

Report No:	REP12-06-03
File No:	B965
Date:	18 June 2012
Decision Required	

REPORT SUMMARY

Report to: Environment & Planning Committee
Meeting Date: Thursday, 28 June 2012
Report Author Graham Caradus, Co-ordinator Environmental Health
Subject: **REVIEW OF TASMAN DISTRICT COUNCIL
CONSOLIDATED BYLAW CHAPTER 3 CONTROL OF
LIQUOR IN PUBLIC PLACES**

EXECUTIVE SUMMARY

The Police enforce the provisions of the Council's Control of Liquor in Public Places Bylaw (the Bylaw). The Bylaw provides a very useful tool for Police, but could be made more effective with some changes. Police report increasing issues with alcohol related crime and seek several extensions to the existing Bylaw. The major changes proposed compared to the existing Bylaw are to extend the hours for the Liquor ban area generally throughout the District by two hours to start at 7.00 pm, and to increase the size of the liquor ban areas in both Motueka and Takaka, and make parts of the Motueka liquor ban area and the Takaka liquor ban area subject to 24 hour liquor bans.

RECOMMENDATION/S

THAT the Tasman District Council, proceeds with review of the Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2007 and that the draft Bylaw contained in part 3 of this report be adopted as the draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places 2012 and be publicly notified to commence the special consultative procedure in accordance with requirements of the Local Government Act 2002.

DRAFT RESOLUTION

THAT the Environment & Planning Committee receives the Report REP12-06-03 Review of Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places report, and;

Instructs that a statement of proposal, a summary of information, and the draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places 2012 be notified to commence the special consultative procedure as set out in the Local Government Act 2002.

Report No:	REP12-06-03
File No:	B965
Report Date:	18 June 2012
Decision Required	

Report to: Environment & Planning Committee
Meeting Date: Thursday, 28 June 2012
Report Author: Graham Caradus, Co-ordinator Environmental Health
Subject: **REVIEW OF TASMAN DISTRICT COUNCIL
CONSOLIDATED BYLAW CHAPTER 3 CONTROL OF
LIQUOR IN PUBLIC PLACES 2007**

1. Purpose

- 1.1 This report details the reasons for, and process necessary to review the Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places December 2007 (incorporating amendments December 2008) (the Bylaw).

2. Background

- 2.1 The Police have requested that changes be made to the Bylaw. The Police letter of request dated 1 June 2012 is attached and labelled **Appendix 1**. Further discussions with the Officer in charge of the Motueka Police, Senior Sergeant Grant Andrew, have resulted in clarification of Police wishes for that area, and these are reflected in the draft Bylaw.
- 2.2 The transition of the Alcohol Reform Bill through parliament provides some incentive to undertake this review sooner rather than later. The Sale and Supply of Alcohol Act is expected to pass through parliament in the next few weeks, and receive Royal assent after about another month. Once that occurs, consequential amendment to the Local Government Act 2002 (LGA) will become effective after 12 months. The amendment to the LGA will restrict Councils to making liquor control bylaws for areas that have experienced a high level of crime or disorder which is made worse by alcohol consumption. That is far more restrictive than the current situation where Councils can make bylaws for liquor control purposes for, protecting the public from nuisance; protecting, promoting and maintaining public health and safety; and minimising the potential for offensive behaviour in public places.
- 2.3 The Police generally provide all of the enforcement work associated with the practical administration and enforcement of the Bylaw and arrangements are in place for Police to present comment and be available for Committee members to question at the time this report is presented.
- 2.4 The signs that are displayed throughout the district indicating the location of liquor ban areas have been in place for almost five years. Some of the signs have been defaced, others removed and most footpath signs have deteriorated. Some cost and effort is likely to be incurred in routine replacement and maintenance in the near future and it is logical to consider changes that could be made before repairs or replacement of signs is undertaken.

3. Present Situation/Matters to be Considered

- 3.1 Anecdotally we are aware that there is a relationship between alcohol consumption and crime in our communities. Whilst all crime cannot be attributed to alcohol consumption, the statistics quoted by Police typically associate 60% of crime with alcohol use, and it would be reasonable to suggest a similar relationship with vandalism in our communities. The costs of effecting repairs as a consequence of vandalism are significant for this Council. Damage includes graffiti, damage to toilets, trees, and buildings, plants pulled out, and broken glass in areas like playgrounds and reserves. The cost to Council for all repairs resulting from vandalism District wide amounted to \$102,575 for the 2010/11 year, and approx \$52,000 was attributed to the Motueka area. So far until the end of April this year, the total for the District is \$72,515 with approx \$33,500 in the Motueka area. I make the observation that the population of Motueka is about 16% of the District's total, but that almost half of the cost of repairs as a consequence of vandalism is spent there. Vandalism associated with privately owned premises or facilities are not included in the above statistics.
- 3.2 The 2002 Ministry of Health paper "*Tackling Alcohol-related Offences and Disorder in New Zealand*" states: "*While most New Zealanders manage to consume alcohol without harming themselves or others, alcohol misuse still results in considerable health, social and economic costs, which are borne by individuals, families and the wider community. On an annualised basis, the social costs of alcohol misuse in New Zealand have been estimated at between \$1.5 billion and \$2.4 billion*". As Tasman District has (in very round figures) about 1% of New Zealand's population, it could reasonably be extrapolated that the social costs of alcohol misuse in Tasman District, are of the order of \$15 million and \$24 million per year.
- 3.3 There is no silver bullet that will fix the general issue of alcohol related harm. The accepted solution is to try to accomplish various small gains through a wide range of strategies, all of which will have a cumulative effect. The changes that are proposed in the draft Bylaw can reasonably be expected to contribute to the reduction of alcohol related harm.
- 3.4 Little opposition is received from the public about liquor control bylaws, and the only real objection that could be made is on the philosophical grounds that the bylaw may limit personal freedom. The Police have been keen to point out that the powers provided by liquor control bylaws, are used with appropriate caution, and aimed at situations that would be considered by most members of the community to be anti-social, or are circumstances likely to be conducive of nuisance or offensive behaviour. I am told by Police that a hypothetical family picnic involving consumption of modest amounts of alcohol in a location such as Washbourn gardens; or a hypothetical wedding party having a celebratory glass of champagne on Kaiteriteri Beach; technically could breach the Bylaw, but such occasions would produce no response from Police unless there were concerns about the circumstances or behaviour of the persons involved.

