

Attachment 1

Statement of Proposal – Proposed Alcohol Control Bylaw 2018

(includes Appendix A Proposed Alcohol Control Areas -existing areas)

Proposed Alcohol Control Bylaw 2018 Statement of Proposal

Introduction

Far North District Council is reviewing its Public Places Liquor Control Bylaw 2003 and is seeking community views on the location of alcohol controls (previously referred to as liquor bans).

Following this review, Council will revoke its Public Places Liquor Control Bylaw 2003 and replace it with the Far North District Council Alcohol Control Bylaw 2018. The purpose of this bylaw is to provide for the prohibition and control of the consumption or possession of alcohol in public places (including vehicles in public places) to reduce alcohol related harm to our communities.

This Statement of Proposal has been prepared in accordance with the Local Government Act 2002 (LGA).

Reasons for the proposal

The Council is carrying out a full review of the bylaw because:

- There has been significant legislative changes relating to bylaws for alcohol control since the bylaw was last reviewed in 2013;
- Alcohol reform legislation requires that the current bylaw must be reviewed or else it will expire on 18 December 2018; and
- Council wishes to continue to effectively manage the issues associated with the possession and consumption of alcohol in public places.

Changes to the LGA in December 2013 increased the statutory threshold to demonstrate the need for continuing to have a bylaw. The LGA states that Council must be satisfied that:

- a) The bylaw is justified as a reasonable limitation on people's rights and freedoms;
- b) The bylaw is appropriate and proportionate in the light of that crime and disorder
- c) a high level of crime or disorder (relating to alcohol consumption) is **likely** to arise again if the bylaw is not made.

New Zealand Police, as the enforcement agency of the bylaw, have provided comment supporting the controls proposed, confirming that they believe a high level of crime and disorder will follow if the alcohol controls are not retained.

Summary of proposed changes

The main areas of change between the current bylaw and the proposed bylaw are:

- Definitions have been updated to reflect current legislation
- References to the former Sale of Liquor Act 1989 have been replaced with references to the new Sale and Supply of Alcohol Act 2012
- The term 'liquor' has been replaced with the term 'alcohol' throughout the document to align with the new legislation
- The definition of 'public place' has been updated to reflect the broader definition for alcohol controls, and
- Aerial maps have been provided for clearer identification of existing Alcohol Control Areas.

Legislative requirements that Council must consider

The LGA¹ empowers Council to make bylaws for its district for one or more of the following purposes:

- a) Protect the public from nuisance
- b) Protect, promote and maintain public health and safety
- c) Minimise the potential for offensive behaviour in public places.

The LGA² specifically empowers Council to make bylaws for the purpose of controlling the consumption and possession of alcohol in public places. However, before it makes such a bylaw, Council must be satisfied that:

- It can be justified as a reasonable limitation on people's rights and freedoms
- There is evidence that the area to which the bylaw is intended to apply has experienced a high level of alcohol-related crime or disorder (or if an alcohol control is already operative, then Council must be satisfied that a high level of alcohol-related crime and disorder is likely to arise in the area without the bylaw being made), and
- That the bylaw is appropriate and proportionate in light of that crime and disorder.

Council must also determine whether³:

- A bylaw is the most appropriate way to of addressing the perceived issues;
- The draft bylaw is the most appropriate form of bylaw; and
- The draft bylaw gives rise to any implications under the NZ Bill of Rights Act 1990.

Perceived issues

The consumption of alcohol in public places and the bringing and possession of alcohol onto public places encourages crime and disorder and incidents of alcohol related harm. This is supported by evidence provided by New Zealand Police.

The consumption of alcohol in public places can be a cause of concern for both the general public,

¹ Section 145 of the Local Government Act 2002

² Section 147 of the Local Government Act 2002

³ Section 155 or the Local Government Act 2002

and those consuming the alcohol, in that it can incur alcohol related harm situations.

Often the problem is experienced in areas where people congregate, either in the vicinity of licensed premises or in public areas where social gatherings occur, such as beaches or parks.

Alcohol related harm through the consumption of alcohol in public places can include:

- damage to private property or public assets
- aggressive, intimidating or offensive behaviour towards others
- public disorder/nuisance behaviour such as fighting
- nuisance issues through noisy and disruptive behaviour.

When alcohol is being consumed in a public place that may lead to the above types of behaviours, Police Constables have limited powers under other legislation to 'stop the problem before it starts'.

The enforcement tools available under an alcohol control bylaw are more effective because they are instant and less time-consuming than other options.

Is a bylaw the most appropriate way of addressing the problems?

A proposed bylaw is considered the most appropriate way of reducing alcohol-related harm.

Is the proposed bylaw the most appropriate form of bylaw?

The proposed bylaw addresses the perceived problems and has been updated to comply with legislative changes.

Does the proposed bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990 / can the proposed bylaw be justified as a reasonable limitation on people's rights and freedoms?

The Bill of Rights protects the human rights and fundamental freedoms of all people in New Zealand, including the right to freedom of movement. The proposed bylaw, together with the associated enforcement provisions, provides that Police Constables can ask people to leave public places that are subject to a permanent or temporary alcohol control, if they are in possession of alcohol (s169 and s170 LGA).

The proposed restrictions are considered to be fair and reasonable in the interest of reducing alcohol related harm in public places. The bylaw does not restrict the movement of people who are not in possession of alcohol or those drinking alcohol on private premises. Police Constables have complete discretionary powers in enforcing the bylaw. If Constables witness alcohol consumption within an alcohol control area and they do not consider the activity to be of concern relating to potential alcohol related crime and disorder, they are not obliged to enforce the bylaw.

It is considered that the proposed bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990 and that for public health and safety reasons the proposed bylaw can be justified as a reasonable limitation on people's rights and freedoms.

A high level of crime or disorder (relating to alcohol consumption) is likely to arise again if the bylaw is not made, and the bylaw is appropriate and proportionate in the light of that likely crime or disorder.

