



## STAFF REPORT

**TO:** Environment & Planning Committee

**FROM:** Graham Caradus, Regulatory Services Coordinator

**REFERENCE:** B956

**SUBJECT:** **STATEMENT OF PROPOSAL: DRAFT AMENDMENT TO TASMAN DISTRICT COUNCIL CONSOLIDATED BYLAW: CHAPTER 3: CONTROL OF LIQUOR IN PUBLIC PLACES BYLAW 2004 - REPORT EP08/09/05** - Report prepared for meeting of 16 September

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### 1. PURPOSE

This report seeks Council approval to amend the Control of Liquor in Public Places Bylaw 2004 by including additional areas in the Kaiteriteri area.

### 2. BACKGROUND

The Motueka Police have asked that the bylaw be expanded to cover additional areas around Kaiteriteri. Staff consider the amendment is appropriate to managing the consumption of alcohol in these areas.

Attached as required is a Statement of Proposal and a copy of the Bylaw with the proposed amendments for public consultation.

### 3. RECOMMENDATION

**THAT the Tasman District Council, proceeds with amendment of the current 'Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2004', and that the draft amended bylaw contained in part 3 of this statement of proposal be adopted and be notified to commence the consultative procedure as set out in the Local Government Act 2002.**

A handwritten signature in black ink, appearing to read 'Graham Caradus'.

Graham Caradus  
**Regulatory Services Coordinator**

## STATEMENT OF PROPOSAL

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 and discussion of the changes intended from the existing Control of Liquor in Public Places Bylaw. This section also includes the recommendation to Councils E & P Committee to proceed with the next step in adopting the draft bylaw.*

**Part 3:** *This part contains the draft amended Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2004.*

### **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 amend the existing Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2004 (the bylaw).

A. The vast majority of the existing bylaw remains unchanged with changes only intended, in general terms to extend the Kaiteriteri liquor ban area. The amendments proposed to the Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2004 are as follows:

To amend Schedule A clause 3 to:

1. Include Martin Farm Road and surrounding public places through to Bethany Park.
2. Include both Stevens Bay and Tapu Bay.
3. Include the foreshore area north of Breaker Bay through to Sandy Bay/Marahau Beach.

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

Tasman District Council 189 Queen Street Richmond 7031	Tasman District Council 7 Hickmott Place Motueka
Tasman District Council 92 Fairfax Street Murchison	Tasman District Council 78 Commercial Street Takaka
District Library Queen Street Richmond	Motueka Library 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.tdc.govt.nz](http://www.tdc.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@tdc.govt.nz](mailto:info@tdc.govt.nz) or faxed to 03 543 9524
- E. Submissions will be received at any time from 25 September 2008 up to 4.30 pm on 28 October 2008

## **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 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 Bylaw 2004 came into force in 1 August 2004. The bylaw has generally been very effective and allowed Police to control the use of alcohol in urban areas and in areas that receive large increases to their populations by summertime holiday makers. The amendment now sought is at the encouragement of the Motueka Police who report that the existing provisions have proved very effective and see significant advantage in the area controlled by the bylaw being extended.

#### **2. AMENDMENTS TO THE BYLAW**

- 2.1 Amend "Schedule A" by adding to Clause 3 after "Torless Rocks" the words** then south and west around the foreshore 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.

See Part 3 Schedule A (Tasman District Council Consolidated Bylaw Chapter 3 Control of Liquor in Public Places Bylaw 2004) annexed.



**Tasman District Council  
Consolidated Bylaw**

**Chapter 3**

**CONTROL OF LIQUOR IN PUBLIC PLACES**

**December 2007**

## 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 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 2004.
- (b) The Bylaw shall come into effect on 1 August 2004.

## 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) between 9.00 pm and 7.00 am the following day for every day in the specified period;
- (b) and in addition, between 4.00 pm and 7.00 am the following day for the Kaiteriteri Liquor Ban Area for the period of between 26 December and 16 January the following year inclusive every year.

**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** means a place:

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

**Schedule A Public Place** means a public place described in Schedule A hereto.

**Specified Period** means from 1 January until 31 December inclusive every year.

### **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 any period 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. DATE BYLAW MADE**

This Bylaw was made by the Tasman District Council at a meeting of the Council on 29 July 2004.

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

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**Mayor**

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**Chief Executive**

## SCHEDULE A

### PUBLIC PLACES

**1. Richmond (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 (Map 2a and 2b)**

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, the skateboard park and the saltwater baths.

