

Waitaki Alcohol Ban Bylaw 2018

December 2018

Waitaki District Alcohol Ban Bylaw 2018
Published by Waitaki District Council
Private Bag 50058
Oamaru 9444
New Zealand

The Waitaki District Alcohol Ban Bylaw 2018 was duly adopted by the Waitaki District Council at a meeting of Council held on 4 December 2018 and ordered to come into force on the 10th day of December 2018.

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



Gary Kircher
Mayor





Fergus Poyer
Chief Executive

Waitaki Alcohol Ban Bylaw 2018

The Local Government Act 2002 (the Act) allows Council to prohibit the consumption of alcohol for the purpose of minimising the potential for offensive behaviour and alcohol-related harm in public places. This bylaw is made pursuant to sections 145 and 147 of the Local Government Act 2002. The Local Government (Alcohol Reform) Amendment Act 2012 sets out new requirements for the creation and review of an alcohol ban bylaw.

1. Title, Purpose and Commencement

This bylaw shall be known as the Waitaki Alcohol Ban Bylaw 2018 and is made for the control of alcohol consumption in public places.

This bylaw shall come into force on 10 December 2018.

2. Acts Prohibited

The following acts are prohibited in a specified public place for a specified period:

- 2.1 The consumption of alcohol in a public place.
- 2.2 The possession of alcohol in a public place in an unsealed container.
- 2.3 The bringing of alcohol into a public place in an unsealed container.
- 2.4 Consumption of alcohol in a vehicle in a public place.

3. Interpretation

- 3.1 Alcohol has the meaning given by section 5 (1) of the Sale and Supply of Alcohol Act 2012
- 3.2 Offence means an offence under section 239 of the Local Government Act 2002 for breach of this bylaw
- 3.3 Alcohol-related harm has the meaning given in section 5 of the Sale and Supply of Alcohol Act 2012
- 3.4 Public Place means a place –
 - a) That is under the control of Council; and that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; and includes
 - b) A road, whether or not the road is under the control of Council; and
 - c) Any part of a public place but (a) does not include any licenced premises

- 3.5** Specified Public Place – means a public space defined or listed in Schedule A and such additional place as may be defined by the Council by resolution from time to time and publicly notified in accordance with Clause 9 of this bylaw.
- 3.6** Specified Time – means a time defined or listed in Schedule B and such additional times as may be defined by the Council by resolution from time to time and publicly notified in accordance with Clause 9 of this bylaw.
- 3.7** Alcohol ban means a bylaw made under section 147 of the Act

4. Offence

Every person who breaches this bylaw commits an offence and is liable on summary conviction to the penalty set out below.

4.1 Section 21 of the Summary Proceedings Act 1957 applies to a breach of a bylaw made under section 147 of the Act as if –

- a) the breach was an infringement offence within the meaning of that Act; and
- b) the person who has committed the breach has committed the offence; and
- c) the references in subsection (9) of that section to a defendant's being found guilty of, or pleading guilty to, an infringement offence for which an infringement notice has been issued were references to the person's being found to have committed, or admitting to having committed, the breach.

5. Penalty for Breach of Bylaw

5.1 Any person convicted of an offence against this bylaw is liable, on conviction, to a fine not exceeding \$250

An infringement notice relating to a breach of an alcohol ban may be served –

- a) by a constable personally delivering it to the person alleged to have committed the breach; or
- b) by a constable personally delivering it, at a time after the person alleged to have committed the breach has been arrested for committing it, to the person; or
- c) by post address to the last known place of residence or business of the person alleged to have committed the breach

6. Exemptions

6.1 This bylaw does not prohibit in the case where alcohol, is in an unopened bottle or container,

- 6.1.1 The transport of that alcohol from premises that adjoin a public place during any period when, under the Sale of alcohol Act 1989, it is lawful to sell alcohol on those premises for consumption off the premises, provided the alcohol is promptly removed from the public place:
- 6.1.2 The transport of that alcohol from outside a public place for delivery to premises that adjoin the public place, provided the premises are licensed for the sale of alcohol under the Sale of Liquor Act 1989:
- 6.1.3 The transport of that alcohol from outside a public place to premises that adjoin a public place —
 - 6.1.3.1 By, or for delivery to, a resident of those premises or by his or her bona fide visitors; or
 - 6.1.3.2 From those premises to a place outside the public place by a resident of those premises, provided the alcohol is promptly removed from the public place.

