



**SOUTH WAIRARAPA
DISTRICT COUNCIL**
Kia Reretahi Tātau

STATEMENT OF PROPOSAL

Reducing Alcohol Related Crime and Disorder

Proposed Alcohol Control Bylaw

July 2021



Summary of information

South Wairarapa District Council (Council) is proposing to adopt a new Alcohol Control Bylaw and we are seeking feedback from the community on the proposed bylaw.

The bylaw enables alcohol bans to be made that prohibit the consumption and possession of alcohol in certain public places where crime or disorder is caused or made worse by alcohol consumed there. An alcohol control bylaw is generally considered to be an effective regulatory tool to help the Council and Police promote and maintain public health and safety.

The bylaw controls alcohol for temporary special events in public places, including Toast Martinborough. We do not propose to include any permanent alcohol ban areas in the bylaw but the bylaw enables Council to establish alcohol ban areas in the future where necessary.

Key dates	Activity
2 August 2021	Submissions open
2 September 2021	Submissions close
22 September 2021	Oral hearings/Deliberations
23 September 2021	Deliberations Reserve Day
3 November 2021	Council decides whether to adopt the proposed bylaw
4 November 2021	The bylaw, if adopted, comes into effect

Have your say

Please have your say on the proposed Alcohol Control Bylaw.

You can:

- » make a submission online at www.swdc.govt.nz/alcoholbylaw
- » download a submission form from the website and email it to submissions@swdc.govt.nz
- » fill in the submission form and post it to SWDC, PO Box 6, Martinborough 5741
- » drop a completed submission form to your local library or the Council offices at 19 Kitchener Street, Martinborough

Printed copies of this statement of proposal are available from:

- » the Council offices at 19 Kitchener Street, Martinborough
- » the libraries in Featherston, Greytown and Martinborough

You may also request a printed copy by emailing us at submissions@swdc.govt.nz or phoning us on 06 306 9611.

You can provide us with feedback on any aspect of the proposed Alcohol Control Bylaw. Questions you might think about:

1. Do you agree with the problem as we have stated it or is there more (or less) that we should consider?
2. Do you agree with the proposal to include controls for one-off special events in public places, and to enable Council to establish permanent alcohol ban areas in the future where necessary?
3. Do you think we should include alcohol ban areas in the bylaw? Which areas, and why?
4. What other actions do you think Council could take to address public safety and reduce alcohol related crime and disorder in the community?

More Information

If you would like more information on the proposed Alcohol Control Bylaw, please come along to our community meeting.

Date: 16 August 2021

Time: 9.30—11:30am

Location: Martinborough Town Hall, 8 Texas Street, Martinborough

If you cannot attend in person, please contact us and we can send you an audio-visual link.

The meeting is an opportunity to hear more about the proposed Alcohol Control Bylaw and to discuss your views. Feedback will not be recorded so you will need to provide a formal submission using the details above.

If you have any questions about the proposed Alcohol Control Bylaw or the consultation process, please contact Steph Frischknecht at submissions@swdc.govt.nz or on 06 306 9611 ext 885.

1. Purpose of the proposed Alcohol Control Bylaw

The South Wairarapa District is well-known for generous hospitality, a successful wine industry and great local events. Our resident and tourist community consume alcohol in public places every day and most do so responsibly without impacting on others. However, consuming alcohol in public places can potentially lead to increased crime, disorder and safety concerns. This may include noise, litter, graffiti, public urination, vandalism, theft, intimidation, violence or reckless use of vehicles.

The Council can use a bylaw to establish alcohol bans that help the Council and Police promote and maintain public health and safety. Alcohol bans prohibit the consumption and possession of alcohol in certain public places where crime or disorder is caused or made worse by alcohol consumed there. Alcohol bans can be made for temporary events or relate to specific areas where alcohol bans apply permanently. Council's previous bylaw included a ban in Featherston CBD that operated 24/7 and enabled alcohol bans to be made for temporary special events in public places, such as Toast Martinborough.

2. Legal framework

Under sections 147A and 155 of the Local Government Act (LGA), before making a bylaw Council must:

- » determine whether a bylaw is the most appropriate way of addressing the perceived problem and that a proposed bylaw is the most appropriate form of bylaw;
- » be satisfied that:
 - the proposed bylaw can be justified as a reasonable limitation on people's rights and freedoms;
 - except where the bylaw applies temporarily for a large scale event, there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime or disorder caused or made worse by alcohol consumption in the area; and
 - the proposed bylaw is appropriate and proportionate in light of that crime or disorder.

