

**Mayor and Councillors**  
**COUNCIL**

6 DECEMBER 2018

Meeting Status: **Public**

Purpose of Report: For Decision

## **CONTROL OF ALCOHOL IN PUBLIC PLACES BYLAW 2018**

### **PURPOSE OF REPORT**

- 1 This report seeks Council's approval to:
  - a) repeal the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013; and
  - b) adopt the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018 (Appendix 1).

### **DELEGATION**

- 2 Under Section B1 of the Governance Structure and Delegations for the 2016-2019 Triennium, the Strategy and Policy Committee is responsible for the development and review of strategies, plans, policies and bylaws. However, Section A2 states the responsibility for adopting a bylaw lies with Council.

### **BACKGROUND**

- 3 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.
- 4 The Strategy and Policy Committee approved the release of the Statement of Proposal for the review of the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013 for public consultation on 6 September 2018 (refer to SP-18-594).
- 5 A special consultative procedure was undertaken, with the public submission period from 10 September 2018 to 19 October 2018. Four submissions were received. Hearings were held on 1 November 2018, with two submitters speaking to their submissions.

### **ISSUES AND OPTIONS**

- 6 This section provides information on:
  - a) The purpose of the bylaw;
  - b) The proposed amendments to the 2013 Bylaw;
  - c) The submissions received; and
  - d) The determinations required in Section 155 of the LGA 2002.

## Purpose of the bylaw

- 7 The purpose of the Control of Alcohol in Public Places Bylaw is to promote a culture of responsible drinking, enhance the safety of the public, and allow for the responsible enjoyment of public places in the District. This is achieved by establishing alcohol free zones (AFZs), which prohibit the possession or consumption of alcohol in specific public places at specified dates and times.
- 8 Specifically, the 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, Otaihangā, 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.
- 9 The Bylaw was designed to work in conjunction with other strategies by 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.
- 10 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.

## Proposed amendments

- 11 As discussed at the Strategy and Policy Committee meeting on 6 September 2018, no significant amendments have been proposed in the draft 2018 bylaw. The only amendments proposed are minor amendments to align the bylaw with changes to the LGA that occurred after the bylaw was adopted in 2013. (Refer to SP-18-594, and see Appendix 2 for a comparison between the 2013 bylaw and the proposed 2018 bylaw.)

## Submissions received

- 12 Four submissions were received during the public consultation period, in addition to two submissions from Kapiti Mana Police and Horowhenua (Ōtaki) Police that were received prior to the formal consultation period. (See Appendix 3 for more information on each submission.)
- 13 All six submissions supported the adoption of the draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018.
- 14 In the six submissions, five additional comments were made:

- a) One submitter suggested Council consider an extension of the boundaries of the Ōtaki AFZ; however, following further discussions with Horowhenua (Ōtaki) Police, the Ōtaki Primary School Principal, and several members of the Ōtaki College Board of Trustees, Council has concluded that there does not appear to be widespread support for such an extension.<sup>1</sup>
- b) For the six areas in the District that have AFZs in place from 9.00pm to 6.00am, one submitter suggested an extension from 8.00pm to 9.00am but, following further discussions with Police, Council concluded that this change is not required as it is unlikely to have significant effect.<sup>2</sup>
- c) One submitter supported the draft 2018 Bylaw, but would also like to see increased rubbish services around parks and beach access areas during the summer to address any overflowing rubbish bins with alcohol containers. This comment has been directed to Parks and Open Spaces.
- d) Two submitters argued for an increase in highly visible and simple signage. Roading and the Alcohol Licencing teams will be working together to improve signage across the District, starting in the high density liquor outlet areas.
- e) Three submitters emphasised a need for a Kapiti Coast District Council Local Alcohol Policy.

## Section 155 of the Local Government Act 2002 determinations

- 15 When making or reviewing bylaws, Council is required by section 155 of the LGA 2002 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 the New Zealand Bill of Rights Act.
- 16 On 6 September 2018, Council determined 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.
- 17 In addition, Council determined that the current form of the Control of Alcohol in Public Places Bylaw continues to be the most appropriate. This view has since been reinforced by the submissions received.
- 18 While one could argue that the bylaw does infringe on the rights of people to group together in, or move through, certain public places while possessing or consuming alcohol, Council determined that 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 determined 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

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<sup>1</sup> Council officers also invited members of the Ōtaki Health and Wellbeing Group to provide commentary on the Ōtaki AFZs via email, but no replies were received.

