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Agenda for an extraordinary meeting of the Waikato District Council to be held via Audio-Visual Conference on **THURSDAY, 6 OCTOBER 2022** commencing at **1.00pm**.

*Information and recommendations are included in the reports to assist the Council in the decision making process and may not constitute Council's decision or policy until considered.*

**1. APOLOGIES AND LEAVE OF ABSENCE**

**2. CONFIRMATION OF STATUS OF AGENDA**

**3. DISCLOSURES OF INTEREST**

**4. REPORTS**

4.1	Audit & Risk Committee Achievements 2021-2022	4
4.2	Adoption of Provisional Local Alcohol Policy	10

**5. EXCLUSION OF THE PUBLIC**

It is intended to discuss these matters in the open section of the meeting, however should in depth legal advice be requested from the Council a resolution may be passed to exclude the public to hold these discussions.

GJ Ion  
**CHIEF EXECUTIVE**

## TERMS OF REFERENCE AND DELEGATION

<b>Chairperson:</b>	His Worship the Mayor
<b>Deputy Chairperson:</b>	Deputy Mayor
<b>Membership:</b>	The Mayor and all Councillors
<b>Meeting frequency:</b>	Six weekly – or as required
<b>Quorum:</b>	Half of the members (including vacancies)

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### Purpose

1. To provide leadership to, and advocacy on behalf of, the people of the Waikato District.
2. To define and represent the total communities' interests, ensuring ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment, and the prudent management of the communities' financial resources.

### Terms of Reference

The Council's terms of reference include the following powers which cannot be delegated to committees, subcommittees, officers or any other subordinate decision-making body:

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-Term Plan.
4. The power to adopt a Long-Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long-term Plan or developed for the purpose of the local governance statement, including the Council's Infrastructure Strategy.
7. The power to adopt a remuneration and employment policy.
8. The power to approve or amend the Council's Standing Orders.
9. The power to approve or amend the Code of Conduct for elected members, and consider any recommendations made in relation to a complaint lodged under the Code.
10. The power to appoint and discharge:
  - a. members (including chairpersons) of Council committees and subordinate decision-making bodies, subject to the Mayor's powers under section 41A Local Government Act 2002; and
  - b. elected member representatives on external organisations.
11. The power to establish a joint committee with another local authority or other public body, and appoint elected members as representatives on such committees or bodies.

12. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the Ombudsman's recommendation.
13. The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
14. The power to amend or replace the delegations in Council's Delegations Register (except where expressly permitted in the Delegations Register).

To exercise the following powers and responsibilities of Council, which the Council chooses to retain:

1. To approve a proposed policy statement or plan under the Resource Management Act 1991.
2. To approve changes to boundaries of the District under the Resource Management Act 1991 or any other legislation.
3. In respect of District Plan decisions:
  - a. To appoint independent commissioners to a panel for hearings of a Proposed District Plan;
  - b. To approve the recommendation of hearings commissioners on a proposed plan, plan change or variation (including private plan change); and
  - c. To approve a proposed plan or a change to a district plan under Clause 17, Schedule 1 of the Resource Management Act 1991.
4. To adopt governance level strategies, plans and policies which advance Council's vision and strategic goals (e.g. Hamilton to Auckland rail), other than where expressly delegated to a committee.
5. To approve Council's recommendation to the Remuneration Authority for the remuneration of elected members.
6. To approve the Triennial Agreement.
7. To approve resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer and reviewing representation arrangements.
8. To approve any changes to the nature and delegations of any Council committees or subordinate-decision making bodies.
9. To approve the Local Governance Statement.
10. To approve any additional funding decisions required for the Watercare Services contract.
11. To receive six-monthly reports from each Community Board on its activities and projects.

<b>To</b>	<b>Waikato District Council</b>
<b>Report title</b>	<b>Audit &amp; Risk Committee Key Achievements</b>
Date:	28 September 2022
Report Author:	Kelly Newell, Resilience Manager
Authorised by:	Peter Stubbs, Chairperson

## **1. Purpose of the report**

### **Te Take moo te puurongo**

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To update Council on the key activities and achievements of the Audit & Risk Committee for the year ended 30 June 2022.

## **2. Executive summary**

### **Whakaraapopotanga matua**

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The Audit and Risk Committee (Committee) terms of reference provide that it is responsible for:

- Considering and reviewing the adequacy of Council's risk management and internal control frameworks.
- Monitoring and seeking assurance on the functioning of Council's risk management and internal control frameworks (including systems and processes).
- Managing the independent auditor (internal and external) expectations and relationships.

To achieve the above purpose the Committee has developed a work programme covering specific areas as detailed below, with the relevant action which the committee considers has delivered on the terms of reference objective.

The Committee has no decision-making powers but works with Council and the Chief Executive, making recommendations to support the implementation of best practice risk governance.

This report provides a summary of the key activities and achievements of the Committee as required by the terms of reference and was considered by the Audit & Risk Committee on 29 September 2022 where it was resolved to forward the report to Council.

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### 3. Staff recommendations Tuutohu-aa-kaimahi

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**THAT the Waikato District Council notes the Audit and Risk Committee Achievements for year ending 30 June 2022.**

### 4. Background Koorero whaimaarama

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The Committee has developed an annual work programme to provide it with assurance the objectives of the Committee are met. The work programme encompasses several standing items and specific risk, audit and other based items. The items are addressed through reports and written and verbal updates provided to the Committee at each meeting. The Committee's primary focus is on critical risks and assurance.

### 5. Discussion Matapaki

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The Committee received and engaged in the following quarterly standing item reports during the past year:

- Chief Financial Officer Report; describing financial risks and issues including funding, insurance, and procurement.
- Strategic Risk and Emerging Risks Report; detailing changes to Councils eleven strategic risks, emerging risks that may have impact in the Local Government sector, and updates on Councils Risk Management Framework and associated risk culture activities. The review of the Strategic Risks was undertaken in a facilitated workshop by KPMG with Council and subsequently confirmed for inclusion in the risk register by the committee.
- Risk Conversations Report; providing an overview of operational risks with risk owners within a designated business area.
- Strategic Risk Deep Dive Report; performing an in-depth review and analysis of a key risk for the purpose of maintaining currency and providing assurance
- Zero Harm Update Report; detailing performance against agreed Health and Safety targets and assurance on management action associated with Council's Critical Safety risks.
- Post Implementation Reviews and/or Incident Debrief Report, summarising outcomes from a key project or incident appraisal.
- Quality Governance and Assurance Report; outlining progress against audit recommendations and a rolling review of bylaw and policy updates.