Your feedback is encouraged

Council encourages any person or organisation with an interest in the proposed Alcohol Control Bylaw 2018 to give feedback. Submissions can be made between Wednesday, 5 September and **4.30pm on Friday, 5 October 2018**. To make a submission you can:

- submit online <https://www.fndc.govt.nz/communication/consultation>
- email your comments to submissions@fndc.govt.nz
- drop-off a written submission at any Council service centre or library
- post your submission to: Far North District Council, Private Bag 752, Kaikohe 0440

Giving effective feedback

To submit effective feedback please clearly articulate:

- descriptions of, as accurately as possible, the public place you want to see a control continued or put in place
- descriptions of the type(s) of crime or disorder you have witnessed in the past or are currently witnessing, that you believe were contributed to by the consumption of alcohol in that public place
- how often this type of crime and disorder is/was occurring
- when this type of crime and disorder is/was most frequently experienced (time of day, day(s) of the week, time of year)
- what, if any, other things could be done to prevent the crime or disorder happening.

Feedback on matters outside the scope of the draft Bylaw cannot be considered by the Council as part of this Bylaw review process. For example, this Bylaw does not regulate the number and location of licensed premises.

What happens next?

Council will acknowledge, in writing, the receipt of your feedback. If you indicate on your feedback form that you would like to speak to your submission at a hearing, you will be contacted to let you know when and where the sessions are taking place.

ALCOHOL CONTROL BYLAW

2018

Pursuant to the Local
Government Act 2002, Far
North District Council makes the
following bylaw about alcohol
control in public places.

1. Title

This bylaw is the Alcohol Control Bylaw 2018.

2. Commencement

XX December 2018.

3. Application

This bylaw applies to the Far North District.

Part 1 – Preliminary Provisions

4. Purpose

The purpose of this bylaw is to provide for the prohibition and control of the consumption or possession of alcohol in public places (including vehicles in public places) to reduce alcohol related harm.

Explanatory notes:

The provisions of the Act provide explicit details about what this type of bylaw can control. Generally, any transporting of alcohol in unopened containers within an alcohol control area is permitted, subject to certain conditions. See section 147 of the Act for further details.

Alcohol control areas do not apply to licensed premises, which can include situations where a special license has been issued for a specific event. Licensed premises can include areas of public places such as footpaths.

Under the Act, only constables (New Zealand Police Officers) can take enforcement action under this Bylaw. Constables have powers of arrest, search and seizure under the Act and they can issue infringement notices.

5. Interpretation

5.1 Any word used in this Bylaw that is defined in section 5, 147, 169, 169A and 243 of the Act, or section 5 of the Sale and Supply of Alcohol Act 2012 has, for the purposes of this Bylaw, the same meaning as in those sections, unless otherwise provided for in this clause.

5.2 In this Bylaw, unless the context otherwise requires -

Act means the Local Government Act 2002

Council means the Far North District Council.

Far North District means the area within the boundaries under the territorial authority of the Far North District and includes all coastal areas to the line of mean low water springs.

- 5.3 Any explanatory notes and attachments are for information purposes only and do not form part of this Bylaw.
- 5.4 The Interpretation Act 1999 applies to this Bylaw.

Part 2 – Control of Alcohol

6. Alcohol control areas

- 6.1 Council may, by resolution, declare alcohol control areas in which the consumption, bringing in, and possession of alcohol in public places is prohibited or controlled.
- 6.2 Any resolution made under clause 6.1 must also:
- (a) include a map of the alcohol control area;
 - (b) specify the time(s) that any prohibition or control applies, and whether the alcohol control area is permanent or temporary;
 - (c) if consumption, bringing in, and possession of alcohol is controlled rather than prohibited, specify the nature of the control.
- 6.3 No person shall consume, bring into, or possess alcohol in any public place (including inside a vehicle) in an alcohol control area that contravenes a resolution made under clauses 6.1 and 6.2.
- 6.4 Clause 6.3 does not apply to a person who is acting pursuant to, and in accordance with any conditions of, a consent granted under clause 12.1.

Explanatory note: As at 01 April 2014, The Act defines a public place for the purposes of an alcohol control area as:

“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 does not include licensed premises.”

7. Permanent alcohol control areas

- 7.1 Council may under clause 6.1 declare an area to be a permanent alcohol control area at all times; or for specified, repeated periods of time.
- 7.2 Council will consult in accordance with section 82 of the Act on any proposal to declare, amend or revoke a permanent alcohol control area.

Explanatory note: All resolutions of Council declaring alcohol control areas are contained within the additional information for the Alcohol Control Bylaw 2018 - Register of Resolutions, attached to this Bylaw.

8. Temporary alcohol control areas

- 8.1 Council may under clause 6.1 declare an area to be a temporary alcohol control area for a specific period not exceeding seven consecutive days.
- 8.2 Council will give public notice of a temporary alcohol control area at least 14 days before the temporary alcohol control area comes into force.

9. Matters to be considered before declaring alcohol control areas

- 9.1 Before declaring a permanent alcohol control area the Council:
 - (a) must consider views presented to the Council through consultation on the proposal to declare a permanent alcohol control area;
 - (b) must consider the relevant criteria in sections 147A and 147B of the Act, as applicable;
 - (c) may consider any other matter it considers relevant.

Explanatory note: Sections 147A and 147B of the Act are outlined in Section 3 of the Additional Information to this Bylaw.

- 9.2 Before declaring a temporary alcohol control area the Council:
 - (a) must consider the relevant criteria in sections 147A and 147B of the Act, as applicable;
 - (b) where the temporary alcohol control area applies to an event:
 - i) may consider the nature and type of the event
 - ii) the history (if any) of the event
 - iii) the number of people expected to attend the event
 - iv) the area in which the event is to be held
 - v) whether the Police support the proposed temporary alcohol control area, and whether the Police will be present at the event to enforce it
 - (c) may consider any other information it considers relevant.

Explanatory note: Records of resolutions made for temporary alcohol controls will not be included in the 'register of resolutions' but are permanently recorded through the appropriate Council records of meetings, minutes and resolutions.

Part 4: Enforcement Powers

10. Enforcement

- 10.1 A constable may use their powers under the Act to enforce this Bylaw.
- 10.2 This Bylaw authorises a constable to exercise the power of search under sections 169(2)(a) and 170(2) of the Act for temporary alcohol areas declared in accordance with clauses 6 and 8.

