



**The Extraordinary Meeting of the
Kawerau District Council will be
held on Tuesday 20 September 2022
commencing at 9.00am**

AGENDA

GUIDELINES FOR PUBLIC FORUM AT MEETINGS

1. A period of thirty minutes is set aside for a public forum at the start of each Ordinary Council or Standing Committee meeting, which is open to the public. This period may be extended on by a vote by members.
2. Speakers may address meetings on any subject. However, issues raised must not include those subject to legal consideration, or be issues, which are confidential, personal, or the subject of a formal hearing.
3. Each speaker during the public forum is permitted to speak for a maximum of three minutes. However, the Chairperson has the discretion to extend the speaking time.
4. Standing Orders are suspended for the duration of the public forum.
5. Council and Committees, at the conclusion of the public forum, may decide to take appropriate action on any of the issues raised.
6. With the permission of the Chairperson, members may ask questions of speakers during the period reserved for public forum. Questions by members are to be confined to obtaining information or clarification on matters raised by the speaker.

Meeting: Extraordinary Council

Meeting Date: 20 September 2022

Subject: Alcohol Control Bylaw - Consideration of Submissions for Adoption

File No: 320100

1 Purpose

The purpose of the paper is for Council to consider the attached submissions for the Proposed Alcohol Control Bylaw ('Bylaw') to determine whether or not to adopt the proposed Bylaw.

2 Background

On 12 July 2022, Council approved the statement of proposal for the Bylaw and the commencement of the special consultative procedure and engagement.

The special consultative process commenced on 18 July 2022 and closed on Friday 19 August 2022. Four submissions were received during the consultation period, and these were received by Council during the Council meeting held on 30 August 2022.

A hearing was set for 30 August 2022 to hear those who wished to speak to their submissions, however this did not proceed due to none of the submitters wishing to speak to their submission.

The Bylaw was scheduled for adoption on 13 September 2022, however, was delayed to enable staff to work through all implications of the proposed bylaw on the Maurie Kjar Swimming Complex ('pool complex').

Implications have been determined and proposals have been set out below.

The Bylaw is now ready to be presented to Council for consideration of the submissions and adoption. A copy of the Bylaw and submissions is attached.

The proposed date for commencement of the Bylaw is 23 September 2022.

3 Submissions

Three of the four submissions were in support of the proposed Bylaw. The fourth submission was a question regarding the effect on businesses located within the alcohol free area, seeking clarification on whether having a few beers after work would be in breach of the Bylaw. The Bylaw applies to public places, so while a business is open for service, it is defined as a public place, however after closing hours in which it is no longer open to the public, the Bylaw does not apply. It is prudent to remember the Sale and Supply of Alcohol Act 2012 still applies, so where selling or supplying alcohol you may need a special licence.

No additional submission points were received.

4 Minor Amendment

The proposed Bylaw allows for a fee to be charged for costs associated with the public notice or obtaining police comment on a dispensation application. It is recommended this is adjusted to allow costs for staff processing time of any application.

The proposed amendment would read as follows:

“A fee may be charged to the applicant for the dispensation to cover any direct costs associated with **processing the application, including** the public notice and/or obtaining a police response to the application under this clause. This fee may be refunded, remitted, or waived at the discretion of the Chief Executive.”

The actual and reasonable cost should be based on the time involved in processing the application request.

5 Considerations

The pool complex is within the alcohol-free area of the proposed Bylaw. Although this has not changed, it has not previously been enforced. The enforcement of the Bylaw will affect the hireage of the pool complex for after hour private functions, in the fact alcohol will not be allowed.

Alcohol consumption around water is unduly risky, even in small quantities. Alcohol can affect coordination, the ability to react, and exaggerate ones' confidence and judgement. More importantly, the risks from alcohol consumption escalate once in the water by increasing the difficulty in staying afloat, being easily disorientated, lowering the concentration of blood going to the muscles which contributes to heat and fluid loss and reduces awareness of body temperature, and supresses your airway protection reflexes which increases the likelihood of inhaling water.

In 2021, there were 9 fatalities and 18 hospitalisations due to drowning or near drowning events in the Bay of Plenty, placing the Bay of Plenty as the fourth highest drowning incidents based on population.

The health and wellbeing of our community is paramount and with this in mind it is recommended alcohol not be allowed as set out in the Bylaw. This is in line with other pool complexes within the Bay of Plenty and beyond.

