

# Analysis of submissions

## Alcohol Control Bylaw

### 1 Background

On 16 November 2023, following a review of the Alcohol Control Bylaw (the Bylaw), the Council approved the following (Resolution 2023/147 refers):

“That the Council:

- d) agrees, under section 160(3)(b)(ii) of the Local Government Act 2002, **to consult on continuing the Alcohol Control Bylaw without amendment** in a manner that gives effect to the requirements of section 82 of the Local Government Act 2002”

Accordingly, in the period from 20 November to 18 December 2023, the public was invited to provide their written views on continuing the Bylaw or not. They were informed of the consultation exercise via:

- email messages to Council’s database of people who have asked to be informed of consultation by the Council
- the ‘Have Your Say’ page on the Council website
- a media release about the review of the Bylaw
- social media postings.

In addition, oral submissions were heard by the Council on 8 February 2024.

The following report analyses the submissions received.

### 2 Summary of submissions

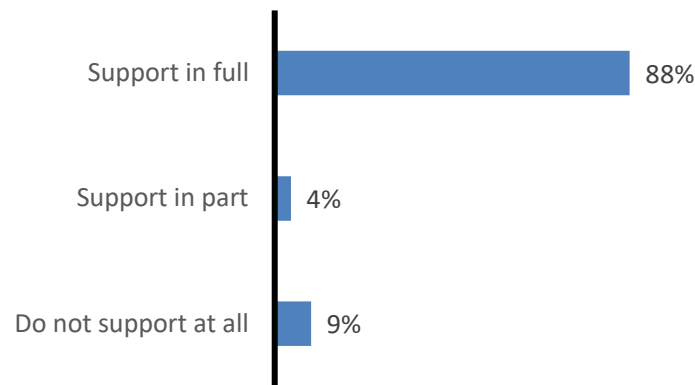
Eighty written submissions were received (69 online and 11 via email), while 2 people also made oral submissions to the Council.

This report analyses these submissions and recommends no changes to the Bylaw based on the feedback received.

A numbered list of people who made submissions is in Appendix One and these numbers are used to refer to the individual submissions in the body of this report.

The following chart summarises the level of support for continuing the Bylaw without amendment.

Figure 1: Support for continuing the Bylaw without amendment



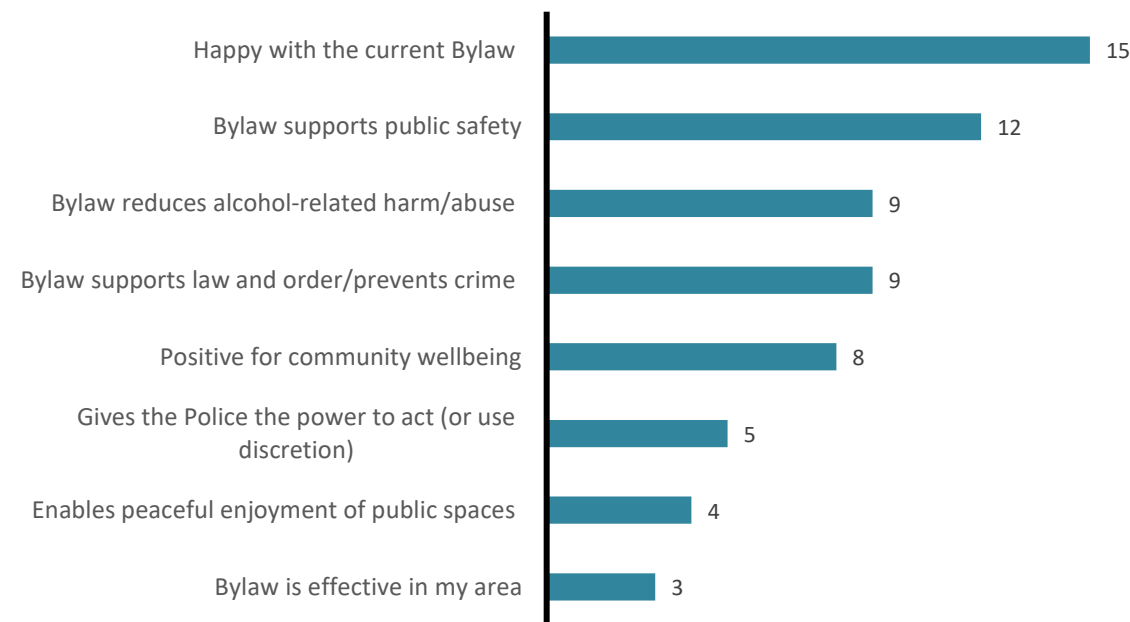
Base: 80 written submissions. Total adds to more than 100% due to rounding.