Explanatory note: Section 170(2) provides constables with additional powers of search in relation to temporary alcohol controls that have been notified and indicated by signs in accordance with section 170(3) of the Act.

Part 5: Offences and Penalties

11. Bylaw breaches

- 11.1 Every person who breaches this bylaw commits an offence.
- 11.2 Every person who commits an offence under this bylaw is liable to a penalty under the Local Act.

Explanatory note: As at 29 October 2013 the penalty for breaching an alcohol bylaw is an infringement fee of \$250 under the Local Government (Alcohol Ban Breaches) Regulations 2013.

Part 6: Exceptions

12. Exceptions

- 12.1 Council may, issue a consent to any person, or class of persons, to allow the consumption, bringing in and possession of alcohol in a public place (including inside a vehicle) within an alcohol control area.
- 12.2 In considering an application for a consent under clause 12.1, Council will consider the following matters:
- (a) the purpose of the exception
 - (b) the proposed duration of the exception
 - (c) the area of the proposed exception
 - (d) whether the area is under the control of, or managed by, Council
 - (e) whether any other permits are required from Council for the event
 - (f) Any other matter Council considers relevant
- 12.3 Council prescribe conditions for any such consent, including, but not limited to:
- (a) the duration of the consent
 - (b) the exact location to which the consent applies
 - (c) the maximum number of people the consent applies to.
- 12.4 Council may by resolution made after consultation that gives effect to the requirements of section 82 of the Act:

- (a) prescribe a fee for receiving and processing an application and issuing a consent
- (b) determine situations when consent fees may be remitted, refunded or waived.

12.5 A consent may be cancelled by Council at any time.

Explanatory note: Exceptions for events with special licences do not require consent under clause 11.1, as they are excluded from the definition of public places that applies to this Bylaw.

Additional information to Alcohol Control Bylaw 2018

This document is for information purpose only and does not form part of this Bylaw. It contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. The document may be updated at any time.

Section 1: History of the bylaw

Action	Description	Date of decision	Commencement
Expire	Public Places Liquor Control Bylaw 2003 expires in accordance with Local Government (Alcohol Reform) Amendment Act 2012	NA	18 December 2018
Make	Alcohol Control Bylaw 2018	tbc	19 December 2018

Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council/Committee/Panels</i>			
Adoption of Statement of Proposal	Statement of Proposal including draft Bylaw adoption for public consultation		
Hearing	Hearing for interested parties to share their views in person		
Deliberations	Deliberations on submission issues raised		
Making of Bylaw	Council makes final Bylaw		

Document	Description	Location	Date
<i>Legislation</i>			
Local Government Act 2002	Provides the functions, duties, powers and penalties to make and enforce this Bylaw. Particularly sections 147A and 147B relating to the making of alcohol control bylaws.	www.legislation.govt.nz	NA
Sale and Supply of Alcohol Act 2012	Associated legislation	www.legislation.govt.nz	NA
Local Government (Alcohol Ban Breaches) Regulations 2013	Regulations that determines the infringement fee for breaching an alcohol ban	www.legislation.govt.nz	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz	NA

Section 3: Delegations

Clause	Function, Duty, Power to be delegated	Delegated Authority	Delegation date	Delegation active date
All	All of its responsibilities, duties and powers under this bylaw, except - (a) the power to set fees (b) the power to make a decision for which a Council resolution is required (c) the power to hear and decide on any appeal process	Chief Executive		

Section 4: Enforcement powers

Legislative provision	Description
Section 169 and 170 of the Local Government Act 2002	A constable has powers of arrest, search and seizure in relation to alcohol controls.

Section 5: Offences and penalties

Provision	Description of offence	Maximum fine upon conviction	Infringement fee
cl 4*	Breach of bylaw	n/a	\$250*

*Local Government (Alcohol Ban Breaches) Regulations 2013

Section 6: Register of resolutions for permanent alcohol controls

General location description	Map number	Operative time	Decision date	Commencement date
Ahipara	1	24 hours, 7 days a week	13/12/2018	19/12/2018
Coopers Beach	2	24 hours, 7 days a week	13/12/2018	19/12/2018
Haruru Falls	3	24 hours, 7 days a week	13/12/2018	19/12/2018
Hihi Beach	4	7 days a week from 10pm to 10am except New Years Eve	13/12/2018	19/12/2018
Kaeo	5	24 hours, 7 days a week	13/12/2018	19/12/2018
Kaikohe	6	24 hours, 7 days a week	13/12/2018	19/12/2018
Kaitaia	7	24 hours, 7 days a week	13/12/2018	19/12/2018
Kawakawa	8	24 hours, 7 days a week	13/12/2018	19/12/2018
Kerikeri	9	24 hours, 7 days a week	13/12/2018	19/12/2018
Kohukohu	10	24 hours, 7 days a week	13/12/2018	19/12/2018
Lily Pond	11	Thursday, Friday and Saturday nights between 3 December to 24 December from 9pm to 6am 24 December from 9pm to 6am on December 25 December to 3 January from 6pm to 6am Anzac Day Eve from 9am to midday on Anzac Day	13/12/2018	19/12/2018
Moerewa	12	24 hours, 7 days a week	13/12/2018	19/12/2018
Okaihau	13	24 hours, 7 days a week	13/12/2018	19/12/2018
Omapere	14	24 hours, 7 days a week	13/12/2018	19/12/2018
Opononi	15	24 hours, 7 days a week	13/12/2018	19/12/2018
Paihia	16	24 hours, 7 days a week	13/12/2018	19/12/2018
Pukenui	17	Thursday, Friday and Saturday nights between 3 December to 24 December	13/12/2018	19/12/2018

		18from 9pm to 6am 24 December from 9pm to 6am on December 25 December to 3 January from 6pm to 6am Anzac Day Eve from 9am to midday on Anzac Day		
Rawene	18	24 hours, 7 days a week	13/12/2018	19/12/2018
Russell	19	24 hours, 7 days a week	13/12/2018	19/12/2018
Taipa	20	24 hours, 7 days a week	13/12/2018	19/12/2018
Taupo Bay	21	24 hours, 7 days a week	13/12/2018	19/12/2018
Tokerau Beach	22	Thursday, Friday and Saturday nights between 3 December to 24 December from 9pm to 6am 24 December from 9pm to 6am on December 25 December to 3 January from 6pm to 6am Anzac Day Eve from 9am to midday on Anzac Day	13/12/2018	19/12/2018
Waipapa	23	24 hours, 7 days a week	13/12/2018	19/12/2018



