



# **Alcohol Control Bylaw 2022**



# 1. Preamble

The Horowhenua District Council in pursuance of the powers contained in the Local Government Act 2002, the Bylaws Act 1910 and any other authority enabling the Council in that behalf makes the following Bylaw.

# 2. Title and Commencement

This Bylaw is the Alcohol Bylaw 2022 and comes into force on 11 August 2022.

# 3. Application

This bylaw applies to the Horowhenua District.

# 4. Purpose

The purpose of this bylaw is to enhance public safety and enjoyment of public places by providing for alcohol control in specified public places to reduce the incidence of alcohol-related harm.

The Bylaw is made under the authority of Section 147 of the Local Government Act 2002.

# 5. Definitions and Interpretation

In this Bylaw, if not inconsistent with the context:

**Act** means the Local Government Act 2002.

**Alcohol** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

**Alcohol-related harm** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

**Alcohol Control Area** means the public area described in the Schedule One of this Bylaw in which alcohol prohibition are permanently in place during the times, days or dates specified in the Bylaw.

**Alcohol prohibition** means a prohibition specified in this Bylaw on the consumption of alcohol, the bringing of alcohol into, and the possession of alcohol, in a designated public place (subject to the prescribed exceptions in Section 147(3) of the Local Government Act 2002).

**Bylaw** means the Alcohol Control Bylaw 2022.

**Constable** means a Police employee who

- (a) Holds the office of constable (whether appointed as a constable under the Police Act 1958 or the Policing Act 2008); and
- (b) Includes a constable who holds any level of position within the New Zealand Police.

**Council** means the Horowhenua District Council or any Authorised Officer.

**Enforcement Officer** means a person appointed by the Council pursuant to s177 of the Local Government Act 2002 to exercise the powers of an Enforcement Officer.

**Infringement Fee** has the meaning given by section 243 of the Local Government Act 2002.

**Infringement Offence** has the meaning given by section 243 of the Local Government Act 2002.

**Licensed Premises** has the meaning given by section 5(1) of the Sale and Supply of Alcohol Act 2012.

**Member of the Police** means a sworn member of the Police appointed under the Policing Act 2008.

**Offence** means an offence under Section 239 of the Local Government Act 2002 that is a breach of this bylaw.

**Public Place** has the meaning given by section 147 of the Local Government Act 2002:

“means

- (a) a place 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; but
- (b) does not include licensed premises.”

**Vehicle** has the meaning given by section 2(1) of the Land Transport Act 1998.

## 6. Alcohol Ban Areas

- 6.1 The places listed in Schedule One are designated as an Alcohol Control Area in respect of which the consumption of alcohol, the bringing of alcohol into and the possession of alcohol in those public places is prohibited on the days of the week and during the hours prescribed for each place:

## 7. Temporary Alcohol Control Areas

- 7.1 Council may from time to time, by resolution make an alcohol ban prohibiting, regulating or controlling the consumption, bringing into, or possession of alcohol in any public place (including in a vehicle) for specified events or for one or more specified periods.
- 7.2 An alcohol ban made under clause 7.1 for specified events or periods must be publicly notified at least 14 days in advance of the specified event or period in accordance with section 170(3) of the Local Government Act 2002.

## 8. Enforcement Powers under this Bylaw

### 8.1 Powers of Search

Where Council has resolved to prohibit the consumption or possession of alcohol in any public place, the requirements on Police relating to Search, Seizure and Arrest are detailed in Clause 8.2.

### 8.2 Powers of Search, Seizure and Arrest

In accordance with section 169(2) and 170 of the Act, a Constable may, without warrant, -

- (a) for the purpose of ascertaining whether alcohol is present, search –
  - (i) a container (for example, a parcel, package, bag, or case) in the possession of a person who is in, or entering, a public place:
  - (ii) a vehicle that is in, or is entering, a public place:
- (b) seize and remove any alcohol and its container if the alcohol is in a public place in breach of a bylaw:
- (c) arrest a person whom the Constable finds committing an offence against this bylaw.
- (d) arrest a person who has refused to comply with a request by a Constable -
  - (i) to leave the public place; or
  - (ii) to surrender to a Constable any alcohol that, in breach of an Alcohol Ban, is in that person's possession.

8.3 Alcohol or a container seized under clause 8.2 is forfeited to the Crown if the person from whom the alcohol or container seized pays the infringement fee.

