

# Regulatory Impact Statement: Extending trading hours for the men’s Rugby World Cup 2023

## Coversheet

Purpose of Document	
Decision sought:	<i>Analysis produced for the purpose of informing Cabinet decision on options to extend licensed trading hours for the men’s Rugby World Cup 2023.</i>
Advising agencies:	<i>Ministry of Justice</i>
Proposing Ministers:	<i>Minister of Justice</i>
Date finalised:	<i>26 April 2023</i>
Problem Definition	
<p>The men’s Rugby World Cup (RWC) will be hosted by France in September and October 2023. Time zone differences mean that many of the matches will be broadcast live outside of the maximum trading hours for on-licensed and club-licensed premises in New Zealand.</p> <p>Under the Sale and Supply of Alcohol Act 2012 (the Act), licensees can apply for a special licence to extend their trading hours for events. Granting special licences requires consideration of a range of criteria, including those focused on maintaining the harm minimisation object of the Act. However, the special licence application requirements can present to the hospitality industry as costly, time consuming, inflexible, and administratively burdensome – and ultimately do not provide the degree of certainty they seek when applying for extended trading hours for the RWC.</p> <p>The industry considers that without government intervention to simplify processes and provide them with a greater level of certainty, they may not be able to take full advantage of the likely commercial potential of the RWC tournament. Consequently, the opportunities for New Zealanders to watch the live games in a licensed premise could be limited and may not meet public expectations established by the special provisions that were made during the 2015 and 2019 men’s RWC tournaments.</p>	
Executive Summary	
<p>This regulatory impact statement (RIS) outlines options for extending trading hours for on-licensed and club-licensed premises during the men’s RWC 2023, facilitating the live broadcast of games outside of the maximum trading hours set out in the Act.</p> <p>The object of the Act is to ensure that the sale, supply, and consumption of alcohol is undertaken safely and responsibly, and the harm caused by excessive or inappropriate consumption of alcohol is minimised.</p> <p>Under the Act, premises can apply for a special licence to extend their trading hours for events. However, the special licence application requirements can present challenges for licensees and do not provide the degree of flexibility or certainty the hospitality industry seeks for the RWC. In 2015 and 2019, Parliament enacted temporary legislation to enable</p>	

licensees to extend their licensed trading hours during men's RWC tournaments without applying for special licences.

Alcohol is a harmful drug that contributes to a wide range of health, social, and justice-related harms and subsequent costs for society. The evidence-base also clearly connects increases in alcohol-related harm with both extended trading hours and sports events.

At the same time, the men's RWC likely presents a significant commercial opportunity for on-licensed and club-licensed premises, as well as being a highlight on the calendar of rugby fans.

This RIS considers two options to varying the status quo, as a means of facilitating extended trading hours for the men's RWC 2023, as summarised in the table below.

Permanent legislative amendments have been developed by officials but are outside of the scope of this RIS because they could not be enacted in time for the RWC 2023 tournament. Options for permanent legislative change must consider a broad range of 'special events' (beyond the men's RWC) and require comprehensive deliberation on the management of potential public harm, together with wide public input, which is not possible in the required timeframes.

Option	Description
Create a temporary exemption from special licence requirements via a notification system (temporary legislation)	A temporary amendment of the Act to create a temporary exemption from special licence requirements via a notification system. This option would replicate the mechanism of the previous amendments in 2015 and 2019.
Issue operational guidance on the use of special licences (non-legislative)	The Ministry of Justice would issue communications to the hospitality industry through the regulatory agencies to give licensees clear and early guidance on the special licence provisions, including the application process, case law, and timing. The Ministry would also partner with the Alcohol Regulatory and Licensing Authority (ARLA) to develop practice guidance for District Licensing Committees (DLCs) to provide clarity and consistency on the use of special licences for televised events. This option would not change the special licence settings under the Act.

Research and stakeholder engagement reflect a range of perspectives on the Act's settings, the suitability of special licence provisions for tournaments such as the RWC, and the efficacy of previous temporary legislative amendments.

In our assessment, either option could address the issues associated with the men's RWC 2023, and we have scored them evenly. However, as the steward of the Act, the Ministry of Justice supports the retention of current harm-minimisation provisions, which are integral to the object of the Act. The Ministry therefore prefers the option to issue operational guidance to support the use of existing special licence provisions. This preference is based on an assumption that the creation of a temporary exemption is likely to result in some degree of increased alcohol-related harm.