In a recent council workshop options were considered based on available information regarding accidental drowning stats in the Bay of Plenty, legal advice, local experiences. Three key options were considered.

Option 1 – No alcohol and lifeguards required

Option 2 – Alcohol allowed but lifeguards required

Option 3 – Alcohol allowed, and no lifeguards required – Status Quo

With a goal of providing a safer environment for family functions at the pool complex option one is recommended.

Acknowledging current staffing constraints, it is recommended that although no alcohol will come into effect with the adoption of the Bylaw, the requirement for lifeguards will be phased in.

Council is endeavouring to raise staffing numbers at the pool complex to a level that will enable lifeguards to assist after hour private hires. Until staffing levels and fully trained lifeguards are available, we recommend the introduction of an application process for the pool complex venue hire.

The application process will require all applicants to meet a minimum standard before being able to hire the pool complex. The proposed standards may include:

- Completed health and safety plan (template provided);
- One designated person attending must have current first aid certificate;
- One designated person, per 20 attendees, to be a nominated pool guard to keep watch on pools and spa at all times;
- One adult per 4 children;
- Children under 5yrs must be supervised at all times, by parent or guardian and should be within arm's length of an adult when in the pool;
- First Aid kits to be provided by applicants.

This will enable Council to consider whether the proposed event is safe to operate within the pool complex.

6 Community Education

The effect of the Bylaw on the pool complex will be a change from existing processes. Given this, we will be advertising the changes on our website, social media and newsletter along with a notice to be provided at the pool complex.

In addition, we will contact all regular hirers and all booked events at the pool complex to advise of the new rules and either confirm the booking or offer a refund for those that cannot comply with the provisions. We will try and accommodate event holder at other venues where the pool is no longer suitable.

7 RECOMMENDATIONS

1. That the report "Alcohol Control Bylaw – Consideration of Submissions for Adoption" be received.
2. That Council resolves to consider all submissions received for the proposed Alcohol Control Bylaw.
3. That Council resolves to make a minor change to clause 7.6 of the proposed Alcohol Control Bylaw.

4. That Council resolves to adopt, pursuant to section 155 of the Local government Act 2002, the Kawerau District Council Alcohol Control Bylaw 2022, with any amendments considered appropriate.
5. The Council approves the commencement date of the Bylaw to be 23 September 2022.
6. That Council acknowledges the changes to the pool complex in regards to the new Bylaw and approves the recommendation to provide a minimum standard application process for the hireage of the pool complex.



Michaela Glaspey

Group Manager, Regulatory and Planning

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Kawerau District Council

Proposed Alcohol Control Bylaw 2022 Submissions



Four Submissions received as at the closing date Friday, 19 August 2022

1	Submitter	Alcohol Bylaw Community Feedback	Response
	<p>Angelique Nicoll 37 Dornett Street Kawerau 3127 0213031303 angienicoll69@gmail.com</p>	<p>Wishes to speak Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>I fully support a district liquor ban for Kawerau to enhance added security and safety to all members of the public.</p> <p>This ban will also allow our police to enforce a ban as well as utilise legislations to prosecute recidivist offenders.</p> <p>Lastly, this ban will restrict and monitor underage drinking.</p>	<p>Sent via email 22/08/2022</p>
2	Submitter	Alcohol Bylaw Community Feedback	Response
	<p>Lynn Hughes Kawerau and Districts Grey Power Association Inc. P.O. Box 209, Kawerau, 3169 021 028 14720 lynhughes63@gmail.com</p>	<p>Wishes to speak Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>To whom it may concern</p> <p>Re: Alcohol Control Bylaw 2022</p> <p>Kawerau and Districts Grey Power Association Inc. is pleased to put forth this submission to the Kawerau District Council re their Alcohol Control Bylaw 2022.</p> <p>Members are pleased to hear about the purpose for this update i.e. to help protect the public from nuisance and offensive behaviours, particularly within their outlined boundaries within the town.</p> <p>This protection will help to maintain decorum within social areas and promote the feeling of public safety throughout our town. In regulating where and when alcohol is consumed, the</p>	<p>Sent via email 22/08/2022</p>