<sup>2</sup> The Kapiti Mana Police data from July 2008 to June 2018 finds that there are very few calls for service due to alcohol related harm between 6.00am and 9.00am. While there are somewhat higher calls for service from 8.00pm to 9.00pm, an extension of the AFZs in the evening hours would impinge on those who are drinking but not causing any harm.

establishment of AFZs in the District has contributed to a reduction in alcohol-related offences.

## **CONSIDERATIONS**

### **Policy considerations**

- 19 There are no additional policy considerations with respect to the proposed Control of Alcohol in Public Places Bylaw 2018.

### **Legal considerations**

- 20 The LGA 2002 sets out a detailed process for reviewing bylaws. This review has taken these requirements into account, and Council's Legal Counsel has been involved at all stages of the review to ensure legislative compliance.

### **Financial considerations**

- 21 The review has been carried out within existing budgets, as will implementation.

### **Tāngata whenua considerations**

- 22 Te Whakaminenga o Kāpiti discussed the draft 2018 Bylaw at their meeting on 2 October 2018 (refer to SP-18-620). At the meeting, it was agreed that each individual iwi could provide feedback separately. No feedback from any iwi was received.

### **Strategic considerations**

- 23 *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 for the responsible enjoyment of public places in our District.

## **SIGNIFICANCE AND ENGAGEMENT**

### **Significance policy**

- 24 In accordance with the LGA 2002, a special consultative procedure was required for the Control of Alcohol in Public Places Bylaw review.

### **Consultation already undertaken**

- 25 Council officers have consulted with Kapiti-Mana Police, Horowhenua (Ōtaki) Police, and Regional Public Health on this bylaw review.
- 26 A communications plan was developed to encourage community participation in the consultation process. The special consultative procedure was undertaken, with the submission period from 10 September 2018 to 19 October 2018. Hearings were held on 1 November 2018, with two submitters speaking to their submissions.

## Publicity

- 27 If Council chooses to adopt the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018,
- a) The new 2018 bylaw will be uploaded to the Council website, and
  - b) Council will give public notice of when the new bylaw will come into operation, as required by the LGA 2002.
- 28 Council will also increase publicity to encourage public compliance with the bylaw through the #lovemybeach summer campaign.

## RECOMMENDATIONS

- 29 That Council:
- c) repeals the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013; and
  - d) adopts the Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018.

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

## ATTACHMENTS

- Appendix 1 Draft Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2018
- Appendix 2 Kapiti Coast District Council Control of Alcohol in Public Places Bylaw 2013, with track changes to show the proposed amendments
- Appendix 3 List of submitters and submission summaries

## **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** December 2018.
- 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 6 December 2018 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 6 December 2018 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:

<b>Alcohol</b>	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012
<b>Alcohol free zone</b>	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
<b>Authorised officer</b>	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"> <li>(a) includes any Council Enforcement Officer; and</li> <li>(b) includes any agents licensed by Council to carry out a duty or operate a public place on Council's behalf.</li> </ul>
<b>Chief Executive</b>	Means the Chief Executive of Kapiti Coast District Council or a person acting under delegated authority on behalf of the Chief Executive
<b>Commencement</b>	Means the date this Bylaw comes into effect under clause 1.2
<b>Council</b>	Means the Kapiti Coast District Council or any committee, community board, or an officer authorised to exercise the authority of the Council
<b>District</b>	Means the Kapiti Coast District
<b>Enforcement Officer</b>	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
<b>Licensed premises</b>	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012
<b>Offence</b>	Means a breach of clause 5.1 of this Bylaw that constitutes an infringement offence under section 239A of the Local Government Act 2002
<b>Police</b>	Means any constable or other member of the New Zealand Police
<b>Public place</b>	In accordance with section 147(1) of the Local Government Act 2002, public place: <ul style="list-style-type: none"> <li>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</li> <li>b) does not include licensed premises</li> </ul>

