

Mayor and Councillors
COUNCIL

1 NOVEMBER 2018

Meeting Status: **Public**

Purpose of Report: For Information

**REVIEW OF THE CONTROL OF ALCOHOL IN PUBLIC PLACES
BYLAW 2013**

PURPOSE OF REPORT

- 1 The purpose of this report:
 - Is to provide the Council with four submissions received with regard to the Review of the Control of Alcohol in Public Places Bylaw 2013; and
 - To provide the opportunity for those submitters who wish to speak to the Council on their submission to be heard at this meeting.

DELEGATION

- 2 The Council has the delegation to hear submitters.

BACKGROUND

- 3 A report was presented to Council on 6 September 2018 (SP-18-594, see Appendix 1) seeking approval to:
 - Create a draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 (draft 2018 Bylaw); and
 - Publicly notify the draft Statement of Proposal for the draft 2018 Bylaw using the special consultative procedure.
- 4 Under Sections 83 and 85 of the Local Government Act 2002, Council undertook a special consultative procedure from 10 September 2018 to 19 October 2018.
- 5 Consultation involved public notices in the Kapiti News and the Kapiti Observer during the week of 10 September 2018; discussions with Kapiti-Mana Police, Horowhenua (Ōtaki) Police, and Regional Public Health; and information emailed to alcohol licensees and local community organisations.
- 6 Of the four submissions received, two submitters have indicated that they wish to talk to their submissions on 1 November 2018.

NEXT STEP

- 7 Once the submitters have been heard by Council, officers will prepare a report for a Council meeting on 6 December 2018 with a recommendation to either uphold or not uphold the submissions against the proposal.

RECOMMENDATIONS

8 That the Council notes:

- 8.1 That four submissions were received on the proposed draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 as outlined in the previous report SP-18-594;
- 8.2 That two submitters have asked to speak to their submissions; and
- 8.3 That a report will be presented to Council on 6 December 2018 with a recommendation from officers to either uphold or not uphold the submissions against the proposal.

Report prepared by	Approved for submission	Approved for submission
Brandy Griffin	Natasha Tod	Kevin Black
Senior Policy Advisor, Strategy and Planning	Group Manager, Regulatory Services	Acting Group Manager, Strategy and Planning

ATTACHMENTS

Appendix 1 Report SP-18-594 – Review of the Control of Alcohol in Public Places Bylaw 2013 – 6 September 2018

Appendix 2 Submissions received

Chairperson and Committee Members
STRATEGY AND POLICY COMMITTEE

6 SEPTEMBER 2018

Meeting Status: **Public**

Purpose of Report: For Decision

**REVIEW OF THE CONTROL OF ALCOHOL IN PUBLIC PLACES
BYLAW 2013****PURPOSE OF REPORT**

- 1 This report seeks the Committee's approval for:
 - a) Proposed amendments to the Control of Alcohol in Public Places Bylaw 2013 to create a draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 (draft 2018 Bylaw, see Appendix 1); and
 - b) Publicly notifying the draft Statement of Proposal for the draft 2018 Bylaw using the special consultative procedure (see Appendix 2).

DELEGATION

- 2 Under Section B1 of the Governance Structure and Delegations for the 2016-2109 Triennium, the Strategy and Policy Committee is responsible for the development and review of strategies, plans, policies and bylaws.

BACKGROUND

- 3 The Control of Alcohol in Public Places Bylaw 2013 establishes alcohol free zones (AFZs), which prohibit the possession or consumption of alcohol in specific public places.
- 4 Section 11 of the Local Government (Alcohol Reform) Amendment Act 2012 requires that the Control of Alcohol in Public Places Bylaw 2013 be reviewed by 18 December 2018, 5 years from the day it was adopted.
- 5 While undertaking this review, the Local Government Act 2002 (LGA 2002) requires Council to consider whether the bylaw:
 - a) continues to be the most appropriate way of addressing alcohol-related harm in the District;
 - b) is still the most appropriate form of bylaw; and/or
 - c) gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).
- 6 The LGA 2002 also requires that Council consult with the community on the bylaw review, and give public notice of when the new bylaw comes into operation. This process would involve revoking the existing Control of Alcohol in Public Places

Bylaw 2013, and adopting the proposed Control of Alcohol in Public Places Bylaw 2018 in its place.

- 7 To enable public understanding of the bylaw review process and the proposed amendments, Section 83 of the LGA 2002 requires Council to present a Statement of Proposal.

ISSUES AND OPTIONS

- 8 This section provides information on:
 - a) The purpose of the 2013 Bylaw;
 - b) The review process;
 - c) The proposed changes to the 2013 Bylaw; and
 - d) The determinations required in Section 155 of the LGA 2002.

Purpose of the 2013 Bylaw

- 9 The purpose of the 2013 Bylaw is to enhance the safety of the public and allow the responsible enjoyment of public places in our District. This is achieved by providing AFZs in public places, at specified dates and times.
- 10 The 2103 Bylaw was designed to work in conjunction with other strategies by Council, Police, Regional Public Health, and the community to reduce the incidence of alcohol-related crime and harm in the District, particularly behaviour of a violent, threatening or destructive nature.
- 11 Specifically, the 2013 Bylaw provides for:
 - a) Overnight alcohol-free zones (9 pm to 6 am) for public places in the urban areas of Paekākāriki, Raumati South, Raumati, Paraparaumu, Paraparaumu Beach, Otaihanga, Waikanae and Waikanae Beach, Peka Peka Beach, and Te Horo Beach;
 - b) 24-hour alcohol-free zones for Ōtaki main streets and travel corridors, including Waerenga Road;
 - c) Overnight alcohol-free zones (9 pm to 6 am) for the entire length of the beach, foreshore, and dunes within the jurisdiction of the Kapiti Coast District Council; and
 - d) 24-hour alcohol-free zones in all skate parks and adjoining public places within the jurisdiction of the Kapiti Coast District Council.
- 12 Although it is the Council's role to develop and adopt a bylaw that is appropriate for the community's needs, it is the Police that are responsible for enforcing breaches of the bylaw. Police enforce the bylaw using a graduated response. This means that the majority of cases are resolved by verbal warnings, but Police can escalate enforcement through written warnings, fines, and eventually arrests if required. During the development of the 2013 Bylaw, it was important to the community that the bylaw should not interfere with responsible alcohol consumption – for instance a

picnic or fish and chips by the beach during the evening in daylight hours – and the Police’s graduated enforcement approach allows for this.

Review process

- 13 To determine whether the 2013 bylaw has contributed to a reduction in incidents of alcohol-related crime and harm in the District, this review has drawn on:
 - a) data from Police National Headquarters (PNHQ) on incidents of alcohol-related harm in the District from 1 July 2008 – 30 June 2103 compared to 1 July 2013 – 30 June 2018; and
 - b) conversations with Kāpiti Police, Ōtaki Police, and Regional Public Health.
- 14 According to the data from PNHQ, calls for alcohol-related offences in the Kapiti Police station area have reduced by 22.2% since the adoption of the bylaw in 2013. While it is not possible to attribute this solely to the AFZs, it seems reasonable to assume that the introduction of the AFZs has contributed to this positive outcome.
- 15 Police also report that there have been 84 calls for service in relation to breaches of AFZs and related alcohol offences since 1 July 2008, with over 70% of these calls occurring after the bylaw was adopted in 2013. The majority of the calls for service were for the breach of peace and disorder (63.8%), followed by minor, serious, or grievous assaults; intimidation and/or threats; and taking a drunk person into custody and/or to a detox centre. Most of these calls occurred on weekend nights, and in close proximity to licensed premises.
- 16 The Kapiti-Mana Police, the Horowhenua (Ōtaki) Police, and Regional Public Health have argued for the continuation of the existing AFZs. Police, in particular, argue that these AFZs have provided an effective tool for reducing the prevalence of alcohol related harm (see Appendix 3 and Appendix 4).

Proposed changes to the 2013 Bylaw

- 17 Because Police and Regional Public Health argue that the bylaw is helping to reduce alcohol-related offences in the District and both agencies strongly support continuation of the existing AFZs, Council is not proposing any significant amendments to the existing bylaw.
- 18 The only amendments that Council is proposing are minor amendments in order to align the bylaw with changes to the LGA that occurred after the bylaw was adopted in 2013. A summary of these proposed changes can be found in the Statement of Proposal.

Section 155 of the Local Government Act 2002 determinations

- 19 When making or reviewing bylaws, Council is required by section 155 of the LGA to make three determinations to ensure:
 - a) the bylaw is necessary;
 - b) is the most appropriate form of a bylaw; and
 - c) considers any implications under NZBORA.

- 20 Council considers that the Control of Alcohol in Public Places Bylaw continues to be necessary to reduce negative impacts associated with the possession and consumption of alcohol in public places. While Police, Regional Public Health, and other community service organisations continue to use a range of tools to reduce alcohol-related crime and harm across the District, AFZs are the only mechanism available to restrict alcohol in public places with effective enforcement mechanisms.
- 21 In addition, because considerable thought had been given to the establishment of the AFZs in 2013, Council considers that the current form of the Control of Alcohol in Public Places Bylaw continues to be the most appropriate.
- 22 One could argue that the bylaw does infringe on the rights of people to group together in, or move through, public places while possessing or consuming alcohol, but this limitation can be justified on the basis that it is a proportionate response to the problems identified with alcohol-related crime and harm. As such, Council considers that the proposed draft bylaw is a reasonable limitation on people's rights and freedoms, and appropriate and proportionate in light of the evidence demonstrating that the establishment of AFZs in the District has contributed to a reduction in alcohol-related offences.

CONSIDERATIONS

Policy considerations

- 23 There are no additional policy considerations with respect to the proposed amendments to the Control of Alcohol in Public Places Bylaw 2013.

Legal considerations

- 24 The process for reviewing and adopting a Control of Alcohol in Public Places Bylaw is prescribed by the LGA 2002.
- 25 Council's Legal Counsel has been involved in all stages of this bylaw review.

Financial considerations

- 26 The review has been carried out within existing budgets, as will implementation. The only implementation costs that will occur in relation to this bylaw are ongoing costs to ensure that appropriate signage is posted across the District.

Tāngata whenua considerations

- 27 The Iwi Relationship Manager has been briefed on this review project.
- 28 While tāngata whenua maintain a strong interest in the reduction of alcohol-related harm across the District, no tāngata whenua considerations specific to this bylaw review were identified in the pre-consultation phase.
- 29 The draft 2018 Bylaw is scheduled for discussion by Te Whakaminenga o Kāpiti on 2 October 2018.

Strategic considerations

- 30 *Toitū Kāpiti* includes an aspiration for strong, safe communities. The Control of Alcohol in Public Places Bylaw helps in the attainment of this aspiration because it seeks to enhance the safety of the public and allow the responsible enjoyment of public places in our District.

SIGNIFICANCE AND ENGAGEMENT

Significance policy

- 31 The Control of Alcohol in Public Places Bylaw is deemed to have a low level of significance in accordance with Council's Significance and Engagement Policy; however, it is required that the public be invited to participate in this review using the special consultative procedure as outlined under the LGA 2002.

Consultation already undertaken

- 32 Council officers have consulted with Kapiti-Mana Police, Horowhenua (Ōtaki) Police, and Regional Public Health on this bylaw review.

