
Statement of Proposal

To amend the

Alcohol Control Bylaw 2018

Council would like to hear your views on a proposal to amend the Alcohol Control Bylaw 2018.

Proposal to amend the Alcohol Control Bylaw 2018

The Alcohol Control Bylaw 2018 (Bylaw) enables Council to place alcohol restrictions (commonly known as liquor bans) over public places within the Kaipara District to reduce the risk of alcohol-related harm and provide for the Bylaw's enforcement by the New Zealand Police.

Council has completed a statutory review of the current Bylaw and is proposing to make some changes. The review highlighted that while the Bylaw is working well, we could make some amendments to improve accessibility of the Bylaw and make it easier for the public to understand the Bylaw.

The proposed changes will not affect the main aspects or implementation of the Bylaw, and we are not making any changes to the current public places that have alcohol-restrictions.

This document provides additional information about the proposal including:

- the proposed amendments to the Bylaw
- reasons for the proposed changes
- the draft Alcohol Control Bylaw
- how to give us your feedback and
- the statutory issues Council must consider when amending a bylaw.

Have your say

Before making any final decisions, Council would like to know your views. You can tell us what you think of this proposal between Monday 6 May 2024 – Thursday 6 June 2024.

Read on to find out how to give us your feedback, or visit the [have your say](#) page on our website for more information.

Key dates

Feedback period: Monday 6 May 2024 – Thursday 6 June 2024.

Chat with a Councillor: During the weeks beginning 27 May 2024.

Deliberations: 25 June 2024.

Decision of Council: 31 July 2024.

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Introduction

Kaipara District Council is proposing changes to the Alcohol Control Bylaw to improve useability and accessibility. The Bylaw allows Council to make alcohol-restrictions in public places to reduce alcohol-related harm from occurring in our communities.

The Bylaw:

- contains the process and different criteria that Council must consider before making a permanent or temporary alcohol restricted place;
- confirms and provides the Bylaw's enforcement powers to New Zealand Police constables;
- contains the penalties for breaches of the Bylaw; and
- provides the process to obtain an exemption to the Bylaw.

To better reflect the legislative framework the Bylaw is made under, and to support readability, Council is proposing amendments that:

- update the Bylaw to reflect the wording used in the Act and other relevant current legislative provisions
- improve the wording to support clarity and understanding
- reformat some provisions to support better understanding;
- include new savings and transition provisions

Council is not proposing to make any substantive content changes to the Bylaw, and the changes proposed do not affect the Bylaw's implementation.

Reasons for the Proposal

The [Local Government Act 2002](#) (Act) requires Council to carry out a five-year statutory review of the Bylaw. This review was completed in December 2023, and Council found that while the Bylaw is functioning well, it could be improved to make it easier to use and understand.

Proposed Changes

Council is not proposing any substantive changes to the Bylaw. The table below provides a summary overview of the proposed changes.

Proposed amendments to the Bylaw	
Current Bylaw	Proposed amendments
	New definition inserted for 'restricted place' to assist understanding
Relocate Clause 9(1) in its entirety	Moved to Clause 7.2 position.
Relocate Clause 9(2) in its entirety	Move to clause 8.2 position.
Relocate Clause 9(c) in its entirety	Moved and duplicated in clauses 7.2(iii) and 8.2(iii).
Clause 12	Reformatted to become Clause 11
	Insert Part F – Savings and Transitional Provisions with 2 new clauses
	Updated legislation references, aligned statutory definitions, updated internal clause references
	Grammar, plain English scan, and formatting changes including transferring to the Council Bylaw template for Council documentation consistency purposes.

To see more specific details on the proposed changes see **Attachment B** as attached to the report to Council on [24 April 2024](#).

Legislative Framework

The legislative framework for the Bylaw review process was presented at the [1 November 2023 Council Briefing](#) to inform Council what it must consider to ensure that the Bylaw is effective, efficient, and still necessary. This includes ensuring that it is not inconsistent with the [New Zealand Bill of Rights Act 1990](#).

At the [Council meeting on 13 December 2023](#) Council considered the research and analysis undertaken by staff and decided that a bylaw is still the most appropriate way of addressing the real and perceived problems caused by consumption, bringing in, and possession of alcohol in public places. At that same meeting Council also determined to propose amendments to the Bylaw to improve its usability and comprehension.

Following on from this, Council decided at the [24 April 2024 Council Meeting](#) to consult with the community on this proposal to gain feedback and determined that the proposed draft Bylaw did not give rise to any implications under the Bill of Rights Act 1990.

For further details on the above determinations and reports, follow the links provided, view the agenda reports at www.kaipara.govt.nz/meetings or visit Council offices and libraries.



Alcohol Control Bylaw 2018

Kaipara District Council

This Bylaw is made pursuant to section 147 of the Local Government Act 2002.