Conversely, the creation of a temporary exemption has the benefit of providing an expedient and familiar process that provides businesses with a high degree of certainty that they can extend their licensed trading hours. The legislative provisions made in 2015 and 2019

amendments likely set a precedent, creating expectations amongst the hospitality industry and the wider New Zealand public.

The Minister of Justice has indicated her preference to seek Cabinet agreement to temporary legislative change for the men's RWC 2023.

### Limitations and Constraints on Analysis

Limitations and constraints on the analysis in this document include:

**The evidence base:** We do not have records or data from past RWC tournaments that could help us estimate the actual or potential demand for extended trading hours for the 2023 tournament. While there are limited records of notifications from Auckland Council from the men's RWC 2019, there are none from 2015.

The lack of data means that we have drawn on stakeholder views to ascertain likely demand for extended trading hours, the subsequent impacts for regulatory agencies involved in licensing and enforcement activities, and the potential commercial benefits for the hospitality industry.

Additionally, while research clearly connects extended trading hours and major sporting events to alcohol-related harm, we do not have data or research to quantify the harm-related impacts of extended trading hours enacted for the RWCs in 2015 and 2019. While there is likely some raw Police data available, it was not possible for this to be meaningfully analysed in time to inform this RIS. We have therefore relied on insights from the regulatory agencies (Police, Licensing Inspectors and Medical Officers of Health) and affected communities to support the assumption that extending trading hours for the men's RWC 2023 will result in some degree of increase in alcohol-related harm.

**Time constraints:** Time constraints have restricted our ability to consult widely. However, targeted consultation has occurred in a limited way with most key stakeholders. A wide range of views were expressed in response to the legislative and non-legislative options presented in this RIS – reflecting both strong support and strong opposition. Views varied within stakeholder groups. However, overall, the temporary legislative amendment option had the support of the hospitality industry, while DLCs, Police, local councils, alcohol-harm advocacy groups and individuals supported the option of operational guidance, which maintains the use and application of special licences.

The risks associated with the time constraints are partially mitigated by the fact that the proposal to enact temporary legislation is not new and will be very similar to previous approaches. If temporary amendments are introduced again this year, the public will have another opportunity to make submissions to a Select Committee.

### Responsible Manager(s) (completed by relevant manager)

Sally Wheeler

Policy Manager, Harm Reduction and Public Safety, Criminal Justice Unit

Policy

Ministry of Justice



26 April 2023

## Quality Assurance (completed by QA panel)

Reviewing Agency:	Ministry of Justice
Panel Assessment & Comment:	<p>A Quality Assurance panel within the Ministry of Justice has reviewed the <i>Regulatory Impact Statement: Extending trading hours for the men's Rugby World Cup 2023</i>.</p> <p>The panel considers that the information and analysis summarised in the Regulatory Impact Statement meets the Quality Assurance criteria.</p> <p>In reaching this conclusion, the panel considers the analysis accurate and balanced. Despite time constraints, there was targeted consultation with most key stakeholders and the range of views are reflected in the analysis. Because the legislation is temporary, and temporary amendments have been made twice in the past to accommodate the men's RWC, the risks associated with the limited consultation are adequately mitigated.</p> <p>The data and research are insightful, and the limitations are highlighted. The panel notes that the analysis would be more convincing if there was quantitative data showing the extent of commercial benefit and alcohol-related harm from the proposals to extend trading hours for the men's RWC. The proposed monitoring and review work will inform any future work on this issue.</p>

## Section 1: Diagnosing the policy problem

### What is the context behind the policy problem and how is the status quo expected to develop?

#### ***Alcohol contributes to a range of inequitably distributed harms in New Zealand***

1. Alcohol is a harmful drug that contributes to a wide range of health, social, and justice harms. In total, alcohol-related harm is estimated to cost New Zealand \$7.85 billion annually. These costs include lost productivity and unemployment, justice, health, ACC, and welfare costs.<sup>1</sup> Alcohol-related harms fall disproportionately on New Zealanders living in the poorest neighbourhoods.<sup>2</sup>
2. Hazardous drinking carries an elevated risk of harm to individuals, whānau, community, society, and future generations. Evidence shows that 20% of New Zealanders drink hazarously, with males and young people from 18 to 24 years old being most likely to report hazardous drinking.<sup>3</sup>

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<sup>1</sup> Action Point. (2022, July 18). *Alcohol is a major factor contributing to health inequities*, Retrieved from [https://www.actionpoint.org.nz/tags/alcohol\\_is\\_a\\_major\\_factor\\_contributing\\_to\\_health\\_inequities](https://www.actionpoint.org.nz/tags/alcohol_is_a_major_factor_contributing_to_health_inequities); Slack A, Nana G, Webster M, et al. (2009). *Costs of harmful alcohol and other drug use*. BERL Economics.