<b>Specified times</b>	<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>
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- 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: <ul style="list-style-type: none"> <li>(a) Any area within 10 metres of the boundary of Paekākāriki skate park and adjacent playground located on the corner of Campbell Park</li> <li>(b) Paraparaumu Beach skate park and Maclean Park</li> <li>(c) Waikanae skate park and Waikanae Park</li> <li>(d) Ōtaki skateboard park and reserve</li> </ul>	Every day of the year, 24 hours a day
3. The public places located in or adjacent to the urban areas of Paekākāriki (Map 1) encompassed by: <ul style="list-style-type: none"> <li>(a) State Highway One in the East</li> <li>(b) The corner of Ames Street and State Highway One in the south</li> <li>(c) The beach, foreshore and dunes in the West</li> <li>(d) Henare Street, Horomona Road, Haumia Street, Tilley Road and Wellington Road in the North</li> </ul>	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: <ul style="list-style-type: none"> <li>(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</li> <li>(b) The Esplanade, McKenzie Avenue and Rainbow Court in the South</li> <li>(c) The beach, foreshore and dunes in the West</li> <li>(d) Waikanae River in the North</li> </ul>	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: <ul style="list-style-type: none"> <li>(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</li> <li>(b) The Waikanae River in the South</li> <li>(c) The beach, foreshore and dunes in the West</li> <li>(d) Manu Grove, Awanui Drive, Runanga Grove, Cranbrook Grove, Amokura Street and Fieldway in the North.</li> </ul>	Every day from 9.00 pm to 6.00 am the following day

<p><b>6. The public places located in or adjacent to the township of Peka Peka (Map 4) encompassed by:</b></p> <ul style="list-style-type: none"> <li>(a) 146 Paetawa Road in the South</li> <li>(b) Paetawa Road in the East</li> <li>(c) The beach, foreshore and dunes in the West</li> <li>(d) Beachview Grove and Pingao Lane in the North</li> </ul>	<p>Every day from 9.00 pm to 6.00 am the following day</p>
<p><b>7. The public places located in or adjacent to the township of Te Horo Beach (Map 5) encompassed by:</b></p> <ul style="list-style-type: none"> <li>(a) Kitchener Street in the South</li> <li>(b) Gawler Street in the East</li> <li>(c) The beach, dunes and foreshore in the West</li> <li>(d) Te Horo Beach Road in the North</li> </ul>	<p>Every day from 9.00 pm to 6.00 am the following day</p>
<p><b>8. The public places located in or adjacent to the urban areas of Main Street/Mill Road, Aotaki Street, Raukawa Street, Rangatira Street and Waerenga Road, Otaki (Map 6) encompassed by:</b></p> <ul style="list-style-type: none"> <li>(a) Main Street/Mill Road: from the roundabout that marks the entrance into the Te Wānanga O Raukawa in the west to the junction with State Highway One in the east</li> <li>(b) This area bounded by the entrance to the Te Wānanga O Raukawa, Raukawa Street and Rangatira Street to the north and south respectively</li> <li>(c) Waerenga Road: from the corner of Aotaki Street in the West to State Highway One in the East</li> <li>(d) Aotaki Street: from the junction with Main Street in the north to Riverbank Road in the South.</li> </ul>	<p>Every day of the year, 24 hours a day</p>
<p><b>9. State Highway One and Retail Area, Otaki (Map 7):</b></p> <ul style="list-style-type: none"> <li>(a) State Highway One: from the junction with Mill Road and Rahui Road to the junction with Waerenga Road</li> <li>(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</li> </ul>	<p>Every day of the year, 24 hours a day</p>

## MAPS (1-7) CORRESPONDING TO THE SCHEDULE



**Alcohol Free Zones  
Paekakariki  
Map 1**

**NORTH**  
1:10,000

**Kāpiti Coast**  
DISTRICT COUNCIL  
Me Huri Whakamuri, Ka Titiro Whakamua





**Alcohol Free Zones**  
**Otaihanga / Paraparaumu / Raumati**  
**Map 2**

**NORTH**  
 1:40,000

**Kāpiti Coast**  
 DISTRICT COUNCIL  
Me Huri Whakamuri, Ka Tītiro Whakamua





**Alcohol Free Zones  
Waikanae and Waikanae Beach  
Map 3**

**NORTH**  
1:35,000

**Kāpiti Coast**  
DISTRICT COUNCIL  
Me Huri Whakamuri, Ka Titiro Whakamua





**Alcohol Free Zones  
Peka Peka  
Map 4**

**NORTH**  
1:10,000

**Kāpiti Coast**  
DISTRICT COUNCIL  
Me Huri Whakamuri, Ka Tiro Whakamua





**Alcohol Free Zones  
Te Horo Beach  
Map 5**







**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 Titiro Whakamua





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

**NORTH**  
1:3,500

**Kāpiti Coast**  
DISTRICT COUNCIL  
Me Huri Whakamuri, Ka Titiro Whakamua

**ATTACHMENT 2****CONTROL OF ALCOHOL IN PUBLIC PLACES BYLAW  
~~2013~~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 ~~2013~~2018.
- 1.2 This Bylaw shall come into effect on ~~27 July 2013~~XX.
- 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 2007~~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 ~~18 June 2013~~6 December 2018 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 6 December 2018 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:

