



## **OPOTIKI DISTRICT PUBLIC PLACES LIQUOR CONTROL BYLAW 2007**

## THE OPOTIKI DISTRICT PUBLIC PLACES LIQUOR CONTROL BYLAW 2007

This Bylaw controls the consumption and possession of liquor in public places:

1. Within the Opotiki Town Centre, including Volkners Island (refer to map showing Extent of Liquor Control Bylaw in Opotiki Town Centre); and,
2. All Crown Land seaward of the Tirohanga Motor Camp and Maraetai Bay Reserve between 26 December up to and including 7 January (refer to maps showing Extent of Liquor Control Bylaw in Tirohanga Beach and Maraetai Bay Reserve).

### **Purpose of the Bylaw**

The purpose of this Bylaw is to address concerns relating to potential criminal offending and safety concerns that are linked to the possession or consumption of alcohol in public places. It is a proactive restriction to limit alcohol in public areas to increase perceptions of safety and to reduce offending. By imposing this ban, the consumption of alcohol should primarily be restricted to private residences or licensed premises in the Opotiki Town Centre and between 26 December and 7 January on Tirohanga Beach and Maraetai Bay Reserve.

The Bylaw has been promulgated pursuant to s147 of the Local Government Act 2002 ("LGA") – this section should be read together with this part of the Bylaw as it contains relevant definitions and the circumstances when this Bylaw will not apply (particularly relating to the transportation of unopened liquor). Pursuant to s169 and s170 of the LGA, the Police will enforce this Bylaw.

### **1. A Short Title And Commencement**

This Bylaw shall be known as "**The Opotiki District Public Places Liquor Control Bylaw 2007**" and shall come into force on 1 July 2007.

### **1.B Repeal**

As from the date this Bylaw comes into force, the Opotiki District Council Public Places Liquor Control Bylaw 2003 shall be repealed.

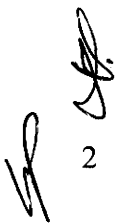
### **1.C Application of Bylaw**

This Bylaw shall apply to the area administered by the Opotiki District Council.

## **2. Definitions**

**LIQUOR** means liquor as defined in the Sale of Liquor Act 1989;

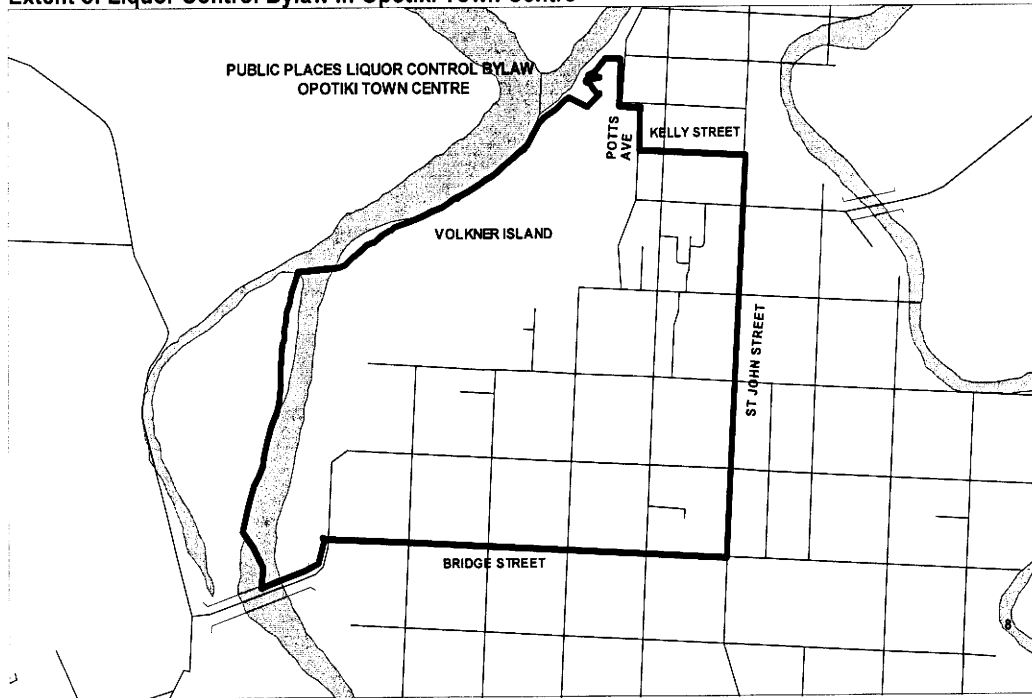
**PUBLIC PLACE** means a public place as defined under s147 (1) of the LGA;