8.4 Before exercising the power of search under Clause 8.2, a Constable must -

- (a) inform the person in possession of the container or the vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the public place; and
- (b) provide the person with a reasonable opportunity to remove the container or the vehicle, as the case may be, from the public place.

### 8.5 Powers to request Name and Address

Any person whom an Enforcement Officer or member of the Police believes on reasonable grounds is committing or has committed an offence against this bylaw fails or refuses when required by the Enforcement Officer or member of the Police to give his/her name and/or address, or give a false name and/or address, he/she shall be guilty of an offence against the Act and liable on conviction to a fine not exceeding \$5,000.

## **9. Exceptions from this Bylaw for Transportation of alcohol**

- 9.1 There is no offence against this Bylaw where alcohol has been purchased from an Off Licensed premises within the Alcohol Control Area, and is being transported in an unopened state from this area.

## **10. Exceptions from this Bylaw for Licensed Premises**

- 10.1 Prohibitions in this Bylaw do not apply -

- (a) Alcohol sold by premises in an alcohol ban area, under the Sale and Supply of Alcohol Act 2012, in an unopened state;
- (b) Alcohol being transported in an unopened state from premises in an alcohol ban area, licensed for the sale and/or consumption of alcohol under the Sale and Supply of Alcohol Act 2012;
- (c) Where in compliance with a licence for the sale and/or consumption of alcohol under the Sale and Supply of Alcohol Act 2012, alcohol is allowed to be consumed in the areas that are licensed as part of the alcohol licence where they may be established in an Alcohol Control Area.

## **11. Power of Waiver, Dispensation and Suspension for Special Events**

- 11.1 The Chief Executive of the Horowhenua District Council or his/her nominated representative may, on application by any person including a Council officer, grant a waiver, dispensation or licence to do or refrain from doing anything which would otherwise be in breach of this bylaw for the purpose of enabling possession and/or consumption of alcohol in a public place at the time of any special event.
- 11.2 Such a waiver, dispensation or suspension of operation of any part 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.
- 11.3 In considering any such application, the person responsible for making a decision shall obtain and consider a response from New Zealand Police to the request, including the reasons for that response.
- 11.4 Where any such waiver, dispensation or suspension is granted, public notice of the waiver, dispensation or suspension should be given by public notice advertisement in a daily newspaper circulating the Horowhenua District at least 6 days prior to the commencement of the period when the waiver, dispensation or suspension commences.
- 11.5 A fee or charge may be payable by the applicant to cover any direct costs or outgoings associated with the public notice and/or obtaining a police response to the application under this section. This fee or charge may be refunded, remitted or waived at the discretion of the Chief Executive of the Horowhenua District Council, or his/her nominated representative.
- 11.6 Nothing in this Section over-rides any conditions in the Sale and Supply of Alcohol Act 2012 pertaining to Special Licences requirements.

## **12. Addition or Deletion of Public Places**

- 12.1 Council may add to, amend or revoke an alcohol ban in Schedule 1 by resolution following the use of the special consultative procedure set out in sections 83 and 156 of the Local Government Act 2002.
- 12.2 An alcohol ban made under clause 12.1 must be publicly notified at least 14 days before it takes effect.

## **13. Signage**

- 13.1 Where it is practicable or reasonable to do so, the Council will erect signage within alcohol control areas to provide information to the public about the restrictions. The size, location and content of the signage will be at the Council's discretion.
- 13.2 To avoid any doubt, the absence of signage in any alcohol control area does not authorise a breach of this bylaw.
- 13.3 This clause is subject to any regulations made under section 147C of the Act.

## 14. Breach of Bylaw and Penalty

- 14.1 Any person who fails to comply with any control, restriction, limitation or prohibitions contained within or made pursuant to this Bylaw or acts in breach of any provision of this bylaw commits an offence under the Act and is liable to the penalties under the Act.

*Explanatory note: Penalties are prescribed under the Local Government (Alcohol Ban Breaches) Regulations 2013.*

*The infringement fee for breaching an Alcohol ban is currently \$250.00.*

The foregoing Bylaw was duly made by the Horowhenua District Council by a resolution passed on the 8 June 2022 and was confirmed following consideration of community submissions received during a special consultation procedure, by a resolution passed on the 10 August 2022.

