

**Ministerial Guidelines
on
Alcohol - Free Zones**

Department of Local Government

FOREWORD

These Ministerial Guidelines have been prepared by the Hon Ernie Page, B.E., B Comm., MP, Minister for Local Government under section 646(1) of the Local Government Act 1993. The Guidelines take effect on 22 December 1995 being the date of commencement of the Local Government Amendment (Alcohol-Free Zones) Act 1995.

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INTRODUCTION

The drinking of alcohol is prohibited in an alcohol-free zone that has been established by a council. Public places that are public roads or carparks may be included in a zone. Alcohol-free zones promote the use of these roads, footpaths and carparks in safety and without interference from irresponsible street drinkers.

Any person living or working within an area, the local police or a local community group may ask a council to establish an alcohol-free zone or a council itself may decide to do so. A proposal to establish an alcohol-free zone must in all cases be supported by evidence that the public's use of those roads or carparks has been compromised by street drinkers. For example, there could be instances of malicious damage to property, littering, offensive behaviour or other crimes.

The council must undertake a consultation process to decide if an alcohol-free zone is appropriate. Once established by council resolution, the roads and carparks within the zone must be signposted and notice of the zone must appear in the press. The maximum duration of an alcohol-free zone is three years although it may be re-established. Alcohol-free zones may also be established for special events only.

Alcohol-free zones are enforced by the police or by council officers where the Commissioner of Police gives an authorisation relating to a special event. Any person observed to be drinking in an alcohol-free zone must be warned that it is prohibited and given the opportunity to stop drinking. A person who fails to stop drinking after a warning may have the alcohol in their possession confiscated and/or may be fined.

Alcohol-free zones are most effective if they are part of a larger program directed at irresponsible alcohol consumption in which the local community is actively involved. Used in isolation they may only move the problem from one place to another.

These Ministerial Guidelines provide local councils with detailed procedures which must be followed in the establishment of an alcohol-free zone. They supplement the relevant provisions of the Local Government Act 1993.

The Commissioner of Police may separately issue directions relating to the enforcement of alcohol-free zones.

GUIDELINES FOR COUNCILS

VALID ESTABLISHMENT OF AN ALCOHOL-FREE ZONE

sections 644 to 644C and 646

To validly establish an alcohol-free zone a council must comply with the procedures set out in sections 644 to 644C of the Local Government Act and in these Guidelines.

APPLICATION FOR AN ALCOHOL-FREE ZONE

section 644 (1) and (2)

One or more of the following people may make application to a council to establish an alcohol-free zone:

a person who is a representative of a community group active in the area,

a police officer, or

a person who lives or works in the area.

An application is to be made in the form set out at Appendix 1 to these Guidelines. A council may adapt the design of the form, provided the same information is required, or may require additional details.

An application fee is not appropriate.

More than one application referring to the same roads or carparks may be joined in a single proposal.

PROPOSAL FOR THE ESTABLISHMENT OF AN ALCOHOL-FREE ZONE

section 644

A council may prepare a proposal for the establishment of an alcohol-free zone. Receipt of an application is not necessary as the council itself may initiate action for a zone.

A proposal must be prepared in respect of every proposed alcohol-free zone.

An alcohol-free zone is a means by which a council may limit the locations within its area where the consumption of alcohol is permitted. Because it will impose restrictions on the personal freedom of citizens, a proposal to establish a zone must adequately address the following matters:

1 Reasons Supporting an Alcohol-Free Zone

The irresponsible consumption of alcohol on roads and footpaths and in carparks can compromise their use by members of the public in safety and without interference. Each individual zoning is to be considered according to its particular circumstances.

Reasons supporting alcohol-free zones must be included and must reflect the fact that irresponsible behaviour arising from the consumption of alcohol is occurring on those roads and footpaths and in those carparks included in the proposal. This could involve instances of obstruction, littering, the actual commission of, or police intervention to avoid the commission of, more serious offences under the Summary Offences Act or the Crimes Act such as malicious damage, etc.

It is not appropriate to consider an alcohol-free zone for reasons that are unrelated to the irresponsible behaviour of drinkers, eg the congregation of drinkers where irresponsible behaviour does not occur, general conduciveness to business or tourist activities or the personal beliefs of particular citizens.

2 Location of an Alcohol-Free Zone

An alcohol-free zone may only be established to include a public road or a public place that is a carpark (ie, carparks on public land or Crown land). Private carparks (being on private land and not under the control of the council) may not be included.

Generally an alcohol-free zone should be as small as is possible and must only extend to areas which can be supported by reasons as set out in point 1.

Alcohol-free zones should primarily be located adjacent to outlets supplying alcohol where drinkers congregate. In the absence of such an outlet a zoning should be considered only in exceptional circumstances.

