

SOUTH WAIRARAPA DISTRICT COUNCIL

19 September 2018

AGENDA ITEM C5

ADOPTION OF WAIRARAPA LOCAL ALCOHOL POLICY

Purpose of Report

To notify Council that the Alcohol Regulatory and Licensing Authority (ARLA) has advised that the Wairarapa Local Alcohol Policy has been approved and is therefore adopted. The policy will come into force on 1 November 2018.

Recommendations

Officers recommend that the Council:

1. *Receive the information.*
2. *Note that the Wairarapa Local Alcohol Policy has been adopted.*
3. *Note that it will be brought into force from 1st November 2018; 3 months after the date of adoption by ARLA.*

1. Executive Summary

The Wairarapa Local Alcohol Policy has now been adopted and it will come into effect from 1st November 2018.

2. Background

The Sale and Supply of Alcohol Act 2012 allows for a territorial authority to instigate a policy relating to the sale, supply and consumption of alcohol within its district. This is known as a local alcohol policy (LAP) and a single local alcohol policy may be adopted by several territorial authorities, such as that undertaken by the Wairarapa Councils.

A LAP allows for certain flexibility to refine particular sections of the Act to better reflect/control local conditions. Examples include matters such as establishing narrower licensed hours, requirements for one-way door conditions, or the density and location of licensed premises.

In 2013, the Wairarapa Local Alcohol Policy Working Group was formed to develop a LAP, with the intention that South Wairarapa, Carterton and Masterton District Councils would adopt. This was seen as advantageous for ensuring a uniform approach to the Sale and Supply of Alcohol Act 2012 across the Wairarapa. The working group included elected Councillors from each of the three Councils, the Medical Officer of Health and the Regional Police Commander (from February

2014). This group was further supported by a Technical Advisory Group consisting of senior staff from each Council.

2.1 Adoption of the Wairarapa LAP

The Sale and Supply of Alcohol Act 2014 outlines a process that must be followed in order for a LAP to be developed and adopted. The Working Group followed that process. The key steps of that process are shown in Appendix 1.

In December 2016, each of the three Wairarapa Councils adopted a revised Wairarapa Provisional Local Alcohol Policy after mediation with several interested parties. The three Councils resolved to bring the LAP into force 3 months from the date it was approved by ARLA.

On Wednesday 1st August 2018, Council was notified that ARLA had approved the policy and that it was therefore now adopted. As a result, the LAP will come into effect from the 1st of November 2018.

The LAP adoption was publicly notified on Saturday 18th August 2018. All licensed premises will be notified via a letter advising them that the LAP will be in force from 1st November 2018.

A copy of the LAP is provided as Appendix 2.

2. Appendices

Appendix 1 – Process of LAP adoption

Appendix 2 – Local Alcohol Policy

Prepared by: Shane Sykes, Environmental Services Manager

Reviewed By: Russell O’Leary, Group Manager Planning and Environment

Appendix 1 – Process of LAP adoption

Attachment 1: Key Steps in the Development of the Wairarapa LAP

- Broad consultation was undertaken early 2014 to inform the development of the policy including: a community survey, a survey of those working in the alcohol sector, youth forums, meetings with stakeholders and community meetings.
- Formal consultation on the draft Wairarapa LAP using the Special Consultative Procedure took place over September/October 2014.
- The Wairarapa Provisional LAP (PLAP) was finalised by the Working Group in March 2015 following a legal review.
- Each of the three Wairarapa Councils adopted both the draft LAP for consultation and the subsequent PLAP for public notification.
- The PLAP was publicly notified in June 2015. Three appeals were received: from Progressive Enterprises, Foodstuffs North Island and Hospitality NZ (which was later withdrawn).
- Through a process of mediation, the appeals were resolved and Council adopted the revised PLAP in December 2016.
- ARLA required a hearing to confirm agreement between the appellants and the Councils. This was held in July 2017.
- Following the hearing all those who originally submitted on the draft LAP were notified of the changes to the PLAP and given the opportunity to appeal those changes.
- No further appeals were received.

On Wednesday 1st August 2018, Council received notification from ARLA that the policy had been adopted.