## Schedule One – Alcohol Control Areas

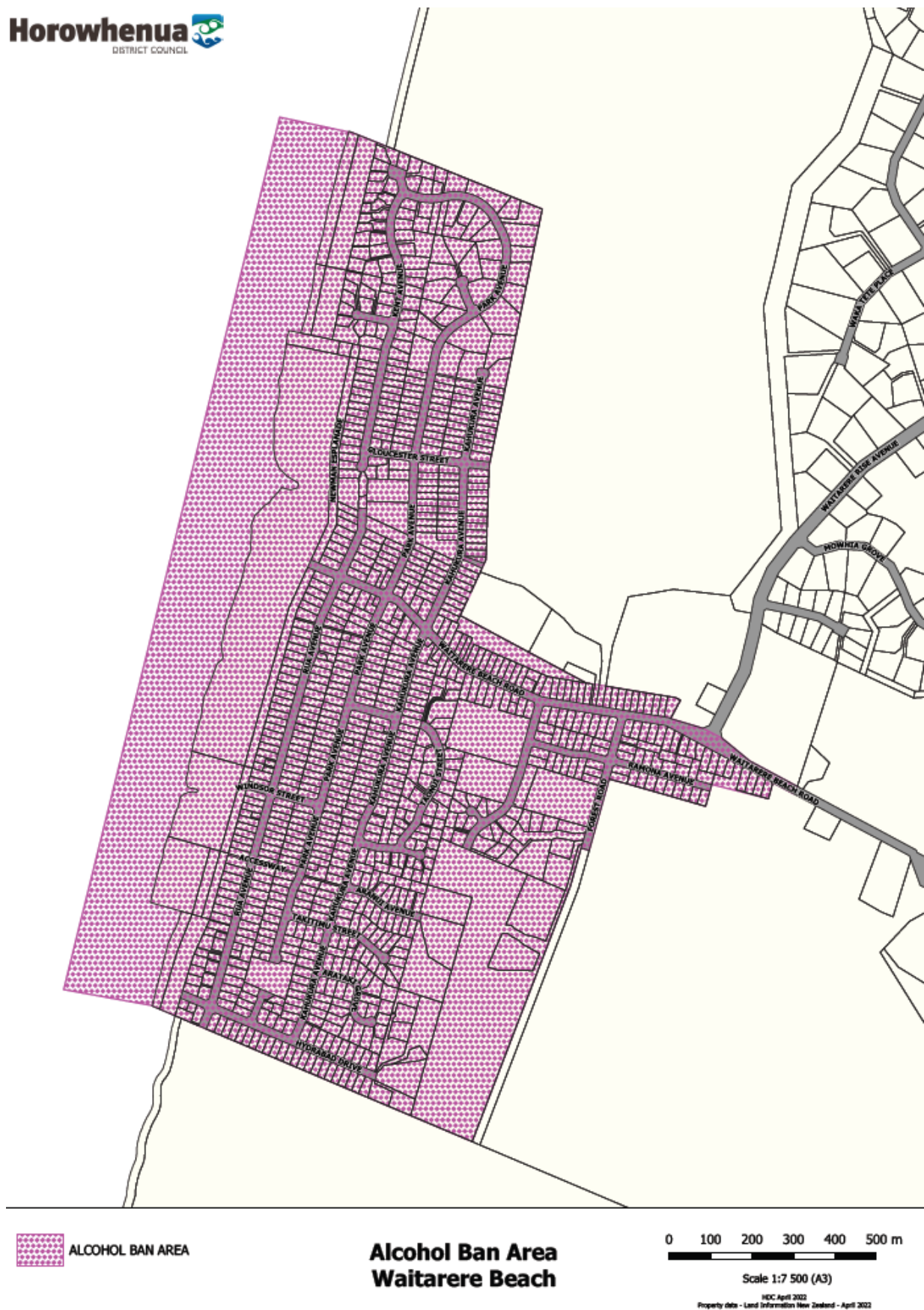
Name	Alcohol Control Area	Restriction	Map
Waitarere Beach	This public place is the area known as Waitarere Beach depicted on the map as Appendix 1, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.	Alcohol Prohibition.  An alcohol prohibition applies in this public place from:  (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year  (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.	Appendix 1
Foxton Beach	This public place is the area known as Foxton Beach depicted on the map as Appendix 2, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.	Alcohol Prohibition.  An alcohol prohibition applies in this public place from:  (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year  (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.	Appendix 2
Hokio Beach	This public place is the area known as Hokio Beach depicted on the map as Appendix 3, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.	Alcohol Prohibition.  An alcohol prohibition applies in this public place from:  (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year  (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.	Appendix 3
Waikawa Beach	This public place is the area known as Waikawa Beach depicted on the map as Appendix 4, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified  (NB. both red and yellow shaded areas on the map).	Alcohol Prohibition.  An alcohol prohibition applies in this public place from:  (a) 5.00 pm on Guy Fawkes evening until 7.00 am on the day following, of each year  (b) 5.00 pm on New Year's Eve evening until 7.00 am of New Year's Day of each year.	Appendix 4