**AHIPARA ALCOHOL CONTROL
AREA**



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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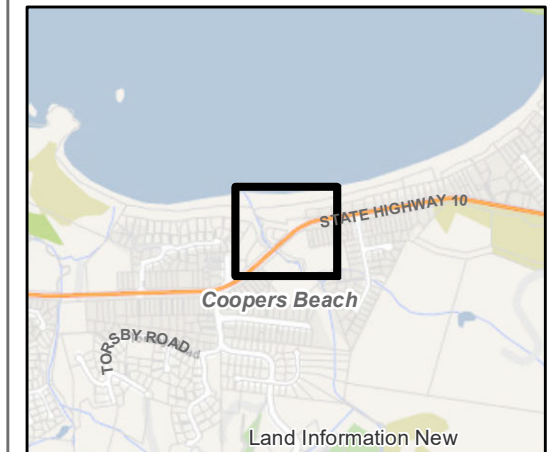


COOPERS BEACH ALCOHOL CONTROL AREA

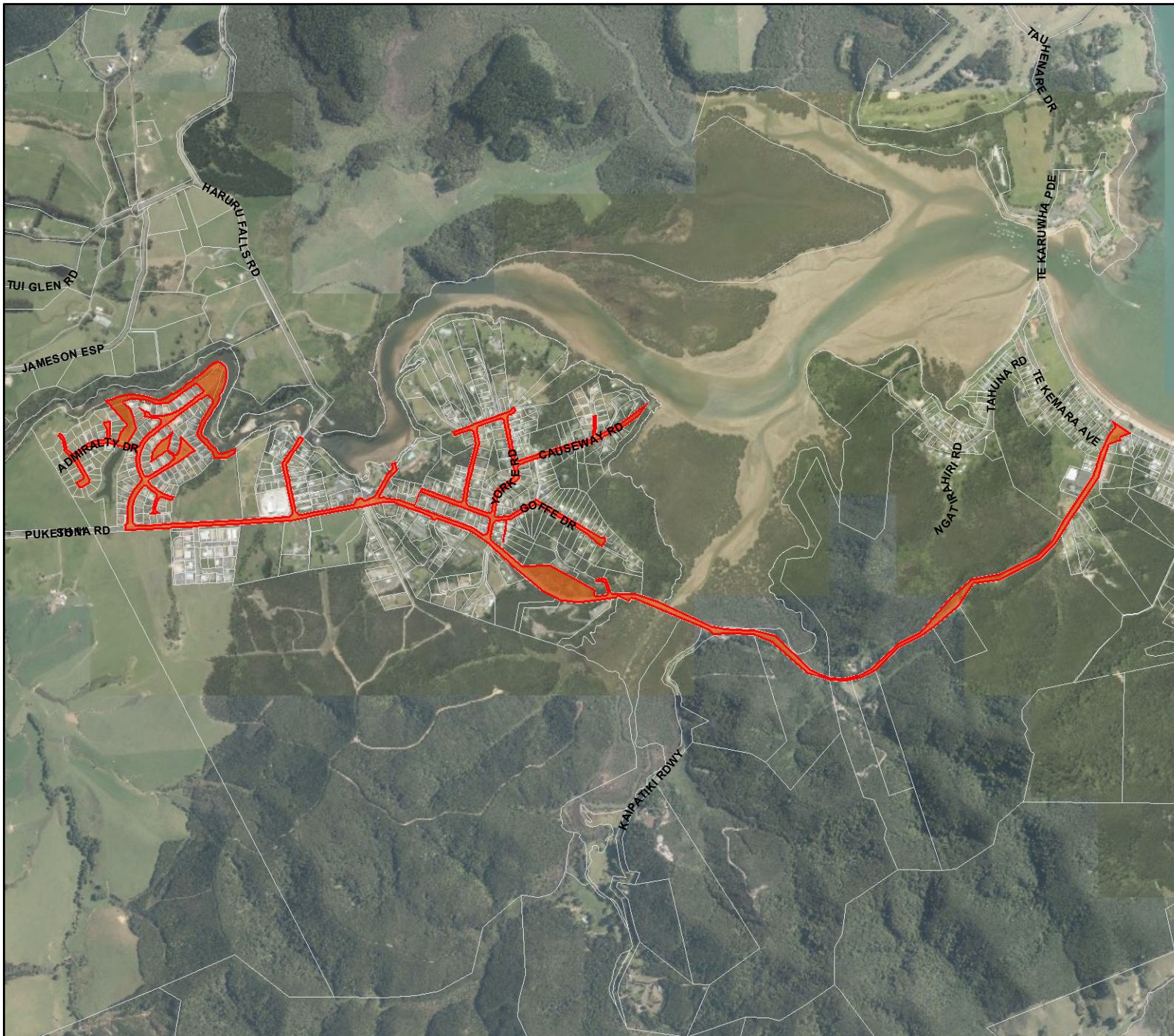


Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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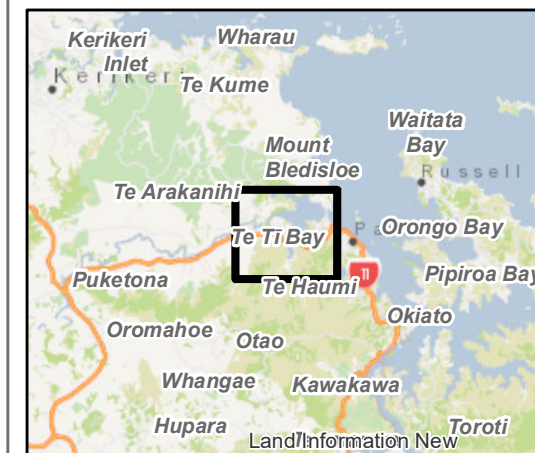