**OPOTIKI TOWN CENTRE** means any public place that is within the area bounded by:

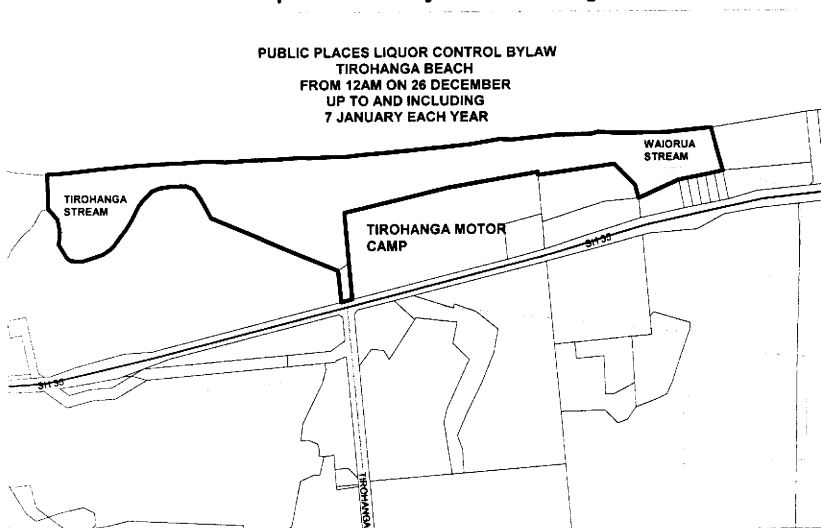
- Potts Ave
- Kelly Street
- St John Street
- Ford Street
- Volkners Island

**Extent of Liquor Control Bylaw in Opotiki Town Centre**



**TIROHANGA BEACH** means all Crown Land (SO 3111) north of the Tirohanga Motor Camp (Allot 404 SO 5696, 400 SO 5397 and 440 SO 7272), east of Tirohanga Stream and west of Waiorua Stream, exiting the Recreation Reserve (Lot 24 DP 4432).

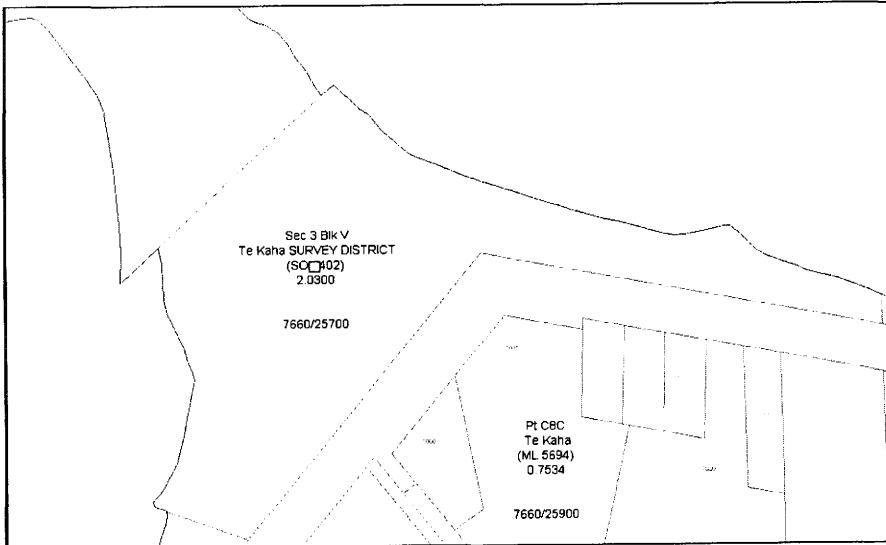
**Extent of Liquor Control Bylaw in Tirohanga Beach**



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**Maraetai Bay Reserve** means the land legally described as Section 3 BLK V Te Kaha Survey District and classified as Recreation Reserve located on State Highway 35, Te Kaha. Maraetai Bay Reserve is owned and administered by the Opotiki District Council.

### Extent of Liquor Control Bylaw in Maraetai Bay Reserve



### 3. Liquor Prohibition in Opotiki Town Centre

3.1 Unless provide for under clause 7 below, the following acts are prohibited within the Town Centre

- i. The consumption of liquor in or at any public place;
- ii. The possession of liquor in or at any public place, including but not limited to liquor in a container such as a bag, parcel or package, or liquor in or on a vehicle;
- iii. The bringing of liquor into any public place.

3.2 This prohibition has effect from midnight on 1 July 2007 and any time thereafter for every day of every year.

3.3 The Council by resolution may waive a prohibition of alcohol consumption or possession (including while in a vehicle) in a public place within the Town Centre for certain specified times and/or within certain specified public place areas within the Town Centre for specified special events. The waiving of a prohibition must be notified in the appropriate Opotiki newspaper at least 14 days in advance of the special event.

3.4 The Police powers of search under s170 (2) of the LGA applies to events for which a prohibition has been waived.

### 4. Exceptions to Prohibition for Residents and their visitors in Opotiki Town Centre

Prohibitions in this Bylaw do not apply, in the case of liquor in an **unopened** bottle or other **unopened** container, for the purpose of the direct transport of that liquor to premises within the Town Centre –

- by, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
- from those premises to a place outside the Town Centre by a resident of those premises or his or her bona fide visitors,

provided the liquor is promptly removed from the Town Centre.

