

1 ITEMS

1.1 REVIEW OF THE LOCAL ALCOHOL POLICY AND ALCOHOL CONTROL BYLAW

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Pouwhakahaere Whakamahere Kaupapahere me ngā Raton

KAUPAPA

PURPOSE

1. The purpose of the Council workshop is to:
 - a. **Build understanding**
 - Re-introduce the roles and responsibilities of Council in alcohol regulation including the statutory framework and alcohol licensing.
 - b. **Data & research**
 - Provide elected members with a high-level summary of research and data analysis, and what it means for Porirua. The LAP infographic data summary (**Attachment 1**) will be provided to elected members for discussion.
 - Acknowledge the gaps in data in relation to options development and discuss potential future tools to help build our evidence base (see appendix information regarding the EPI tool and associated trial).
 - Address legal protections as highlighted in the legal advice.
 - Provide an opportunity for elected members to hear balanced insights from external speakers sharing their experiences with alcohol in Porirua.
 - c. **Discuss possible policy options and levers to consult on with the community.**
2. A background content paper is also provided as attachment for elected members (**Attachment 4**). This document is designed to provide background information highlighting:
 - The statutory framework involved with alcohol regulation,
 - information on the current Local Alcohol Policy (LAP) and Alcohol Control Bylaw (The Bylaw),
 - recent updates made to legislation,
 - the most recent caselaw set in the Auckland Council's LAP.

HE WHAKAMĀRAMA ME NGĀ MATAPAKI BACKGROUND

3. Porirua City's current LAP came into force in 2017 (**Attachment 2**). LAP's must be reviewed using the special consultative procedure every six years. We began the first stage of this review late last year, with research and evidence gathering.
4. The sale and Supply of Alcohol Act 2012 (the Act) provides Councils with guidance on what must be considered during the development and review of an LAP. When creating a LAP, territorial authorities are required to consider:
 - The objectives and policies of the District Plan.
 - Demographics and health indicators of residents and demography of visitors.
 - Numbers of existing licences in the district, and location and opening hours of each.
 - Areas where bylaws prohibit alcohol in a public place.

- The nature and severity of alcohol related harm in the district.
- 5. The territorial authority is also required to consult with the Police, alcohol licensing inspectors and Medical Officers of Health when formulating the policy.¹
- 6. The Alcohol Control Bylaw was introduced in 2018 (**Attachment 5**). Under Sections 147A and 147B of the Local Government Act 2002 before deciding that an alcohol control bylaw should continue with or without amendment, a territorial authority must be satisfied that the level of crime or disorder experienced before the bylaw was made is likely to return to the area to which the bylaw is intended to apply if the bylaw does not continue.
- 7. A social impact assessment (SIA) is in development which will meet all the statutory requirements mentioned above. It will also provide the research and evidence base to inform policy development and decisions involved in this review. This will be provided to elected members before consultation is approved. A data infographic has been prepared to provide elected members with a high-level summary of the data and evidence on alcohol harm and attitudes in Porirua (this is attached).

New Case Law and Legislation

- 8. In the last year there have been major developments in the statutory framework involving alcohol licensing for Territorial Authorities. These are:
 - a) The introduction of the Sale and Supply of Alcohol (Community Participation) Amendment Act 2023. And,
 - b) The Supreme Court ruling on Auckland Councils Provisional LAP
- 9. The background content paper provides greater detail on the two developments and the implications for Porirua City Council. Overall, the outcome of these developments mean:
 - that communities now have greater opportunity to be heard and have genuine influence in shaping local alcohol policies.
 - there is likely to be greater respect given to council policy choices informed by community preferences, and significantly less scope for successfully challenging those choices.
 - it also means that the evidence base supporting greater policy controls, although still important, can be secondary support to the preferences of the Community.

DISCUSSION AND OPTIONS

Evidence of Alcohol harm

- 10. The data and evidence available to understand the full extent of alcohol harm for Porirua is important to uncovering the problem that we are trying to solve with the LAP. However, as we have no specific monitoring process for the current LAP and without committing significant resources, there is difficulty in gathering localised evidence to show both the full extent of alcohol harm in Porirua but also the impact the LAP has had on this harm. As a result, the researchers/policy makers must allow for assumptions and anecdotal evidence when determining cause and effect and effective intervention logic.

¹ S78(4), Sale and Supply of Alcohol 2012

² <https://www.legislation.govt.nz/act/public/2002/0084/latest/link.aspx?id=DLM172980> - DLM172980

11. There are however greater legal protections available now to mitigate these risks which we have assessed. Advice and analysis from Simpson Grierson on the key findings from Case Law on the Auckland Council Supreme Court, supports councils pursuing policy options where:
 - a. they can be based on or influenced by community preferences, and to that extent, they do not have to be evidence-based, and/or
 - b. a precautionary approach is taken (which was upheld by the Supreme Court). This means a restriction may be justified based on there being a reasonable likelihood (rather than proof) that it will reduce alcohol-related harm ('a real and appreciable possibility' of reducing harm is sufficient).
12. In essence, we interpret this outcome to mean that the new case law provides councils with some confidence that they can adopt more restrictive LAPs if these reflect their communities' preferences, without being at risk of merits-based legal challenges to their policies.

Key areas of concern from the evidence

13. Despite some gaps, the data gathered has identified the following areas of concern:

a. Suburb specific impacts

The city centre has significant issues with crime, public nuisance and disorderly behaviours, breaches of the alcohol control bylaw and has the highest density of alcohol licences (both on and off-licence), it is also an area of high deprivation.

In addition, we are seeing the impact of off-licences having a greater adverse effect in suburbs, as drinking at home is more common than in bars or restaurants. This is seen in Cannons Creek and Takapūwāhia with high levels of crime and victimization (both alcohol related and non).

b. Inequity of impact

In Porirua alcohol harm has a disproportionate impact on:

- Māori communities
- areas of high deprivation

14. The issues and potential responses are summarised below:

Problem	Current LAP	Opportunities to explore
Lack of evidence to measure impact of policy controls.	No robust monitoring framework to measure past, current or future harm relating to restrictions.	Introduce a monitoring framework to capture evidence for future reviews.
The CBD is an area of high alcohol harm, shown through our high crime, victimization rates. It has a high density of licences.	Current hours of trade are not preventing purchasing and drinking in public areas. And licensing has not considered the high density of licences	Targeted restrictions on the CBD would likely provide improved protection and reduced harm. Caps, density provisions, decrease in hours of trade are settings that could be applied.
Disproportionate impact on Māori and areas of high deprivation.	Does not have specific policy controls in response to this issue.	<p>Elevate the influence and perspectives of Māori in decision making.</p> <p>Location provisions, density restrictions, caps or sinking lids are options to explore reducing harm in areas of high deprivation.</p> <p>Strengthen sensitive site provisions.</p> <p>Targeted discretionary conditions increase alcohol advertising restrictions.</p>

Disproportionate number of alcohol licences in areas of high deprivation – CBD, Titahi Bay, Elsdon, Takapūwāhia.	Does not have specific policy controls in response to this issue.	Location provisions, density restrictions, caps or sinking lids are options to explore reducing harm in areas of high deprivation. Decrease in hours of trade.
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Impact of the current LAP

15. The current policy was a positive steppingstone for Council in working towards prioritising harm reduction in alcohol licensing decisions. Alcohol licence numbers have been steady between 2017 and 2023.
16. The evidence shows that certain statistics that correlate to alcohol harm have reduced somewhat since our policy was introduced, specifically a decrease in the number of youth drinking and a decrease in emergency department treatments related to alcohol consumption.
17. However, there is little evidence to demonstrate that these reductions correlate to our policy controls. Instead, we assume that the controls in place have not been significantly restrictive enough to show any true impact in the reduction of alcohol harm for Porirua City. The reduction in some statistics is more likely due to societal behaviour changes in general, as the reductions seen are in line with national trends.
18. The data on the disproportionate impact of alcohol harm is also sufficient evidence to justify a review of the policy controls, particularly because of the inequitable distribution of our alcohol licences within Porirua and the density of these within suburbs of high social deprivation.

Community perspectives

19. As part of our work in developing the social impact assessment, we have been gathering further community insights. This includes understanding perspectives from the general public, community NGOs and other organisations in Porirua, Police, the Alcohol Licensing Officers and the Regional Medical Officer of Health.
20. From a community workshop in Cannons Creek, we heard from some community members that they felt the policy was working, as they hadn't seen any new licences approved for Cannons Creek since the policy was introduced. It should be noted that community influence is largely the reason that alcohol stores have been closed and/or new licences are successfully objected to in Porirua. Cannons Creek communities often supported by the Medical Officer of Health and Police and have on many occasions mobilised and successfully objected to new licences and/or renewals in Cannons Creek over the years.

Police perspectives

21. Police highlighted three key issues with Council's alcohol regulation and alcohol licensing process:
 - a. Lack of consistent enforcement of our own LAP restrictions as well as the Act. They noted it is common for councils to rely on police to enforce the Act and policy. However, this can be harder for police due to resource and the significant difference in the level/amount of a police infringement or fine as opposed to a council fine.
 - b. Weak LAPs with "no teeth." Police feel policies across the country lack any impactful or strong restrictions and most reductions in alcohol harm or a decrease in licences is due to community advocacy and drive, not Council policy.
 - c. Problems with the alcohol licence applications process and how Council handles the review process. They believed there were some simple administrative improvements that could be made to improve the process and ensure each party to the process has what they need to make the best independent recommendations to the DLC. The relevant team will work through this throughout the review process.

22. We are also awaiting input from the Medical Officer of Health who has agreed to provide feedback for this review, this will be included in the Social Impact Assessment.
23. The Bylaw is functioning as it should, and the research shows the current restrictions are likely to be the most efficient. The persistence of public drinking behaviour is influenced by broader societal factors beyond the control of the Bylaw.

Opportunity to Trial the Local Alcohol Environmental Policy Initiative (EPI Tool)

24. Porirua City Council has been approached by Cancer society and Otago University with an opportunity to be a part of testing an alcohol policy tool.
25. The EPI tool can assist councils to:
 - Meet their statutory obligations to community well-being, reduce harm and inequities.
 - Future-proof communities and protect future generations from the harms caused by alcohol.
 - Increase advocacy for equitable alcohol policies that promote wellbeing.
 - Improve the liveability of communities by providing environments free from alcohol harm.
 - Address alcohol harm reduction by considering new policy options from a community workshop and establishing benchmarks and a monitoring framework for future policies and reviews.
26. Elected members will be invited to attend a community workshop where there will be a wide range of community representation. The researchers will take us through a facilitated process utilising the tool. The researchers are then able to use this trial to finalise their research and draft a report.
27. The benefits of being a part of this opportunity are that Council is provided with:
 - A facilitated community workshop that will begin a more detailed conversation on alcohol harm at little to no cost to Council (Council resource is only required for the venue).
 - A benchmark of where we sit in comparison to other councils.
 - A strategic view across alcohol harm within Porirua and identified actions of initiatives that are appropriate in our local context.
 - The beginning stages of a monitoring framework to progress and build a body of evidence on local alcohol action.
 - Possible understanding of what a local government alcohol strategy could look like for Porirua.

Impact of the Alcohol Control Bylaw

28. The effectiveness of the Bylaw in preventing public drinking cannot be tested due to no evidence being available, but instances of the bylaw being breached indicate that public drinking is not completely deterred.
29. Between 1 September 2019 and 30 April 2023 there were 64 alcohol ban breaches.
 - 42 were for “consumed alcohol in an alcohol banned area”
 - 22 were for “possessed alcohol in an alcohol banned area”
 - 5 were in Titahi Bay, 1 in Waitangirua and 58 in Porirua City Centre

Policy options for the Alcohol Control Bylaw

30. The level of crime and disorderly behaviour occurring in Porirua is evidence enough to suggest the bylaw is still needed to maintain enforcement abilities for Police.

31. Improvements to the impact of the Bylaw could be supported through wider strategic approach to preventing and reducing alcohol harm for Porirua. And through the following changes:

- Improved Local Alcohol Policy that looks to tighten conditions that can lead to public drinking (i.e. hours of sale).
- Increased public education around drinking behaviours.
- Taking a more strategic approach to reduce alcohol harm.
- Support local providers in the alcohol harm prevention space.
- Encourage local licensees to encourage safe drinking behaviours.

Policy options for the LAP

32. The policy options for the LAP included in the Council workshop presentation (attachment 3) and papers are still relatively high level. This is because there are many possible directions the LAP could go and at this stage we need to establish the appetite for pursuing change.
33. In the presentation, we have provided the below scaled approach to capture the possible policy options. This approach aims to give elected members a longer-term view on how Council could progress towards having greater impact on alcohol harm over time.
34. However, the first guide from elected members concerns whether they would like to pursue a more influential approach. Given there is new legislation and case law which could allow for greater community influence, there are a range of options available to pursue.

SCALED POLICY OPTIONS FOR THE LAP

Scale of change	1. Minor amendments	2. Modest improvements	3. Targeted approach	4. Aspirational Community collaboration
Approach	Current policy with administrative amendments and alignments	Current Policy with modest improvements	A new Policy that strengthens restrictions for areas of most need	Policy that is 100% community led and prioritises community solutions and restrictions
What	Updating the policy to ensure it: <ul style="list-style-type: none"> • Is consistent with the legislation • Is consistent with the new PDP • Amends a discrepancy • EPI tool in place 	Strengthen sensitive site provisions and reduce hours slightly to curb public drinking in the CBD. EPI tool in place	Targeted restrictions for the CBD that tackle the main issues in the evidence, High density of licences and opening hours. EPI tool in place	This would place the full range of controls on the table for the Community to determine what is suitable. This could be done suburb specific to address the varying needs of each suburb. EPI tool in place and provides evidence needed to achieve policy controls designed by the community.
What would this look like in practice?	No changes to current policy levers other than what is required.	<ul style="list-style-type: none"> • Amend sensitive site provisions so they apply to all applications renewals as well, 	<ul style="list-style-type: none"> • Amend sensitive site provisions so they apply to all applications renewals as well. 	Full range of policy options would be available including: <ul style="list-style-type: none"> • Reduction of hours of trade

		<ul style="list-style-type: none"> Remove the reverse provision and extend the 100 meter distance to 200-250 meters. Reduce hours of trade for the CBD only, this could be early morning or evening hours or both. 	<ul style="list-style-type: none"> Remove the reverse provision and extend the 100 meter distance. Reduce hours of trade for the CBD, Areas of High deprivation. Introduce sinking lids or caps in areas of high deprivation. 	<ul style="list-style-type: none"> Density provisions, caps, sinking lids. Extending sensitive sites to cover specific types of facilities outside of schools and AOD treatment facilities.
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Development of a monitoring framework and strategic overview

35. Council officers are recommending that any option pursued would be anchored in the development of a robust monitoring framework which would capture evidence over time to ensure that any restrictions were contributing to the intended impact.
36. There is also room for Council to take a more strategic approach to our role in alcohol harm. Council officers are also taking the opportunity to consider how the alcohol control bylaw and LAP fit within the wider communities' and government goal of alcohol harm reduction and prevention. Taking the opportunity to trial the EPI tool is the first stage of this thinking. The hope is that the outcome of this tool will develop an understanding of where Council fits in alcohol harm prevention system and what other actions or influences we may have available to us to improve alcohol harm outside of the policy and statutory framework.

Risks

37. There are risks associated with any new policy approaches. Stronger restrictions have the risk of a negative reaction (and possible legal action) from the alcohol industry and modest-or-low-impact approaches have the risk of negative reactions from our communities and the wider alcohol advocacy network as well as not having impacts on alcohol harm in Porirua.
38. Since the Act was only recently amended and the Case law is also relatively new, there is still uncertainty regarding how the new legislation will work in practice. Particularly how it will influence the reduction of alcohol harm through protection mechanisms in Council LAPs. There are also some uncertainties around how the alcohol industry will react to LAPs developed under the new legislation as it will likely impact on their business.
39. It is likely that a Council's policy will be challenged where there are new restrictions in the policy that are likely to set a new precedent for alcohol regulation in Aotearoa. However, all policy options have the risk of judicial review, and we cannot guarantee that any of the policy options won't be legally challenged.
40. The mitigation for possible legal action, is to ensure we are meeting our legal requirements and following a sound process. To do this we are seeking legal advice throughout the policy review process to ensure we are following due process that will provide robust protections in a judicial review.
41. However, the new legislation and Caselaw provides Councils with greater confidence that their policy options can genuinely reflect the perspectives of their communities, without fear of lengthy appeals and merit-based court proceedings. It is important to inform the community of what the possibilities are for managing alcohol licensing in their communities and how local councils can have greater influence on alcohol harm minimisation and reduction in their city.

Recommended Approach

42. We are recommending that Council considers working towards the development of a new LAP that will enable more opportunity to explore greater protections and mitigations for key areas of alcohol harm in Porirua. Taking the opportunity available to benefit from the new legislation and case law and commit to exploring of a full spectrum of policy options (from very restrictive through to less restrictive) with communities.
43. Council officers also recommend the development of a monitoring framework for alcohol harm in Porirua to assist in monitoring the policy impact as well as gathering relevant evidence for future reviews and policy development.
44. Council officers also recommend council take a strategic approach to alcohol harm reduction in Porirua and consider the role of both the Local Alcohol Policy and Alcohol Control Bylaw as a part of a wider harm prevention system that works collectively towards alcohol harm reduction. This approach will be supported through the use of the EPI Tool.
45. Rationale for recommended approach:
 - It gives Council more policy levers to explore and test with the community,
 - Additional levers could result in a policy that makes a meaningful difference in reducing alcohol harm,
 - This approach is supported by the new case law and legislation which encourage greater community influence in the policy options,
 - The policy options under the new legislation allow us to develop a policy that is Tiriti led and supported by Council's Iwi partners,
 - Porirua City Council could set the new bar for alcohol harm reduction and regulation in Aotearoa and provide better protections for our community.