- 3.5 Only two complaints have been received about the current liquor control bylaw, and have both related to the appearance or location of the stencilled signs that are spray painted onto the foot paths at the boundaries of liquor ban areas. The vast majority of comment received by staff is from people supporting the Bylaw, and more often than not, requesting that the liquor ban be extended to their own neighbourhoods.
- 3.6 Liquor ban bylaws are not intended to have any effect on either private land that is not a public place, or licensed premises, even if part of those licensed premises are in a public place under Council control within a liquor ban area. By way of clarification; the conditions of a liquor license prevail over the liquor ban.
- 3.7 The proposals to have parts of the District operating on a 24 hour liquor ban will result in Tasman District and Nelson City Council having similar provision in liquor control bylaws.
- 3.8 The definition of “Public Place” is altered, initially to a very minor extent to stay strictly in step with the current wording in the LGA as it relates to “*Power to make bylaws for liquor control purposes*” in section 147, and subsequently to align with the definition proposed in the proposed Sale and Supply of Alcohol Act (SSAA) that will consequentially amend that section of the LGA.
- 3.9 An additional affect of the proposed amendment of the bylaw making provisions contained in the LGA will be particularly significant. Currently many of the places identified in the liquor ban areas are included to prevent nuisance; protect, promote and maintain public health and safety; and minimise the potential for offensive behaviour in public places. That is a quite legitimate reason to make such a bylaw. Whilst Police are from time to time required to deal with crime and disorder within those areas currently included and proposed by the draft Bylaw as liquor ban areas, it is likely to be more challenging to argue that “a high level of crime or disorder” (refer to para 2.2) has occurred in many of those areas.

4. Financial/Budgetary Considerations

- 4.1 The most significant identifiable cost for Council in the ongoing administration of the Bylaw, is the erection and maintenance of signs. Increasing the size of the area controlled by a liquor ban, and in the case of Motueka, having two separate periods during which the ban will apply, will require an investment in signs, and staff time to erect them up power poles and stencil them on to footpaths. Replacing signs to meet standards that are shortly to be set by Regulation is likely to occur in the near future, so a certain amount of cost is inevitable within the foreseeable future. Comments made previously about the need for repair and replacement of existing signs are also relevant.
- 4.2 Signs for the current Bylaw have cost about \$5,000, excluding staff time, which has been absorbed into existing budgets. With the increased area to have signs posted, it is estimated that the cost of signs required for the draft Bylaw is likely to be in the order of \$8,000. Such funding can be found within current budgets. Staff time for undertaking erection of signs and stencilling signs on footpaths can be absorbed into existing budgets.

5. Options

- 5.1 **Do nothing.** The recommendation at the end of this report can be rejected and no review of the existing Bylaw will occur. It will continue to run for the remaining five years of its permitted 10 year duration. Review at that stage will be under the new bylaw making criteria relating to “high levels of crime or disorder”.
- 5.2 **Amend, rather than review the existing Bylaw.** The existing Bylaw will continue to run for the remaining five years of its permitted 10 year duration, expiring in December 2017. Review at that stage will be under the new bylaw making criteria relating to “high levels of crime or disorder”.
- 5.3 **Undertake a review of the existing Bylaw.** The Bylaw in its new form once promulgated would restart a 10 year cycle before review is again required in October 2022. However, a catchall in the SSAA will provide only for a five year lifespan after the amended Bylaw provisions of the LGA come into effect (one year after Royal ascent). The net result is an expected lifespan of a renewed bylaw of six years from the date the new SSAA comes into force.

6. Pros and Cons of Options

- 6.1 Doing nothing will leave the Bylaw unaltered, and the Police dissatisfied with their ability to effectively deal with the sort of issues that the Bylaw is primarily intended to manage. It is the lowest cost option, but achieves no improvement in controlling nuisances; protecting, promoting and maintaining public health and safety; and minimising the potential for offensive behaviour in public places. The imposition of the new standard relating to “high levels of crime or disorder” will have to be met in approximately five years time.
- 6.2 It is likely that the administrative costs (EPC meeting, consultative process, E PC hearing and subsequent approval of a final draft by Council) in **reviewing** the bylaw will be substantially the same as undertaking an **amendment** of the Bylaw.
- 6.3 The **amendment** process will leave Council with a Bylaw that can only run for another five years, whereas the **renewal** process allows the resulting Bylaw to run for 6 years. It is better to delay having to meet that higher threshold of “a high level of crime or disorder” for as long as possible, and for that reason, renewal rather than amendment is the recommended option.
- 6.4 After the new bylaw making provisions of the LGA come into effect, the process for renewing a bylaw and **continuing** liquor ban areas may be a slightly easier task in comparison to the process for **establishing new** liquor ban areas. To **continue** a liquor ban, it only needs to be considered that a “*high level of crime or disorder... is likely to arise*”, compared to the process for **establishing new** liquor ban areas, where it must be established that “*there is evidence that the area...has experienced a high level of crime or disorder*”. Therefore, during future bylaw reviews, it is likely to be easier to justify continuing liquor ban areas, than it will be to establish new liquor ban areas.