In addition, no bylaw may be made which is inconsistent with the New Zealand Bill of Rights Act 1990. Council must also comply with the general decision-making requirements in sections 76 to 82 of the LGA in that it must identify and consider all reasonably practicable options and the community's views.

3. Is the bylaw the most appropriate way to address the perceived problem?

The problem can be defined as "crime or disorder caused or made worse by the consumption of alcohol in public places". Council has liaised with key stakeholders, including the Police, Regional Public Health, Community Patrol, its Māori Standing Committee and Community Boards, to understand the nature of alcohol related issues in the district. We have also considered relevant responses from community engagement carried out on the Long Term and Spatial Plans.

A number of concerns about crime and disorder in the district have been raised. Not all of these are alcohol related and so are outside of the scope of the Alcohol Control Bylaw. Some stakeholders have wanted to address social concerns such as problem drinking or the normalisation of drinking around young people through alcohol bans at, for example, playgrounds and sportsgrounds but this is also out of scope.

Fortunately, our district does not experience significant incidents of alcohol related crime and disorder and there are no particular problem areas that we are aware of, including the area covered by the previous Featherston CBD alcohol ban. We have heard some concerns about safety and negative behaviours associated with wine, cycling and general tourism in Martinborough. However, there have been few formal complaints received by Council and the Police have no data on relevant alcohol related incidents. We think these concerns can be best addressed using other methods, such as working with local business to promote responsible tourism and by considering road safety interventions.

Given the low level of crime and disorder in the district, we have considered whether we need a bylaw at all. Other options to address the problem would include current Police powers to protect public safety and Council powers to regulate licensed premises under the Sale and Supply of Alcohol Act 2012. Council could also develop controls in our policies, plans and hire agreements, use CCTV or advocate for more local Police.

These options can work well but we think they are unlikely to address the problem on their own. Without an Alcohol Control Bylaw there would be no ability to provide for temporary alcohol bans for events, or to deal with problem areas in the future. Bylaws are a well-recognised mechanism and provide a preventative tool to stop problems happening which is consistent with the 'prevention first' strategy of the Police. This is preferable to waiting for problems to occur, particularly at and after events where large groups may gather. Alcohol bans, supported by signage, can be informally enforced by the community and enforcement by the Police prevents escalation and more serious incidents. Alcohol bans may also increase the perception of safety and order and raises the reputation of events. Previously, the temporary alcohol bans put in place for Toast Martinborough have been supported by both the Police and event organisers. Without a bylaw, the Council and Police would have difficulty promoting and maintaining public health and safety by reducing alcohol possession and consumption in public places.

4. Our proposal

The sections below explain the content of the proposed bylaw. Council is satisfied that the proposed bylaw is a reasonable limitation on people's rights and freedoms and is appropriate and proportionate.

Includes an alcohol ban for Toast Martinborough in the bylaw

As it is a well-established and recurring major event, Council proposes to include an alcohol ban relating to Toast Martinborough within the bylaw itself. The ban would apply for the same time and location as the previous bans. Including the alcohol ban in the bylaw provides more certainty to the community and stakeholders and is more efficient because it does not rely on a temporary ban being sought each year.

Does not include alcohol bans for other areas and facilities

Council does not propose to include permanent alcohol bans in the bylaw for other specific areas and facilities. We do not think there is sufficient evidence of a high level of crime or disorder caused or made worse by alcohol consumption elsewhere in the district.

Enables Council to make alcohol bans by resolution

We propose to include a mechanism in the bylaw which will enable Council to make alcohol bans by resolution where criteria is met. This includes temporary bans associated with other events or permanent bans associated with specific areas or facilities.

Council will continue to work with Community Boards, Police, business and the community to monitor and respond to any alcohol related issues that occur in the district and consider whether an alcohol ban is needed in the future.

Other proposals

The proposed bylaw:

- » Does not apply to licensed premises or Special Licences, or where transporting unopened containers to and from residence or licensed premises.
- » Enables Council to adopt requirements for signage.
- » Provides for the Police powers of arrest, search and seizure under sections 169 to 170 of the LGA.

5. Key differences with the South Wairarapa Liquor Control Bylaw 2011

As stakeholders and the community may be familiar with the previous bylaw controls, key differences are explained below.

Key differences	Reason
Updates references from the “Sale of Liquor Act 1989” and “liquor” to the “Sale and Supply of Alcohol Act 2012” and “alcohol”.	Consistency with the Sale and Supply of Alcohol Act 2021 and amendments to the LGA.
Updates the purpose statement.	Simpler statement linked to the problem.
Does not include an alcohol ban relating to Featherston CBD.	Different legislative context requires existence of a high level of crime or disorder and a reasonable limitation on rights and freedoms. Area no longer experiences alcohol related crime and disorder.
Includes an alcohol ban relating to Toast Martinborough in the bylaw.	Provides for greater certainty and efficiency for a well-established and recurring major event.
Does not enable special exemptions to allow people to bring and consume alcohol in an alcohol ban area.	Risks inequitable treatment and is considered unnecessary as Special Licences can already provide appropriate exemptions.