	<p>incidence of alcohol-related crime and disorder will also give our Police Force more wherewithal to stymie unsociable and insensitive behaviours. Thus, public health and safety will thrive better within our rohe adding to peoples' general feeling of well-being and personal safety.</p> <p>Alcohol-related disorder has certainly needed dealing to before now, and the general feeling of discomfort or ill-ease to say the least, when moving around the central town area regardless of the time, will be lifted. To have this feeling of relief for personal safety and care allows more people to move around with a better sense of freedom and comfort.</p> <p>Alcohol-free zones will enable more reasonable movement of everyone around the town – everyone's democratic and civil rights are protected and a sense of calm should prevail.</p> <p>Thank you from the senior citizens and members from Kawerau.</p>	
<p>3 Submitter Evelyn Moses Budget Advisory Service Rangitaiki Inc. P.O. Box 26, Kawerau 3169 07 323 6653 020 418 50281 info@basri.org.nz</p>	<p>Alcohol Bylaw Community Feedback</p> <p>Wishes to speak Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>As a working entity situated within the Town Centre, (one of the designated areas for the banning of alcohol consumption), Budget Advisory Service Rangitaiki Incorporated expresses its support and approval of the updating and revamping of the Alcohol Control Bylaw 2022.</p> <p>With consideration for our physical presence (front and back) and the siting of our building for use by our clients, the new provisions should enable a</p>	<p>Response Sent via email 22/08/2022</p>

	<p>safer and more free-flow movement of people going about their business. Any left-over evidence of this unruliness and bad behaviour will also be minimised at least.</p> <p>This updated bylaw also explains more clearly how to go about obtaining a special license should an event allow for provision of alcohol under a special exemption.</p> <p>We like how the Police may support safer movement of people through the Town Centre at any time, and how infringement notices may be issued more readily as the need arises. We support how infringement penalties are outlined as part of the bylaw so that there will be consequences for unsociable or offensive behaviours, resulting from alcohol over-indulgence spilling out into the streets here.</p> <p>Any way that public health and safety can be promoted is a good path to follow. This updated bylaw may well help to minimise this anti-social harm or even threat of harm. We appreciate that these means may also help our police in their role of protecting the public.</p>
<p>4 Submitter Haydn Parks Local Business 81 Fenton Mill Road 027 491 7390 Mr.cooper.nz@gmail.com</p>	<p>Alcohol Bylaw Community Feedback</p> <p>Wishes to speak Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>I am seeking clarification regarding the proposed Alcohol Control Bylaw 2022 Will this affect people from having Alcohol and consuming it on private property in the highlighted zones on your maps.</p> <p>Meaning private consumption and not for sale.</p>
	<p>Response Sent via email 22/08/2022</p>

Personally, and occasionally, I will have a couple of beers after work or on hot days and or with fellow workers, have a BBQ, Christmas function etc.

I know many Businesses around the CBD and Liverpool Street who will put a shout on occasionally and this has been the way for 40 + years.

If the new bylaw now prevents this, I will oppose it and would suggest Council approach each business in the highlighted zone and make them aware of the proposed loss of right to have a drink on their property before making a final decision.

Common sense tells me this is not Councils intention, but on occasion I have been wrong in my assumptions at times so clarification please.

Appreciate councils Mahi on the Alcohol Control Bylaw 2022

Kind Regards,
Haydn



KAWERAU DISTRICT COUNCIL

Alcohol Control Bylaw 2022

PROPOSAL for PUBLIC CONSULTATION
July 2022

Kawerau District Council

Alcohol Control Bylaw 2022

Explanatory Statement

The Kawerau District Council wishes to address issues of inappropriate, annoying and offensive behaviour arising from alcohol consumption in public places.

The Kawerau District Council has determined that a Bylaw is the most appropriate mechanism to address these issues and to enhance public safety and community well-being without unduly restricting public rights. The objective of this Bylaw is to help, protect the public from nuisance and promote and maintain public health and safety.

The Bylaw is made under the powers granted to territorial authorities by Part 8 of the Local Government Act 2002.

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Kawerau District Council Alcohol Control Bylaw 2022

1 Title and Commencement

This Bylaw may be cited as “The Kawerau District Council Alcohol Control Bylaw 2022” and shall come into force on _____ (date to be confirmed).

2 Purpose

The purpose of this Bylaw is to control the consumption of alcohol in public places to reduce alcohol related harm.

3 Interpretation

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

Alcohol has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012 (or any subsequent legislation in amendment of, or substitution for, the same).

Bylaw means the Kawerau District Council Alcohol Control Bylaw 2022.

Council means the Kawerau District Council.