### 5. Exceptions to Prohibition for Licensed Premises in Opotiki Town Centre

Prohibitions in this Bylaw do not apply –

VP 4

In the case of liquor in an unopened bottle or other unopened container, to the transport of that liquor from premises within the Town Centre during any period when, under the Sale of Liquor Act 1989, it is lawful to sell liquor on those premises, provided:

- a. The liquor is **promptly** removed from the Town Centre;
- b. In the case of liquor in an unopened bottle or other unopened container, to the transport of that liquor from outside the Town Centre for delivery to premises within the Town Centre, provided the premises are licensed for the sale of liquor under the Sale of Liquor Act 1989;
- c. The possession and/or consumption of liquor at any premises within the Town Centre in compliance with a license for the sale and/or consumption of liquor under the Sale of Liquor Act 1989, including footpath areas that are licensed as part of those premises and are clearly defined by the placement of tables and chairs outside those premises.

**6. Liquor Prohibition in Tirohanga Beach and Maraetai Bay Reserve**

6.1 The following acts are prohibited within the Tirohanga Beach and the Maraetai Bay Reserve between 26 December up to and including 7 January each year:

- i. The consumption of liquor in or at any public place;
- ii. The possession of liquor in or at any public place, including but not limited to liquor in a container such as a bag, parcel or package, or liquor in or on a vehicle;
- iii. The bringing of liquor into any public place.

6.2 This prohibition has effect from 12am on 26 December until midnight 7 January.

**7. Council Permission**

The Council, may by resolution, permit an activity that would be in breach of any prohibition under this Bylaw, provided that written application had been made to the Council.

**8. Signage**

The Council will erect signage within public places covered by this -Bylaw to provide information to the public on the terms of the Bylaw. The size, location and terms of signage shall be at Council's discretion. To avoid any doubt, the absence of any signage in any public place does not authorise breach of this Bylaw.

**9. Offences**

Everyone commits an offence who:

- a) Consumes or possesses any liquor in a public place in breach of a prohibition under this part of the Bylaw; and
- b) Breaches, or permits a breach of the terms of any Council permission granted pursuant to Clause 3.3 of this Bylaw.

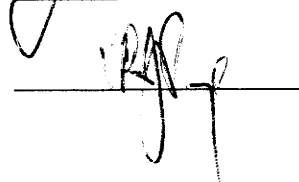
The foregoing Bylaw was duly made by the Opotiki District Council by a resolution passed on 20 December 2006 and was confirmed, following consideration of community submissions received during a special consultation procedure, by a resolution passed on 26 June 2007.

The Opotiki District Public Places Liquor Control Bylaw 2007 was ordered to come into force on 1<sup>st</sup> July 2007.

The Common Seal of the  
OPOTIKI DISTRICT COUNCIL was hereunto  
affixed

in the presence of:

 . Mayor

 Chief Executive



## **EXPLANATORY NOTES TO THE BYLAW**

*This Bylaw is introduced pursuant to the specific empowering provisions of the Local Government Act 2002 that provide for Bylaws for liquor control purposes. This Bylaw does not repeat or paraphrase those statutory provisions, and accordingly those provisions should be read in conjunction with this -Bylaw. In particular, the following provisions are noted:*

*Section 147 empowers the Council to make this Bylaw. It also defines 'liquor' and 'public place'. In addition, s147 (3) sets out a number of specific exemptions when the Bylaw will not apply with respect to the transportation of unopened bottles or containers.*

## **OFFENCE**

Any person who acts in breach of this Bylaw commits an offence and is liable upon summary conviction to a fine, as provided for under the LGA.

## **POLICE POWERS**

*Section 169 provides the Police with powers of search and seizure, without warrant, to enforce the Bylaw. The Police are responsible for enforcing the Bylaw. Section 170 sets out certain conditions imposed on the Police powers of search under s169.*

In summary, where a person is found to be in breach of this Bylaw, the liquor would be subject to seizure, and forfeit to the Crown if the person is convicted of breaching the Bylaw.

A person could be arrested if found to be committing an offence under this Bylaw, or refusing to leave the area, or refusing to surrender the liquor.

No warrant is required for the police to conduct a search to ascertain whether liquor is present in a container or vehicle that is in or entering the public place. However, prior to exercising the power of search, a person must be informed that they have the opportunity to promptly remove the container or vehicle from the specified public place, and be given a reasonable opportunity to do so.

Interpretation note: In circumstances where a person so informed has removed liquor from a public place, and subsequently returns with liquor to that public place within a period when it could reasonably be deemed that the person has been informed prior to search, the police shall **not** be required to provide the person with a further opportunity to remove the liquor from the specified public place prior to search.

*This Bylaw has no effect on any other Police powers of search, seizure and arrest or any other statutory offences.*

## **PUBLIC PLACE**

Any place or part of a place that is under the control of the territorial authority, which is open to or used by the public, whether or not a charge for admission applies, and any road, within the area bounded by, and inclusive of:

Public places include, but are not limited to, streets, service lanes, lanes, footpaths, car parks and reserves.

