

## Attachment C: Assessment of alcohol ban request

<b>Request:</b>	<b>Permanent 24/7 alcohol ban extension at Downing Street reserve</b>
<b>Location (Area):</b>	Downing Street Reserve
<b>Request duration:</b>	24 hours, seven days a week (24/7 ban)
<b>Area description:</b>	<p>Downing Street Reserve, 18 Downing Street, Glenfield (reserve)</p> <p>The reserve is bisected by Downing Street with one part located to the north and the other to the south of the street. Both sides of the reserve currently have a night-time alcohol ban (night-time ban) from 10pm to 7am during daylight saving and 7pm to 7am outside daylight saving (Attachment B)</p> <p>The request identifies that incidents occur on that part of the reserve to the south of Downing Street along the southern edge where there is seating and at the southeast corner where there is a pergola.</p>

Criteria	Explanation of evidence criteria	Assessment of evidence	
<p>1. Is there evidence of <u>crime</u> at the location?</p> <p><b>OR</b></p>	<p>Crime includes infringement notice, arrest or conviction records of any offences where a person can be proceeded against<sup>1</sup>, for example:</p> <ul style="list-style-type: none"> <li>• offences against public order (disorder)<sup>2</sup></li> <li>• offences against persons or property<sup>3</sup></li> <li>• loitering and trespass<sup>4</sup></li> <li>• offences resembling nuisance<sup>5</sup></li> <li>• litter<sup>6</sup></li> <li>• excessive noise.<sup>7</sup></li> </ul>	<ul style="list-style-type: none"> <li>• No. The request does not contain information from the Police about infringement notice, arrest or conviction records for any offences where a person can be proceeded against.</li> </ul>	✘
<p>2. Is there evidence of <u>disorder</u> at the location?</p> <p><b>AND</b></p>	<p>Disorder means “the breakdown of peaceful and law-abiding public behaviour”<sup>8</sup>, for example:</p> <ul style="list-style-type: none"> <li>• witness accounts of violence, dangerous driving, offensive or threatening behaviour</li> <li>• photos of litter, damage or vandalism.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes. The request includes information from the Police about 18 calls to service received during the day (outside night-time ban hours) in the 12 months to 29 October 2018: <ul style="list-style-type: none"> <li>○ 11 for breach of the peace</li> <li>○ 3 drunk custody/detox</li> </ul> </li> </ul>	✔

<sup>1</sup> [Section 5](#) of the Crimes Act 1961

<sup>2</sup> [Summary Offences Act 1981](#), including disorderly behaviour, offensive behaviour or language, disorderly assembly, and fighting in a public place

<sup>3</sup> [Section 9 of the Summary Offences Act 1981](#)

<sup>4</sup> [Section 28 of the Summary Offences Act 1981](#)

<sup>5</sup> [Section 32 of the Summary Offences Act 1981](#)

<sup>6</sup> [Litter Act 1979](#)

<sup>7</sup> [Resource Management Act 1991](#)

<sup>8</sup> Without a definition in the Local Government Act 2002, Crimes Act 1961, or Interpretation Act 1999 or by case law, disorder means <https://en.oxforddictionaries.com/definition/disorder>