<sup>2</sup> Ministry of Health. (2021). *Annual Update of Key Results 2020/21: New Zealand Health Survey*.

<sup>3</sup> Ministry of Health. (2021). *Annual Update of Key Results 2020/21: New Zealand Health Survey*.

3. The proportion of Māori who drink is roughly the same as the general population, but those who do drink are more likely to drink hazardously. Pacific peoples are less likely to drink than people in other ethnic groups but are more likely to drink hazardously if they do.<sup>4</sup>

### ***There is a link between sports events and hazardous drinking in New Zealand***

4. Sport events are often linked to hazardous drinking, and there is evidence of an association between alcohol use and increased rates of injury, violence, and assaults during special events, including major sporting events.<sup>5</sup> For example, a marked increase in alcohol-related emergency department presentations were noted during the 2011 RWC (hosted by New Zealand).<sup>6</sup>
5. Another New Zealand study of three major rugby events in Wellington (the men's RWC 2011, and the 2011 and 2012 International Rugby Sevens), found that alcohol was a contributory or causative factor for up to 90% of patients' attendance at ambulance triage and treatment zones.<sup>7</sup> However, we note that this research has focused on sports events taking place physically in New Zealand and it may not be accurate to extrapolate these results to international televised events.
6. Sports events are also often linked to increased incidents of family violence and there is some evidence to support this.<sup>8</sup> Reportedly, the All Blacks' loss in the RWC 2007 quarter-finals coincided with a spike in referrals to the Women's Refuge.<sup>9</sup> However, the evidence-base on this issue is mixed, with experts noting that further research is required to investigate contributing factors or associations for any increases in domestic violence seen during certain sports events, such as increased alcohol intake.<sup>10</sup>

### ***The Sale and Supply of Alcohol Act 2012 regulates alcohol in New Zealand***

7. The Act regulates the sale, supply, and consumption of alcohol in New Zealand. The object of the Act is to ensure:
  - the sale, supply, and consumption of alcohol is undertaken safely and responsibly, and

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<sup>4</sup> Ministry of Health. (2021). *Annual Update of Key Results 2020/21: New Zealand Health Survey*.

<sup>5</sup> Durbeej, N., Elgán, T.H., Jalling, C., Gripenberg, J. (2016). Alcohol prevention at sporting events: study protocol for a quasi-experimental control group study. *BMC Public Health*. 2016 Jun 6;16:471. doi: 10.1186/s12889-016-3145-3; Lloyd, B., Matthews, S., Livingston, M., & Jayasekara, H. (2011). *Drinking cultures and social occasions: Alcohol harms in the context of major sporting events*. Fitzroy, Victoria: Turning Point Alcohol and Drug Centre

<sup>6</sup> Gardener, M., Parke, T., & Jones, P. (2015). Impact of the New Zealand 2011 Rugby World Cup on an Urban Emergency Department. *NZMJ*. 2015 July; 128 (1418): 80-84

<sup>7</sup> Swain, A.H., et al. (2013). Ambulance triage and treatment zones at major rugby events in Wellington, New Zealand: a sobering experience. *The New Zealand Medical Journal* 126(1372):12-24

<sup>8</sup> Livingstone, M. (2018). *The Association between State of Origin and assault in two Australian States*. Centre for Alcohol Policy Research, La Trobe University. Available at: [The-association-between-State-of-Origin-and-assaults-in-two-Australian-states-noEM.pdf \(fare.org.au\)](https://www.fare.org.au/wp-content/uploads/2018/05/The-association-between-State-of-Origin-and-assaults-in-two-Australian-states-noEM.pdf); Card, D. & Dahl, G. B. (2011). Family Violence and Football: The Effect of Unexpected Emotional Cues on Violent Behavior\*, *The Quarterly Journal of Economics*, Volume 126, Issue 1, February 2011, Pages 103–143. doi: <https://doi.org/10.1093/qje/qjr001>

<sup>9</sup> [World Cup domestic violence fears | Stuff.co.nz](https://www.stuff.co.nz/world-cup/123456789/world-cup-domestic-violence-fears)

<sup>10</sup> Forsdike, K., O'Sullivan, G., & Hooker, L. (2022). Major sports events and domestic violence: A systematic review. *Health & Social Care in the Community*, 30, e3670– e3685. doi: <https://doi.org/10.1111/hsc.14028>; [World Cup: Does domestic violence increase when the All Blacks lose? | Stuff.co.nz](https://www.stuff.co.nz/world-cup/123456789/world-cup-domestic-violence-increase-when-the-all-blacks-lose?)