7. Evaluation of Options

- 7.1 Given the similar effort involved for either an amendment or a review of the Bylaw, undertaking a review and achieving a six year life span is a better option from a financial perspective.
- 7.2 Do nothing is not a good option for the ongoing effectiveness of the bylaw. Police would have inadequate bylaw provisions perpetuated. Council will still have to bear the cost of some or all signage renewal, either because of the maintenance now due, or because of proposed regulations setting standard for such signage.
- 7.3 Review of the Bylaw, also substantially extends the time before new bylaws made under the more restrictive threshold of “a high level of crime or disorder” needs to be considered.

8. Significance

- 8.1 This is a significant decision according to the Council’s Significance Policy, and in addition, the Bylaw making provisions of the LGA oblige the use of special consultative procedure.

9. Recommendations

THAT the Environment & Planning Committee receives the Report REP12-06-03 Review of Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places report, and;

Instructs that a statement of proposal, a summary of information, and the draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places 2012 be notified to commence the special consultative procedure as set out in the Local Government Act 2002.

10. Timeline/Next Steps

10.1 The following timeline is proposed:

- | | |
|--------------------------------|--|
| • Friday, 6 July 2012: | Any statement of proposal publicised; |
| • Monday, 9 July 2012: | Submission period opens; |
| • Friday, 17 August 2012: | Submission period closes; |
| • Monday, 3 September 2012: | Environment & Planning Committee hearing of submitters; |
| • Thursday, 20 September 2012: | Report to Environment & Planning Committee; |
| • Thursday, 18 October 2012: | Council to ratify decision of Environment & Planning Committee |

11. Draft Resolution

THAT the Environment & Planning Committee receives the Review of Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places report, and;

Instructs that a statement of proposal, a summary of information, and the draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places 2012 be notified to commence the special consultative procedure as set out in the Local Government Act 2002.



Graham Caradus
Co-ordinator Environmental Health

Appendices:

Appendix 1: Letter from NZ Police

Appendix 2: Statement of Proposal, including; Summary of Information and Draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places 2012



1 June 2012



Dear Mr CARADUS
Co-ordinator Environmental Health
TASMAN DISTRICT COUNCIL

Dear Sir

**SUBMISSION TO AMEND LIQUOR BAN HOURS WITHIN THE TASMAN DISTRICT FROM 9.00PM TO 7.00PM SEVEN DAYS A WEEK IN RICHMOND.
TO INCREASE THE CURRENT LIQUOR BAN IN MOTUEKA AND GOLDEN BAY TO 24/7 WITHIN THE CBD OF THESE TWO AREAS**

Police are seeking the above amendment to the liquor ban hours in a conscious effort to address alcohol related incidents and offending within our CBD and parks.

Under the current hours of the Liquor Ban police are limited in their abilities to prevent undesirable behaviour occurring.

As mentioned in the Tasman District Council, Control of Liquor in Public Places 2007, "This purpose of this Bylaw is to enhance the safety of the public and allow their responsible enjoyment of public places in the District. It provides for liquor control in specified public places, at specified dates and times, with the aim of reducing alcohol related behaviour and offences."

Police powers under the Local Government Act 2002, section 169(2), as stated below allow

A member of the police may, without warrant,—

(a) For the purpose of ascertaining whether liquor is present, search:-

i) A container (for example, a parcel, package, bag, or case) in the possession of a person, who is in, or entering, a public place:

ii) A vehicle that is in, or is entering, a public place:

(b) Seize and remove liquor and its container if the liquor is in a public place in breach of a bylaw:

Safer Communities Together

NELSON POLICE STATION

St John Street, DX WX10702, Private Bag 39, Nelson 7042, New Zealand
Telephone: +64 3 546 3840 Facsimile: +64 3 545 8960 www.police.govt.nz

Page 1 of 4

- (c) Arrest a person whom the member of the police finds committing an offence:
- (d) Arrest a person who has refused to comply with a request by a member of the police—
 - (i) To leave the public place; or
 - (ii) To surrender to a member of the police the liquor that, in breach of a bylaw, is in that person's possession.
- (3) Liquor or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the liquor or container is seized is convicted of breaching the bylaw.

Police are finding it difficult to act on the current bylaw, as police have no power to conduct searches until 9:00pm. By this time police are dealing with alcohol affected persons and matters arising from their behaviour.

Two of the most recent examples of alcohol affected offending were around the events of Summer Sounds and Last of the Summer Fare.

Although the events themselves were a success, outside the venues police were dealing with fights, assaults, intoxicated persons (some as young as 14 years), disorder and damage in and around the Central Business District. A large number of this offending occurred with groups of people. Approximately 16 calls to police communications were received regarding unfavourable behaviour within the CBD during the events.

Police were finding numerous amounts of empty alcohol containers scattered throughout Richmond CBD, and coming across intoxicated persons walking the streets. The majority of intoxication occurs around the time of 8:00pm on public events held in the CBD.