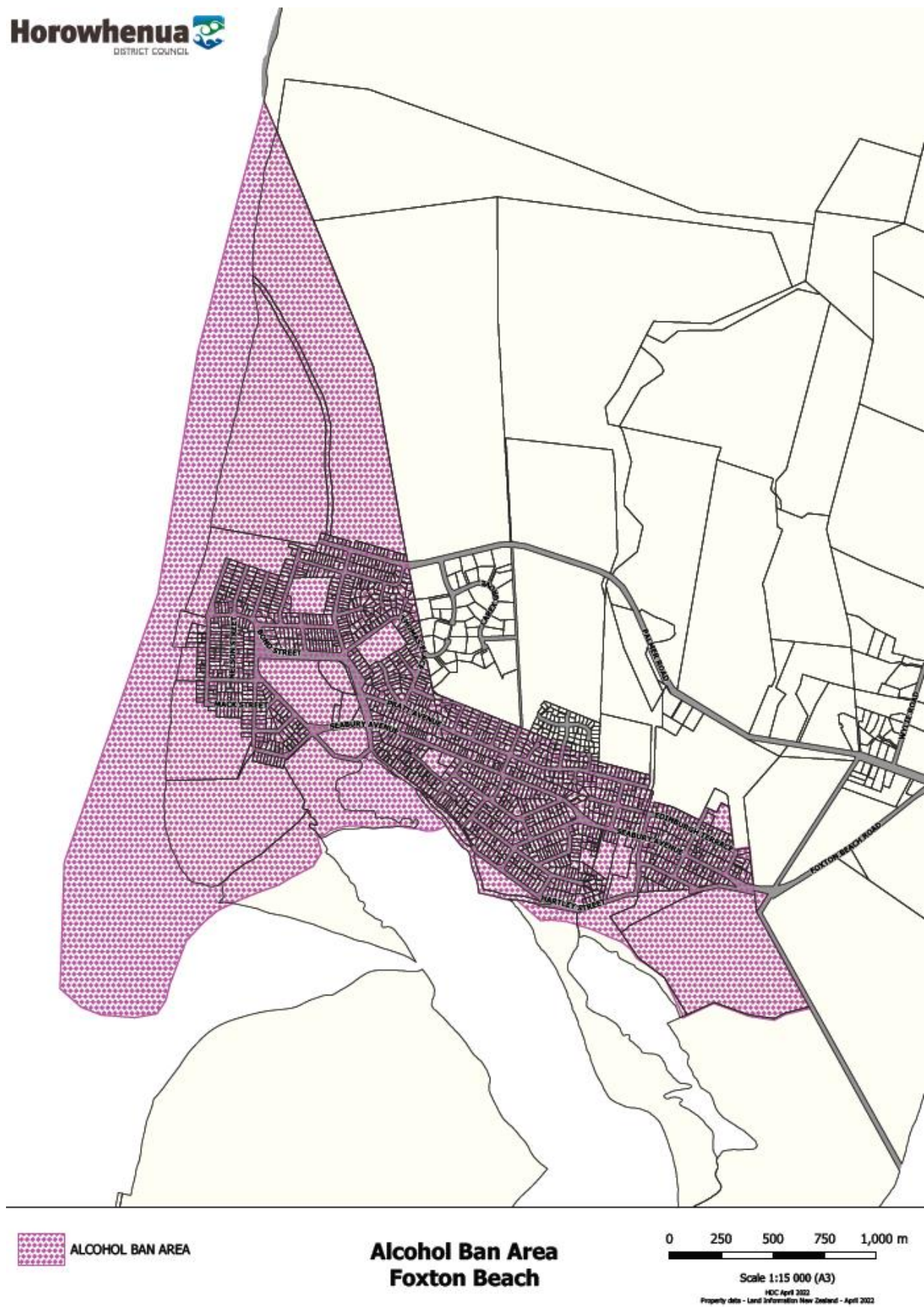
## Schedule One continued

Name	Alcohol Control Area	Restriction	Map
Levin CBD	This public place is the area known as Levin CBD depicted on the map as Appendix 5, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified, including the carparks of Levin New World Supermarket, 21 Bath Street, Levin, and Pak'nSave Mini Supermarket, 508 Queen Street, Levin.	Alcohol Prohibition.  An alcohol prohibition applies in this public place at all times.	Appendix 5
Foxton CBD	This public place is the area known as Foxton CBD depicted on the map as Appendix 6, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.	Alcohol Prohibition.  An alcohol prohibition applies in this public place at all times.	Appendix 6
Shannon CBD	This public place is the area known as Shannon CBD depicted on the map as Appendix 7, and includes all reserves, formed and unformed public roads, thoroughfares, walkways, access ways and vehicle parking areas located within the boundaries specified.	Alcohol Prohibition.  An alcohol prohibition applies in this public place at all times.	Appendix 7
Jubilee Park Levin	This public place is designated as the Jubilee Park site and includes all footpath areas bounding this site along Bath Street and Parker Avenue, Levin.	Alcohol Prohibition.  An alcohol prohibition applies in this public place at all times.	Shown on Appendix 5