- the harm caused by excessive or inappropriate consumption of alcohol is minimised.<sup>11</sup>
8. Under the Act, all premises require a licence to serve alcohol. Local decision-making and community participation is central to the licensing process. DLCs are responsible for issuing licences in their district, in accordance with the Act. In addition to statutory requirements, Local Alcohol Policies (LAPs) and licensing conditions imposed by DLCs regulate licensed premises.
  9. Section 43 of the Act sets the default maximum trading hours of 8:00am – 4:00am for on-licensed and club-licensed premises. Trading hours can also be restricted by LAPs or licensing conditions set by DLCs.

### ***Restricting trading hours can reduce alcohol-related harm***

10. Restrictions on trading hours contribute to the Act's object of harm minimisation. Research shows that restricting trading hours for alcohol reduces the availability and accessibility of alcohol, thereby minimising the risk of harmful consumption.<sup>12</sup>
11. International research has shown that small increases to trading hours can result in significant increases in alcohol-related harm, including increased ambulance attendance and incidents of violent crime.<sup>13</sup> Correspondingly, Ministry of Justice data shows the rate of alcohol-attributable crime near licensed premises is 8.9 times higher when the premises close between 3am and 5am, compared to premises that close at 12am.<sup>14</sup>

### ***Special licences can be used to extend trading hours for events***

12. Under section 137 of the Act, licensees can apply for a special licence to allow them to trade at any time for specific events, or a series of events for up to 12 months.<sup>15</sup>
13. DLCs are responsible for administering special licences. Consistent with the object of the Act, harm minimisation remains a core focus of special licensing provisions:

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<sup>11</sup> 'Harm caused by the excessive or inappropriate consumption of alcohol' is defined in s 4 of the Act as: (a) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol, and (b) any harm to society generally or in the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

<sup>12</sup> Babor, T., et al. (2010). *Alcohol no ordinary commodity: research and public policy*. 2nd ed. Oxford University Press (p.145); Miller P., et al. (2012). *Dealing with Alcohol and the Night Time Economy (DANTE)*. Final report. National Drug Law Enforcement Research Fund: Australia; Miller, P., et al. (2013). *Patron Offending and Intoxication in NightTime Entertainment Districts (POINTED)*. Final report. National Drug Law Enforcement Research Fund: Australia; Kypri, K., Jones, C., McElduff, P., Barker, D. (2011). Effects of restricting pub closing times on night-time assaults in an Australian city. *Addiction*. 2011;106(2):303-10

<sup>13</sup> Hahn, R.A., Kuzara, J.L., Elder, R., et al. (2010). Effectiveness of policies restricting hours of alcohol sales in preventing excessive alcohol consumption and related harms. *Am J Prev Med*. 2010;39(6):590-604; de Goeij, M.C., Veldhuizen, E.M., Buster, M.C., Kunst, A.E. (2015) The impact of extended closing times of alcohol outlets on alcohol-related injuries in the nightlife areas of Amsterdam: a controlled before-and-after evaluation. *Addiction*. 2015;110(6):955-64; Rossow, I. & Norström, T. (2012) The impact of small changes in bar closing hours on violence. The Norwegian experience from 18 cities. *Addiction*. 2012;107(3):530-7

<sup>14</sup> Ministry of Justice. (2013). *Risk-based licensing fees. Identifying risk factors for the New Zealand context*. Wellington: Ministry of Justice.

<sup>15</sup> An "event" is defined as "an occasion and a gathering, and any of a series of events" in section 5 of the Act; Section 149 sets out the duration for a special licence.



- special licence applications must be received by DLCs at least 20 working days before the start of an event, unless the DLC waives this requirement<sup>16</sup>
- DLCs must consider a list of criteria set out in the Act,<sup>17</sup> including the object of the Act as it relates to the suitability of the applicant and the details of the event, and
- consideration is given to any matters raised in reports from local Alcohol Harm Prevention Police Officers, Medical Officers of Health and Licensing Inspectors.

14. DLCs may impose conditions on a special licence such as requirements related to the types of alcohol that can be sold and the provision of non-alcoholic and low-alcoholic beverages and food. DLCs may also require special licence applications to be publicly notified and may decline applications if they do not meet the criteria under the Act.

