

# TE TURE-Ā-ROHE TŌPŪTANGA O TE KAUNIHERA-Ā-ROHE O TE WAIROA WĀHANGA 3 – TE HAUMARU PĀPORI

## WAIROA DISTRICT COUNCIL CONSOLIDATED BYLAW PART 3 – PUBLIC SAFETY

The purpose of this Bylaw is to ensure that acceptable standards of safety, convenience, visual amenity and civic values are maintained for the well-being of inhabitants and visitors to the district.

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# 1 INTRODUCTION

## 1.1 SCOPE

The purpose of this Bylaw is to ensure that acceptable standards of safety, convenience, visual amenity and civic values are maintained for the well-being of inhabitants and visitors to the district.

## 1.2 ENABLING ENACTMENTS

This Bylaw is made pursuant and subject to the Local Government Act 2002, the Litter Act 1979, the Health Act 1956, the ~~Sale of Liquor Act 1989~~ Sale and Supply of Liquor Act 2012, the Reserves Act ~~1964-1977~~ and the Electricity (Safety) Regulations ~~1997~~ 2010.

## 1.3 TITLE OF THIS BYLAW

This Bylaw shall be known and cited as Wairoa District Council Public Safety Bylaw 2007 and shall come into operation on the date specified by public notice after the Wairoa District Council makes the Bylaw. For expediency this Bylaw may be referred to as the Public Safety Bylaw.

## 1.4 DEFINITIONS AND INTERPRETATION

For the purposes of this Bylaw the following definitions shall apply:

TERM	DEFINITION
<b><u>ALFRESCO DINING</u></b>	<u>the provision of outdoor dining facilities for the consumption of food and/or beverages including alcohol</u>
<b><u>AMENITY</u></b>	<u>those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness and aesthetic coherence.</u>
<b><u>ANIMAL</u></b>	<u>any cat or other domesticated animal, that does not meet the definition of stock, with the exception of dogs</u>
<b>BEACH</b>	That part of the foreshore landwards from the mean high water mark that is under the control of the Council.
<b>BARBED WIRE</b>	Any wire that contains barbs, spikes, blades, jagged edges or pointed projections along its length and used to make fences and barriers.
<b>CAMP</b>	a) in a building, tent, or other structure; or b) in a boat, or car, campervan, caravan or other vehicle.
<b><u>CAMP SITE</u></b>	<u>has the same meaning as in the Camping-Grounds Regulations 1985, and also includes any area on a privately-owned property that is being used for the erection or placement of a temporary living place</u>
<b><u>DRONE</u></b>	<u>an electric-powered remote controlled unmanned model aircraft of the type capable of vertical take-off and landing</u>
<b><u>CERTIFIED SELF-CONTAINED VEHICLE</u></b>	<u>A vehicle certified in accordance with NZS 5465:2001 (New Zealand Standard for Self-containment of Motor Caravans and Caravans). A current self-containment warrant must be displayed</u>

	<del>on the vehicle and the self-containment certificate be available for inspection by an Enforcement Officer.</del>
<b>FENCE</b>	<u>has the same meaning as in the Fencing Act 1978</u>
<b>FREEDOM CAMP</b>	To camp in a public place that is not a registered camping ground.
<b>LICENCE OR PERMIT</b>	<u>a formal written approval from the Council to exercise rights in terms of this bylaw</u>
<b>LITTER</b>	The same meaning as in the Litter Act 1979.
<b>LITTER CONTROL OFFICER</b>	The same meaning as in the Litter Act 1979.
<b>LIQUOR</b>	The same meaning as in the <u>Sale and Supply of Liquor Act 2012</u> <del>sale of Liquor Act 1989</del> .
<b>MERCHANDISE DISPLAY</b>	<u>A display located in a public place outside a premise from which goods are offered or exposed for sale</u>
<b>NUISANCE</b>	<u>Shall have the meaning assigned to it by section 29 of the Health Act 1956 and its amendments.</u>
<b>POULTRY</b>	<u>includes, but is not limited to, hens, chickens, geese, ducks, pigeons, turkeys, roosters and domestic fowls</u>
<b>PUBLIC PLACE</b>	For the purpose of this Bylaw, means a place that is: <ul style="list-style-type: none"> <li>a) under the control or management of the Council under any enactment; and</li> <li>b) is open to, or being used by the public, whether or not there is an admission charge, and includes: <ul style="list-style-type: none"> <li>i. any road within the district, whether or not the road is under the control of the Council; and</li> <li>ii. any part of a public place.</li> </ul> </li> </ul>
<b>PUBLIC PERFORMANCE</b>	includes public speaking, busking, miming, singing, dancing, acting or the playing of musical instruments, regardless of whether such performance is: <ul style="list-style-type: none"> <li>a) pre-recorded or live;</li> <li>b) requires public participation; or</li> <li>c) (c) requires payment, donations or is performed gratis.</li> </ul>
<b>PROSCRIBED SUBSTANCE</b>	A mind-altering substance, whether synthetic or naturally occurring which may alter consciousness, mood or emotions, or which might intoxicate or induce pleasurable sensations. It includes what is commonly known as glue sniffing, but does not include: <ul style="list-style-type: none"> <li>a) medically prescribed substances ingested by the person for whom they were prescribed;</li> <li>b) substances purchased from a pharmacy without a medical prescription;</li> <li>c) nicotine;</li> <li>d) liquor.</li> </ul>

<b>NUISANCE</b>	<u>Shall have the meaning assigned to it by section 29 of the Health Act 1956 and its amendments.</u>
<b>REGISTERED CAMPING GROUND</b>	A camping ground for which there is a current certificate of registration issued under the Camping Ground Regulations 1985.
<b>RESIDENTIAL AREA</b>	<u>has the same meaning as ‘residential zone’, ‘settlement zone’ and ‘residential Mahia zone’ in the Operative District Plan</u>
<b>SIGN</b>	<u>words or any pictorial or other representation or notice on any material or object</u>
<b>SKATING DEVICE</b>	Roller skates, roller blades, inline skates, skateboard, scooter or other or similar recreational devices but does not include any wheelchair, baby or invalid carriage or cycles.
<b>STOCK or LIVESTOCK</b>	<u>any farmed animal and includes any cattle, horse, deer, sheep, goat or pig</u>
<b>TOWN</b>	<u>has the same meaning as ‘town centre zone’ in the Operative District Plan</u>
<b>VEGETATION</b>	<u>means, but is not limited to, trees, shrubs, grass and weeds</u>

## 2 SAFETY IN PUBLIC PLACES

### 2.1 PURPOSE

The purpose of section 2 is to promote public safety and the enjoyment of public places by inhabitants and visitors by managing and regulating the use of public places.

