaw 2022

SOUTHLAND DISTRICT COUNCIL

Alcohol Control Bylaw 2015



December 2015



SOUTHLAND DISTRICT COUNCIL
ALCOHOL CONTROL BYLAW 2015

Pursuant to Section 147 of the Local Government Act 2002 the Southland District Council makes the following bylaw:

1.0 TITLE AND COMMENCEMENT

- (a) This Bylaw is the Alcohol Control Bylaw 2015.
- (b) This Bylaw comes into force on 12 December 2015.
- (c) The Public Places Liquor Control Bylaw 2005 is consequently repealed.

2.0 INTERPRETATION

In this Bylaw unless the context otherwise requires:

Act means the Sale and Supply of Liquor Act 2012.

Alcohol has the meaning given by Section 5 (1) of the Act.

Alcohol Free Area means any public place identified:

- (a) In the Schedule to this Bylaw; or
- (b) In any resolution of the Council pursuant to clause 4.0 of this Bylaw.

Constable has the meaning given by Section 2 of the Policing Act 2008.

Council means the Southland District Council.

Licensed premises has the meaning given by Section 5 (1) of the Act.

Public notice means a notice published once in a newspaper circulating in the area to which the notice applies.

Public place means:

- (a) A place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it and includes roads whether or not under the control of the Council and vehicles in those public places; but
- (b) Does not include licensed premises.

Specified period means:

- (a) For an Alcohol Free Area specified in the Schedule to this Bylaw, the days and times specified in the Schedule.
- (b) For an Alcohol Free Area established by a resolution of the Council under clause 4.0 of this Bylaw means the days, times and period specified in that resolution.

3.0 PROHIBITED ACTS

Except in accordance with clauses 5.0 and 6.0 of this Bylaw no person shall:

- (a) Consume alcohol in an Alcohol Free Area.
- (b) Bring alcohol into an Alcohol Free Area.
- (c) Possess alcohol in an Alcohol Free Area.

4.0 ESTABLISHMENT OF ALCOHOL FREE AREA BY RESOLUTION

- (a) The Council may from time to time by resolution establish Alcohol Free Areas in public places for specified periods.
- (b) The Council may at any time, by resolution amend or revoke any resolution under this clause 4.
- (c) The Council shall give public notice of any resolution made under clauses 4 (a) and (b) not less than 14 days before the establishment, amendment or revocation of an Alcohol Free Area under this clause 4.

5.0 EXEMPTIONS

5.1 This Bylaw does not prohibit the transport of alcohol in an unopened container:

- (a) From licensed premises next to an Alcohol Free Area, if the alcohol was lawfully bought on those premises for consumption off those premises and it is promptly removed from the Alcohol Free Area; or
- (b) From outside of an Alcohol Free Area to licensed premises next to the Alcohol Free Area; or
- (c) From outside of an Alcohol Free Area to premises next to an Alcohol Free Area by, or for delivery to, a resident of the premises or his or her bona fide visitors; or
- (d) From premises next to an Alcohol Free Area to a place outside the Alcohol Free Area if the transport is undertaken by the resident of those premises and the alcohol is promptly removed from the Alcohol Free Area.

6.0 DISPENSATIONS

6.1 The Council may from time to time on application in writing by any person and on payment of the fee prescribed by the Council, grant a dispensation from any or all of the prohibited acts specified in clause 3.

6.2 The dispensation may be granted without conditions or subject to such conditions as the Council thinks fit.

7.0 **NO WARNING IN CERTAIN CIRCUMSTANCES**

7.1 Any constable is authorised to exercise the powers under Section 170 (2) of the Local Government Act 2002 on specified dates or in relation to specified events in respect of which the Council has:

- (a) By public notice 14 days in advance specified the Alcohol Free Area where, and the period when, any constable can exercise those powers; and
- (b) Where it is has been practical or reasonable to do so, indicated the location of the Alcohol Free Area by one or more clearly legible notices affixed in one or more conspicuous places on or adjacent to the Alcohol Free Zone.

8.0 **OFFENCES**

Every person commits an offence who breaches the provisions of this bylaw.

9.0 **PENALTIES**

Every person who commits an offence against this Bylaw is liable on conviction to a fine not exceeding \$20,000.00.

SCHEDULE

The Alcohol Free Areas and Specified Periods are as follows:



SDC Alcohol Bylaw Review - Te Anau Liquor ban

This is a formal submission from the Southland Police to support the continuation of the current Te Anau Bylaw.

Introduction

I have been a constable in the NZ Police for 25 years, having worked the majority of those years in Western Southland. Initially I was a constable based in Winton and a regular reliever in Te Anau up until 2008 when I was promoted to Sergeant. In 2014 I was promoted to Senior Sergeant as the Southland Road Policing Manager and currently I am the Western Southland Area Response Manager.

In each of these roles I have either worked in, supervised or managed Policing in the Te Anau basin. I am the currently supervising manager of the Southland Alcohol Prevention Team, previously known as team policing.

I, like many Southlanders, have spent a lot of my recreational time in Te Anau having previously owned a home in Manapouri.

Liquor ban

Police support the status quo for the bylaw. I have attached a document compiled by the police intel section outlining the police demand for Te Anau. This shows a steady downward trend for key offences relating to alcohol post the Liquor ban introduction.

I have also attached a report from Sgt Hayden McNaught Southland Alcohol Harm Prevention officer. Both these reports should be read in conjunction with this document.

Police support the review of the Te Anau Liquor ban as it is important to remember the ban is a direct restriction on members of the public in a public area and this restriction should not be taken lightly.

I would submit that liquor bans are now an accepted part of modern society. The young people in our community have grown up with the bans and now accept and abide by them, as do most members of our community.