**3. Kaiteriteri (Map 3, 3a, and 3b)**

The public places located in the area encompassed by Rowling Road, Riwaka-Marahau Road, Inlet Road, Breaker Bay and the mean low water mark around Kaka Point to the Torlesse Rocks then south and west around the foreshore 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 (Map 4)**

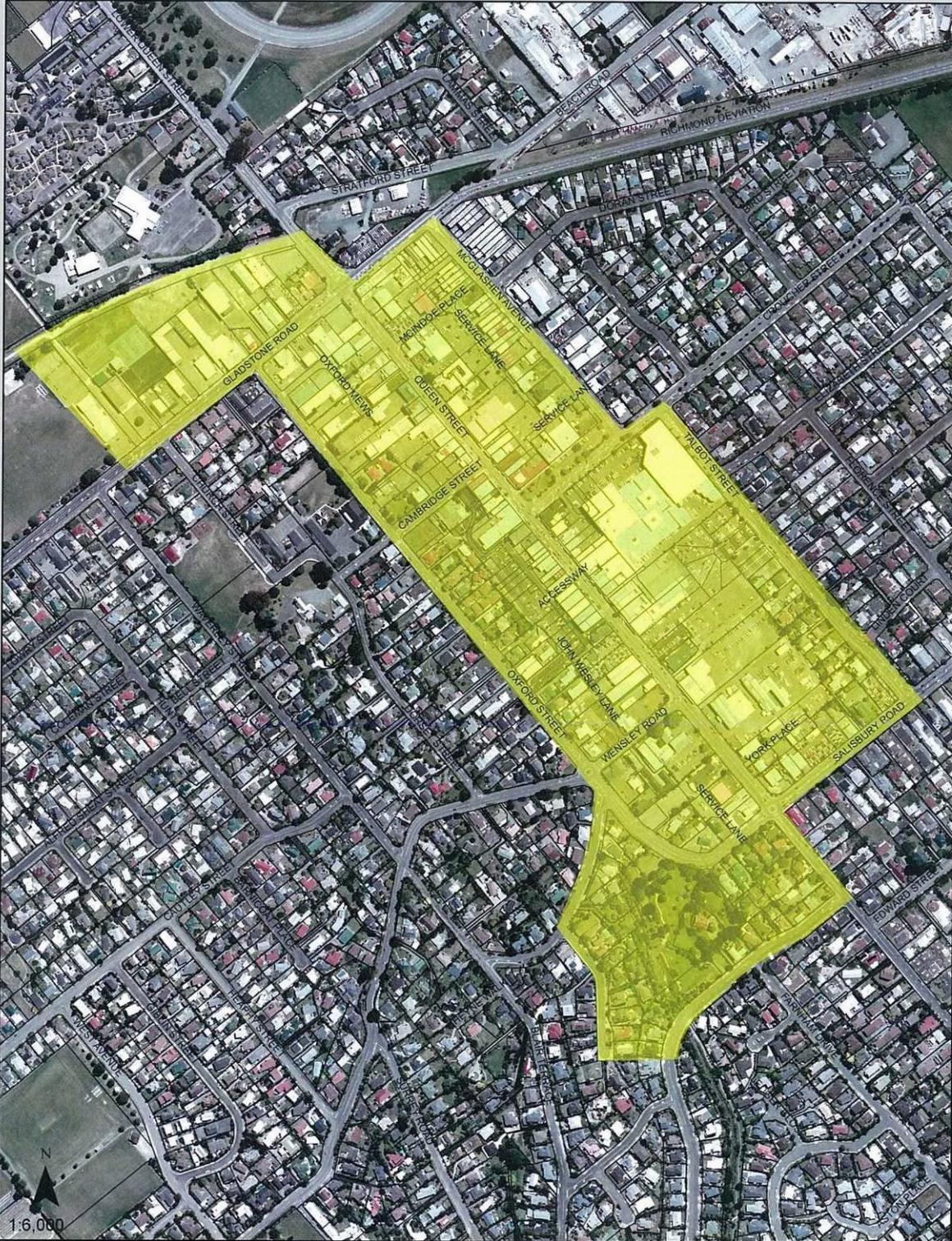
The public places located in the central business area and other areas encompassed by Motupipi Street to Reilly Street to the Takaka River to Ferry Road, a line through to Willow Street to Motupipi Street.

**5. Pohara (Map 5)**

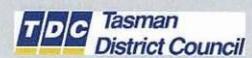
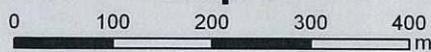
The public places located between Abel Tasman Drive and the mean low water mark from the western end of the Rototai Reserve to the eastern end of Tata Beach and including the Pohara Recreation Reserve.