6.2 This bylaw does not apply where the sale or consumption of alcohol is authorised by any licence granted under the Sale and Supply of Liquor Act 2012 or any other exemption approved by Council for specific civic or public events.

6.3 Temporary Exemption for Specified Areas

- 6.3.1 The Council may from time to time by resolution specify public places within the Waitaki Alcohol Ban Area and in relation to which the provisions of this Bylaw relating to the prohibition, regulation or control of alcohol and vehicles shall not apply during a specified period not exceeding twenty four hours.
- 6.3.2 Every resolution made pursuant to clause 6.3.1 above shall be publicly notified at least 14 days before it shall take effect.

7. Enforcement – Powers of arrest, search, and seizure—

Pursuant to Section 245A of the Act, a constable who believes on reasonable grounds that a person is committing or has committed an infringement offence may direct the person to give the constable his or her name, address, and date of birth.

Pursuant to Section 169 (2) of the Act, a constable may, without warrant,

7.1 For the purpose of ascertaining whether alcohol is present, search—

- 7.1.1 a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place:
- 7.1.2 a vehicle that is in, or is entering, a restricted place:

7.2 Seize and remove alcohol and its container if the alcohol is in a public place in breach of a bylaw. Alcohol or a container seized under this section is forfeited to the Crown if the person from whom the alcohol or container is seized is convicted of breaching the bylaw

7.3 Arrest a person whom the constable finds committing an offence:

7.4 Arrest a person who has refused to comply with a request by a constable—

- 7.4.1 To leave the public place; or
- 7.4.2 To surrender to a constable the alcohol that, in breach of a bylaw, is in that person's possession.

8. Conditions relating to power of search—

Before exercising the power of search in relation to a container or a vehicle, a constable must—

- 8.1** 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; and
- 8.2** Provide the person with a reasonable opportunity to remove the alcohol or the vehicle, as the case may be, from the public place.
- 8.3** However, on specified dates or in relation to specified events, duly notified by Council in accordance with Part 8, section 170, subsection (3) of the Local Government Act, 2002, a constable may, immediately and without further notice, exercise the power to search a container or a vehicle.

9. Proving substance is alcohol in relation to alleged breach of alcohol ban

9.1 In this section, labelled trade container means a container that is of a type sold in the ordinary course of trade, and is labelled to the effect that it contains 1.15% or more ethanol

9.2 This subsection applies to a substance in respect of which a breach of alcohol ban is alleged to have been committed if the substance was in a container at the time of the offense is alleged to have been committed, and-

- a) The container was a labelled trade container; or
- b) The container was not a labelled trade container but appeared to contain alcohol, and when it was opened the substance smelled like alcohol; or
- c) The defendant has at any time made to a constable an admission to the effect that the substance was alcohol

9.3 If, in any proceedings for a breach of alcohol ban, it is proved that subsection (2) applies to the substance in respect of which the breach is alleged to have been committed, the substance must be presumed to be alcohol unless the defendant-

- d) Proves that it was not; or
- e) Has given notice in writing at least 20 working days before the hearing that he or she disputes that the substance was alcohol

10. Addition of Specified Periods and Public Places

10.1 The Council may from time to time by resolution specify additional periods during which the bringing of alcohol into a public place and the possession or consumption of alcohol in a public place may be prohibited and (in conjunction with such a prohibition) the presence or use of vehicles may be regulated or controlled. The Council may make such a resolution in relation to any planned public event, function or social gathering to be held in a public place or in relation to a period when the congregation of a large number of people in a public place is anticipated.

10.2 The Council may from time to time by resolution specify additional public places that are to be defined as Specified Public Places and in relation to which the provisions of this Bylaw relating to the prohibition, regulation or control of alcohol and vehicles may apply during a Specified Period.

10.3 Every resolution made pursuant to Clause 9.1 or Clause 9.2 above shall be publicly notified at least 14 days before it shall take effect.

11. Criteria for Making Resolutions Relating to Bylaws

11.1 Pursuant to Section 147B of the Act, before making a resolution to an Alcohol Ban bylaw, Council must be satisfied that –

11.1.1 There is evidence that the area to which the bylaw applies has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and

11.1.2 The bylaw –

- d) is appropriate and proportionate in light of the evidence; and
- e) can be justified as a reasonable limitation on people's rights and freedoms.