Criteria	Explanation of evidence criteria	Assessment of evidence
		<ul style="list-style-type: none"> <li>○ 2 disorder</li> <li>○ 1 intimidation/threats</li> <li>○ 1 minor assault.</li> <li>● The request also includes photos of litter, damage and witness accounts for a five and a half month (168 day) period between July and December 2018: <ul style="list-style-type: none"> <li>○ 3 incidents of damage to a rubbish bin</li> <li>○ 5 incidents of general littering</li> <li>○ 1 report of graffiti/damage to seat</li> <li>○ 8 incidents of alcohol-related litter</li> <li>○ 2 reports of fire lit on concrete/by memorial stone</li> <li>○ 1 witness account /111 call about people smoking cannabis.</li> </ul> </li> <li>● The requester believes some litter is drug-related.</li> <li>● No information about the time the incidents occurred.</li> <li>● Council data shows four complaints received about illegal dumping and general littering.</li> </ul>
<p>3. Is there evidence that this is caused or made worse by drinking alcohol there</p> <p><b>AND</b></p>	<p>Evidence crime or disorder is associated with alcohol may include:</p> <ul style="list-style-type: none"> <li>● witness accounts that offenders were drinking at the location before or at the time of the disorder</li> <li>● photos of alcohol containers at the location.</li> </ul> <p><b>Discount any incidents not directly linked to alcohol.</b></p>	<ul style="list-style-type: none"> <li>● Of the 18 calls for service, three have a documented link to alcohol (drunk custody/detox)</li> <li>● No details are provided for the remaining 15 calls.</li> <li>● Police comment that they consider all the calls to service are caused or made worse by alcohol.</li> <li>● Previous analysis indicates that anywhere between 23 and 86 per cent of incidents may involve alcohol consumed in a public place.<sup>9</sup></li> <li>● Of the 20 witnessed incidents eight have a documented link to alcohol (alcohol related litter).</li> </ul>

<sup>9</sup> An analysis of Police calls to service data in the public places around the Mangere Bridge wharf showed 23 per cent of 52 incidents (calls to service to the Police) were caused or made worse by alcohol consumed in the same public place (Māngere-Ōtāhuhu Local Board meeting 12 Dec 2018, Item 17). More generally, 2007-2012 Auckland region specific, Alco-link data (which is Police data showing the location of the last drink consumed before a person has been taken into custody by Police for an offence) showed that 60.1 per cent of last drinks were consumed in a public place. National level, government data released to the [media](#) in 2016 showed that 86 per cent of offences in New Zealand were caused by people who had consumed alcohol purchased at an off license, somewhere other than a licensed premises. Note: Limitations to last two studies include that data is self-reported by people who may be impaired by overconsumption and does not indicate if the alcohol was consumed in the same public place that the offending occurred.

Criteria	Explanation of evidence criteria	Assessment of evidence	
4. Is there evidence of a <u>high</u> level of crime or disorder caused or made worse by drinking alcohol there?	Assess using the Crime or Disorder Categories in Appendix 1 and the Evidence Assessment Matrixes in Appendix 2. Evidence falling in the orange or red areas are considered high or very high level.	<ul style="list-style-type: none"> <li>• The evidence provided is not in the high level of crime and disorder of the assessment matrix in Appendix 2.</li> <li>• The three police calls to service equates to one nuisance incident every four months during the day.</li> <li>• To meet the threshold for high level of crime and disorder in Appendix 2 there would need to be at least one nuisance incident per month during the day.</li> <li>• This threshold is not met because: <ul style="list-style-type: none"> <li>○ including the eight alcohol related litter incidents (assuming they all occurred during the day) equates to less than two incidents per month during the day.</li> <li>○ assuming 86 per cent of the 18 calls for service involved alcohol consumed at the same location and assuming all eight alcohol related litter incidents occurred during the day, still only equates to less than three incidents per month during the day.</li> </ul> </li> <li>• Staff have sought further evidence from the requester but understand it has been difficult for the requester to obtain wider evidence for the ban given constraints on their time and that community feedback has also not been forthcoming.</li> </ul>	x
<b>Is there evidence of a high level of crime or disorder at the location caused or made worse by alcohol consumed at the location?</b>		The evidence of possible crime and disorder caused or made worse by alcohol consumed at the reserve during the day, does not meet the 'high level' legislative criteria.	x