It is not appropriate to establish an entire council area, or a substantial part of that area as an alcohol-free zone. Similarly, it would usually be inappropriate to zone the greater part of a town, suburb or urban area as alcohol-free.

3 Duration of an Alcohol-Free Zone

An alcohol-free zone may be established for a maximum period of three years. Once established, it applies twenty-four hours per day.

Where a problem with irresponsible street drinking exists only in relation to a special event within the local area, an alcohol-free zone may be established only for that special event. A “special event” is not defined in the Local Government Act. It could be applied to any event that is of significance to the local area, for example, a local show day, a cultural event such as Tamworth Country Music Festival, or a particular time of year, eg New Year’s Eve celebrations. It is for the relevant council to decide what is a “special event” for the purposes of establishing an alcohol-free zone.

An alcohol-free zone declared for a special event also has a maximum duration of three consecutive years.

As a transitional arrangement following the commencement of the Local Government Amendment (Alcohol-Free Zones) Act 1995 any alcohol-free zone in existence at the date of the commencement of the Act may be extended to a maximum period of three years if a council resolves to do so and provided the signs are appropriately amended (see clause 16 of Schedule 8 to Act).

4 Consultation with local Police Patrol Commander

In preparing a proposal to establish an alcohol-free zone a council must consult with the local Police Patrol Commander about the appropriate number and location of alcohol-free zones.

COUNCIL CONSULTATION WITH INTERESTED PARTIES

section 644A

After preparing a proposal to establish an alcohol-free zone a council is required to undertake a public consultation process. The process under the Act involves all of the following:

- 1 Publish notice of the proposal in a newspaper circulating in the area, allow inspection of the proposal and invite representations or objections within 14 days (from the date of publication). The notice should state the exact location of the proposed alcohol-free zone and the place and time at which the proposal may be inspected.

- 2 Send a copy of the proposal to:
 - (a) the officer in charge of the police station within or nearest to the proposed zone,
 - (b) liquor licensees and secretaries of registered clubs whose premises border on or adjoin or are adjacent to the proposed zone,and invite representations or objections within 30 days (from the date of sending the copy of the proposal), AND

- 3 Send a copy of the proposal to the NSW Anti-Discrimination Board, if the local area is listed in Appendix 2 to these Guidelines and invite representations or objections within 40 days (from the date of sending the copy of the proposal). Other councils have the option of advising the Board.

In addition to these statutory requirements there are other consultative avenues that would enhance the effectiveness of any alcohol-free zone that is subsequently established. Accordingly a council is also required to:

- 4 Send a copy of the proposal to any known organisation representing or able to speak on behalf of an identifiable Aboriginal or ethnic group within the local area and invite representations or objections within 30 days (from the date of sending the copy of the proposal).

A council is to give proper consideration to any representations, submissions or objections received and as a result may amend or withdraw a proposal to establish an alcohol-free zone. However any amendment that extends the location of the proposed alcohol-free zone must be supported by reasons (as outlined earlier).

COUNCIL RESOLUTION TO ESTABLISH AN ALCOHOL-FREE ZONE

section 644B (1) and (2)

After complying with the procedures a council may, by resolution, adopt a proposal to establish an alcohol-free zone. The resolution itself will establish the zone.

After resolution, a council's usual administrative processes would apply in informing interested parties including any applicant, the Anti-Discrimination Board (if applicable), the local police Patrol Commander and officer in charge of the local police station (if different), affected liquor licensees and club secretaries and other organisations advised of the original proposal.

OPERATION OF AN ALCOHOL-FREE ZONE

section 644B (3) and (4)

A council must publicly advise the establishment of an alcohol-free zone by notice published in a newspaper circulating in the area that includes the zone.

An alcohol-free zone will not operate until 7 days after publication of the notice AND until the roads and carparks affected are adequately signposted.

A council is required to consult with the police regarding the placement of signs.

As a minimum, signs are to be placed at the outer limits of the zone, at the site of specific trouble spots (as indicated by the police) and at other suitable intervals within the zone.

Signs designating an alcohol-free zone must indicate that the drinking of alcohol is prohibited in the zone and starting and finishing dates for the operation of the zone.

A sign in or to the effect of that shown would be a minimum standard.



* Insert appropriate directional arrow

On such signs the dates may be inserted in a manner that allows re-use of the sign, provided the dates are not removable during the period of operation.

The sign may also indicate the penalties of “confiscation of alcohol” or “\$20 fine”. Graphic representation is an option however the Standards Association Australia does not have an internationally recognised symbol for alcohol and considers that depiction of a bottle, glass AND can would be required to avoid confusion.

Signs are to be removed as soon as practicable after the finishing date of an alcohol-free zone.

SUSPENSION OR CANCELLATION OF AN ALCOHOL-FREE ZONE

section 645

The power to suspend or cancel an alcohol-free zone during its period of operation is provided so that a council may respond to more immediate situations that arise within the area of the zone.