Due to the Liquor Ban starting at 9:00pm, police have no legal powers to stop and search any person entering into the CBD for the purpose of ascertaining whether alcohol is present. This allowed persons to become intoxicated to the point, that when the Liquor Ban commenced, police were left with a reactive situation rather than being proactive.

Besides these two latest incidents, police have noticed a dramatic increase of intoxicated persons, some in a heavily intoxicated state, in public places normally enjoyed by families with young children since the introduction of the liquor ban bylaw.

Police believe that it will not affect future events held in the Richmond area, by changing the Liquor Ban to 7:00pm. These events themselves would apply for a special licence around the sale and consumption of alcohol.

Police are also seeking to amend the current liquor ban areas within the Motueka and Takaka townships. Both Motueka and Takaka have been experiencing a surge in alcohol related behaviour for some time. This has been happening at all hours of the day stretching the ability of staff. Police have also seen a rise in intentional damage within both of the townships which is occurring during the day as well as the night. This damage and the behaviour of intoxicated persons is causing concern to persons using areas such as Thorp Bush and the Village Green.

MOTUEKA

As a means of addressing this behaviour, Police are seeking a 24 hour, 7 day a week liquor ban in the Takaka and the Motueka CBD.

The amendment to Liquor Ban being sought for the Motueka CBD is defined as follows:-

From the north side of Fearon Street to and including the lay-by at the roundabout at High Street South. Also from Thorpe Street Waterfront area on the eastern side of township, across Queen Victoria Street, from the northern side of Parker Street to and including Queen Victoria Street, to Wildman Road, and Wildman Road to the layby on High Street Motueka.

TAKAKA TOWNSHIP

The amendment to the liquor ban for the Takaka Township would include all of Commercial Street, Meihana Street, Motupipi, Reiley and Willow Streets.

The remaining liquor ban for these areas will remain as currently stated.

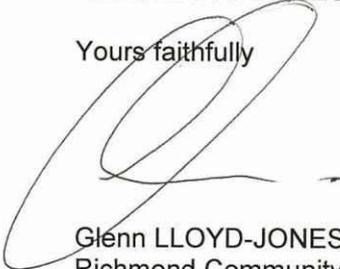
This change to 7:00 pm for Richmond will also bring the majority of the area into line with the Nelson City Council Liquor Ban Bylaw. This has worked well in the NCC for some years now, which allow police to address problems before they can become uncontrollable. It will also bring a consistency of policing across the two areas, which will result in a reduction of alcohol related offending.

This amendment is solely aimed at the reduction of antisocial behaviour, and not to restrict such activities, as family groups enjoying evening meals at various public locations with the accompaniment of some alcoholic refreshments.

With the increased relative ease of access to alcohol by all concerned, especially underage persons, police believe that it is in the best interests of the general public to amend the hours of the Liquor Ban. This will allow police to maintain a proactive approach and allow a continuance of responsible enjoyment of public places.

The contact for Motueka and Golden Bay and any further submissions will be from Senior Sergeant Grant ANDREWS. The contact for Richmond will be Glenn LLOYD-JONES.

Yours faithfully



Glenn LLOYD-JONES
Richmond Community Liaison Officer



David Gibson
Acting Area Commander
NELSON BAYS

STATEMENT OF PROPOSAL

Draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2012

This statement of proposal is made for the purposes of Sections 83 and 86 of the Local Government Act 2002. It is divided into three parts as follows:

- Part 1:** *This part contains a “Summary of Information”.*
- Part 2:** *This part contains details of the statutory processes that Council is obliged to give consideration to as well as the details of the changes intended from the existing Control of Liquor in Public Places Bylaw 2007.*
- Part 3:** *This part contains the draft amended Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places 2012.*

Part 1: Summary of Information

This summary is made to fulfil the purposes of Sections 83(1)(a)(ii) and 89 of the Local Government Act 2002. The summary contains details of the Statement of Proposal to replace the existing Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2007 (existing Bylaw).

A. Changes from the existing Bylaw in general terms relate to the areas covered by the liquor ban in both Takaka and Motueka areas, and changes to the times that the existing Bylaw is in force. Those time changes generally include a 24 hour liquor ban for the CBD and nearby areas of both Motueka and Takaka, whilst changes to all other areas, including some of the new areas recommended, have liquor bans commencing at 7pm, compared with 9pm in the existing bylaw. Change to the definition of “Public Place” is included to align with the definition in the Local Government Act 2002. These proposed changes are contained in the draft Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2012(the draft Bylaw).

B. The full Statement of Proposal including the draft Bylaw may be inspected during ordinary office hours at the following places:

Tasman District Council 189 Queen Street Richmond	Tasman District Council 7 Hickmott Place Motueka
Tasman District Council 92 Fairfax Street Murchison	Tasman District Council 78 Commercial Street Takaka
District Library	Motueka Library

Queen Street Richmond	Pah Street Motueka
Takaka Memorial Library Commercial Street, Takaka	

- C. A copy of the full Statement of Proposal may be viewed or copied from the Tasman District Council web site at: www.tasman.govt.nz
- D. All submissions on the proposal are to be in writing and posted or delivered to: The Administration Advisor, Tasman District Council, Private Bag 4, 189 Queen Street, Richmond 7031, or they may be emailed to info@tasman.govt.nz or faxed to 03 543 9524
- E. Submissions will be received at any time from Monday 9th July 2012 up to 4.30 pm on Friday 17th August 2012.

PART 2: Statutory Processes and Details of Draft Amendments.