## Appendix 1



## Appendix 2

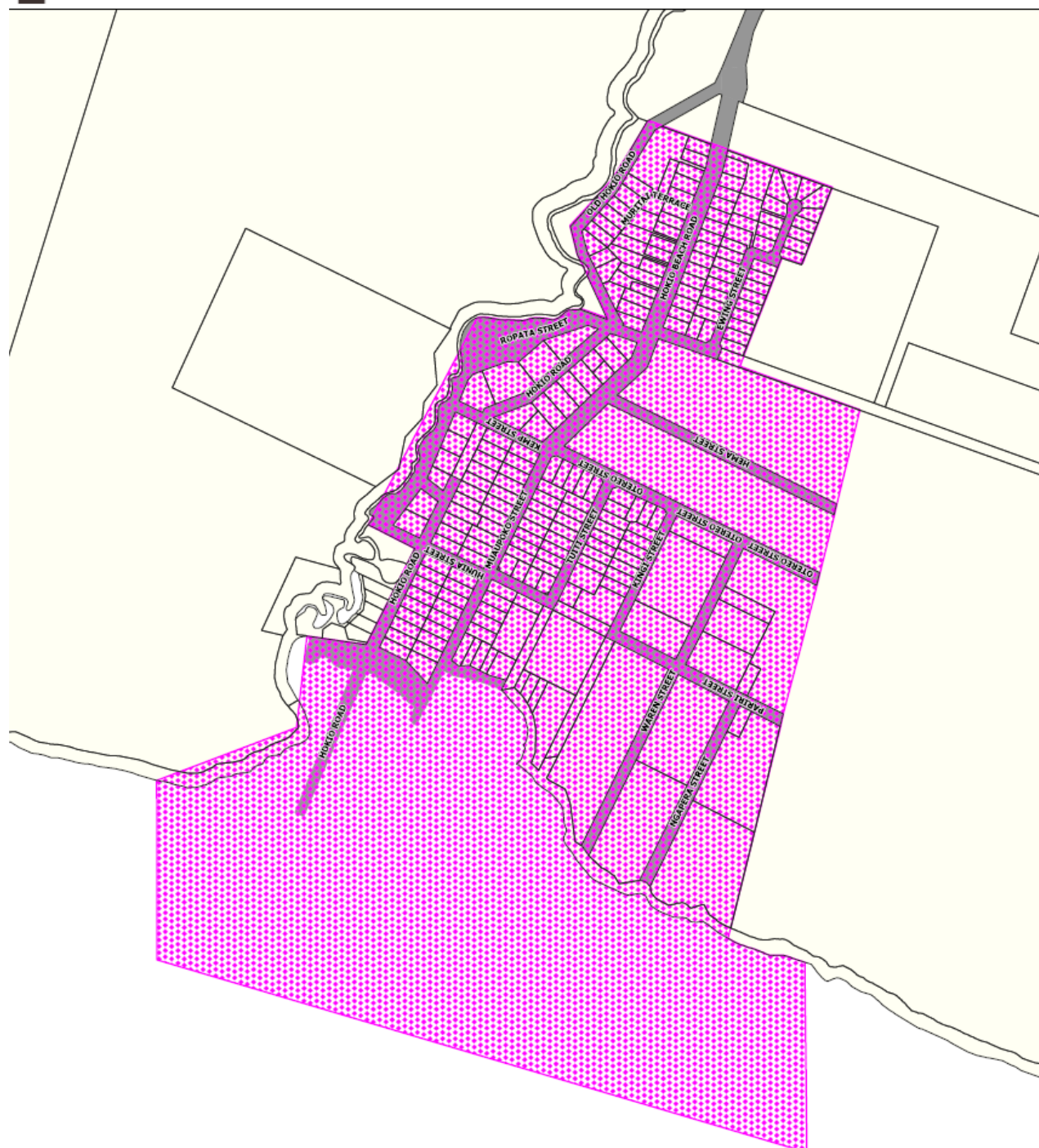