HARURU FALLS ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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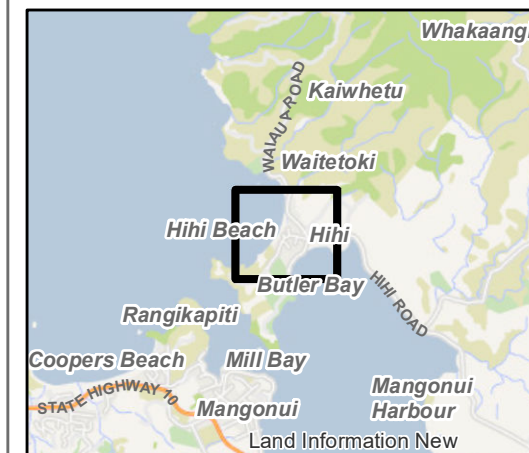


HIHI BEACH ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
7 days a week from 10pm to 10am except
New Years Eve



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KAERO ALCOHOL CONTROL AREA

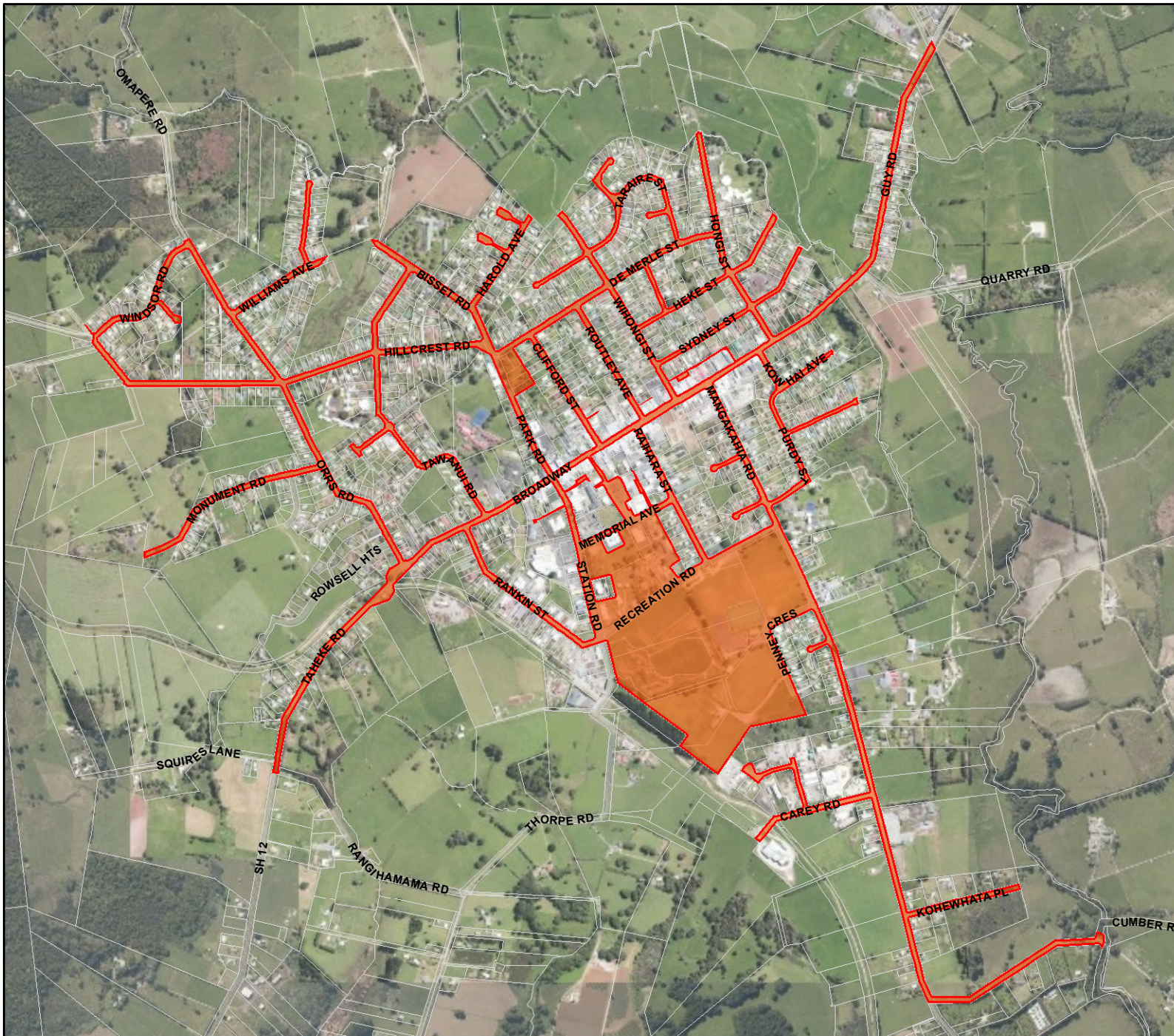


Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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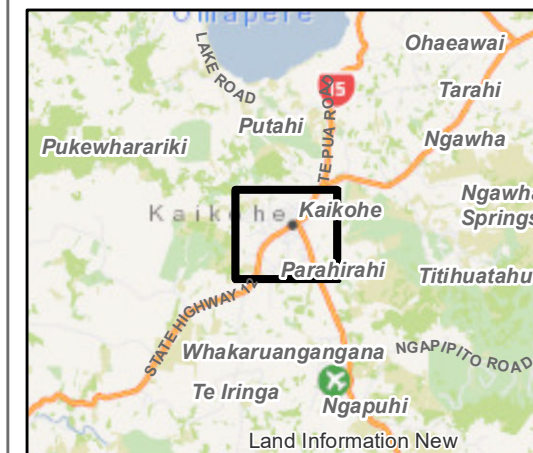


KAIKOHE ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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KAITAIA ALCOHOL CONTROL AREA