Liquor bans are an accepted practice to curb alcohol offending and all councils now have bans in our key hot spots for alcohol consumption. They are the main tool used to end the large drunken disorderly events we had in the past to present day with families now enjoying public areas and events. A classic example of this is the Alexandra Blossom festival weekend that used to see large disorder and is now a family orientated event again.

Enforcement

Police have a graduated response model to all offending, and every constable has the discretion to deal with liquor ban breaches in several ways. These range from polite education, removing alcohol out of the ban area, instant infringement fines of \$200, arrest and court appearance. It would be fair to say that we are in a very good space currently with very limited enforcement action required.

Sgt McNaught refers to the Police action in his report and the numbers are very low. What cannot be measured is the early conversations with people who were educated about the ban, the majority are happy to remove their alcohol and they never make the stats.

Timings and area of the ban

Police support the status quo, I believe the ban has the right mix of prevention vs deterrent,

The key offending whilst across the whole town, the main disorder 1K (drunk and detox offending) is clearly concentrated in and covered by the main ban area.

365 days a year gives members of the public and police, only the ban to think about, not if and when it is in effect.

The ban has become part of our day to day Policing, whether walking about the town or planning for large events, the resources are there to deal with most alcohol incidents effectively and quickly.

It is effectively Policed with a graduated response. Locals and tourists are free to sit on the lake front or at the park watching the sun go down enjoying their tipples, and most would do so, not even knowing the ban was in place.

Deterrent factor

As previously stated, it is hard to measure the offending that the bylaw is preventing with the ban.

We can never know how many carloads of idiots who went north instead of west. How many bottles didn't get broken in the Main Street or how many patches of urine and vomit business owners didn't have to clean up on a Monday morning.

All because people knew they couldn't drink in the Main Street of Te Anau, pre-ban offending would suggest this is huge.

Summary

Many of our young people head central for the new year's period, swelling numbers at key holiday spots, this often affects the family groups enjoying these locations.

Pre-Ban this used to be the case in Te Anau with large amounts of disorder. Currently no other area in SDC has any issues with alcohol offending. Only two places receive additional policing resources over New Years - being Te Anau and Riverton.

The number one reason for continuing with ban is that it works, imagine being the only New Year's destination without one.

Thank you

A handwritten signature in black ink, appearing to be 'Peter Graham', written in a cursive style.

Senior Sergeant Peter Graham

Area Response Manager

Western Southland



NZ Police

REPORT FORM

SUBJECT: SDC ALCOHOL CONTROL BYLAW

ADDRESS: TE ANAU

TEXT: LIQUOR BAN



NZ Police

REPORT FORM

SUBJECT: SDC ALCOHOL CONTROL BYLAW

ADDRESS: TE ANAU

TEXT: LIQUOR BAN

Report Date: 10/09/2021

Senior Sergeant Peter Graham
Western Sub Area Commander
Winton

This report relates to a request from yourself for me to provide some comment in relation to the current Liquor Ban status in Te Anau as per the Southland District Council Alcohol Control Bylaw 2015.

The current Bylaw has been in place since December 2015. I am aware you have some Intel generated statistics around crime etc, but I have looked a little more closely at a couple of particular areas related directly to the Liquor Ban Area (LBA) and its effects.

I have focused on a period from December 2014 to June 2021 inclusive, to encompass leading up to and including the time since the current Bylaw has been in place.

During this period there has been –

- 11 Alcohol Infringement Offence Notices (AION's) issued
- 2 arrests for Breach of Liquor Ban offences
- Over 90 percent of assault and disorder offences in the LBA involving alcohol, are attributed to other events which do not include offending against the Liquor Ban itself. A high majority of these were either at or directly outside licensed premises in the area.

i can't really comment on comparisons before the period I looked at as this information can be hard to obtain and reporting requirements in the Police have also changed dramatically over the last 10 years.

What I can comment on is the information I have bullet pointed is what I would consider to be extremely low numbers which I feel can be attributed to the existence of the Liquor Ban itself.

My reasoning for this is, the longer the Liquor Ban is in place the more widely it becomes known it is in force and it becomes a strong deterrent for any offences related to it to occur.

It also gives Police the ability to enforce it. As you are well aware, Police have some discretion as to how that enforcement is carried out.

For example, in my experience, if someone is breaching a Liquor Ban they are normally given education that they are in a LBA and given the opportunity to either tip alcohol out, leave the area or both. Naturally this will always depend on the time, place and circumstances of each individual incident and the response to this approach by persons involved usually dictates if any further action is necessary or taken.

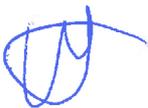
This in turn negates any reporting requirements if this approach is taken and is successful. So, my point is, there may well have been a lot of these contacts made in relation to the LBA which we are not aware of but support its existence.

The Bylaw is also taken into account in any deployment or operation orders for Police in relation to busier periods or large scale events so it can be utilised as an option to deal with any offences applicable.

Without the existence of the Bylaw and the LBA, all of the aforementioned enforcement options are removed and it limits options for Police. In my view this is likely to increase instances of disorder etc associated with the consumption of alcohol in the relevant area.

In terms of time frames etc of the Ban, naturally there is more risk around bigger events and summer, Xmas, New Years period. To avoid applying for temporary Liquor Ban's to encompass certain time periods, and the extra time and work associated with this for Police and the SDC, I believe it is prudent to have the Bylaw and Liquor Ban all year round.