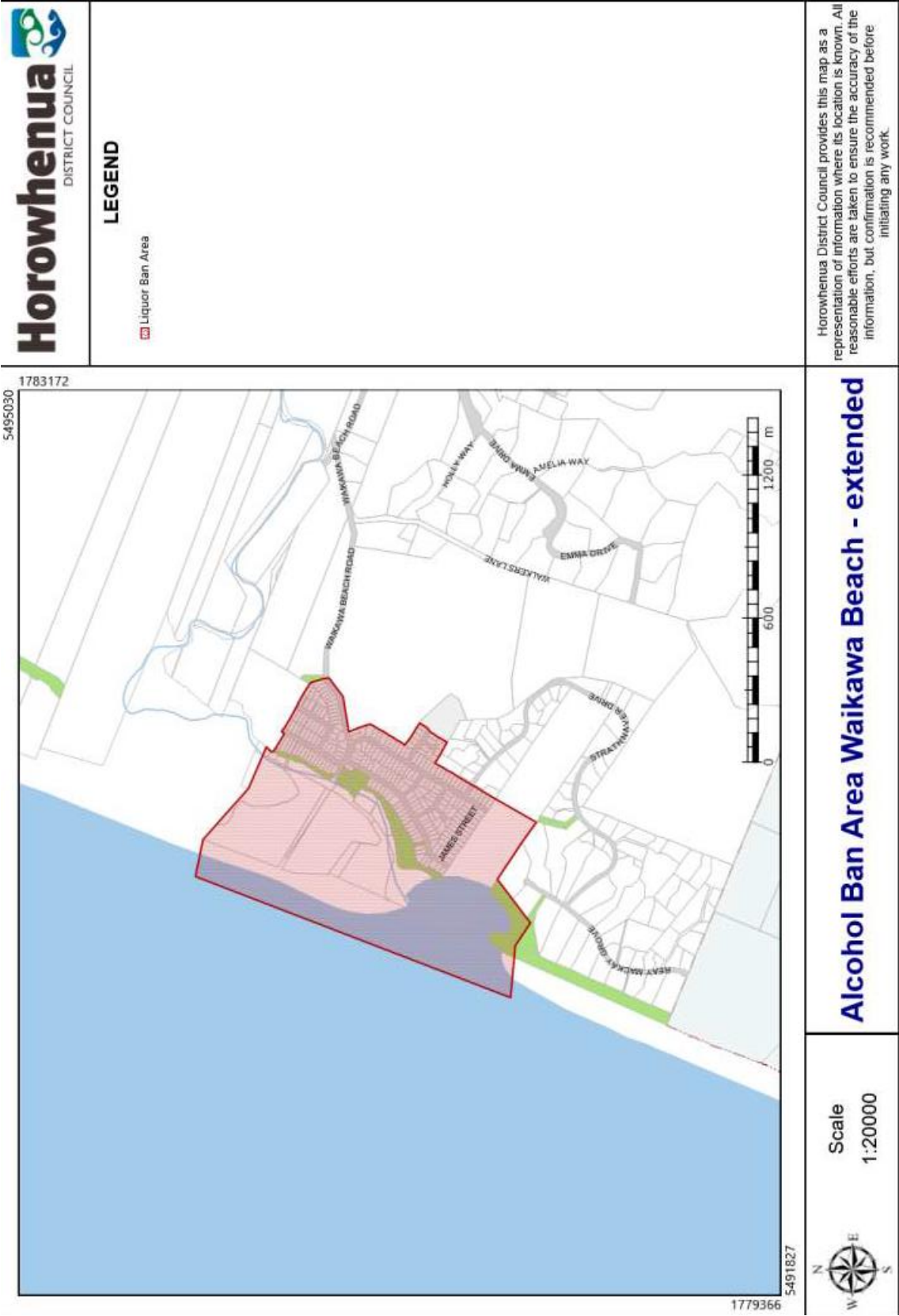
## Appendix 3



### Alcohol Ban Area Hokio Beach



Appendix 4