Appendix 2 – Local Alcohol Policy



Wairarapa Local Alcohol Policy

**Adopted 1 August 2018
Came into Force 1 November 2018**

CONTENTS

GENERAL FRAMEWORK.....	3
THE MEANING OF TERMS USED IN THIS LAP.....	4
PURPOSE.....	6
AIMS	6
SCOPE	6
HOW A POLICY IS APPLIED.....	7
CRITERIA FOR CONSIDERING LICENSING APPLICATIONS	7
LOCATION OF LICENSED PREMISES	8
OFF-LICENCES	8
Maximum Trading Hours.....	8
Location of premises holding off-licences by reference to proximity to facilities of a particular kind or kinds	8
Discretionary conditions for off-licences	10
ON-LICENCES	10
Maximum Trading Hours.....	10
Discretionary conditions for on-licences.....	11
CLUB LICENCES	11
Maximum Trading Hours.....	11
Discretionary conditions for club licences:	11
SPECIAL LICENCES.....	12
Maximum Trading Hours.....	12
Discretionary conditions for special licences	12
REVIEW OF POLICY	12
RELATED DOCUMENTS	13
REFERENCES	13

Adopted by:	Masterton District Council, Carterton District Council and South Wairarapa District Council
Date of Adoption:	1 August 2018
Date Came into Force:	1 November 2018
Review Date:	1 November 2021

OVERVIEW

GENERAL FRAMEWORK

- 1.1 The Sale and Supply of Alcohol Act 2012 (the Act) puts in place a system to manage the sale and supply of alcohol and achieve the objectives of the Act. The key principles which drive this system of management are:
 - (a) that the sale, supply and consumption of alcohol should be undertaken safely and responsibly; and
 - (b) harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
- 1.2 Harm is defined widely and includes crime, damage, death, disease, disorderly behaviour, illness or injury, and harm to individuals or the community, either directly or indirectly caused by excessive or inappropriate alcohol consumption.
- 1.3 The Act also sets out national rules for the sale and supply of alcohol which provide a baseline for the management of alcohol. Some of these rules are mandatory including national maximum trading hours, the drinking age, manager training and vetting, and actions to minimise the risk of alcohol related harm such as providing free drinking water, ensuring food and low or non-alcoholic beverages are available, and providing information about transport options.
- 1.5 In addition to the national rules framework, the Act allows territorial authorities to develop and adopt a local alcohol policy (LAP).
- 1.6 A LAP is a set of policies, made by the Council in consultation with its community, about the sale and supply of alcohol in its geographical area. It can modify and refine some of the national rules to reflect the particular circumstances of the local area and introduce other local requirements.
- 1.7 The Act allows for territorial authorities to work together to develop a combined LAP. Masterton, Carterton and South Wairarapa District Councils have decided to develop a LAP together for the Wairarapa
- 1.8 Once a LAP comes into force, each Council's District Licensing Committee (DLC) along with the Alcohol Regulatory and Licensing Authority (ARLA) must have regard to the policy when they make decisions on licence applications.
- 1.9 A LAP must be reasonable and consistent with the purpose of the Act.
- 1.10 It must be developed in consultation with the Medical Officer of Health, the NZ Police, Council's Licensing Inspectors and the community, including those who own and operate licensed premises.
- 1.11 The following matters have been considered in preparing this LAP:
 - Objectives and policies of the Wairarapa Combined District Plan
 - The number of licences of each kind in the District and location and opening hours of premises.
 - Alcohol bans that are in force
 - The demographic profile of residents and tourists
 - Overall health indicators of residents
 - The nature and severity of alcohol-related problems

- 1.12 In the future the LAP can be amended or revoked at any time subject to appropriate consultation processes being followed. It will be reviewed three years after the date from which it first takes effect, and must be reviewed at least every 6 years thereafter.

THE MEANING OF TERMS USED IN THIS LAP

- 1.13 For further details refer to the section of the Act that is referenced.

Types of Licences

- **on-licence** where the licensee can sell and supply alcohol for consumption on the premises and can let people consume alcohol there (see section 14 of the Act);
- **off-licence** where the licensee sells alcohol from a premises for consumption somewhere else (see section 17 of the Act);
- **club licence** where the licensee (e.g. a club) can sell and supply alcohol for consumption on the club premises by authorised customers (see section 21 of the Act); and
- **special licence** which can be either on-site or off-site special licences. With an on-site special, the licensee can sell or supply alcohol for consumption there to people attending an event described in the licence. With an off-site special, the licensee can sell the licensee's alcohol, for consumption somewhere else to people attending an event described in the licence (see section 22 of the Act).