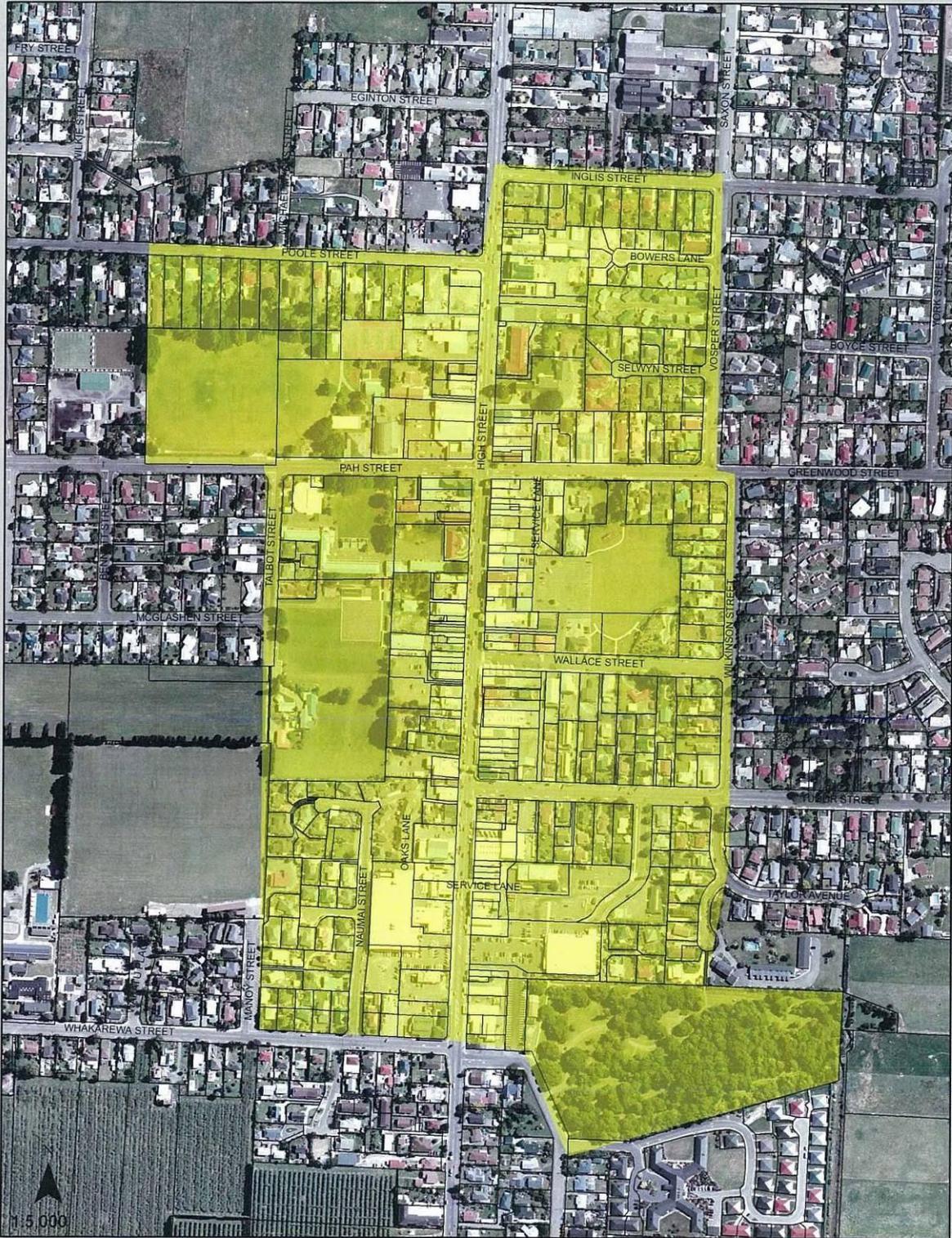
**6. Mapua (Map 6)**

The public places located in the areas encompassed between State Highway 60 from McKee Bluff to Aranui Road, Aranui Road, Tahī Street and the mean low water mark, as well as Aranui Park, Grossi Point, the Mapua Leisure Park coastline and between Langford Drive and Tahī Street.

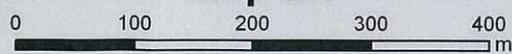


## Richmond Liquor Ban Area Map 1



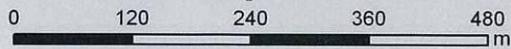


## Motueka Liquor Ban Area Map 2A





## Motueka Liquor Ban Area Map 2B





### Kaiteriteri Liquor Ban Area Map 3





## Takaka Liquor Ban Area Map 4







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## Mapua Liquor Ban Area Map 6