Engagement planning

- 33 Engagement has been planned in two phases:
- a) During the pre-consultation review period, the existing bylaw was discussed with Police and Regional Public Health.
 - b) The second stage of engagement will begin with the release of the Statement of Proposal calling for submissions from partners, community members, and interested stakeholders (proposed to begin 10 September 2018).
- 34 A communications plan has been developed for this project, and a range of communications channels are being used to inform key stakeholders and audiences such as:
- a) Targeted: identifying and alerting key stakeholders (e.g. owners of licensed premises);
 - b) Digital: Council webpages, Objective (Council's online consultation platform), and social media updates; and
 - c) Media: releases and/or advisories, and public ads and notices.

Publicity

- 35 Should the Council decide to proceed, it is required to use the special consultative procedure to seek public input into the draft 2018 Bylaw.
- 36 A Statement of Proposal has been prepared which sets out information on the review process, what is being proposed, and how to make a formal submission.
- 37 If Council agrees with the recommendations to (i) adopt for consultation the Statement of Proposal and (ii) make it publicly available as part of a special

consultative procedure under sections 83 and 86 of the LGA 2002, Council will use a variety of communication channels to publicise the consultation, including: our website; our Facebook page; newsletters such as Kapiti Update, Otaki Update, and Everything Kapiti; newspaper ads; radio advertising; media advisories; posters and flyers; and direct mail-outs.

RECOMMENDATIONS

38 That the Strategy and Policy Committee:

- a) Determines that a bylaw continues to be the most appropriate way to reduce negative impacts associated with the possession and consumption of alcohol in public places;
- b) Determines, subject to consultation, that the Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 (Appendix 1) is the most appropriate form of bylaw and that there is no inconsistency with the New Zealand Bill of Rights Act 1990;
- c) Adopts for consultation the Statement of Proposal to adopt the Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 (Appendix 2); and
- d) Agrees that the Statement of Proposal to adopt the Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 is made publicly available as part of a special consultative procedure under sections 83 and 86 of the Local Government Act 2002.

Report prepared by	Approved for submission	Approved for submission
Brandy Griffin	Natasha Tod	Kevin Black
Senior Policy Advisor, Strategy and Planning	Group Manager Regulatory Services	Acting Group Manager Strategy and Planning

ATTACHMENTS

Appendix 1	Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018
Appendix 2	Statement of Proposal to adopt the Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018
Appendix 3	Kapiti-Mana Police Submission
Appendix 4	Horowhenua Police Submission

COUNCIL REPORT - ATTACHMENT 1

Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018

1 TITLE, COMMENCEMENT, AND APPLICATION

- 1.1 This Bylaw may be cited as the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018.
- 1.2 This Bylaw shall come into effect on XX.
- 1.3 This Bylaw applies to any part of the Kapiti Coast District.
- 1.4 This Bylaw replaces the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013.

2 BYLAW VALIDATION

- 2.1 This Bylaw was approved at a meeting of the Kapiti Coast District Council held on XX after completion of the special consultative procedure.
- 2.2 This Bylaw is made under the authority of section 147 of the Local Government Act 2002.
- 2.3 The Common seal of the Kapiti Coast District Council was affixed pursuant to a resolution of Council on XX in the presence of:

.....
K (Guru) Gurunathan
Mayor

.....
Wayne Maxwell
Chief Executive Officer

.....
XX
Councillor

3 OBJECTIVE

- 3.1 The purpose of this Bylaw is to enhance the safety of the public and allow their responsible enjoyment of public places in the District. This will be achieved by providing alcohol free zones in public places, which apply at specified times, aimed at reducing the incidence of alcohol-related harm, particularly behaviour of a violent, threatening or destructive nature.

4 INTERPRETATION

- 4.1 In this Bylaw, the following terms are used:

Alcohol	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012
Alcohol free zone	Means any public place within an area identified in the Schedule to this Bylaw or in any Council resolution under clause 6.3(a) of this Bylaw
Authorised officer	Means any person authorised by the Council to carry out any of the duties provided for under this Bylaw or any Council Bylaw; and <ul style="list-style-type: none"> (a) includes any Council Enforcement Officer; and (b) includes any agents licensed by Council to carry out a duty or operate a public place on Council's behalf.
Chief Executive	Means the Chief Executive of Kapiti Coast District Council or a person acting under delegated authority on behalf of the Chief Executive
Commencement	Means the date this Bylaw comes into effect under clause 1.2
Council	Means the Kapiti Coast District Council or any committee, community board, or an officer authorised to exercise the authority of the Council
District	Means the Kapiti Coast District
Enforcement Officer	Means any person appointed by the Council to enforce the provisions of any Council Bylaw and who holds a warrant under section 177 of the Local Government Act 2002 or an appropriate section of any other Act
Licensed premises	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012
Offence	Means a breach of clause 5.1 of this Bylaw that constitutes an infringement offence under section 239A of the Local Government Act 2002
Police	Means any constable or other member of the New Zealand Police
Public place	In accordance with section 147(1) of the Local Government Act 2002, public place: <ul style="list-style-type: none"> 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

Specified times

For an alcohol free zone identified in the Schedule to this Bylaw, means the days and hours identified for that area in the Schedule to this Bylaw.

For an alcohol free zone established by the Council under clause 6.2 of this Bylaw, means the days and hours identified for that area in the Council's resolution under clause 6.3(b).

- 4.2 For the avoidance of doubt, any reference to any enactment, regulation, bylaw or Council officer position includes any modification, amendment or substitution thereof to that enactment, regulation, bylaw or Council officer position.

5 PROHIBITED ACTS

- 5.1 No person shall:

- (a) bring alcohol into;
- (b) possess alcohol in;
- (c) consume alcohol in; or
- (d) have or use in a vehicle in conjunction with any activity under paragraphs (a) to (c) in;

any alcohol free zone during the specified times.

- 5.2 Clause 5.1 is subject to the exceptions in clause 7 of this Bylaw.

6 ESTABLISHING ALCOHOL FREE ZONES

- 6.1 The public places in each of the areas identified in the Schedule to this Bylaw are alcohol free zones.
- 6.2 The Council may from time to time, by resolution, establish alcohol free zones in public places not already identified in the Schedule to this Bylaw.

- 6.3 In establishing an alcohol free zone under clause 6.2, the Council must determine and state in the resolution concerned:
- (a) the public places in which the alcohol free zone will apply;
 - (b) the days and times at which alcohol will be prohibited in the alcohol free zone; and
 - (c) the period for which the resolution will be in force.
- 6.4 For clarity:
- (a) under clause 6.3(b), the Council may determine that alcohol will be prohibited in an alcohol free zone 24 hours a day, 7 days a week, or for some lesser amount of time; and
 - (b) under clause 6.3(c), the Council may establish an alcohol free zone temporarily, such as for a particular event, or permanently (in which case it will remain in force until the Council amends or revokes the resolution under clause 6.7 or until this Bylaw expires on XX in accordance with section 11 of the Local Government (Alcohol Reform) Amendment Act 2012).
- 6.5 The Council must comply with section 147B of the Local Government Act 2002 before making a resolution under clause 6.2.
- 6.6 The Council must give public notice of a resolution made under clause 6.2 at least 14 days before it takes effect.
- 6.7 The Council may at any time, by resolution, amend or revoke a resolution made under clause 6.2.

7 EXCEPTIONS

7.1 Transport of alcohol

Clause 5.1 of this Bylaw does not prohibit the transport of alcohol in an unopened bottle or container as provided for in section 147(4) of the Local Government Act 2002.

7.2 Licence authorisation

Clause 5.1 does not prohibit the possession or consumption of alcohol where such possession or consumption is authorised by a licence issued under the Sale of Liquor Act 1989 or the Sale and Supply of Alcohol Act 2012.

7.3 Council dispensation

- (a) The Council may grant, in writing, a dispensation from complying with the prohibition in clause 5.1 for an event.
- (b) Before granting a dispensation under clause 7.3(a), the Council must be satisfied that the risk of alcohol-related harm at the event is low.
- (c) The Council may impose any conditions on a dispensation granted under clause 7.3(a) that it considers appropriate, including conditions relating to:
 - i. the date and time the dispensation applies;
 - ii. the individuals, and the number of persons, who are required for running the event, or any activities associated with the event, during the period the dispensation applies;
 - iii. the nature of the event, and any activities associated with the event;
 - iv. the numbers of persons who may attend the event while the dispensation applies;
 - v. what controls may be required to ensure persons under the age of 18 years will not have access to alcohol;
 - vi. how much, and what types of, alcohol may be made available;
 - vii. what host responsibility provisions will apply, including provision of food, low or non-alcohol drinks, and alternative transport options.
- (d) Any person applying for a dispensation must use the application form approved by the Council for this purpose.
- (e) The Council may impose a charge on applying for a dispensation in order to recover its reasonable costs, with such charge to be prescribed using the special consultation procedure under the Local Government Act 2002.

8 POWERS OF ARREST, SEARCH AND SEIZURE

8.1 Powers of the Police

In any alcohol free zone, the Police have the powers of search, seizure and arrest set out in section 169(2) of the Local Government Act 2002.

Without limiting or broadening the powers under section 169(2), that section enables the Police to:

- (a) search any container or vehicle;
- (b) seize any alcohol or container; and

- (c) arrest a person found committing an offence, or who has refused to comply with a request by the Police to leave the alcohol free zone, or to surrender alcohol in that person's possession.

8.2 Warning by the Police

Before exercising the power of search under section 169(2)(a) of the Local Government Act 2002, section 170(1) of that Act requires the Police to:

- (a) inform the person in possession of the container or the vehicle that he or she has the opportunity of removing the container or the vehicle from the alcohol free zone; and
- (b) give the person reasonable opportunity to remove the container or the vehicle from the alcohol free zone.

Clause 8.2 is subject to the exception in clause 8.3.

8.3 No warning required in certain situations

This Bylaw authorises the Police to exercise the power in section 170(2) of the Local Government Act 2002 on specified dates, or in relation to specified events, that are notified in accordance with section 170(3) of that Act and clause 8.4 of this Bylaw.

Without limiting or broadening the powers under section 170(2), that section enables the Police to search a container or vehicle immediately and without further notice, so that the warning referred to in clause 8.2 is not required.

8.4 Council power to authorise Police

The Council may:

- (a) by public notice given 14 days in advance, specify the alcohol free zone where, and the period when, the Police may exercise the power in section 170(2) (enabling them to search containers and vehicles without giving the warning referred to in clause 8.2); and
- (b) indicate the location of the alcohol free zone by one or more clearly legible notices affixed in one or more conspicuous places on, or adjacent to, the alcohol free zone, unless it is impractical or unreasonable to do so.

9 BREACH OF BYLAW AND PENALTY

Any person who acts in breach of clause 5.1 of this Bylaw commits an offence under section 239A of the Local Government Act 2002 and may be served an infringement notice in accordance with sections 244 and 245 of the Local Government Act 2002 and be required to pay an infringement fee not exceeding \$1,000.

10 REPEAL

The Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013 is repealed on commencement of this Bylaw.