Criteria	Explanation of appropriateness criteria	Assessment of appropriateness	
<p>5. Are incidents of a type that would likely be prevented by an alcohol ban?</p> <p><b>AND</b></p>	<p>This could include the types of incidents, for example:</p> <ul style="list-style-type: none"> <li>• sex in cars, drug use or dealing is likely to continue without alcohol</li> <li>• alcohol-related litter, public urination, excessive noise and perceived threats are more likely to be prevented.</li> </ul> <p>or the reasons why the location is used, for example:</p> <ul style="list-style-type: none"> <li>• incidents relating to parties at a private residence next to the location are likely to continue</li> <li>• incidents relating to groups arriving specifically to drink in that location are more likely to be prevented</li> <li>• incidents relating to homeless or rough sleepers may result in displacement to more isolated locations and further harm.</li> </ul>	<ul style="list-style-type: none"> <li>• Incidents identified in the evidence are of a type that could be prevented by an alcohol ban.</li> <li>• The request does not provide any information on the people causing the incidents.</li> <li>• In 2015, Police reported that the incidents at night were caused by homeless people drinking on the reserve (Kaipātiki Local Board meeting on 13 May 2015, Item 17). An alcohol ban in this instance may simply result in displacement.</li> </ul>	-
<p>6. Will enforcement of the alcohol ban likely prevent the crime or disorder?</p> <p><b>AND</b></p>	<p>This includes consideration of the nature of the offenders and any indication of likely police enforcement, for example:</p> <ul style="list-style-type: none"> <li>• signage and publicity can have a preventative effect for otherwise law-abiding members of the public</li> <li>• alcohol bans are less effective if police are only able to respond to incidents of crime and disorder after they occur. They already have powers to address those incidents</li> <li>• alcohol bans may be effective where police indicate they will patrol the location for a period after the alcohol ban is adopted to change behaviours</li> <li>• alcohol bans are most effective where police patrol the location on an on-going basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Police are supportive of the proposed day-time hours extension to the night-time ban.</li> <li>• The request does not provide any information: <ul style="list-style-type: none"> <li>○ about how the ban will be enforced during the day</li> <li>○ about how effective the night-time ban has been.</li> </ul> </li> <li>• Information from Police in 2015<sup>10</sup> stated that: <ul style="list-style-type: none"> <li>○ discretion is used</li> <li>○ drinkers may be advised of the ban and to stop drinking if they think that person is likely to be drunk or engage in anti-social behavior</li> <li>○ where necessary further formal action may be taken to enforce the ban or for some anti-social activities / behaviours other available powers may be used</li> <li>○ trouble spots (including Downing Street Reserve) are patrolled as part of regular patrol runs, with the timing and frequency of such patrols adjusted to reduce the likelihood of harm to members of the community.</li> </ul> </li> </ul>	-

<sup>10</sup> Kaipātiki Alcohol Ban Review Panel meeting 25 March 2015

Criteria	Explanation of appropriateness criteria	Assessment of appropriateness	
7. Is the cost of implementation justified by the likely effect? <b>AND</b>	Consider: <ul style="list-style-type: none"> <li>what the cost of signage will be</li> <li>how this compares with the likely effect of the alcohol ban.</li> </ul>	<ul style="list-style-type: none"> <li>The existing night-time ban signage would need to be replaced. The cost to the Local Board to replace the two signs at the reserve will be approximately \$115 in total.</li> <li>While this cost is low, it is unclear from the assessment in Step 5 whether this would reduce the problems.</li> </ul>	-
8. Is an alcohol ban a better option than any alternative solution?	Consider: <ul style="list-style-type: none"> <li>what has been tried prior to the request and was it effective (unlikely given a request has been made)?</li> <li>does the request make any suggestions, how would it be implemented, and would it be more effective?</li> <li>could a Crime Prevention Through Environmental Design assessment (CPTED) by Community Facilities provide suggestions?</li> </ul> <p><b>If an alternative may be better than an alcohol ban, consider an option to investigate alternatives before making a decision on the request.</b></p> <p><b>If an alternative may be complementary to an alcohol ban, consider an option to investigate alternatives in addition to adopting an alcohol ban.</b></p>	<ul style="list-style-type: none"> <li>The requester has not provided information: <ul style="list-style-type: none"> <li>to show that any assessment has been undertaken on whether there are other options available that may be more effective than a day-time alcohol ban</li> <li>as to how a day-time ban would be implemented and whether it would be more effective than any other measures.</li> </ul> </li> <li>A Crime Prevention through Environment Design assessment could provide options for other more effective or complementary responses.</li> </ul>	x
<b>Is the request appropriate in light of the evidence?</b>		It is unclear from the evidence provided whether extending the current night-time ban would reduce the incidents on the reserve. Further information about the people drinking on the reserve, police approach to enforcement of the current night-time ban, future enforcement and a CPTED assessment would enable a more informed consideration of the request.	x

