

New Plymouth District Council Bylaw

Alcohol Control Bylaw 2020

npdc.govt.nz

NPDC

DOCUMENT HISTORY

Meeting	Date	Decision	Next Review
Council	22 December 2020	Adopt the Alcohol Control Bylaw with effect from 30 December 2020	2025

Alcohol Control Bylaw 2020

New Plymouth District Council

The purpose of this bylaw is to prohibit, regulate or control the consumption or possession of alcohol in public places to reduce alcohol related harm.

1. Title and commencement

1.1. This bylaw is the New Plymouth District Council Alcohol Control Bylaw 2020.

1.2. This bylaw comes into force on 30 December 2020.

2. Authority

2.1. This bylaw is made under Section 147 of the Local Government Act 2002.

3. Purpose

3.1. The purpose of this bylaw is to prohibit, regulate or control the consumption or possession of alcohol in public places to reduce alcohol related harm.

4. Application of this bylaw

4.1. This bylaw applies to the Council's entire district.

5. Interpretation

Definitions

5.1. In this bylaw, unless the context otherwise requires:

Alcohol has the same meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

Alcohol ban area means a public place:

a) identified, in accordance with clause 7.1 of this bylaw, as an alcohol ban area in Schedule 1 of this bylaw; or

b) designated as an alcohol ban area by a resolution of the Council under clause 7.2(a) of this bylaw.

Council means the New Plymouth District Council.

Licensed premises means any premises for which a licence issued under the Sale and Supply of Alcohol Act 2012 is held, but does not include premises for which a special licence is held.

Prohibited time means:

a) in accordance with clause 7.1 of this bylaw, the period of time specified in Schedule 1 of this bylaw; or

b) the period of time specified in a resolution of the Council made under clause 7.2(b) of this bylaw; or

c) if no such period is specified, 24 hours a day, seven days a week.

Public notice has the same meaning given by section 5 of the Local Government Act 2002.

Public place has the same meaning given by section 147(1) of the Local Government Act 2002.

Special licence means the type of licence provided for in section 22 of the Sale and Supply of Alcohol Act 2012.

Vehicle has the same meaning given by section 2 of the Land Transport Act 1998.

5.2. Any undefined words, phrases or expressions in this bylaw have the same meaning as in the Local Government Act 2002, the Sale and Supply of Alcohol Act 2012, or the Land Transport Act 1998, unless the context plainly requires a different meaning.

5.3. The Interpretation Act 1999 applies to the interpretation of this bylaw.

5.4. Explanatory notes, which are set out in Schedule 2 of this bylaw, are for information purposes only, do not form part of this bylaw, and may be inserted, amended, or removed at any time without any formal process.

6. Alcohol prohibited in alcohol ban areas during prohibited times

6.1. No person may bring alcohol into, or possess or consume alcohol in, an alcohol ban area (including in a vehicle) during a prohibited time.

6.2. Clause 6.1 of this bylaw does not prohibit:

a) the transport of alcohol in an unopened bottle or container that is permitted under section 147(4) of the Local Government Act 2002;

b) the possession or consumption of alcohol that is authorised by a special licence;

c) the transportation of an unopened container of alcohol to, and the possession or consumption of alcohol at, an event that:

i) is identified as an exempt event in Schedule 1;

ii) is specified as exempt in a resolution made under clause 7.2(c) of this bylaw; or

iii) has been granted an exemption by the Council under clause 9.2.

7. Creating alcohol ban areas and prohibited times

7.1. The public places identified in Schedule 1 of this bylaw are alcohol ban areas, and the prohibited times applicable to those alcohol ban areas are also set out in Schedule 1.

7.2. The Council may, by resolution:

a) designate any public place as an alcohol ban area;

b) for each such alcohol ban area, specify the prohibited time; and

c) specify any event that is exempt from the alcohol ban area and applicable prohibited time.

7.3. For the purposes of clause 7.2(b), the prohibited time may apply:

a) 24 hours a day, seven days a week, or for any lesser period of time; and

b) either generally or only in relation to specified periods or events.

7.4. The Council may, by resolution, amend or revoke a resolution made under clause 7.2 at any time.

7.5. Before making a resolution under clause 7.2 or 7.4 (except in the case of a revocation), the Council must comply with section 147B of the Local Government Act 2002.

8. Public notification and signage

8.1. The Council must give public notice of any resolution made under clause 7.2 or 7.4 at least seven days in advance of the resolution coming into effect.

8.2. The Council may, where it considers it practicable and reasonable to do so, install and display signs informing members of the public of an alcohol ban area and the prohibited time for that area.