### 2.2 GENERAL RESTRICTIONS ON CONDUCT IN PUBLIC PLACES

No person shall in any public place:

- (a) place or leave litter or any materials or object or substance, which are likely to be hazardous or injurious to any person, or likely to create a nuisance;
- (b) deposit in or around, or cause or permit to be deposited in or around, a public litter receptacle any household or trade refuse; rubbish bin:
  - i. any explosive, hot ashes, or other burning material;
  - ii. any highly flammable material or acid or other corrosive material;
  - iii. any household refuse;
  - iv. any trade refuse.
- (c) interfere with any refuse, which is awaiting collection by an authorised collector;
- (d) drive any vehicle except on a formed road, or drive in a manner that is dangerous or inconsiderate to pedestrians or other vehicles;
- (e) leave any work, hole or excavation in a public place in a manner that could be a danger to anyone entering or using that public place;
- (f) climb on, jump or dive from any structure at a height in circumstances that are likely to be injurious to the health of that person, except in an emergency;

- (g) consume inject or inhale any proscribed substances or offer or sell such substances to any person;
- (h) play any game or use any object including skating devices, cycles or motorised scooters and drones, recklessly or in a manner which may intimidate, be dangerous or injurious or cause a nuisance to any person in a public place, or damage the public place;
- (i) use profane or obscene language on a public place or within the hearing of a person in a public place;
- ~~(j)~~ (i) loiter or remain in or on a public place after being directed to move on by an Enforcement Officer;
- ~~(j)~~ (k) beg in a manner that may intimidate or cause a nuisance to any person;
- ~~(k)~~ (l) attempt to commit or wilfully encourage or assist any other person to commit any of the offences in clause 2.2(a) to ~~(jk)~~.

### 2.3 RESTRICTED CONDUCT IN PUBLIC PLACES

Except with the prior written permission of the Council in the form of a licence or permit, no person shall in any public place:

- (a) solicit any subscription, collection or donation or provide a public performance in a way that does or is likely to create a nuisance;
- (b) distribute any printed or written material advertising any product, service or public entertainment in a way that does or is likely to create a nuisance;
- (c) set off fireworks or explosive material in or on a public place, or so near thereto in a way that does or is likely to create a nuisance;
- (d) erect or place any structure on, over or under the public place except in compliance with a Bylaw;
- ~~(e)~~ (e) take off or land any aircraft, hot air balloon, hang glider, parachute or similar aircraft except in an emergency;
- ~~(e)~~ (f) take off or land a drone on areas other than those permitted by Council policy, or in contravention to the conditions outlined in the Council policy on the use of drones on Council property.
- ~~(f)~~ (g) attempt to commit or wilfully encourage or assist any other person to commit any of the offences in clause 2.3 (a) to (e).

### 2.4 OBSTRUCTING PUBLIC PLACES

Except with the prior written permission of the Council, no person shall:

- (a) obstruct any entrance to or exit from a public place;
- (b) place or leave any material or object on a public place that could obstruct the public right of passage or interfere with the free flow of movement on the public place;
- (c) allow any gate or door on property abutting a public place to swing over or across the public place or any part thereof;

- (d) carry out any work on any motor vehicle in a public place, except in the case of an accident or emergency when repairs are necessary to allow the vehicle to be removed.

## **2.5 DAMAGE TO PUBLIC PLACES AND MAINTAINING AMENITY VALUES**

Except with the prior written permission of the Council, no person shall in any public place:

- (a) damage, interfere with, destroy or remove any grass plot, flowerbed, tree, shrub or plant, or any inscription or label relating to it;
- (b) pollute, damage, deface or disfigure, apply graffiti, posters or advertising devices to, or interfere with, an ornament, statue, building, structure, or facility;

Nothing in this section shall prevent the Council from supplying or approving the installation of display boards in a public place for the purpose of allowing posters to be displayed announcing forthcoming functions or events.

- (c) cause or permit to be done any act whatsoever by which damage is caused to a public place, or a work or object in, on, over or under the public place;
- (d) damage or interfere with a natural feature, animal or plant;
- (e) use a vehicle or be in control of an animal in a manner so that it damages any part of a public place;
- (f) drive or park a vehicle in a public place except on a road or in an area set aside for the driving or parking of vehicles;
- (g) remove any sand, soil or other naturally occurring material found in a public place;
- (h) open a drain or sewer on, or disturb or remove the surface of, any public place.
- (i) attempt to commit or wilfully encourage or assist another person to commit any of the offences in section 2.5(a) to (h).

## **2.6 FIRES**

Notwithstanding the requirements of any other section of this Bylaw, no person shall in any public place light a fire, except at fireplaces specially provided or in an appliance designed for outdoor cooking, and in accordance with any restriction imposed by Council on the lighting of fires.

## **2.7 ACCESS TO THE BEACH**

2.7.1 The Council may from time to time specify by resolution in Schedule 2 of this Bylaw periods or times during which access by vehicles to particular beaches shall be restricted in accordance with this section of this Bylaw.

2.7.2 During the periods or times determined by the Council no person shall ride, drive, stop, stand, or park any vehicle on any specified beach except:

- (a) with the prior written permission of the Council; or



- (b) when launching or retrieving a boat from the sea, or estuary or river, provided that such vehicular access shall be restricted to:
  - i. a route to the designated launching and retrieval point approved by the Council;
  - ii. removal of the vehicle from the beach immediately upon completion of the launching or retrieval.
- (c) an emergency vehicle used at the time to save or protect life or health, or prevent injury or serious damage to property; or
- (d) a vehicle used in an official capacity at the time by an authorised officer.

2.7.3 No person shall drive any vehicle or ride any cycle or any horse on any beach in a manner as to:

- (a) endanger the safety of persons; or
- (b) be an annoyance or inconvenience to persons on the beach or the foreshore.

2.7.4 Any person wishing to gain access from a public place to a beach shall use a designated access where this is available.

## **2.8 PLACING OF ARTICLES ON AND DAMAGE TO PUBLIC PLACES**

No person shall place or leave or cause or permit to be placed or left any material or object, including signage or items for sale or hire, on any public place or road unless:

- (a) such a person has obtained the prior written permission from the Council;
- (b) such action is taken for the purpose of regular refuse or other collections authorised by the Council or is otherwise authorised by law; or
- (c) such action is allowed pursuant to any Bylaw or the District Plan.