<b>Alcohol</b>	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012, <del>and for the period from commencement to 17 December 2013 includes "liquor" as defined in section 147(1) of the Local Government Act 2002</del>
<b>Alcohol free zone</b>	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
<b><u>Authorised officer</u></b>	<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>
<b><u>Chief Executive</u></b>	<u>Means the Chief Executive of Kapiti Coast District Council or a person acting under delegated authority on behalf of the Chief Executive</u>
<b>Commencement</b>	Means the date this Bylaw comes into effect under clause 1.2
<b><u>Council</u></b>	<u>Means the Kapiti Coast District Council or any committee, community board, or an officer authorised to exercise the authority of the Council</u>
<b><u>District</u></b>	<u>Means the Kapiti Coast District</u>
<b><u>Enforcement Officer</u></b>	<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>
<b>Licensed premises</b>	Has the meaning given to it under section 5(1) of the Sale and Supply of Alcohol Act 2012
<b>Offence</b>	Means a breach of clause 5.1 of this Bylaw that constitutes, <del>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</del> <u>the Local Government Act 2002</u>
<b>Police</b>	Means any constable or other member of the New Zealand Police

<b>Public place</b>	<p><del>Has the meaning given to it under</del><u>In accordance with</u> section 147(1) of the Local Government Act 2002, <del>which from commencement to 17 December 2013</del><u>public place</u>:</p> <p><del>means a place:</del></p> <p><del>that is under the control of the Council; and</del></p> <p><del>that is open to, or being used by, the public, whether or not there is a charge for admission; and</del></p> <p><del>includes:</del></p> <p><del>a road, whether or not the road is under the control of the Council; and</del></p> <p><del>any part of a public place</del></p> <p><del>and from 18 December 2013 onwards:</del></p> <p><u>j)c)</u> 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><u>k)d)</u> does not include licensed premises</p>
<b>Specified times</b>	<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 ~~2013~~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: <ul style="list-style-type: none"> <li>(e) Any area within 10 metres of the boundary of <a href="#">Paekakariki</a> <a href="#">Paekākāriki</a> skate park and adjacent playground located on the corner of Campbell Park</li> <li>(f) Paraparaumu Beach skate park and Maclean Park</li> <li>(g) Waikanae skate park and Waikanae Park</li> <li>(h) <a href="#">Otaki</a> <a href="#">Otaki</a> skateboard park and reserve</li> </ul>	Every day of the year, 24 hours a day
3. The public places located in or adjacent to the urban areas of <a href="#">Paekakariki</a> <a href="#">Paekākāriki</a> (Map 1) encompassed by: <ul style="list-style-type: none"> <li>(e) State Highway One in the East</li> <li>(f) The corner of Ames Street and State Highway One in the south</li> <li>(g) The beach, foreshore and dunes in the West</li> <li>(h) Henare Street, Horomona Road, Haumia Street, Tilley Road and Wellington Road in the North</li> </ul>	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: <ul style="list-style-type: none"> <li>(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</li> <li>(f) The Esplanade, McKenzie Avenue and Rainbow Court in the South</li> <li>(g) The beach, foreshore and dunes in the West</li> <li>(h) Waikanae River in the North</li> </ul>	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: <ul style="list-style-type: none"> <li>(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</li> <li>(f) The Waikanae River in the South</li> <li>(g) The beach, foreshore and dunes in the West</li> <li>(h) Manu Grove, Awanui Drive, Runanga Grove, Cranbrook Grove, Amokura Street and Fieldway in the North.</li> </ul>	Every day from 9.00 pm to 6.00 am the following day