8.3. The absence of signage under clause 8.2 is not a defence to a breach of this bylaw.

9. Council exemptions

9.1. A person may apply in writing to the Council for an exemption for an event that would otherwise be in breach of this bylaw, and must pay any prescribed fee.

9.2. Within 20 working days of receiving an application and fee under clause 10.1 and any additional information requested by the Council, the Council must decide whether to grant an exemption, and may impose any conditions on the exemption that it considers appropriate in the circumstances.

9.3. When an exemption is granted under clause 9.2, the Council must give public notice of the exemption at least seven days in advance of the event taking place.

10. Powers of the Police

10.1. In addition to the powers of search, seizure and arrest under sections 169 and 170 of the Local Government Act 2002, a constable of the New Zealand Police may exercise the power in section 170(2) of that Act (to search a container or vehicle immediately and without further notice) on the specified dates or in relation to the specified events that are notified by the Council in accordance with section 170(3) of that Act.

SCHEDULE 1

ALCOHOL BAN AREAS AND PROHBITIED TIMES

---

1. NEW PLYMOUTH CBD

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 1 below, including:

a) the Central Business District area, being the area bounded as follows:

northern boundary: the coast

western boundary: Dawson Street (from Hine Street to Vivian Street) ;

eastern boundary: Eliot Street (from Woolcombe Terrace to Leach Street)

southern boundary: Vivian Street (from Dawson Street to where it meets with Leach Street) and Leach Street (from where it meets with Vivian Street to Eliot Street);

and which includes the entirety of the streets forming the western, eastern and southern boundaries (ie the footpaths on both sides of Dawson, Eliot, Vivian and Leach Streets, and the roadways, are included within the CBD area).

b) the Marsland Hill reserve area, being the area bounded as follows:

northern boundary: Vivian Street (from Robe Street to Carrington Street);

western boundary: Robe Street (from Vivian Street to Downe Street);

southern and eastern boundary: the edge of the reserve (from Downe Street to Carrington Street) and Carrington Street (from Pendarves Street to Vivian Street);

and which includes the entirety of the streets forming the western, southern and eastern boundaries (ie the footpaths on both sides of Robe and Carrington Streets, and the roadways, are included in the Marsland Hill reserve area).

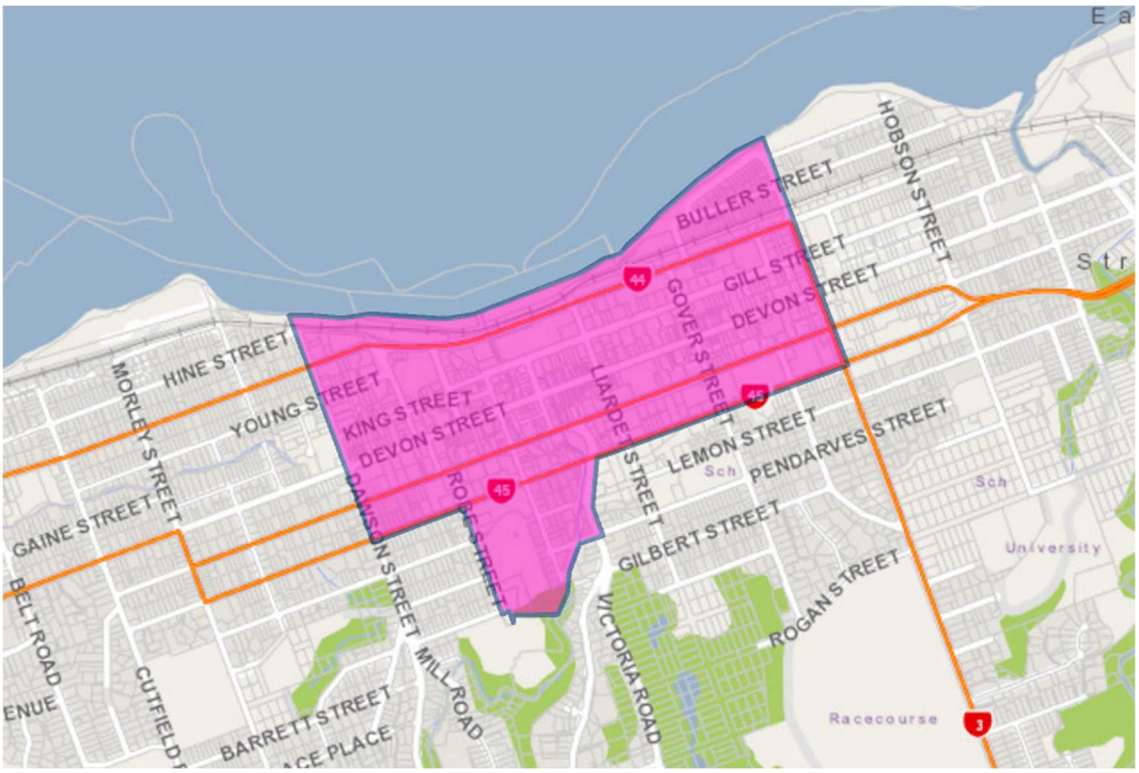

Figure 1: New Plymouth CBD

Prohibited time

24 hours a day, seven days a week.