Public Place has the meaning given by section 147 of the Local Government Act 2002 (or any subsequent legislation in amendment of, or substitution for, the same).

Offence means an offence under Section 239A of the Local Government Act 2002 that is a breach of this Bylaw (or any subsequent legislation in amendment of, or substitution for, the same).

Vehicle has the meaning as contained in section 2(1) of the Land Transport Act 1998 (or any subsequent legislation in amendment of, or substitution for, the same).

4 Alcohol-Free Area

4.1 Alcohol Free Areas are public places specified in Schedule 1. The following acts are prohibited 24 hours a day 7 days a week:

- a) the consumption of alcohol in an alcohol-free area.
- b) bringing of alcohol into an alcohol-free area.
- c) possession of alcohol in an alcohol-free area.
- d) use of a vehicle, in conjunction with an act relating to alcohol as set out in clauses 4.1 a to c.

5 Temporary Alcohol-Free Area

5.1 The Council may from time to time, by notified resolution, specify public place/s, events and/or timeframes to which this Bylaw shall apply. This is referred to as a temporary alcohol-free area.

5.2 The following acts are prohibited at the place and for the timeframe as set out in the notified resolution made under clause 5.1:

- a) the consumption of alcohol.

- b) bringing of alcohol into a temporary alcohol-free area.
- c) possession of alcohol in a temporary alcohol-free area.
- d) use of a vehicle, in conjunction with an act relating to alcohol as set out in clauses 4.1 a to c.

6 Special Licences

- 6.1 Clause 4 and 5 of this Bylaw shall not apply to the consumption or possession of alcohol acquired pursuant to a special licence granted by Council under the Sale and Supply of Alcohol Act 2012 for a special public event held within a specified alcohol-free area, when the alcohol is being consumed within that area as part of the public event. (Special licence applications must be received 20 working days prior to event – applications available on Kawerau District Councils website).

7 Dispensation

- 7.1 The Chief Executive Officer of Council may, on written request by any person including a Council Officer, grant a dispensation of operation of any part of the Bylaw for the purpose of enabling consumption and/or possession of alcohol in a public place at the time of any special event. (Dispensation requests must be received 14 working days prior to event – points to cover in request are available on the Kawerau District Council website)
- 7.2 In considering an application for dispensation, the decision maker shall obtain and consider the opinion of the NZ Police before determining the outcome.
- 7.3 Any dispensation, of any part of this Bylaw shall be granted only in respect of specific location and timeframe associated with the special event, for the purpose of enabling better enjoyment of the event by members of the public.
- 7.4 The provisions of clauses 4 shall not apply to any public place or specified part of that public place in respect of which a dispensation has been granted.
- 7.5 Public notification of any dispensation approved must be advertised in a newspaper circulating in Kawerau District and on the Council website and facebook page for at least 7 days prior to the commencement of the dispensation.
- 7.6 A fee may be charged to the applicant for the dispensation to cover any direct costs associated with **processing the application, including** the public notice and/or obtaining a police response to the application under this clause. This fee may be refunded, remitted, or waived at the discretion of the Chief Executive.

8 Exceptions to Bylaw

- 8.1 Exceptions to clauses 4 and 5 of this Bylaw are set out in section 147(4) of the Local Government Act 2002 (or any subsequent legislation in amendment of, or substitution for, the same). Section 147(4) of the Local Government Act 2002 states -

A bylaw under this section does not prohibit, regulate, or control, in the case of alcohol in an unopened container -

- (a) the transport of the alcohol from licensed premises next to a public place, if—
 - (i) it was lawfully bought on those premises for consumption off those premises; and
 - (ii) it is promptly removed from the public place; or
- (b) the transport of the alcohol from outside a public place for delivery to licensed premises next to the public place; or
- (c) the transport of the alcohol from outside a public place to premises next to a public place by, or for delivery to, a resident of the premises or his or her bona fide visitors; or
- (d) the transport of the alcohol from premises next to a public place to a place outside the public place if—
 - (i) the transport is undertaken by a resident of those premises; and
 - (ii) the alcohol is promptly removed from the public place.

8.2 Licensed Premises - Any land where the sale of alcohol is authorised by any licence granted under the Sale and Supply of Alcohol Act 2012 is excluded from the definition of a public place for the purpose of this Bylaw.