Next steps

Council officers will:

46. Progress with the EPI Tool to community workshop, elected members will be invited to attend at your discretion.
47. Return to a Council workshop or TPK after the community workshop with:
 - The Social Impact Assessment
 - Update on the outcome of the Community EPI workshop
 - An update on the consultation items we recommend for this policy.
48. Seek approval to consult on proposed policy options for the LAP and Alcohol Control Bylaw.

NGĀ ĀPITI HANGA

ATTACHMENTS

1. LAP Infographic data summary
2. Local_Alcohol_Policy_2017
3. LAP and Bylaw review powerpoint - 29 August workshop
4. LAP & Bylaw review - Background content for councillors
5. Alcohol Control Bylaw 2018

Alcohol and Porirua City: a snapshot

Reviewing Porirua's local alcohol policy

This is a snapshot of the research and data analysis completed by Porirua City Council in the Porirua City Local Alcohol Policy review. This data and research is further detailed in the *Social Impact Assessment: Alcohol and Porirua*.

National stats on alcohol

4 in 5 adults drink alcohol*
1 in 6 adults drink alcohol in a hazardous manner**
1 in 5 young adults drink alcohol heavily
(6+ drinks on one occasion) at least monthly***

What are we drinking?

By total volume:



*Adults who have had a drink in the past year.

**Hazardous drinking refers to an established alcohol drinking pattern that carries a risk of harming the drinker's physical or mental health or having harmful social effects on the drinker or others, using the World Health Organization's AUDIT checklist.

***actionpoint.org.nz/drinking-in-new-zealand

Licences to sell alcohol

As at Feb 2024:

Off-licences	3,215
On-licences	6,650
Club licences	1,705
Across NZ	11,570

More young people are choosing not to drink
increasing from 26% in 2007, to 45% in 2019.

However, many of those who do drink, binge – 4 in 10 typically drink 5 or more drinks on a single occasion.



Harm from drinking alcohol

National stats

Health

Alcohol is the leading cause of preventable death in New Zealand.

Alcohol is linked to more than 200 disease and injury conditions including several cancers, strokes, depression, heart disease, fertility problems and accidents.

Crime

Alcohol was involved in 1 in 3 family violence incidents.*

Victims were under the influence of alcohol and/or drugs in 12% of all family violence incidents and 17% of intimate partner violence.

Impacts on Māori**

Māori were more likely to be hazardous drinkers than non-Māori – 1 in 2 compared with 1 in 4.

For Māori, 1 in 3 wāhine who drink are hazardous drinkers, and 1 in 2 men are hazardous drinkers.

The death rate from alcohol is disproportionately higher than for non-Māori (34 deaths vs 14 deaths per 100,000 people)***

*justice.govt.nz/assets/NZCVS-findings-core-report-2018-fin-v1.3-for-release.pdf

**resources.alcohol.org.nz/assets/Key-facts-about-drinking-in-New-Zealand.PDF

***actionpoint.org.nz/drinking-in-new-zealand

Porirua stats

Density of alcohol licences in areas of high deprivation

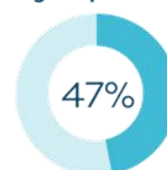
There is a disproportionately high number of alcohol licences in more socio-economically deprived areas of Porirua, inline with the rest of New Zealand.

The proportion of alcohol licences in areas of high deprivation in Porirua has increased from 40% in 2019 to 47% in 2024.

Licences to sell alcohol

As at Feb 2024:	Alcohol licences	In areas of high deprivation
Off-licences	22	10
On-licences	31	19
Club licences	19	5
Across Porirua	72	34

Alcohol licences in areas of high deprivation



Harm from drinking alcohol, Porirua stats, continued...

Health

There were 82 emergency department treatments related to alcohol consumption in the 9 months from January to September 2023. Per month, this is significantly lower than the 2022 number of 136 discharges.

Māori make up 34% of emergency department treatments, which is an over-representation of their population (22%) while Pacific Peoples are under-represented at only 16% (26% of total population).*

79 people were referred to mental health services in Porirua between January and October 2023. That figure is already higher than the 75 people referred for the full 2022 year. Māori make up 30% of the referrals and are over-represented in the number of referrals to MHAIDS services.**

**This is not a totally accurate comparison as census information allows for multiple ethnicities, while Te Whatu Ora records prioritised ethnicity. However, it does give us a good illustration of the difference between Māori and Pacific drinking habits.*

***MHAIDS or Mental Health, Addiction and Intellectual Disability Service, include community alcohol and drug services, opioid treatment services, GP opioid treatment, co-existing disorder service, and addictions consult liaison.*

Crime

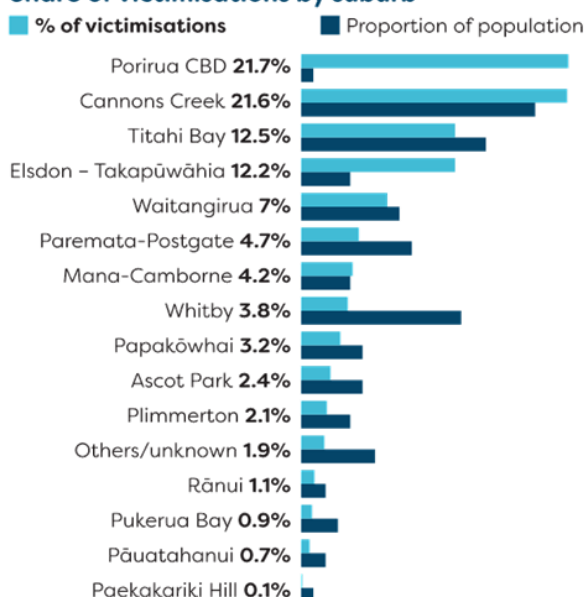
Crime and antisocial behaviour

Crime in the central city is of significant concern, with one in five reported crime incidents in Porirua happening in the central business district (CBD).

While total reported crime statistics for 2022 were lower than in the two previous years, the number of alcohol-related violent incidents reported were still well above 2020 levels.

Although one-fifth of victimisations happen in the CBD (which has a high concentration of off- and on-licences), only 1% of the population lives there.*

Share of victimisations by suburb



Police incidents**

While 2022 saw lower levels of total alcohol related crime compared with the two previous years, there was an increase in the number of alcohol-related violent incidents.

Alcohol related harm statistics***

	2020	2021	2022
Incidents	1,649	1,634	1,374
Violence	970	1,352	1,240
Traffic offences	1,187	944	1,097
Drugs/antisocial behaviour	430	391	345
Property damage	270	430	261
Dishonesty	209	130	116
Sexual	76	48	52
Property abuse	89	81	49
Total	4,880	5,010	4,534



*Based on 2018 Census data.

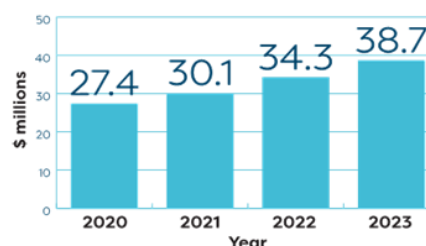
** Incidents are when offences or infringements have not been identified, and includes people acting suspiciously, dealing with drunk people, assisting other emergency services, traffic or mental health callouts, family harm investigations, breaches of orders eg bail.

***National Intelligence Application (NIA).

Economic contribution to Porirua 2020-2023

The alcohol industry (hospitality and alcohol outlets) in Porirua has contributed **\$223.9 million dollars** to the local economy from 2020-2023.

These figures include cafés, restaurants, clubs, pubs, taverns and bars and liquor retailing stores, but **exclude supermarkets**.



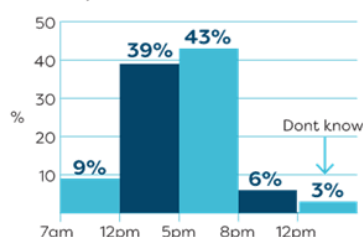
Porirua public survey results, March 2024

We conducted a survey of 270 Porirua residents, asking for feedback about their drinking behaviour. A summary of the findings follows.

Alcohol purchasing



Time of purchase:

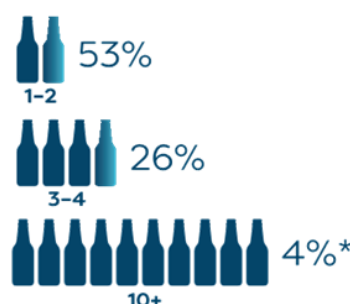


Changing requirements around opening hours would not likely have a major impact on the purchasing of alcohol.

Alcohol consumption

Most people (92%) consumed alcohol at some point within the last 12 months. Of these, nearly half (47%) consume alcohol at least once a week and 6% drink every day.

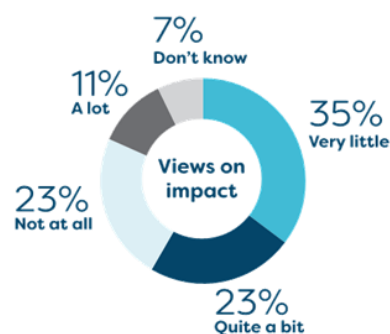
Total of drinks last time they drank:



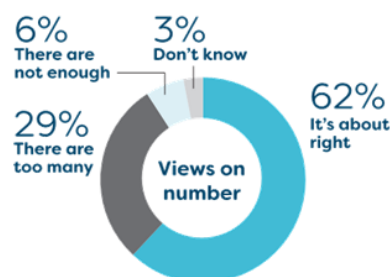
*For 63% of those who had 10+ drinks, this quantity was normal.

Alcohol in the community

How does alcohol consumption affect your suburb?



What do you think about the number of alcohol retailers in your suburb?



What are we drinking in Porirua?

By total volume:



This data does not equate to 100% as it was a multiple choice question where people could select more than 1 type of alcohol.

What does harmful drinking look like for our communities?

Type of harm

Type of harm	People who have experienced some form of alcohol harm	
	Happened to me	Happened to someone close to me
Been assaulted (physically or sexually) by someone while you/they were drunk	53	52
Had to ring the police due to someone's drunken behaviour	47	40
Passed out due to drinking	41	81
Had property vandalised by someone who was drunk	40	44
Injured yourself/themselves (but not requiring hospitalisation)	39	73
Missed time off work/study as a result of being drunk and/or hungover	39	66
Been a victim of a crime caused by an offender who was drunk	34	46
Some other harm caused by drinking	33	68
Driven while under the influence of alcohol	24	87
Got into a fight or assaulted someone because you/they had too much to drink	23	59
Got arrested as a result of doing something illegal while drunk	12	35
Been hospitalised due to drinking too much	6	42
Struggled to pay day-to-day living costs as a result of spending money on alcohol	6	37
Been diagnosed with an illness caused by long-term drinking	3	49

Base size n=236-240.

The **most common form of harm** that was self-reported as caused by drinking alcohol was **assaults** – either physical or sexual.

People also reported **having to ring the police due to someone's drunken behaviour**, or that it happened to someone close to them.

Relatively high numbers of people reported **passing out due to drinking (41)**, but almost twice as many (81) said it had happened to someone close to them.

People also reported **property vandalisations and injuries** as happening fairly frequently.

LOCAL ALCOHOL POLICY



Date adopted by ARLA:	30 June 2017
Date brought into force by Council resolution:	All provisions except those relating to trading hours and one-way restrictions – 26 October 2017 Provisions relating to trading hours and one-way restrictions – 26 January 2018
Minute Reference:	74/17
Previous Policy Reference(s):	N/A
Statutory Requirement:	Optional policy under the Sale and Supply of Alcohol Act 2012
Business Unit/Author:	Policy, Planning & Regulatory Services
Next Review Date:	26 October 2023

1. COMMENTARY ON POLICY ELEMENTS (INFORMATION ONLY)

This section has been provided in response to a recommended approach for the preparation of a provisional local alcohol policy (LAP) in *Hospitality New Zealand Incorporated v Tasman District Council* [2014] NZARLA PH 846.

This section does not form part of the policy it is for information only.

1.1 Maximum trading hours

From the evidence reviewed by the Council, maximum trading hours appear to be the most influential policy measure available for the reduction in alcohol related harm. However there must be a balanced approach to protect the rights of moderate drinkers from being excessively restricted and maintain the viability of licensed premises.

(a) Off-licences –

- i. The Council recognises the difference between the host responsibility that must be applied within an on-licence as compared with that of off-licences. It also recognises the impact of pre-loading on on-licensed premises, including the transfer of host responsibility. Consumption of alcohol purchased from off-licences is less controllable than on-licences. Many licensees of off-licences demonstrate excellent licensee practices. However, the Council believes that restricting late night, spontaneous purchasing of alcohol from off-licences is

likely to have significant benefits by reducing alcohol harm in public places and private residences which are away from the protection of the regulatory regime.

- ii. The Council was persuaded by submitters on the draft LAP to have consistent maximum licensing hours across Porirua to improve certainty for licensees and consumers. There was an apparent correlation between harmful activities and off-licence premises. The Council believes moderate consumers of alcohol will adjust their purchasing behaviour to the more restrictive hours without significant, if any, negative implications. Because of this the Council has taken a precautionary approach in reducing the maximum license hours from the national default provisions in the belief that reduced maximum licensing hours are likely to reduce pre-loading, reduce rates of criminal activity and admissions to hospital.

- (b) **On-licences** – The licensing system puts significant restrictions around on-licences. The nature of on-licence premises is that consumers must be actively managed by the licensee. Their responsibility extends to helping consumers to get home, managing the impact that their premises have on others and the environment in close proximity. Most premises in Porirua currently close before 2 am. This would not change under this policy. The policy seeks to allow the district licensing committee to consider the risks of each application and apply conditions where appropriate. It may also adjust the licence hours where appropriate. The policy codifies the existing expectation of 2 am maximum and it represents a reduction from the national default hours.

1.2 Proximity to sensitive sites

The Council identified two groups as vulnerable if exposed to licensed premises:

- (a) **School students** - the research reviewed suggested that there was a link between alcohol advertising and alcohol related harm in this group. Pre-schools were excluded because of the large number of premises, the difficulty in tracking these premises and their inclusion would create significant restrictions to open new licensed premises, when there was no evidence presented to suggest this group was more susceptible to alcohol related harm.
- (b) **People undergoing alcohol and drug use rehabilitation** – this is an identifiable group with a heightened sensitivity to exposure to licensed premises and an LAP should protect them so that they may undergo treatment. The definition restricts the applicable organisations to those that are registered as receiving public funding. This is because private operations may not be registered and would not provide a clear standard for potential applicants and Council inspectors to apply.

- (c) The Council restricted the definition of sensitive sites to these two categories recognising that the licensing process still allowed others to oppose an application on a range of grounds, including for the preservation of the amenity and good order of the area around the premises. That for these two groups there was a demonstrable risk from exposure. These groups are required to be registered and can be applied transparently and effectively.
- (d) The Council built in an automatic trigger to the LAP where a sensitive site is in close proximity to proposed licensed premises. That trigger is to switch the onus onto the applicant to demonstrate that they can suitably mitigate the exposure of the users of the sensitive site or that exposure is not in fact a factor. If they are unable to do so the licence should not be granted. This requirement recognises that mere straight line distance between premises and a sensitive site is a blunt instrument and that building design, natural barriers and other factors can mitigate the impact of close proximity.
- (e) The reverse sensitivity provision was included to protect the value of licensed premises to allow them to be sold. However, for this provision to be invoked the licence must be current, that means a new owner would need to apply for a temporary authority and keep the underlying licence intact. If they are unable to get a temporary authority, for example if the underlying licence had expired or was revoked, then the sensitive site provision would apply. This should act as an incentive for licensees to manage premises to a high standard to protect the value in their investment and maintain the currency of their licence.

1.3 Discretionary conditions

- (a) The Council expects the district licensing committee to determine each case on its merits as the circumstances of every application are different. The discretionary conditions have two parts, the first is to identify principles by which they may be applied. This includes emphasising the importance of only inserting a discretionary condition where a foreseeable harm is identified. The severity of the condition should be proportionate to the harm identified and it should only apply to the extent necessary to mitigate that harm. The second part is the conditions themselves which are stated broadly to maintain the flexibility of the committee.
- (b) The Council determined that the use of discretionary conditions applied appropriately would produce a targeted and proportionate response to identifiable harms than a district wide reduction in on-licence hours. Conditions can also be altered based on past performance at the time of renewal providing the committee with greater flexibility to manage known harms.

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2. INTRODUCTION

The local alcohol policy or LAP (the policy) should provide guidance for the Council's district licensing committee (the committee) when deciding whether to issue a licence to sell and/or supply alcohol. The policy is an important tool to assist the committee and the Alcohol Regulatory Licensing Authority (the licensing authority) in making decisions that are appropriate for Porirua and achieving the object of the Sale and Supply of Alcohol Act 2012 (the Act).