## **2.9 RE-INSTATEMENT ON COMPLETION OF AUTHORISED WORKS**

A person carrying out authorised works on a public place shall on completion of the works re- instate the place to the satisfaction of the Council.

## **2.10 ELECTRICAL OR BARBED WIRE FENCING**

2.10.1 Except with the prior written permission of the Council, no person shall erect any electrified fencing or barbed wire or razor wire fencing along the boundary or within one metre of a public place where the fence is in a position or height to be accessible to the public, provided that this sub-section shall not prohibit:

- (a) the placing of such barbed wire at a height of not less than two metres or electrified fencing not less than three metres from the level of the ground of such public place;
- (b) the placing of such barbed wire or electrified fencing on the side of the boundary line that abuts the land or building and shielded in a manner to prevent access thereto from a public place.

2.10.2

- (a) This section shall not apply within an area zoned “rural” under the District Plan, except when the fence abuts or adjoins a footpath.
- (b) The Council may from time to time specify by resolution conditions that will apply to temporary electric fences.

## 2.11 SKATING

### 2.11.1 Restrictions on specified public places

The Council may from time to time specify by resolution in Schedule 3 of this Bylaw public places where the riding of any skating device is at all or certain times prohibited or restricted to the extent determined by the Council.

### 2.11.2 Offences prohibited in specific public places

- (a) No person shall ride a skating device in any area or at any time in breach of any prohibition or restriction specified in Schedule 3.
- (b) It shall be an offence to ride a skating device on any footpath in a manner that endangers any person or property.

## 2.12 TRADING IN PUBLIC PLACES

- (a) Except with the prior written permission of the Council in the form of a licence or permit, no person shall conduct trade, provide a service to the public, or provide a performance for public entertainment or expose for sale any article or service in a public place.
- (b) Businesses which are able to offer food and/or alcohol for consumption on the premises may apply for an al fresco dining licence or permit to use a portion of that public land to place tables and chairs, for their customers’ use.
- (c) Any business operating with a licence or permit under clause 2.12(b) must comply with relevant requirements prescribed by the Council.
- (d) Any business operating with a licence or permit under clause 2.12(a) must comply with relevant requirements prescribed by the Council.
- (e) Merchandise displays should be placed against the façade of the shop that it belongs to and must not have sharp edges or projections which may cause injury to pedestrians or create a nuisance.
- (f) Merchandise displays must not contain any form of offensive material.
- (g) Merchandise displays are to be removed at the end of trading hours of the shop or when requested by Council staff to enable street works, services or repairs, or other public utilities.
- (h) Buskers performing with a licence or permit must not:
  - i. Impede the safe and efficient flow of pedestrian or vehicular traffic on the public place or prevent or hinder ready access to shops or premises facing on to the public place;
  - ii. Create a nuisance in the form of excessive or unacceptable sound or noise;
  - iii. Use an amplified sound system.

## **2.13 ASSEMBLY**

No person shall without the prior written permission of the Council:

- (a) participate in any assembly or associate with other persons in a public place so as to impede pedestrians or traffic or to prevent or hinder ready access to shops or premises facing onto the public place; or
- (b) organise, hold or conduct any meeting, gathering, demonstration, parade, procession or competition in a public place so as to impede traffic or cause an obstruction to, or impede, annoy or inconvenience any person.

## **2.14 AWNINGS AND BLINDS**

Except with the prior written permission of the Council, no person shall erect or maintain, or cause to be erected or maintained, an awning over any public place, or hang an awning, blind or screen from a premises or a structure on any public place.

## **2.15 PROJECTIONS ON PUBLIC PLACES NOT PERMITTED**

2.15.1 Except with the prior written permission of the Council, or as may be permitted by other Bylaw, no person shall allow a portico, projecting window, balcony, wall, lamp, doorstep, cellar door, lamppost, signboard, window shutter, gatepost, vegetation or other obstruction or projection of any kind whatsoever in, on, over or under a public place or in such a position as to interfere with or obstruct in any way the free passage of pedestrians or traffic upon any public place.

2.15.2 This section shall not apply to a veranda or awning erected pursuant to a requirement of the District Plan.

2.15.3 If any such projection or obstruction as aforesaid has been placed against or in front of any building before the coming into operation of this Bylaw and which is contrary to any Bylaw in force, the Council may upon application approve the continued existence of such projection or obstruction.

## **2.16 ROAD AND BUILDING IDENTIFICATION**

2.16.1 Notwithstanding that a building or property is identified by other means, the owner or occupier of every building, or group of buildings forming part of a complex, or of a property shall, if so required by the Council, mark such building complex or property with numbers, being in no case less than 50mm in height for residential buildings and not less than 150mm in height for all other buildings. Numbers shall be as allocated or approved by the Council and displayed in a position on the building, complex or property so as to be readily visible from the road to which it has frontage.

2.16.2 Numbers required by this section shall be maintained by the owner or occupier in such a manner so as to readily identify the property at all times.

2.16.3 The Council may alter the number of a building, complex or property when it is necessary or advisable to do so.

## **2.17 ANIMALS AND STOCK ON PUBLIC PLACES**

2.17.1 No person shall take or allow any animal or stock under that person's care or control onto any public place if the Council has by resolution in Schedule 4 of this Bylaw or public notice prohibited entry of that type of animal or stock to that public place.

2.17.2 A person in control of an animal or stock on any public place shall ensure that the animal or stock is kept under proper control, with consideration for other persons using the public place.

2.17.3 A person in control of an animal or stock on any public place shall ensure that the animal or stock is kept under proper control to ensure that no damage is caused to the public place, any part thereof or to any object thereon.

2.17.4 A person in control of an animal or stock on any public place shall immediately remove any faeces deposited by that animal or stock and dispose thereof in a sanitary manner.

2.17.5 A person in control of an animal or stock on any public place who fails to remove any faeces deposited by that animal or stock is liable for the costs associated with their removal by a third party, where such removal is authorised by the Council.

## **2.18 SIGNS**

(a) No person shall display a sign in a location or manner that impedes the safe and efficient flow of pedestrian or vehicular traffic on a public place.

(b) Any sign must be maintained in good repair and maintain amenity values including aesthetics of public places.

(c) There may be no more than three freestanding signs per premises unless otherwise permitted by Council.

(d) Warranted officers of the Council or Police may remove, or instruct persons responsible to remove or amend, signs that do not comply with (a), (b) and/or (c).

## **2.18–19 RESERVES**

~~2.1819~~.1 The Council may fix charges for the entry to a reserve in accordance with the Reserves Act 1977 and it shall be an offence against this Bylaw to enter a reserve without having paid the proper charge for entry, if a charge is payable.