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Part A

Preliminary provisions

1. Title

1.1 This Bylaw is the Alcohol Control Bylaw 2018.

2. Commencement

2.1 This Bylaw comes into force 19 December 2018.

2.2 Amendments to this Bylaw made by resolution at the XX/XX/2024 Council Meeting come into force on XX/XX/2024.

3. Application

3.1 This Bylaw applies to the Kaipara District.

4. Purpose

4.1 The purpose of this Bylaw is to reduce alcohol-related harm by controlling the consumption, bringing in, and possession of alcohol (including inside a vehicle) in public places.

Related Information

The provisions of the Act provide explicit details about what this Bylaw can control. Generally, any transporting of alcohol in an unopened container within an alcohol restrict place is permitted, subject to certain conditions. See section 147 of the Act for further details.

This Bylaw does not apply to licensed premises, or Special Licence permits that have been issued for a specific event under the Sale and Supply of Alcohol Act 2012. Licensed premises can include areas of public places such as footpaths.

Under the Act only constables (New Zealand Police Officers) can take enforcement action under this Bylaw. Constables have powers of arrest, search and seizure under the Act, and they can also issue infringement notices.

5. Interpretation

5.1 Any word used in this bylaw that is defined in sections 5(1), 147(1), 169, 169A(1) and 243(1) of the [Local Government Act 2002](#), or section 5(1) of the [Sale and Supply of Alcohol Act 2012](#) has the same meaning as in those sections.

5.2 In this Bylaw, unless the context otherwise requires:

Act means the Local Government Act 2002.

Council means the Kaipara District Council

Kaipara district means the area within the boundaries of the Kaipara District and includes all coastal areas to the line of mean low water springs.

Restricted place Means a public place in respect of which this Bylaw applies.

- 5.3 Words implying the singular include the plural and vice versa.
- 5.4 The Legislation Act 2019 applies to this Bylaw.
- 5.5 Where the meaning of a word has been determined to have the same meaning as provided for that word or term in a stated piece of legislation or other regulatory tool, for completeness, in the event of the meaning of a word or term changing in the relevant legislation or regulatory tool, then the meaning of the word or term changes for the purposes of this Bylaw as well.
- 5.6 Any 'Related Information' boxes and attachments are for information purposes, and do not form part of this Bylaw. They may be inserted, amended, or revoked without formality.

Related Information

Relationship between this Bylaw and applicable legislation, and regulations.

Compliance with the Bylaw does not remove the need to comply with all other applicable legislation, or regulations. Where there is any conflict between this Bylaw and any applicable legislation or regulation, the legislation or regulation will take precedence.

Part B Control Of Alcohol

6. Alcohol Restricted Place

- 6.1 Council may, by resolution, declare a public place to be an alcohol restricted place.
- 6.2 Any resolution made under clause 6.1 must:
- i. include a map of the alcohol restricted place;
 - ii. specify the time and date that any alcohol restriction applies; and
 - iii. whether the alcohol restricted place is permanent or temporary.
- 6.3 If the consumption, bringing and possession of alcohol is restricted in a public place rather than prohibited, specify the nature of the control.
- 6.4 No person shall consume, bring into, or possess alcohol (including inside a vehicle) in an alcohol restricted place in breach of a Council resolution made under clause 6.1.
- 6.5 Clause 6.4 does not apply to a person who is acting pursuant to, and in accordance with any conditions of, a consent granted under clause 11.

Related Information

The Act defines a public place for the purposes of an alcohol restricted place as: "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; but does not include licensed premises."

A private residence is not considered a public place and other buildings may or may not be considered a public place depending on the reason for their use. Please contact Council for more information.

7. Permanent Alcohol Restricted Place

- 7.1 Council may under clause 6.1 declare a public place to be a permanent alcohol restricted place, where the alcohol restrictions apply at all times, or for repeated specified, periods of time.
- 7.2 Before declaring a public place to be a permanent alcohol restricted place, under clause 6.1 Council:
- i. must consult with the public and consider their views before making a resolution;
 - ii. must consider the relevant criteria in section 147A and 147B of the Act; and
 - iii. may consider any other matters it considers to be relevant.
- 7.3 Council will consult in accordance with section 82 of the Act on any proposal to declare, amend or revoke a permanent alcohol restricted place.

Related Information

All resolutions of Council declaring an alcohol restricted place are contained within the additional information to Alcohol Control Bylaw 2018, register of resolutions, attached to this Bylaw. Each resolution will define the specified alcohol restricted place and state the period of time(s) that the alcohol restriction applies to the public place.