The Committee has presided over a more focused terms of reference and evolution of information, reports and discussion to deliver on this.

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In addition to the standing items referred to above the Committee completed the following specific engagements as documented in the terms of reference:

- Final Audit Management Report for the Long-Term Plan 2021-31
- Annual Report Risk Assessment 2021
- Tax Risk Mitigation Update: ensuring Council maintains progress and best practice governance and tax compliance standards.
- Revision of the Audit & Risk Committee Terms of Reference; update and adoption by the Committee; recommendation for adoption to Council.
- Adoption of the Audit & Risk Committee Future Annual Work Programme (2022)
- Fraud and Corruption Risk Management Update.
- Sensitive Expenditure Policy Review; seeking endorsement of the revised policy from a risk perspective.
- Final Audit New Zealand Management Report for Year Ended 30 June 2021; issues identified during the year end Annual Report audit included on action list.
- KPMG facilitated Strategic Risk and Risk Appetite Review workshop with Council
- Risk Management Framework Review; annual review for currency and best practice.
- Strategic Communications risk conversation encompassing current issues, risks and opportunities; work being undertaken to improve our communications, marketing, and engagement function at Council.
- Insurance Policy / Premium Confirmation; outcome of the insurance renewal and related premiums.
- Prepared a Committee Performance Evaluation Survey for distribution; proposed strategy to deliver on the Committee's objective to improve its performance. Reviewed the results and have had a workshop to make recommendations to Council.
- Zero Harm Safety Management System Audit 2021 – Post Implementation Report; provision of key findings from the report and compliance against International Organisation for Standardisation ("ISO") standard 45001:2018
- WDC Zero Harm Safety Management System (ZHSMS) Review; an overview of Council's evolving safety management system and highlight of areas that have been developed, in progress or planned for completion.
- Independent Internal Audit Programme and Framework; preparation of framework and development of an internal audit forward work programme enabling priority to be given to activities in higher residual risk areas or those out of Council's risk tolerance.

The detailed work programme and its connection to the relevant terms of reference item is shown in the attached appendix. This is to provide assurance that the items detailed in the terms of reference which deliver on the Committee's objectives have been had regard to.

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## **6. Next steps**

### **Ahu whakamua**

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The Committee considers that progress has been made in several areas during the year ended 30 June 2022 and those activities undertaken supporting meeting the requirements outlined in the Committees Terms or Reference.

## **7. Attachments**

### **Ngaa taapirihanga**

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Attachment 1 - Audit and Risk Committee Key Achievements Table

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Appendix One: Audit &amp; Risk Committee Key Achievements Table

<b>Terms of Reference</b>	<b>Reports Received</b>	<b>Completion</b>
<b>Annually review council's risk management framework to ensure it is effective</b>	Risk Management Framework Review	Dec 2021
<b>Ensure the strategic risk register is current and relevant</b>	KPMG facilitated Strategic Risk and Risk Appetite Review workshop with Council	Dec 2021
	Strategic Risk and Emerging Risks Report	Standing Item
<b>Ensure Council has an effective internal control framework to identify and manage business risk (at the risk portfolio level)</b>	Chief Financial Officer Report	Standing Item
	Risk Conversations Report	Standing Item
	Independent Internal Audit Programme and Framework	June 2022
	Tax Risk Mitigation Update	Sept 2021
	Strategic Communications risk conversation encompassing current issues, risks and opportunities	Apr 2022
<b>Review Council's insurance programme for adequacy of risk mitigation</b>	Insurance Policy / Premium Confirmation	Apr 2022
<b>Review the effectiveness of Council's business continuity and disaster recovery planning and testing arrangements</b>	Update provided in June Strategic Risk paper. More comprehensive report and work programme detailed at September 2022 meeting.	
<b>Ensure Council has an effective framework in place to prevent, detect and investigate fraud-related issues</b>	Fraud and Corruption Risk Management Update	Dec 2021
	Sensitive Expenditure Policy Review	Dec 2021
<b>Ensure Council has an effective Health and Safety/Zero Harm framework in place to prevent, detect and investigate safety-related issues</b>	Zero Harm Update Report	Standing item
	Zero Harm Safety Management System Audit 2021 – Post Implementation Report	Apr 2022
	WDC Zero Harm Safety Management System (ZHSMS) Review	Apr 2022
<b>Review the internal audit framework to ensure that appropriate organisational structures, authority, access, and reporting arrangements are in place</b>	Strategic Risk Deep Dive Report	Standing Item
	Independent Internal Audit Programme and Framework	June 2022
<b>Approve the annual internal and external audit programme and related plans</b>	Quality Governance and Assurance Report	Standing item
	Independent Internal Audit Programme and Framework	June 2022
<b>Consider Council's annual report from a risk perspective, and subject to audit clearance, make recommendations to Council regarding adoption</b>	Annual Report Risk Assessment 2021	Sept 2021
	2021/2022 Annual Report Preparation and Audit Risk Assessment	June 2022
<b>Review audit reports (internal and external) and monitor management's implementation of audit recommendations</b>	Final Audit Management for the Long-Term Plan 2021-31	Sept 2021
	Quality Governance and Assurance Report	Standing item
	Post Implementation Reviews and/or Incident Debrief Report	Standing item
	Final Audit New Zealand Management Report for Year Ended 30 June 2021	Dec 2021
<b>Keep Council informed on significant risk or audit issues raised and proposed actions</b>	Chief Financial Officer Report	Standing item
<b>Meet regularly with independent auditors to gain assurance on the risk frameworks and the management of them</b>	Audit New Zealand attendance at committee meeting	Standing item