### ***Licensees report challenges with the special licence process for televised events***

15. Licensees regularly use special licences to extend their trading hours for televised events, such as the FIFA World Cup, Six Nations Championship, and high-profile boxing matches.

16. Case law has created the expectation of extra elements of control for a televised event, such as pre-sale tickets, a door charge, a range of food options, and/or a maximum cap on attendees. This means that the event must be demarcated from business as usual to encourage patrons who are interested in the event to attend and exclude casual patrons. These additional control elements reiterate the focus on the safe consumption of alcohol and harm reduction and can make it more difficult for some licensees to get a special licence to host a televised event.

17. An unsuccessful application results in a loss of the licensing application fee and the loss of potential revenue from the proposed event. Fees charged for special licences depend on the size of the event and the number of events covered in the application - fees can vary slightly between different DLCs but range from \$63.25 to \$759 per application.<sup>18</sup>

18. Further, licensees report that the special licence application process is not flexible enough for televised tournaments – this is because the draw for the later stages of the tournament is uncertain. As a result, the demand for a live broadcast – and consequently the financial viability of an event – is difficult to predict.

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<sup>16</sup> Section 137(2) of the Act set out that a DLC may consider an application for a special licence filed less than 20 working days prior to the event, if satisfied that the need for a special licence could not reasonably have been foreseen earlier.

<sup>17</sup> The full criteria for the issue of a special licence includes the object of the Act, the suitability of the applicant, any relevant local alcohol policy, the days and hours the applicant proposes to sell alcohol, the design and layout of the proposed premises, the sale of goods and services other than alcohol, the amenity and good order of the locality, the systems, staff and training in place, and any matters in the report from the Police, Medical Officers of Health and Licensing Inspectors [section 105].

<sup>18</sup> Section 10 of the Sale and Supply of Alcohol (Fees Regulations) 2013 establishes fees payable for special licences. A **class 1** special licence costs between \$575 -759 and covers one large event (400+ people), more than three medium events (100–400 people), or more than 12 small events (fewer than 100 people).

A **class 2** special licence costs \$207- 273 and covers 1-3 medium events (100–400 people) or three to 12 small events (fewer than 100 people).

A **class 3** special licence costs \$63.25 – 83 and covers one or two small events (fewer than 100 people).

19. To reduce the risk of lost licensing fees for financially unviable events, a licensee may apply on a match-by-match basis, but this approach makes it challenging to comply with the 20-day application process.<sup>19</sup>

## What is the policy problem or opportunity?

### ***Televised coverage of men's RWC 2023 falls outside of standard licensed trading hours***

20. France is hosting the men's RWC 2023 from 8 September to 28 October 2023, with 48 matches being played across 51 days. Matches will be broadcast live between 11pm and 10am NZST, reflecting time zone differences. Many of the matches will therefore be broadcast outside of the default maximum trading hours for on-licensed and club-licensed premises.

21. Many New Zealanders enjoy watching rugby together at licensed premises. Licensed premises have a good infrastructure to host televised sporting events, improving access to live broadcasts otherwise locked behind subscription fees, and increasing a sense of community and excitement among patrons. Drinking alcohol can be part of this experience and can contribute to relaxation and enjoyment.<sup>20</sup>

### ***Licence holders seek greater certainty of their ability to host televised matches***

22. As noted, there is provision under the Act for premises to apply for a special licence to extend their trading hours for events. However, the special licence process does not provide the degree of flexibility or certainty the hospitality industry seeks – particularly given the unpredictable nature of a RWC tournament.

23. Unless the Government enacts legislative change, the hospitality industry considers that the current settings mean that they will not be able to take full advantage of the commercial potential offered by the tournament. Consequently, the opportunities for New Zealanders to watch the live games in a licensed premise could be limited and may not meet public expectations.

24. We do not have data estimating the monetary value of the men's RWC 2023 for the hospitality industry. However, industry feedback suggests that the tournament can present significant commercial opportunities for operators of on-licensed and club-licensed premises, many of whom have worked through a long period of economic uncertainty.

25. The overall value of the men's RWC to New Zealanders and the hospitality sector has been recognised by Parliament twice with temporary amendments to the Act for the men's RWC tournaments in 2015 and 2019, which were both held in the Northern hemisphere. The amendments meant that instead of applying for a special licence, on-licence and club licence holders could notify local Police and territorial authority/DLC of their intention to remain open and provide details of their noise management plan, with seven days' written notice.

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<sup>19</sup> Note that while section 137(2) the Act provides DLCs with the discretion to waive the 20-day application requirement, licensees cannot rely on this for their planning. There is also potential for inconsistent application of this discretion between DLCs.