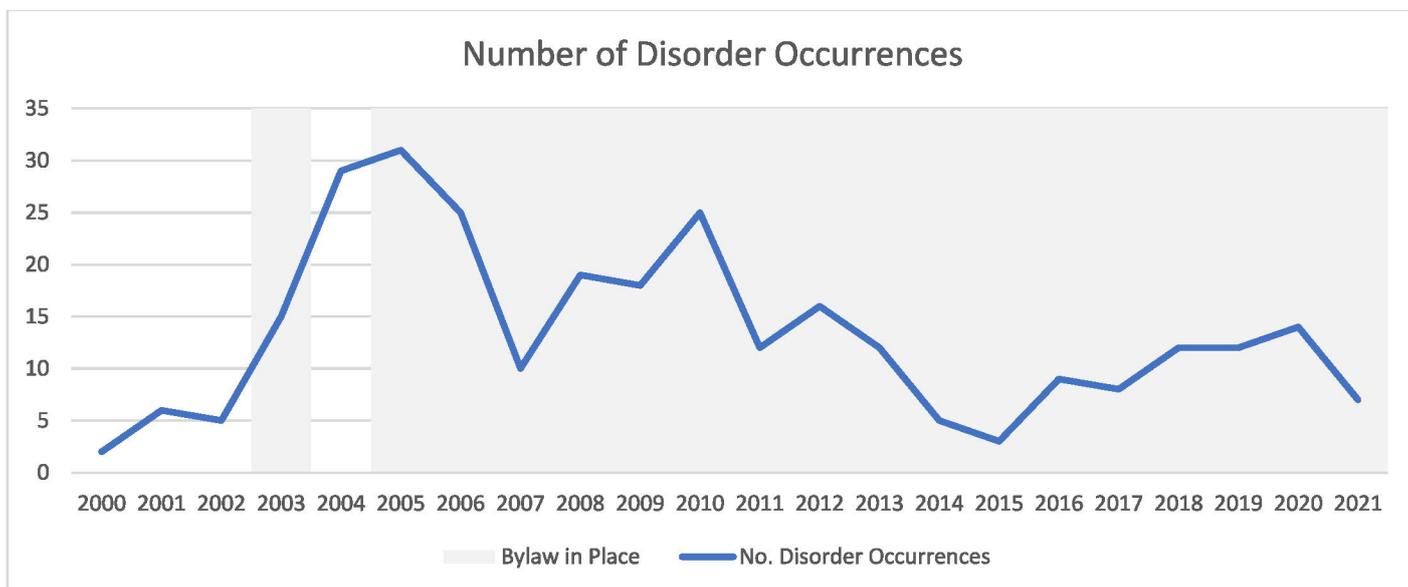
In summary, the Bylaw and the Liquor Ban is very important for Te Anau to contribute to the ongoing low volumes and reduction of alcohol harm in the Liquor Ban Area. I feel the Bylaw and Liquor Ban, with the area and times applicable in its current form, is suitable and fit for purpose and should continue.



Hayden McNaught
Sergeant, HMW820
Alcohol Harm Prevention Officer
Invercargill

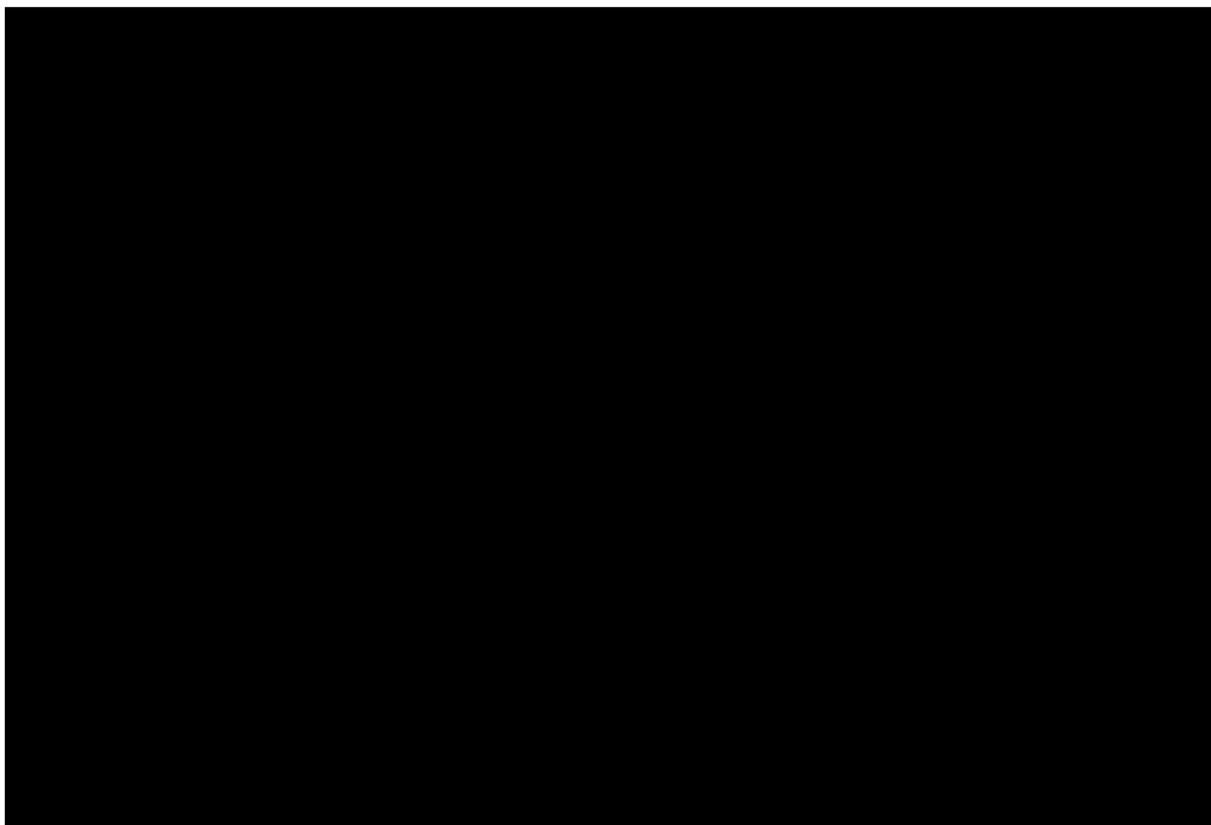
Disorder

This data is based on disorder-related NIA occurrences.