## Committee Administrative Arrangements

<b>Terms of Reference</b>	<b>Activity</b>	<b>Completion</b>
<b>The chairperson of the committee will initiate a review of the performance of the committee at least once every two years and present it to the Council. This will support the committee's philosophy of continuous improvement.</b>	Committee Performance Evaluation process and survey agreed for distribution	Apr 2022
	Committee Performance Evaluation results presented to Committee & subsequent workshop held to agreed recommendations for Council consideration	June and July 2022
	Adoption of the Audit & Risk Committee Future Annual Work Programme (2022)	June 2022
<b>The committee will review its Terms of Reference at least once a year. This review will include consultation with the Council</b>	Revision of the Audit & Risk Committee Terms of Reference	Sept 2021
<b>The committee will regularly, and at least once a year, report to the Council on its operation and activities during the year.</b>	Annual Committee Achievements report to Council	Sept 2021

<b>To</b>	<b>Waikato District Council</b>
<b>Report title</b>	<b>Adoption of Provisional Local Alcohol Policy</b>
Date:	6 October 2022
Report Author:	Anthea Sayer, Corporate Planner
Authorised by:	Sue O’Gorman, General Manager Customer Support

## **1. Purpose of the report**

### **Te Take moo te puurongo**

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To seek approval from Council to adopt the Provisional Local Alcohol Policy and approve public notification of the provisional policy.

## **2. Executive summary**

### **Whakaraapopototanga matua**

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The draft Local Alcohol Policy was consulted on between 10 August 2022 and 11 September 2022. A total of 141 submissions were received with 12 submitters speaking at the Council hearing. The majority of submissions supported the changes proposed in the draft policy; however submitters did raise issues in relation to the new ‘buy now, pay later’ (BNPL) and remote sales provisions.

During deliberations, elected members requested that changes are made to the ‘buy now, pay later’ clause and that proximity clauses are relooked at to provide clarity on how proximity is measured.

Staff recommend that the provisional policy is adopted and publicly notified following the October 2022 Council meeting.

## **3. Staff recommendations**

### **Tuutohu-aa-kaimahi**

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**That the Waikato District Council:**

- a. adopts the Provisional Local Alcohol Policy; and**
  - b. approves the public notification of the Provisional Local Alcohol Policy as soon as possible after the adoption of the provisional policy.**
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## 4. Background

### Koorero whaimaarama

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The Local Alcohol Policy sets alcohol licensing criteria for when, where and how alcohol is sold in the district. Licensing bodies must consider the policy when they make decisions about alcohol licensing applications. The LAP also informs and provides guidance to potential licence applicants.

Review of the policy began in early 2022 and involved three Council workshops and early engagement to gauge the community's views on further restrictions on bottle stores. Formal consultation took place between 10 August and 11 September 2022. A total of 12 submitters spoke to their submissions at hearings on 28 September, with deliberations immediately following hearings.

## 5. Discussion and analysis

### Taataritanga me ngaa tohutohu

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#### 5.1 Changes following deliberations

Nine issues arising from submissions were discussed during deliberations. These are outlined in the table below with the Committee's recommendation noted.

Issue	Committee recommendation
'Buy now pay later' discretionary clause	See commentary below
Restrictions on standalone bottle stores	No change to what was proposed in the draft policy
Differentiating between different types of off-licences	No change to the differentiation between different types of off-licences.
Remote sales	The remote sales clause was amended to remove the requirement for verification that the receiver is not intoxicated. <i>The licensee must take reasonable steps to verify that the buyer and the receiver of an alcohol delivery is not under 18 years of age, and that the receiver is not intoxicated.</i>
Te Kauwhata standalone bottle store	Unchanged. This theme wasn't requesting a particular outcome but highlighted that several submitters commented on whether a standalone bottle store in Te Kauwhata was needed.
Raglan on-licence maximum trading hours	Maximum trading hours for on-licences in Raglan will remain unchanged.

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Issue	Committee recommendation
Amendments to maximum trading hours	Maximum trading hours for on-licences were amended. The opening time has moved from 7am to 8am to align with the Sale and Supply of Alcohol Act.
Discretionary conditions	None of the suggested additional discretionary conditions were added to the policy.
Additions to sensitive sites	None of the suggested additional sensitive sites were added to the policy.

### 'Buy now pay later' clause

During deliberations, Elected Members requested that staff amend the 'buy now pay later' clause. In its current form, the clause could lead to the unintended consequence of trade accounts or consumers using non-bank credit cards being included in the clause's provisions due to the use of the phrases 'executed through a third party or not' and 'payments made by a standard bank credit card'.

The clause in the draft provisional policy was as follows:

*5.7.1.i Licensees are prohibited from accepting '**buy now pay later**' as a method of payment for the sale or supply of alcohol to any customer whether remotely or on premises, regardless of whether the 'buy now pay later' is executed through a third party or not. This condition does not apply to payments made by a standard bank credit card.*

This clause has been changed to be less definitive and instead be a consideration of the DLC. It also now better aligned with the wording of other discretionary conditions listed in that clause:

*5.7.1.i Whether 'buy now pay later' is prohibited as a method of payment for the sale and supply of alcohol purchased either remotely or on premises.*

The definition of 'buy now pay later' has also been amended as follows (changes in yellow):

*Where consumers are able to receive goods and services immediately, paid for by a **third party 'buy now, pay later' provider such as Afterpay or Laybuy**. The consumer then pays back the provider in instalments over a specified period without paying interest.*

***Buy now pay later does not apply to payments made by a credit card or trade accounts.***

Staff believe that unintended consequences are negated by making the definition explicit that this provision only applies to **third party** 'buy now pay later' providers and does not apply to credit card payments or trade accounts.

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Note - while it is intended to discuss this matter in the open section of the meeting, legal advice has been sought on this clause, and Council may pass a resolution to exclude the public to discuss the advice received.

### Proximity between proposed licenced premises and other licenced premises/sensitive sites

Elected Members also requested that staff relook at the clauses regarding proximity between proposed licenced premises and other licenced premises or sensitive sites. As a result, the definition of 'site' has been broadened as follows:

*The physical premises that relates to the particular licence application excluding any carparks but for on-licences, including areas set out for the consumption of alcohol i.e. garden bars.*

And the words 'site' or 'legal site' have been added to proximity clauses (clauses 4.3.2, 4.4.2, 5.3.2 and 5.4.1) depending on whether the proximity is between two licensed premises or between a proposed licensed premises and a sensitive site. Examples are noted below:

*4.3.2 No on-licence for a new tavern, located in an area zoned under the Waikato District Plan that does not allow commercial activities, shall be located within five kilometres of any existing tavern or hotel that holds an on-licence, measured from the closest **site** boundary point of the proposed tavern to the closest **site** boundary point of the existing premises.*

*5.4.1 No new bottle store off-licences shall be issued for any premises located within 100 metres of any school, early childcare facility, library, place of worship or public park (the facility) existing at the time the licence application is made, measured from the closest **site** boundary point of the proposed new bottle store to the closest **legal site** boundary point of the facility, unless:*

Including 'site' or 'legal site' clarifies that these clauses refer to the measurement between the boundary of the physical premises that relates to the particular licence application (i.e., not the carpark) and the sensitive site or other licensed premises. When considering sensitive sites, the entire legal site boundary needs to be considered, not just the physical building.