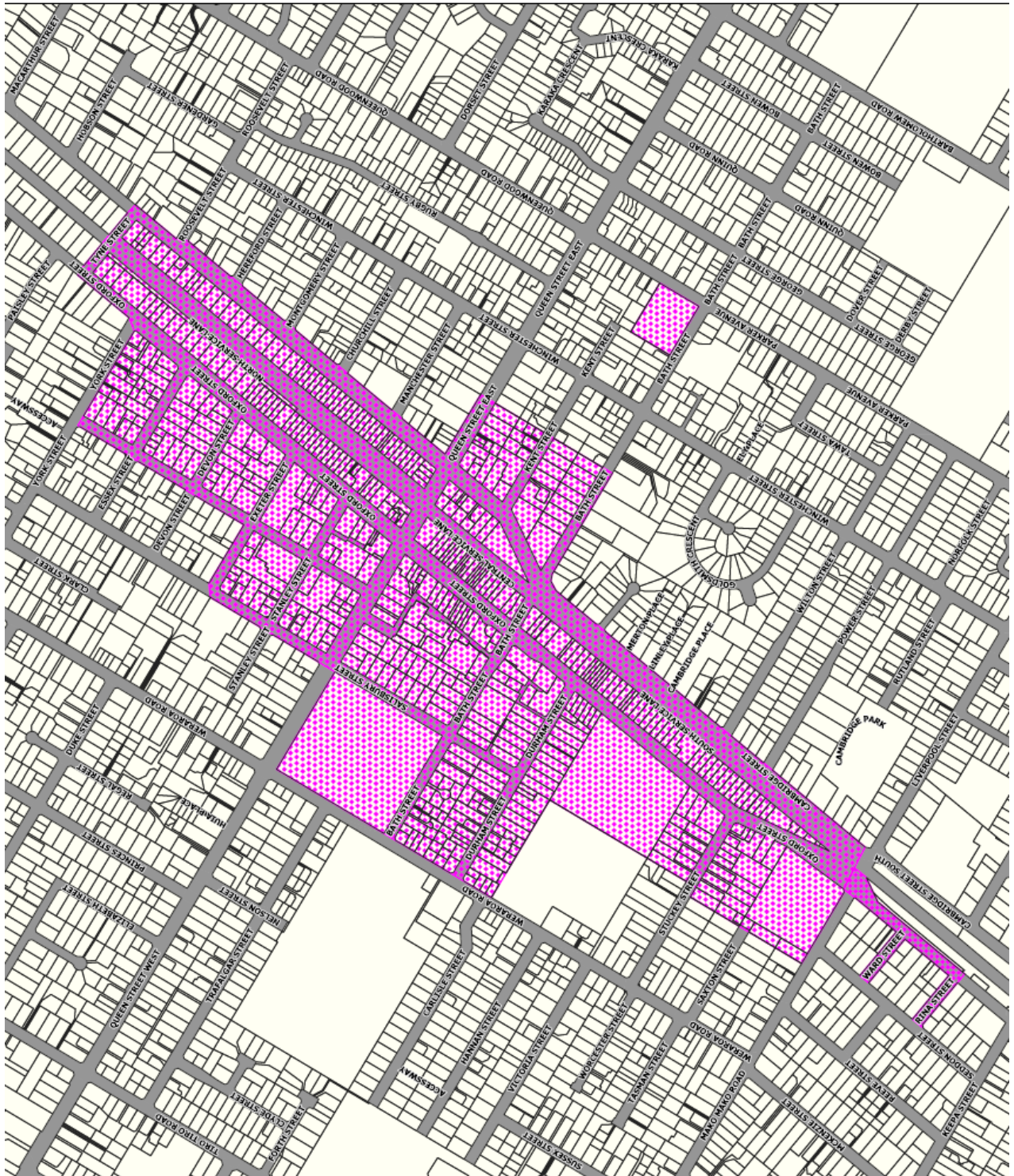
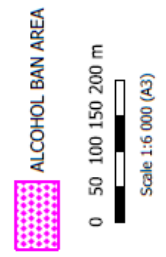