Seventy out of 80 submissions (88%) fully support continuing the Bylaw without amendment, 3 submissions (4%) support this in part, while 7 submissions (9%) do not support the Bylaw continuing without amendment at all. The two people who made oral submissions were in support of continuing the Bylaw without amendment.

3 Why submitters fully supported continuing the Bylaw with no changes

Main reasons for fully supporting the Bylaw continuing without amendment are illustrated below:

Figure 2: Main reasons for fully supporting the Bylaw continuing without amendment (number of responses)



Base: 70 people who fully supported the Bylaw continuing without amendment

These responses are analysed below...

Happy with the current Bylaw

Fifteen people (7, 13, 20, 26, 28, 32, 37, 46, 47, 52, 63, 72, 73, 74, 75) said they are happy for the Bylaw to continue without amendment. Specific reasons for being happy with the Bylaw include:

- It is effective

- It provides the Police with powers to address drinking in public places
- It is sensible
- Drinking in public places gives a bad image to the community
- To keep the community safe, friendly, and healthy.

### **Bylaw supports public safety**

Twelve people (9, 11, 25, 31, 33, 35, 36, 40, 44, 58, 76, 78) said they fully support the Bylaw because it supports and protects the safety of the public. The following comment from submitter 25 is typical of the views of these people: “This bylaw enhances a safe, family-friendly environment in key public places, without disturbance from alcohol fuelled incidents”.

### **Bylaw reduces alcohol-related harm/abuse**

Nine people (4, 6, 10, 18, 22, 30, 61, 62, 80) said that the Bylaw reduces and/or prevents alcohol-related harm and abuse. For example, submitter 6 said the Bylaw helps protect vulnerable people such as women, elderly and young people from abuse and harm. Submitter 18 said “these liquor bans are in place to stop people from doing stupid things which could harm themselves or members of the public”. Te Whatu Ora (Ngā Tai Ora – Public Health Northland) supported this aspect of the Bylaw in both a written submission<sup>1</sup> and an oral submission to Council – “we fully support the Bylaw continuing as it is a precautionary approach in a District that is adversely affected by alcohol-related harm and disorder” (80).

### **Bylaw supports law and order/prevents crime**

Nine people (14, 25, 29, 42, 50, 53, 71, 78, 79) want the Bylaw to remain in force because it prevents crime and/or supports law and order. For example, submitter 53 strongly supported the Bylaw continuing to help prevent unruly behaviour or crime in their community.

### **Positive for community wellbeing**

Eight people (15, 35, 46, 58, 69, 71, 72, 75) said the Bylaw has a positive effect on community wellbeing – “The Bylaw protects the wellbeing of both the wider community and alcohol consumers” (15).

### **Gives the Police the power to act (or use discretion)**

Five people (38, 45, 48, 59, 60) noted that the Bylaw gives the Police the power to act or use their discretion when they observe alcohol being consumed or brought into public places.

### **Enables peaceful enjoyment of public spaces**

Four people (5, 16, 36, 65) said that the Bylaw enables them and/or their family to peacefully enjoy public spaces.

### **Bylaw is effective in my area**

Three people said that the Bylaw is effective in their area. Two of these submitters were from Kerikeri (3, 56) and one from Russell (57).

### *Staff analysis*

Reasons given for fully supporting the Bylaw continuing without amendment reflect the purpose of the Bylaw to reduce alcohol-related harm. These reasons also reflect Council’s broad community outcome in the Long-Term Plan of “communities that are healthy, safe, connected and sustainable”.

### *Staff recommendation*

No changes are recommended to the Bylaw based on these submissions which fully support the Bylaw continuing without amendment.