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

2. OAKURA

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 2 below, including:

a) the coastal recreation reserve area, bounded by the low water mark to the north, the Otupotu Stream to the west, Tasman Parade and Messenger Terrace to the south, and the path between 37 and 39 Messenger Terrace to the west; and

b) the Shearer Reserve area, from Tasman Parade through to Telford Terrace; and

c) Tasman Parade (including the Oakura Keyhole Reserve), Shearer Drive, Arden Place, Jans Terrace, Linda Street, Prudence Place, Russell Drive, Kaitake Place, Wairau Road (from the coast to the northern side of Telford Terrace), Messenger Terrace (from Wairau Road to the western side of McFarlane Street), Mallinder Place, Pitcairn Street, the roadway through the Oakura Camp, and all public places adjoining these roads (or parts of roads);

but excluding the Oakura Camp itself and the premises of the New Plymouth Old Boys' Surf Life Saving Club.

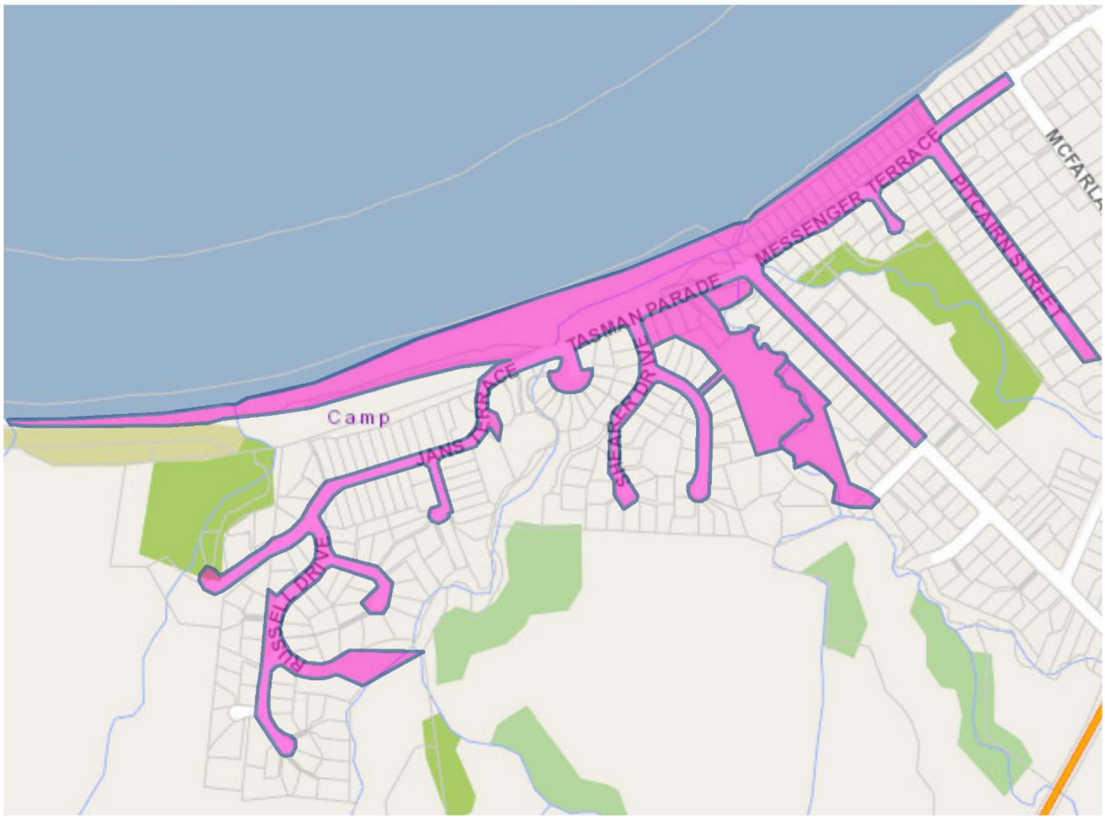

Figure 2: Oakura

Prohibited time

From 2pm on New Year's Eve (31 December) until 2am on New Year's Day (1 January).

