

Attachment C: Local Government Act 2002 and Alcohol Control Bylaw 2014

Local Government Act 2002

147B Criteria for making resolutions relating to bylaws

Before making under section 151 a resolution relating to a bylaw under section 147, a territorial authority 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.

Alcohol Control Bylaw 2014

Making alcohol bans:

- (2) The council must, before making an alcohol ban in clause 7(1) –
 - (a) be satisfied that the alcohol ban gives effect to the purpose of the bylaw; and
 - (b) comply with the decision-making requirements under Subpart 1 of Part 6 of the Local Government Act 2002; and
 - (c) comply with the criteria under section 147B of the Local Government Act 2002 as follows
 - (i) be satisfied that there is documented evidence that the area to which the alcohol ban will apply 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
 - (ii) be satisfied that the alcohol ban is appropriate and proportionate in light of the evidence and can be justified as a reasonable limitation on people's rights and freedoms; and
 - (e) investigate and where appropriate, implement community-focused solutions as an alternative to or to complement an alcohol ban; and
 - (f) consider the views of the New Zealand Police; and
 - (g) consider the views of Maori; and
 - (h) consider the views of owners, occupiers, or persons that council has reason to believe are representative of the interests of owners or occupiers, of premises within the area to which the alcohol ban will apply; and
 - (i) consider the following times, where appropriate and not contrary to the requirements in subclause (2)(c) –
 - (i) 24 hours, 7 days a week (at all times alcohol ban);
 - (ii) 7pm to 7am daily (evening alcohol ban);
 - (iii) 10pm to 7am daylight saving and 7pm to 7am outside daylight saving (night time alcohol ban);
 - (iv) 7pm on the day before to 7am on the day after any weekend, public holiday or Christmas / New Year holiday period (weekend and holiday alcohol ban).

Explanatory note:

The times in clause 7(2)(f) are a guide to improve consistency in times across Auckland but recognises that in some instances use of the times specified may be clearly disproportionate to the evidence of the problem and therefore contrary to the statutory requirements in clause 7(2)(c) that requires alcohol bans be proportionate in light of the evidence.