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<sup>1</sup> [FNDC Public-Places-Alcohol-Control-Bylaw FINAL SubmissionTeWhatuOra \(A4570410\)](#)

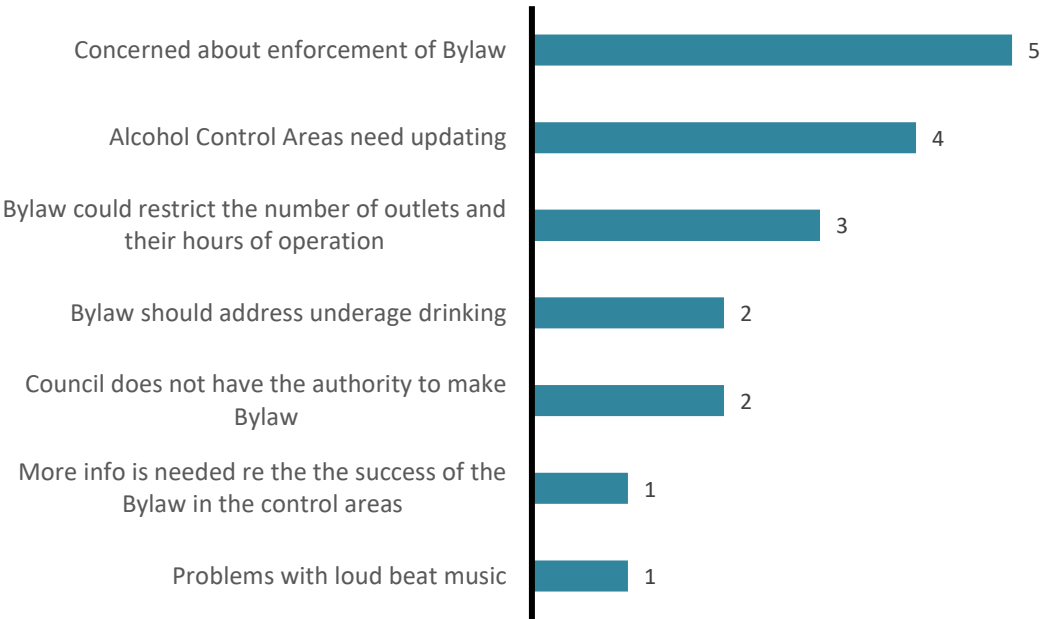
#### 4 Why some submitters are not fully supportive of the Bylaw continuing with no changes

Reasons for not fully supporting the Bylaw continuing without amendment came from three sources:

- Those who only partly support the Bylaw continuing
- Submitters who did not support the Bylaw continuing at all
- People who made ‘other comments’ about the Bylaw. This was a separate question in the consultation feedback form.

These reasons are shown in the following chart:

*Figure three: Main reasons for not fully supporting the Bylaw continuing without amendment (number of responses)*



Base: 13 people who either stated they do not fully support the Bylaw continuing, or made ‘other comments’ about the Bylaw.

These reasons are analysed below.

##### Concerned about enforcement of the Bylaw

Five submitters (2, 21, 37, 42, 55) have issues with enforcement of the Bylaw by the Police.

Two of these submitters (37, 42) wanted stronger enforcement of the Bylaw in Kaikohe, Kawakawa and Moerewa. For example, submitter 37 referred to Kaikohe and said: “The problem is the enforcement of the bylaw especially at the Library Square. It would be good if the Council staff walked through once a day and rang the police when they see the Bylaw being breached. It would also be good if the Police spent less time revenue collecting on the roads between Kaikohe and Kerikeri and more time walking through Kaikohe Library Square once a day”.

Submitter 55 said it would be unfair for the Police to penalise those enjoying a peaceful drink. This person did not support the Bylaw continuing.

Submitter 2 said “The way I read the bylaw, police could stop someone just passing through an alcohol control area on their way to a mate, search them, and confiscate a couple of beer bottles in the backpack”. Again, this person did not support the Bylaw continuing at all.

Another person (21) who only partly supported continuing the Bylaw said that it is not policed as intended. However, they did not explain what they meant.

#### *Staff analysis*

Feedback from the Police is that their resources are stretched and in their day-to-day experience, other matters may take priority over people consuming or bringing alcohol into public places. However, if this drinking escalates into crime and public disorder they will act if possible.

Enforcement of the Bylaw by the Police is discretionary, and in most cases, someone enjoying a quiet drink in an alcohol control area is likely to be ignored by the Police.

Section 147(4c) of the Local Government Act 2002, states that transport of alcohol in an unopened container to premises outside the public place is not covered by the Bylaw. Therefore, the Police should not confiscate unopened beer bottles being taken to a mate's place in a backpack.