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

3. URENUI

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 3 below, including:

a) the beach and surrounding areas; and

b) First Avenue, Second Avenue, Third Avenue, Fourth Avenue, Fifth Avenue, Sixth Avenue, Seventh Avenue, Eight Avenue, the Urenui Domain road, and part of Urenui Beach Road (from First Avenue to the southern end of the boatwash facility); and

c) the Urenui Domain Camp;

but excluding any privately owned houses and temporary living places.

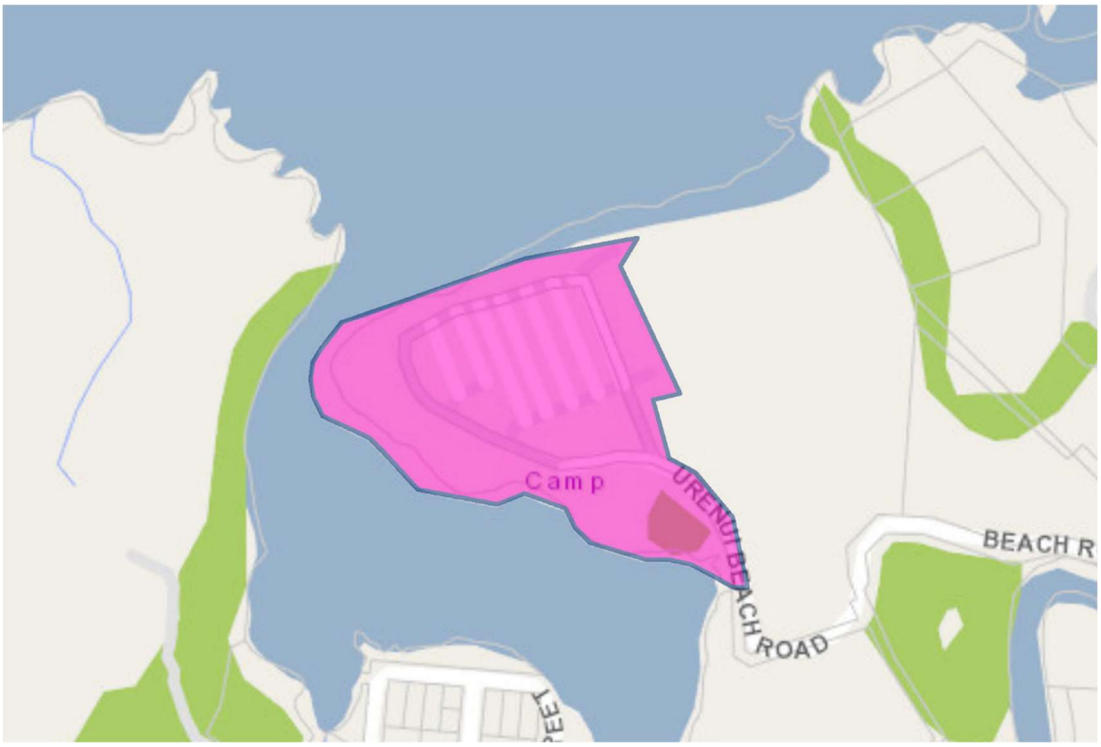

Figure 3: Urenui

Prohibited time

From 6am on New Year's Eve (31 December) until 6am on New Year's Day (1 January).

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

4. MT BRYAN, EAST END AND FITZROY BEACHES

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 4 below, being the Mt Bryan, East End, and Fitzroy Reserve areas, which are bounded by the low water mark to the north, the extension of Eliot Street to the west, the extension of Record Street to the east and the boundaries of private properties to the south.