Reasonable

For the purpose of this Local Alcohol Policy, reasonable is defined as a position that the average Wairarapa resident would perceive to be fair, sensible and balanced.

Other Terms

Act	means the Sale and Supply of Alcohol Act 2012.
bottle store	means retail premises where, in the opinion of the DLC, at least 85% of the annual sale revenue is expected to be earned from the sale of alcohol for consumption somewhere else (refer section 32(1)).
bar	in relation to a hotel or tavern, means a part of the hotel or tavern used <u>principally</u> or exclusively for the sale or consumption of alcohol (refer section 5(1)).
Children's playgrounds and recreation facilities	includes any park, reserve, playground, sealed courts and gymnasiums built for or catering to children.
club	means a body that— (a) is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or (b) is a body corporate whose object is not (or none of whose objects is) gain; or (c) holds a permanent club charter (refer section 5(1)).

DLC	means the District Licensing Committee as appointed by each of the three Wairarapa Councils pursuant to section 186 of the Act.
Early childcare facility	includes any crèche, childcare centre, kindergarten, kohanga reo play centre or plunket rooms, and any other place (excluding a school) where five or more children receive care or education on a commercial basis.
entertainment evening	means an event initiated by a Club that requires a special licence (in contrast to someone external applying for a special licence and using the facility as a venue) for the purpose of providing entertainment and/or promoting the Club to new or existing members.
hotel	means premises used or intended to be used in the course of business principally for providing to the public— <ul style="list-style-type: none"> (a) lodging; and (b) alcohol, meals, and refreshments for consumption on the premises (refer section 5(1)).
restaurant/ café	means premises that— <ul style="list-style-type: none"> (a) are not a conveyance; and (b) are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises (refer section 5(1)).
School	includes any primary, intermediate or secondary school and any kura kaupapa.
sports club	means a Club that has, as a key objective, participation in or promotion of a sport for purposes other than financial gain.
supermarket	means premises with a floor area of at least 1000m ² (including any separate departments set aside for such foodstuffs as fresh meat, fresh fruit and vegetables, and delicatessen items) (refer section 5(1)).
tavern	<ul style="list-style-type: none"> (a) means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but (b) does not include an airport bar (refer section 5(1)) i.e. an airport bar is not treated as a tavern for alcohol licensing purposes).
Wairarapa	for the purpose of this Local Alcohol Policy, Wairarapa refers to the territorial areas made up of the Masterton, Carterton and South Wairarapa District Councils.

POLICY

PURPOSE

- 2.1 This LAP provides local guidance for the three Councils' District Licensing Committees so that licensing decisions:
- Contribute to a safe and healthy district;
 - Reflect the character and values, preferences and needs identified as being important to our communities;
 - Foster positive, responsible drinking behaviours and alcohol-related harm is reduced.

AIMS

- 2.2 The aims of this LAP are to:
- Promote safe and responsible sale, supply and consumption of alcohol.
 - Reflect the views of our communities regarding the appropriate location, number, hours and conditions that apply to licensed premises;
 - Provide certainty and clarity for applicants and the public as to whether a proposed license application meets the criteria in the LAP;
 - Provide effective guidance for the decisions of the District Licensing Committee and the Alcohol Regulatory and Licensing Authority.

SCOPE

- 2.3 A LAP can only deal with matters relating to licensing. Through a LAP the community is able to:
- Restrict the location of licensed premises in particular areas or near certain types of facilities, such as in specific neighbourhoods or near schools;
 - Limit the density of licensed premises by specifying whether new licences or types of licences should be issued in a particular area;
 - Require the imposition of conditions on groups of licences, such as a "one-way door" condition that would allow patrons to leave premises but not enter or re-enter after a certain time;
 - Recommend discretionary conditions for licences;
 - Restrict or extend the default maximum trading hours set in the Act, which are:
 - 8am - 4am for on-licences (such as pubs, taverns and restaurants)
 - 7am - 11pm for off-licences (such as bottle stores and supermarkets).
- 2.4 For special licences, policies can be set on maximum trading hours, discretionary conditions and one-way door restrictions only.
- 2.5 Where the LAP does set maximum trading hours, the District Licensing Committee has discretion to set the permitted trading hours as more restrictive than the maximum trading hours in the LAP.
- 2.6 The LAP can be more restrictive in its provisions relating to licensed premises, but cannot permit activities not allowed by the District Plan. The Wairarapa Combined District Plan provides for licensed premises within Commercial and Industrial zones, and in rural areas when accessory to another use e.g. vineyard, or by resource consent.