Staff consider that the powers given to the Police by the Bylaw which range from ignoring an issue if it is a minor matter, to issuing a warning and asking offenders to leave the area, to search, seizure and arrest of offenders provide the Police with a range of ways to respond appropriately to alcohol-related crime and disorder in the Alcohol Control Areas authorised by the Bylaw.

#### *Staff recommendation*

While some submitters wanted stronger enforcement and others wanted less enforcement, Council staff recommend no changes to the Bylaw in response to these submissions, as enforcement of the Bylaw is a matter of discretion for the Police, who can choose how to respond to particular situations.

Council could potentially lobby for more Police "on the beat" in Far North communities where alcohol-related crime and disorder is occurring to address the resourcing issue Police have in tackling this area. However, this is outside the scope of deciding whether the Bylaw should continue or not.

### **The alcohol control areas need updating**

Four submitters (14, 23, 26, 43) said that the current Alcohol Control Areas need updating. Submitter 14 asked why Waitangi is not an Alcohol Control Area. Submitters 23 and 43 stated that the Bylaw should cover more areas. Submitter 26 wanted the Control Areas to be updated.

#### *Staff analysis*

The Alcohol Control Areas authorised by the Bylaw are in an associated Schedule to the Bylaw, not in the Bylaw itself. As such, these areas are not part of the current Bylaw review. However, these Alcohol Control Areas will be reviewed later in 2024. This may or may not mean adding new Control Areas or extending the geographic coverage of existing areas. However, early engagement on this issue suggests that more Alcohol Control Areas are wanted by some key stakeholders. As the Options Report presented to Council on 16 November 2023 stated:

- "the Police have noted that high levels of alcohol-related crime and disorder is occurring in some areas outside the current 23 alcohol control areas: for example, in Paihia on streets adjacent to the current control area and on the beach and lookout area
- "Council's Environmental Health Compliance team has suggested new areas could be declared as alcohol control areas, such as Awanui, Cable Bay, Mangonui and Ohaewai subject to collecting evidence of alcohol-related crime and disorder in these areas
- "photographic evidence collected by Te Whatu Ora (Ngā Tai Ora – Public Health Northland) has pinpointed problem areas outside the current alcohol control areas including service lanes and local playgrounds adjacent to supermarkets".

#### *Staff recommendation*

Staff recommend no changes to the Bylaw in response to these submissions.

### **Bylaw should restrict the number of outlets selling alcohol and their hours of operation**

Three submitters (6, 43, 46) stated that the number of liquor outlets and their hours of operation should be restricted.

Submitter 43 said that alcohol is currently available from too many outlets. Submitter 46 wanted a review of the number of liquor outlets in our communities. They said, “it is seen as an easy and profitable entry business, but alcohol is widely available already through existing outlets”. Submitter 6 would like controls on the hours that businesses selling liquor can open, and where they can be located. They gave the example of Kaikohe with two liquor stores plus at least three supermarkets/food marts selling liquor “for a small population in a small area where drug and alcohol offences/abuse are rife”.

#### *Staff analysis*

As determined by section 147 of the Local Government Act 2002, the Bylaw has a limited scope relating to the consumption, possession or bringing in of alcohol into designated public places (excluding licensed premises) and cannot regulate the opening hours and location of licensed premises. However, Council can develop a Local Alcohol Policy to address, amongst other things, the opening hours, number and density of liquor outlets. Research is being conducted to prepare a paper to Council with the option to develop such a Policy.

#### *Staff recommendation*

Staff recommend no changes to the Bylaw in response to these submissions. Developing a Local Alcohol Policy could help address the concerns of these submitters.

### **Bylaw should address underage drinking**

Two submitters (34, 41) stated that the Bylaw should address underage drinking.

#### *Staff analysis*

To a certain extent the Bylaw already addresses underage drinking which is a crime under the Summary Offences Act 1981. Prosecuting offenders under this Act can take up valuable Police time and resources, and the Bylaw provides a helpful alternative approach where, for example, the Police can use their discretion to give young offenders a warning, ask them to pour out their alcohol and move on. If the offender refuses to follow the Police requests, they can be charged.

NB. Council can also act in other ways to address underage drinking, for example by developing a Local Alcohol Policy. These initiatives are out of scope for the decision to continue the Bylaw.

#### *Staff recommendation*

Council staff recommend no changes to the Bylaw based on these submissions.