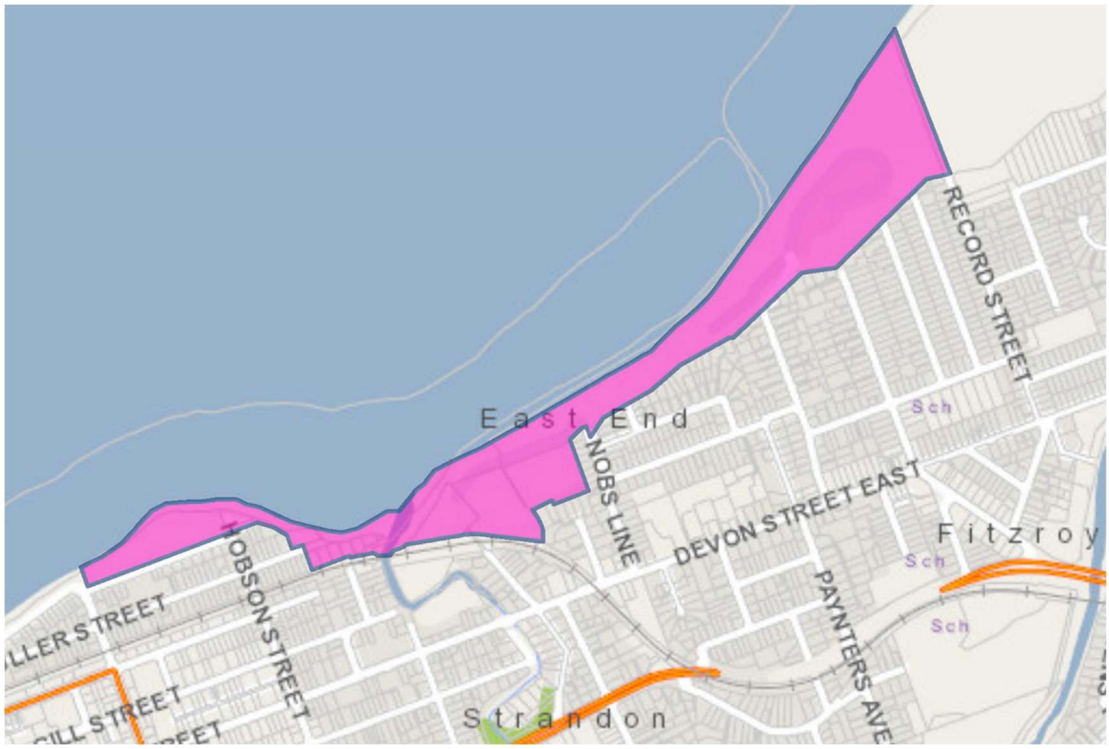

Figure 4: Mt Bryan, East End and Fitzroy reserves

Prohibited time

From 1 November to 31 March in the following year, the prohibited times are:

- from 9pm on any Thursday until 7am on the following Sunday;
- from 9pm on Christmas Eve (24 December) until 7am on Christmas Day (25 December); and
- from 9pm on New Year's Eve (31 December) until 7am on New Year's Day (1 January).

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

5. PUKEKURA PARK

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 5 below, being the part of Pukekura Park that:

a) is bounded by Gover Street (from Rogan Street to Fillis Street), Fillis Street (from Gover Street to Liardet Street), Liardet Street (from Fillis Street to Gilbert Street), Gilbert Street (from Liardet Street to Victoria Road), Victoria Road (from Gilbert Street to Holsworthy Road), Brooklands Road (from Victoria Road to Brooklands Park Drive), a direct line drawn from the intersection of Brooklands Road and Brooklands Park Drive to Scanlan Lookout, and the eastern boundary of Pukekura Park from Scanlan Lookout through to the intersection of Rogan Street and Gover Street; and

b) includes, for each of the roads mentioned above, only the footpath on the side of the road that is closest to Pukekura Park; but

c) excludes any areas within the Bowl of Brooklands.