Schedule to the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018	
Alcohol free zones	Specified times
1. The entire length of the beach, foreshore and dunes within the jurisdiction of the Kapiti Coast District Council.	Every day from 9.00 pm to 6.00 am the following day
2. All skate parks and adjoining reserves and car parks in the Kapiti Coast District including: (a) Any area within 10 metres of the boundary of Paekakariki skate park and adjacent playground located on the corner of Campbell Park (b) Paraparaumu Beach skate park and Maclean Park (c) Waikanae skate park and Waikanae Park (d) Otaki skateboard park and reserve	Every day of the year, 24 hours a day
3. The public places located in or adjacent to the urban areas of Paekakariki (Map 1) encompassed by: (a) State Highway One in the East (b) The corner of Ames Street and State Highway One in the south (c) The beach, foreshore and dunes in the West (d) Henare Street, Horomona Road, Haumia Street, Tilley Road and Wellington Road in the North	Every day from 9.00 pm to 6.00 am the following day
4. The public places located in or adjacent to the urban areas of Raumati South, Raumati, Paraparaumu, Paraparaumu Beach and Otaihanga (Map 2) encompassed by: (a) State Highway One in the East, except in Paraparaumu Township where the eastern boundaries extend to Mamaku Street, Ruahine Street, Hookway Grove and its intersection with Valley Road (b) The Esplanade, McKenzie Avenue and Rainbow Court in the South (c) The beach, foreshore and dunes in the West (d) Waikanae River in the North	Every day from 9.00 pm to 6.00 am the following day
5. The public places located in or adjacent to the urban areas of Waikanae and Waikanae Beach (Map 3) encompassed by: (a) State Highway One in the East, except where the eastern boundaries extend to He Awa Crescent, Poneke Drive, Kakariki Grove, Tui Crescent, Kotare Street, Kea Street and Winara Avenue	Every day from 9.00 pm to 6.00 am the following day

<ul style="list-style-type: none"> (b) The Waikanae River in the South (c) The beach, foreshore and dunes in the West (d) Manu Grove, Awanui Drive, Runanga Grove, Cranbrook Grove, Amokura Street and Fieldway in the North. 	
<p>6. The public places located in or adjacent to the township of Peka Peka (Map 4) encompassed by:</p> <ul style="list-style-type: none"> (a) 146 Paetawa Road in the South (b) Paetawa Road in the East (c) The beach, foreshore and dunes in the West (d) Beachview Grove and Pingao Lane in the North 	Every day from 9.00 pm to 6.00 am the following day
<p>7. The public places located in or adjacent to the township of Te Horo Beach (Map 5) encompassed by:</p> <ul style="list-style-type: none"> (a) Kitchener Street in the South (b) Gawler Street in the East (c) The beach, dunes and foreshore in the West (d) Te Horo Beach Road in the North 	Every day from 9.00 pm to 6.00 am the following day
<p>8. The public places located in or adjacent to the urban areas of Main Street/Mill Road, Aotaki Street, Ruakawa Street, Rangatira Street and Waerenga Road, Otaki (Map 6) encompassed by:</p> <ul style="list-style-type: none"> (a) Main Street/Mill Road: from the roundabout that marks the entrance into the Te Wananga O Raukawa in the west to the junction with State Highway One in the east (b) This area bounded by the entrance to the Te Wananga O Raukawa, Raukawa Street and Rangatira Street to the north and south respectively (c) Waerenga Road: from the corner of Aotaki Street in the West to State Highway One in the East (d) Aotaki Street: from the junction with Main Street in the north to Riverbank Road in the South. 	Every day of the year, 24 hours a day
<p>9. State Highway One and Retail Area, Otaki (Map 7):</p> <ul style="list-style-type: none"> (a) State Highway One: from the junction with Mill Road and Rahui Road to the junction with Waerenga Road (b) Retail area: encompassed by the railway track to the junction with Rahui Road in the East, from this junction along Rahui Road and onto Mill Road as far as the junction of Mill Road and Dunstan Street in the North; all of Dunstan Street to the junction with Waerenga Road in the West; and along Waerenga Road to the point where it intersects with the eastern side of the railway track in the South 	Every day of the year, 24 hours a day

MAPS (1-7) CORRESPONDING TO THE SCHEDULE



Alcohol Free Zones
Paekakariki
Map 1


NORTH
1:10,000



Alcohol Free Zones
Otaihanga / Paraparaumu / Raumati
Map 2


 NORTH
 1:40,000



Alcohol Free Zones
Waikanae and Waikanae Beach
Map 3


NORTH
 1:35,000


Kāpiti Coast
 DISTRICT COUNCIL
Me Huri Whakamuri, Ka Tītiro Whakamua



Alcohol Free Zones
Peka Peka
Map 4


NORTH
1:10,000


Kāpiti Coast
DISTRICT COUNCIL
Me Huri Whakamuri, Ka Tītiro Whakamua



Alcohol Free Zones
Te Horo Beach
Map 5


NORTH
1:5,000


Kāpiti Coast
DISTRICT COUNCIL
Me Huri Whakamuri, Ka Tīro Whakamua



Alcohol Free Zones
Otaki Main St, Mill Rd, Waerenga Rd Areas
Map 6


 NORTH
 1:8,000


Kāpiti Coast
 DISTRICT COUNCIL
Me Huri Whakamuri, Ka Tītiro Whakamua



**Alcohol Free Zones
Otaki SH1 Area
Map 7**

NORTH
1:3,500

Kāpiti Coast
DISTRICT COUNCIL
Me Huri Whakamuri, Ka Tiro Whakamua

COUNCIL REPORT - ATTACHMENT 2



**STATEMENT OF PROPOSAL TO ADOPT THE KAPITI COAST
DISTRICT COUNCIL CONTROL OF ALCOHOL IN PUBLIC PLACES
BYLAW 2018**

September 2018

MAKING A SUBMISSION	23
INTRODUCTION	24
LEGISLATIVE REQUIREMENTS	24
BACKGROUND	24
THE REVIEW PROCESS	26
APPROPRIATENESS OF A BYLAW, AND CONSIDERATION OF NZBORA.....	26
PROPOSED AMENDMENTS TO THE BYLAW.....	27
CONSULTATIVE PROCEDURE	28

MAKING A SUBMISSION

Submissions can be made in writing using the submission form, or via the Council's online submission portal. Hard copies of the submission forms are available from District libraries and service centres. To log your submission via Council's online submission portal, go to <http://consult-kapiticoast.objective.com/portal> and click on '2018 Control of Alcohol in Public Places Bylaw Review'.

**The formal consultation period will last for 30 working days,
running from 10 September 2018 to 19 October 2018.**

Persons who wish to be heard by Council will be given the opportunity to do so. If you wish to make an oral submission to councillors, please indicate YES on the submission form and ensure you have included your contact details. We will contact you to arrange a time for you to speak.

Submissions will be heard on 1 November 2018.

INTRODUCTION

- 1.1 This Statement of Proposal relates to the proposed adoption of the Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018.
- 1.2 The purpose of the Control of Alcohol in Public Places Bylaw is to enhance the safety of the public and allow the responsible enjoyment of public places in the District. This is achieved by providing alcohol-free zones in public places, at specified dates and times.
- 1.3 The Council has reviewed the current bylaw that regulates the possession and consumption of alcohol in public places, and is proposing no changes except for some minor amendments to align the bylaw with changes in the Local Government Act 2002 (LGA 2002) that occurred after the bylaw was adopted in 2013.

LEGISLATIVE REQUIREMENTS

- 1.4 The Local Government (Alcohol Reform) Amendment Act 2012 requires that the Control of Alcohol in Public Places Bylaw 2013 be reviewed by 18 December 2018, 5 years from the day it was adopted.
- 1.5 While undertaking this review, the LGA 2002 requires Council to consider whether the bylaw:
 - a. continues to be the most appropriate way of addressing alcohol-related harm in the District;
 - b. is still the most appropriate form of bylaw; and/or
 - c. gives rise to any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).
- 1.6 The LGA 2002 also requires that Council consult with the community on the bylaw review, and give public notice of when the new bylaw comes into operation. This process would involve revoking the existing Control of Alcohol in Public Places Bylaw 2013, and adopting the proposed Control of Alcohol in Public Places Bylaw 2018 in its place.
- 1.7 To enable public understanding of the bylaw review process and the proposed amendments, the LGA 2002 requires Council to present this Statement of Proposal.

BACKGROUND

- 1.8 Alcohol free zones prohibit the possession or consumption of alcohol in specific public places. Studies have found that alcohol free zones are effective in reducing negative impacts associated with alcohol including offensive behaviour, feeling unsafe, excessive noise, littering and property damage, threats to personal safety and crime.¹
- 1.9 In 2007, the Kāpiti Coast District Council adopted the Public Places Liquor Control Bylaw, which established specific bans on alcohol in public places in Ōtaki. The rest of the District remained without bans on alcohol in public places until Council adopted the Control of Alcohol in Public Places Bylaw 2013.

¹ See, for example, the Local Alcohol Policy Research Report by Auckland Council.

- 1.10 The 2013 bylaw was developed in response to increasing community-wide concerns about alcohol-related crimes in the District. These concerns were heightened by two deaths that occurred at the Kāpiti Lights complex in September 2012, which coincided with an increase in drinking and disorder in public places.
- 1.11 A 2012 Police report on alcohol-related crimes in Kāpiti found:
- Most crimes occurred on weekend nights in conjunction with uncontrolled public place alcohol consumption;
 - Alcohol was involved in the offending at least 27% of the time when an arrest was made;
 - While more activity occurred in the spring and summer months, the risks of uncontrolled public place drinking were present year round;
 - The highest concentrations of activity (i.e. Hot Spots) were Paraparaumu Central Business District, followed by Paraparaumu Beach, Raumati Beach, and Waikanae;
 - Within the Hot Spots, most incidents occurred on main roads and streets containing on-licensed premises, car park areas, parks and reserves, and beach frontage and access; and
 - The most common public complaints were for fighting, damage, threatening or noisy behaviours, and broken glass.
- 1.12 Council, Police, Regional Public Health, and the community worked together to develop a range of tools to reduce alcohol-related crime and harm across the District, and the 2013 bylaw was designed to work in conjunction with those other tools. Specifically, the bylaw provides for:
- Overnight alcohol-free zones (9 pm to 6 am) for public places in the urban areas of Paekākāriki, Raumati South, Raumati, Paraparaumu, Paraparaumu Beach, Otaihangā, Waikanae and Waikanae Beach, Peka Peka Beach, and Te Horo Beach;
 - 24-hour alcohol-free zones for Ōtaki main streets and travel corridors, including Waerenga Road;
 - Overnight alcohol-free zones (9 pm to 6 am) for the entire length of the beach, foreshore, and dunes within the jurisdiction of the Kapiti Coast District Council; and
 - 24-hour alcohol-free zones in all skate parks and adjoining public places within the jurisdiction of the Kapiti Coast District Council.
- 1.13 The recommendation to extend restrictions on alcohol in public places across the District was driven by a desire to give Police greater opportunity to intervene in incidents of alcohol-related crimes before they escalated. Although it is the Council's role to develop and adopt a control of alcohol in public places bylaw that is appropriate for the community's needs, it is the Police that are responsible for enforcing breaches of the bylaw.
- 1.14 Police enforce the bylaw using a graduated response. This means that the majority of cases are resolved by verbal warnings, but Police can escalate enforcement through written warnings, fines, and eventually arrests if required. During the development of the 2013 bylaw, it was important to the community that the bylaw should not interfere with responsible alcohol consumption – for instance a picnic or fish and chips by the beach during the evening in daylight hours – and the Police's graduated implementation approach allows for this.