~~2.1819~~.2 The Council may close or restrict entry to, or any portion of, a reserve at such times as are considered necessary to prevent damage to, or allow maintenance of the reserve. Such closure shall be advertised by signs at the entrances to the reserve. It shall be an offence against this Bylaw to access a reserve at any time when it is closed to public entry.

~~2.1819~~.3

(a) A person committing a breach of the provisions of section ~~2.18-19~~ shall, upon request by an authorised officer, immediately leave the reserve and shall be

prohibited from appearing on the reserve for such period as the authorised officer deems fit.

- (b) A person ordered to leave a reserve as provided for in (a) shall still be liable to be prosecuted for the breach of this Bylaw.

## **2.19 LIST OF SCHEDULES PASSED IN TERMS OF SECTION 2**

Schedule 1 – Freedom camping locations - Repealed 10 November 2015 – please see Part 9 – Freedom Camping Bylaw

Schedule 2 – Restricted access to beaches for vehicles

Schedule 3 – Restricted areas for skating devices

Schedule 4 – Restricted areas for animals in public places

## **3. NUISANCE ON PRIVATE PROPERTY**

### **3.1 PURPOSE**

~~The purpose of section 3 is to protect the public from nuisance and to protect and promote and maintain public health and safety in relation to activities emanating from private property not controlled by the District Plan or other enactments.~~

The purpose of section 3 is to, in relation to activities emanating from private property not controlled by the District Plan or other enactments:

- (a) Protect the public from nuisance;
- (b) Protect, promote and maintain public health and safety;
- (c) Maintain amenity values including aesthetics of public places, the general character and maintenance of the neighbourhood and the environmental area in which the property is located and/or adjoins.

### **3.2 RESTRICTIONS**

No person may:

- (a) Burn, or cause or permit to be burnt, any matter or thing in such a manner as to create a nuisance;
- (b) Being the owner or occupier of premises use, or permit to be used or to remain on the premises a lavatory other than a flush toilet, unless it be so maintained as to prevent the creation of a nuisance;
- (c) So deposit in or discharge, or so cause or permit the deposit or discharge into a stream, watercourse, pond, lagoon, open drain, gutter or channel, any litter, animal or other offensive matter or thing as to create or be likely to create a nuisance;
- (d) Being the owner or occupier of premises so cause or permit offensive liquid or matter to remain in or on, or flow from those premises so as to create or be likely to create a nuisance;

- (e) Being the owner or occupier of premises, cause or permit a sanitary fixture (as defined in the Building Regulations 1992, Schedule 1, “The Building Code”) on those premises to be in such a state or defective condition as to create or be likely so to create a nuisance;
- (f) Being the owner or occupier of premises to cause or permit conditions on those premises likely to contribute to the outbreak or spread of disease by the agency of flies, mosquitoes, or other insects, or of rats, mice, or other vermin-;
- (g) Being the owner or occupier of residential or commercial premises, allow these premises whether occupied or vacant to either sprout weeds and other vegetation other than shrubs and gardens that are or have been formally establish on such land, or to become so overgrown with vegetation that it causes or may cause a nuisance, harbour vermin, detract from the amenity of the locality in which it is situated, or encroach onto or over any public place and obstructs or interferes with the free movement of persons using that public space.
- (h) Being the owner or occupier of premises, allow an accumulation of vehicles on the premises, or allow such vehicles to be parked untidily, to extent that the vehicles detract from the amenity of the locality in which they are situated.
- (i) Being the owner of a building in the industrial and town areas, allow buildings to show signs of disrepair in the form of peeling paintwork, loose brickwork, missing tiles, hanging wires, defunct lights, plaster chipping, mould or algae growth.
- (j) Being the owner of a building in the town area with frontage abutting a public place, allow the property frontage to be unclean, poorly maintained, or contain weeds, rubbish, accumulated dirt or materials.
- (f)(k) Camp on privately owned property unless the owner has provided permission, and unless the camp site has access to sanitation or ablution facilities fit for bathing, and an adequate supply of potable drinking water that meets the minimum standards prescribed by the Council in Schedule 8.

### **3.3 NOTICES AND ABATEMENTS**

- (a) Where, in the opinion of an authorised officer of the Council acting reasonably, any personal property of whatsoever nature situated on land privately or publicly owned or occupied under tenure detracts from the amenity, or is stored in such a manner as to detract from the amenity of the neighbourhood, a nuisance shall be deemed to be created.
- (b) An Officer may serve a notice on the persons by whose action or omission the nuisance referred to in clauses 3.2 arises (including the owner of unoccupied premises) requiring him/her, within 21 days, to take such action and to execute such works as may be necessary to abate the nuisance.

## **4. CONTROL OVER THE POSSESSION AND CONSUMPTION OF LIQUOR IN PUBLIC PLACES**

### **4.1 PURPOSE**

The purpose of section 4 is to regulate the consumption and bringing into and possession of liquor in specified public places, and for specified days, times and events including the related presence or use of a vehicle.

### **4.2 DESIGNATION OF SPECIFIED PUBLIC PLACES GENERALLY RESTRICTED**

4.2.1 The Council by resolution may specify public places days and times where:

- (a) The consumption of liquor in;
- (b) The bringing of liquor into;
- (c) The possession of liquor in; and
- (d) The presence or use of a vehicle in conjunction with the prohibitions or restrictions in sections (a), (b), or (c) shall be prohibited or restricted.

4.2.2 The prohibitions or restrictions made under section 4.2.1 are set out in Schedule 5 of this Bylaw.

### **4.3 DESIGNATION OF SPECIFIED PUBLIC PLACES RESTRICTED FOR SPECIFIC PERIODS OR EVENTS**

The Council may by resolution and pursuant to section 170(3) of the Local Government Act 2002, specify a public place where, the period when, and the date upon, or the events in relation to which a member of the Police may, immediately and without further notice, exercise the power under section 169(2)(a) of the Local Government Act 2002 to search a container or a vehicle.

### **4.4 OFFENCES PROHIBITED IN SPECIFIC PUBLIC PLACES**

4.4.1 Every person commits an offence and is liable on summary conviction who:

- (a) Brings liquor into;
- (b) Possesses liquor in; or
- (c) Consumes liquor in

any specified public place or during any specified period or event.

4.4.2 It is an offence to possess or consume liquor in a vehicle while in any specified public place, or during any specified period or event.