A. Statutory Processes

The following are the various statutory processes that have received consideration:

- (a) Section 684B of the Local Government Act 1974 as amended by the Local Government Amendment Act (No 2) 1999.
- (b) The draft Bylaw is not considered to be inconsistent with the New Zealand Bill of Rights Act 1990.

B. Details of Changes from the existing Bylaw:

1. PREAMBLE

The Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places originally came into force in 1 August 2004. Since that date it has been reviewed and a substantially similar replacement Bylaw made in December 2007. That Bylaw was subsequently amended in December 2008 to extend the Kaiteriteri liquor ban area to include the foreshore through to and including Marahau. The existing Bylaw has generally been very effective and allowed Police to control the use of alcohol in business and urban areas and in areas that receive large increases to their populations from holiday makers. The review now undertaken is at the request of the Richmond and Motueka Police who report that whilst the existing Bylaw provisions have proved effective, considerable improvement to their enforcement abilities in control of nuisance and potentially harmful situations could be achieved by extending the liquor ban as suggested.

2. CHANGES TO THE BYLAW

2.1 The additional areas brought into the draft Bylaw are as follows:

- 2.1.1 Takaka: the public places located on and immediately adjacent to Commercial Street north of the intersection of Reilly Street, Meihana Street, between the intersection with Commercial Street and the intersection with Motupipi Street, and Motupipi Street from the intersection with Meihana Street for a distance of 680 metres.
- 2.1.2 Motueka: Except for those places included in the existing Bylaw for Motueka, the public places encompassed by Fearon Street, Thorp Street, Tudor Street, Taylor Avenue/Avalon Court, Thorp's Bush, Woodlands Avenue, Whakarewa Street, Grey Street, Pah Street, Atkins Street and Parker Street.
- 2.1.3 Motueka: Except for those places included in the existing Bylaw for Motueka, and in 2.1.2 above, the public places located on and immediately adjacent to, High Street, south of the intersection with Fearon Street, and; the public places located on and immediately adjacent to State Highway 60, (The Coastal Highway) up to a distance of 200 metres south of the intersection with Wharf Road, and; the public places located on and immediately adjacent to the Inlet walkway within 200 metres of Wharf Road, and; the public places located on and immediately adjacent to the foreshore between the salt water baths and Staples Street including the public walkway and Motueka Quay, as well as Staples Street, between the intersection with Thorp Street and the seaward end of Staples Street

2.2 The time (hours) during which the liquor ban applies in various areas are altered as follows:

- 2.2.1 For Takaka (inclusive of the additional streets included in that area defined in 2.1.1 above) and the Motueka liquor ban area in the existing Bylaw (excludes those areas defined in 2.1.2 and 2.1.3 above) the ban is extended to 24 hours per day.
- 2.2.2 For all remaining areas (except Kaiteriteri, where from 26 December until 16 January the start time remains 4 pm) that the liquor ban applies, the ban starts two hours earlier each day, at 7pm.

2.3 The descriptions and maps of the areas included in "Schedule A: Public Places" in the existing Bylaw have been altered to provide greater clarity, remove references to closed roads, correctly name roads, and achieve alignment of the written descriptions

and the maps for Mapua, and Pohara. Except for the details relating to Motueka and Takaka in 2.1 above, the actual areas controlled by the liquor ban have not been altered from those detailed in the written description in the existing Bylaw. Note that for the purposes of this draft, that additional maps are included for the sake of clarity, but in a final edition of the draft bylaw, some compression of that data can occur.

- 2.4** The definition of “Public Place” is altered, initially to a very minor extent to stay strictly in step with the current wording in the LGA as it relates to “*Power to make bylaws for liquor control purposes*” in section 147, and subsequently to align with the definition proposed in the proposed Sale and Supply of Alcohol Act that will consequentially amend that section of the LGA.

Amendment of the definition of “Public Place” in the LGA will occur consequentially as a result of provisions contained in the proposed Sale and Supply of Alcohol Act 2012. The alteration of the definition of “Public Place” in the draft Bylaw will become effective only when the new definition in the LGA becomes effective. The new definition of “Public Place” is broader than the current definition, but clarifies that licensed premises are not included as public places.



DRAFT

**Tasman District Council
Consolidated Bylaw**

Chapter 3

CONTROL OF LIQUOR IN PUBLIC PLACES

October 2012

TABLE OF CONTENTS

	Page No.
1 TITLE AND COMMENCEMENT	1
2 INTERPRETATION.....	1
3 PROHIBITED ACTS	2
4 ADDITION OR DELETION OF PUBLIC PLACES	2
4.1 Resolution of the Council.....	2
4.2 Public Notice of Resolution	2
5 EXEMPTIONS.....	2
5.1 Taking Liquor To or From Premises	2
5.2 Licensed Premises	3
6 POWERS OF ARREST, SEARCH AND SEIZURE	3
6.1 Powers of the Police	3
6.2 Warning by the Police.....	4
7 SPECIFIED EVENTS.....	4
7.1 Prohibition of Vehicles and Consumption or Possession of Liquor	4
7.2 Powers of Search, Confiscation and Arrest	4
8 POWER TO REQUEST NAME AND ADDRESS.....	5
8.1 Obstruction of Enforcement Officer.....	5
9 BREACH OF BYLAW AND PENALTY	5
10 REPEAL	
11 DATE BYLAW MADE.....	5
SCHEDULE A: PUBLIC PLACES	6

The Tasman District Council in pursuance of the powers contained in the Local Government Act 2002, the Bylaws Act 1910 and any other authority enabling it in this behalf hereby makes the following Bylaw.