## **5.2 Options**

### **Ngaa koowhiringa**

Staff have assessed that there are two reasonable and viable options for the Council to consider. This assessment reflects the level of significance (see paragraph 6.1) and Council's legislative requirements. The options are set out below.

**Option 1.** Council adopts and publicly notifies the Provisional Local Alcohol Policy.

**Option 2.** Council undertakes further consultation and review of the policy.

Staff recommend Option 1 is chosen, as submissions indicated general support for the changes suggested for the policy.

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## **5.2 Financial considerations**

### **Whaiwhakaaro puutea**

There are no material financial considerations associated with the recommendations of this report.

## **5.3 Legal considerations**

### **Whaiwhakaaro-aa-ture**

Staff confirm that the staff recommendation complies with the Council's legal and policy requirements. Consultation has been undertaken in accordance with section 83 of the Local Government Act 2001. Council is required to provide an opportunity to persons interested to present their views to the local authority.

In addition to meeting procedural requirements, the draft provisional policy has been reviewed for legal compliance.

## **5.4 Strategy and policy considerations**

### **Whaiwhakaaro whakamaaherehere kaupapa here**

The report and recommendations are consistent with the Council's policies, plans and prior decisions.

## **5.5 Maaori and cultural considerations**

### **Whaiwhakaaro Maaori me oona tikanga**

Although the decision being sought through this report does not directly relate to Maaori, the disproportionate negative impact alcohol has on Maaori has been recognised as part of the policy review and as a result restrictions were included in the draft Policy to help minimise these negative impacts, acknowledging that the Waikato district has a higher population of Maaori than national average.

## **5.6 Climate response and resilience considerations**

### **Whaiwhakaaro-aa-taiao**

The matters in this report have no known impact on climate change or resilience for the Council.

## **5.7 Risks**

### **Tuuraru**

There is a risk the provisional policy will be appealed. Appeals can only be made by those who submitted as part of formal consultation on the draft Local Alcohol Policy. Appeals are made to the Alcohol Regulatory and Licensing Authority, who organises the hearing and determines if the appealed element of the provisional policy is unreasonable.

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## 6. Significance and engagement assessment Aromatawai paahekoheko

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### 6.1 Significance Te Hiranga

The decisions and matters of this report are assessed as of moderate significance, in accordance with the Council's [Significance and Engagement Policy](#).

The following criteria are particularly relevant in determining the level of significance for this matter:

- There is a legal requirement to engage with the community.
- The proposal or decision will affect a large portion of the community.
- The community interest is likely to be high.
- There is more than one viable option.

### 6.2 Engagement Te Whakatuutakitaki

Highest level of engagement	Inform	Consult	Involve	Collaborate	Empower
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The community and stakeholders were consulted in accordance with section 83 of the Local Government Act 2002.					

State below which external stakeholders have been or will be engaged with:

Planned	In Progress	Complete	
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Internal
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Community Boards/Community Committees
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Waikato-Tainui/Local iwi and hapuu
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Affected Communities
<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Affected Businesses

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## 7. Next steps Ahu whakamua

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Once the provisional policy is adopted by Council, it will be notified for one month during which time it can be appealed. All submitters will be contacted by email to notify them that they can appeal the provisional policy. A public notice will also be placed in local newspapers (as required under the Sale and Supply of Alcohol Act) to advise that the provisional policy has been adopted, the right of appeal against it and the grounds on which an appeal may be made. Information will also be published on Council's website and a post published on Council's Facebook page. A media release will also be issued. If there are no appeals in the one-month period, the policy will become operative.

## 8. Confirmation of statutory compliance Te Whakatuuturutanga aa-ture

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As required by the Local Government Act 2002, staff confirm the following:

The report fits with Council's role Terms of Reference.	Confirmed
The report contains sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages ( <i>Section 5.1</i> ).	Confirmed
Staff assessment of the level of significance of the issues in the report after consideration of the Council's Significance and Engagement Policy ( <i>Section 6.1</i> ).	Moderate
The report contains adequate consideration of the views and preferences of affected and interested persons taking account of any proposed or previous community engagement and assessed level of significance ( <i>Section 6.2</i> ).	Confirmed
The report considers impact on Maaori ( <i>Section 5.5</i> )	Confirmed
The report and recommendations are consistent with Council's plans and policies ( <i>Section 5.4</i> ).	Confirmed
The report and recommendations comply with Council's legal duties and responsibilities ( <i>Section 5.3</i> ).	Confirmed

## 9. Attachments Ngaa taapirihanga

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Attachment 1 – Draft Provisional Local Alcohol Policy

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# Provisional Local Alcohol Policy – tracked changes version

Policy Owner	Chief Executive
Policy Sponsor	General Manager – Customer Support
Approved By:	Policy and Regulatory Committee
Approval Date:	
Resolution Number	
Effective Date	
Next Review Date:	2028

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## Relevant Documents/Legislation

Sale and Supply of Alcohol Act 2012  
Alcohol Control Bylaw 2020

## Policy Review

Pursuant to section 97 of the Sale and Supply of Alcohol Act (**Act**), Waikato District Council (**Council**) must review its Local Alcohol Policy (**LAP**) no later than six years after it came into force and no later than six years after the most recent review was completed. If directed by Council, a LAP can be reviewed or amended earlier.

## Policy Statements

### I. INTRODUCTION AND OVERVIEW

I.1 The Act established a national framework for regulating the sale and supply of alcohol. The object of the 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.*

I.2 The Act enables local authorities to develop a LAP to guide expectations for the development of alcohol licensing within their district. The LAP is a set of policies, made by the Council in consultation with its community, about the sale and supply of alcohol in its geographical area.