Criteria	Explanation of proportionate criteria	Assessment of proportionate	
9. Is the <b>area</b> requested proportionate in light of the evidence?	<p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>whether boundaries are clearly defined</li> <li>the likelihood of displacement to other locations</li> <li>how long a ban should be in place (for example recurring temporary alcohol bans).</li> </ul> <p><b>If the area is considered disproportionate, consider an option that is proportionate.</b></p>	<ul style="list-style-type: none"> <li>The assessment in steps 1-4 means that extending the ban to day-time hours on any part of the reserve would not be proportionate in light of the evidence.</li> <li>That said: <ul style="list-style-type: none"> <li>if a 24/7 ban was introduced on the two areas identified in the request, there may be public confusion and displacement because there are no clearly defined boundaries between these areas and other parts of reserve on the southern side of Downing Street</li> <li>if there was sufficient evidence, it would be a proportionate response to at least apply a 24/7 ban to the whole of the southern part of the reserve</li> <li>however, if the people causing the problem are homeless people, this may simply result in displacement to the northern side of the reserve.</li> </ul> </li> </ul>	x
10. Is the <b>duration</b> requested proportionate in light of the evidence?	<p><b>Consider:</b></p> <ul style="list-style-type: none"> <li>the times when drinking started (this will be earlier than when the problems occurred)</li> <li>the standard time-frames for an alcohol ban for regional consistency (refer clause 7(2)(i) of the Bylaw)</li> <li>for temporary alcohol bans for events, any set-up and pack-down periods, and whether they should be recurring or one off</li> </ul> <p><b>If the duration is considered disproportionate, consider an option that is proportionate consider the Alcohol Control Bylaw 2014 standard timeframes.</b></p>	<ul style="list-style-type: none"> <li>Steps 1- 4 of the assessment above indicate there is insufficient evidence to conclude there is <b>a high level of crime or disorder at the location caused or made worse by alcohol consumed at the location.</b></li> <li>Based on this assessment extending the duration of the current night-time ban would not be proportionate in light of the evidence.</li> </ul>	x
<b>Is the request proportionate in light of the evidence?</b>		There is insufficient evidence to justify an extension to the existing night-time ban.	x

Criteria	Explanation of justified criteria	Assessment of justified	
11. Is there sufficient information to make a decision having regard to the significance of the decision <sup>11</sup> ?	Consider: <ul style="list-style-type: none"> <li>• whether council has enough information on community views – i.e. what are the views of Police, Māori, owners/occupiers of the area be affected, other users of the area (e.g. New Zealand motor caravan association)</li> <li>• whether council has sufficient information on alternatives.</li> </ul>	<ul style="list-style-type: none"> <li>• Police support the request.</li> <li>• Iwi and Māori health advocacy organisations have previously expressed general support for the use of alcohol bans to reduce alcohol-related harm.</li> <li>• General information used in the 2015 review of alcohol bans showed that 73 per cent of people in the Kaipātiki Local Board area agree that alcohol bans help reduce problems caused by alcohol in public places.<sup>12</sup> The request does not provide any information about whether the community supports the request.</li> <li>• The assessment in Step 8 identified that a Crime Prevention through Environment Design (CPTED) assessment could provide options for other more effective or complementary responses.</li> </ul>	x
12. Will the benefits of the alcohol ban outweigh the loss of freedom to those who use the space?	Will the benefits of the alcohol ban outweigh the loss of freedom to those who use the space? Examples: <ul style="list-style-type: none"> <li>• A request for a street or carpark is more easily justified than a reserve by the beach - intended for recreation such as gatherings and picnics where people may choose to drink alcohol.</li> <li>• A request with evidence of very high levels of crime or disorder is more easily justified.</li> <li>• An alcohol ban that is likely to be effective at reducing harm is more easily justified.</li> <li>• A request supported by Police, Māori, and owners/occupiers of area more easily justified.</li> </ul>	<ul style="list-style-type: none"> <li>• The request does not meet the statutory high-level threshold to outweigh the loss of freedom to people who wish to drink responsibly on the reserve during day-time hours.</li> <li>• There is also insufficient information to determine the benefits from extending the current ban to day-time hours in terms of whether it will be effective or more effective than alternative solutions.</li> </ul>	x