THE REVIEW PROCESS

- 1.15 To determine whether the 2013 bylaw has contributed to a reduction in incidents of alcohol-related crime and harm in the District, this review has drawn on:
 - a. data from Police National Headquarters (PNHQ) on incidents of alcohol-related harm in the District from 1 July 2008 – 30 June 2013 compared to 1 July 2013 – 30 June 2018; and
 - b. conversations with Police and Regional Public Health.
- 1.16 According to the data from PNHQ, calls for service in the Kapiti Police station area have reduced by 22.2% since the adoption of the bylaw in 2013. While it is not possible to attribute this solely to the introduction of the alcohol free zones, it seems reasonable to assume that the alcohol free zones have contributed to this positive outcome.
- 1.17 Police also report that there have been 84 calls for service in relation to breaches of alcohol free zones and related alcohol offences since 1 July 2008. Over 70% of these calls have occurred since the adoption of the bylaw. The majority of the calls for service were for the breach of peace and disorder (63.8%), followed by minor, serious, or grievous assaults; intimidation and/or threats; and taking a drunk person into custody and/or to a detox centre. Most of these calls continue to occur on weekend nights, and in close proximity to licensed premises.
- 1.18 The Kapiti-Mana Police, the Horowhenua (Ōtaki) Police, and Regional Public Health have argued for the continuation of the existing alcohol free zones. Kapiti-Mana Police, in particular, argue that these alcohol free zones have provided an effective tool for Police to help reduce the prevalence of alcohol related harm.

APPROPRIATENESS OF A BYLAW, AND CONSIDERATION OF NZBORA

- 1.19 When making or reviewing bylaws, Council is required by the LGA 2002 to make three determinations to ensure: the bylaw is necessary, is the most appropriate form of a bylaw, and considers any implications under the New Zealand Bill of Rights Act 1990 (NZBORA).
- 1.20 When the bylaw was adopted in 2013, it was determined that:
 - a. overnight alcohol-free zones were generally preferred for most areas of the District and on beaches because they still allowed alcohol to be used responsibly during the day and early evening, but would enable the Police to address alcohol-related harm that occurred during the late evening and throughout the night;
 - b. a consistent approach across the entire beach area and most of the District would be simple to understand and thus easier to enforce;
 - c. Because skate parks are predominantly used by young children and youth, ensuring that they are safe areas for all users, especially children, 24-hours a day was a high priority;
 - d. While it was acknowledged that there had not been the same level of alcohol-related crimes occurring across all of the District's skate parks, it was agreed that a consistent rule for all skate parks across the Districts would make it easier for our community and visitors to understand the rule; and
 - e. Due to Police reports that alcohol-related incidents in Ōtaki were occurring earlier in the day than those that were occurring in the southern parts of the District, it

was agreed that the 24-hour alcohol-free zones would continue in Ōtaki because the Police reported that these were proving very successful.

- 1.21 Council considers that the Control of Alcohol in Public Places Bylaw continues to be necessary to reduce negative impacts associated with the possession and consumption of alcohol in public places. While Police, Regional Public Health, and other community service organisations continue to use a range of tools to reduce alcohol-related crime and harm across the District, alcohol free zones are the only mechanism available to restrict alcohol in public places with effective enforcement mechanisms.
- 1.22 In addition, because considerable thought had been given to the establishment of the alcohol free zones in 2013 and Police data find that they have proved very effective, Council considers that the current form of the Control of Alcohol in Public Places Bylaw continues to be the most appropriate.
- 1.23 One could argue that the bylaw does infringe on the rights of people to group together in, or move through, public places while possessing or consuming alcohol, but this limitation can be justified on the basis that it is a proportionate response to the problems identified with alcohol-related crime and harm. As such, Council considers that the proposed draft bylaw is a reasonable limitation on people's rights and freedoms, and appropriate and proportionate in light of the evidence demonstrating that the establishment of alcohol free zones in the District has contributed to a reduction in alcohol-related offences.

PROPOSED AMENDMENTS TO THE BYLAW

- 1.24 Council is not proposing any significant amendments to the existing bylaw, but would like to propose some minor changes to align the bylaw with changes in the LGA 2002 that occurred after the bylaw was adopted in 2013. (A summary of all proposed changes in the draft 2018 Bylaw can be found in Table 1, and a track changed version of the proposed bylaw can be found in Appendix 1.)

Table 1: Summary of all proposed changes for the draft 2018 Bylaw

	Proposed draft 2018 Bylaw clause names	Key differences between proposed draft 2018 Bylaw and existing 2013 Bylaw
1	Title, Commencement, and Application	Carried over from existing 2013 Bylaw with minor amendments to reflect current dates, the need to revoke the 2013 Bylaw, the current elected members, and the current Chief Executive.
2	Bylaw Validation	
3	Objective	Carried over from existing 2013 Bylaw with no amendments.
4	Interpretation	Carried over from existing 2013 Bylaw with minor amendments to (i) reflect the changes in the LGA 2002 that occurred after the 2013 Bylaw was adopted, and (ii) add a few more definitions to assist in the application of the bylaw.
5	Prohibited Acts	Carried over from existing 2013 Bylaw with minor amendments to reflect the changes in the LGA 2002

6	Establishing Alcohol Free Zones	that occurred after the 2013 Bylaw was adopted.
7	Exceptions	
8	Powers of Arrest, Search, and Seizure	
9	Breach of Bylaw and Penalty	
10	Kapiti Coast District Council General Bylaw	Deleted as this clause is no longer required in the Bylaw.
11	Repeal	Carried over from existing 2013 Bylaw with minor amendment to reflect the need to revoke the 2013 Bylaw.
	Schedule	Carried over from existing 2013 Bylaw with no amendments.

CONSULTATIVE PROCEDURE

- 1.25 The LGA 2002 requires that the community be consulted on the adoption, review or amendment of a bylaw. Accordingly, the Council is using the special consultative procedure, which requires the initiation of a formal submission process.
- 1.26 The Council would like to know what residents, ratepayers, and stakeholders think about the Draft Kāpiti Coast District Council Control of Alcohol in Public Places Bylaw 2018.
- 1.27 The proposed plan is as follows:

Task	Date
Council's Strategy & Policy Committee approved the draft 2018 Bylaw and this Statement of Proposal for public consultation	6 September 2018
Submissions open	10 September 2018
Submissions close	19 October 2018
Hearing of submitters	1 November 2018
Council decision	6 December 2018
Effective date of bylaw	6 December 2018

METHODS FOR MAKING A SUBMISSION

- 1.28 Submissions can be made in writing, by mail, by fax or by email.
- 1.29 To make a submission in writing, use the submission form attached in Appendix 2. Submissions can be dropped off at Council or a Council Service Centre or they can be mailed to:

Kapiti Coast District Council
Private Bag 60601

Paraparaumu 5254

- 1.30 Submissions can be faxed to 04 296 4830, or emailed to submissions@kapiticoast.govt.nz marked draft 2018 CAPP Bylaw.

Submission Period

- 1.31 The formal consultative period will be 6 weeks running from 10 September 2018 to 19 October 2018.

Hearing of Submissions

- 1.32 Persons making written submissions who wish to be heard by Council will be given the opportunity to do so. Submissions will be heard on 1 November 2018. Submitters wishing to speak to the Council in support of their submission must indicate YES on the Official Submission Form.

APPENDICES

Appendix 1: Draft 2018 Control of Alcohol in Public Places Bylaw (with tracked changes from the 2013 Bylaw)

Appendix 2: Official Submission Form

STATEMENT OF PROPOSAL - APPENDIX 1

CONTROL OF ALCOHOL IN PUBLIC PLACES BYLAW 20132018

1 Title, Commencement, and Application

- 1.1 This Bylaw may be cited as the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 20132018.
- 1.2 This Bylaw shall come into effect on 27 July 2013XX.
- 1.3 This Bylaw applies to any part of the Kapiti Coast District.
- 1.4 This Bylaw replaces the Kapiti Coast District Council Public Places Liquor Control Bylaw 2007Control of Alcohol in Public Places Bylaw 2013.

2 Bylaw Validation

- 2.1 This Bylaw was approved at a meeting of the Kapiti Coast District Council held on 18 June 2013XX after completion of the special consultative procedure.
- 2.2 This Bylaw is made under the authority of section 147 of the Local Government Act 2002.
- 2.3 The Common seal of the Kapiti Coast District Council was affixed pursuant to a resolution of Council on XX in the presence of:

.....
K (Guru) Gurunathan
Mayor

.....
Wayne Maxwell
Chief Executive Officer

.....
XX
Councillor

3 Objective

- 3.1 The purpose of this Bylaw is to enhance the safety of the public and allow their responsible enjoyment of public places in the District. This will be achieved by providing alcohol free zones in public places, which apply at specified times, aimed at reducing the incidence of alcohol-related harm, particularly behaviour of a violent, threatening or destructive nature.

4 Interpretation

- 4.1 In this Bylaw, the following terms are used:

Alcohol	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012, and for the period from commencement to 17 December 2013 includes "liquor" as defined in section 147(1) of the Local Government Act 2002
Alcohol free zone	Means any public place within an area identified in the Schedule to this Bylaw or in any Council resolution under clause 6.3(a) of this Bylaw
<u>Authorised officer</u>	<u>Means any person authorised by the Council to carry out any of the duties provided for under this Bylaw or any Council Bylaw; and</u> <u>(a) includes any Council Enforcement Officer; and</u> <u>(b) includes any agents licensed by Council to carry out a duty or operate a public place on Council's behalf.</u>
<u>Chief Executive</u>	<u>Means the Chief Executive of Kapiti Coast District Council or a person acting under delegated authority on behalf of the Chief Executive</u>
Commencement	Means the date this Bylaw comes into effect under clause 1.2
<u>Council</u>	<u>Means the Kapiti Coast District Council or any committee, community board, or an officer authorised to exercise the authority of the Council</u>
<u>District</u>	<u>Means the Kapiti Coast District</u>
<u>Enforcement Officer</u>	<u>Means any person appointed by the Council to enforce the provisions of any Council Bylaw and who holds a warrant under section 177 of the Local Government Act 2002 or an appropriate section of any other Act</u>
Licensed premises	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012
Offence	Means a breach of clause 5.1 of this Bylaw that constitutes, between commencement and 17 December 2013, an offence under section 239 of the Local Government Act 2002 or, from 18 December 2013 onwards, an infringement offence under section 239A of that Act <u>the Local Government Act 2002</u>
Police	Means any constable or other member of the New Zealand Police

Public place	<p>Has the meaning given to it under<u>In accordance with</u> section 147(1) of the Local Government Act 2002, which from commencement to 17 December 2013<u>public place</u>:</p> <p>means a place:</p> <p>that is under the control of the Council; and</p> <p>that is open to, or being used by, the public, whether or not there is a charge for admission; and</p> <p>includes:</p> <p>a road, whether or not the road is under the control of the Council; and</p> <p>any part of a public place</p> <p>and from 18 December 2013 onwards:</p> <p>c) 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</p> <p>d) does not include licensed premises</p>
Specified times	<p>For an alcohol free zone identified in the Schedule to this Bylaw, means the days and hours identified for that area in the Schedule to this Bylaw.</p> <p>For an alcohol free zone established by the Council under clause 6.2 of this Bylaw, means the days and hours identified for that area in the Council's resolution under clause 6.3(b).</p>

- 4.2 For the avoidance of doubt, any reference to any enactment, regulation, bylaw or Council officer position includes any modification, amendment or substitution thereof to that enactment, regulation, bylaw or Council officer position.