There was an increase in disorder occurrences in Te Anau from 2000 until a peak of 31 occurrences in 2005, at which point the Alcohol bylaw was introduced. Since 2005, there has been a long term decreasing trend, though there have been some years with an increased number of occurrences. The increase in disorder occurrences in 2020 and 2021 can almost certainly be attributed to Covid-19 related disorder breaches.

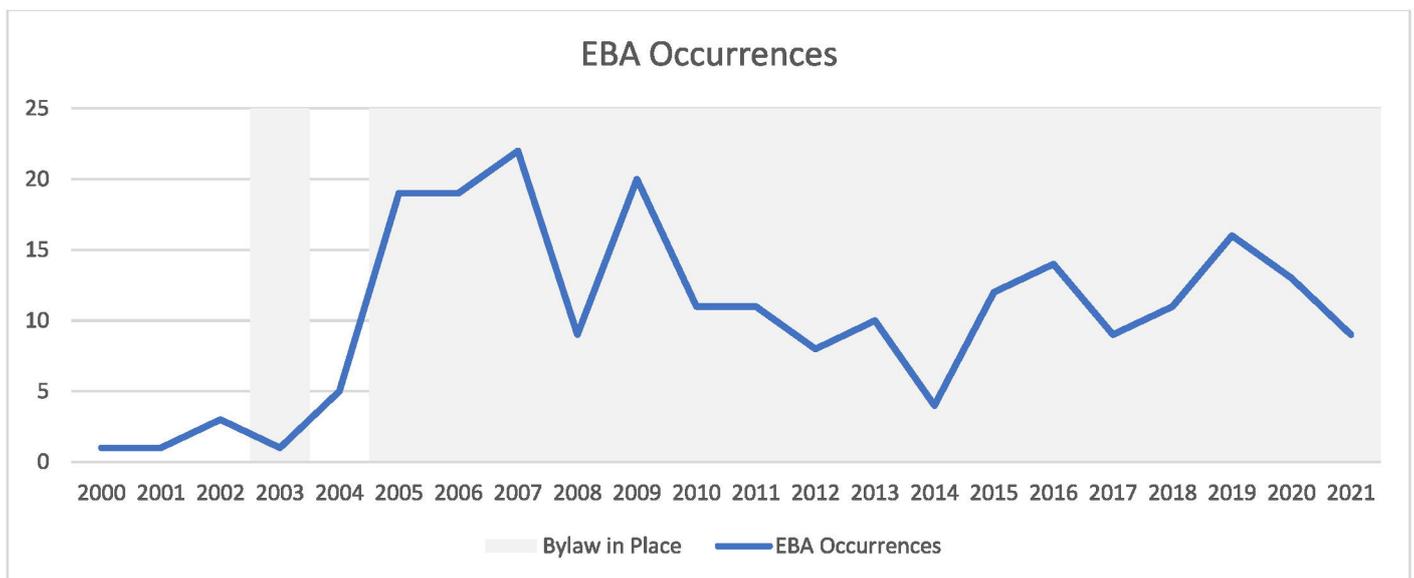
The map below shows the majority of disorder occurrences since 2000 were located in the Town Centre.



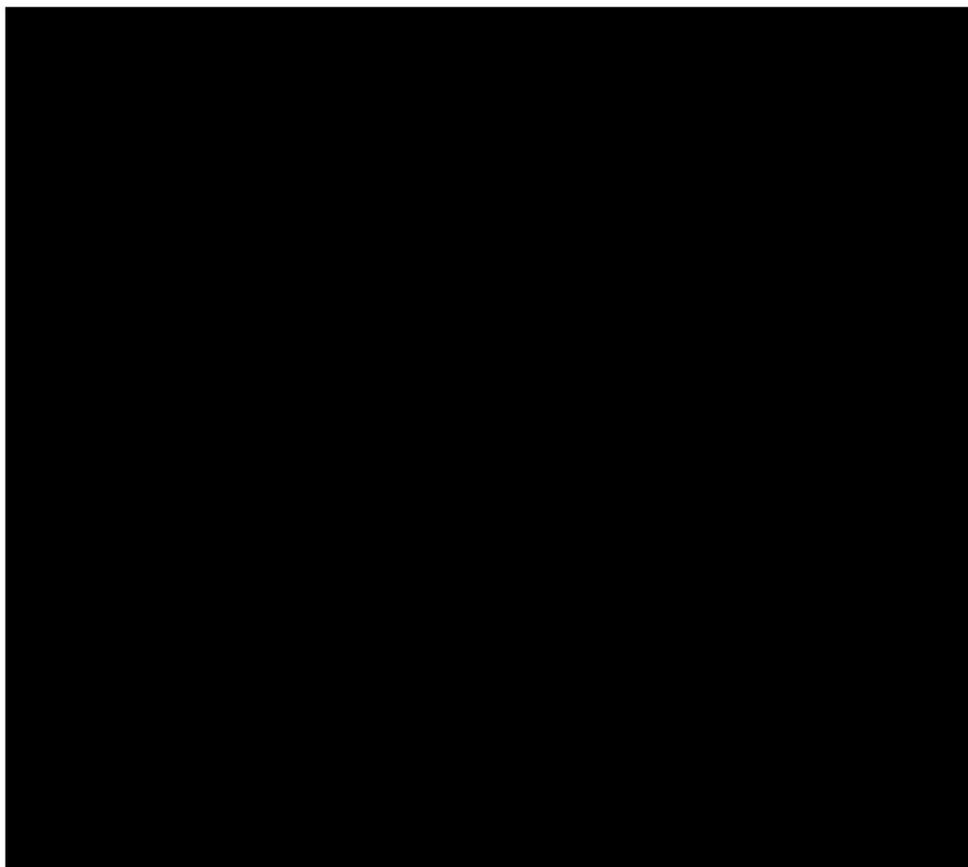
Location of disorder occurrences January 2000 – August 2021.