<sup>20</sup> [How many people watch rugby in pubs? \(morningadvertiser.co.uk\)](https://www.morningadvertiser.co.uk/); [Rugby World Cup: Bars across Auckland expecting crowds of rugby fans - NZ Herald](https://www.nzherald.co.nz/sport/news/rugby-world-cup-bars-across-auckland-expecting-crowds-of-rugby-fans/); Victoria Health. (2017). *Brief insights - Sports bar drinking culture*, available at: [VicHealth Drinking culture Sports Bars.pdf](#)



### ***We have limited information about the likely demand for extended trading hours***

26. Stakeholders across the board inform us that the demand for extended trading hours for the 2023 RWC tournament is high. However, our ability to estimate the likely level of demand for extended trading hours is limited by a lack of data:

- we do not have data on the number of special licence applications routinely received for televised RWC events prior to the approach taken in 2015 and 2019, and
- there are limited records on notifications received by Auckland Council in the context of the 2019 RWC,<sup>21</sup> but there are no records from the 2015 tournament.

### ***Alcohol-related harm from the 2015 and 2019 amendments is unquantified***

27. The evidence base clearly connects increases in alcohol-related harm with both extended trading hours and sports events. However, we have no data to suggest that there was a significant increase in alcohol-related harm specific to extended trading hours during the 2015 and 2019 men's RWC tournaments.

28. Our engagement with the regulatory agencies and DLCs, indicates that Police found it challenging to spread their resources across the various licensed premises, especially since some licensees would notify that they planned to extend hours but did not communicate if they decided not to. An increase in disorderly conduct was noted - particularly as patrons moved between licensed premises. We have also heard accounts of children encountering glass and other debris, or inebriated patrons, on their way to school.

29. In contrast, the hospitality industry reported that the pub-goers during the 2015 RWC were generally well-behaved<sup>22</sup> and that licensees complied with their existing obligations under the Act, regardless of extended trading hours during the 2015 and 2019 tournaments.

### ***Stakeholders have a range of contrasting views on this issue***

30. It is likely that New Zealanders expect that they will have the option of watching live televised coverage of the RWC tournament in 2023, as was facilitated by temporary legislative amendments in 2015 and 2019. However, research and stakeholder engagement reflect a range of perspectives on the Act's settings, the suitability of special licence provisions for tournaments such as the RWC, and the efficacy of previous temporary legislative amendments.

### ***The hospitality industry support legislative amendment for the men's Rugby World Cup 2023***

31. The hospitality industry has told us that the special licence provisions are not suitable for the televised RWC tournament, describing the special licence process as a "lottery". They argue that the process is costly and time consuming, while failing to provide certainty for law-abiding businesses. The industry suggests that there are inconsistent application processes and requirements between different DLCs, and that a particularly problematic element of the process is that DLCs can experience capacity issues with the processing of applications.

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<sup>21</sup> Auckland Council records from the 2019 Rugby World Cup show that there were up to 64 notifications for the most popular matches and at least 20 notifications per match.

<sup>22</sup> Radio New Zealand Morning Report, 3 November 2015: [RWC pub punters generally very well behaved | RNZ](#)

32. The hospitality industry believes that if engagement with the special licence application process is required, many licensed premises will be prevented from televising RWC games.
33. Industry stakeholders are generally supportive of a similar approach to that taken in 2015 and 2019. However, they note that some elements of the previous amendments led to unintended consequences, including confusing messaging that resulted in premises failing to meet notification requirements and subsequently facing threats of prosecution for this failure. They also suggested that the opening/closing requirements led to concerns for the safety of patrons.

#### *Other stakeholders support the use of special licences*

34. In contrast, some members of the DLC Advisory Group, local councils and regulatory groups have told us that the special licence provisions work well for televised tournaments and that the cost, time and effort involved in the application process is commensurate to the potential for alcohol-related harm from the extended trading hours. In 2015, some submitters to the Justice Select Committee also stated that the amendments were unnecessary considering the special licence provisions under the Act.
35. The DLCs and the regulatory agencies involved in administering the special licence process say they are equipped to deal with any influx of special licence applications - they do not consider a potential spike in the volume of applications for the RWC 2023 is likely to present any issues from an administrative perspective.
36. In the past, the DLC Advisory Group has expressed concerns about the way that temporary amendments to the Act effectively bypass input from the agencies tasked with managing the object of the Act, making them feel both “disenfranchised and ignored”.<sup>23</sup> However, some members of DLCs, local councils and regulatory groups have noted that committees can apply different processes and requirements (including time requirements) to special licence applications, and that this may make the application process more challenging and time consuming for all parties involved.