3. POLICY GOALS

3.1 The policy aims to:

- a) minimise alcohol-related harm in Porirua
- b) reflect local communities' character, amenity, values, preferences and needs
- c) encourage licensed premises to foster positive, responsible drinking behaviour.

4. POLICY OBJECTIVES

4.1 The objectives of the policy are to:

- a) reflect the views of local communities as to the appropriate location, hours and conditions that should apply to licensed premises within their communities
- b) provide certainty and clarity for applicants and the public as to whether a proposed licence application will meet the criteria of the LAP
- c) provide effective guidance and allow flexibility for the decisions of the district licensing committee and the licensing authority.

5. SCOPE OF POLICY

5.1 The policy relates to the sale, supply and consumption of alcohol in Porirua. It is limited to matters relating to licensing set out in section 77 of the Sale and Supply of Alcohol Act 2012.

6. STATUTORY FRAMEWORK

6.1 The Sale and Supply of Alcohol Act 2012

- a) The Sale and Supply of Alcohol Act 2012 (the Act) has the following objectives:
 - i. that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
 - ii. that the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

- b) Section 75 of the Act allows Councils to have a local alcohol policy relating to the sale, supply, and/or consumption of alcohol within its district. The contents, development, adoption and review of that policy must comply with the provisions of part 2, subpart 2 of the Act.
- c) The local alcohol policy must be consistent with the general law of New Zealand and the Council's district plan.
- d) The Council must not produce a draft local alcohol policy without having consulted the NZ Police, the Medical Officer of Health and the public.

7. POLICY CONTENTS

7.1 Maximum trading hours

- a) The maximum trading hours in the table below apply consistently across the district. The maximum trading hours vary by the kind of licence applied for. There are four exceptions for the major kinds of licence. Where an application is consistent with an exception, the maximum trading hours for the exception should be substituted.
- b) The major categories are shown in grey and the exceptions to those categories are listed underneath in white. Definitions of each licence kind are contained in the definitions sections of the policy.

Table 1: Maximum trading hours by licence kind

Licence Kind	
OFF	7am-10pm
OFF-REMOTE	At any time on any day
ON and CLUB	8am-2am the following day
ON-HOTEL	At any time on any day to lodgers
CLUB-RSA	8am-2am the following day, except 4am to 1pm on ANZAC day
SPECIAL	At any time on any day – applications assessed on merits

7.2 Proximity to sensitive sites

- a) Sensitive sites under this policy are sites where the target users have been identified as having a greater vulnerability than the public generally to alcohol related harm as an outcome from direct exposure to premises that sell or supply alcohol. Sensitive sites in Porirua are exclusively:
 - a school as defined by section 2 of the Education Act 1989, which does not include early child care or kindergartens
 - premises that are registered with the Alcohol and Drug Association of New Zealand as the location of a drug and/or alcohol treatment service provider.

- b) Except for supermarkets¹, no new licences may be granted where the proposed licence is in close proximity to a sensitive site; unless:
- the users of the sensitive site are unlikely to be directly exposed to the sale or supply of alcohol and its related activities; or
 - any exposure can be mitigated by the applicant to a minor or less than minor exposure.
- c) Except for supermarkets, every application for a new on, off or club licence, or to vary an existing licence in close proximity to a sensitive site, will require an impact assessment to determine the extent that the users of the sensitive site are likely to be exposed to alcohol promotion, consumption and consumers from the proposed licence premises. The assessment must address the impact of that exposure and any proposed mitigation of the exposure.

d) **Reverse sensitivity-**

Proximity to a sensitive site will not be considered for new licence applications for premises for which an existing licence is held at the date of the application, unless the nature of the application differs significantly from the current licence. This is to protect the pre-existing use rights in those premises.

e) **Sensitive site impact assessment-**

The Alcohol Licensing Inspector will determine if an impact assessment is required. The applicant is responsible for preparing and filing the impact assessment with the committee. The assessment will identify the level of exposure of users of the sensitive site and any potential mitigation of exposure. Specifically it must identify:

- the users of the sensitive site
- the extent of advertising and promotion on and around the proposed site
- the potential exposure of users to the sale and supply of alcohol and any related activities e.g. promotions, noise
- potential adverse impacts identified by the operator of the sensitive site if any
- potential mitigation measures, if any, are identified
- any other issues identified by the Alcohol Licensing Inspector.

The Alcohol Licensing Inspector should provide commentary to the committee on the quality and completeness of the impact assessment as part of their report to the committee.

¹ The Sale and Supply of Alcohol Act 2012, section 32, 1 (e) allows an off-licence to be issued to supermarkets with a floor area of at least 1000 m²

7.3 Discretionary conditions

Discretionary conditions may be applied to a licence to mitigate an identified foreseeable harm. In using its discretion to apply conditions, the committee and the licensing authority will be guided by the following principles:

- **connection** – whether there is a connection between an identified foreseeable harm to be addressed and the proposed licensing activity
- **impact** – whether there is evidence to support that the proposed condition will make the drinking environment safer and minimise harm
- **reasonableness** – whether it is within the capabilities of the applicant or licensee to satisfy this condition, any condition must be a proportionate response to an expressly identified harm or potential harm.

(a) Off-licences

- all bottle stores must have supervised designation (minors must be accompanied)
- limiting alcohol product advertising to less than 50% of the total shop front area
- requiring the licensee to ensure litter (this includes, but is not limited to, vomit and alcohol-related rubbish) is removed from any areas the licensee has outside the licensed premises (including any carparks, external walkways and landscaping).

(b) On-licences and Club licences

- restriction on the use of outdoor areas after 10pm outside the City Centre
- restriction of loudspeaker, amplifier, relay or other audio equipment after 10 pm outside the City Centre
- provision of effective exterior lighting
- provision of additional security (staff) after 11pm
- the installation and operation of CCTV cameras on the exterior of, and within premises
- no serving in glass containers at specified times
- requiring the licensee to ensure litter (this includes, but is not limited to, vomit and alcohol-related rubbish) is removed from any areas the licensee has outside the licensed premises (including any carparks, external walkways and landscaping).
- one-way door restriction
- patron number to security personnel ratio
- patron number to bar manager ratio
- provision of transport for patrons

(c) Special licences

The following special licence discretionary conditions should be considered for both on-site and off-site special licences:

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- number of 'nominated persons' or certified Duty Managers to be present
- specify locations for Managers to be present (e.g. at point of sale, anywhere else on site that their presence would be beneficial)
- limit on number of drinks to be sold in one transaction
- drink containers to be opened at point of sale
- no high alcohol doubles or shots to be sold
- specify security staff number required and their location
- patron number to security ratio
- specify event staff to wear high visibility clothing
- specify containers alcohol may be sold in
- condition to ensure Police reserve rights to require earlier cessation of licence hours by request to the licensee and reduce number of sales and slowing of service
- limits on promotion of alcohol
- require one-way door restriction
- noise limits from an event
- lighting requirements
- consideration of having specific 'licensed area' within an overall 'event area' - this will help restrict movement of patrons with alcohol inside the event and be easier to monitor for event staff, and Police and Alcohol Licensing Inspectors.

8. DEFINITIONS

Act, the	means the Sale and Supply of Alcohol Act 2012
Alcohol Regulatory and Licensing Authority (ARLA)	is the licensing authority and national body that hears appeals from district licensing committee decisions and appeals of LAPs
Bottle store	means off-licensed premises being retail premises where (in the opinion of the licensing authority or licensing committee concerned) at least 85% of the annual sales revenue is expected to be earned from the sale of alcohol
Close proximity	within 100 metres in a straight line from boundary to boundary
Club	means a body that <ul style="list-style-type: none"> (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 of the Act)
Club-RSA	means a club licence where the club is a member of the Royal New Zealand Returned & Services Association.

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District Licensing Committee (DLC)	means District Licensing Committee at Porirua. The DLC members are appointed by the Council but it acts independently
District Plan	means the operative Porirua City District Plan
Harm, alcohol related	has the same meaning as contained in section 5 of the Act
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 of the Act)
Maximum trading hours	Means the maximum trading hours for the purpose of section 45 of the Sale and Supply of Alcohol Act 2012
Off licence	means a licence for premises where the licensee can sell alcohol for consumption somewhere else
Off-remote	means an off-licence to conduct remote sales under the Act. Remote sale, in relation to alcohol, means a sale pursuant to a contract that— <ul style="list-style-type: none"> (a) has been entered into (using the Internet, by telephone or mail order, or in any other way) between— <ul style="list-style-type: none"> (i) a seller who holds an off-licence; and (ii) a person (whether the buyer or a person acting on the buyer's behalf) who is at a distance from the premises where the seller entered into the contract; and (b) contains a term providing for the alcohol to be delivered to the buyer (or to a person or place nominated by the buyer) by or on behalf of the seller
On licence	means a licence for premises where the licensee can sell alcohol for consumption on the premises or can let people consume alcohol on the premises. For the avoidance of doubt, on-licences includes club licences per section 21 of the Act
On-conveyance	means an on-licence for a vehicle (e.g. bus tours, ferries, trains)
One-way door restriction	means, in relation to a licence, a requirement that, during the hours stated in the restriction: <ul style="list-style-type: none"> (a) no person is to be admitted (or re-admitted) into the premises unless he or she is an exempt person; and (b) no person who has been admitted (or re-admitted) into the premises while the restriction applies to the licence is to be sold or supplied with alcohol (refer section 5 of the Act)
On-hotel	means an on-licence for a hotel and relates to sales to lodgers only

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Opposed application

means an application where:

- a report has been filed in opposition by the Medical Officer of Health, Police or Council Inspector; or
- an objection has been filed by a person with a greater interest than the public generally

Special licence

means a licence granted for an event or series of events and can be for either on-site consumption or off-site consumption. A full definition is contained in section 22 of the Act

9. APPLICATION OF POLICY

The local alcohol policy is applied by the committee and the licensing authority. The committee and the licensing authority must have regard to this policy when deciding whether to issue a licence or renew a licence, subject to section 133 of the Act.

10. POLICY MONITORING AND REVIEW

Decisions by the committee that are inconsistent with this policy will be monitored by the Secretary for the committee and reported annually to the Council.

Monitoring of compliance by licensees with the maximum licence hours and licence conditions is the responsibility of the Council's Licensing Inspectorate and the NZ Police.

11. APPEAL/ COMPLIANCE PROCESS

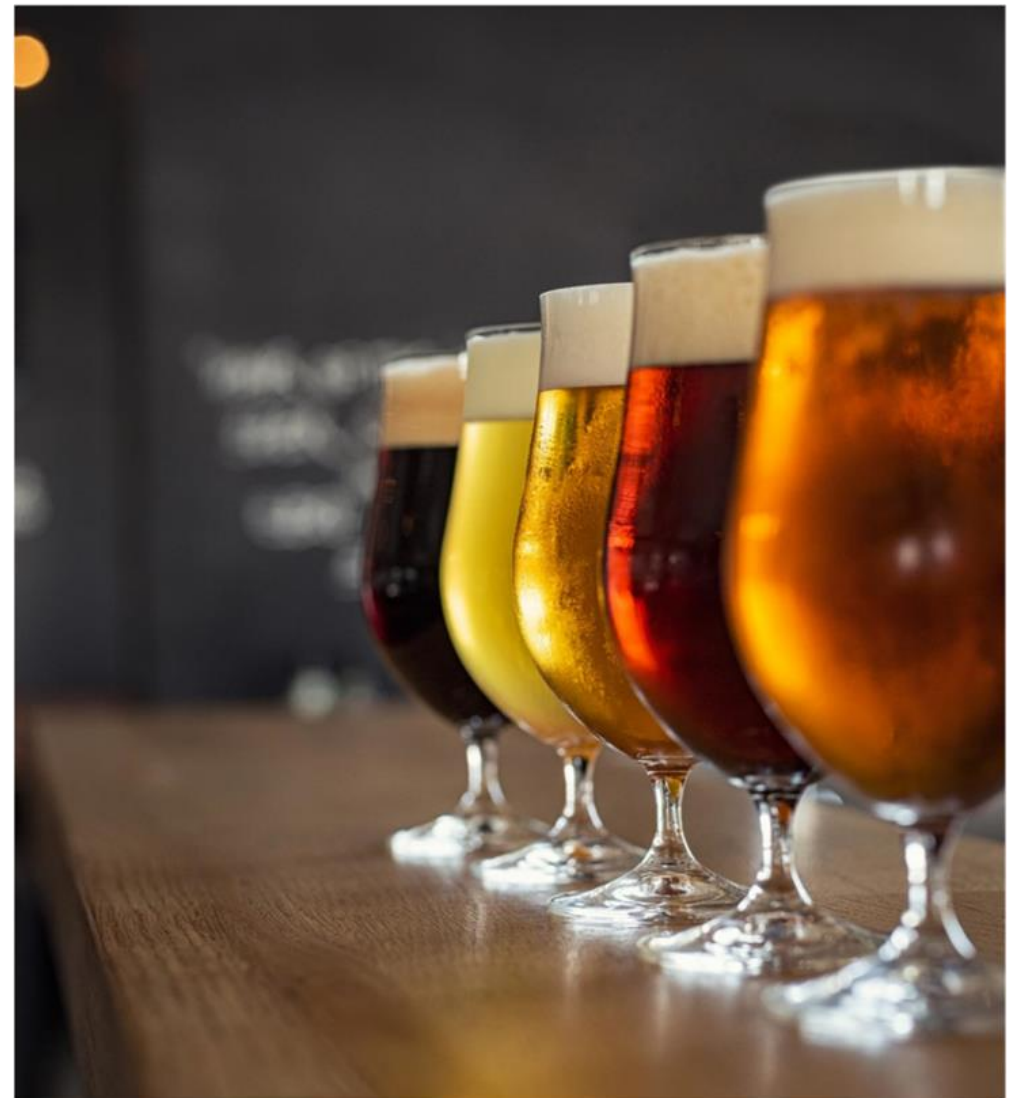
Appeals on the decisions of the committee are made to the licensing authority in accordance with the Act. A subsequent right of appeal exists under the Act to the High Court.

porirua**city**

Porirua City's Local Alcohol Policy and Alcohol Control Bylaw review

Council workshop

29 August 2024



Discussion today

1. Background

2. The Porirua context

3. The review

- a) Social impact assessment
- b) The impact of our LAP and Bylaw
- c) Gaps in our LAP and Bylaw

4. The future & next steps

Councils' role and responsibilities in alcohol regulation:

Promote the wellbeing of communities

Introduce a Local Alcohol Policy (LAP)

Introduce an Alcohol Control Bylaw

Manage alcohol licensing

Manage monitoring and compliance of licenses

The purpose of a LAP is to:

- ✓ Encourage the responsible sale, supply and consumption of alcohol and focus on reducing alcohol related harm.
- ✓ Provide guidance to the District Licensing Committees for licensing decisions and conditions.
- ✓ Provide a method for which communities can influence on where and how alcohol can be sold in their city.

The purpose of an Alcohol Control Bylaw is to:

Prohibit or otherwise regulate or control:

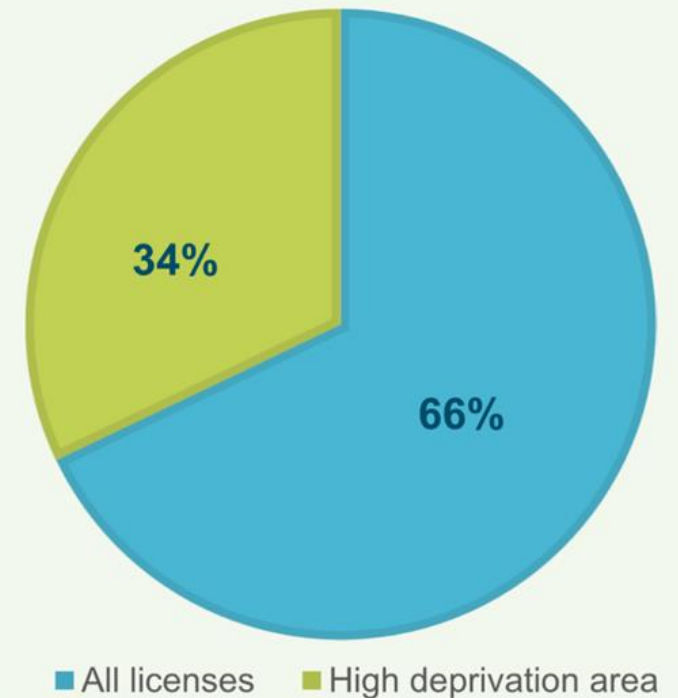
- a) the consumption of alcohol in public places
- b) the bringing of alcohol into public places
- c) the possession of alcohol in public places.



Alcohol licensing in Porirua

As of February 2024, Porirua had **72** active alcohol licences:

- **19** were for clubs.
- **31** were for off-licences (alcohol is taken off the premises).
- **22** are for on-licences (alcohol is consumed on the premises).
- **104** Special licences (1 July 23 – 31 June 24).
- The number of licences approved has declined since 2019 (84), but the number of licences in areas of high deprivation has stayed the same.*



34 of the **72** licences are in high deprivation areas and make up **47%** of all licences in Porirua.

* Source: <https://www.justice.govt.nz/tribunals/arla/register-of-licences-and-certificates/>

Legal Context

Section 77 of the Sale and Supply Act provides Councils with quite broad provisions for consideration in our Policies.