EBA's

This data is based on EBA-related A Series NIA occurrences.



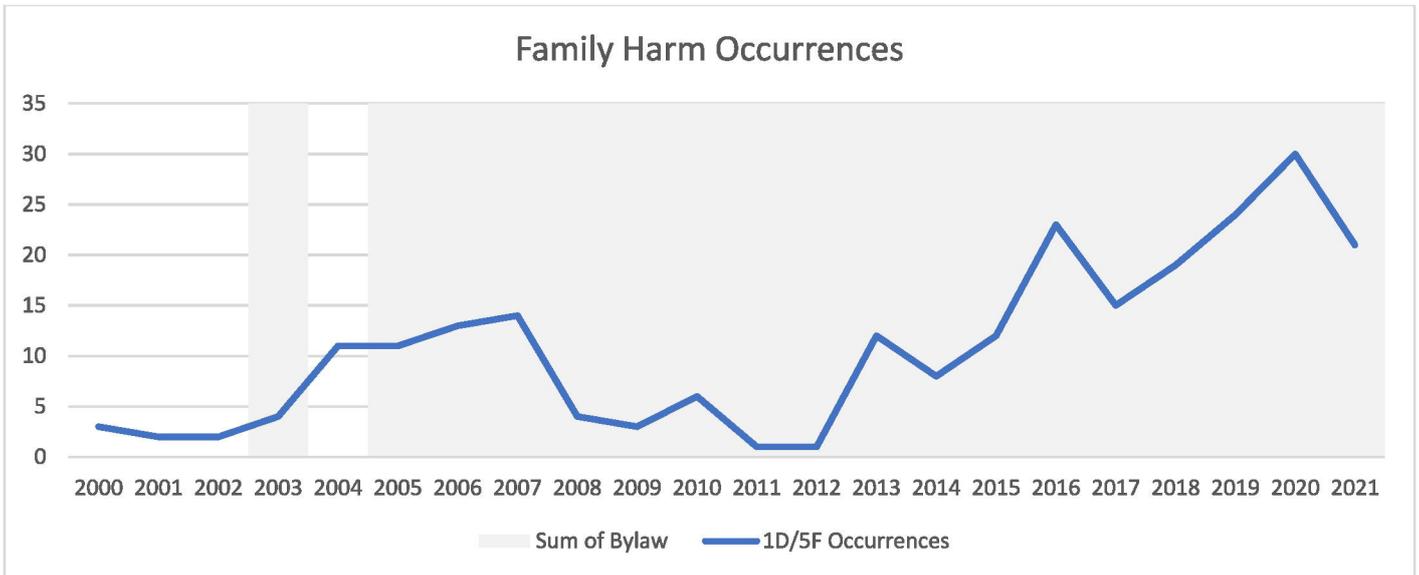
EBA occurrences increased from 2000 until a peak in 2007, where there were 22 occurrences. Since 2007, the number of EBA occurrences in Te Anau has decreased, and there are an average of 11 per year.



Location of EBA occurrences January 2000 – August 2021.

Family Harm (1D/5F)

This data is based on 1D and 5F NIA Occurrences.



Family Harm occurrences in Te Anau have been increasing in the past 10 years, which is consistent with demand observed both in Southern District and nationally. It is uncertain whether this increase in demand represents a true increase in family harm events, increased awareness and therefore reporting by victims, or a combination of both.

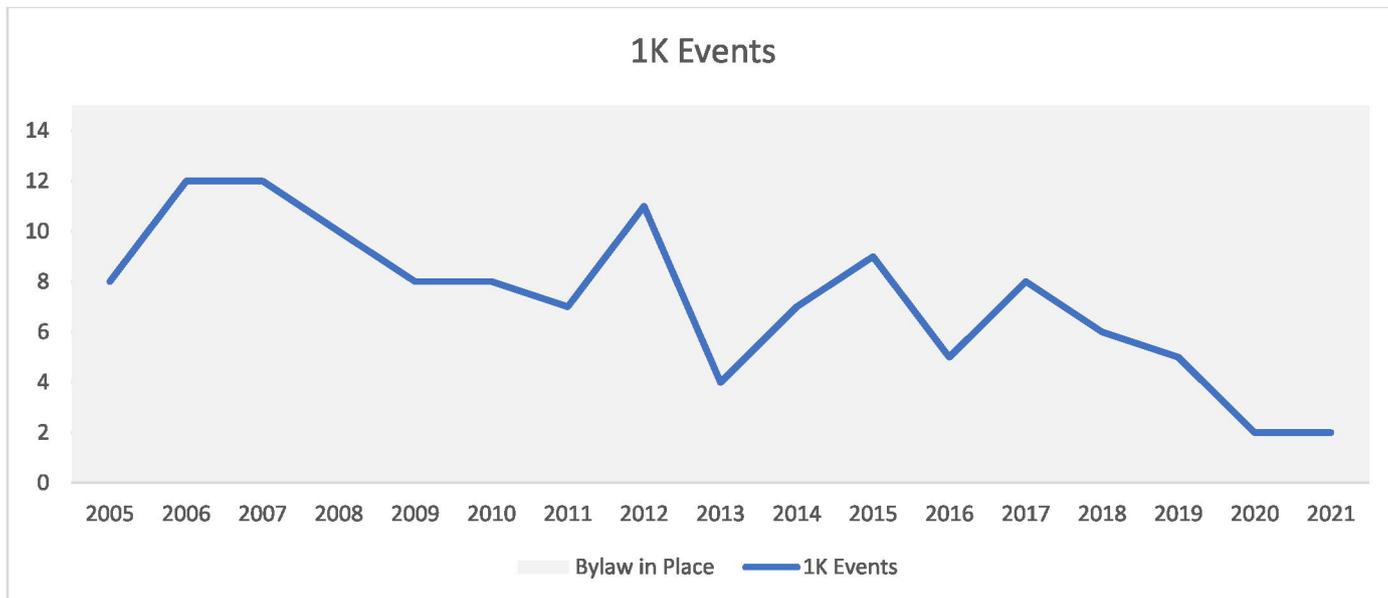
As expected, family ham demand in Te Anau most often occurs at residential locations, rather than the town centre where the bylaw is in place.