5 Prohibited Acts

5.1 No person shall:

- (e) bring ~~liquor~~ alcohol into;
- (f) possess ~~liquor~~ alcohol in;
- (g) consume ~~liquor~~ alcohol in; or
- (h) have or use in a vehicle in conjunction with any activity under paragraphs (a) to (c) in;

any alcohol free zone during the specified times.

5.2 Clause 5.1 is subject to the exceptions in clause 7 of this Bylaw.

6 Establishing Alcohol Free Zones

6.1 The public places in each of the areas identified in the Schedule to this Bylaw are alcohol free zones.

6.2 The Council may from time to time, by resolution, establish alcohol free zones in public places not already identified in the Schedule to this Bylaw.

6.3 In establishing an alcohol free zone under clause 6.2, the Council must determine and state in the resolution concerned:

- (d) the public places in which the alcohol free zone will apply;
- (e) the days and times at which alcohol will be prohibited in the alcohol free zone; and
- (f) the period for which the resolution will be in force.

6.4 For clarity:

- (c) under clause 6.3(b), the Council may determine that alcohol will be prohibited in an alcohol free zone 24 hours a day, 7 days a week, or for some lesser amount of time; and
- (d) under clause 6.3(c), the Council may establish an alcohol free zone temporarily, such as for a particular event, or permanently (in which case it will remain in force until the Council amends or revokes the resolution under clause 6.7 or until this Bylaw expires on ~~18 December 2018~~XX in accordance with section 11 of the Local Government (Alcohol Reform) Amendment Act 2012).

6.5 ~~From 18 December 2013, the~~The Council must comply with section 147B of the Local Government Act 2002 before making a resolution under clause 6.2.

- 6.6 The Council must give public notice of a resolution made under clause 6.2 at least 14 days before it takes effect.
- 6.7 The Council may at any time, by resolution, amend or revoke a resolution made under clause 6.2.

7 Exceptions

7.1 Transport of alcohol

Clause 5.1 of this Bylaw does not prohibit the transport of alcohol in an unopened bottle or container as provided for in section 147(4) of the Local Government Act 2002 ~~(being section 147(3) from commencement to 17 December 2013, and section 147(4) from 18 December 2013 onwards).~~

7.2 Licence authorisation

Clause 5.1 does not prohibit the possession or consumption of alcohol where such possession or consumption is authorised by a licence issued under the Sale of Liquor Act 1989 or the Sale and Supply of Alcohol Act 2012.

7.3 Council dispensation

- (f) The Council may grant, in writing, a dispensation from complying with the prohibition in clause 5.1 for an event.
- (g) Before granting a dispensation under clause 7.3(a), the Council must be satisfied that the risk of alcohol-related harm at the event is low.
- (h) The Council may impose any conditions on a dispensation granted under clause 7.3(a) that it considers appropriate, including conditions relating to:
 - i. the date and time the dispensation applies;
 - ii. the individuals, and the number of persons, who are required for running the event, or any activities associated with the event, during the period the dispensation applies;
 - iii. the nature of the event, and any activities associated with the event;
 - iv. the numbers of persons who may attend the event while the dispensation applies;
 - v. what controls may be required to ensure persons under the age of 18 years will not have access to alcohol;
 - vi. how much, and what types of, alcohol may be made available;
 - vii. what host responsibility provisions will apply, including provision of food, low or non-alcohol drinks, and alternative transport options.

- (i) Any person applying for a dispensation must use the application form approved by the Council for this purpose.
- (j) The Council may impose a charge on applying for a dispensation in order to recover its reasonable costs, with such charge to be prescribed using the special consultation procedure under the Local Government Act 2002.

8 Powers of Arrest, Search and Seizure

8.1 Powers of the Police

In any alcohol free zone, the Police have the powers of search, seizure and arrest set out in section 169(2) of the Local Government Act 2002 ~~(from commencement onwards, including after 18 December 2013)~~.

Without limiting or broadening the powers under section 169(2), that section enables the Police to:

- (d) search any container or vehicle;
- (e) seize any alcohol or container; and
- (f) arrest a person found committing an offence, or who has refused to comply with a request by the Police to leave the alcohol free zone, or to surrender alcohol in that person's possession.

8.2 Warning by the Police

Before exercising the power of search under section 169(2)(a) of the Local Government Act 2002, section 170(1) of that Act requires the Police to:

- (c) inform the person in possession of the container or the vehicle that he or she has the opportunity of removing the container or the vehicle from the alcohol free zone; and
- (d) give the person reasonable opportunity to remove the container or the vehicle from the alcohol free zone.

Clause 8.2 is subject to the exception in clause 8.3.

8.3 No warning required in certain situations

This Bylaw authorises the Police to exercise the power in section 170(2) of the Local Government Act 2002 ~~(from commencement onwards, including after 18 December 2013)~~ on specified dates, or in relation to specified events, that are notified in accordance with section 170(3) of that Act and clause 8.4 of this Bylaw.

Without limiting or broadening the powers under section 170(2), that section enables the Police to search a container or vehicle immediately and without further notice, so that the warning referred to in clause 8.2 is not required.

8.4 Council power to authorise Police

The Council may:

- (c) by public notice given 14 days in advance, specify the alcohol free zone where, and the period when, the Police may exercise the power in section 170(2) (enabling them to search containers and vehicles without giving the warning referred to in clause 8.2); and
- (d) indicate the location of the alcohol free zone by one or more clearly legible notices affixed in one or more conspicuous places on, or adjacent to, the alcohol free zone, unless it is impractical or unreasonable to do so.

9 Breach of Bylaw and Penalty

~~From commencement to 17 December 2013, any person who acts in breach of clause 5.1 of this Bylaw commits an offence under section 239 of the Local Government Act 2002 and is liable on summary conviction to a fine not exceeding \$20,000.~~

~~From 18 December 2013 onwards, any~~Any person who acts in breach of clause 5.1 of this Bylaw commits an offence under section 239A of the Local Government Act 2002 and may be served an infringement notice in accordance with section 244 and 245 of the Local Government Act 2002 and be required to pay an infringement fee not exceeding \$1,000.

~~10 Kapiti Coast District Council General Bylaw~~

~~The provisions of the Kapiti Coast General Bylaw 2010, or any bylaw passed in amendment or substitution, are implied into and form part of this Bylaw, except to the extent that they may be inconsistent with this Bylaw.~~

~~11~~10 Repeal

The Kapiti Coast District Council ~~Public Places Liquor Control Bylaw 2007~~Control of Alcohol in Public Places Bylaw 2013 is repealed on commencement of this Bylaw.

Schedule to the Kapiti Coast District Council Control of Alcohol [in Public Places](#) Bylaw [20132018](#)

Alcohol free zones	Specified times
10. The entire length of the beach, foreshore and dunes within the jurisdiction of the Kapiti Coast District Council.	Every day from 9.00 pm to 6.00 am the following day
11. All skate parks and adjoining reserves and car parks in the Kapiti Coast District including: <ul style="list-style-type: none"> (e) Any area within 10 metres of the boundary of Paekakariki skate park and adjacent playground located on the corner of Campbell Park (f) Paraparaumu Beach skate park and Maclean Park (g) Waikanae skate park and Waikanae Park (h) Otaki skateboard park and reserve 	Every day of the year, 24 hours a day
12. The public places located in or adjacent to the urban areas of Paekakariki (Map 1) encompassed by: <ul style="list-style-type: none"> (e) State Highway One in the East (f) The corner of Ames Street and State Highway One in the south (g) The beach, foreshore and dunes in the West (h) Henare Street, Horomona Road, Haumia Street, Tilley Road and Wellington Road in the North 	Every day from 9.00 pm to 6.00 am the following day
13. The public places located in or adjacent to the urban areas of Raumati South, Raumati, Paraparaumu, Paraparaumu Beach and Otaihanga (Map 2) encompassed by: <ul style="list-style-type: none"> (e) State Highway One in the East, except in Paraparaumu Township where the eastern boundaries extend to Mamaku Street, Ruahine Street, Hookway Grove and its intersection with Valley Road (f) The Esplanade, McKenzie Avenue and Rainbow Court in the South (g) The beach, foreshore and dunes in the West (h) Waikanae River in the North 	Every day from 9.00 pm to 6.00 am the following day
14. The public places located in or adjacent to the urban areas of Waikanae and Waikanae Beach (Map 3) encompassed by: <ul style="list-style-type: none"> (e) State Highway One in the East, except where the eastern boundaries extend to He Awa Crescent, Poneke Drive, Kakariki Grove, Tui Crescent, Kotare Street, Kea Street and Winara Avenue (f) The Waikanae River in the South (g) The beach, foreshore and dunes in the West (h) Manu Grove, Awanui Drive, Runanga Grove, Cranbrook Grove, Amokura Street and Fieldway in the North. 	Every day from 9.00 pm to 6.00 am the following day
15. The public places located in or adjacent to the township of Peka Peka (Map 4) encompassed by: <ul style="list-style-type: none"> (e) 146 Paetawa Road in the South (f) Paetawa Road in the East 	Every day from 9.00 pm to 6.00 am the following day

(g) The beach, foreshore and dunes in the West (h) Beachview Grove and Pingao Lane in the North	
16. The public places located in or adjacent to the township of Te Horo Beach (Map 5) encompassed by: (e) Kitchener Street in the South (f) Gawler Street in the East (g) The beach, dunes and foreshore in the West (h) Te Horo Beach Road in the North	Every day from 9.00 pm to 6.00 am the following day
17. The public places located in or adjacent to the urban areas of Main Street/Mill Road, Aotaki Street, Ruakawa Street, Rangatira Street and Waeranga Road, Otaki (Map 6) encompassed by: (e) Main Street/Mill Road: from the roundabout that marks the entrance into the Te Wananga O Raukawa in the west to the junction with State Highway One in the east (f) This area bounded by the entrance to the Te Wananga O Raukawa, Raukawa Street and Rangatira Street to the north and south respectively (g) Waerenga Road: from the corner of Aotaki Street in the West to State Highway One in the East (h) Aotaki Street: from the junction with Main Street in the north to Riverbank Road in the South.	Every day of the year, 24 hours a day
18. State Highway One and Retail Area, Otaki (Map 7): (c) State Highway One: from the junction with Mill Road and Rahui Road to the junction with Waerenga Road (d) Retail area: encompassed by the railway track to the junction with Rahui Road in the East, from this junction along Rahui Road and onto Mill Road as far as the junction of Mill Road and Dunstan Street in the North; all of Dunstan Street to the junction with Waerenga Road in the West; and along Waerenga Road to the point where it intersects with the eastern side of the railway track in the South	Every day of the year, 24 hours a day

MAPS CORRESPONDING TO THE SCHEDULE

<<< Not included as no amendments are proposed. >>>

STATEMENT OF PROPOSAL - APPENDIX 2: SUBMISSION FORM



Admin only:

Date received	Submission number

2018 REVIEW OF THE CONTROL OF ALCOHOL IN PUBLIC PLACES BYLAW

Please refer to the current 2013 Bylaw, the draft 2018 Bylaw, and the Statement of Proposal.

