

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



Alcohol Control Bylaw **2015**2022

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Document Revision

Date	Amendment	Amended by	Approved by	Approval date

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

1 Title and Commencement

- (a) This Bylaw is the Alcohol Control Bylaw ~~2015~~2022.
- (b) This Bylaw comes into force on ~~12-9~~ December ~~2022~~2024.
- (c) ~~The Public Places Liquor Control Bylaw 2005 is consequently repealed~~

2 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 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 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 Exemptions

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 Dispensations

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.

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

7 No Warning in Certain Circumstances

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 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 Offences

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

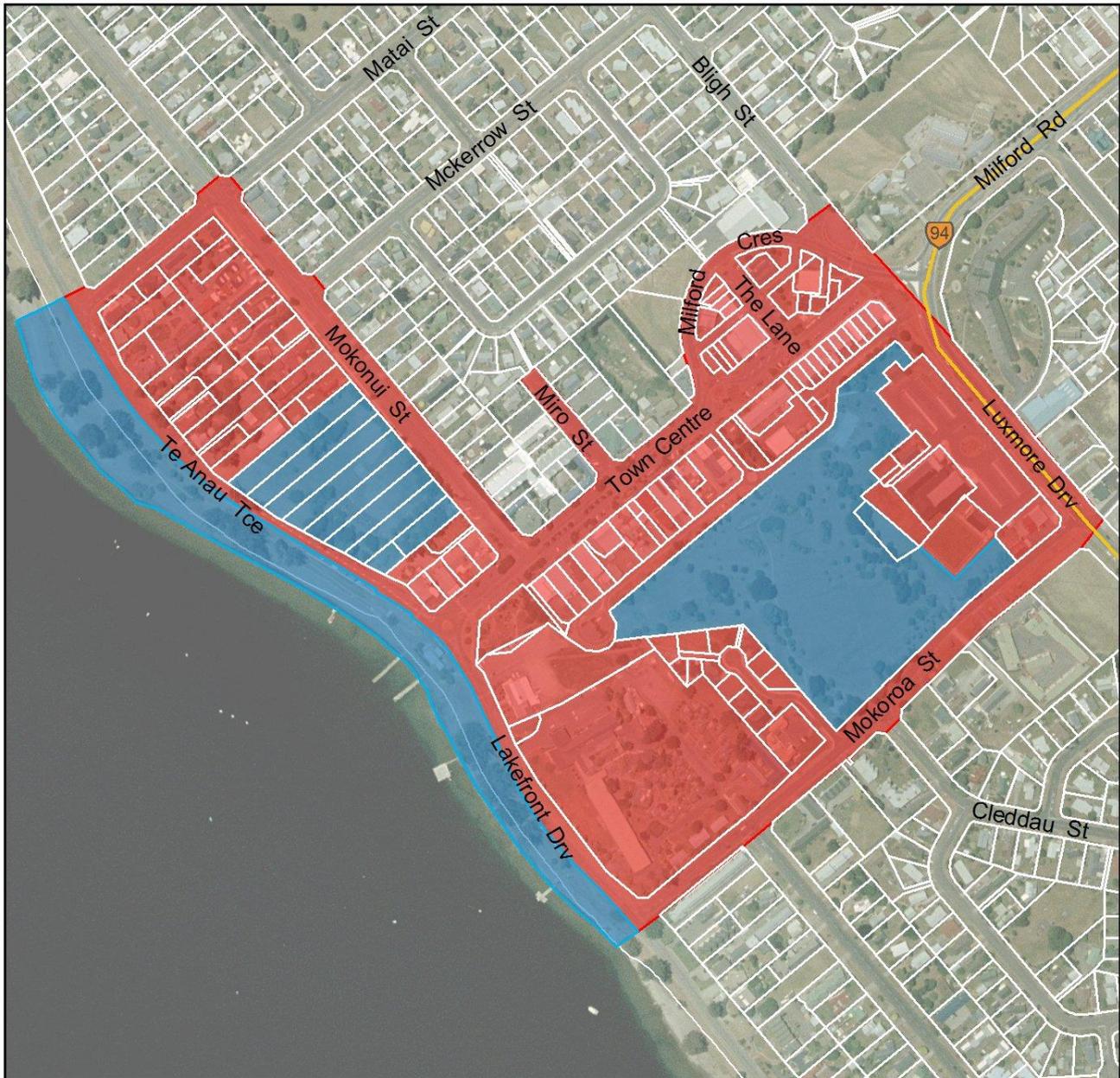
9 Penalties

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

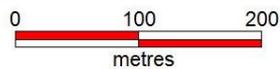
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Schedule

The Alcohol Free Areas and Specified Periods are as follows:



Te Anau Alcohol Free Areas



Alcohol free areas in outdoor public places in the shaded areas, 365 days per year, during the following times:

- 24 hours
- Hours of darkness (between half an hour after sunset on any day, and half an hour before sunrise on the next day)