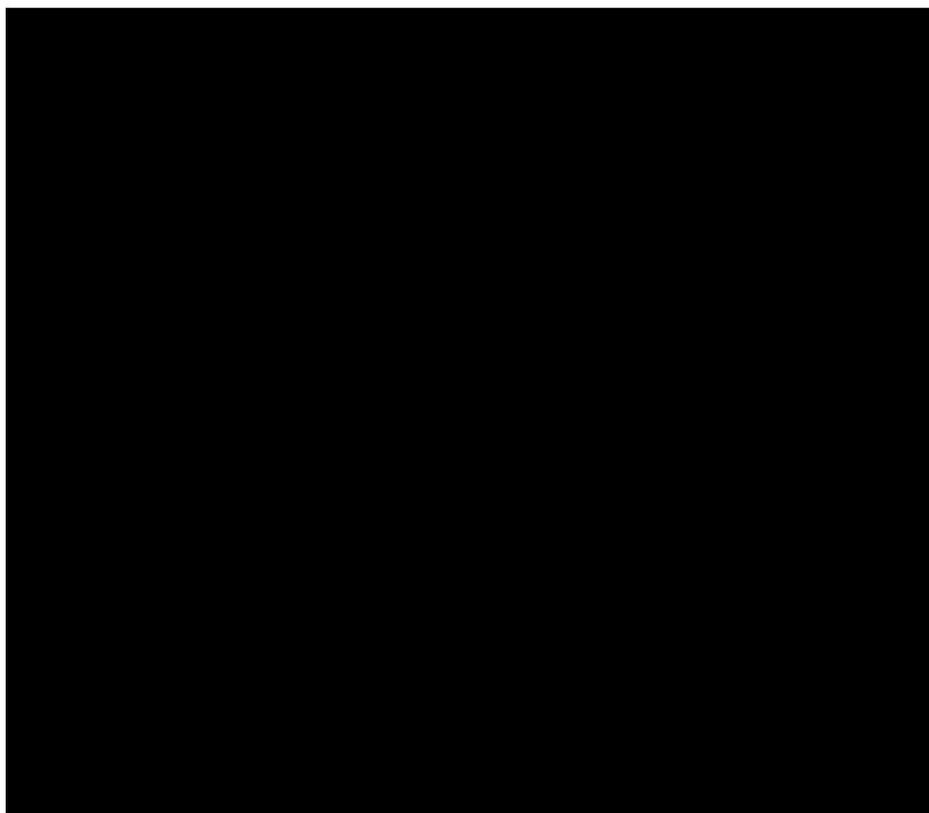
Location of Family Harm occurrences January 2000 – August 2021.

Drunk/Detox (1K)

This data is based on 1K CARD events; CARD data was only available from August 2005.



Drunk Custody/Detox events in Te Anau have been decreasing since the enforcement of the bylaw in 2005. The map below shows Town Centre and Milford Road are most common locations for 1K demand; high risk times for 1K demand are 2100 hrs to 0300 hrs.

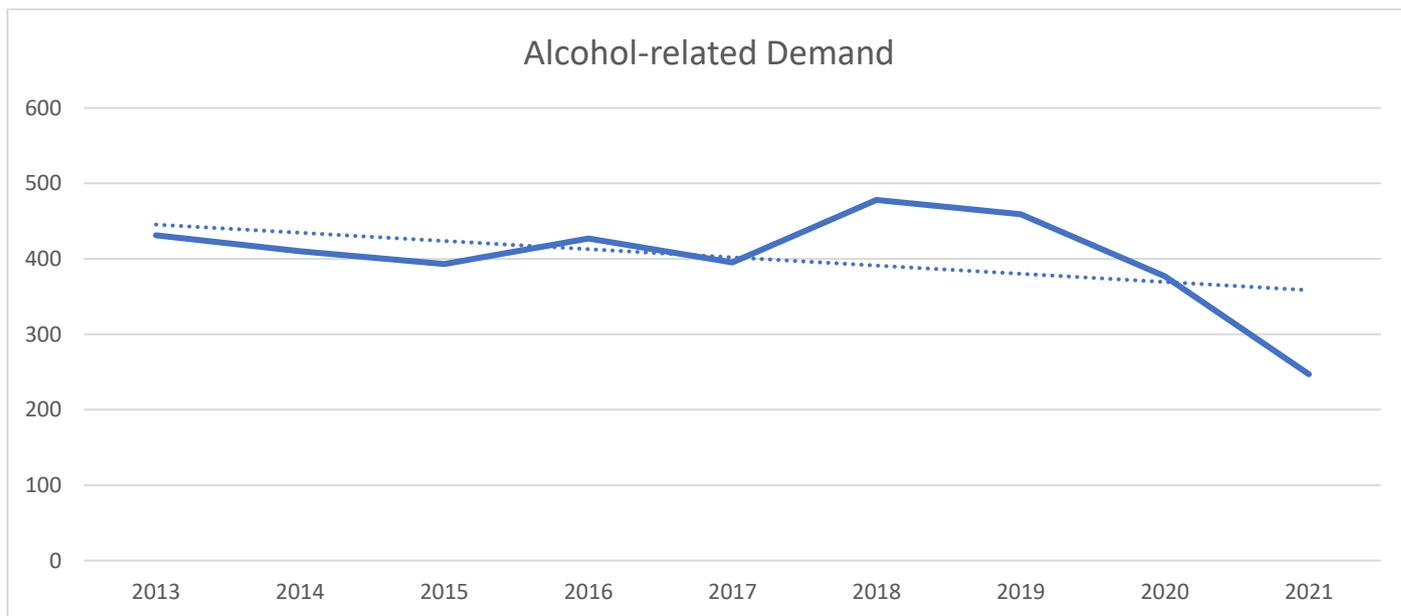


Location of 1K events January 2005 – August 2021.