I.3 The Act requires the District Licensing Committee (**DLC**) and the Alcohol Regulatory and Licensing Authority (**ARLA**) to have regard to the content of any relevant LAP when making decisions under the Act. This allows local authorities, in consultation with their communities and stakeholders, to have greater influence over the local licensed environment.

I.4 Section 77 of the Act details what policies relating to licensing may be included in a LAP. These include:

- location of licensed premises by reference to broad areas;
- location of licensed premises by reference to proximity to premises of a particular kind(s);
- location of licensed premises by reference to proximity to facilities of a particular kind(s);
- whether further licences (or licences of a particular kind(s)) should be issued for premises in the district concerned, or any stated part of the district;
- maximum trading hours;
- the issue of licences or licences of a particular kind(s) subject to discretionary conditions;
- one-way door restrictions.

No other matters may be included.

## 2 OBJECTIVES OF THE LAP

2.1 The objectives of this policy are to:

- Reflect the views of local communities as to the appropriate location, number, hours and conditions that should be applied to licensed premises within their communities;
- Balance the views of local communities regarding the sale, supply and consumption of alcohol, while addressing the statutory requirements of the Act to minimise the harm caused by excessive or inappropriate consumption of alcohol;
- Provide certainty and clarity for applicants and the public as to whether a proposed licence application will meet the criteria of the LAP;
- Provide effective guidance to the DLC and ARLA when making decisions.

## 3 DEFINITIONS

Act	The Sale and Supply of Alcohol Act 2012
Alcohol Regulatory and Licensing Authority	The Alcohol Regulatory and Licensing Authority established under section 169(1) of the Sale and Supply of Alcohol Act 2012.
Authorised Customer	In relation to premises that hold a club licence, an authorised customer is: <ul style="list-style-type: none"> <li>a. a member of the club concerned; or</li> <li>b. on the premises at the invitation of, and is accompanied by, a member of the club concerned; or</li> <li>c. an Authorised Visitor.</li> </ul>
Authorised Visitor	In relation to premises a that hold a club licence, an authorised visitor means a member of another club with which the club concerned has an arrangement for reciprocal visiting rights for members
Bottle Store	A retail premises where at least 85 per cent of the annual sales revenue is expected to be earned from the sale of alcohol for consumption somewhere else.
Buy now pay later	Where consumers are able to receive goods and services immediately, paid for by a third party 'buy now, pay later' <u>provider such as Afterpay or Laybuy</u> . The consumer then pays back the provider in instalments ( <del>usually one to three months</del> ) over a specified period without paying interest. <u>Buy now pay later does not apply to payments made by a credit card or trade accounts.</u>
Cafe	Has the same meaning as 'restaurant'.
Class I Restaurant	A restaurant that has or applies for an on-licence and <ul style="list-style-type: none"> <li>a. has, in the opinion of the territorial authority, a significant separate bar area; and</li> <li>b. in the opinion of the territorial authority, operates that bar area at least one night a week in the manner of a tavern.</li> </ul>

Club	A body that— a. is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or b. is a body corporate whose object is not (or none of whose objects is) gain; or c. holds permanent club charter.
Club Licence	A club licence premises is one where the sale, supply and consumption of alcohol is authorised on the premises from which it is sold to authorised customers and guests. Common examples include sports clubs and chartered clubs such as an RSA or Workingmen’s Club. (Refer to section 21 of the Act).
Consumer	Anyone who buys products or services that are ordinarily for personal or household use.
Conveyance	An aircraft, coach, ferry, hovercraft, ship train or other vehicle used to transport people and includes part of a conveyance.
District Licensing Committee (DLC)	The Waikato District Licensing Committee appointed pursuant to section 186 of the Act.
Early Childhood Facility	Includes any crèche, childcare centre, kindergarten, kohanga reo, playcentre, Whānau Āwhina Plunket rooms and any other place (excluding a school) where five or more children receive care or education on a commercial basis.
Facility	Includes an early childcare facility, library, place of worship public park or school.
Grocery Store	A shop that— a. has the characteristics normally associated with shops of the kind commonly thought of as grocery shops; and b. comprises premises where— i. a range of food products and other household items is sold; but ii. the principal business carried on is or will be the sale of food products.
Hotel	A premises used or intended to be used in the course of business principally for providing to the public— a. lodging; and b. alcohol, meals, and refreshments for consumption on the premises.
Library	A Waikato District Council library located in Huntly, Meremere, Ngaruawahia, Raglan, Te Kauwhata or Tuakau.
Maximum Trading Hours	The maximum hours for which a licence may be granted permitting the sale, supply or consumption of alcohol.
Member	In relation to a club, means a person who— a. has expressly agreed in writing to comply with the club's rules; and b. is recognised as a member.
New Licence	A premises that has not been subject to a licence (with the exception of Special Licences) for more than 12 months prior to the filing of an application. <i>Note: a licensed premises that changes ownership but continues to hold a licence is not considered to be a new licensed premises.</i> <i>A change of licence type is considered an application for a new licence.</i>

Off-licence	Where alcohol is authorised to be sold from the premises for consumption at a location other than where it was purchased or delivered away from the premises. Common examples include bottle stores, supermarkets and grocery stores (refer to section 17 of the Act). <i>Note: Policies relating to off-licences do not apply to applications for off-licences endorsed under sections 39 or 40 of the Act relating to auctioneers and remote sellers.</i>
On-licence	Where the sale, supply and consumption of alcohol is authorised on the premises. Common examples include hotels, taverns and restaurants (refer to section 14 of the Act). <i>Note: Policies relating to on-licences also apply to BYO restaurants and caterers.</i>
One-way Door Restriction	In relation to a licence, is a requirement that during the hours stated in the restriction - 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.
Outdoor Dining Area	An area of a premises holding an on-licence or club licence that is outside of the building on any part of a public footpath, pavement or other public place.
Place of Worship	Includes any church, mosque or other facility designed primarily for worship and related religious activities
Premises	Premises includes: a. A Conveyance; and b. Includes part of a premises; and c. In relation to a licence, means the premises it was issued for.
Prohibited Persons	Persons to whom alcohol cannot be served including minors and intoxicated persons and in the case of Clubs any person who is not an Authorised Customer.
Public Park	Any park, reserve, playground, garden or similar public place maintained by the local authority for recreation purposes.
Restaurants	Premises that— a. are not a conveyance; and b. are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises.
School	Includes any primary, intermediate or secondary school and any kurakaupapa.
Site	The physical premises that relates to the particular licence application <u>excluding any carparks but for on-licences, including areas set out for the consumption of alcohol i.e., garden bars.</u>
Special Licence	A type of licence that allows the sale and consumption of alcohol at events or occasions on premises that are unlicensed, or at licensed premises when the sale of alcohol would otherwise be unlawful (refer to section 22 of the Act).
Supermarket	Premises are a supermarket with a floor area of at least 1000m <sup>2</sup> including any separate departments set aside for such foodstuffs as fresh meat, fresh fruit and vegetables, and delicatessen items.
Tavern	Premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but does not include an airport bar.