### **Council does not have the authority to make the Bylaw**

Two people (17, 51) queried the legitimacy of the Bylaw.

Submitter 17 said: “It's not the business of the state to tell us where we can or cannot drink” while submitter 51 said that the Council has “no jurisdiction, authority, or right to make any bylaws, laws or regulations”.

#### *Staff analysis*

While these submitters are entitled to their opinion, section 147(2) of the Local Government Act 2002 gives Council the power to make bylaws to regulate the consumption, possession or bringing in of alcohol into public places excluding licensed premises.

#### *Staff recommendation*

Staff recommend no changes to the Bylaw in response to these submissions.

### **More information is needed re the success of the Bylaw in the control areas**

Submitter 20 stated “It would have been helpful to have information about the effects of the Alcohol Control Bylaw in reducing crime in the control areas”.

#### *Staff analysis*

Section 4 of the Research Report<sup>2</sup> accompanying the review of the Bylaw provides evidence from the Police regarding the success of the Bylaw in reducing alcohol-related crime and disorder in the Alcohol Control Areas. Further evidence is being sourced which will be used to review the 23 current control areas later in 2024.

#### *Staff recommendation*

No changes to the Bylaw are recommended based on this submission.

### **Problems with loud beat music**

Submitter 12 made both a written and an oral submission to the Council. He was concerned about “amplified beat music” not being addressed by Council’s noise control officers.

#### *Staff analysis*

The main example submitter 12 gave in his oral submission involved an intoxicated neighbour playing loud beat music late at night with noise control not responding to his complaints. In this case the Bylaw would not apply as this alcohol-related behaviour did not occur in a public place.

Another example given by this submitter was of people playing loud beat music in playgrounds, which are often in Alcohol Control Areas and would be covered by the Bylaw if alcohol was involved. However, in his written submission, submitter 12 said “I have not noticed smoking and drinking is a problem”.

#### *Staff recommendation*

No changes to the Bylaw are recommended based on this submission which was about noise control rather than alcohol-related crime and disorder in public places.

## **5 Feedback regarding the Bylaw wording**

No submissions were made regarding any specific clauses in the Bylaw, therefore there is no analysis of this area.

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<sup>2</sup> [Research Report - Alcohol Control Bylaw \(A4408879\)](#)

## APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED

Number	Organisation	Oral Submission
1	Individual submission	
2	Individual submission	
3	Cafe Zest	
4	Individual submission	
5	Individual submission	
6	Individual submission	
7	Individual submission	
8	Individual submission	
9	Individual submission	
10	Individual submission	
11	Individual submission	
12	Individual submission (William Gillanders)	X
13	Individual submission	
14	Individual submission	
15	Individual submission	
16	Individual submission	
17	Individual submission	
18	Individual submission	
19	Individual submission	
20	Te Paatu ki Kauhanga Trust	
21	Whangaroa Village Inc	
22	Individual submission	
23	Individual submission	
24	Individual submission	
25	Individual submission	
26	Individual submission	
27	Individual submission	
28	Individual submission	
29	Individual submission	
30	Individual submission	
31	PKLBWT Whānau Trust	
32	Chang Siam Thai restaurant	
33	Individual submission	
34	Individual submission	
35	Individual submission	
36	Individual submission	
37	Heart of the North Celebration Centre	
38	Individual submission	
39	Individual submission	



Number	Organisation	Oral Submission
40	Individual submission	
41	Individual submission	
42	Individual submission	
43	Individual submission	
44	Individual submission	
45	Individual submission	
46	Individual submission	
47	Individual submission	
48	Individual submission	
49	Scrumptious Fruit Trust	
50	Individual submission	
51	Individual submission	
52	Individual submission	
53	Individual submission	
54	Individual submission	
55	Individual submission	
56	Individual submission	
57	Individual submission	
58	Individual submission	
59	Individual submission	
60	Individual submission	
61	Individual submission	
62	Individual submission	
63	Individual submission	
64	Individual submission	
65	Individual submission	
66	Individual submission	
67	Individual submission	
68	Northern Districts Security	
69	Te Hiku Hauora	
70	Individual submission	
71	Individual submission	
72	Individual submission	
73	Individual submission	
74	Individual submission	
75	Individual submission	
76	Individual submission	
77	Individual submission	
78	Individual submission	
79	Individual submission	
80	Northern District, Te Whatu Ora (Health NZ)	X