9 Offences and Breaches

9.1 Every person breaches this Bylaw who:

- a) does, or allows anything to be done, which is contrary to this Bylaw or any part of it: or
- b) fails to do, or allows anything to remain undone, which ought to be done within the time and in the manner required by this Bylaw or any part of it; or
- c) does anything which this Bylaw prohibits; or
- d) fails to comply with any notice given under this bylaw or any part of it or any condition of a consent or licence granted by Council; or
- e) obstructs or hinders any Council Officer or other Council appointed person in performing any duty or in exercising any power under this Bylaw.

9.2 Every person who breaches this Bylaw commits an offence and may be issued an infringement notice as set out in section 239A of the Local Government Act 2002.

10 Notices

10.1 Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the timeframe in which the remedial action is to be carried out and may be extended from time to time.

11 Powers of Arrest, Search and Seizure

11.1 A member of the Police may, in any prohibited or restricted alcohol area, without warrant enforce this Bylaw using the power of search, seizure and arrest as set out in s169 (2) and (3) of the Local Government Act 2002. Police actions must be completed in accordance with s170 of the Local Government Act 2002.

Section 169 (2) Local Government Act 2002

(2) A constable may, without warrant

- (a) for the purpose of ascertaining whether alcohol is present, search -

- (i) a container (for example, a bag, case, package, or parcel) in the possession of a person who is in, or entering, a restricted place; or
- (ii) a vehicle that is in, or is entering, a restricted place:
- (b) seize and remove any alcohol (and its container) that is in a restricted place in breach of an alcohol ban:
- (c) arrest any person whom the constable finds committing an offence:
- (d) arrest any person who has refused to comply with a request by a constable—
 - (i) to leave a restricted place; or
 - (ii) to surrender to a constable any alcohol that, in breach of an alcohol ban is in the person's possession.
- (3) Alcohol or a container seized under subsection (2)(b) is forfeited to the Crown if the person from whom the alcohol or container is seized pays the infringement fee.

12 Penalties

12.1 Every person who commits an offence against this Bylaw is liable for an infringement pursuant to 239A of the Local Government Act 2002.

13 Revocations and changes

13.1 The Liquor Control Bylaw 2009 is hereby revoked.

13.2 The Kawerau District Council Alcohol Control Bylaw 2022 was duly made by a resolution passed at a meeting of the Kawerau District Council held on _____ (date to be inserted) following a special consultative procedure.

The Common Seal of the
Kawerau District Council
 was affixed hereto in the presence of:

.....
 Mayor

.....
 Chief Executive Officer

.....
 Date

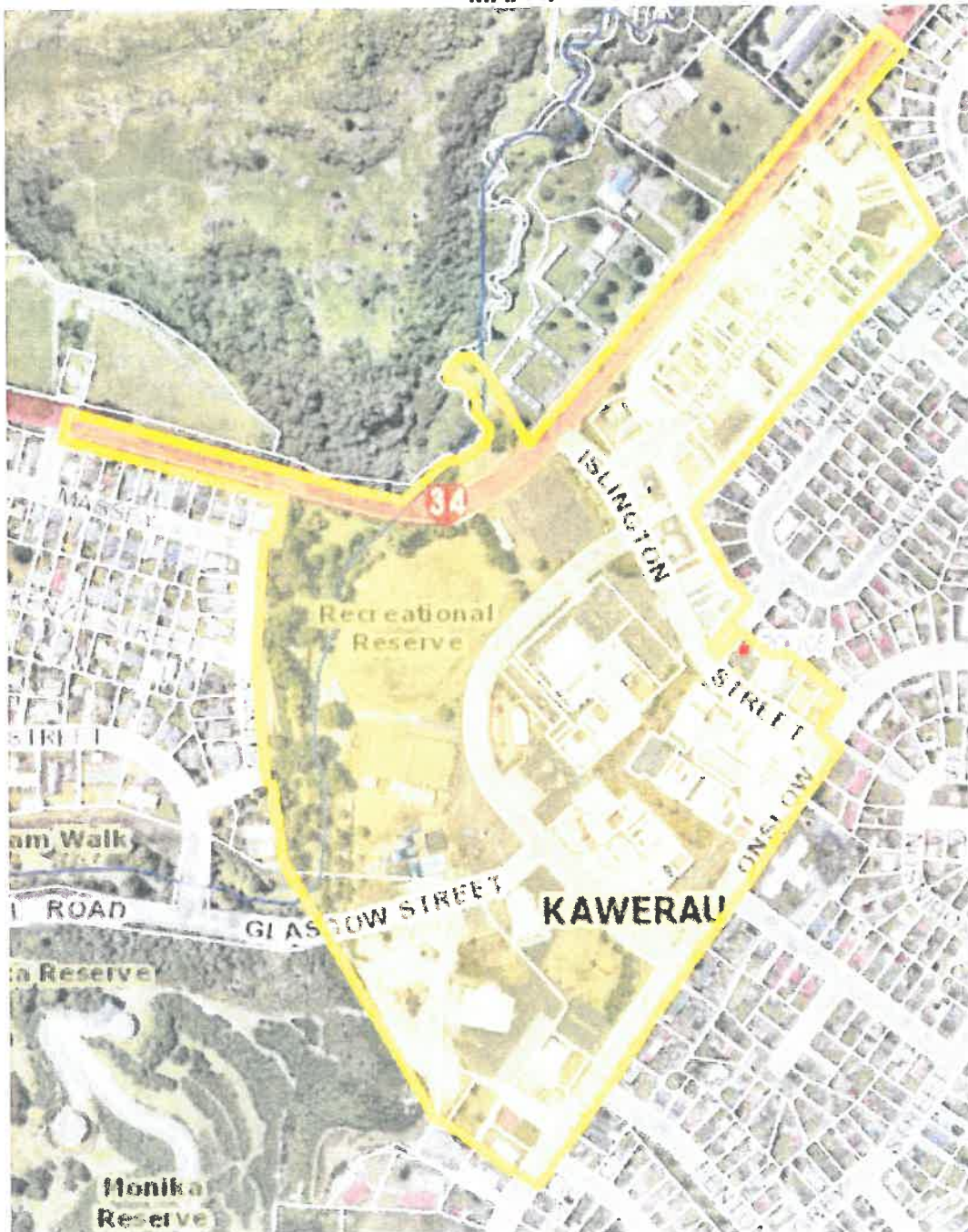
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FIRST SCHEDULE – ALCOHOL FREE AREAS

The following places shown in map 1, are Alcohol Free areas 24 hours a day and 7 days a week:

- Kawerau Town Centre bounded by and including Islington Street, Onslow Street and Plunket Street.
- The area from Onslow Street by the Navalmen's Club through to and including Prideaux Park. This includes the areas around the Ron Hardie Recreation Centre such as the circus paddock, outdoor basketball courts, BMX track and skateboard park.
- Tamarangi Drive from Parimahana Drive to Short Street (including Liverpool Street and Islington Street).
- Keith McKenzie Park

MAP 1



FIRST SCHEDULE – ALCOHOL FREE AREAS

The following place shown in map 2, is an Alcohol-Free areas 24 hours a day and 7 days a week:

- Stoneham Walk

MAP 2



FIRST SCHEDULE – ALCOHOL FREE AREAS

The following places shown in map 3, is an Alcohol-Free areas 24 hours a day and 7 days a week:

- The Kawerau Cemetery

MAP 3



**The Extraordinary Meeting of the Kawerau District Council
will be held on Tuesday 20 September 2022
commencing at 9.00am**

A G E N D A

Apologies

Declarations of Conflict of Interest

Any member having a “conflict of interest” with an item on the Agenda should declare it, and when that item is being considered abstain from any discussion or voting. The member may wish to remove themselves from the meeting while the item is being considered.

1 Alcohol Control Bylaw – Consideration of Submissions for Adoption (Group Manager, Regulatory and Planning) (320100)

Pgs. 1 - 20

Attached is a report for consideration of submissions for the proposed Alcohol Control Bylaw.

Recommendations

1. *That the report “Alcohol Control Bylaw – Consideration of Submissions for Adoption” be received.*
2. *That Council resolves to consider all submissions received for the proposed Alcohol Control Bylaw.*
3. *That Council resolves to make a minor change to clause 7.6 of the proposed Alcohol Control Bylaw.*
4. *That Council resolves to adopt, pursuant to section 155 of the Local government Act 2002, the Kawerau District Council Alcohol Control Bylaw 2022, with any amendments considered appropriate.*
5. *That Council approves the commencement date of the Bylaw to be 23 September 2022*
6. *That Council acknowledges the changes to the pool complex in regards to the new Bylaw and approves the recommendation to provide a minimum standard application process for the hireage of the pool complex.*

R B George

Chief Executive Officer

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