## 4 ON LICENCE POLICIES

### 4.1 Introduction

4.1.1. For the purposes of clauses 4.2.1, 4.3.1, 4.3.2, 4.4.1 and 4.4.2, a licensed premises that changes ownership but continues to hold an on-licence is not considered to be a new licensed premises.

4.1.2. For the purposes of clauses 4.2.1, 4.3.1, 4.3.2, 4.4.1 and 4.4.2, a premises that has not been subject to an on-licence for more than twelve (12) months prior to the filing of the application shall be considered as being a new premises being licensed for the first time. Premises that have been subject to an on-licence in the 12 months prior to filing the application are not considered as being new premises being licensed for the first time.

### 4.2 Location of on-licence premises by reference to broad areas

4.2.1 New on-licence premises being licensed for the first time shall be restricted to:

1. areas zoned under the Waikato District Plan to allow commercial activities as permitted activities; or
2. locations authorised by resource consent.

### 4.3 Location of on-licence premises by reference to proximity to premises of a particular kind(s)

4.3.1 When considering any new on-licence application in respect of new premises being licensed for the first time, the DLC or ARLA shall have regard to the proximity of the proposed premises to other licensed premises where this is considered relevant.

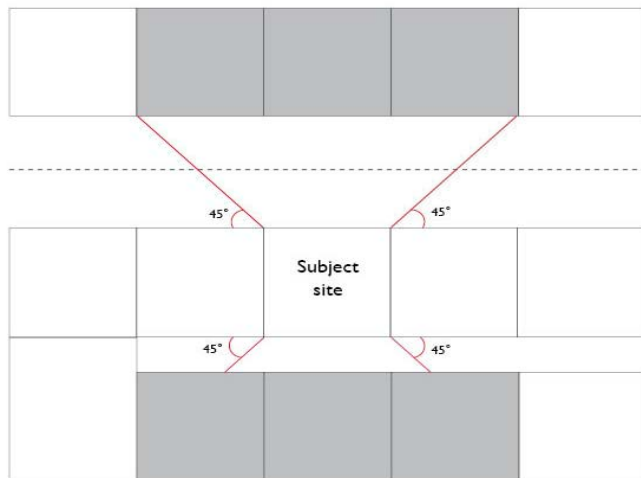
4.3.2 No on-licence for a new tavern, located in an area zoned under the Waikato District Plan that does not allow commercial activities, shall be located within five kilometres of any existing tavern or hotel that holds an on-licence, measured from the closest [site](#) boundary point of the proposed tavern to the closest [site](#) boundary point of the existing premises.

### 4.4 Location of on-licence premises by reference to proximity to facilities of a particular kind(s)

4.4.1 No new on-licence shall be issued in respect of:

- i. a tavern; or
- ii. a class I restaurant; or
- iii. a hotel with a significant bar area operating in the manner of a tavern; or
- iv. any other premises with a significant bar area operating in the manner of a tavern –

where the site directly borders any school, early childcare facility, library or place of worship existing at the time the licence application is made unless it can be demonstrated to the DLC that the hours, signage or operation of the premises will have no significant impact on those facilities and/or persons using those facilities. 'Directly borders' includes across any road from such a facility as shown in Figure 1.

**Figure I: Proximity of New Premises Directly Bordering a Facility**

4.4.2 In any zone other than one zoned under the Waikato District Plan to allow commercial activities as permitted activities, in respect of:

- i. a tavern; or
- ii. a class I restaurant; or
- iii. a hotel with a significant bar area operating in the manner of a tavern; or
- iv. any other premises with a significant bar area operating in the manner of a tavern

there shall be a minimum of 100 metres between the closest site boundary point of the proposed premises and the closest legal site boundary point of any school, early childcare facility, library, place of worship, public park or residential dwelling existing at the time the licence application is made unless it can be demonstrated to the DLC that the hours, signage or operation of the premises will have no significant impact on those facilities and/or persons using those facilities.

4.4.3 Renewal of a licence shall be unaffected should such a facility later establish at a site within 100 metres of the premises.

#### 4.5 Further issuing of on-licences

4.5.1 This policy does not limit the number of on-licence premises in the Waikato district or restrict the issue of new licences, provided the other policy criteria are met.

#### 4.6 Maximum trading hours for on-licences

4.6.1 The following maximum trading hours apply to all on-licences in the Waikato district:

Maximum trading hours	
i.	Monday to Sunday: 8.00am to 1.00am the following day.
ii.	New Year's Eve: 8.00am to 2.00am the following day.

<b>Maximum trading hours</b>	
iii.	In any outdoor dining area located in a public area, the trading hours shall not exceed 9.00am to 11.00pm. Outside of these hours the area shall be subject to any alcohol control bylaw that is in force in the area.
iv.	Any time to any guest residing on the premises.



#### 4.7 One way door restrictions

4.7.1 A one-way door restriction may be applied to any licence at the time of its issue or renewal when the closing time is later than midnight if the DLC or ARLA believe this is warranted. The restriction shall apply after midnight.