A LAP can:

- ✓ Control the location of licensed premises in the following ways:
 - ✓ reference within broad areas (references to District plan zones, suburbs etc).
 - ✓ proximity to other premises of a particular kind or kinds (density).
 - ✓ proximity to facilities of a particular kind (sensitive site provisions).
- ✓ Determine whether further licences should be issued within a district or part of a district. (Caps, sinking lids etc) these can be tailored to areas or zones etc.
- ✓ Set maximum trading hours of all licences.
- ✓ Provide discretionary conditions covering a range of things (advertising, remove buy now pay later payment options).
- ✓ Impose one-way door restrictions.

The Porirua context: Alcohol Harm

Evidence of alcohol harm

- The impacts from a health and societal perspective are large, especially among those who drink in a hazardous way.
- However, being able to identify harm specific to a local community is difficult without significant resources.
- It is safe to assume that what applies nationally also applies to Porirua or is possibly worse for Porirua.
- The difficulty in gathering localised evidence means researchers/policy makers must allow for assumptions and anecdotal evidence when determining cause and effect and effective intervention logic.



Recent case law and legislation stress the importance of councils including community input and perspectives into policy formation, in addition to OR in place of solely relying on evidence.

What does alcohol harm look like?

Social

- Criminal incidents and victimisations.
- Criminal incidents specifically associated to alcohol related incidences (including family violence).

Health

- Health statistics on alcohol related illnesses.
- Hospital admissions/discharges due to alcohol related injuries.
- Number of people referred to Mental health/ AoD services.

Evidence from communities

- Anecdotal information direct from communities is key to getting an accurate measure of the harm that exists in Porirua City.

- High crime and victimisation.
- Public safety issues unsafe and littered public spaces.
- Anti-social behaviours and public disturbances.
- Damage to relationships and cause of whānau dysfunction.

- Long term health conditions and illnesses.
- Increased risk and diagnosis of cancer
- Increased risk of early dementia .
- Addictions and mental health issues.
- Child hood trauma and mental health issues .
- Increase in Feotal Alcohol Spectrum Disorder.

What alcohol harm looks like in our communities

Sale and Supply of Alcohol Act 2002 states that alcohol harm is caused by the excessive or inappropriate consumption of alcohol.

Who is impacted by alcohol harm?

The majority of people drink alcohol responsibly however...

At a national level **1 in 6** adult drinkers are considered to drink in a harmful way.

Harms from other people's drinking are higher than harms from people's own drinking.

Alcohol harm cost our health system **\$9.1 billion** in 2023. The total cost for Porirua is approximately \$108 million (1.2% of this total figure).*

The scale of harm is disproportionate for some communities across Aotearoa including in Porirua.

HARMS FROM OTHER PEOPLE'S DRINKING ARE HIGHER THAN HARMS FROM PEOPLE'S OWN DRINKING

In New Zealand, alcohol is responsible for:

1/3 of all violence
(33%)

1/3 of all family
violence (34%)

1/2 of all sexual
assaults (54%)

1/2 of homicides
(49.5%)



In 2009, alcohol-related presentations accounted for 10% of all presentations in the emergency department on a Saturday, increasing up to 25% during the night shifts.

Source: ActionPoint

*Source: Manatu Hauora: Costs of alcohol harms in New Zealand: Updating the evidence with recent research 2024

Alcohol Harm in Porirua

The data and evidence gathered have identified areas of concern.

- City Centre has significant issues with crime and the highest density of alcohol licences, it is also an area of high deprivation and the City's main transport hub. The City Centre also has had the highest number of breaches of the Alcohol Control Bylaw.
- Off-licences have a greater adverse effect in suburbs, as drinking at home is more common than in bars or restaurants. We can see this in the statistics for Cannons Creek and Takapūwāhia with high levels of crime and victimisation (both alcohol related and non).
- Inequity in the impact of alcohol harm - which in Porirua has a disproportionate impact for Māori communities and areas of high deprivation.

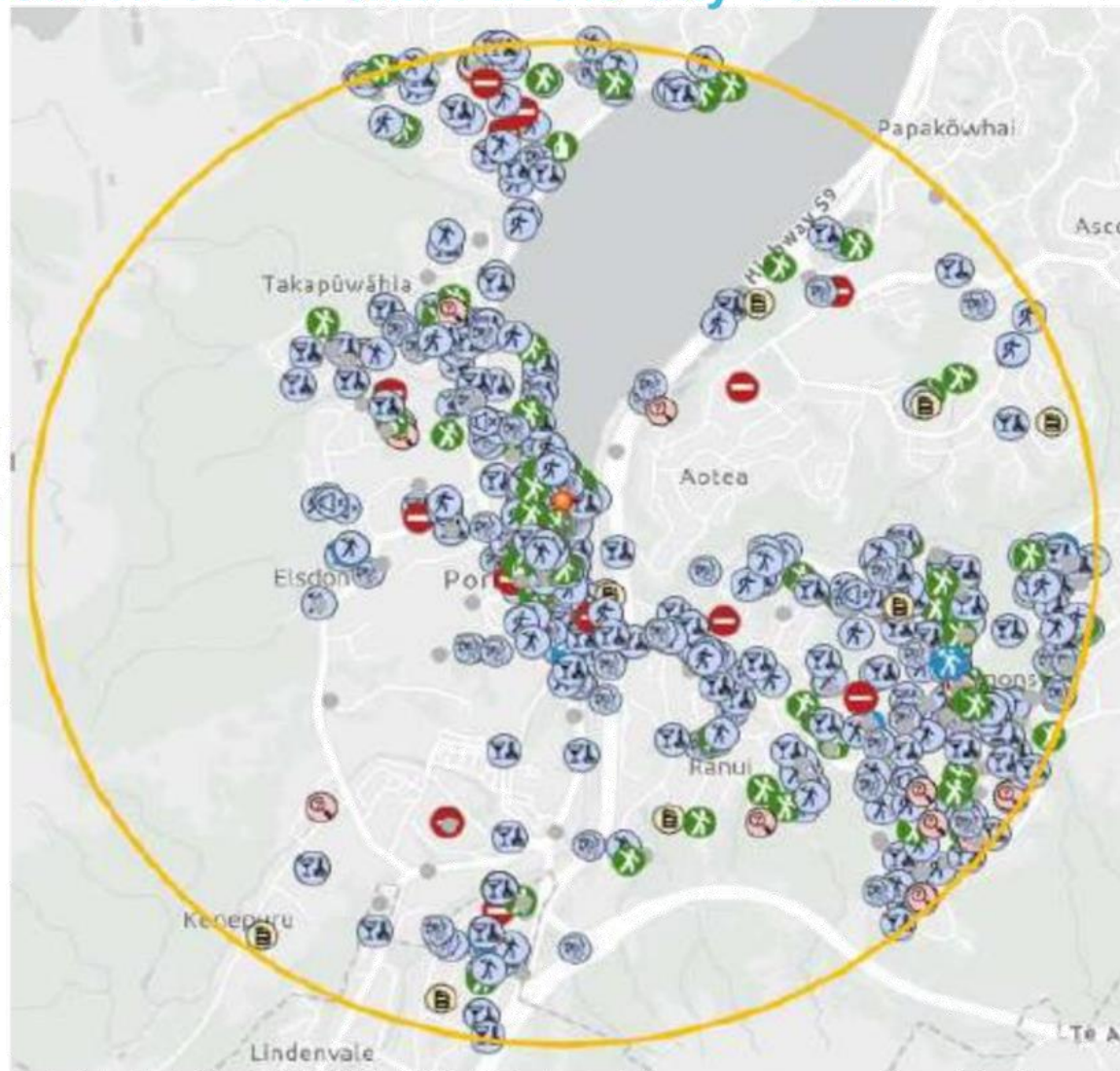
Exploring trends

- Density of licences within areas of high deprivation
- Sensitive Sites
- Hours of trade for current licences
- Current risk ratings of some of the licences

We will also go through maps provided by Police that show the trends in alcohol related crime for some suburbs in Porirua.

[Interactive GIS map to be talked through at Workshop on screen]

Alcohol related crime in the City Centre

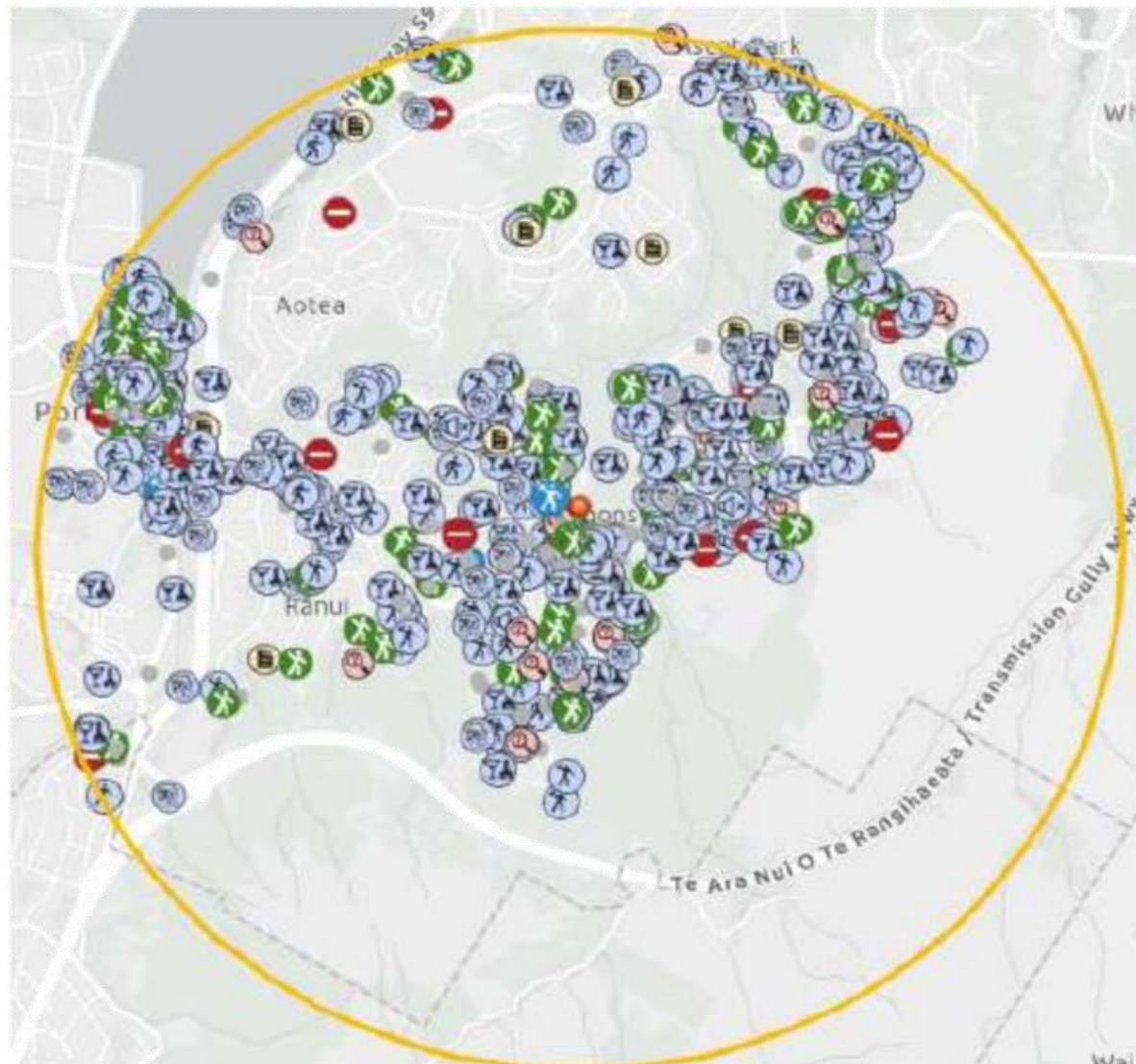


Legend

CARD Events by Closure Type - Individually

-  Breach Of The Peace
-  Disorder
-  Drunk Custody/Detox Centre
-  Traffic Offending
-  Family Harm
-  Car/Person Acting Suspiciously
-  Information
-  Drunk Home
-  Trespass
-  Noise Control
-  Intimidation/Threats
-  Breach Of Local Council Liquor Ban
-  Mental Health
-  Enquiry/Investigation
-  Other

Alcohol related in Crime in the Eastern Suburbs

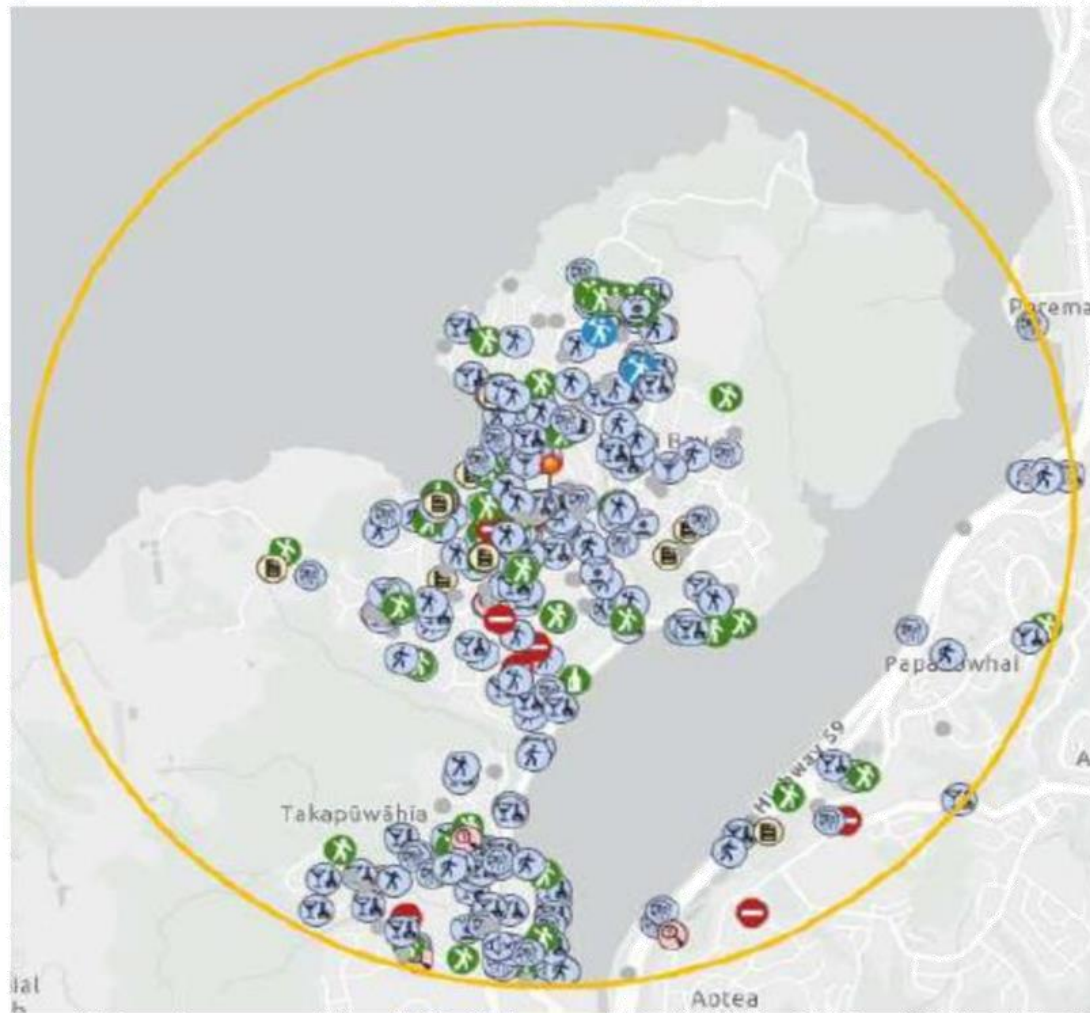


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-  Enquiry/Investigation
-  Other