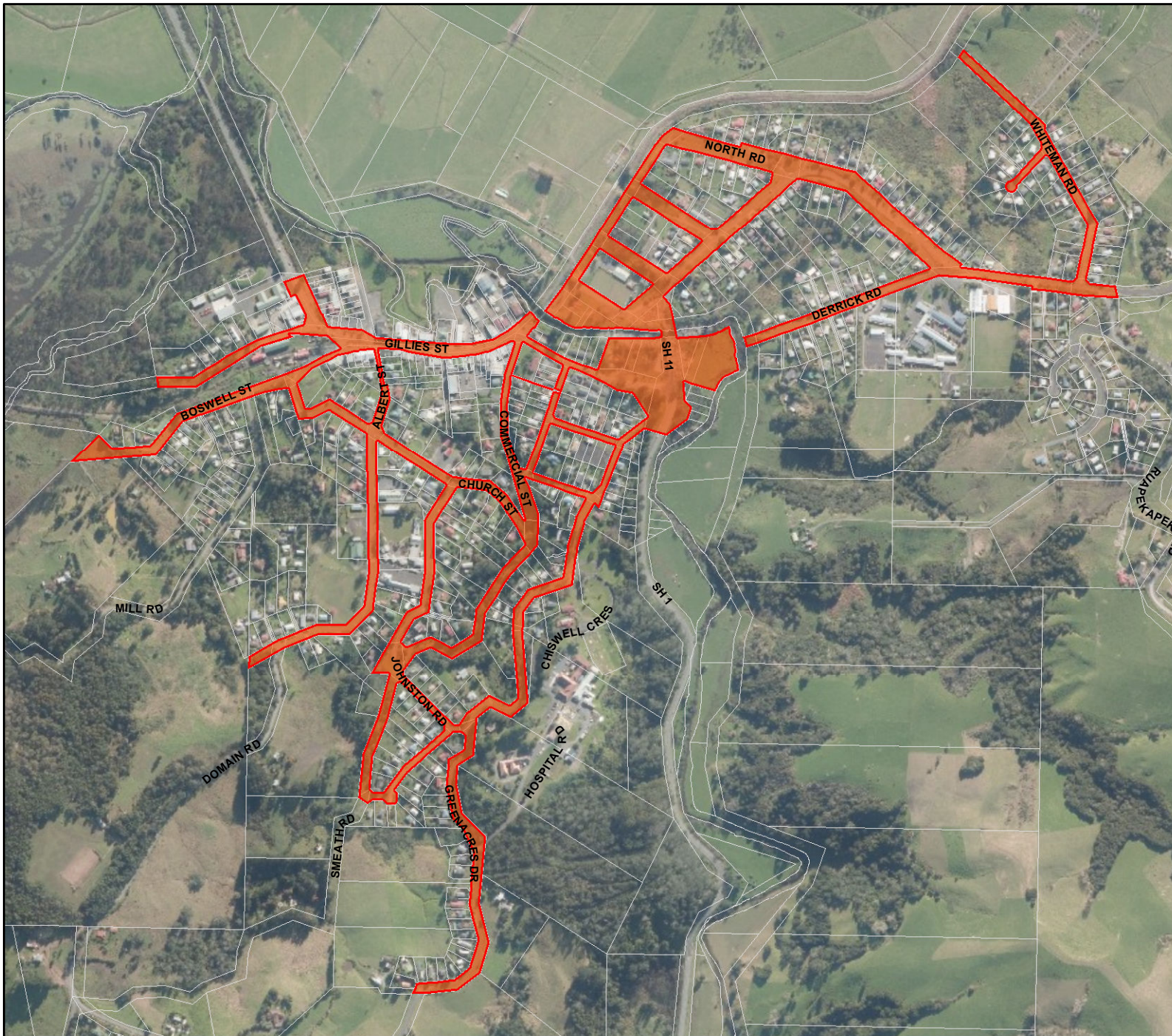


Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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KAWAKAWA ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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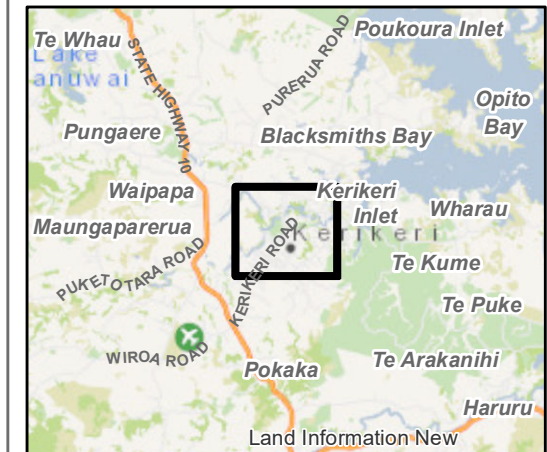


KERIKERI ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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KOHUKOHU ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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LILY POND ALCOHOL CONTROL AREA



Alcohol Control Area

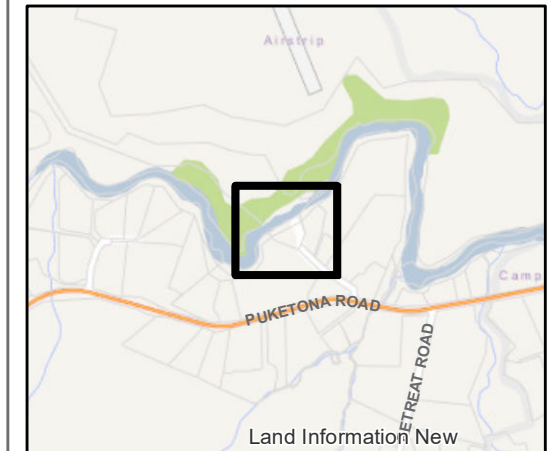
Operative Times:

Thursday, Friday and Saturday nights
between 3 December to 24 December
from 9pm to 6am

24 December from 9pm to 6am on
December

25 December to 3 January from 6pm to
6am

Anzac Day Eve from 9am to midday on
Anzac Day



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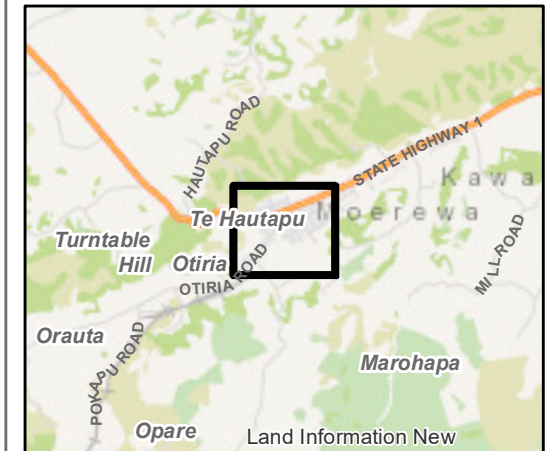