- 2.7 Section 117 of the Act permits the District Licensing Committee and the Alcohol Regulatory and Licensing Authority to issue any licence subject to “any reasonable conditions not inconsistent with this Act”. LAPs can include policies to guide the District Licensing Committee and Alcohol Regulatory and Licensing Authority as to the discretionary conditions that may be appropriate.

HOW A POLICY IS APPLIED

- 2.8 Policies will apply to all applications for licences after the date that the policy comes into force.
- 2.9 Except that maximum trading hours in this policy will apply to all licences issued before the date this policy comes into force.
- 2.10 The LAP applies to renewals of licences in accordance with section 133 of the Act.

CRITERIA FOR CONSIDERING LICENSING APPLICATIONS

- 2.11 Decisions on applications for licences are made by District Licensing Committees.
- 2.12 Under sections 105 and 131 of the Act the District Licensing Committee must consider each application, or application to renew, in accordance with the criteria set out in the Act. The criteria includes whether the application complies with a LAP. Other criteria are:
- the object of the Act;
 - the suitability of the applicant;
 - the design and layout of the premises;
 - whether the applicant provides goods and services other than those related to the sale of alcoholic and non-alcoholic refreshments and food;
 - whether the applicant has the appropriate systems, staff and training to comply with the law.

Section 105 also requires the DLC to consider the following criteria for new applications:

- whether (in its opinion) the amenity and good order of the locality is likely to be reduced by more than a minor extent, by the issue of a licence;
- whether the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that it is desirable not to issue any further licences.

Section 131 also requires the DLC to consider the following criteria for renewal applications:

- whether (in its opinion) the amenity and good order of the locality is likely to be increased by more than a minor extent, by the effects of a refusal to renew the licence;
- any matters dealt with in any report from the Police, an inspector, or a Medical officer of Health, as per section 129;
- the manner in which the applicant has sold, displayed, advertised or promoted alcohol.

- 2.13 The Act states that a licence may be refused or conditions applied if the issue of the licence, or the consequences of the issue of the licence, would be inconsistent with the LAP (section 108 and 109). Where a licence is renewed and it will be inconsistent with the provisions of the LAP, conditions may be imposed (section 133).

LOCATION OF LICENSED PREMISES

- 3.1 From the date this LAP comes into force, no further licences are to be issued for any premises unless the location of that premise complies with the provisions of the Wairarapa Combined District Plan or a Resource Consent has been granted or it complies with Section 10 of the Resource Management Act.

The Act requires DLCs to consider the effects of proposed new premises on the amenity and good order of the locality when considering a licence application.

OFF-LICENCES

Maximum Trading Hours

- 4.1 The following maximum trading hours apply to off-licence premises in the Wairarapa region and include all off-licence sales including over the counter sales:

	Opening	Closing
All Districts – All Off-Licences	7.00am	10.00pm

Location of premises holding off-licences by reference to proximity to facilities of a particular kind or kinds

- 4.2 Within commercial areas and/or pedestrian precincts, an off-licence will not be issued in respect of any new premises being licensed for the first time on any site where the front façade of the premises directly borders any school, early childcare facility, and children’s playgrounds and recreation facilities existing at the time the licence application is made, unless it can be demonstrated to the District Licensing Committee that the hours, external alcohol-related signage or operation of the premises will have no significant alcohol-related impact on those facilities and/or on persons using those facilities.

“Directly borders” includes across any road from such facility as shown in Figure 1 below.

The following will be considered to have no significant impact:

- (a) The hours of an off-licence where there is no external display of alcohol advertising; and
- (b) The operation of an off-licence where the licensee implements an ID 25 policy.

- 4.3 An application for renewal of a licence shall be unaffected by proximity to a facility of the kind specified in (a) above where:

- (a) that facility moved onto a site that bordered an existing licensed premises; or
- (b) that facility bordered the existing licensed premises prior to the renewal application.

- 4.4 In cases where a resource consent is required to locate the premises outside a commercial area and/or pedestrian precinct, an off-licence will not be issued in respect of any new premises being licensed for the first time on any site where the boundary of the site is less than 40m from the boundary of any school, early childcare facility, or children’s playground and recreation facility at the time the resource consent is applied for unless it can be demonstrated to the District Licensing Committee that the hours, external alcohol-related signage or operation of the premises will have no significant alcohol-related impact on those facilities and/or persons using those facilities.