8. Temporary Alcohol Restricted Place

- 8.1 Council may under clause 6.1 declare a public place to be a temporary alcohol restricted place for a specific period of time not exceeding seven consecutive days.
- 8.2 Before declaring a temporary alcohol restricted place Council:
- i. must consider the relevant criteria in sections 147A and 147B of the Act;
 - ii. will consider for a specified event:
 - a. the nature and type of the event;
 - b. the history (if any) of the event;
 - c. the number of people expected to attend the event;
 - d. the public place in which the event is to be held;
 - e. whether the Police support the proposed temporary alcohol restricted place; and
 - f. whether the Police will be present at the event to enforce the conditions of the temporary alcohol restricted place.
 - iii. may consider any other relevant matters.
- 8.3 Council will give public notice of a temporary alcohol restricted place at least 14 days before the temporary restricted place comes into force.

Related Information

Records of resolutions made for temporary alcohol restricted places will not be included in the 'register of resolutions' but are permanently recorded through the appropriate Council records of meetings, minutes, and resolutions.

Part C

Enforcement powers

9. Enforcement

- 9.1 A Constable may use their powers under the Act to enforce this Bylaw.
- 9.2 This Bylaw authorises a Constable to exercise the power of search under sections 169(2)(a) and 170(2) of the Act for temporary alcohol restricted places declared in accordance with clauses 6, 7, and 8.

Related Information

s170(2) provides constables with additional powers of search in relation to temporary alcohol controls that have been notified and indicated by signs in accordance with s170(3) of the Act.

Part D

Offences and Penalties

10. Bylaw Breaches

- 10.1 Every person who breaches this Bylaw commits an offence.
- 10.2 Every person who commits an offence under this Bylaw is liable to a penalty under the Act.

Related Information

The penalty for breaching an Alcohol Control Bylaw is an infringement fee of \$250 under the Local Government (Alcohol Ban Breaches) Regulations 2013.

Part E

Exemptions

11. Exemptions

- 11.1 Council may issue a consent to any person or class of persons to allow the consumption, bringing in, and possession of alcohol (including inside a vehicle) within an alcohol restricted place.
- 11.2 In considering an application for a consent under clause 11.1, Council will consider the following matters:
- i. the purpose of the exemption;
 - ii. the proposed duration of the exemption;
 - iii. the restricted place of the proposed exemption;
 - iv. whether the restricted place is under the control of, or managed by, Council;
 - v. whether any other permits are required from Council for the event; and
 - vi. any other matters.
- 11.3 Council may impose conditions for any such consent, including, but not limited to:
- i. the duration of the consent;
 - ii. the exact location to which the consent applies; and
 - iii. a maximum number of people allowed at the restricted place at any given time, for the duration of the consent.
- 11.4 Council may by resolution, made after public consultation that gives effect to the requirements of s82 of the Act:
- i. prescribe a fee for receiving and processing an application and issuing a consent; and
 - ii. determine situations when consent fees may be remitted, refunded, or waived.
- 11.5 A consent may be cancelled by Council at any time.

Related Information

Exemptions for events that have been granted a special licence are not required as they are excluded from the definition of public places that applies to this Bylaw.

Part F

Savings and Transitional Provisions

12. Existing resolutions continue to apply

- 12.1 This clause applies to all resolutions made under this Bylaw prior to amendments in clause 2.2 coming into force.

- 12.2 Every resolution made continues to apply as if made after the amendments to this Bylaw until the expiration date specified in the resolution or until amended, replaced, or revoked by Council, whichever comes first.

DRAFT

Information on providing feedback and submissions

Tell us what you think

We need your feedback by **5pm Thursday, 6 June 2024**.

Your views on the proposal are important to us and help us ensure that the Alcohol Control Bylaw best suits our community's needs.

How to give us feedback

There are a few ways you can tell us what you think:

- you can submit your feedback in writing using the submission form in this document
- you can complete our online submission form on the [Have your Say](#) page
- you can discuss your views with a Councillor directly over the phone or via audio visual link. Note you can choose to chat with a Councillor as well as providing written feedback.

Chat with a Councillor

We are holding '*Chat with a Councillor*' sessions for you to talk directly to a Councillor to provide your thoughts, concerns and feedback.

These sessions will be up to 15 minutes long and held during the weeks beginning 27 May 2024. They will be over the phone or via an audio/visual link depending on your preference.

Each discussion will be supported by a Council staff member who will record the key points of your feedback.

Follow the instructions on the submission form in this document to register for a session. We will be in touch as soon as possible to schedule your session.

Please note that you do not have to provide a written submission to tell us about your thoughts in person, although you are welcome to do both.

What will happen with your feedback?

All feedback received will be summarised and reported back to the Panel of Elected Members who will deliberate on the feedback provided and then make a recommendation to the Council on the proposal. They will receive copies of all written submissions as well.

Privacy statement

Please note that all submissions are considered public under the Local Government Official Information and Meetings Act 1987, and your name and feedback will be available to the public via our reports and or website. All other personal details you provide will remain private.