Alcohol-related Demand

This data is based on alcohol-related demand; data was only available from 2013.

There has been a long term decreasing trend in alcohol-related demand in Te Anau since 2005, which is shown by the dotted trendline in the chart below. The decrease experienced in 2020 is almost certainly due to Covid-19 lockdowns, and therefore a decrease in Hotel Compliance Checks (3H). The majority (90%) of alcohol-related demand in Te Anau since 2005 has been 3Hs; this is followed by Other Behaviour Offences (4%).



Statement of Proposal

Draft Alcohol Control bylaw

Introduction

The Alcohol Control Bylaw 2015 (the ‘current bylaw’) prohibits the possession and consumption of alcohol in specific public places within the Southland District.

An Alcohol ban currently applies to central Te Anau under the current bylaw, which also allows additional temporary alcohol bans to be established by Council for other public places in the District, subject to meeting specific criteria.

The current bylaw will expire on 9 December 2022, Council is proposing a new bylaw which will continue the effect of the current bylaw from 9 December 2022 and we would like to know what you think.

This statement of proposal is prepared under sections 83 and 86 of the Local Government Act 2002 and contains:

- proposed changes and a copy of the draft Alcohol Control Bylaw 2022 (the ‘draft bylaw’) showing the changes to be made
- information about the proposals
- the reasons for the proposals
- how you can have your say
- timetable for consultation
- options.

Proposed changes

Under the current bylaw, the only area currently subject to an alcohol ban is central Te Anau. Council is proposing this will continue to apply under a new bylaw, which is effectively the same, with no further alcohol ban areas to be added.

The variations proposed under the draft bylaw are considered minor technical changes from the current bylaw and include no significant changes. These include:

- updated title to the Alcohol Control Bylaw 2022
- 9 December 2022 commencement date
- capitalisation of some terms
- repeal of the previous bylaw has been removed, this will occur automatically.

All proposed changes are identified in the draft bylaw included in this Statement of Proposal in attachment A.

The reason for the proposal

The key reasons for this proposal are to:

- address crime or disorder caused or made worse by the consumption of alcohol in public places
- seek community views on the continuation of an alcohol control bylaw after the expiry of the current bylaw on 9 December 2022
- seek community views on the areas subject to an alcohol ban under the bylaw
- seek community views on the draft bylaw
- to encourage people to give feedback on the draft bylaw
- to let people know how they can give feedback.

How you can have your say

Anyone can make a submission online at www.makeitstick.nz. Submissions will be accepted from 8am on 29 August 2022 and must be received by 5pm on 29 September 2022.

All submissions should state:

- the submitter's name
- the submitter's contact details
- whether or not the submitter would like to speak to Council about this matter.

If you need help submitting please contact Council at 0800 732 732, or call in to one of Council's offices. All written submissions made to Council will be acknowledged and made available to the public.

Council intends to hold a hearing in late November 2022. This is when anyone who has made a written submission and who has said they would like to speak to Council, can do so at a yet to be scheduled Council meeting. This meeting will be open to the public. If you indicate you would like to be heard, Council staff will get in touch with you to arrange a time for you to speak at the hearing. If at the hearing you have any requirements, please let us know. Please note that Covid national protection framework levels may impact hearing dates and the ability to hold this meeting in person.

Timetable for consultation

The dates below outline the timetable for the consultation process. Any changes to these dates will be publicly advised on Council's Facebook page and website.

DATE	ACTIVITY
10 August 2022	Council adopted the proposal for consultation
29 August 2022	Consultation period begins (8am)
29 September 2022	Consultation period ends (5pm)
Late November 2022 (Council meeting date yet to be determined)	Oral submissions heard by Council. Covid national protection framework levels may impact the hearing date and the ability to hold this meeting in person.

<p>Early December 2022 (Council meeting date yet to be determined)</p>	<p>Deliberations and adoption by Council</p>
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Information about the proposal

Background

Council is empowered by the Local Government Act 2002 to make bylaws to control the consumption, bringing into and possession of alcohol in public places to reduce alcohol related harm.

The current bylaw was established for the purpose of addressing the problem of crime and disorder related to the consumption of alcohol in specified public places within the District. This is currently limited to Central Te Anau but also allows Council to establish further temporary alcohol ban areas within the District as required.

The current bylaw will expire on 9 December 2022. For an alcohol control bylaw to continue past this date, Council will need to adopt a new bylaw.

From preliminary engagement undertaken with Police and community boards, Council has obtained feedback the current bylaw is effectively working and enforced within Te Anau and its provisions should continue. At this stage, no additional areas have been identified to be subject to an alcohol ban, nor have we yet identified need to make further significant changes to the bylaw.

Before Council can make a new alcohol control bylaw, it must be satisfied to the following:

- the bylaw can be justified as a reasonable limitation on people's rights and freedoms
- 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
- the bylaw is appropriate and proportionate in the light of that likely crime or disorder.

Information about the proposal to adopt a new bylaw

The draft bylaw is proposed to have substantially the same effect as the current bylaw with no significant changes, however, as with the formal review of any bylaw, it is open to Council to consider other changes.