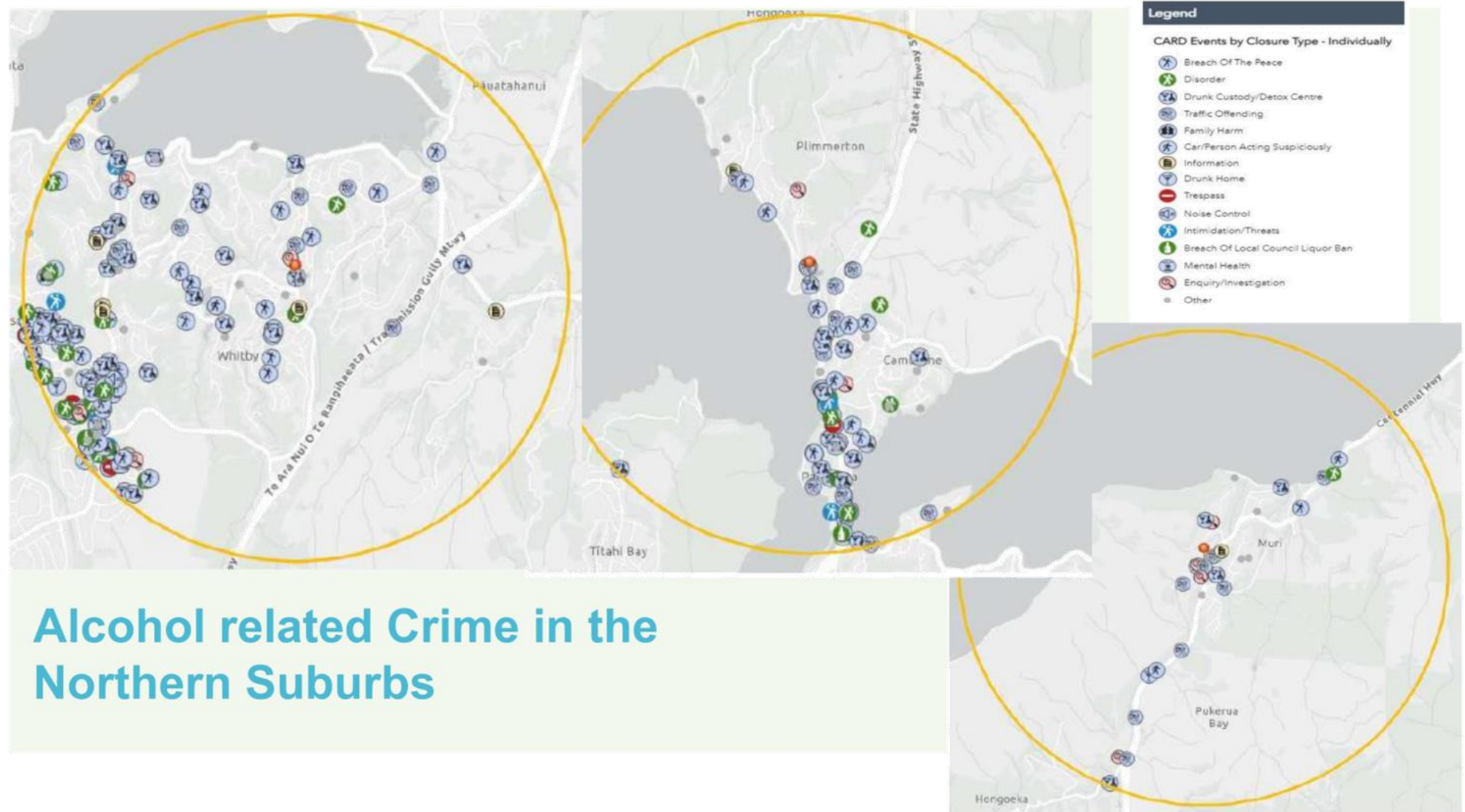
Titahi Bay and Takapūwāhia



Legend

CARD Events by Closure Type - Individually

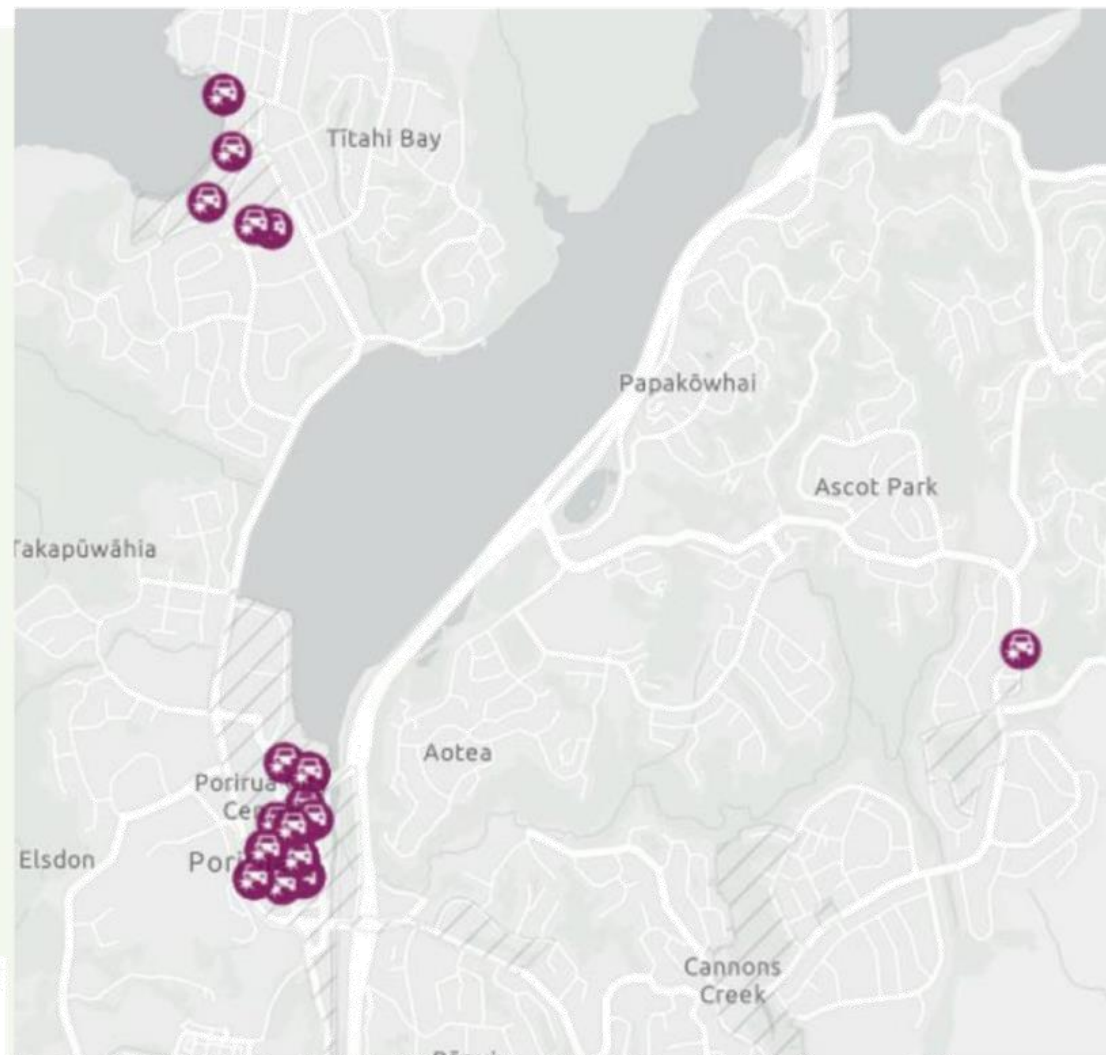
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-  Intimidation/Threats
-  Breach Of Local Council Liquor Ban
-  Mental Health
-  Enquiry/Investigation
-  Other



Breaches of the Alcohol control bylaw

- There are 64 alcohol ban breaches recorded in Police's National Intelligence Application (NIA) between 1 September 2019 and 30 April 2023 inclusive. These are made up of:
- 42 alcohol ban breaches for "consumed alcohol in an alcohol banned area"
- 22 alcohol ban breaches for "possessed alcohol in an alcohol banned area"

Alcohol Ban Areas



Guest speakers: perspectives on Alcohol harm in Porirua

LAP and Alcohol Control Bylaw Review

Social Impact Assessment

A Social Impact Assessment is in its final stages, including evidence, data analysis, and community perspectives on alcohol harm, use, and behaviors.

The assessment:

- ✓ Provides the evidence base for the review and policy developments going forward.
- ✓ Assesses the impacts of the current policy.
- ✓ Meets legal requirements for reviewing and creating new policies under the Sale and Supply of Alcohol Act 2012.
- ✓ Will be included in the consultation material when formal consultation begins.

The impact of our LAP

- The LAP signalled Councils commitment to harm reduction with/for our communities.
- However, it had little overall impact on actual harm reduction.
- Data shows a slight decrease in alcohol harm statistics post-policy implementation, with no evidence directly linking these reductions to the policy measures.

The impact of the Bylaw

- The effectiveness of the Bylaw in preventing public drinking cannot be tested, but instances of the bylaw being violated indicate that public drinking is not completely deterred.
- Between 1 September 2019 and 30 April 2023 there were 64 alcohol ban breaches.
 - 42 were for “consumed alcohol in an alcohol banned area”
 - 22 were for “possessed alcohol in an alcohol banned area”
 - 5 were in Titahi Bay, 1 in Waitangirua and 58 in Porirua City Centre

Gaps in the Bylaw

- The Bylaw is functioning as it should and the research shows the current restrictions are likely to be the most efficient.
- The persistence of public drinking behavior is influenced by broader societal factors beyond the control of the Bylaw.
- Improvements could be supported through the following changes:
 - ✓ Improved Local Alcohol Policy.
 - ✓ Increased public education around drinking behaviours.
 - ✓ Taking a more strategic approach to reduce alcohol harm.
 - ✓ Supporting local providers in the alcohol harm prevention space.
 - ✓ Encouraging local licensees to encourage safe drinking behaviours.

Gaps in the LAP

- Provisions for sensitive sites are ineffective and used only once since the LAP was introduced.
- Licences have been granted near schools.
- Trading hours in the CBD allow early morning alcohol purchases, leading to public nuisance in the city centre.
- Does not encourage equitable outcomes for our community.
- Administrative amendments required (Remote sale and changes due to the new legislation).

What is the problem	Does the current LAP address the problem?	Opportunities to explore
Lack of evidence to measure impact of policy controls	No robust monitoring framework to measure past, current or future harm relating to restrictions.	Introduce a monitoring framework to capture evidence for future reviews.
The CBD is an area of high alcohol harm, shown through our high crime, victimisation rates. It has a high density of licenses and area of high deprivation.	Current hours of trade are not preventing purchasing and drinking in public areas. Nor does it consider the high density of licences in the area.	<ul style="list-style-type: none"> Targeted restrictions to the CBD would provide greater protections in the aim of reducing harm. The policy could include Caps on numbers, density provisions, decrease in hours of trade.
Disproportionate impact on Māori and areas of high deprivation.	Does not have specific policy controls in response to this issue.	<ul style="list-style-type: none"> Elevate the influence and perspectives of Māori in decision making. Location provisions, density restrictions, caps or sinking lids are options to explore reducing harm in areas of high deprivation. Strengthen sensitive site provisions Targeted discretionary conditions increase alcohol advertising restrictions.
Disproportionate number of alcohol licences in areas of high deprivation CBD, Titahi bay, Elsdon, Takapūwāhia.	Does not have specific policy controls in response to this issue.	<ul style="list-style-type: none"> Location provisions, density restrictions, caps or sinking lids are options to explore reducing harm in areas of high deprivation. Decrease in hours of trade.

Summary

- The existing LAP lacks a monitoring process to evaluate impact and plan for future policy improvements.
- The LAP lacks “teeth” to show any positive impact on alcohol harm reduction in Porirua.
- The LAP provides little to no interventions to target our key areas of concern.
- Absence of a strategic overview of alcohol harm for Porirua in terms of clearly defining what is our role and commitment both in and outside of the statutory framework.
- We currently have limited focus on supporting or empowering our community to work towards reducing and preventing alcohol harm.

Council has the rare opportunity to take part in the Alcohol Harm EPI project, a research collaboration involving the Cancer Society and the University of Otago.

Future options for the LAP and Alcohol control Bylaw

Consultation and options analysis

- We are framing up the recommendations for consultation on the Alcohol Control Bylaw and the LAP.
- For the Bylaw the evidence included in the SIA suggests alcohol harm remains a concern in Porirua and the Bylaw should remain to maintain the current alcohol bans and continue providing protections/incentives to prevent public drinking.
- We are exploring a scaled policy approach for the LAP. This aims to work towards greater impact over time while building a more strategic overview of Council's role in alcohol harm reduction.
- There are many options to explore within the scaled approach. Consultation should provide and test the available options for communities to explore and give feedback on.

Scaled policy approach for the LAP

Scale of change	1. Minor amendments	2. Modest improvements	3. Targeted approach	4. Aspirational Community collaboration
Approach	Current policy with administrative amendments and alignments	Current Policy with modest improvements	A new Policy that strengthens restrictions for areas of most need	Policy that is 100% community led and prioritises community solutions and restrictions
What	Updating the policy to ensure it: <ul style="list-style-type: none"> Is consistent with the legislation Is consistent with the new PDP Amends a discrepancy EPI tool in place 	Strengthen sensitive site provisions and reduce hours slightly to curb public drinking in the CBD. EPI tool in place	Targeted restrictions for the CBD that tackle the main issues in the evidence, High density of licences and opening hours. EPI tool in place	This would place the full range of controls on the table for the Community to determine what is suitable. This could be done suburb specific to address the varying needs of each suburb. EPI tool in place and provides evidence needed to achieve policy controls designed by the community.
What would this look like in practice?	No changes to current policy levers other than what is required.	<ul style="list-style-type: none"> Amend sensitive site provisions so they apply to all applications renewals as well, Remove the reverse provision and extend the 100 meter distance to 200-250 meters. Reduce hours of trade for the CBD only, this could be early morning or evening hours or both. 	<ul style="list-style-type: none"> Amend sensitive site provisions so they apply to all applications renewals as well. Remove the reverse provision and extend the 100 meter distance. Reduce hours of trade for the CBD, Areas of High deprivation. Introduce sinking lids or caps in areas of high deprivation. 	Full range of policy options would be available including: <ul style="list-style-type: none"> Reduction of hours of trade Density provisions, caps, sinking lids. Extending sensitive sites to cover specific types of facilities outside of schools and AOD treatment facilities.

We are here

We could be here following this review

We could be here in 6-10 years

What are the risks?

Scale	1. Minor Amendments	2. Modest improvements	3. Targeted approach	4. Aspirational: Community collaboration
Risks	<p>This approach is likely to have little to no impact.</p> <p>There is Reputational risk with this option. Community groups including local police, officer of medical health and other community advocates would be dissapointed in Council for not pursuing greater impacts.</p>	<p>This approach also likely to have little impact.</p> <p>Community groups including local police, Medical Officer of Health and other community advocates could be disapointed in policy options that did not pursue greater impacts.</p> <p>Some risk of judicial review for any changes to hours of trade.</p>	<p>Higher risk of judicial review when changing hours, location specific restrictions and any additional restrictions.</p> <p>Also risk of low Community interest and engagement which could have the effect of limiting the options to progress in the policy. The community perspectives are crucial to support the policy options to stand the test of a judicial review.</p>	<p>Very high risk of judicial review.</p> <p>Possible higher costs for Council to manage a wider consultation programme to ensure community engagement.</p> <p>Also risk of low Community interest and engagement which could have the effect of limiting the options to progress in the policy. The community perspectives are crucial to support the policy options to stand the test of a judicial review.</p>

Next Steps

1. Progress with the EPI Tool to community workshop.
2. Return to a Council workshop or TPK after the EPI community workshop with:
 - The Social Impact Assessment
 - Update on the outcome of the Community EPI workshop
 - An update on the consultation items we recommend for this policy.
3. Seek approval to consult on proposed policy options for the LAP and Alcohol Control Bylaw.



porirua

EPI TOOL: Cancer society and Otago University

Porirua City Council has been approached by Cancer society and Otago University and provided an opportunity to be apart of testing an alcohol policy tool.

The Local Alcohol-Environmental Policy Initiatives (EPI) tool can assist councils to:

1. To meet their statutory obligations to community well-being, reduce harm and inequities.
2. Future-proof communities and protect future generations from the harms caused by alcohol.
3. Increase advocacy for equitable alcohol policies that promote wellbeing.
4. Improve the live ability of communities by providing environments free from alcohol harm.
5. Address alcohol harm reduction by considering new policy options from a community workshop and establishing benchmarks and a monitoring framework for future policies and reviews.

What does the tool do?

The Local Alcohol-EPI tool:

1. Identifies potential local government initiatives and provides national and international Examples.
2. Enables councils to benchmark their progress against others (e.g. via workshop process with key stakeholders).
3. Provides a guide/process to assist councils to explore new areas for action and identify initiatives that are appropriate in their local context.
4. Provides a guide/process to assist councils to monitor progress and build a body of evidence on local alcohol action.
5. Can be used to inform the development of a local government alcohol strategy.

Background content on the Local Alcohol Policy & Alcohol Control Bylaw

PURPOSE

The topic of alcohol regulation for Porirua is extensive. This paper is intended to capture the important aspects of Local Alcohol Policy (The Policy) and Alcohol Control Bylaw (The Bylaw) that are important background information to help elected members understand alcohol regulation and the review of both the Policy and Bylaw. This document is designed to provide elected members with background material highlighting:

- The statutory framework involved with alcohol regulation,
- the current Local Alcohol Policy and Alcohol control bylaw,
- Recent updates made to legislation,
- The most recent caselaw set in Auckland Council's LAP,
- Policy options for the Bylaw and LAP
- Information on other council's policies and discretionary conditions.

SALE AND SUPPLY OF ALCOHOL ACT

The Sale and Supply of Alcohol Act 2012 (the Act) allows for the sale, supply and consumption of alcohol in Aotearoa. The object of this Act is that:

- the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
- the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

Key features of the Sale and Supply of Alcohol Act include:

- The ability of communities to have a say about alcohol licensing in their local area.
- Allowing local-level decision-making for all licence applications.
- The rules around the types of stores allowed to sell alcohol.
- The maximum default trading hours for licensed premises.

Section 75(2) of the Act provides councils with the ability to introduce a Local Alcohol Policy.

SALE AND SUPPLY OF ALCOHOL (COMMUNITY PARTICIPATION) ACT 2023

In August 2023 the Sale and Supply of Alcohol (Community Participation) Amendment Act was passed. The Amendment Act aimed to improve communities' ability to influence alcohol regulation in their areas. The main changes to the Act were:

- Removing the appeals process
- Removing the requirement to have a provisional local alcohol policy,
- Removing cross-examinations from licensing hearings, and
- Allowing anyone to object to an alcohol licence application.