## Appendix 5



### Alcohol Ban Area Levin CBD



HDC April 2022  
Property data - Land Information New Zealand - April 2022



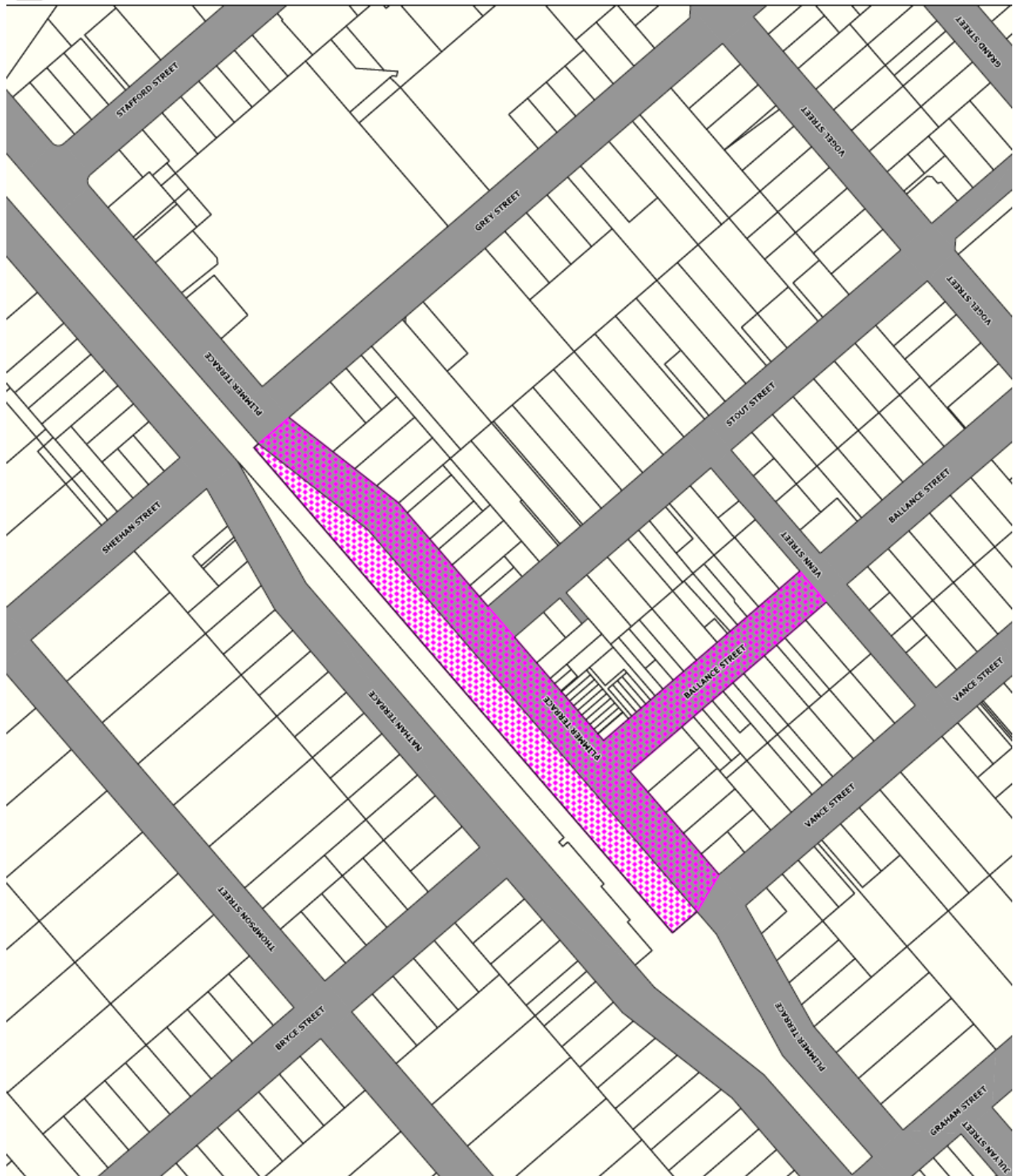
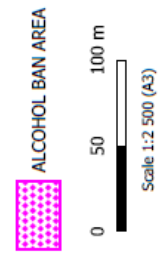
## Appendix 6



## Appendix 7



### Alcohol Ban Area Shannon



HSC April 2022  
Property Data - Land Information New Zealand - April 2022