12. Bylaw Review

12.1 Pursuant to Section 159 of the Act, a local authority must review this bylaw no later than 10 years after it was last reviewed.

Control of Alcohol Consumption in Public Places Bylaw 2003

Schedule A – Specified Public Places

All public places within the area shown on the map 'Oamaru Alcohol Ban Area' dated 24.11.2009, the map 'Omarama Alcohol Ban Area' and the map 'Otematata Alcohol Ban Area'.

Schedule B – Prohibited Times

At all times within the area shown on the map 'Oamaru Alcohol Ban Area' dated 24.11. 2009, the map 'Omarama Alcohol Ban Area', and the map 'Otematata Alcohol Ban Area'.

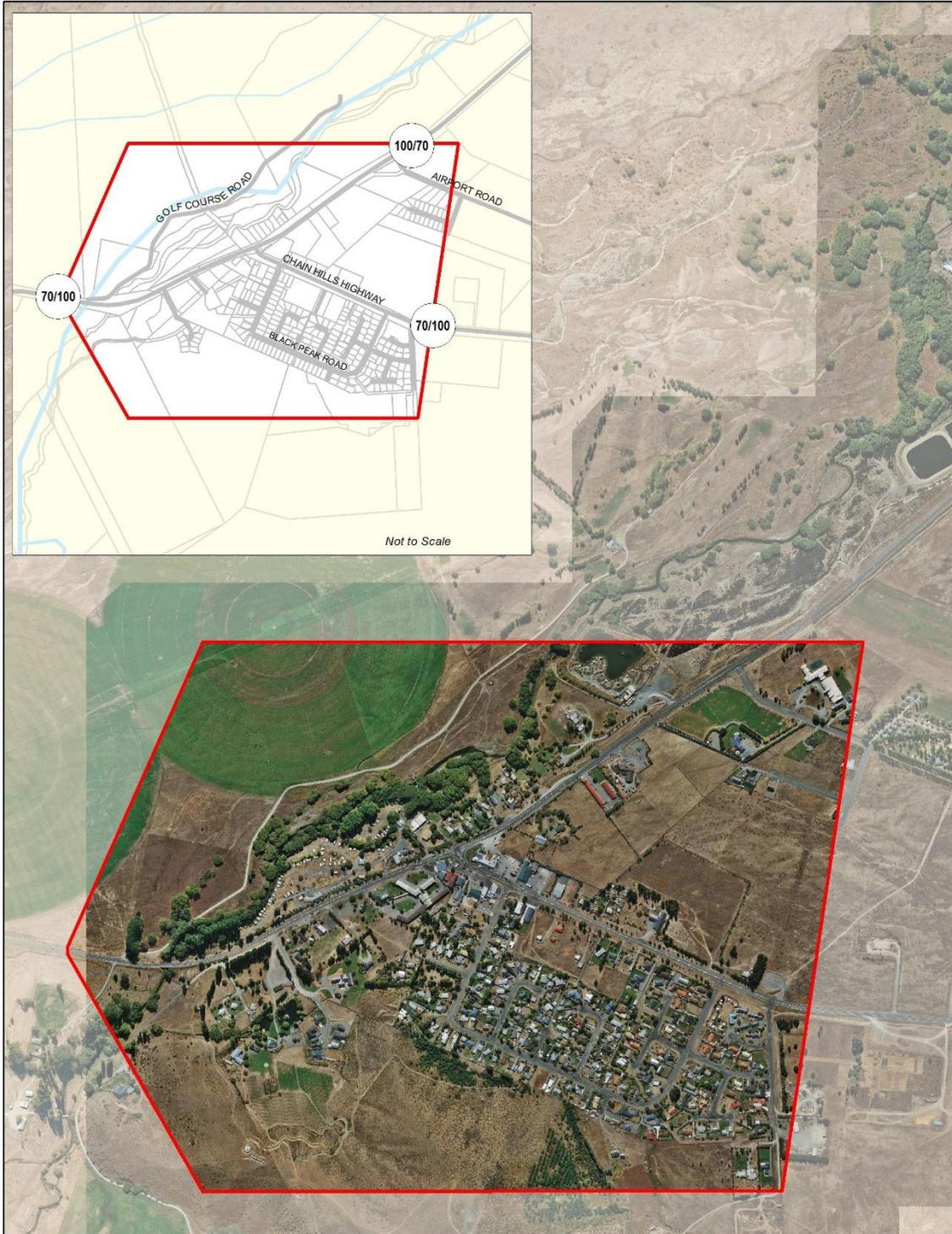
Waitaki Liquor Ban Bylaw 2009 - Oamaru



 OAMARU LIQUOR BAN AREA

October 2009

Omarama



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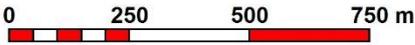
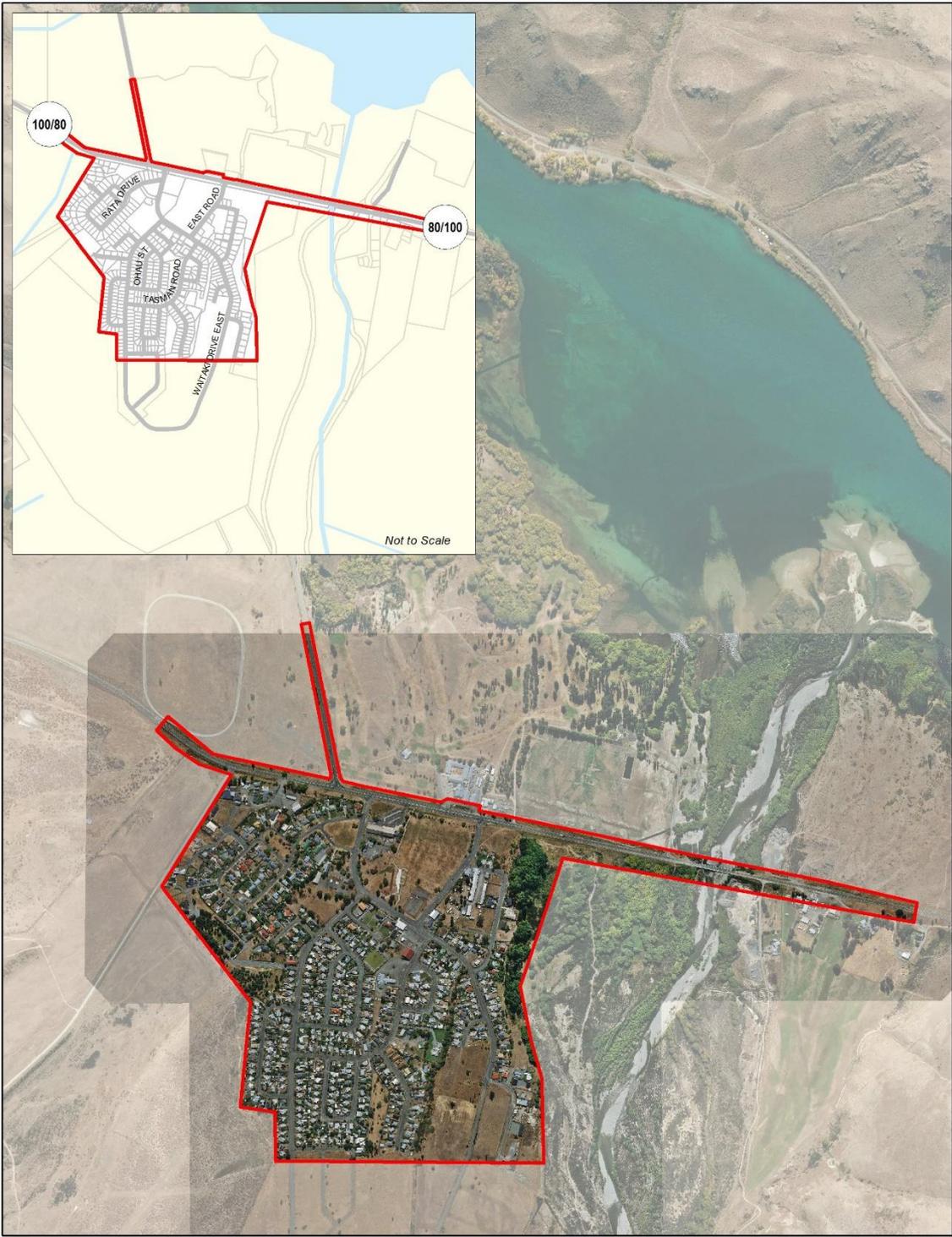
Speed Sign



Liquor Ban Area

Omarama Alcohol Ban Area

Otematata



Otematata Alcohol Ban Area