The District Licensing Committee will impose appropriate conditions to avoid significant alcohol-related impact if necessary.

Figure 1:

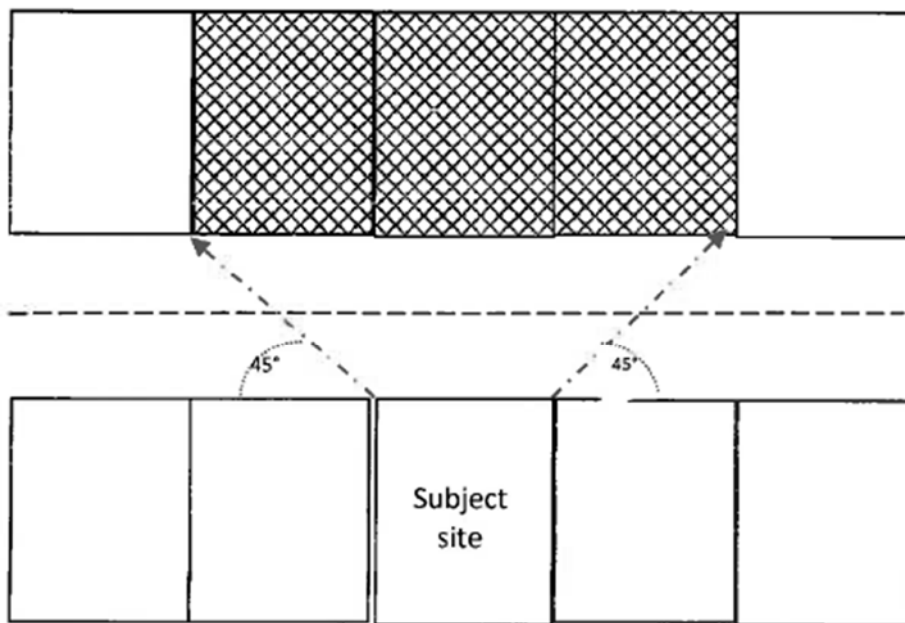


Figure 1: Proximity of New Premises that Directly Border a Facility

Advice Note

For the purposes of 4.2 and 4.4:

“commercial area” and means commercial zoned land in the Wairarapa Combined District Plan (or subsequent District Plan) at the time the relevant off-licence application is determined, and

“pedestrian precinct” means land shown as a pedestrian precinct management area in the Wairarapa Combined District Plan (or subsequent District Plan) at the time the relevant off-licence application is determined.

Discretionary conditions for off-licences

4.5 Conditions relating to the following matters **may** be appropriate for off licences:

- (a) Supervised designation of all bottle stores to ensure unaccompanied minors do not enter bottle stores.
- (b) Application of Crime Prevention through Environmental Design (CPTED) principles to achieve the following outcomes:
 - Closed-Circuit Television (CCTV)
 - CCTV being installed in suitable locations to monitor vulnerable areas (areas which are not easily or continuously monitored by staff).
 - Customers being made aware of the CCTV systems.
 - Lighting
 - Internal lighting of the premises to enable passive surveillance by staff and active surveillance by CCTV.
 - Lighting to allow customers to be seen as they enter the premises.
 - Lighting to allow staff to check identification.
 - External areas such as car parks and loading bays being well lit, subject to the requirements of any resource consent or District Plan rule.
 - Internal Layout
 - General points of sale to be positioned near the main entrance.
 - Relevant staff understanding of how to operate the CCTV system.
 - There being sufficient numbers of staff to ensure control of the premises during trading hours.
- (c) At least 50% of any store front glazing shall be transparent, consistent with CPTED guidelines and no more than 30% of the external area of any side of the premises may contain alcohol-related signage or advertising, excluding the company name.
- (d) External alcohol-related signage must comply with the signage requirements outlined in the Wairarapa Combined District Plan.