The amendments mean external parties are no longer able to appeal the LAP through ARLA; however, it is still possible to bring judicial review proceedings against councils.

These changes provide communities with greater opportunity to be heard and have genuine influence in shaping local alcohol policies. It also makes the license hearings and objections process more accessible to our community, which may encourage greater community input.

LICENSING PROCESS AND DECISION MAKING

Under the Act there are four types of licences to sell and supply alcohol¹, these are:

- On-licence – where alcohol is sold and consumed on the premises e.g., bars, taverns, nightclubs, BYO restaurants, venues hired for use for events like weddings/receptions.
- Off-licence – where alcohol is sold and consumed after it leaves the premises² e.g., supermarkets, bottle stores, grocery stores.
- Special licence – where a licence is granted for a one-off or a series of large events. Special licences can be granted as an on-site special licence or off-site special licence.
- Club licence – where alcohol is bought and consumed on the premises, but the licence holder is a body corporate aimed at promoting a sport or recreational activity and does not operate for financial gain³

Prospective applicants must apply to the DLC (the District Licencing Committee) to consider their application⁴. If a LAP is available, the DLC will use it to guide decision-making on all alcohol licence applications.⁵

When granting, renewing or varying a licence, the DLC is required to consider a range of factors, including but not limited to the object of the Act, the design of the premises and the effects of issuing the licence on the amenity and good order of the locality.⁶

The DLC can then decide to issue, re-issue or decline a licence. A licence application can be denied if inconsistent with the LAP.⁷ If they issue a licence, then they can issue the licence subject to conditions listed in the LAP.⁸ They can also issue a licence on a range of matters listed in the Act including (but not limited to) who the licensee can sell alcohol to and conditions relating to the management of the premises.⁹ As long as the condition is not inconsistent with the Act, the DLC can impose any condition it sees fit.¹⁰

¹ S13, Sale and Supply of Alcohol Act 2012

² S17, Sale and Supply of Alcohol Act 2012

³ S5, Sale and Supply of Alcohol Act 2012 (see definition of 'club')

⁴ S99, Sale and Supply of Alcohol Act 2012

⁵ S187, 146, 147 and 120, Sale and Supply of Alcohol Act 2012

⁶ S105, 106, 120, 131-133 Sale and Supply of Alcohol Act 2012

⁷ S108, Sale and Supply of Alcohol Act 2012

⁸ S109, Sale and Supply of Alcohol Act 2012

⁹ See s110-119 and s147 of the Sale and Supply of Alcohol Act 2012

¹⁰ S117, 133(a) and (b), 145, 147, Sale and Supply of Alcohol Act 2012

The Police, Medical Officer of Health and a Licensing Inspector must be given the opportunity to inquire into, and object to, the application.¹¹ However, anyone can object to an application to a grant or renewal of a licence, whether as an individual or as a representative of a group.¹² This is a change from the previous legislation, which only allowed a person to object if they had 'a greater interest in the application for the licence than the public generally'.¹³ Examples of a greater interest than the public generally could include living or working close by, or being a board of trustee of a nearby school or marae.¹⁴

If there is dissatisfaction with a decision of the DLC then parties to the decision can appeal to ARLA.¹⁵

From May 2024, the new legislation also requires licensing committees to consider applications in a manner that avoid unnecessary formality. Licensing committees must also allow for incorporation of tikanga Māori into proceedings and usage of te reo in proceedings, and the licensing committee is now required to consider requests for anyone to participate in a hearing via remote participation.

WHAT IS A LOCAL ALCOHOL POLICY?

A Local Alcohol Policy (LAP) is a policy that may be adopted by a territorial authority relating to the sale, supply, or consumption of alcohol in the district. A LAP can include provisions such as the maximum hours of trade for a licensed premises and where licensed premises can be located. The District Licensing Committee (DLC) and Alcohol Regulatory and Licensing Authority (ARLA) must consider Local Alcohol Policies (if there is a LAP applicable to the district) when making decisions on licence applications or renewals.

Having a LAP is one way the community can influence more restrictive limits on alcohol licences. It enables the community to have a say on alcohol licensing in their city.

When creating a LAP, territorial authorities are required to consider:

- The objectives and policies of the District Plan.
- Demographics and health indicators of residents and demography of visitors.
- Numbers of existing licences in the district, and location and opening hours of each.
- Areas where bylaws prohibit alcohol in a public place
- The nature and severity of alcohol related harms in the district.¹⁶

The territorial authority is also required to consult with the Police, alcohol licensing inspectors and Medical Officers of Health when formulating the policy.¹⁷

A LAP may include the following¹⁸:

¹¹ S103, 129 Sale and Supply of Alcohol Act 2012

¹² S102(1),(1A), 128 Sale and Supply of Alcohol Act 2012

¹³ S102(1), Sale and Supply of Alcohol Act 2012 as at 27 July 2023

¹⁴ <https://www.actionpoint.org.nz/on-licence-what-you-need-to-know>

¹⁵ S154, Sale and Supply of Alcohol Act 2012

¹⁶ S78(2), Sale and Supply of Alcohol 2012

¹⁷ S78(4), Sale and Supply of Alcohol 2012

¹⁸ S77, Sale and Supply of Alcohol Act 2012

- The maximum trading hours licenced premises can sell and supply alcohol in the district (which may differ from the maximum hours prescribed in the Act¹⁹).
- Limits on the location of licenced premises by reference to broad areas or proximity to facilities/premises of specific kinds.
- Whether further licences (or kinds of licences) should be issued for premises in the district.
- Recommended discretionary conditions for licences. These are conditions that the DLC (and ARLA) can impose if it is reasonable and not inconsistent with the Act²⁰.
- Specified conditions for types of licences e.g. one-way door restrictions.

HOW DOES A COUNCIL ADOPT A LAP?

Under the Act, councils can choose to develop and adopt a LAP. If a council chooses to develop a LAP, they are legally required to produce a draft policy and consult with the public on it²¹. After consultation, a council must give public notice of the policy.²² The policy is adopted 30 days after it is publicly notified (some provisions require three months' notice before coming into effect)²³ and must be submitted to ARLA.

The process of adopting a LAP prior to mid-2023 required councils to submit their Provisional Local Alcohol Policy (PLAP) to ARLA for review and to enable possible appeals. This is where any parties that made a submission to the initial public consultation were able to appeal the PLAP²⁴. Appeals were commonly made by community groups and industry representatives and were lengthy legal processes that commonly delayed or ended LAP development.

Appeals could be resolved by negotiation between the appellants, as happened in Porirua's case²⁵, or if that was not possible through a hearing before ARLA.²⁶ Once all appeals are resolved, the new policy is adopted 30 days after the final policy was publicly notified.²⁷

Porirua's PLAP was held up in the appeals process for three years before it was re-negotiated and approved in 2017. The main basis of the appeals included:

- Industry appellants disagreed with the sensitive site provisions applying to Supermarkets, resulting in Council excluding supermarkets from sensitive site provisions.

¹⁹ S43, 45, Sale and Supply of Alcohol Act 2012

²⁰ S117, Sale and Supply of Alcohol Act 2012. Also see s116 Sale and Supply of Alcohol Act 2012 for added requirements regarding discretionary conditions for off-licences

²¹ S78, 79 Sale and Supply of Alcohol Act 2012

²² S80, Sale and Supply of Alcohol Act 2012

²³ S81, Sale and Supply of Alcohol Act 2012

²⁴ S81(1), Sale and Supply of Alcohol Act 2012 (as at 24 August 2023)

²⁵ See ARLA 274899/2015, 274928/2015, 2755550/2015 joint memorandum dated 30 June 2015

²⁶ S82, Sale and Supply of Alcohol Act 2012 (as at 24 August 2023)

²⁷ S87, Sale and Supply of Alcohol Act 2012 (as at 24 August 2023)

- Industry appellants appealed two discretionary conditions on the grounds that the restrictions limiting advertising outside licenced premises to no more than 50% was not clearly connected to alcohol advertising only and the removal of litter outside a premises did not have a clear definition of what “outside a premises” meant. The Council made amendments to ensure the conditions applied to alcohol related advertising and clarification was provided to what types of areas were included in the litter condition.
- The appeal by Porirua Whanau Centre Trust derived from a request that the suburbs that make up Cannons Creek be considered a sensitive site in their entirety. There had been multiple occasions where the public had been required to mobilise, prepare letters of opposition and attend hearings relating to on and off liquor licence applications for both new and existing applications. Community advocates did not want any further alcohol licences in Cannons Creek. This appeal was later withdrawn upon assurances being provided by Council staff that it was highly unlikely a bottle store would ever be approved in the future for Cannons Creek.

CONTROLS AVAILABLE FOR CONSIDERATION IN A LAP

Section 77 of the Sale and Supply Act provides councils with quite broad provisions for consideration in our Policies.

A LAP can include provisions that:

- Control the location of licensed premises in the following ways:
 - Reference within broad areas (references to District plan zones, suburbs etc)
 - Proximity to other premises of a particular kind or kinds (density)
 - proximity to facilities of a particular kind (sensitive site provisions)
- Whether further licences should be issued within a district or part of a district. (Caps, sinking lids etc) these can be tailored to areas or zones etc.
- Maximum trading hours of all licences
- Discretionary conditions that can cover a range of things (advertising, no buy now pay later payment services)
- One-way door restrictions

PORIRUA CITY COUNCIL'S CURRENT LAP

In 2013, Porirua City Council agreed to develop a Local Alcohol Policy (LAP) under the Act.

A provisional LAP was adopted by the Council on 10 December 2014. Hearings and appeals followed over the next two years. The Council accepted changes to the Provisional LAP on 25 May 2016 and it was resubmitted to ARLA.

The LAP was adopted by the decision of ARLA on 30 June 2017 and ceased to be provisional. The LAP provisions, other than those relating to trading hours and one-way restrictions, came into force on 26 October 2017. The provisions relating to trading hours and one-way restrictions came into force on 26 January 2018. Porirua City Council's current LAP is attached as Appendix to the Council workshop report.

THE MAIN ASPECTS OF THE CURRENT LAP

1. Hours of operation:

Licence kind	Hours
Off licence	7AM-10PM
Off – remote	At any time on any day
On and club	8AM-2AM The following day
On - hotel	At any time on any day to lodgers
Club – RSA	8AM-2AM the following day, except 4am to 1pm on ANZAC Day
Special	At any time on any day – applications assessed on merits

2. Proximity to sensitive sites

Sensitive sites under the LAP are sites where the target users have been identified as having a greater vulnerability than the public to alcohol related harm as a result of direct exposure to premises that sell or supply alcohol.

Sensitive sites in Porirua, for the purpose of the LAP, are:

- Schools as defined by section 2 of the Education Act 1989, which does not include early childcare or kindergartens.
- Premises that are registered with the Alcohol and Drug Association of New Zealand as the location of a drug and/or alcohol treatment service provider.

The current LAP has reverse sensitivity and site impact assessment provisions which assist to identify the level of exposure of users of the sensitive sites, and any potential mitigation of exposure to alcohol. These provisions are intended to help support DLC decision making (refer to Appendix 1 for more detail).

3. Discretionary conditions

The LAP includes a range of discretionary conditions (included in Appendix 1) that may be applied to a licence to mitigate an identified foreseeable harm. In using its discretion to apply conditions, the DLC is guided by the following principles:

- Connection – whether there is a connection between an identified foreseeable harm to be addressed and the proposed licensing activity.
- Impact – whether there is evidence to support that the proposed condition will make the drinking environment safer and minimise harm.
- Reasonableness – whether it is within the capabilities of the applicant or licensee to satisfy this condition, any condition must be a proportionate response to an expressly identified harm or potential harm.

MONITORING, COMPLIANCE AND ENFORCEMENT

Under the Act the responsibility for managing monitoring, compliance and enforcement is given to three regulatory agencies:

- Police
- Medical Officer of Health, and
- Territorial Authority Licensing Officer which is a role within councils.

Regulatory agencies have an important role in monitoring licensed premises to ensure they operate within the law and with regard to public health and safety. They carry out a range of investigations and reporting. They can also apply to have a licence suspended, varied or cancelled.

Council Licensing Inspectors are appointed by the chief executive of each territorial authority. The Licensing Inspector has a range of functions, including the ability to inspect licenced premises, appearing at hearings, making applications to ARLA for modifying and suspension of licences, and enquiring into all applications for licences among others.²⁸

ALCOHOL CONTROL BYLAW 2018

An Alcohol Control Bylaw prohibits the possession and consumption of alcohol in certain locations at certain times. Territorial authorities are able to make alcohol control bylaws under s.147 of the Local Government Act 2002 (LGA) following a full community consultation process.

Alcohol-free zones are often introduced because of concern about disorderly behaviour and criminal offending linked to the consumption of alcohol in public places.

The Alcohol Control Bylaw 2018 imposes prohibitions on the drinking, possession and carriage of alcohol, between 5pm on one day and 7am the following day on all days of the week in the following places:

- Ngati Toa Domain
- Paremata/Pāuatahanui Inlet (west side)
- Plimmerton Beaches
- Pukerua Bay Beach
- Titahi Bay Beach

And at all times on all days of the week in:

- Broken Hill
- Calliope Crescent Playground
- Cannons Creek Business District
- Endeavour Park
- Porirua City Central Business District
- Rānui

²⁸ See sections 262, 267, 268, 220, 225, 103, 141, 129, 197(2) s71, s78(4), 170, 204-206, and 170 of the Sale and Supply of Alcohol Act 2012

- Titahi Bay Shopping Centre
- Waitangirua
- Whitby Adventure Park and Lakes
- Baxters Rise

Police enforce the bylaw using special powers under Sections 169, 169A and 170 of the Local Government Act 2002. Porirua City Council's Alcohol Control Bylaw can be found on the Council website²⁹.

DEVELOPING THE ALCOHOL CONTROL BYLAW

When developing an Alcohol Ban, Council must:

- a) Be satisfied that the Alcohol Ban gives effect to the purpose of the bylaw; and
- b) Complies with the decision-making requirements and relevant criteria under Subpart 1 of Part 6 of the LGA.
- c) Consider and specify the area and times that an Alcohol Ban will apply by resolution, which is to be publicly notified.
- d) Consider and specify whether an Alcohol Ban made under clause 6.1 will be permanent or temporary.

An Alcohol Ban may be amended or revoked at any time via Council resolution publicly notified and where the changes are minor or to correct errors in the bylaw.

Under section 147A and 147B of the Local Government Act 2002 before deciding that a alcohol control bylaw should continue with or without amendment, a territorial authority must be satisfied that the level of crime or disorder experienced before the bylaw was made is likely to return to the area to which the bylaw is intended to apply if the bylaw does not continue.

Evidence and data included in the Social Impact Assessment will inform the review of the bylaw and provide the basis for recommendations to Council for consideration.

NEW CASELAW: AUCKLAND COUNCIL SUPREME COURT RULING

In 2015 Auckland Council adopted its Provisional LAP. Through the previous appeals process managed by ARLA, Woolworths and Foodstuffs appealed based on their objection to two particular aspects of the PLAP:

1. 9am to 9pm maximum trading hours for all off-licences; and
2. Restrictions on new off-licences in certain parts of the city (either a temporary freeze and/or a rebuttable presumption against new licences).

Their objections were based on the grounds that they believed these aspects were unreasonable in light of the object of the Sale and Supply of Alcohol Act 2012 (Act). The appeal was dismissed by ARLA, which then escalated to the supermarkets taking judicial review proceedings challenging ARLA's decision to the High Court where they had some initial success, it then progressed to the Court of Appeal and then most recently the Supreme Court.

²⁹ https://storage.googleapis.com/pcc-wagtail-media/documents/Alcohol_Control_Bylaw_2018.pdf

In May 2023 the Supreme Court officially declined the supermarkets' claims and restored ARLA's original decision, which had upheld the relevant aspects of the Provisional LAP. Auckland's PLAP had been on hold for six years while the appeals were progressing.

The Supreme court ruling also has wider implications for Territorial Authorities across the country. It provides the judicial benchmark and rationale for specific policy choices for LAPs and also the scope of possible future legal challenges other Councils may face.

The Supreme Court's key findings as summarised by Simpson Grierson³⁰

1. LAPs reflect the policy choices of an elected territorial authority. They can be based on or influenced by community preferences. To that extent, they do not have to be evidence-based;
2. The Act contains default maximum trading hours, but local communities are free to choose trading hours which differ from the status quo. Trading hours that are shorter (or longer) than the maximum default hours in the Act do not have to be justified in terms of departure from a norm. Further, although any LAP should be tailored to the council's district, there does not have to be anything particular about that district to warrant deviation from the status quo;
3. Under the Act, the sole ground of appeal against an element in a LAP is that it is unreasonable in light of the object of the Act. That object incorporates two complementary aspects: the safe and responsible sale, supply and consumption of alcohol, and the minimisation of alcohol-related harm. Unreasonableness is therefore likely to come down to whether a restriction is a disproportionate limit on the sale and supply of alcohol, having regard to the likely impact of the restriction on ensuring the sale, supply and consumption of alcohol is safe and responsible, and on harm minimisation;
4. This will be an evaluative, perhaps impressionistic, assessment. LAPs address issues on which there is scope for a wide range of opinions. Analysis of their reasonableness must reflect that, and it should not be assumed there can be only one right (ie reasonable) answer to any disputed question;
5. It is open to a council when adopting a LAP to take a precautionary approach ie a restriction may be justified on the basis of there being a reasonable likelihood (rather than proof) that it will reduce alcohol-related harm;
6. An appeal to ARLA against a provisional LAP is not a merits-based appeal but simply a 'check' that the contested element is not unreasonable in light of the object of the Act. The Supreme Court was critical of the length of the hearing and the detail of factual analysis before ARLA in the appeals against Auckland's Provisional LAP, which "may suggest a misunderstanding of the role of" ARLA;
7. As a "matter of common-sense", it might be thought clear that a system that incorporates off-licence trading hours of 7am to 9pm is not unreasonable in light of the object of the Act.