1 TITLE AND COMMENCEMENT

- (a) This Bylaw shall be known as the Control of Liquor in Public Places Bylaw 2012.
- (b) The Bylaw shall come into effect on 1 November 2012.

2 INTERPRETATION

Act means the Local Government Act 2002.

Chief Executive means the person for the time being exercising the functions of the Chief Executive of the Council.

Council means the Tasman District Council.

Enforcement Officer means a person appointed by the Council pursuant to Section 177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer in relation to offences against these bylaws.

Hours means:

- (a) For Motueka Liquor Ban Area 1, and Takaka Liquor Ban Area, 24 hours per day.
- (c) For the Kaiteriteri Liquor Ban Area from 26 December until 16 January the following year inclusive every year, between 4.00 pm and 7.00 am the following day, and; from 17 January to 25 December inclusive every year, between 7.00 pm and 7.00 am the following day.
- (d) For all other areas in which a liquor ban is established by this bylaw between 7.00 pm and 7.00 am the following day.

Liquor has the meaning given to it in the Sale of Liquor Act 1989.

Offence means an offence under Section 239 of the Local Government Act 2002 that is a breach of this bylaw.

Public Place from the commencement of this bylaw until and including the time up until 12 months after the commencement of the Sale and Supply of Alcohol Act 2012.

- (a) means a place:
 - (i) that is under the control of the Council; and
 - (ii) that is open to, or being used by, the public, whether or not there is a charge for admission and:

- (b) includes-
 - (i) a road, whether or not the road is under the control of the Council; and
 - (ii) any part of a public place

Public Place from the time 12 months after the commencement of the Sale and Supply of Alcohol Act 2012-

- (a) means a place that is open to or is being used by the public, whether free or on a 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.

Schedule A Public Place means a public place within the area described in Schedule A hereto.

3 PROHIBITED ACTS

No person shall:

- (a) bring liquor into;
- (b) possess liquor in; or
- (c) consume liquor in;

any Schedule A Public Place at any time during the hours specified in respect of that public place, within that schedule.

4 ADDITION OR DELETION OF PUBLIC PLACES

4.1 Resolution of the Council

The Council may from time to time by resolution adopted following the use of the special consultative procedure in accordance with Section 83 of the Act, add to Schedule A hereto other public places to which the provisions of this Bylaw shall then apply for any period specified in the resolution, or amend the period applying in respect of any listed public place, or in like manner may delete from Schedule A those public places in respect of which it considers this Bylaw should no longer apply.

4.2 Public Notice of Resolution

Every resolution made pursuant to Clause 4.1 above shall be publicly notified at least 14 days before it shall take effect.

5 EXEMPTIONS

5.1 Taking Liquor To or From Premises

The Bylaw does not prohibit, in the case of liquor in an unopened bottle or other unopened container:

- (a) the transport of that liquor from premises that adjoin a public place during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those premises for consumption off the premises, provided the liquor is promptly removed from the public place;
- (b) the transport of that liquor from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989;
- (c) the transport of liquor from outside a public place to premises that adjoin a public place:
 - (i) by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
 - (ii) from those premises to a place outside the public place by a resident of those premises, provided the liquor is promptly removed from the public place;
 - (iii) to premises that are being used for a public or private function.

5.2 Licensed Premises

The Bylaw does not prohibit the possession of or consumption of liquor in any public place, or part of a public place, where such is authorised by a licence issued under the Sale of Liquor Act 1989.

6 POWERS OF ARREST, SEARCH AND SEIZURE

6.1 Powers of the Police

Where a prohibition on the possession or consumption of liquor is in effect in respect of any public place, pursuant to the foregoing provisions, a member of the police may, without warrant:

- (a) for the purpose of ascertaining whether liquor is present, search:
 - (i) a container (for example, a parcel, package, bag or case) in the possession of a person who is in, or entering, the public place;
 - (ii) a vehicle that is in, or is entering, the public place;
- (b) seize and remove liquor and its container if the liquor is in the public place in breach of that prohibition;

- (c) arrest a person whom the member of the police finds committing an offence against that prohibition;
- (d) arrest a person who has refused to comply with a request by a member of the police:
 - (i) to leave the public place; or
 - (ii) to surrender to a member of the police the liquor that, in breach of that prohibition, is in that person's possession.

6.2 Warning by the Police

Before exercising the power of search under Clause 6.1(a) in relation to a container or a vehicle, a member of the police must:

- (a) inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place;
- (b) provide the person with a reasonable opportunity to remove the liquor or the vehicle, as the case may be, from the public place.

7 SPECIFIED EVENTS

7.1 Prohibition of Vehicles and Consumption or Possession of Liquor

The Council may, where it considers it appropriate for the safe and effectual holding in any public place or part of a public place of any public event, function or gathering, by resolution publicly notified no less than 14 days before the event:

- (a) prohibit the consumption of liquor in the specified public place during that period or periods, the bringing of liquor into the specified public place during that period or periods, and the possession of liquor in the specified public place during that period or periods;
- (b) and may also in conjunction with the prohibition relating to liquor in (a) above prohibit the presence or use of any vehicle in a public place.