During the consultation process, Council may identify a community view to:

- make changes to the alcohol ban proposed to continue in Te Anau
- add additional areas subject to a temporary alcohol ban
- make additional changes to the draft bylaw
- not adopt an alcohol control bylaw.

For any changes, Council will need to ensure these have been adequately consulted on, justified, and appropriate and proportionate to a high level of crime and disorder arising in connection with consumption of alcohol in public places.

Options for the draft alcohol control bylaw

The following options have been considered regarding how Council could proceed, after it has undertaken the consultation process:

Option 1 – adopt the draft bylaw

Option 2 – adopt the draft bylaw including any new temporary alcohol ban areas

Option 3 – adopt an amended bylaw

Option 4 – do not adopt the draft bylaw (the current bylaw expires)

Analysis of Options

Option 1 – adopt the draft bylaw

Advantages	Disadvantages
<ul style="list-style-type: none"> • community are familiar with the restrictions already applied in Te Anau by the bylaw • allows for the establishment of additional temporary alcohol bans • Te Anau Police are familiar with education and enforcement of the bylaw • effective preventative tool • effectively enforced by Police • is consistent with feedback from preliminary consultation with Police and community boards • avoids existing alcohol ban areas lapsing 	<ul style="list-style-type: none"> • retains the existing limitations of rights and freedoms to possess and consume alcohol within central Te Anau public places • may move alcohol consumption in public places to other locations • may miss other areas where an alcohol ban may be necessary

Option 2 - adopt the draft bylaw including any new temporary alcohol ban areas

Advantages	Disadvantages
<ul style="list-style-type: none"> • has the same advantages as Option 1. • allows needs for additional alcohol ban areas to be identified. • allows for additional alcohol ban areas to be established by a temporary alcohol ban 	<ul style="list-style-type: none"> • limitation of rights and freedoms to possess and consume alcohol within the District. • may move alcohol consumption in public places to other locations • may require further separate consultation and/or investigation for additional alcohol ban areas • requires evidence of a high level of crime or disorder caused or made worse by consumption of alcohol in public areas which are proposed as new alcohol ban areas

	<ul style="list-style-type: none"> • may have additional costs to consult and establish any new temporary alcohol bans such as public notification and signage.
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Option 3 – adopt an amended bylaw

Advantages	Disadvantages
<ul style="list-style-type: none"> • allows council to make further changes based on community views • allows needs for additional alcohol ban areas to be identified. • allows for additional alcohol ban areas to be established either by a temporary or permanent alcohol ban 	<ul style="list-style-type: none"> • limitation of rights and freedoms to possess and consume alcohol within central Te Anau public places • may move alcohol consumption in public places to other locations • may require further consultation • may delay implementation of the bylaw after the current bylaw lapses • requires evidence of a high level of crime or disorder caused or made worse by consumption of alcohol in public areas which are proposed as new alcohol ban areas • may have additional costs to consult and establish any new temporary alcohol bans such as public notification and signage.

Option 4 – do not adopt the draft bylaw (the current bylaw expires)

Advantages	Disadvantages
<ul style="list-style-type: none"> • no limitations of rights and freedoms to possess and consume alcohol within central Te Anau public places • reduced time and cost associated with consultation and implementation. 	<ul style="list-style-type: none"> • police will lose a preventative and enforcement tool to help address crime and disorder associated to consumption of alcohol within central Te Anau public places • deterrent to public consumption of alcohol in central Te Anau ceases • increased crime and disorder associated to consumption of alcohol within central Te Anau public places • negative economic impact to Te Anau businesses from the impacts and perception of crime and disorder • reduced public perception of safety • no ability to establish temporary alcohol bans in the District if required.

	<ul style="list-style-type: none"> • inconsistent with feedback from preliminary consultation with Police and community boards • if a bylaw were to be re-established at a later date, will require evidence of a high level of crime or disorder caused or made worse by consumption of alcohol in public areas.
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What happens next?

After Council has received written and oral submissions, Council will make decisions on the draft bylaw which is proposed to occur in December 2022. Council may make other changes to the draft bylaw, but anything that is a significant departure from the options set out in this proposal may require further consultation.

If further areas are identified which are experiencing crime and disorder associated to the consumption of alcohol in public places, Council may need to undertake further consultation and analysis in relation to the problem in those areas. Where a problem exists, which is able to be addressed by the bylaw, Council may need to consider establishing a temporary alcohol ban before varying the bylaw to establish a more permanent alcohol ban.

Determinations

Council is empowered to make the bylaw in accordance with the Local Government Act 2002 which requires Council to make the following determinations.

The draft bylaw is the most appropriate way of addressing the perceived problem – Council has had an alcohol control bylaw in place since 2003, it is an effective tool used by Police to prevent and quickly address alcohol related harm. Council has resolved that a bylaw is the most appropriate way to address crime or disorder caused or made worse by the consumption of alcohol in public places.

The draft bylaw is the most appropriate form of bylaw - Council resolved that the draft bylaw is the most appropriate form of bylaw. It is a minor revision of the current bylaw which has been in place since December 2015, it allows the alcohol free area within Te Anau to be easily enforced by Police and provides the flexibility to respond to any need to establish additional temporary alcohol free areas within the District where a high level of crime or disorder arises.

The draft bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990 -. While the draft bylaw provides that people can be asked to leave, or to stop consuming alcohol in areas where an alcohol ban applies, Council is required to ensure where establishing areas where an alcohol ban applies that the bylaw is both appropriate and proportionate to the level of crime or disorder and is justified as a reasonable limitation of people's rights and freedoms. Council has resolved that the provisions of the draft bylaw do not unreasonably interfere with any of the rights granted by the New Zealand Bill of Rights Act 1990.

Attachment A

Draft Alcohol Control Bylaw 2022