#### 4.8 Discretionary conditions of on-licences

4.8.1 In accordance with sections 110(1) and 117 of the Act, the DLC or ARLA may impose discretionary conditions (in addition to those required by section 110(2)) on any licence or renewed licence. These may include conditions related to the following, or any other reasonable condition:

- Prohibited persons;
- Management of premises;
- People or kinds of people to be served;
- Low and non-alcoholic beverages;
- Transport options;
- Exclusion of the public;
- Advertisements, signage, display and promotion of alcohol;
- Application of the principles of 'Crime Prevention Through Environmental Design'. On-licence premises, where appropriate, will give effect to the principles of Crime Prevention Through Environmental Design where they achieve outcomes (where applicable to the individual premises) including:
  - Bar area
    - Bar staff have good visibility of entire premises;
    - Bar area is open with no obstructions affecting monitoring of premises;
    - Cash registers are front facing;
  - Lighting
    - Internal lighting is suitable;
    - Lighting allows staff to monitor patrons;
    - Lighting allows staff to check IDs;
    - Internal lighting can be raised in an emergency and at closing time;
    - External lighting is suitable;
  - Internal layout
    - The premises is laid out so staff can monitor patrons at all times;
    - Mirrors or CCTV are installed where there may be blind spots;
    - Bar is easily approached by customers;
  - CCTV
    - CCTV is installed in suitable locations to monitor vulnerable areas; (areas that are not easily or continuously monitored by staff);
    - Customers are aware of the CCTV system;
  - Entrances and exits
    - Entrances and exits are visible from behind the bar area;
    - CCTV is installed to monitor blind entrances and exits;
  - Outdoor drinking areas
    - Outdoor drinking areas are monitored by bar and/or security staff;
    - Lighting allows staff to monitor patrons;

- Outdoor drinking areas are well defined from surrounding external environment;
- Pavement creep is not evident;
- Staff
  - Relevant staff understand how to operate the CCTV system;
  - There are sufficient staff to ensure control of the premises during trading hours.

4.8.2 For any licence issued or renewed in respect of a hotel or tavern, the DLC or ARLA shall impose a condition designating the premises as either supervised or restricted.

## 5 OFF-LICENCE POLICIES

### 5.1 Introduction

5.1.1 For the purposes of clauses 5.2.1, 5.3.1, 5.3.2, 5.4.1 and 5.5.1, a licensed premises that changes ownership but continues to hold an off-licence is not considered to be a new licensed premises.

5.1.2 For the purposes of clauses 5.2.1, 5.3.1, 5.3.2, 5.4.1 and 5.5.1, a premises that has not been subject to an off-licence for more than twelve (12) months prior to the filing of the application shall be considered as being a new premises being licensed for the first time. Premises that have been subject to an off-licence in the 12 months prior to filing the application are not considered as being new premises being licensed for the first time.

### 5.2 Location of off-licence premises by reference to broad areas

5.2.1 New off-licence premises being licensed for the first time shall be limited to:

- i. areas zoned under the Waikato District Plan that allow commercial activities as permitted activities; or
- ii. locations authorised by resource consent.

### 5.3 Location of off-licence premises by reference to proximity to premises of a particular kind(s)

5.3.1 When considering any new off-licence application for new premises being licensed for the first time, the DLC or ARLA shall have regard to the proximity of the proposed premises to other licensed premises where this is considered relevant.

5.3.2 No new bottle store off-licence shall be issued for any premises located within one kilometre of any existing bottle store, licensed supermarket or grocery store (the **existing premises**), measured from the closest site boundary point of the proposed bottle store to the closest site boundary point of the existing premises.

### 5.4 Location of off-licence premises by reference to proximity to facilities of a particular kind(s)

5.4.1 No new bottle store off-licences shall be issued for any premises located within 100 metres of any school, early childcare facility, library, place of worship or public park (the **facility**) existing at the time the licence application is made, measured from the closest site boundary of the proposed new bottle store to the closest legal site boundary point of the facility, unless:

- i. it can be demonstrated to the DLC that the hours, external alcohol-related signage or operation of the premises will have no significant impact on those facilities and/or persons using those facilities; and
- ii. the applicant demonstrates how the outcomes listed in clauses 5.7.1(g) and (h) will be achieved.



5.4.2 Renewal of a licence shall be unaffected should such a facility later establish at a site within 100 metres of the premises.

## 5.5 Further issuing of standalone bottle store off-licences in the district

5.5.1 There is a presumption against the issuing of new off-licences for standalone bottle stores in Tuakau, Te Kauwhata, Huntly, Ngaruawahia and Raglan as well as other district localities where the deprivation level is 7 or higher unless it is demonstrated to the DLC that a new standalone bottle store would not result in significant adverse effects including:

- i. the amenity and good order of the locality being reduced to more than a minor extent;
- ii. any other potential adverse effect which may give rise to alcohol-related harm.

5.5.2 For the purposes of clause 5.5.1, a bottle store associated with a hotel or tavern is not a standalone bottle store.

5.5.3 For the purposes of clause 5.5.1, an off-licence associated with a distillery, brewery or winery, and established primarily for the purpose of selling alcohol products is not a standalone bottle store.

### Other off-licences

5.5.4 Except for standalone bottle store off-licences as provided in clause 5.5.1, this policy does not limit the number of other types of off-licence premises in the Waikato district or restrict the issue of new licences, provided the other policy criteria are met.

## 5.6 Maximum trading hours for off-licences

5.6.1 The following maximum trading hours apply to all off-licences in the Waikato district:

<b>Maximum trading hours</b>
Monday to Sunday 7.00am to 10.00pm

5.6.2 For remote sellers, alcohol may be sold remotely at any time on any day but alcohol must not be delivered on Christmas Day, Good Friday, before 1pm on Anzac Day or between 11:00pm and 6:00am the following day.