Submissions Close 5.00 pm, Friday 19 October 2018

How to lodge your submission:

Online: consult.kapiticoast.govt.nz click on title goes here

You can also email, post or deliver your submission as follows:

Email: kapiti.council@kapiticoast.govt.nz

Post: ~~Kāpiti Coast District Council~~
Private Bag 60-601,
PARAPARAUMU 5254

Deliver: ~~Paraparaumu Service Centre, 175 Rimu Road~~
~~Waikanae Service Centre, Mahara Place~~
Ōtaki Service Centre, 81-83 Main Street

If hand-writing, please write your contact details in clear BLOCK CAPITAL letters

Submitter details					
Is this an individual submission?		Yes		No	
If this submission is on behalf of an organisation, please state the name of the organisation:					
Organisation:					
Title (tick one)		Mr		Mrs	Other (please specify)
First Name:					
Last Name:					
Address (*indicate your preference for response)					
* Address:					
* Email:					
Phone number:				Mobile:	

Do you want to speak to the council about your submission at the consultation hearings?	Yes	No
Signature of submitter (or person authorised to sign on behalf of the submitter)		
<div style="border-top: 1px dashed black; height: 40px;"></div>		
		Date:2018
(Note: A signature is not required if you make your submission online or by email)		

Question 1: Do you agree with the proposed amendments to the Control of Alcohol in Public Places Bylaw 2013?		
Please indicate	Yes	No
Comments		
<div style="border: 1px dashed black; height: 100px;"></div>		
Need more room? You can send us extra pages if there is not enough space on this form to give all the feedback you want to. Please make sure your name and contact information is included.		

Question 2: Is there anything you would like to see added or removed from the draft Control of Alcohol in Public Places Bylaw 2018?		
Please indicate	Yes	No
Comments		
<div style="border: 1px dashed black; height: 100px;"></div>		
Need more room? You can send us extra pages if there is not enough space on this form to give all the feedback you want to. Please make sure your name and contact information is included.		

Question 3: Is there any more feedback you would like to provide in relation to the review of the Control of Alcohol in Public Places Bylaw 2013?		
Please indicate	Yes	No
Comments		
<div style="border: 1px dashed black; height: 100px;"></div>		
Need more room? You can send us extra pages if there is not enough space on this form to give all the feedback you want to. Please make sure your name and contact information is included.		

Privacy Statement: Please note that all submissions (including names and contact details) will be made publicly available. A summary of submissions including the name of the submitter may also be made publicly available and posted on the Kaipō Coast District Council website. Personal information will be used for administration relating to the subject matter of the submissions, including notifying submitters of subsequent steps and decisions. All information will be held by the Kaipō Coast District Council, with submitters having the right to access and correct personal information.

COUNCIL REPORT - ATTACHMENT 3



**Submission of Kapiti-Mana
Police - Kapiti Coast District
Council's Alcohol Free Zones**

Introduction

1. The following is a report regarding the New Zealand Police position with respect to the renewal of the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013.
2. In July 2013 the Kapiti Coast District Council introduced a bylaw prohibiting the consumption, and possession of, alcohol in specific public places with the following guidelines:
 - Overnight alcohol-free zones from 2100 – 0600hrs for all beaches throughout the district
 - Overnight alcohol-free zones from 2100 – 0600hrs for all public places in the urban areas from Paekakariki to Te Horo
 - Alcohol-free zones with 24hr coverage, 7 days per week for all skate parks in the district
 - Alcohol-free zones with 24hr coverage, 7 days per week for specified areas in Otaki
3. The bylaw was introduced in order to enhance public safety and to allow for the responsible enjoyment off public places. The objective of the bylaw, as per the Kapiti Coast District Council Control of Alcohol Public Places Bylaw 2013 was *“to enhance the safety of the public and allow their responsible enjoyment of public places in the district”*.
4. The current enforceable area of this Bylaw is illustrated in Figure 1 (over page).

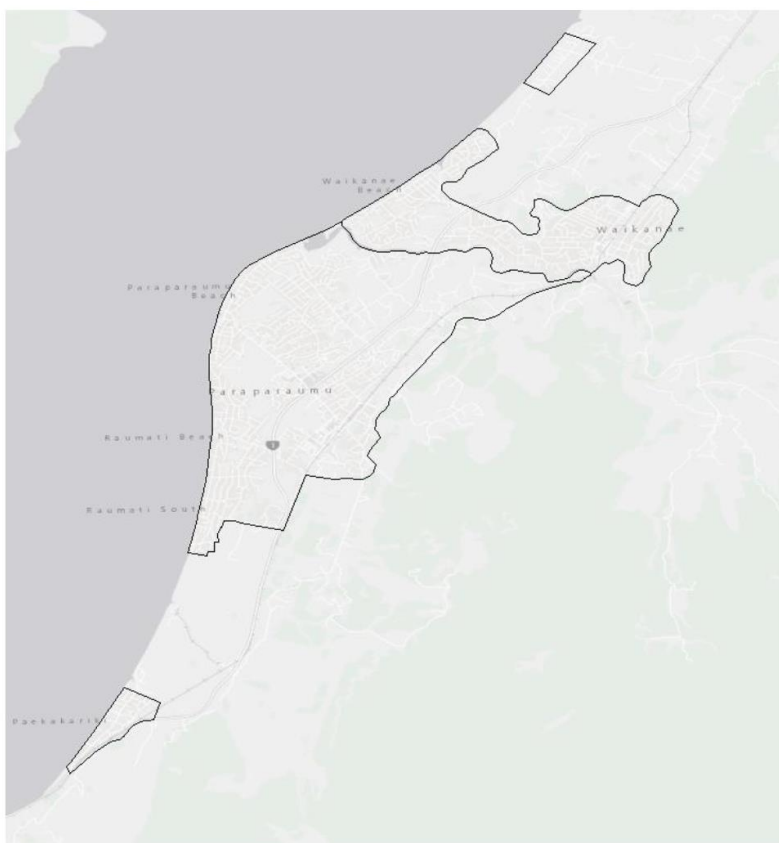


Figure 1: Liquor Ban Area

5. The existing Alcohol Free Zones have provided an effective tool for Police to help reduce the prevalence of alcohol related harm. The method of which this is used vary greatly depending on the presentation of the breach, but may include:
 - A verbal warning (used in the majority of cases – and not recorded)
 - A written warning in the form of an Alcohol Infringement Notice
 - An instant fine in the form of an Alcohol Infringement Notice
 - Previously this offence was also enforced by arrest
6. The graduated response of the enforcement allows for the vast majority of its application to be in a form that does not adversely affect the offender, but still addresses the issue and helps to prevent alcohol related harm. However, it still enables Police to use its full range of options and powers in those cases where the nature of the breach, and often the intoxication of the offender, requires that the person is detained to prevent further offending.

Background

7. Alcohol free zones prohibit the possession or consumption of alcohol in specific public places. Consumption of alcohol in public places is an

influencing factor in public perceptions of safety.² Alcohol free zones are effective in reducing negative impacts associated with alcohol including offensive behaviour, feeling unsafe, excessive noise, littering and property damage, threats to personal safety and crime.³

8. International research identifies that the success of alcohol free zones is linked to the length of time that the ban has been in place (the longer the better) and whether the ban is part of a wider initiative such as closed circuit television installation and monitoring and hotel checks.⁴ Furthermore, success of alcohol free zones are linked to public awareness of these bans through methods including publicity campaigns and signage.

Methodology

9. For statistical analysis Police have referred to certain offences as likely being alcohol related. These offence codes were chosen by Police National Headquarters (PNHQ) statistical group and were rigorously tested as being events where offenders have (likely) consumed alcohol prior to committing the offence, therefore alcohol was a 'driver of the demand' or a causal factor in it being committed.

10. The offence codes referred to are:

- 1H - Drunk at home
- 1K - Taking a drunk into custody / detox centre
- 1R - Breach of the peace
- 1410 - Grievous assaults
- 1510 - Serious assaults
- 1640 - Minor assaults
- 1710 - Intimidation / Threats
- 1820 - Unlawful assembly
- 1830 - Crime against personal property
- 1840 - Criminal harassment
- 3530 - Disorder
- 3910 - Alcohol offences

11. For the offence codes identified data was analysed for the period of 1 July 2008 – 20 June 2013 and then for 1 July 2013 – 30 June 2018 from calls for service coded to the Kapiti Police station area. These time periods allowed for analysis before and after the implementation of the alcohol free zones.

12. Geospatial analysis identifies locations with concentrations of alcohol harm. The hotspot maps and data clocks have been analysed using a

² Local Alcohol Policy Research report – Auckland City Council

³ Survey undertaken by Neilsen in 2011 Local Alcohol Policy research Report – Auckland city Council

⁴ Keeping the Peace: A guide to the prevention of alcohol-related disorder

quantile classification so that the total number of events are divided evenly amongst the classes.

Analysis

13. Calls for service in the Kapiti Police station area reduced by 9.5% between the two groupings of incidents with a 22.2% reduction between 2012/2013 to 2017/2018 year groupings. While there has been reduction in calls for service it is not possible to attribute this solely to the introduction of the alcohol free zones without analysis of other initiatives and conditions within the area.
14. 98.3% of incidents between 1 July 2008 and 30 June 2013 occurred within the alcohol free zones. There was no change to this with the introduction of the alcohol free zones. This would suggest that the defined area has been applied to encompass the largest area rather than specific locations of alcohol related offending.
15. Over the analysed period there were 84 calls for service in relation either breaches of the alcohol free zones and alcohol offences, the majority of these occurred post-2013 with an average of 12 per year. There are no records relating to how these matters were proceeded against by Police as recording of these resolutions are not specified or quantified in Police statistics.
16. The breach of the peace and disorder groups account for 63.8% of the analysed calls for service. Figure 2 shows a comparison of the four largest groups of incidents/offences.