### **4.5 SPECIAL LICENCES**

This Bylaw does not limit any individual or organisation (corporate or otherwise) from obtaining a Special Licence pursuant to section ~~73-22~~ of the Sale and Supply of Liquor Act ~~1989~~2012, in which case sections 4.2.1, 4.4.1 and 4.4.2 shall not apply.

### **4.6 DISPENSATION**

4.6.1

- (a) The Council may, on application by any person grant a waiver, dispensation or licence to do or refrain from doing anything which would otherwise be in breach of section 4 of this Bylaw for the purpose of enabling possession and/or consumption of liquor in a public place at the time of any special event.
- (b) Such a waiver, dispensation or suspension of operation of any part of section 4 of this Bylaw shall be granted only in respect of specific time periods and specific locations associated with the special event, to enable better enjoyment of the event by members of the public.

#### 4.6.2

- (a) In considering any application as provided for in section 4.6.1(a), the Council shall obtain and consider a response to the request from New Zealand Police, including the reason for that response.
- (b) When any such waiver, dispensation or suspension is granted, public notice of the waiver, dispensation or suspension shall be given by public notice at least 14 days prior to the commencement of the period when the waiver, dispensation or suspension commences.

### 4.7 EXEMPTIONS

The alcohol restrictions do not apply to any public place adjoining a licensed premises listed in Schedule 6.

### 4.8 LIST OF SCHEDULES PASSED IN TERMS OF SECTION 4

Schedule 5 – Designation of specified public places generally restricted for the possession or consumption of liquor

Schedule 6 – Licensed premises exempt from restrictions on the consumption of liquor

## 5. KEEPING OF ANIMALS AND STOCK (EXCLUDING DOGS)

5.1 The purpose of section 5 is to protect, promote and maintain public health by regulating the keeping of animals and stock.

5.2 No animal, stock, poultry, or bees, are to be kept in town or a residential area, unless written permission, in the form of a permit or licence, has been granted by the Council, or such keeping is provided for in this section.

~~5.2~~3 The Council may from time to time by resolution in Schedule 7 of this Bylaw, and subject to the District Plan, specify standards and conditions for the keeping of all or certain species of animals within the district.

~~5.3~~4 No person shall keep any animal in a manner that:

- (a) Is a nuisance; or
- (b) Creates conditions injurious to health; or
- (c) Is offensive; or



- (d) Pollutes any water as defined in the Resource Management Act 1991;
- (e) Is in breach of the standards and conditions specified by the Council.

5.45 Except with the prior written permission of the Council, or subject to the provisions of the District Plan no person shall keep animals on a premises unless:

- (a) The premises is adequately fenced to contain the animals;
- (b) The animals have access to adequate water; and
- (c) The faeces deposited by those animals are removed to prevent the creation of a nuisance.

5.56 No person shall keep animals on any property so as to cause or be likely to cause a nuisance or any condition injurious to health or offensive because of the overcrowding of the property with such animals or because of the state of repair of the shelter or keeping of the animals.

5.67 No person keeping an animal on private property shall tether that animal in an unfenced area or allow that animal to roam freely outside that property.

5.78 No suffering shall be caused to an animal by the manner of its shelter or keeping.

5.89 Except with the prior written permission of the Council, or subject to the provisions of the District Plan, no person shall construct or allow any pigsty to remain or any pigs to be at large or to range at less distance than 50 metres from any dwelling, dairy, or any wholly or partly occupied building, or any street or public place or any place used for the preparation, storage, or sale of food for human consumption, or from any boundary of any adjoining property.

~~5.910 In areas other than those zoned rural in the District Plan nowhere the Council grants a permit or licence to keep poultry in town or a residential area.~~ poultry caged or otherwise ~~shall~~**must** be kept except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nibwall, to which a poultry run may be attached.

~~5.1011~~ No poultry house or poultry run shall be erected or maintained so that any part of it is within 10 metres of any dwelling, factory, or any other building, whether wholly or partially occupied, or within 2 metres of the boundary of adjoining premises.

5.1112 With the exception of coops used to keep pigeons, doves and similar birds, every poultry run of whatever size shall be enclosed to confine the poultry within the poultry run.

5.1213 Every person keeping bees or causing or permitting bees to be kept on private property must ensure that the bees do not create nor are likely to create a nuisance or cause distress to any person.

~~5.13-14~~ If a nuisance is created as a result of the keeping of any animal, stock, poultry or bees, the Council may serve a notice on the owner or the keeper of the animal, stock, poultry or bees ~~requiring that person to abate the nuisance and the nuisance shall be abated in accordance with the notice outlining the steps that need to be taken to remedy the situation and the defined timeline within which those actions must take place. If the nuisance is not abated, the person is considered in breach of this bylaw and subject to penalties and offences as described at Section 6.~~

5.15

(a) No person may keep more than three cats per dwelling on private land in the town centre or a residential area without written permission, in the form of a permit or licence, from the Council.

(b) Clause (a) does not apply to kittens below the age of three months.

## **5.14-16 LIST OF SCHEDULES PASSED IN TERMS OF SECTION 5**

Schedule 7 – Determination of standards and conditions for the keeping of animals

## **6. PENALTIES AND OFFENCES**

6.1 Every person who does not comply with any requirement or condition, or acts contrary to any prohibition made in this bylaw or made by resolution, commits an offence against this bylaw.

6.2 Every person who commits an offence against this bylaw is liable on summary conviction to the applicable penalty provided for in the Local Government Act 2002, the Health Act 1956, the Litter Act 1979, the Transport Act 1962, the Land Transport Act 1998, or such other penalty as may be prescribed in any other legislation.

6.3 A person who is convicted of an offence under this bylaw is liable to a fine not exceeding \$20,000 under the Local Government Act 2002.

6.4 A person in breach of clause 2.2(b) of this bylaw commits an offence under the Litter Act 1979 and is liable to a fine not exceeding \$400, or other amount as fixed by that Act or amendments to that Act.

6.5

(a) With respect to section 3 of this bylaw, the Council may use its powers to enter any land, building or dwelling house pursuant to the Local Government Act 2002 and/or the Health Act 1956 and/or the Litter Act 1979 to enforce this bylaw.

(b) The Council may remove or cause to be removed from any private property any material or thing found on that private property in breach of this bylaw and may recover any costs of removal from the person who committed the breach.

6.6 A summary of the fines and penalties applicable to this bylaw is in Schedule 9.

In compliance with the provisions of the Local Government Act 2002 and the Bylaws Act 1910, this Part of the Bylaw is originally passed by the Wairoa District Council on 13 November 2007. The reviewed bylaw was passed by the Wairoa District Council on [date] day of [month, year].