## 5.7 Discretionary conditions of off-licences

5.7.1 In accordance with sections 116(1) and 117 of the Act, the DLC may impose discretionary conditions in relation to the following matters (in addition to those required by section 116(2)) of the Act) on any new off-licence or renewed off-licence. These may include conditions related to the following, or any other reasonable condition:

- a. Prohibited persons;
- b. People or kinds of people to be served;
- c. Kinds of alcohol to be sold;
- d. Designation of the premises as a supervised area or restricted area;
- e. Display of nationally consistent safe drinking messages and material;
- f. Advertisements, signage and display of alcohol;
- g. Application of the principles of Crime Prevention Through Environmental Design (CPTED) - supermarkets, bottle stores and other off-licence premises where appropriate will give effect to the principles of CPTED where they achieve outcomes (where applicable to the individual premises) including:
  - o Lighting

- Internal lighting enables passive surveillance by staff and active surveillance by CCTV;
  - Lighting allows customers to be seen as they enter the premises;
  - Lighting allows staff to check IDs;
  - External areas such as car parks and loading bays are well lit, subject to the requirements of any resource consent or district plan rule.
- Internal layout
  - General points of sale are positioned near the main entrance
- CCTV
  - CCTV is installed in suitable locations to monitor vulnerable areas (areas that are not easily or continuously monitored by staff)
  - Customers are aware of the CCTV system
- Staff
  - Relevant staff understand how to operate the CCTV system
  - There are staff to ensure control of the premises during trading hours
- h. External promotion and advertising such that at least 50 per cent of any store front glazing shall be transparent, consistent with CPTED guidelines and no more than 30 per cent of the external area of any side of the premises may contain alcohol related signage or advertising excluding the company and/or trading name.
- i. ~~Licenses are prohibited from accepting 'buy now pay later' as a method of payment for the sale or supply of alcohol to any customer whether remotely or on premises, regardless of whether the 'buy now pay later' is executed through a third party or not. This condition does not apply to payments made by a standard bank credit card.~~ Whether 'buy now pay later' is prohibited as a method of payment for the sale and supply of alcohol purchased either remotely or on premises.

5.7.2 For any licence issued or renewed in respect of a bottle store, the DLC or ARLA shall impose a condition designating the premises as either supervised or restricted.

## 5.8 Specific policies relating to remote sales

5.8.1 The licensee must take reasonable steps to verify that the buyer and the receiver of an alcohol delivery is not under 18 years of age.

## 6 CLUB LICENCE POLICIES

### 6.1 Introduction

6.1.1 For the purposes of clauses 6.2.1, 6.2.2, 6.3.1 and 6.4.1 any premises that have not been subject to a club licence in the twelve (12) months prior to the application shall be considered as being a new premises being licensed for the first time.

### 6.2 Location of club licence premises by reference to broad areas

6.2.1 New club licence premises in respect of a sports or social club being licensed for the first time should be located at or in close proximity to the sports grounds or other facilities used by the club, if relevant.

6.2.2 New club licence premises in respect of a chartered club such as an RSA, Workingmen's, Cosmopolitan or similar type of club, being licensed for the first time shall be limited to:

- i. areas zoned under the Waikato District Plan to allow commercial activities as permitted activities; or
- ii. locations authorised by resource consent.

### **6.3 Location of club licence premises by reference to proximity to premises of a particular kind(s)**

6.3.1 The DLC or ARLA shall have regard to the proximity of any proposed new club premises being licensed for the first time to any other existing premises when considering a new licence application.

### **6.4 Location of club licence premises by reference to proximity to facilities of a particular kind(s)**

6.4.1 The DLC or ARLA shall have regard to the proximity of any proposed new club premises being licensed for the first time to any school, early childcare facility, library, place of worship, public park or residential area.

### **6.5 Further issuing of club licences in the district**

6.5.1 This policy does not limit the number of club licence premises in the Waikato district or restrict the issue of new licences, provided the other policy criteria are met.

### **6.6 Maximum trading hours for club licences**

6.6.1 The DLC or ARLA shall have regard to the days and hours of operation and the type of activities undertaken by the club, in setting club hours.

6.6.2 Subject to clause 6.6.3, the following maximum trading hours apply to all club licences in the Waikato district – Monday to Sunday 9.00am to 1.00am the following day.

6.6.3 Returned Services Associations affiliated with the Royal New Zealand Returned Services Association and other club-licensed premises of a similar nature that are involved with ANZAC Day commemorations/civic services shall be permitted to trade from 5.00am on ANZAC Day.

### **6.7 One way door restrictions**

6.7.1 A one-way door restriction may be applied to any licence at the time of its issue or renewal when the closing time is later than midnight if the DLC or ARLA believe this is warranted. The restriction shall apply after midnight.

### **6.8 Discretionary conditions of club licences**

6.8.1 In accordance with sections 110(1) and 117 of the Act, the DLC or ARLA may impose discretionary conditions (in addition to those required by section 110(2)) on any licence or renewed licence. These may include conditions related to the following, or any other reasonable condition:

- Prohibited persons;
- Management of premises;
- People or kinds of people to be served;
- Low and non-alcoholic beverages;
- Transport options;
- Exclusion of the public.

6.8.2 In accordance with section 215(3), the DLC or ARLA should impose a condition on a club licence requiring a manager to be on duty:

- i. At all times at chartered clubs; and
- ii. At any other club when:
  - there are more than 50 patrons present; or
  - at any time after 10.00 pm.

## 7 SPECIAL LICENCE POLICIES

### 7.1 Maximum trading hours for special licences

7.1.1 No maximum trading hours for special licences are specified in this policy.

7.1.2 The DLC shall determine the trading hours for special licence applications on a case-by-case basis having regard to the criteria detailed in section 142 of the Act.

7.1.3 Where an application for a special licence is in respect of premises already subject to an on, off or club licence with the maximum hours permitted for that type of licence under this policy, a special licence with greater hours will only be issued in exceptional circumstances as determined by the DLC.

7.1.4 A special licence should only be issued with greater hours than the guideline set out below in exceptional circumstances as determined by the DLC:

<b>Guideline maximum trading hours</b>
Monday to Sunday 7.00am to 1.00am the following day

### 7.2 Discretionary conditions of special licences

7.2.1 In accordance with sections 146 and 147(1) of the Act, the DLC may impose discretionary conditions regarding the following matters, in addition to those required by section 147(3):

- Sale and supply to prohibited persons;
- People or kinds of people to be served;
- The kind(s) of alcohol that may be sold or delivered;
- The provision of food for consumption on the premises;
- The provision of low and non-alcoholic beverages;
- The provision of information relating to transport options;
- Exclusion of the public;
- Restricting the types of containers used for sale or supply;
- The filing of returns;
- Conditions of a kind, subject to which a licence may be issued under section 110 (on-licence or club licence) or 116 (off-licence);
- Any reasonable condition not inconsistent with the Act.

### 7.3 One-way door restrictions

7.3.1 The DLC may impose a one-way door condition on any licence where it believes this is warranted.