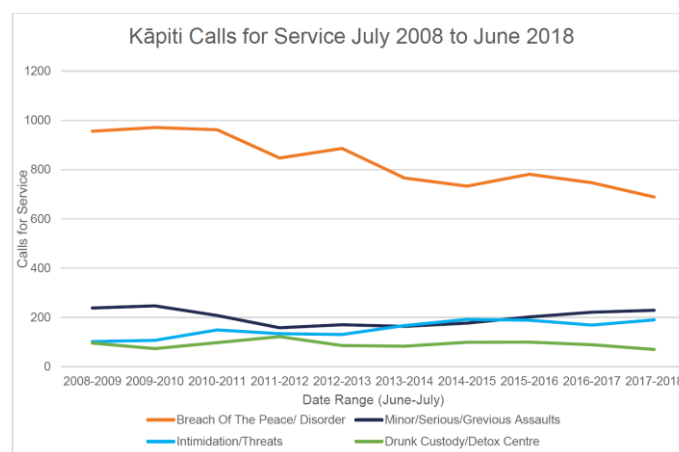
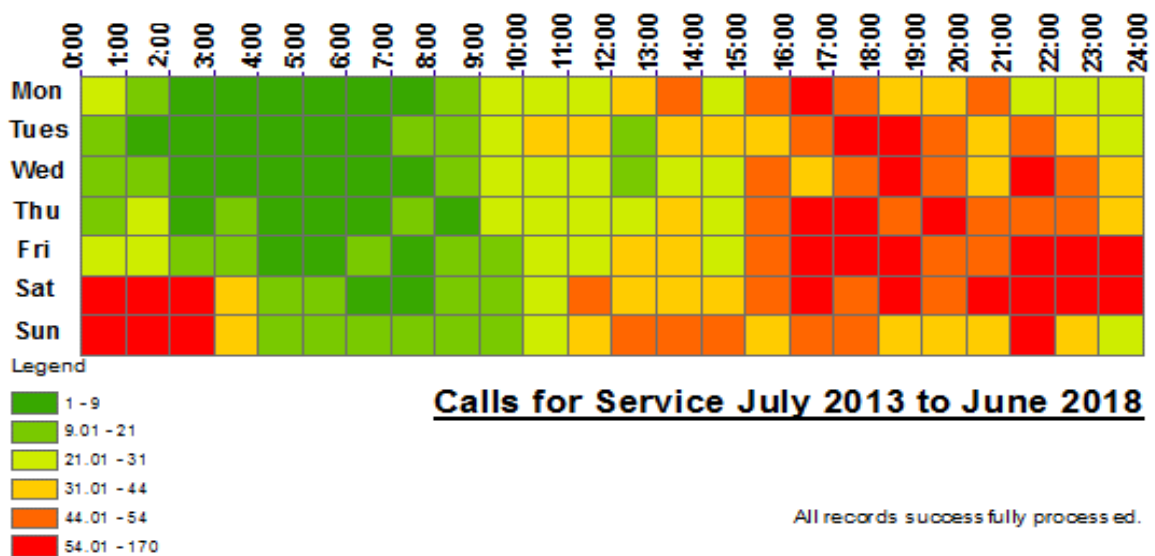
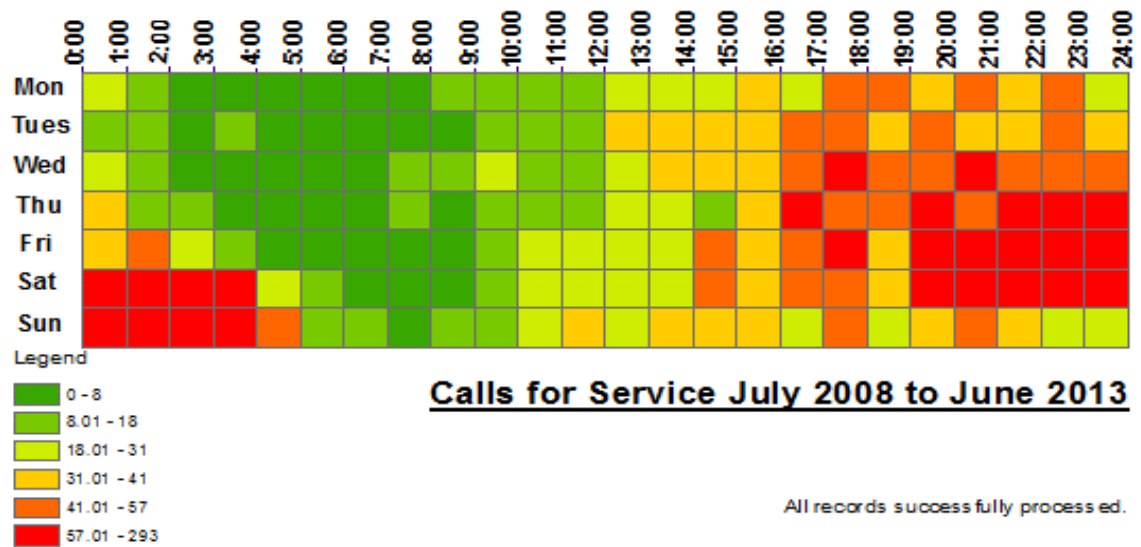
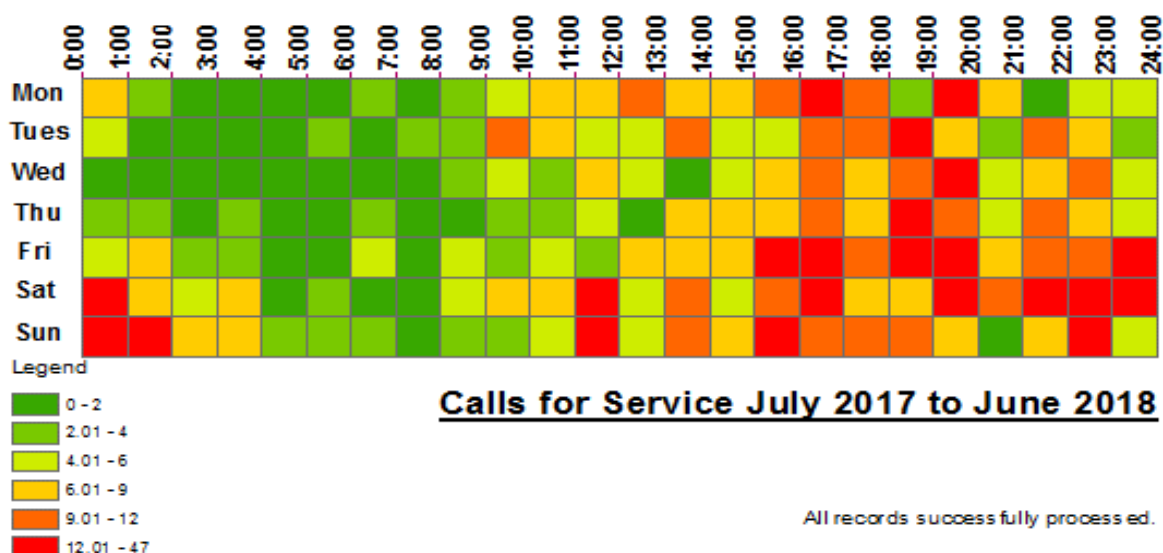


Figure 2: Calls for service July 2008 - June 2018

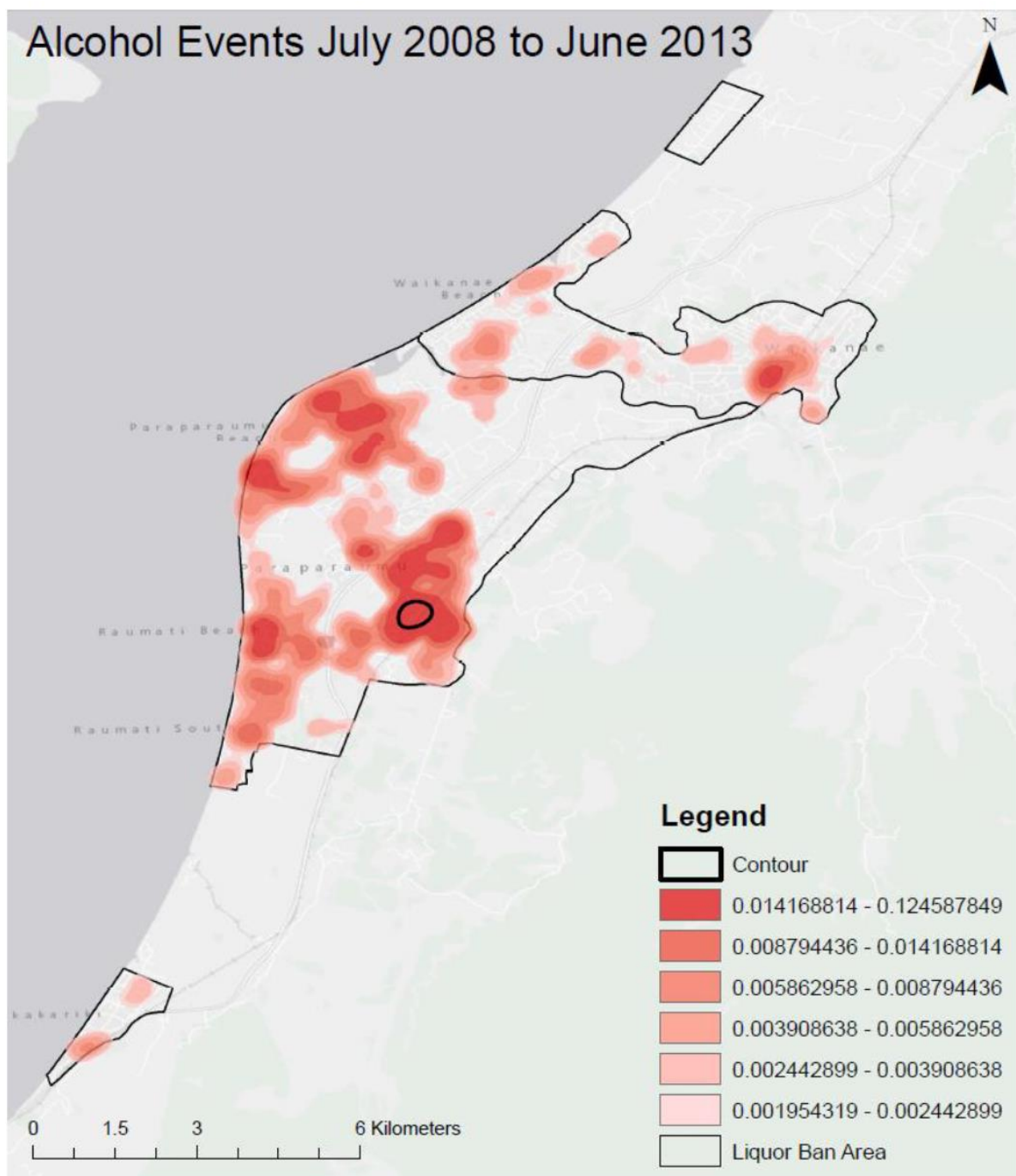
17. The data clocks (over page) identify the priority times for calls for service to Police in Kapiti. They identify that the peak times remain in the evening/night time with 38.7% of calls occurring between 2100hrs and