MOEREWA ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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OAKIHAU ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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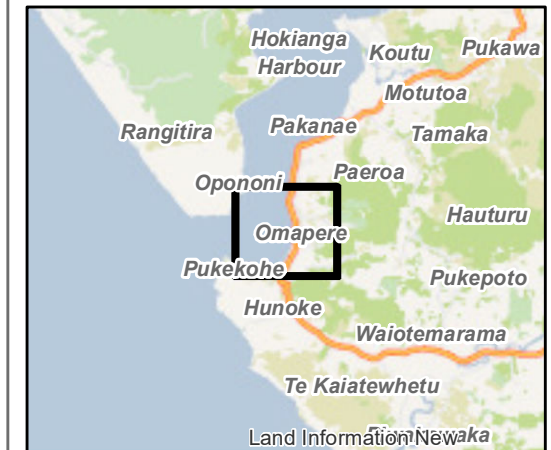


OMAPERE ALCOHOL CONTROL AREA

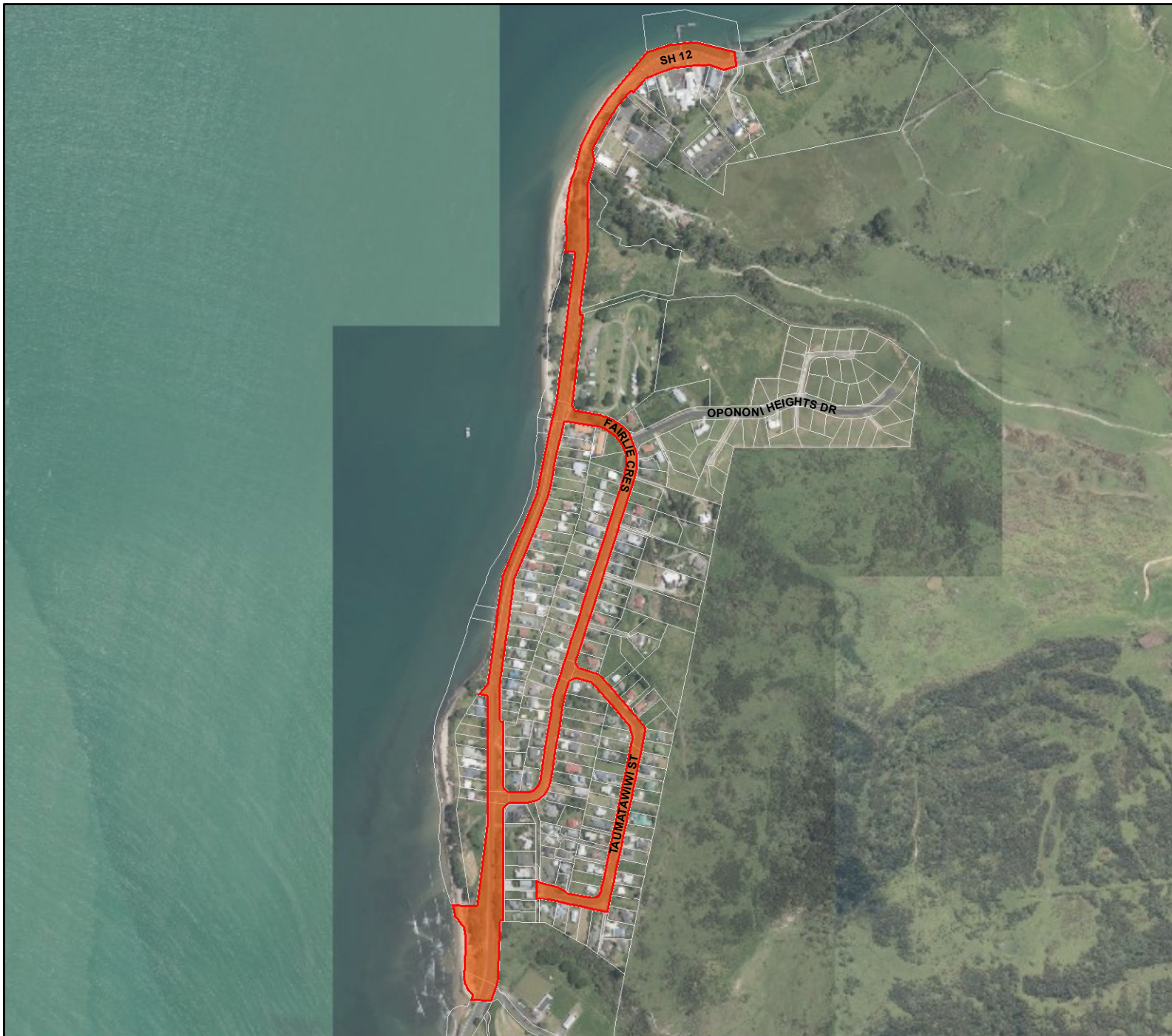


Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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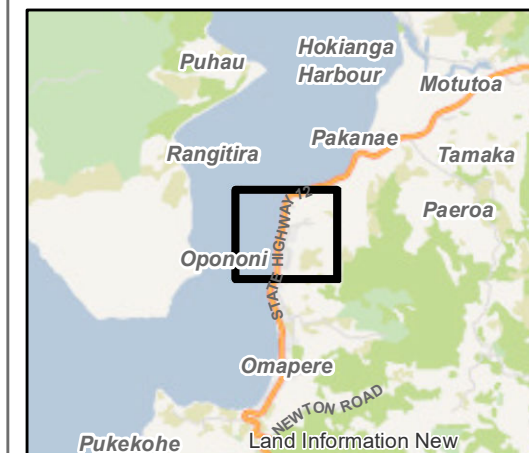