#### *Concerns about ‘special’ treatment for the men’s RWC*

37. We are aware of a range of other concerns raised by stakeholders related to the way that the men’s RWC is afforded differential treatment – with both positive and negative consequences:
  - submitters in 2015 raised concerns about the connection between rugby and alcohol being further reinforced by embedding it in legislation.<sup>24</sup> Health agencies, including the Ministry of Health share this concern, and
  - discussions with other agencies have highlighted a perception of continued preferential treatment for one sports code and one gender – noting that this may be inconsistent with societal expectations and norms.

### **What objectives are sought in relation to the policy problem?**

38. The policy objectives are to:

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<sup>23</sup> Ministerial Correspondence to Hon Andrew Little from the District Licensing Committee Advisory Group, dated 21 October 2019.

<sup>24</sup> Submission for this the 2015 amendment are available at: [Sale and Supply of Alcohol \(Rugby World Cup 2015 Extended Trading Hours\) Amendment Bill \(bills.parliament.nz\)](https://bills.parliament.nz/bills/2015/10/sale-and-supply-of-alcohol-rugby-world-cup-2015-extended-trading-hours-amendment-bill)

- provide licensees with a consistent process for extending their trading hours to host men's RWC 2023 matches
- minimise harm from excessive or inappropriate consumption of alcohol
- provide businesses with certainty around the process to extend trading hours throughout the men's RWC 2023, and
- provide New Zealanders with the opportunity to enjoy the social and cultural benefits of watching RWC games in licensed premises.

## Section 2: Deciding upon an option to address the policy problem

### What criteria will be used to compare options to the status quo?

39. The following criteria have been used to assess the options:

#### *Two primary criteria*

- 1) **Provide a consistent approach to extend trading hours for the men's Rugby World Cup 2023 across the country** – facilitating consistent processes to extend trading hours for the men's RWC 2023 to support licensees to capitalise on the assumed business and economic opportunities presented by the 2023 men's RWC, and the provision of social and cultural benefits to those New Zealanders wishing to watch games in licensed premises.
- 2) **Ensure that harm associated with excessive or inappropriate consumption of alcohol is minimised** – reflecting the evidence that extended trading hours and sport events are associated with increased alcohol-related harm.

#### *Two secondary criteria*

- 3) **Provide certainty for businesses** – ensuring that businesses have certainty about the process to extend licensed trading hours in the context of the dynamic nature of a televised tournament.
- 4) **Best use of resources** – reflecting the impact this discrete issue has on the use of resources, such as House time, the workload of DLCs, and regulatory agencies.

### What scope will options be considered within?

#### ***Permanent legislative options are not in scope***

40. The work to develop options for extending trading hours for the men's RWC 2023 began in February this year, at the request of the Minister. We were asked to consider permanent legislative amendment options as part of this work and identified several possible approaches.

41. Any permanent legislative amendment that provides an expedited avenue for extending trading hours has the potential to undermine the harm-minimisation provisions built into the current licensing process. Additionally, a permanent legislative amendment focussed on facilitating extended trading hours for only the men's RWC would:

- further entrench of the connection between men's rugby and alcohol, and
- continue to give preferential treatment to one gender and one sports code over all others.

42. In our view, consideration of a permanent solution should include an assessment of the wider range of potential 'special' events – beyond the men's RWC. This would address the two concerns listed above. However, it could also lead to increases in alcohol-related harm from a proliferation of extended trading hours across multiple events.
43. To mitigate the potential for the erosion of current harm-minimisation provisions and increases in alcohol-related harm, the permanent legislative approaches identified through our work all involved a licensing process or a mechanism to activate an expedited process. The intent was to insert an element of control to prevent extended trading hours and associated alcohol-related harm from becoming par for the course. These control elements meant that none of the identified approaches could be implemented in time for the men's RWC 2023. Our analysis therefore excludes permanent legislative options.
44. In our view, permanent legislative changes to the licensing regime should not be considered hastily or in isolation. Our targeted engagement demonstrates that there is significant interest in this issue from a broad range of stakeholders. A permanent change should be subject to a comprehensive consultation process.
45. The Minister has directed us to consider permanent legislative options as part of advice on potential further alcohol reform in 2024.