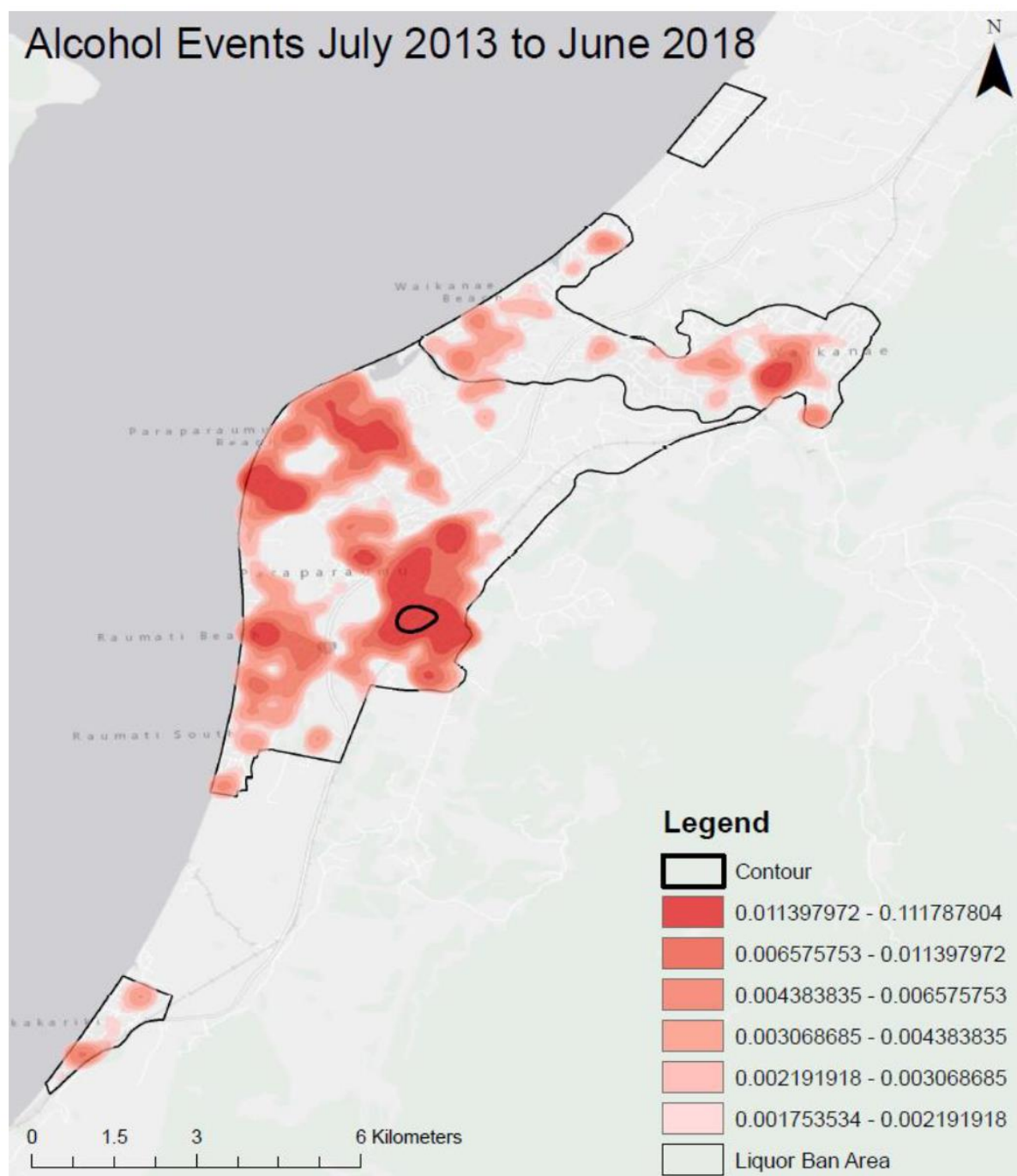
0200hrs with 65.2% of these calls being received on Friday and Saturday evenings.

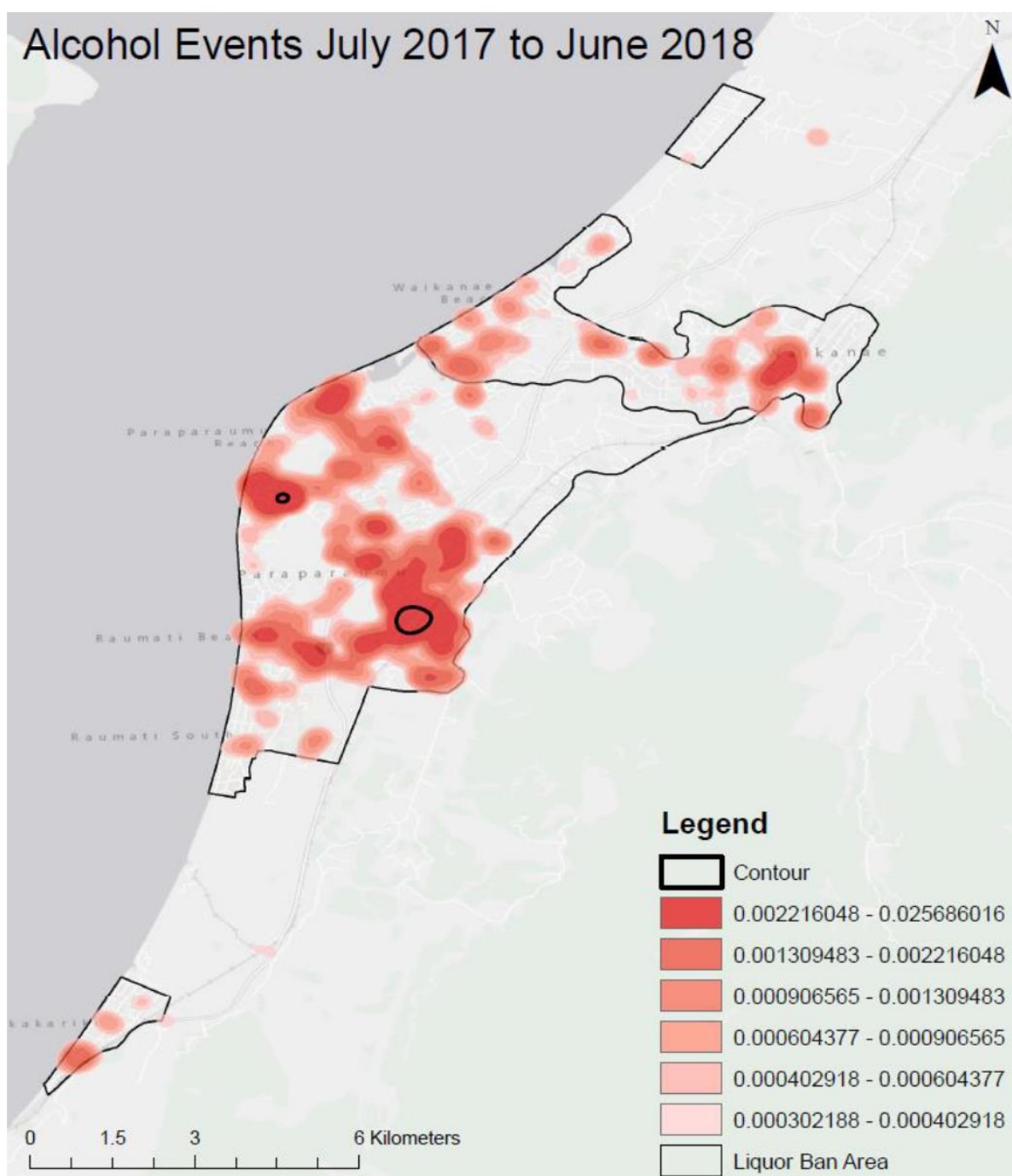




18. Geospatial analysis has identified where high volumes of calls for service have been received. The black shapes on the maps identify priority locations for the kapiti scene station based upon density of calls for service.
19. The identified location in central Paraparaumu across the three maps is within close proximity to at least nine licensed premises. The second smaller circle on the 2017/2018 map is also located close to an agglomeration of licensed premises (approximately 23 within a 500m radius).







Signage

20. For an alcohol free zone to be enforced Police must prove that the offender knew they were in an alcohol free zone and deliberately breached this by bringing or consuming alcohol in that area. A key part of this is adequate signage clearly designating the start and/or end of the area. Currently signage is placed on poles at or above head height and can be difficult to see when sober, let alone when affected by alcohol.

21. Police submit that signage on footpaths is much more visible and easily noticed by people with alcohol in their hands. Such signage is prominent in

some metropolitan cities within NZ (Christchurch) and Police in those areas report a subsequent higher compliance rate.

22. Examples of both spray painted footpath signage and water blasted footpath signage are included below.



23. Given that international studies indicate that the success of alcohol free zones is influenced by the length of time the zones have been in place, this would be a long term cost efficient way of further raising public awareness of the areas.

Conclusion

24. Police believe that the Kapiti Coast District Council bylaw is a contributing factor to the reduced calls for Police service between 2012/2013 and 2017/2018 – in relation to alcohol related events.
25. It is evident that the current application of the Alcohol free Zone Areas that the vast majority of offenders are simply warned and advised to dispose of their alcohol. This is in line with the Police graduated response model which has an educational focus with the key aim of reducing harm and making the Kapiti Coast a safer area for all citizens. Formal enforcement action (by way of Alcohol Offence Infringement notice) is deemed to be a last resort by Police.
26. Police also believe that the current alcohol free zone legislation implemented by the Kapiti Coast District Council aligns with the object of the Sale and Supply of Alcohol Act 2012 which is “...that (a) the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and (b) the harm caused by the excessive or inappropriate consumption of alcohol should be minimised”. For the purpose of this act the harm caused by the excessive or inappropriate consumption of alcohol includes “...(b) and harm society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a)”.
27. Police believe that increased signage options, as suggested, will help to raise awareness of the alcohol free area’s while enabling fair and effective enforcement of the existing alcohol free zones.
28. Police support the current District Council bylaw regarding the alcohol free zones and fully support a continuation of the current conditions.

Inspector Tracey Thompson
Area Commander for the Kapiti-Mana Police

COUNCIL REPORT - ATTACHMENT 4



23 August 2018

Ms Brandy Griffin
Senior Policy Advisor
Kapiti Coast District Council

Dear Ms Griffin,

RE: Police support for the Control of Alcohol in Public Places Bylaw in the Otaki area

Thank you for the opportunity to provide comment on the review of the current Control of Alcohol in Public Places Bylaw (2013) being undertaken by Kapiti Coast District Council. I understand that the new draft bylaw is proposing no changes.

I've reviewed the submissions of Kapiti Police which also specifically reference the current alcohol free zones in Otaki and conclude with *"Police support the current District Council bylaw regarding the alcohol free zones and fully support a continuation of the current conditions"*.

There are a number of general matters outlined in paragraphs 5 – 8 and 20 – 23 in those submissions that are applicable and relevant to the Otaki area.

Some limited data analysis was undertaken by Kapiti Police for inclusion in their submissions. They record a reduction of calls for service in the Kapiti Police station area for a range of certain offences where offenders have *likely* consumed alcohol before committing the offence. Police believe that the bylaw is a contributing factor to the reduced calls for service in the area but this cannot be attributed solely to the introduction of alcohol free zones as there are a multitude of other influencing factors.

Any similar data analysis undertaken in regards to the Otaki Police station area would be considering a much smaller data set and would arrive at the same conclusion in terms of being unable to attribute any change in the levels of calls for service to the introduction or existence of alcohol free zones.

However, clear anecdotal evidence from police staff working in Otaki supports the efficacy of the current alcohol free zones in helping to prevent and reduce alcohol related harm in those areas.

Otaki Police report that the bylaw provides police with a tool for early intervention to prevent alcohol related harm and has reduced the consumption of alcohol in those public places and the associated harm.

The practical application of the bylaw by police is through a graduated model where education and prevention are preferred before any enforcement action is taken. There are instances where enforcement action is the appropriate course of action to prevent harm or further offending and the bylaw provides an effective mechanism for this.

In conclusion, police support the continuation of the current Control of Alcohol in Public Places Bylaw for the Otaki area.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sam Paroli', with a long horizontal stroke extending to the right.

Sam Paroli
Senior Sergeant
Prevention Manager, Horowhenua