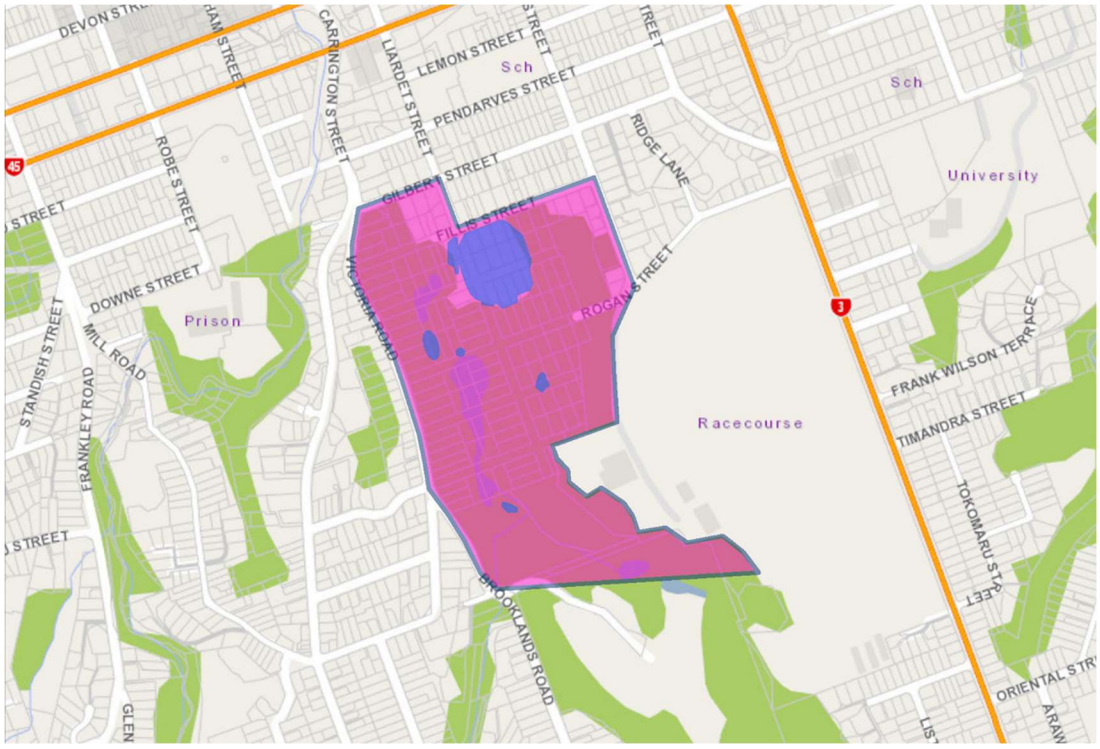

Figure 5: Pukekura Park

Prohibited time

During the Festival of Lights event, from 7pm to 7am the following day, seven days a week.

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

Exempt events

The following events are exempt from the alcohol ban area and prohibited time:

- scheduled entertainment events that accompany the Festival of Lights and which are held on the entertainment and lawn areas (excluding pathways and planted areas) immediately around the Hatchery Lawn Stage and the Fred Parker Lawn (near the Fernery), but only from 7pm to 11pm (seven days a week), and from 7pm on New Year's Eve (31 December) to 12.30am on New Year's Day (1 January); and
- any event held at the Tea House or Bellringer Pavilion for which a licence (including a special licence) has been issued under the Sale and Supply of Alcohol Act 2012;
- scheduled cricket matches that are held in the sportsground inside the main gates (partially bordered by Liardet and Fillis streets) and the surrounding grass terraced seating.

6. WAITARA CENTRAL BUSINESS AND RECREATION AREA

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 6 below, being the Waitara central business and recreation area that:

a) is bounded by Whitaker Street to the north, the Waitara River Bank to the east (including the Waitara River Bank itself), Brookes Terrace and the Waitara River Bank to the south and Cracroft Street to the west; and

b) includes the entirety of the roads forming the northern, southern and western boundaries (i.e. the footpaths on both sides of Whitaker Street, Brookes Terrace and Cracroft Street, and the roadways, are included).