³⁰ Simpson Grierson: Landmark alcohol decision has national implications 8/05/2023

What does this mean for Porirua City Council?

The judgement provides greater confidence that any new LAP developed can have a greater reflection of the Porirua communities preferences, without being fearful of legal challenges to LAPs. The community preferences can specifically include more restrictive off-licence trading hours. It also means that the evidence base supporting greater policy controls, although still important, can be secondary support to the preferences of the Community.

Overall, this ruling means there is likely to be greater respect given to council policy choices informed by community preferences, and significantly less scope for successfully challenging those choices.

COMPARATIVE ANALYSIS OF OTHER COUNCIL'S LAP'S

WHAT DO OTHER COUNCILS DO?

Not all councils have a LAP, as territorial authorities are not legally required to have a local alcohol policy³¹

As a result of the appeals process, many Councils started developing LAPs and then stopped halfway through. Councils throughout the country struggled with costly appeals and lengthy delays meaning it was more cost-effective to stop development (e.g. Christchurch abandoned development after incurring over \$1.1m in costs as a result of appeals³²).

WHAT HAPPENS IF A COUNCIL DOESN'T HAVE A LAP?

If a council does not have a LAP, sellers of alcohol in the district must comply with the minimum mandatory standards set out in the Act and in their alcohol licence. For example, if there is no LAP the maximum hours for an on-licence or club licence is 8am to 4am the following day, and 7am to 11pm for an off-licence, unless the licence conditions have more restrictive hours. The Act also contains other minimum requirements on on-and club licence holders such as requiring food and non-alcoholic drinks to be available and requiring all licensees to display their licence in a prominent location.

Having a LAP enables the community to provide additional conditions beyond those in the Act that could be imposed by the DLC when issuing a licence. It is one way the community can influence more restrictive limits on alcohol licences and balance the needs of responsible drinkers and businesses and the needs of those in the community that struggle with alcohol-related harm.

WHAT ABOUT THOSE COUNCILS THAT HAVE A LAP?

Of those councils that have a LAP, many have either already passed the six-yearly review date or are approaching that date. There have been mixed approaches to conducting a review of the LAP. Some councils chose to roll over the policy unmodified (pre-amendment) as it was simpler and cheaper to consult and let it roll over than amend the policy and go

³¹ s75(4), Sale and Supply of Alcohol Act 2012

³² <https://newsline.ccc.govt.nz/news/story/council-votes-to-rethink-local-alcohol-policy>

through the appeals process, especially if the LAP was largely working as intended.³³ Of those councils that did make substantive changes, there were a number who were reluctant to make changes requested from the community without enough substantive data for fear of challenge.³⁴

Some councils expanded licence hours to help support local industry.³⁵ Other councils found their LAPs had limited impact in reducing harm and updated their LAPs with more restrictive conditions after collating evidence in support.³⁶

Most councils' LAPs provide examples of discretionary conditions across the four licence types. Note, that the DLC has wide discretion to impose discretionary conditions, as long as they are not inconsistent with the Act.³⁷

Sensitive sites

It is common for LAPs to aim to reduce harm by placing limits on new licences around a given distance of specified sites where users of those sites may be especially vulnerable to alcohol harm, are already subject to greater alcohol harm, or where alcohol use would be particularly inappropriate for the area around the site. These are referred to as 'sensitive sites'.

Common sensitive sites include schools up to secondary level, early education centres, kohanga reo, playgrounds, health facilities/addiction treatment centres, marae, religious places or places of worship. The restriction zone around a sensitive site can vary from 50m up to 500m.

More uncommon types of sensitive sites include cemeteries and urupa (Horowhenua), community centres (New Plymouth), tertiary education sites (Wairoa and Rotorua), and educational facilities for elderly/unemployed people (Rotorua). Invercargill and Gore include residential areas within 50m of a licenced premises as a sensitive site, and require applicants to prove they have consulted with residents before issuing a licence.

The nature of restrictions on licences around sensitive sites varies. It ranges from banning all types of new licenced premises near sensitive sites (Dunedin, New Plymouth, Waitomo) to merely requiring the DLC to consider proximity to sensitive sites or other licenced premises before issuing a licence (Whangarei, Eastern Bay of Plenty).

³³ See Thames DC ([25 Jan 2022 Council, see page 5 of report](#)) and Tasman DC ([Strategy and Policy Committee, 5 Nov 2020, see page 103](#))

³⁴ For example, see the Invercargill and Southland Joint LAP. Police, health and social agencies and a number of submitters wanted to reduce trading hours for on and off licences but staff warned there wasn't enough statistical evidence to justify updating without running the risk of appeal/dispute. ([see p.12 Combined Local Alcohol Policy Joint Committee meeting agenda, 26 Sept 2019](#)).

³⁵ See Waimakariri – updated off licence hours for New Years' events so operators didn't have to apply for special licences every New Year's Eve (see page 162, Council agenda, 4 December 2018)

³⁶ For example, Lower Hutt's LAP had little impact on drinking rates or rates of crime-in response Council introduced area-specific cap on off licence numbers depending on risk factors in specific suburbs ([pages 9-21, Policy and Regulatory Committee meeting agenda, 27 February 2017](#) and [appendix 5 of the same meeting](#)). Western Bay of Plenty reduced opening hours in one area and capped numbers of new off-licence bottle stores as their first LAP had limited impact on reducing harm ([see page 14 onwards, Policy Committee meeting agenda, 10 March 2022](#) and [Discussion of options for consideration as a result of submissions](#))

³⁷ S117, Sale and Supply of Alcohol Act 2012

A less common form of sensitive site is restricting licence types (usually off-licences) in specified high-risk suburbs where there is greater evidence of alcohol-related harm in that area or there are demographic factors in that area that increase the risk of alcohol harm. For example, Western Bay of Plenty and Hutt City have caps on off-licence numbers in suburbs/areas where there is greater risk of or evidence of greater alcohol harm. Auckland's Provisional LAP has a 'priority overlay' which is comprised of higher risk suburbs; the policy provided for a temporary freeze on new off-licences in these areas.

The DLC can issue any licence subject to any reasonable conditions not inconsistent with the Act.³⁸ These are called 'discretionary conditions'. Discretionary conditions are additional conditions that are consistent with the Act but are not explicitly specified under ss50 to 62 of the Act. The LAP enables Council and the community to define the kinds of discretionary conditions the DLC should include in new licences.³⁹ However, the DLC is not restricted to the LAP when looking at what discretionary conditions to impose.⁴⁰

Common features of discretionary conditions for all licence types

Most LAPs tend to provide for Crime Prevention Through Environmental Design principles (CPTED) as part of potential discretionary licence conditions for all licence types. Such conditions can include requirements to install CCTV cameras, clean litter outside the premises, or provide good lighting in outdoor carparks and loading bays. It is also common for most licence types to require some form of requirement to keep a register of violent alcohol harm-related incidents, display safe drinking messages, and/or a requirement to notify police if violent alcohol-related harm takes place on the premises. Staff training requirements are also common, as are conditions prohibiting service to intoxicated persons or minors.

Common off-licence conditions

Many common off licence conditions overlap with the common features of discretionary conditions for all licence types listed above.

- Limits on off-licence numbers depending on area or District Plan zoning.
- Limits on alcohol advertising outside premises and/or requirement to have minimum amounts of transparent glazing.

Unusual off-licence conditions

Unusual conditions for off-licences, include:

- Whanganui and Eastern Bay of Plenty mention conditions on when single units can be sold or when groups of single units can be sold.
- Auckland tried to introduce a requirement for off licences to close for an hour after school finishes (although this was removed after an appeal).
- Auckland intended to freeze off licence numbers in higher-risk areas for a period after the policy comes into force.

³⁸ S117, s116 Sale and Supply of Alcohol Act 2012

³⁹ S109, Sale and Supply of Alcohol Act 2012

⁴⁰ S117, Sale and Supply of Alcohol Act 2012

- Ashburton issue more restrictive trading hours if there is going to be more than a minor impact on order or amenity in the surrounding area.
- Auckland may require a local impacts report setting out the potential impact of the off licence within a 500-metre radius of the licenced premises (Auckland).
- Horowhenua have a limit of 10.15pm to allow customers who come in at 10pm to purchase alcohol – inclusion of this condition is conditional on the retailer taking reasonable steps to ensure no one comes in after 10pm.

Common on-licence conditions

Common on-licence conditions include:

- A distinction between hours of restaurants and cafes vs taverns/nightclubs etc.
- A requirement to have a minimum number of security staff to patron ratio.
- A one-way door restriction after a certain time.
- Requirements as to the size and type of last orders.
- Limits on glass receptacles.
- Restrictions on outdoor areas.
- Requiring risk or alcohol management plans if there is a larger event (noise management plans may also be required but this is less common).
- Requirement to have a host responsibility policy.
- Requirement to display safe drinking messages.

Unusual on-licence conditions

Unusual conditions for on-licences, include:

- Auckland required new licensees to prepare local impacts report considering the impact of the licence within a 500m radius of the licenced premises.
- Horowhenua may impose more restrictive hours on first time licensees.
- Thames-Coromandel required new licensees to provide an acoustic design certificate required if within 500m of a residential boundary and intending to open past 11pm.
- Similarly, Western Bay of Plenty required an existing licensees was required to provide an acoustic design certificate if a complaint about noise was received.
- Masterton/Carterton/Wairarapa's joint LAP allows prohibition of gang regalia in on-licences.
- Western Bay of Plenty can impose conditions regarding no alcohol service within a specified time of closure.
- Masterton/Carterton/Wairarapa may require a licensee to prepare management plan to minimise impact on nearby properties.

Common club licence conditions

Common conditions for club licences, include:

- Require a certificated manager above a certain number of patrons.
- Display of safe and responsible drinking messages.

- Host responsibility policy.
- CPTED principles e.g. good lighting, CCTV.
- Provision of transport.
- Maintain register of significant alcohol-related incidents.
- Limits on drinks per customer or vessels e.g. no glass receptacles.

Unusual club licence conditions

Unusual conditions for club licences, include:

- Thames-Coromandel and Whanganui require club venues with outdoor areas to have a management plan detailing how the impact will be reduced on the surrounding locality.
- Ashburton may impose a requirement stating approved drinking areas are to exclude playing fields or areas.
- Ashburton may also require provision of security staff at certain times on specified days.
- Western Bay of Plenty may require an acoustic design certificate if a new club licence opens within 500m of a residential boundary.

Common features of special licence conditions

Common conditions for special licences, include:

- Hours tend to be at the DLC's discretion.
- A special licence for a series of events over 6 to 12 months and a limit on numbers of events covered by the licence.
- Depending on the scale of the event, may require a risk/traffic/management/noise management plan particularly.
- Similar conditions as per on, club and off-licence conditions depending on whether the special licence is a special on, special off, or special club licence.
- Depending on the nature of the event, licencees may be required to have a smaller alcohol consumption area within the bounds of a larger event.
- Limiting service to invited guests only.
- Minimum numbers of staff/certificated staff and/or security to patron ratio.

Unusual special licence conditions

Unusual conditions for special licences, include:

- New Plymouth may require involvement from the police, Fire and Emergency NZ, and/or Te Whatu Ora/the Ministry of Health if it is a large-scale event.

- Rotorua requires specific meal sizes to be available depending on the duration of the event. Shorter events may require finger foods to be readily available, while longer events may require full meals to be available. This is an extension of the Act requirement to provide reasonably accessible food at events⁴¹.
- Some councils may refuse or carefully consider alcohol licences for specified types of events e.g. child centred events such as school galas, school kapa haka events (Wairoa); driving events (Tasman).
- Masterton/Carterton/South Wairarapa may require licensees to impose restrictions on BYO alcohol.
- Lower Hutt may impose different hours for Council-owned footpath areas outside establishments if a special licence uses Council-owned footpath areas at an establishment or as part of a special licence.
- Eastern Bay of Plenty may require easily identifiable staff uniforms.

⁴¹ S53 Sale and Supply of Alcohol Act 2012

ALCOHOL CONTROL BYLAW 2018

PART 1 INTRODUCTION

1. TITLE

1.1 This bylaw is the Porirua City Council Alcohol Control Bylaw 2018.

2. COMMENCEMENT

2.1 This bylaw comes into force on 19 December 2018.

3. PURPOSE

3.1 The purpose of this bylaw is to control the consumption or possession of alcohol in public places to reduce alcohol related harm.

4. DEFINITIONS

4.1 In this bylaw, unless the context requires otherwise:

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

Alcohol Ban means a restriction on the consumption, bringing into or possession of alcohol in certain public places, that is either permanent or for a specified period.

Council means the Porirua City Council, or any person delegated to act on its behalf.

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

Person includes an individual, a corporation, a body corporate, and an unincorporated body.

Premises means any separately occupied land, building, or part of the same.

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

Vehicle means any contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and includes a trailer.

**PART 2
CONTROL OF ALCOHOL**

5. ALCOHOL BANS

- 5.1 A person is prohibited from consuming, bringing into, or possessing alcohol in any public place (including in a vehicle) where an Alcohol Ban is in place.
- 5.2 An Alcohol Ban does not apply to alcohol in an unopened container where:
- (a) it is being transported from licensed premises if it was lawfully bought on those premises for consumption off the premises and is promptly removed from the alcohol ban area; or
 - (b) it is being transported for delivery to licensed premises; or
 - (c) it is being transported to premises by, or for delivery to, a resident of the premises or by his or her bona fide visitors; or
 - (d) it is being transported from premises to a place outside the alcohol ban by a resident of those premises and promptly removed from alcohol ban area.
- 5.3 The Alcohol Bans established by this bylaw are described in **Schedule 1**.

6. MAKING ALCOHOL BANS

- 6.1 The Council may make an Alcohol Ban for the purpose of prohibiting or otherwise regulating or controlling, either generally or for one or more specified periods, any or all of the consumption, bringing into, or possession of alcohol in public places (including in a vehicle).
- 6.2 The Council must, before making an Alcohol Ban:
- (a) be satisfied that the Alcohol Ban gives effect to the purpose of the bylaw; and
 - (b) complies with the decision-making requirements and relevant criteria under Subpart 1 of Part 6 of the Local Government Act 2002.
- 6.3 The Council must consider and specify the area and times that an Alcohol Ban will apply by resolution, which is to be publicly notified.
- 6.4 The Council must consider and specify whether an Alcohol Ban made under clause 6.1 will be permanent or temporary.
- 6.5 An Alcohol Ban may be amended or revoked at any time via Council resolution publicly notified and where the changes are minor or to correct errors in the bylaw.

7. ALCOHOL BAN SIGNAGE

- 7.1 The Council must display Alcohol Ban signage that informs the public of the existence, boundaries and application of any Alcohol Ban.
- 7.2 The absence of any signage about an Alcohol Ban is not a defence against a breach of this bylaw.

**PART 3
COMPLIANCE**

8. EXEMPTIONS

- 8.1 This bylaw does not apply to areas (including public places) or activities that are covered by a licence issued under the Sale and Supply of Alcohol Act 2012, including (but not limited to):

- a) any public place which forms part of a licensed premises' outdoor area, where permission to occupy that area has been granted by Council;
- b) the carrying of alcohol directly between two different parts of a licensed premises across a public place which separates the licensed premises;
- c) any public place that is subject to a special licence, for the term of that licence.

8.2 Any person can apply in writing to Council for an exemption to this bylaw.

9. ENFORCEMENT

- 9.1 Breaches of this bylaw are enforced by the Police who are empowered to:
 - a) search any vehicle or container (for example, a parcel, package, bag or case) within, or entering, an Alcohol Ban area;
 - b) Seize or remove alcohol and any container in breach of this bylaw;
 - c) Issue an infringement notice for any breach of this bylaw and impose an infringement fee; and
 - e) Arrest any person who refuses to comply with this bylaw.
- 9.2 Every person who breaches this bylaw is liable to a penalty under the Local Government Act 2002.
- 9.3 An infringement fee for breaching an Alcohol Ban is provided under the Local Government (Alcohol Ban Breaches) Regulation 2013.

SCHEDULE 1

ALCOHOL BAN AREAS

Titahi Bay Beach

This area has an alcohol ban between 5.00pm on one day and 7.00am the following day, all days of the week.



Paremata/Pauatahanui Inlet (West Side)

This area has an alcohol ban between 5.00pm on one day and 7.00am the following day, all days of the week.