7.2 Powers of Search, Confiscation and Arrest

Where the Council has resolved to prohibit vehicles and/or the consumption or possession of liquor in any specified public place on the occasion of the holding of any public event, function or gathering, any member of the police may:

- (a) immediately and without further notice, for the purpose of ascertaining whether liquor is present, search any container (for example, parcel, bag or case) in the possession of any person who is in or entering the specified public place or search any vehicle that is in or entering the specified public place;

- (b) seize and remove liquor and its container if the liquor is in the public place in breach of this prohibition;
- (c) arrest a person whom the member of the police finds committing an offence against this prohibition;
- (d) arrest a person who has refused to comply with a request by a member of the police:
 - (i) to leave the public place; or
 - (ii) to surrender to a member of the police the liquor that, in breach of this prohibition, is in that person's possession.

8 POWER TO REQUEST NAME AND ADDRESS

If an Enforcement Officer or member of the police believes on reasonable grounds that a person is committing or has committed an offence against this Bylaw, either of them may direct the person to give:

- (a) his or her name and address; and
- (b) the name and address and whereabouts of any other person connected in any way with the alleged offence.

8.1 Obstruction of Enforcement Officer

Every person commits an offence against this Bylaw and is liable on summary conviction to a fine not exceeding \$1,000 who intentionally refuses to give information when requested to do so by an Enforcement Officer or member of the police under Clause 8, or knowingly misstates information.

9 BREACH OF BYLAW AND PENALTY

Any person who acts in breach of any provision within Clauses 1 to 8 of this Bylaw commits an offence against this Bylaw and is liable on summary conviction to a fine not exceeding \$1,000.

10 REPEAL

- 10.1** On the day on which this bylaw shall come into operation, the Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2007 (Incorporating amendments December 2008) shall be deemed to be repealed.

11 DATE BYLAW MADE

This Bylaw was made by the Tasman District Council at a meeting of the Council on 18 October 2012.

The common seal of the Tasman District Council is attached in the presence of:

Mayor

Chief Executive

SCHEDULE A

PUBLIC PLACES

1 Richmond Liquor Ban Area (Map 1)

The public places located in the central business area and other areas encompassed by Oxford Street, Gladstone Road/State Highway, McGlashen Avenue, Talbot Street and Salisbury Road, with extensions to include Washbourn Garden and the skate park area.

2 Motueka

2.1 Motueka Liquor Ban Area 1 (Map 2.1a and 2.1b: 24 hour liquor ban)

The public places located in the central business area and other areas encompassed by Vosper Street, Wilkinson Street, Taylor Avenue/Avalon Court, Thorp's Bush, Woodlands Avenue, Whakarewa Street, Manoy Street to Talbot Street, Rugby Park, Pah Street, Memorial Park to Poole Street, High Street, Inglis Street; and the public places located on and adjacent to North Street Reserve, including the saltwater baths, and the public places located on Everett Street including the Motueka Beach Reserve, and; the public places located on and adjacent to Old Wharf Road, between the intersection with High Street and the intersection with Thorp Street including the skateboard park.

2.2 Motueka Liquor Ban Area 2 (Map 2.2: 7 pm to 7 am liquor ban)

Except for those places included in Motueka Liquor Ban Area 1, the public places encompassed by Fearon Street, Thorp Street, Tudor Street, Taylor Avenue/Avalon Court, Thorp's Bush, Woodlands Avenue, Whakarewa Street, Grey Street, Pah Street, Atkins Street and Parker Street.

2.3 Motueka Liquor Ban Area 3 (map 2.3: 7 pm to 7 am liquor ban)

Except for those places included in Motueka Liquor Ban Area 1 or 2, the public places located on and immediately adjacent to, High Street, south of the intersection with Fearon Street, and; the public places located on and immediately adjacent to State Highway 60, (The Coastal Highway) up to a distance of 200 metres south of the intersection with Wharf Road, and; the public places located on and immediately adjacent to the Inlet walkway within 200metres of Wharf Road, and; the public places located on and immediately adjacent to the fore shore between the salt water baths and Staples Street including the public walkway and Motueka Quay, as well as Staples Street, between the intersection with Thorp Street and the seaward end of Staples Street.

3 Kaiteriteri Liquor Ban Area (Map 3, 3a, and 3b)

The public places located in the area encompassed by Rowling Road, Sandy Bay-Marahau Road, Inlet Road, Breaker Bay and the mean low water mark around Kaka Point to the Torlesse Rocks; then the public places located on and adjacent to the foreshore south and west of Torless Rocks to of Dummy Bay, Stephens Bay and Tapu Bay to the mean low water spring tide and including all those public

places located on and adjacent to Martin Farm Road, Stephens Bay Road, Cook Crescent, Anarewa Crescent, and Tapu Place and the public places on and adjacent to the foreshore north of Breaker Bay, including Honeymoon Bay, Ngaio Bay, Towers Bay, Split Apple Rock and Sandy Bay through to the boundary with the Abel Tasman National Park.

4 Takaka Liquor Ban Area (Map 4)

The public places located in the central business area and other areas encompassed by Motupipi Street to Reilly Street to the Takaka River then up stream for a distance of approximately 400 metres on the true left bank, and from that point, a line through to and including Willow Street to Motupipi Street; and also the public places located on and immediately adjacent to Commercial Street north of the intersection of Reilly Street, Meihana Street, between the intersection with Commercial Street and the intersection with Motupipi Street, and Motupipi Street from the intersection with Meihana Street for a distance of 680 metres.