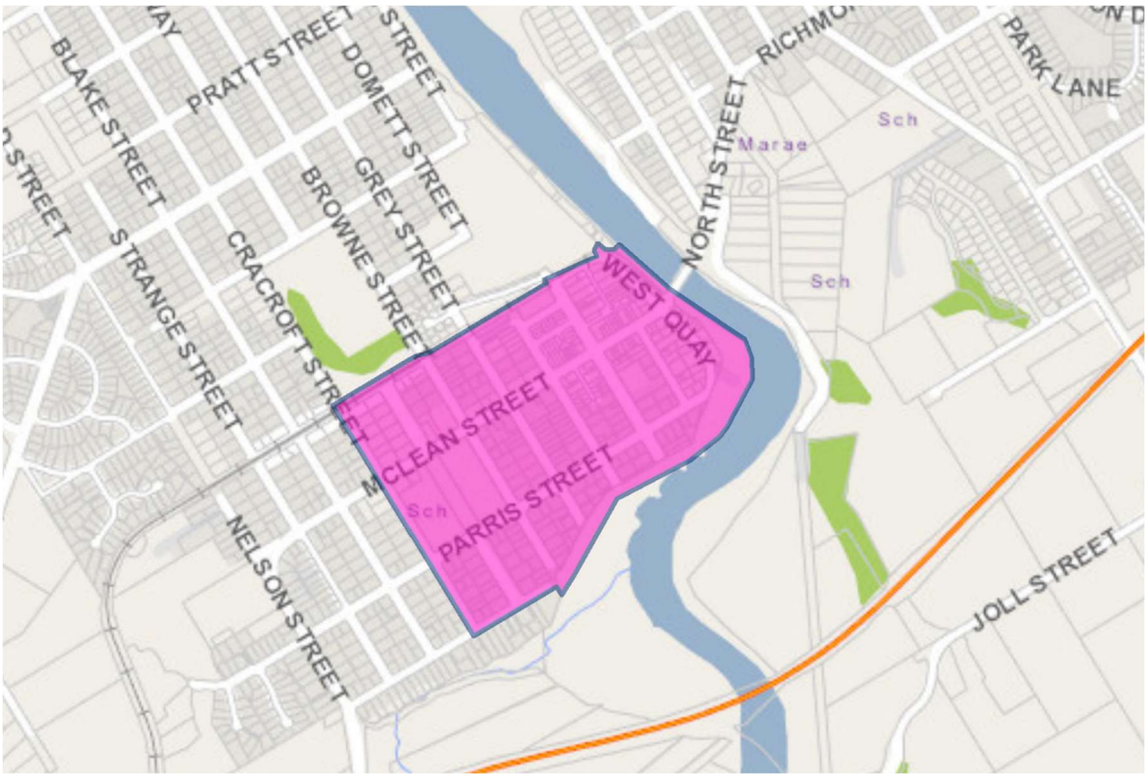

Figure 6: Waitara central business and recreation area

Prohibited time

24 hours a day, seven days a week.

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

7. BOWL OF BROOKLANDS ACCESSWAYS

Alcohol ban area

All public places within the area shaded in pink in the map in Figure 7 below, being the following five access pathways and roads to the Bowl of Brooklands:

a) Saxton Walk (from Fillis Street to the Bowl of Brooklands);

b) Hughes Walk (from Victoria Road to the Bowl of Brooklands);

c) Brooklands Park Drive (from Brooklands Road to the Bowl of Brooklands);

d) Kaimata Street Track (from Kaimata Street to the Bowl of Brooklands); and

e) Racecourse Drive (from Coronation Avenue to the Bowl of Brooklands).

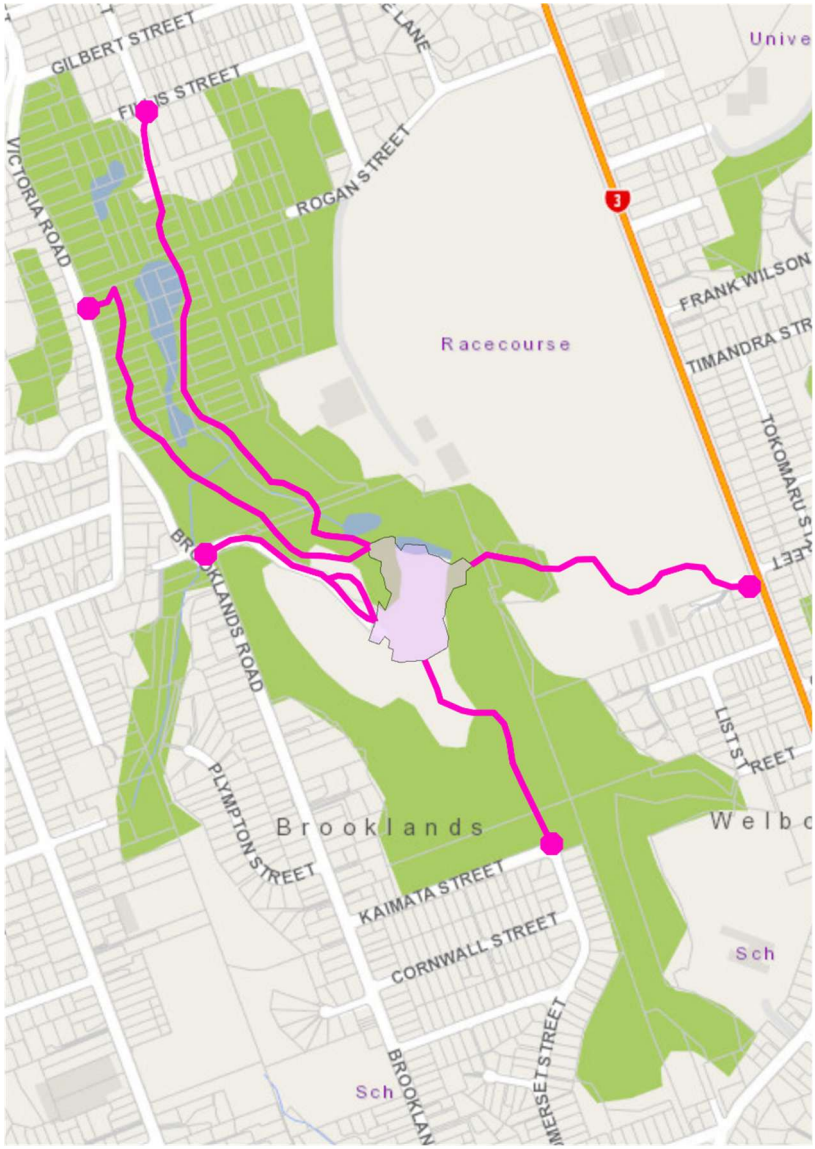

Figure 7: Bowl of Brooklands accessways

Prohibited time

During any concert or other official event held at the Bowl of Brooklands, for two hours prior to gates officially opening for the event concerned until two hours after the end of the event.