**THE COMMON SEAL OF THE WAIROA DISTRICT COUNCIL**

was affixed this [date] day of [month, year] in the presence of:

**MAYOR**

**CHIEF EXECUTIVE OFFICE**

**SCHEDULE 1: FREEDOM CAMPING LOCATIONS (REPEALED  
10 NOVEMBER 2015 – PLEASE SEE PART 9 – FREEDOM  
CAMPING BYLAW FOR INFORMATION ON LOCATIONS)**

## **SCHEDULE 2: RESTRICTED ACCESS TO BEACHES FOR VEHICLES**

The Council has prohibited entry to the following beach(es) by vehicles during the following period(s) and times:

- None is determined by Bylaw.

## **SCHEDULE 3: RESTRICTED AREAS FOR SKATING DEVICES**

Areas where riding of a skating device is prohibited on footpaths and other public places are as follows:

- (a) The central business district of Wairoa township (as shown in map).
- (b) The car parks, forecourts, entrance ways, steps and ramps leading to or attached to any public building, commercial premises or industrial building in the district.



## **SCHEDULE 4: RESTRICTED AREAS FOR ANIMALS IN PUBLIC PLACES**

The Council has prohibited entry of the following type(s) of animal to the following public place(s):

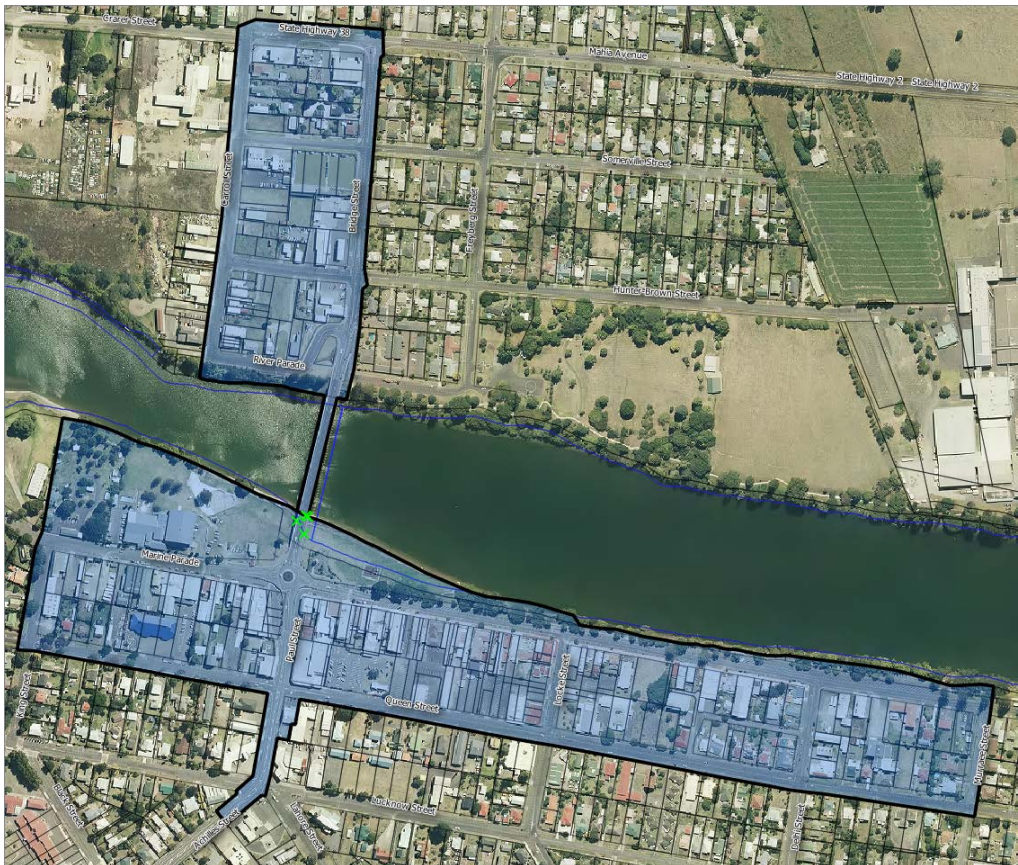
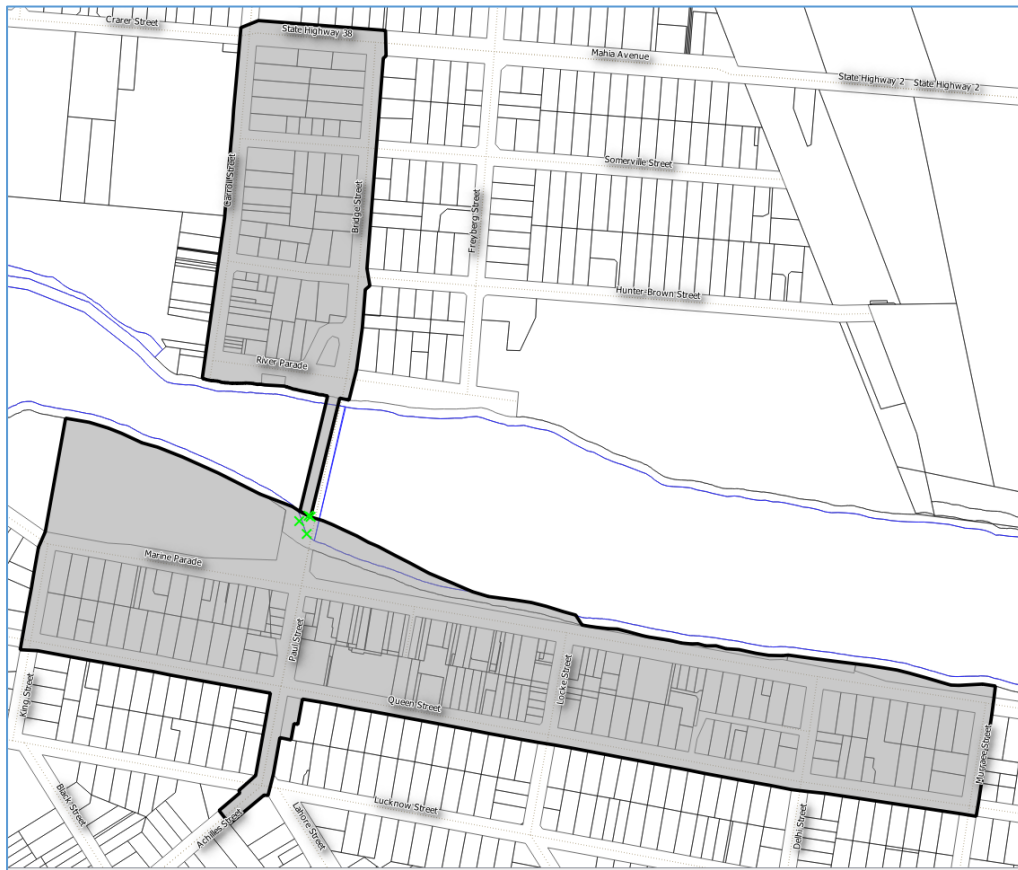
- None is determined by Bylaw.