OPONONI ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week

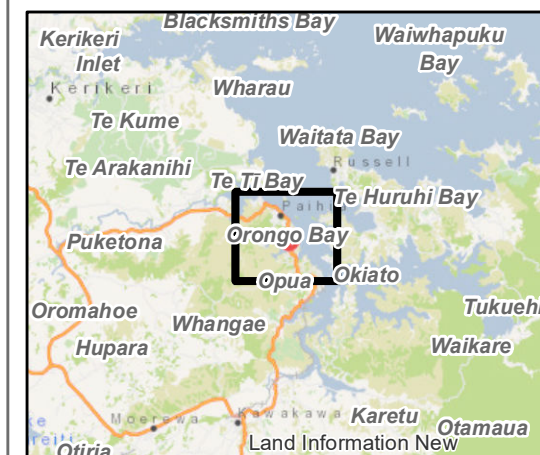


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PAIHIA ALCOHOL CONTROL
AREA

Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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PUKENUI ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:

Thursday, Friday and Saturday nights
between 3 December to 24 December
from 9pm to 6am

24 December from 9pm to 6am on
December

25 December to 3 January from 6pm to
6am

Anzac Day Eve from 9am to midday on
Anzac Day



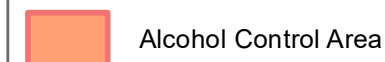
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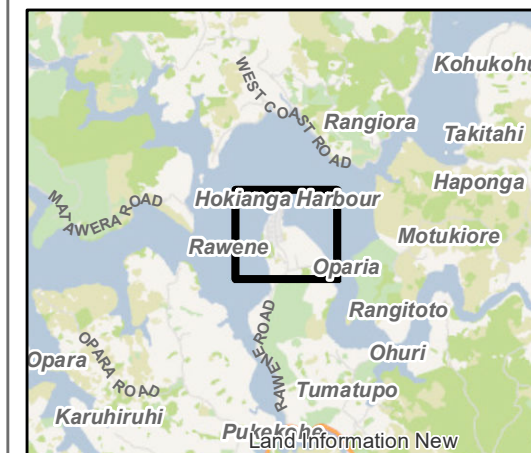
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RAWENE ALCOHOL CONTROL AREA



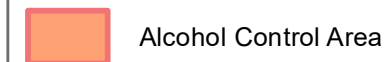
Operative Times:
24 hours, 7 days a week



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RUSSELL ALCOHOL CONTROL AREA



Operative Times:
24 hours, 7 days a week



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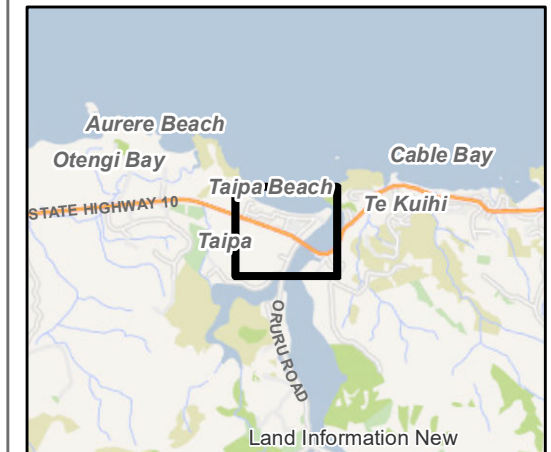


TAIPA ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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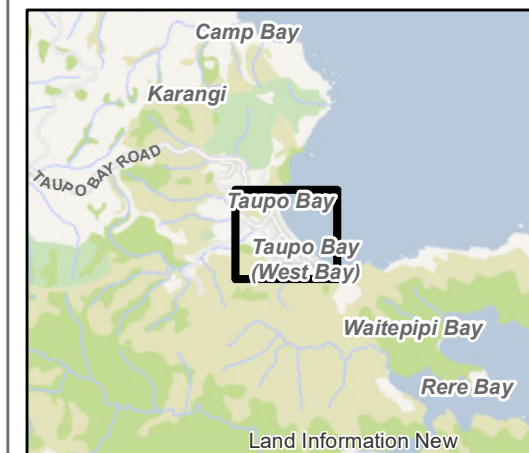


TAUPO BAY ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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TOKERAU BEACH ALCOHOL CONTROL AREA



Alcohol Control Area

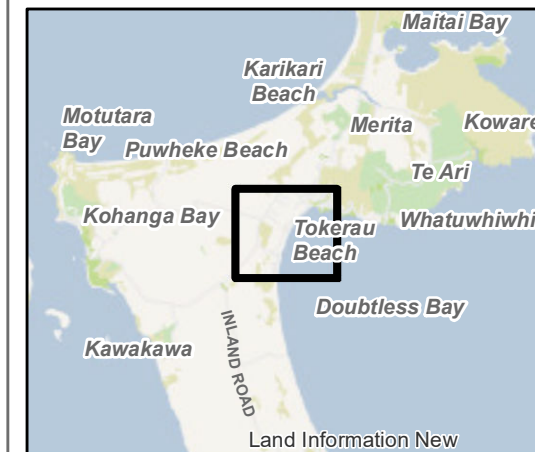
Operative Times:

Thursday, Friday and Saturday nights
between 3 December to 24 December
from 9pm to 6am

24 December from 9pm to 6am on
December

25 December to 3 January from 6pm to
6am

Anzac Day Eve from 9am to midday on
Anzac Day



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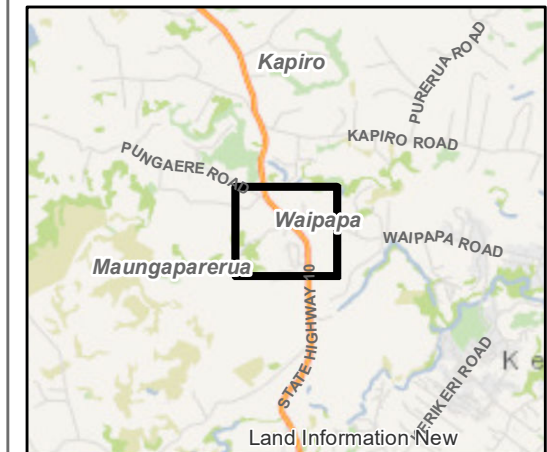


WAIPAPA ALCOHOL CONTROL AREA



Alcohol Control Area

Operative Times:
24 hours, 7 days a week



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