This prohibited time commences on the date this bylaw comes into force and continues until amended or revoked by the Council.

Exempt events

The following events are exempt from the alcohol ban area and prohibited time:

- Womad; and
- Christmas at the Bowl.

SCHEDULE 2

EXPLANATORY NOTES

This Schedule contains explanatory notes, which are for information purposes only, and do not form part of the bylaw. Statutory references in the bylaw are reproduced below. The Council will make every effort to keep this Schedule up-to-date, but users may wish to check the legislation themselves at www.legislation.govt.nz

---

Definition of "alcohol" from section 5(1) of the Sale and Supply of Alcohol Act 2012:

alcohol means a substance-

(a) that-

  (i) is or contains a fermented, distilled, or spirituous liquor; and

  (ii) at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or

(b) that-

  (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and

  (ii) is alcohol (within the meaning of paragraph (a)) when completely thawed to 20°C; or

(c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.

Definition of "public notice" from section 5 of the Local Government Act 2020:

public notice, in relation to a notice given by a local authority, means one that-

(a) is made publicly available, until any opportunity for review or appeal in relation to the matter notified has lapsed, on the local authority's Internet site; and

(b) is published in at least-

  (i) 1 daily newspaper circulating in the region or district of the local authority; or

  (ii) 1 or more other newspapers that have a combined circulation in that region or district at least equivalent to that of a daily newspaper circulating in that region or district.

Definition of "public place" from section 147(1) of the Local Government Act 2002:

public place

(a) means a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but

(b) does not include licensed premises.

Section 22 of the Sale and Supply of Alcohol Act 2012, referred to in the definition of "special licence" in the bylaw:

Special Licences

(1) There are 2 kinds of special licence: on-site special licences and off-site special licences.

(2) On the premises a special licence designated as an on-site special licence is held for, the licensee can sell and supply alcohol, for consumption there, to people attending an event described in it.

(3) Where the holder of an on-licence or a club licence for any premises also holds a special licence designated as an on-site special licence for the premises, the holder can at a time when the sale of alcohol on the premises would otherwise be unlawful (whether by virtue of a provision of this Act relating to licenced premises or licensed premises of any kind, or by virtue of any condition subject to which the on-licence or club licence was issued) sell and supply alcohol, for consumption there, if it is sold or supplied-

  (a) to people attending an event described in the special licence; and

  (b) in accordance with the special licence.

(4) Subsection (3) does not limit or affect the generality of subsection (2).

(5) On the premises a special licence designated as an off-site special licence is held for, the licensee can sell the licensee's alcohol, for consumption somewhere else, to people attending an event described in it.

(6) While the premises a special licence designated as an off-site special licence is held for are open for the sale of the licensee's alcohol for consumption somewhere else, the licensee can also supply alcohol free, as a sample, for consumption on the premises.

Definition of "vehicle" from section 2 of the Land Transport Act 1998:

Vehicle

(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and

(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but

(c) does not include-

  (i) a perambulator or pushchair:

  (ii) a shopping or sporting trundler not propelled by mechanical power:

  (iii) a wheelbarrow or hand-trolley:

  (v) a pedestrian-controlled lawnmower:

  (vi) a pedestrian-controlled agricultural machine not propelled by mechanical power:

  (vii) an article of furniture:

  (viii) a wheelchair not propelled by mechanical power:

  (ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition:

  (x) any rail vehicle

Section 239A of the Local Government Act 2002, which provides that a breach of the bylaw constitutes an offence:

Breaches of alcohol bans

(1) Section 21 of the Summary Proceedings Act 1957 applies to a breach of a bylaw made under section 147 as if-

(a) the breach were an infringement offence within the meaning of that Act; and

(b) the person who has committed the breach has committed the offence; and

(c) the references in subsection (9) of that section to a defendant's being found guilty of, or pleading guilty to, an infringement offence for which an infringement notice has been issued were references to the person's being found to have committed, or admitting to having committed, the breach;

and Part 3 and section 208 of that Act apply accordingly.

(2) Proceedings in respect of a breach of a bylaw made under section 147 cannot be commenced by filing a charging document under section 14 of the Criminal Procedure Act 2011.

(3) Subsection (2) overrides subsection (1) and section 21(1)(a) of the Summary Proceedings Act 1957.