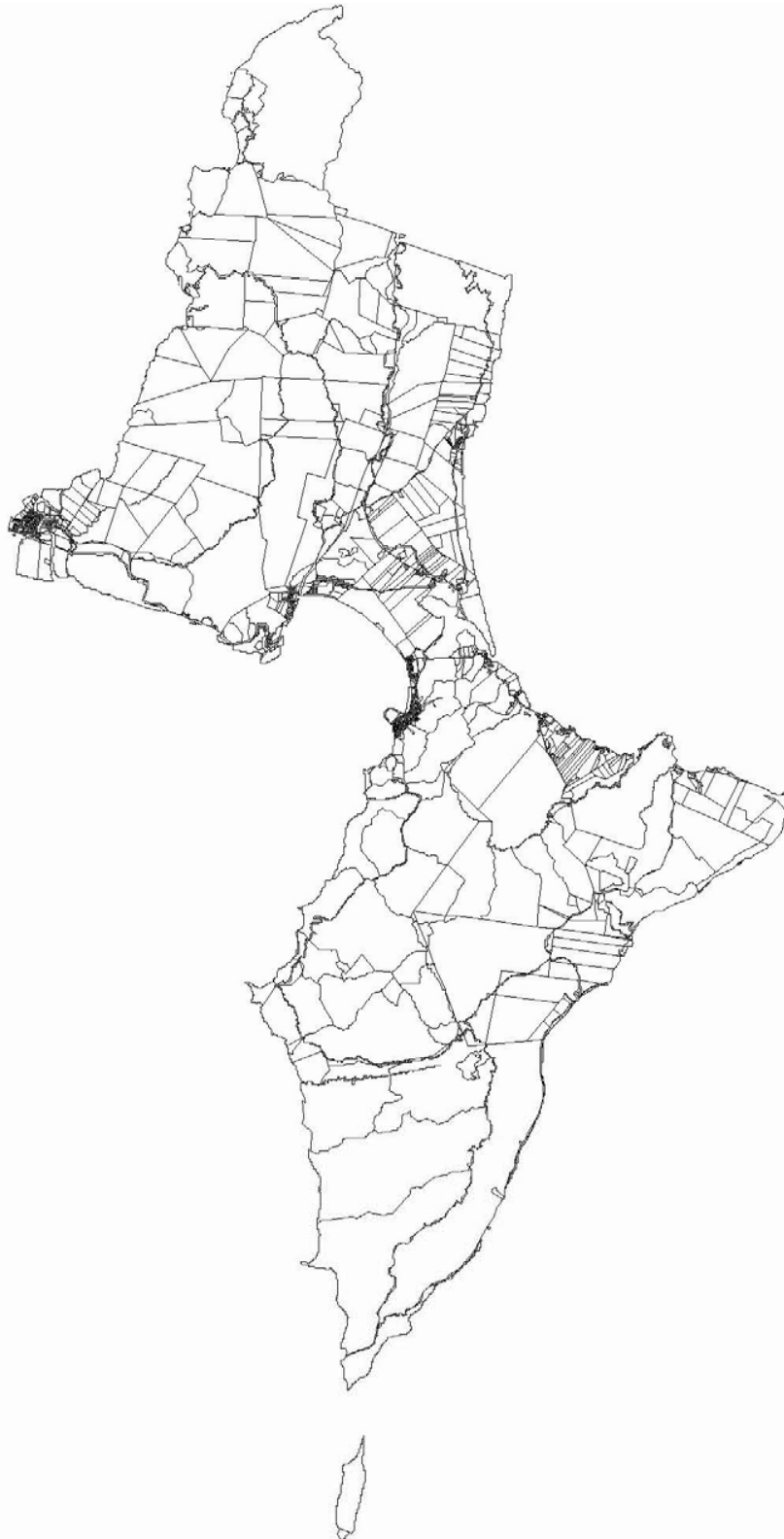
## SCHEDULE 5: DESIGNATION OF SPECIFIED PUBLIC PLACES GENERALLY RESTRICTED FOR THE POSSESSION OR CONSUMPTION OF LIQUOR

1. Any place or part of a place that is under the control of the Council, 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:
  - a. Wairoa (as shown in map) – bounded by:
    - i. Marine Parade from Murrae Street to King Street
    - ii. Queen Street from Murrae Street to King Street
    - iii. Wairoa River (Riverbank) from Murrae Street to King Street
    - iv. SH2 from Mahia Avenue (SH38) to 57m south of the intersection with Lucknow Street, including the Wairoa Bridge
    - v. River Parade from Carroll Street to Bridge Street (SH2)
    - vi. Carroll Street from River Parade to Mahia Avenue SH38
    - vii. Mahia Avenue (SH38) from Carroll Street to Bridge Street (SH2)
    - iii.viii. and all associated alleys and carparks.
  - b. Mahia (as shown in map)
    - i. The whole of the Mahia Peninsula and surrounding area encompassed within the coastline from Nuhaka to Paritu.
2. The times this schedule would be in place are:
  - a. Wairoa – 24 hours per day 365 days of the year
  - b. Mahia – 24 hours a day from December 20th to January 20th every year.

# WAIROA



## MAHIA



**DESIGNATION OF SPECIFIED PUBLIC PLACES GENERALLY RESTRICTED FOR THE POSSESSION OR CONSUMPTION OF LIQUOR**

*AREA OF BAN INCLUDES ALL ROADS, STREETS, RIVERBANKS, BEACHES AND PUBLIC PLACES IN THE ABOVE AREA*

## **SCHEDULE 6: LICENSED PREMISES EXEMPT FROM RESTRICTIONS ON CONSUMPTION OF LIQUOR**

The Council has determined that the following premises are exempt from the restrictions in accordance with section 4 of this Bylaw:

<b>Name of Licensed Premises</b>	<b>Location of Licensed Premises</b>
Jafa Café	182 Marine Parade, Wairoa
East End Café	250 Marine Parade, Wairoa

## **SCHEDULE 7: DETERMINATION OF STANDARDS AND CONDITIONS FOR THE KEEPING OF ANIMALS**

The Council has determined the following restrictions and/or conditions on the keeping of the specified type(s) of animals in the specified zones or areas of the District Plan:

- None is determined by Bylaw.