<p><b>6. The public places located in or adjacent to the township of Peka Peka (Map 4) encompassed by:</b></p> <ul style="list-style-type: none"> <li>(e) 146 Paetawa Road in the South</li> <li>(f) Paetawa Road in the East</li> <li>(g) The beach, foreshore and dunes in the West</li> <li>(h) Beachview Grove and Pingao Lane in the North</li> </ul>	<p>Every day from 9.00 pm to 6.00 am the following day</p>
<p><b>7. The public places located in or adjacent to the township of Te Horo Beach (Map 5) encompassed by:</b></p> <ul style="list-style-type: none"> <li>(e) Kitchener Street in the South</li> <li>(f) Gawler Street in the East</li> <li>(g) The beach, dunes and foreshore in the West</li> <li>(h) Te Horo Beach Road in the North</li> </ul>	<p>Every day from 9.00 pm to 6.00 am the following day</p>
<p><b>8. The public places located in or adjacent to the urban areas of Main Street/Mill Road, Aotaki Street, <del>Ruakawa</del> Raukawa Street, Rangatira Street and Waerenga Road, Otaki (Map 6) encompassed by:</b></p> <ul style="list-style-type: none"> <li>(e) Main Street/Mill Road: from the roundabout that marks the entrance into the Te <del>Wananga</del> Wānanga O Raukawa in the west to the junction with State Highway One in the east</li> <li>(f) This area bounded by the entrance to the Te <del>Wananga</del> Wānanga O Raukawa, Raukawa Street and Rangatira Street to the north and south respectively</li> <li>(g) Waerenga Road: from the corner of Aotaki Street in the West to State Highway One in the East</li> <li>(h) Aotaki Street: from the junction with Main Street in the north to Riverbank Road in the South.</li> </ul>	<p>Every day of the year, 24 hours a day</p>
<p><b>9. State Highway One and Retail Area, Otaki (Map 7):</b></p> <ul style="list-style-type: none"> <li>(c) State Highway One: from the junction with Mill Road and Rahui Road to the junction with Waerenga Road</li> <li>(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</li> </ul>	<p>Every day of the year, 24 hours a day</p>

## MAPS CORRESPONDING TO THE SCHEDULE

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

**ATTACHMENT 3****Submissions received on the Control of Alcohol in Public Places Bylaw review**

<b>Submitter</b>	<b>Summary</b>	<b>Date received</b>	<b>Spoke at hearing</b>
Kapiti-Mana Police	<ul style="list-style-type: none"> <li>The existing alcohol free zone has provided an effective tool for Police to help reduce the prevalence of alcohol related harm.</li> <li>Police support the current Council bylaw regarding the alcohol free zones and fully support a continuation of the current conditions.</li> <li>Police believe that increased signage options will help to raise awareness of the AFZs, while enabling fair and effective enforcement.</li> </ul>	24 July 2018, pre special consultative procedure	No, but spoke to Council on 6 September 2018
Horowhenua (Ōtaki) Police	<ul style="list-style-type: none"> <li>Clear anecdotal evidence from police staff working in Ōtaki supports the efficacy of the current alcohol free zones in helping to prevent and reduce alcohol related harm in those areas.</li> <li>Police support the continuation of the current Control of Alcohol in Public Places Bylaw for the Ōtaki area.</li> </ul>	23 August 2018, pre special consultative procedure	No
Larry Keim	<ul style="list-style-type: none"> <li>Agrees with the proposed amendments to the bylaw</li> <li>Does not want to see anything added or removed from the draft 2018 bylaw</li> <li>Would like to see increased rubbish services during the summer period around parks and beach access areas because there is a tendency to have overflowing rubbish bins with alcohol containers.</li> </ul>	12 September 2018, during special consultative procedure	No

Susan Cook	<ul style="list-style-type: none"> <li>• Agrees with the proposed amendments to the bylaw, but would like to see the hours extended from 8pm to 9am</li> <li>• Encourages Council to develop a Local Alcohol Policy to protect the health and wellbeing of the Kapiti Coast community.</li> </ul>	19 October 2018, during special consultative procedure	No
Regional Public Health	<ul style="list-style-type: none"> <li>• RPH supports the Council's position to renew the bylaw, but encourages Council to: <ul style="list-style-type: none"> <li>○ consider any locations that might not be covered by the AFZs (particularly in Ōtaki);</li> <li>○ ensure the bylaw is successfully communicated to the public so that the details are understood;</li> <li>○ increase highly visible and simple signage;</li> <li>○ develop a Local Alcohol Policy; and</li> <li>○ reintroduce a smoke-free policy.</li> </ul> </li> </ul>	19 October 2018, during special consultative procedure	Yes
Kāpiti Coast Older Persons' Council	<ul style="list-style-type: none"> <li>• This submission urged Council to 'take an active role' in alcohol harm reduction.</li> <li>• This could be done by developing a Local Alcohol Policy (similar to the one in Southland) that would reduce the density of liquor outlets near residential areas, set sales restrictions in super markets and liquor outlets, and/or minimise alcohol advertising and sponsorship.</li> <li>• Council could also advocate for legislation that will reduce alcohol harm.</li> <li>• Council could distribute information on alcohol harm, such as the recent ALAC booklet on the effects of alcohol on aging populations.</li> </ul>	24 October 2018, during special consultative procedure	Yes