5 Pohara Liquor Ban Area (Map 5)

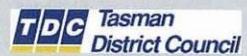
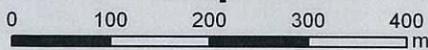
The public places located in and adjacent to the areas between the coastline at mean low water, and Nees Road, Rototai Road from the junction with Nees Road through to the intersection with Abel Tasman Drive, and Abel Tasman Drive to intersection with Tata Heights. For clarity, this area includes Rototai Beach Esplanade Reserve, Rototai Recreation Reserve, Clifton Recreation Reserve, Pohara Recreation Reserve, Tarakohe Harbour reclamation, Ligar Bay Esplanade Reserve, Tata Heights Reserve, Cornwall Place Reserve and Tata Beach Reserve.

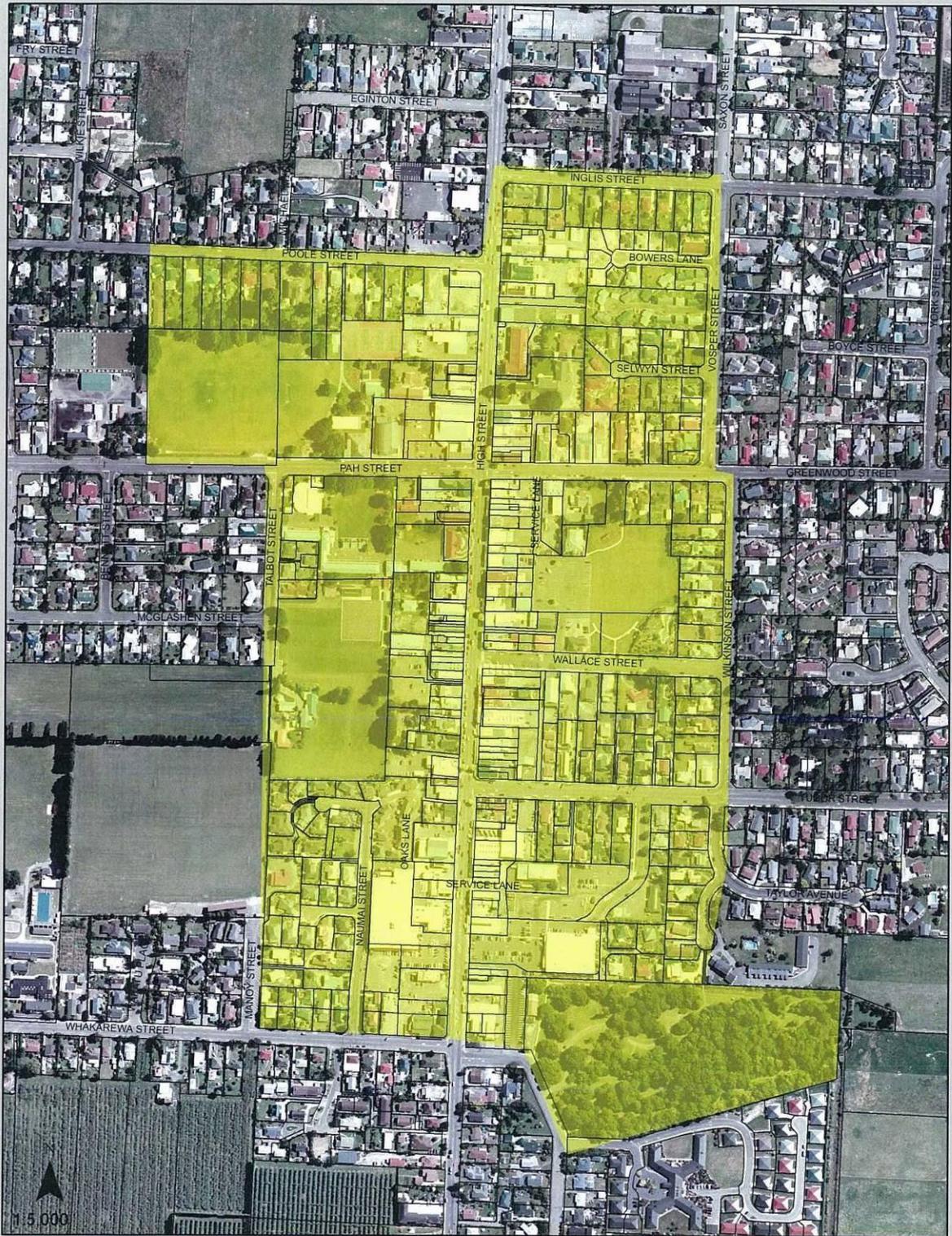
6 Mapua Liquor Ban Area (Map 6)

The public places located in and adjacent to the areas encompassed by the coastline at mean low water, and McKee Memorial Recreation Reserve, Stafford Drive, Aranui Road, and Langford Drive, but excluding Mapua Leisure Park. For clarity, this area includes McKee Memorial Scenic Reserve, McKee Memorial Recreation Reserve, Aranui Park, and Grossi Point Recreation Reserve.

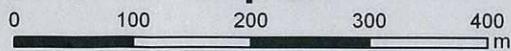


Richmond Liquor Ban Area Map 1



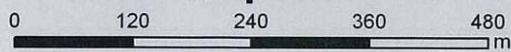


Motueka Liquor Ban Area Map 2A





Motueka Liquor Ban Area Map 2B





Takaka Liquor Ban Area Map 4





Sourced from Land Information New Zealand data. Crown copyright reserved. Aerial photography copyright Terralink International Limited. Rural Imagery flown Dec2000-April2002. Urban Imagery flown Dec2004. The information on this map is prepared for indicative use only and is not intended for definitive legal, location or formal reference purposes.



Mapua Liquor Ban Area Map 6