Print Date: 2005/06

Appendix 2:

Paremata/Pauatahanui Inlet (West Side)

The information displayed in the GIS has been taken from
Porirua City Council's databases and maps.
Digital cadastral data supplied by Corin and
sourced from LINZ CRS. CROWN COPYRIGHT RESERVED
Aerials flown 2016

Ngāti Toa Domain

This area has an alcohol ban between 5.00pm on one day and 7.00am the following day, all days of the week.



Print Date: 28/05/18



**Appendix 3:
Ngāti Toa Domain**

The information displayed in the GIS has been taken from Porirua City Council's databases and maps. Digital cadastral data supplied by Corin and sourced from LINZ GIS. CROWN COPYRIGHT RESERVED
Aerials flown 2016

50 25 0 50 Metres

Plimmerton Beaches

This area has an alcohol ban between 5.00pm on one day and 7.00am the following day, all days of the week.



Print Date: 29/08/24



porirua city

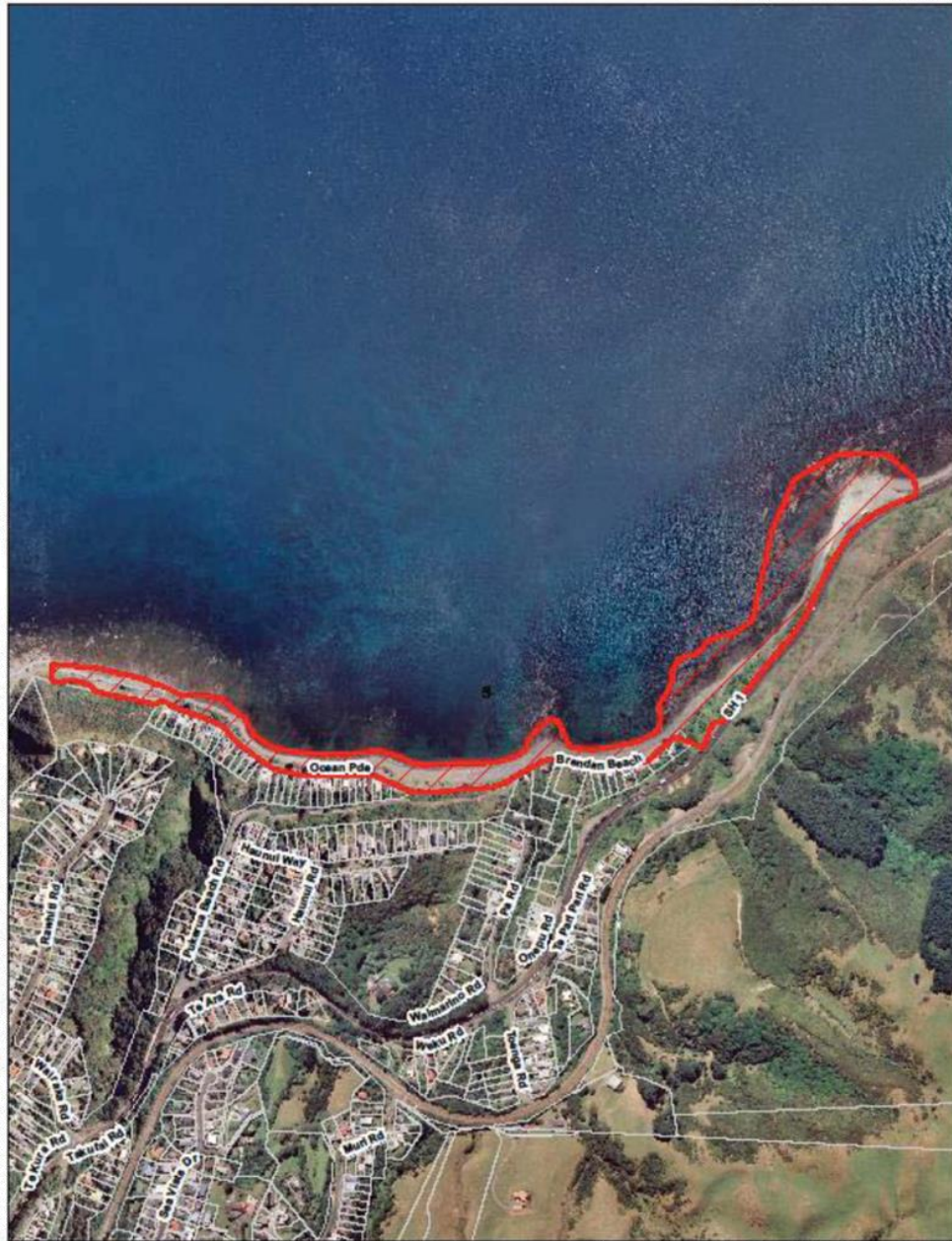
Appendix 4
Plimmerton Beaches

The information displayed in the GIS has been taken from
Porirua City Council's databases and maps.
Digital cadastral data supplied by Corin and
sourced from LINZ CRS. CROWN COPYRIGHT RESERVED
Aerials flown 2018

5025 0 50 Metres

Pukerua Bay Beach

This area has an alcohol ban between 5.00pm on one day and 7.00am the following day, all days of the week.



Print Date: 28/03/16



porirua**city**

Appendix 5
Pukerua Bay Beach

The information displayed in the GIS has been taken from
Porirua City Council's databases and maps.
Digital aerial data supplied by Corrs and
sourced from LINZ CIRS. CROWN COPYRIGHT RESERVED
Aerials Flown 2016

5025 0 50 Metres

Porirua central business district (CBD)

The Porirua CBD has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Cannons Creek Business District

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Titahi Bay Shopping Centre

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



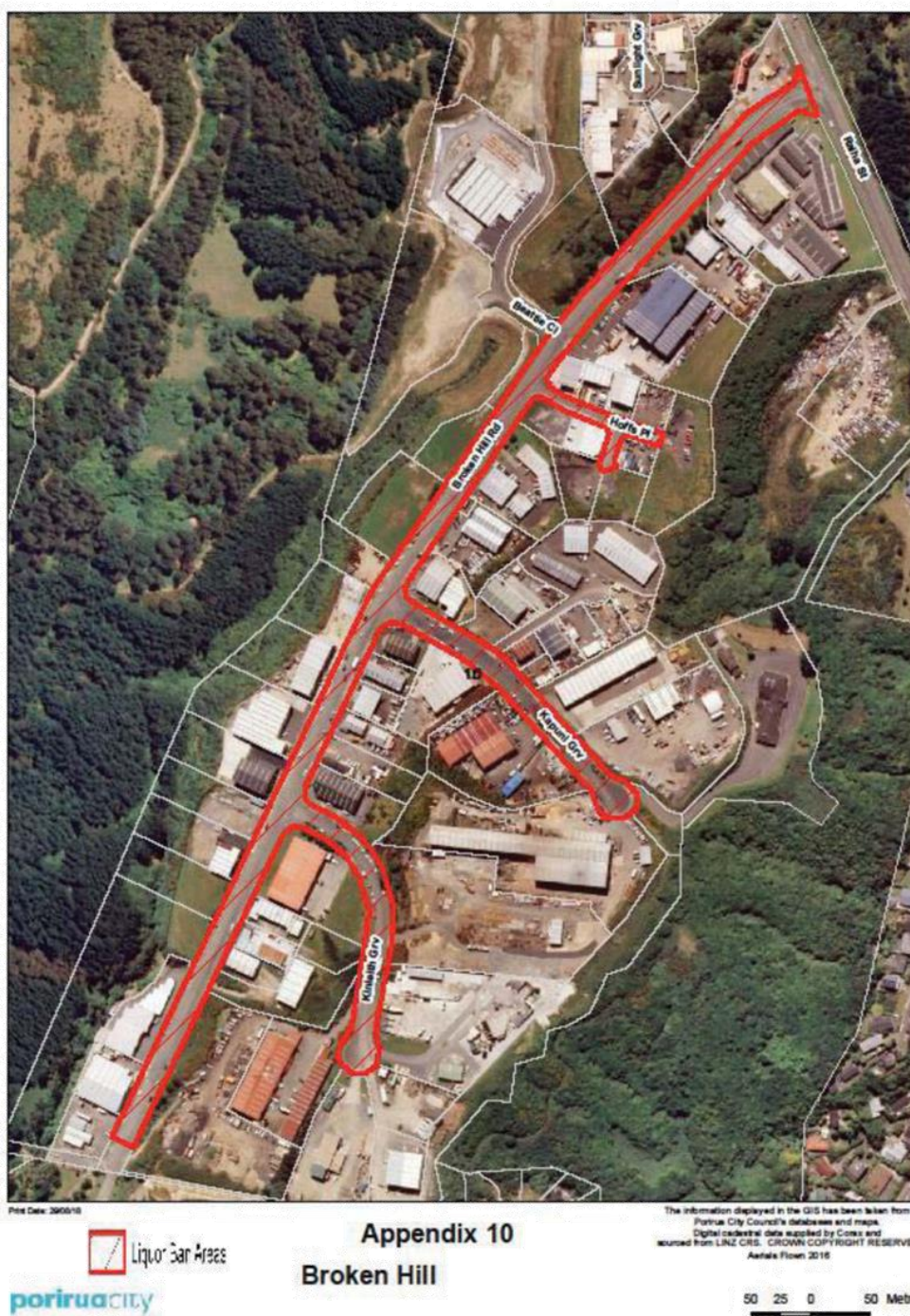
Ranui

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Broken Hill

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Calliope Crescent Playground

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Print Date: 29/08/18



porirua city

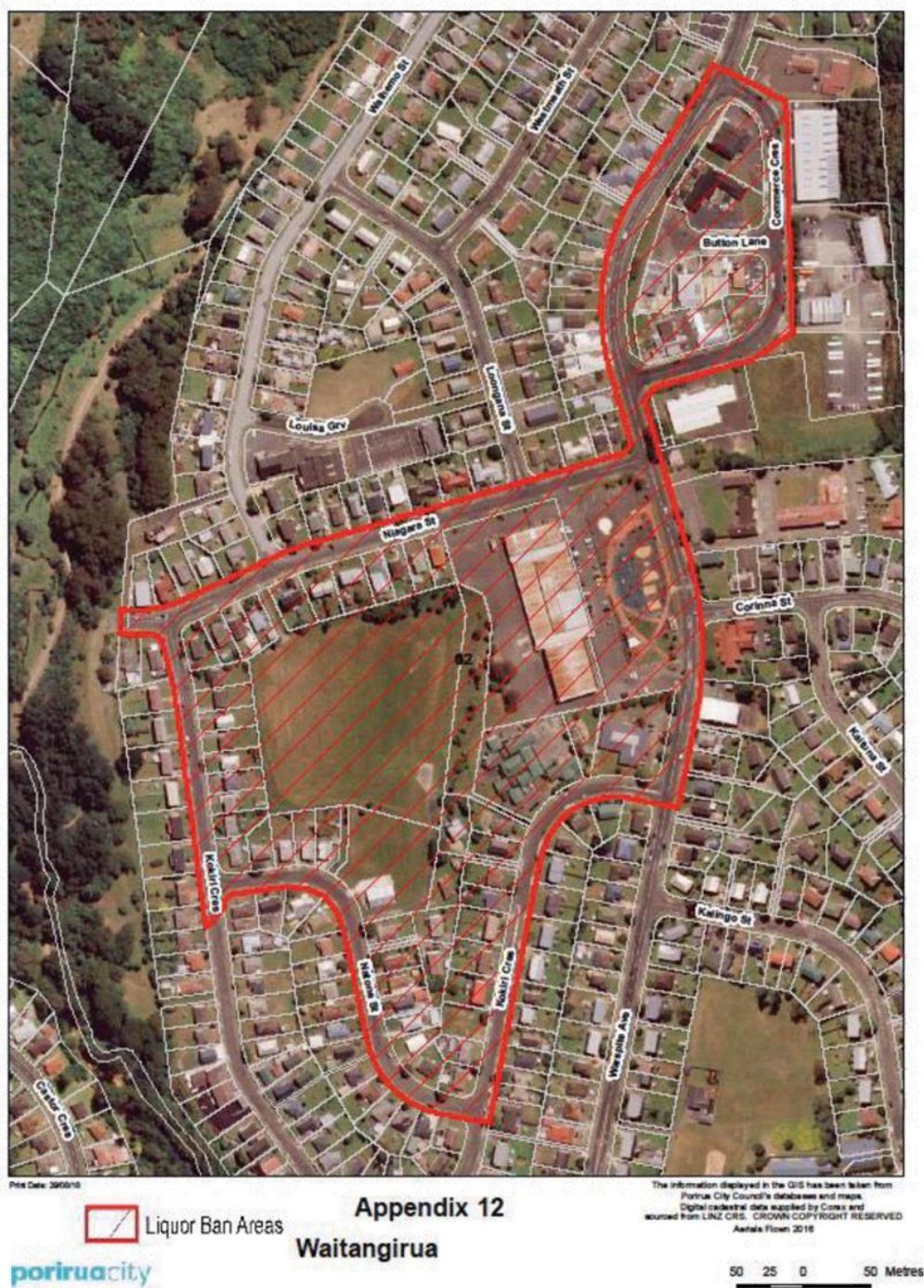
Appendix 11
Calliope Crescent Playground

The information displayed in the GIS has been taken from Porirua City Council's databases and maps. Digital cadastral data supplied by Coru and sourced from LINZ CRS. CROWN COPYRIGHT RESERVED. Aerials flown 2016

50 25

Waitangirua

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



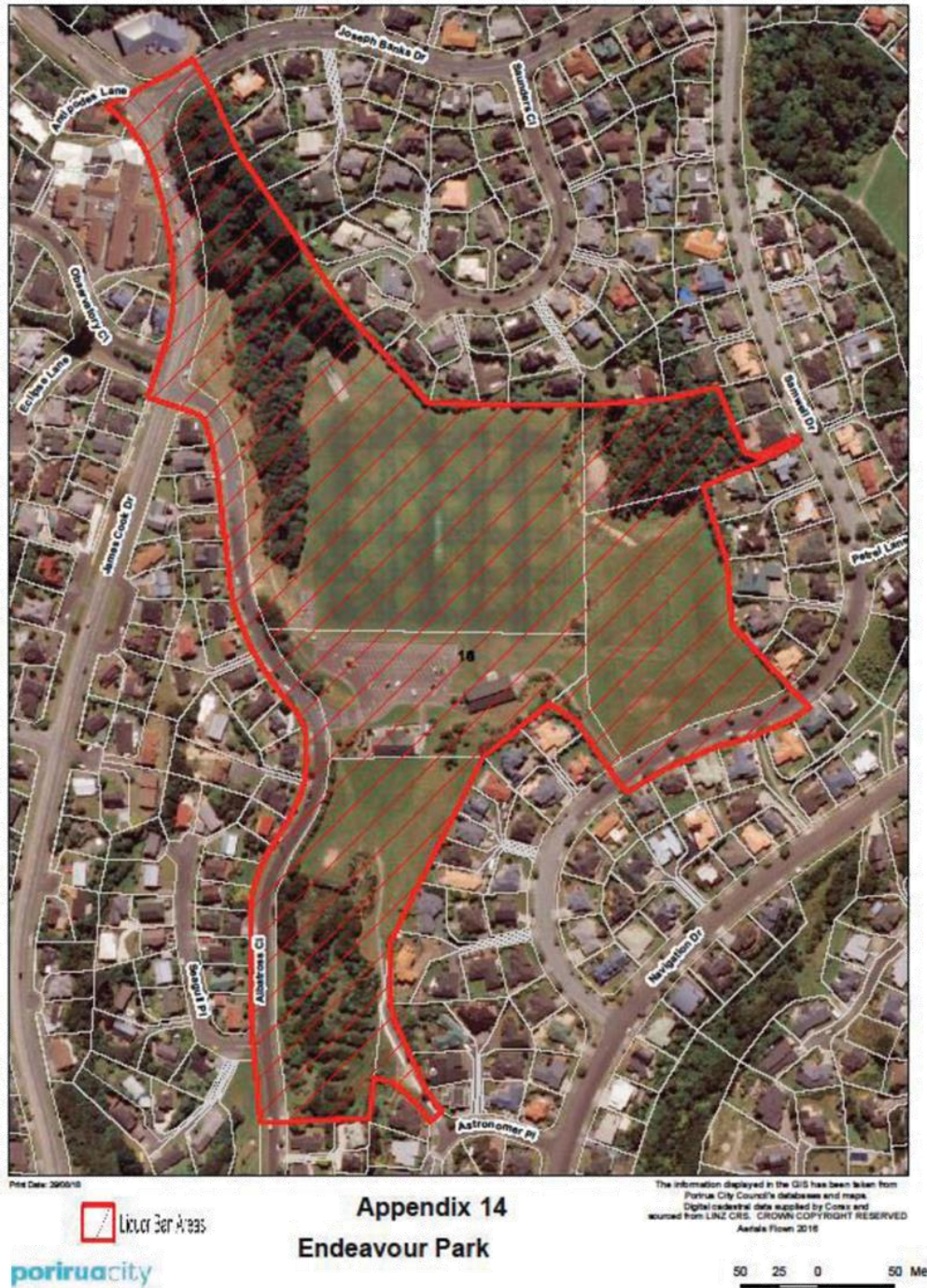
Whitby Adventure Parks and Lakes

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Endeavour Park

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).



Baxters Rise

This area has a permanent alcohol ban (24 hours, 7 days a week, 365 days a year).