A council must pass a valid resolution to suspend or cancel a particular alcohol-free zone. Such action may be taken as a result of a request received from any person or body, or at a council’s own initiative.

Liaison with the local police, before and after the council resolution, is essential to ensure that both groups are informed and coordinated. Additionally, a council may undertake any other consultation that it considers necessary.

A council must publish notice of a suspension or cancellation as required under section 645 (1) and (3). In the case of cancellation of an alcohol-free zone the signs should be removed immediately.

A council is not limited in the reasons for which it may suspend or cancel an alcohol-free zone. A suspension would not usually be appropriate for any period longer than one month, and generally would be of a much shorter duration eg. to accommodate a specific community event.

The three year operation of an alcohol-free zone is not extended by any suspension occurring within that period.

RE-ESTABLISHMENT OF AN ALCOHOL-FREE ZONE

section 644B(4)

An alcohol-free zone is essentially a short-term control measure and in many instances a zone will achieve the desired objectives within its operational period.

There is no general provision for an alcohol-free zone to be extended. However the roads or carparks comprising a zone may be included in another alcohol-free zone of the same or different configuration, immediately following the cessation of the existing zone or at any future time.

All the requirements for the valid establishment of a zone apply whether or not any of the roads or carparks concerned have previously been zoned as alcohol-free.

Where a proposal for an alcohol-free zone includes roads or carparks that have previously been zoned as alcohol-free, a council is to have regard to that previous zoning. In such circumstances a council will need to carefully consider the factors that originally supported a zoning, the reasons for the success or otherwise of the previous zoning and other additional matters. For example, successful re-education that has led to socially acceptable practices would not normally support a further alcohol-free zone.

The re-establishment procedure provides a council with the opportunity to focus again on any community problems associated with irresponsible alcohol consumption and the range of strategies that may be implemented to address these problems.

RECORDING OF ALCOHOL-FREE ZONES

The maintenance of appropriate records is essential for alcohol-free zones. As examples, records need to be kept in sufficient detail:

- * to document that all the steps for valid establishment have been undertaken,
 - * to provide for removal of signs at the conclusion of the zone's operation,
 - * to identify suspensions or cancellations of alcohol-free zones,
 - * to avoid overlap in the establishment of alcohol-free zones,
 - * to provide a reference base where re-establishment of an alcohol-free zone is sought.
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ENFORCEMENT OF ALCOHOL-FREE ZONES

sections 642, 643, 647, 648, and 649

Police officers are responsible for enforcing alcohol-free zones. In the Dictionary to the Act a “police officer” is defined to exclude a special constable appointed under the Police Offences Act 1901.

It is important that the local Police Patrol Commander and the officer-in-charge of the local police station (if different) are involved in the establishment procedure so that the zone operates most effectively.

Where an alcohol-free zone is established in relation to a special event, the Commissioner of Police may authorise individual council officers, termed “enforcement officers” under the Act, to enforce that zone. The Commissioner will provide separate advice on the procedure for obtaining authorisation.

Council officers enforcing alcohol-free zones must ensure that their enforcement is consistent with that of the Police Service, particularly the warning, confiscation procedures and the keeping of enforcement statistics.

RESOURCES

Department of Local Government

Civic Tower, 66-72 Rickard Road, Bankstown 2200

 (02) 793-0793

Anti-Discrimination Board

Level 4, 181 Lawson Street, Redfern 2016

 (02) 318-5400

NSW Police Service

Avery Building, 14-24 College Street, Darlinghurst 2010

 (02) 339 0277

Appendix 1

APPLICATION FOR ALCOHOL-FREE ZONE

(Local Government Act 1993, section 644)

To (Name of Council)

1 I

(Full Name)

2 of

(Address)

(Telephone No.)

3 **Being** (tick appropriate box):

(a) a representative of

(Name of Community Group in area)

(b) a police officer stationed at

(c) a person living in the area

(d) a person working in the area at

.....(work address)

apply to the Council to establish an alcohol-free zone.

4 **Roads or parts of roads ('roads' includes 'footpaths') and/ or public car parks to be included in the alcohol-free zone:**

.....
.....
.....
.....

(Specify exactly by referring to street numbers or other landmarks)

5 **Reasons for requesting the alcohol-free zone:**

.....
.....
.....
.....

(Give details of obstruction, littering, personal injury, property damage, police intervention, etc. that have occurred on those roads or in those car parks)

Signed.....

Date.....

Documents supporting the information on this form may be attached.

Appendix 2

COUNCILS WHICH MUST CONSULT WITH ANTI-DISCRIMINATION BOARD

Blacktown

Bourke

Campbelltown

Dubbo

Kempsey

Lake Macquarie

Liverpool

Moree Plains

Newcastle

Penrith

Randwick

Shoalhaven

South Sydney

Tamworth

Walgett

Wollongong