ON-LICENCES

Maximum Trading Hours

5.1 The following maximum trading hours apply to all on-licenced premises in the Wairarapa region (other than hotel in-bedroom (mini-bar) sales):

	Opening	Closing
All Districts – All On-Licence Premises	8.00am	1.00am the following day

5.2 The following hours apply to hotel in-bedroom (mini-bar) sales:

Hotel Mini Bars and/or Lodgers	24 hour
--------------------------------	----------------

Discretionary conditions for on-licences

5.3 Conditions relating to the following matters **may** be appropriate for on-licences:

- One way door restrictions from a specified time.
- Specify the range of food, non-alcohol and low-alcohol drinks to be provided.
- Specify limits on the number of drinks per customer at specified times.
- No serving in glass containers at specified times.
- Restrictions on the wearing and/or display of gang paraphernalia.
- Restrictions on the use of outdoor areas after 'x' hour, e.g. outdoor speakers are prohibited after 'x' hour.
- Require licensed outside areas to be monitored.
- Require a management plan for the management of patrons in outdoor areas to minimise impacts on the amenity of near-by properties.
- Conditions relating to management such as:
 - certificated staff required if the occupancy exceeds a prescribed number or if recommended by Police or the Inspector
 - requirement for multiple managers for large events and/or establishments

5.4 The following conditions **may** be appropriate for on-licensed premises such as BYO restaurants:

- The holder of a manager's certificate to be on duty during busy periods e.g. Thursday, Friday and Saturday nights.

CLUB LICENCES

Maximum Trading Hours

6.1 The following maximum trading hours apply to club-licensed premises in the Wairarapa region:

Club Licences	Maximum trading hours for club licences will be considered on a case by case basis, but will generally not exceed 8.00am* until 11.00pm for Sports Clubs and 8.00am* until 1.00am the next day for other Clubs. *6.00am on ANZAC Day only for those hosting ANZAC celebrations.
---------------	--

Discretionary conditions for club licences:

6.2 Conditions relating to the following matters **may** be appropriate for Club licensed premises depending on the size and nature of the club:

- One way door restrictions from a specified time.
- Specify the range of food, non-alcohol and low-alcohol drinks to be provided.
- Require licensed outside areas to be monitored.
- Require a management plan for the management of patrons in outdoor areas to minimise impacts on the amenity of near-by properties.
- Require the holder of a manager's certificate to be present when alcohol is available for sale during busy periods e.g. more than X people are on the Club premises. For large events or establishments, a number of licensed managers may be specified.

SPECIAL LICENCES

- 7.1 Special licences may be issued both for off-site consumption (e.g. wine sales from a market stall) or for on-site consumption (e.g. at a community event or when a bar has a special licence to open earlier/close later for significant events). For the purpose of clarifying Section 41 of the Act, one entertainment evening per month is considered reasonable.

Maximum Trading Hours

- 7.2 The hours (opening and closing) and duration of a special licence are set at the discretion of the District Licensing Committee for each event, having regard to the nature of the event, or series of events, as assessed on a case by case basis.

Special Licences	Maximum trading hours for special licences will be considered on a case by case basis.
------------------	--

Discretionary conditions for special licences

- 7.3 Conditions relating to the following matters **may** be appropriate for special licences depending on the size and nature of the event:
- Specify the range of food, non-alcohol and low-alcohol drinks to be provided.
 - Wine to be sold by the glass or plastic container only.
 - Areas to be clearly defined/ cordoned off/ demarcated where alcohol is being sold/consumed outside of the building e.g. beer tent. Where appropriate people are to remain within the defined area.
 - Require licensed outside areas to be monitored.
 - Require a management plan for the management of patrons in outdoor areas to minimise impacts on the amenity of nearby properties.
 - One way door restrictions from a specified time.
 - The holder of a manager's certificate is to be present when alcohol is available for sale. For large events or establishments, multiple managers may be specified.
 - Restrict BYO alcohol and require security to check the public for alcohol/contraband as they arrive and confiscate any alcohol/ contraband found.
 - Where an event is taking place within an alcohol ban area require signage at the event exit to remind the public that when they leave the event they will be entering an alcohol ban area.
 - For events with over 400 attendees, or as otherwise considered appropriate:
 - Require an Alcohol Management Plan in a form acceptable to the District Licensing Committee. The Plan should identify alcohol related risks as they apply to the event and state how these will be mitigated.
 - Specify the maximum number of alcoholic drinks per sale transaction, as appropriate.
 - Careful consideration of the appropriateness of alcohol associated with driving events shall be undertaken and such applications may be refused.

REVIEW OF POLICY

This policy will be reviewed three years after it first takes effect and every six years thereafter.

RELATED DOCUMENTS

None.

REFERENCES

Sale and Supply of Alcohol Act 2012.