## **SCHEDULE 8: MINIMUM SANITARY FACILITIES FOR CAMP SITES**

Water closet pans or portable toilets: 1 for up to 12 persons

Hand basins: 1 for up to 25 persons

## **SCHEDULE 9: ENFORCEMENT POWERS, OFFENCES AND PENALTIES**

### **ENFORCEMENT POWERS**

<b><u>Legislative Provision</u></b>	<b><u>Description</u></b>
<u>Local Government Act 2002</u>	<p><b><u>Section 239 Offences in respect of breaches of bylaws (other than alcohol bans)</u></b></p> <p><u>Every person commits an offence and is liable on conviction to the penalty set out in section 242(4) or (5) (as the case may be), who breaches a bylaw made under Part 8 (other than a bylaw made under section 147).</u></p> <p><b><u>Section 242 Penalties for offences</u></b></p> <p><u>(4) A person who is convicted of an offence against a bylaw made under Part 8 referred to in subsection (5) is liable to a fine not exceeding \$20,000.</u></p> <p><u>(5) A person who is convicted of an offence against a bylaw made under section 146(a)(iii) (which relates to trade wastes) is liable to a fine not exceeding \$200,000.</u></p>
<u>Health Act 1956</u>	<p><b><u>Section 66 Penalties for breach of bylaws</u></b></p> <p><u>(1) Every person who contravenes or fails to comply with any bylaw made under this Act commits an offence and is liable on conviction to a fine not exceeding \$500 and, in the case of a continuing offence, to a further fine not exceeding \$50 for every day on which the offence has continued.</u></p> <p><u>(2) The local authority may, after the conviction of any person for a continuing offence against any bylaw, apply to any court of competent jurisdiction for an injunction to restrain the further continuance of the offence by the person so convicted.</u></p> <p><u>(3) The continued existence of any work or thing in a state contrary to any bylaw shall be deemed to be a continuing offence within the meaning of this section.</u></p> <p><b><u>Section 136 General penalty for offences</u></b></p> <p><u>Every person who commits an offence against this Act, or against any regulations made under this Act, for which no penalty is provided elsewhere than in this section is liable on conviction to a fine not exceeding \$500 and, if the offence is a continuing one, to a further fine not exceeding \$50 for every day on which the offence has continued.</u></p>
<u>Litter Act 1974</u>	<p><b><u>Section 10 Territorial Authorities may require occupier of private land to clear litter</u></b></p> <p><u>(10) Every occupier commits an offence who, having been served with a notice under this section,—</u></p> <p><u>(a) fails to comply with that notice (not being a notice that has been suspended under subsection (9)) within the time</u></p>

specified in the notice or within the time as extended under subsection (2):

(b) fails to comply with any notice varied or confirmed by a territorial authority or a District Court Judge under this section within the time specified by the territorial authority or the District Court Judge.

(11) Every person who commits an offence against subsection (10) is liable on conviction,—

(a) in the case of a natural person, to a fine not exceeding \$500 for each day on which the failure continues; or

(b) in the case of a corporation, to a fine not exceeding \$2,000 for each day on which the failure continues.

**Section 13 Territorial Authorities may adopt infringement notice provisions**

(4) No infringement fee shall exceed \$400.

(5) Where any person is alleged to have committed an infringement offence, that person may either—

(a) be proceeded against by filing a charging document under section 14 of the Criminal Procedure Act 2011; or

(b) be served with an infringement notice as provided in section 14.

**Section 15 Deposit of litter in public place or on private land**

(1) Every person commits an offence and is liable on conviction, in the case of an individual, to a fine not exceeding \$5,000 or, in the case of a body corporate, to a fine not exceeding \$20,000, who deposits any litter or, having deposited any litter, leaves it—

(a) in or on a public place; or

(b) in or on private land without the consent of its occupier.

Where any person commits an offence against subsection (1), and the litter deposited is of such a nature as is likely to endanger any person or to cause physical injury or disease or infection to any person coming into contact with it (being in particular any bottle whether broken or not, glass, article containing glass, sharp or jagged material, or any substance of a toxic or poisonous nature) that person is liable on conviction—

(a) in the case of an individual, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding \$7,500, or to both; or

(b) in the case of a body corporate, to a fine not exceeding \$30,000.



## OFFENCES AND PENALTIES

<u>Bylaw provision</u>	<u>Legislative provision</u>	<u>Description of offence</u>	<u>Maximum fine upon conviction</u>	<u>Infringement fee</u>
<u>Clause 6.1</u>	<u>Local Government Act 2002</u>	<u>Breach of Bylaw</u>	<u>\$20,000</u>	<u>N/A</u>
<u>Clause 6.2</u>	<u>Health Act 1956</u>	<u>Breach of Bylaw</u>	<u>\$500 + \$50 for every day for continuing offences</u>	<u>N/A</u>
<u>Clauses 6.2 and 6.4</u>	<u>Litter Act 1979</u>	<u>Deposit of litter in public place or on private land</u>	<u>\$5,000 or \$7,500</u>	<u>\$400 or other amount as fixed by that Act or amendments to that Act.</u>
<u>Clause 6.2</u>	<u>Litter Act 1979</u>	<u>Failure to comply with notice to clear litter on private land</u>	<u>\$500 (individual) \$2,000 (corporation) For each day on which the failure occurs</u>	<u>N/A</u>

## TABLE OF AMENDMENTS

The following table does not form part of the Bylaw – it is included for reference only

Number	Description of amendment	Date of Council Resolution	Effective Date
1	Liquor Ban Exemption – new provision to section 4, associated Schedule and consequential changes to allow liquor ban exemptions for premises operating within the liquor ban area	10 May 2011	16 May 2011
2	Freedom Camping	11 December 2012	11 December 2012
3	Freedom Camping ( <u>relevant section and schedule</u> repealed – see Part 9 for new Freedom Camping Bylaw)	10 November 2015	10 November 2015
4	<u>A number of amendments to current clauses to address issues with enforcement and enable Council to respond to concerns of the public.</u> <u>New section – penalties and offences.</u> <u>New schedules - minimum sanitary facilities for camp sites, and enforcement powers, offences and penalties.</u>	<u>[INSERT MEETING DATE]</u>	<u>[INSERT DATE]</u>