6. Is the bylaw the most appropriate form of bylaw?

Taking into account the information above, Council considers the proposed Alcohol Control Bylaw to be the most appropriate form of bylaw. The bylaw:

- » Provides a regulatory tool to control the possession and consumption of alcohol in public places leading to a reduction in crime or disorder caused or made worse by alcohol, as authorised under sections 145 and 147 of the LGA.

- » Promotes and maintains public health and safety.
- » Provides for certainty and efficiency by specifying controls relating to Toast Martinborough, which is a recurring major event, within the bylaw.
- » Enables responsive decision-making for controls for other events and alcohol ban areas to be included in the future by resolution where the criteria is met.
- » Focuses only on specific and known problem areas and is an appropriate balance between regulatory and non-regulatory strategies to reduce alcohol related crime and disorder.
- » Is certain, reasonable and proportionate.

7. Does the bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990?

The New Zealand Bill of Rights Act 1990 provides for certain rights and freedoms in relation to life and the security of people; democratic and civil rights; non-discrimination and minority rights; search, arrest and detention; and criminal procedure and rights to justice.

The proposed bylaw could potentially limit rights to freedom of expression, freedom of peaceful assembly and freedom of movement by limiting people’s ability to possess and consume alcohol in areas subject to alcohol bans. However, these limitations are justified (as provided in section 5 of that Act) because Council’s ability to make alcohol bans is limited by legislative criteria and the restrictions are fair and reasonable in the interest of public health and safety.

8. Options considered by Council

In accordance with section 77 of the LGA, the following options and associated advantages and disadvantages have been considered by Council. Council proposes to proceed with Option 1.

Option		Advantages	Disadvantages
1	Adopt the proposed Alcohol Control Bylaw Recommended option	<ul style="list-style-type: none"> • Provides Council and the Police with a regulatory tool to control the possession and consumption of alcohol in public places leading to a reduction in crime or disorder caused or made worse by alcohol • Promotes and maintains public health and safety • Is an appropriate balance between regulatory and non-regulatory strategies to reduce alcohol-related crime and disorder • Enables new controls to be in place prior to Toast Martinborough in November 2021 	<ul style="list-style-type: none"> • Staff time and costs associated with consultation

Option		Advantages	Disadvantages
2	Do not adopt the proposed Alcohol Control Bylaw as presented and vary the proposed controls	<ul style="list-style-type: none"> • May provide the advantages identified in Option 1 depending on the proposed controls 	<ul style="list-style-type: none"> • There is limited scope or evidence to support a variation to the proposed controls • May not be in place prior to Toast Martinborough in November 2021 • Staff time and costs associated with consultation
3	Do not adopt an Alcohol Control Bylaw	<ul style="list-style-type: none"> • Savings in staff time and costs associated with consultation 	<ul style="list-style-type: none"> • Removes the ability to control the possession and consumption of alcohol in public places which may result in an increase in alcohol related crime and disorder

PROPOSED SOUTH WAIRARAPA DISTRICT COUNCIL
ALCOHOL CONTROL BYLAW 2021

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Referenced Documents

Reference is made in this document to the following New Zealand legislation:

- » Local Government Act 2002
- » Sale and Supply of Alcohol Act 2012
- » Local Government (Alcohol Ban Breaches) Regulations 2013

Foreword

This Bylaw is made under sections 145 and 147 of the Local Government Act 2002.

1. Title and Commencement

- 1.1. The title of this Bylaw is the South Wairarapa District Council Alcohol Control Bylaw 2021.
- 1.2. This Bylaw shall come into force throughout the South Wairarapa district on 4 November 2021.

2. Purpose

- 2.1. The purpose of this Bylaw is to control the consumption or possession of alcohol in public places to reduce and mitigate crime and disorder that is caused or made worse by alcohol consumed there.

3. Interpretation

- 3.1. In this Bylaw, unless the context otherwise requires:

Alcohol has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

Council means the Governing Body of the South Wairarapa District Council or any person delegated or authorised to act on its behalf.

Public Place has the meaning given by section 147 of the Local Government Act 2002.

Explanatory Note: as at the date the Bylaw comes into effect the definition of a public place in section 147 of the Local Government Act 2002:

- (a) means 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
- (b) does not include licensed premises.

Most areas where an encroachment licence has been granted by Council will not be “public places” for the purpose of this definition. A case by case assessment will be made.