<sup>11</sup> Significance is determined in council's [significance and engagement policy](#) and guides whether the decision-maker thinks it has sufficient information to make a decision and whether to consult the public. For alcohol ban decisions, there is no express requirement to consult the public. Consultation for individual requests may be appropriate where general public support is unclear (for example, a 24/7 alcohol ban on a beach in a local board area that currently has no beach alcohol bans).

<sup>12</sup> Alcohol Ban Review Summary Kaipātiki Local Board 26 November 2014

Criteria	Explanation of justified criteria	Assessment of justified	
Is the request a justifiable and reasonable limitation on people's rights and freedoms?		The request does not provide enough evidence or information to be a justifiable and reasonable limitation on people's rights and freedoms to drink responsibly on the reserve.	x

## Appendix 1 Crime or disorder categories

Nuisance	Perceived threat
<p>May include:</p> <ul style="list-style-type: none"> <li>• alcohol related litter</li> <li>• broken alcohol bottles</li> <li>• excessive noise related to the consumption of alcohol in the area</li> <li>• disorder (including property damage, public urination) resulting from drinking alcohol in the area</li> </ul>	<p>When a person or groups of people drinking behave in a threatening and/or abusive manner towards each other. Residents may have a perceived fear of safety resulting in an unwillingness to use public spaces.</p> <p>May include:</p> <ul style="list-style-type: none"> <li>• verbal threats of physical violence (directed towards other people in the group who are drinking)</li> <li>• offensive and/or aggressive behaviour (directed towards other people in the group who are drinking)</li> <li>• intimidation (directed towards other people in the group who are drinking)</li> <li>• abusive language (directed towards other people in the group who are drinking)</li> <li>• threatening actions (directed towards other people in the group who are drinking)</li> </ul>
Actual threat	Physical harm
<p>When a person or groups of people drinking behave in a threatening and/or abusive manner towards members of the public outside of the drinking group.</p> <p>May include:</p> <ul style="list-style-type: none"> <li>• verbal threats of physical violence (directed towards members of the public outside of the drinking group)</li> <li>• offensive and/or aggressive behaviour (directed towards members of the public outside of the drinking group)</li> <li>• intimidation (directed towards members of the public outside of the drinking group)</li> <li>• abusive language (directed towards members of the public outside of the drinking group)</li> <li>• threatening actions (directed towards members of the public outside of the drinking group)</li> </ul>	<p>Where people experience actual physical harm. This could be a member of the drinking group (including cases of self-harm), or members of the public outside of the drinking group.</p> <p>May include:</p> <ul style="list-style-type: none"> <li>• fighting, street brawls</li> <li>• personal injury</li> <li>• assault</li> </ul> <p>Extreme examples include:</p> <ul style="list-style-type: none"> <li>• Sexual violence</li> <li>• Assault with a deadly weapon</li> <li>• Murder, manslaughter, attempted murder</li> </ul>

## Appendix 2 Evidence Assessment Matrixes

Permanent Alcohol Bans Matrix					
	Frequency				
Category	One-off	Occasionally (monthly)	Public holidays	Frequently (weekly)	Daily
Nuisance	Green	Green	Orange	Orange	Red
Perceived threat	Green	Orange	Orange	Orange	Red
Actual threat	Green	Orange	Red	Red	Red
Physical harm	Green	Red	Red	Red	Red

### Key:

- Evidence in **green** areas are low or moderate levels of alcohol-related crime or disorder
- Evidence in **orange** areas are high levels of alcohol-related crime or disorder
- Evidence in **red** areas are very high levels of alcohol-related crime or disorder