Vehicle has the meaning given by section 2(1) of the Land Transport Act 1998.

- 3.2. Explanatory notes are for information only. They do not form part of this bylaw and may be made, amended, revoked or replaced by Council at any time.

4. Alcohol prohibited in public places where an alcohol ban applies

- 4.1. A person is prohibited from consuming, bringing into, or possessing alcohol in any public place (including in a vehicle) where—
 - (a) an alcohol ban as provided in Schedule 1 of this Bylaw applies; or
 - (b) an alcohol ban made by Council in accordance with clause 5 of this Bylaw applies.

Explanatory Note: The exceptions listed in section 147(4) of the Local Government Act 2002 apply. As at the date the Bylaw comes into effect an alcohol ban does not apply in the case of alcohol in an unopened container to—

- “(a) the transport of the alcohol from licensed premises next to a public place, if—
- (i) it was lawfully bought on those premises for consumption off those premises; and
 - (ii) it is promptly removed from the public place; or

- (b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or
- (c) the transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or his or her bona fide visitors; or
- (d) the transport of the alcohol from premises next to a public place to a place outside the public place if—
 - (i) the transport is undertaken by a resident of those premises; and
 - (ii) the alcohol is promptly removed from the public place.”

For example, this may include transporting alcohol from a supermarket to your home or from your home to a friend’s house.

Licensed premises are exempt from the Bylaw as they are excluded from the definition of “public place” under section 147 of the Local Government Act 2002.

5. Council may make a temporary alcohol ban by resolution

- 5.1. Council may by resolution make an alcohol ban prohibiting, regulating or controlling the consumption, bringing into, or possession of alcohol in any public place (including in a vehicle) for specified events or for one or more specified periods.
- 5.2. An alcohol ban made under clause 5.1 for specified events or periods must be publicly notified at least 14 days in advance of the specified event or period in accordance with section 170(3) of the Local Government Act 2002.

Explanatory Note: Before making an alcohol ban by resolution Council must comply with criteria prescribed in section 147B of the Local Government Act 2002. As at the date the Bylaw comes into effect, before making a resolution Council must be satisfied that:

- “(a) there is evidence that the area to which the Bylaw applies (or will apply by virtue of the resolution) has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
- (b) the Bylaw, as applied by the resolution,—
 - (i) is appropriate and proportionate in the light of the evidence; and
 - (ii) can be justified as a reasonable limitation on people’s rights and freedoms.

Council must also comply with the general decision-making requirements in sections 77—82 of the Local Government Act 2002.

6. Council may amend alcohol bans by resolution

- 6.1. Council may add to, amend or revoke an alcohol ban in Schedule 1 by resolution following the use of the special consultative procedure set out in sections 83 and 156 of the Local Government Act 2002.
- 6.2. An alcohol ban made under clause 6.1 must be publicly notified at least 14 days before it takes effect.

Explanatory Note: Before making a resolution relating to a bylaw Council must comply with the criteria prescribed in section 147B and the general decision-making requirements in sections 77—82 of the Local Government Act 2002, as set out in the Explanatory Note above.

7. Signage

- 7.1. The Council may erect signage within public places covered by this Bylaw to inform and educate the public and to assist with enforcement of the terms of the Bylaw. The size, location and terms of this signage shall be at Council's discretion.
- 7.2. To avoid any doubt, the absence of signage in any public place does not authorise breach of this Bylaw.

8. Offences and Penalties

- 8.1. A person who consumes or possesses any alcohol in, or brings alcohol into, a public place in breach of an alcohol ban under clause 4 commits an offence.
- 8.2. A person who commits an offence under this Bylaw is liable to a penalty under the Local Government Act 2002.

Explanatory Note: As at the date the Bylaw comes into effect, the penalty for breaching an alcohol ban is an infringement fee of \$250 under section 4 of the Local Government (Alcohol Ban Breaches) Regulations 2013.

9. Enforcement

- 9.1. The Police may use their powers under the Local Government Act 2002 to enforce this Bylaw.

Explanatory Note: The New Zealand Police are responsible for enforcing alcohol bans and have powers relating to search, seizure and arrest under sections 169 and 170 of the Local Government Act 2002.

Schedule 1: Alcohol Bans

Name	Alcohol Ban Area	Operative Time	Map Number
Toast Martinborough event	Martinborough Memorial Square bounded by Strasbourge, Cork, Naples and Ohio Streets and the adjoining Cambridge Road, Texas, Oxford, Kansas, Jellicoe and Kitchener Streets that enter the Square.	Midday to 9pm on the day of the event	1

Alcohol Ban Area: Map 1