***Other legislative amendments to the Act are being considered by Parliament***

46. The Sale and Supply of Alcohol (Community Participation) Amendment Bill is currently before the Justice Select Committee. The focus of this Bill is to enhance community participation in the alcohol licensing regime.
47. We note that the legislative option presented in this RIS creates an exemption to the special licence processes in the Act, thereby bypassing the licensing system and removing the opportunity for communities to participate in decision-making on extended trading hours for the 2023 men's RWC.

**What options are being considered?**

***Option One – status quo***

48. Existing legislative settings in the Act mean that licensees would need to apply for special licences to extend trading hours for the 2023 RWC, under section 137 of the Act (see paragraphs 12 to 14).

***Option Two – temporary amendment (legislative)***

49. Creation of a temporary legislative amendment providing an exemption from special licence requirements via a notification system. The amendment would replicate the mechanism used in 2015 and 2019, with some refinements based on feedback from the regulatory agencies.
50. The key features of the amendment would mean that:
- eligible licensees would be able to extend trading hours to televise RWC games if they notify Police and local councils with at least seven days' written notice, specifying matches and the details of a noise management plan
  - licensees would be required to notify Police and local councils as soon as practicable if they change their plans and decide not to open after having notified otherwise

- certain restrictions would apply to extended trading hours, such as that the televised game must be the primary or sole purpose of the extended trading hours, when the premises can sell alcohol, and when the premises can open and must close before and after games, and
- provisions to enhance public safety and minimise disruptions would apply, such as those relating to Police powers.<sup>25</sup>

51. As noted, the hospitality industry is generally supportive of a temporary legislative amendment. Other stakeholders, such as members of DLCs, local councils and regulatory agencies generally do not support this option.

***Option Three – Issue operational guidance on the use of special licences (non-legislative)***

52. Existing special licence settings under the Act would remain, including the requirements under s105 (criteria to consider for issue of licences) and DLCs’ discretion to decline an application. However, the Ministry of Justice would work with industry stakeholders to understand the pain points in the process. This work would inform the development of national communications and guidance to DLCs, promoting consistent and fair approaches to the processing of special licence applications.

53. Early communications to the hospitality industry, through the regulatory agencies, would give licensees clear and timely guidance on the special licence provisions, including the application process, case law and timing. This would help to optimise conditions for successful special licence applications.

54. We have not engaged in detail on this option with many of our stakeholders. However, we think that it is unlikely that the hospitality industry would support this option as issuing guidance would not alleviate their concerns about the use of special licences.

55. There is support for the use of special licences for the men’s RWC among other stakeholders, such DLCs, local councils and regulatory agencies.

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<sup>25</sup> Police retain the power to close a premise under any of the circumstances set out in section 266 of the Act.

## How do the options compare to the status quo/counterfactual?

<b>Key</b>	--- much worse than the status quo	0 about the same as the status quo	+++ much better than the status quo
	-- worse than the status quo		++ better than the status quo
	- slightly worse than the status quo		+ slightly better than the status quo

	Option One: (status quo)	Option Two: temporary amendment (legislative)	Option Three: operational guidance (non-legislative)
<b>Provide a consistent approach to extend trading hours for the 2023 RWC across the country</b> (primary)	0	+++ Provides a consistent process to extend trading hours that is accessible to all eligible on-licences and club licences. This option is familiar to stakeholders and is likely aligned with expectations from the sector and the public.	+ Enhances the consistency of the process but maintains the requirements of the special licence process under the Act.
<b>Ensures that harm associated with excessive or inappropriate consumption of alcohol is minimised</b> (primary)	0	-- Bypasses the harm-mitigations built into the licensing process and can make it difficult for Police to deploy resources effectively. However, licensees are required to notify Police and local councils and provide a noise management plan with 7 days' notice, as well as notify any changed plans as soon as practicable.	0 Relies on existing processes in the Act to mitigate harm (including early engagement with Police)
<b>Provide certainty for businesses</b> (secondary)	0	+++ Provides certainty to businesses about the process to extend trading hours. Timeframes facilitate businesses making hosting decisions in response to an evolving draw.	+ Increases businesses' awareness of the requirements and their responsibilities under the Act and that DLCs across the country will treat applications consistently and fairly. However, does not guarantee that licences are granted (and decisions may not be timely in the context of an evolving draw)



<b>Best use of resources</b> (secondary)	0	0 Requires a full (if truncated) Parliamentary process and is likely to result in the need for re-allocation of resources for Police. However, it reduces the workload and cost involved in the special licence processes for businesses and for DLCs/regulatory agencies.	++ Would contribute to a more streamlined approach to special licences, thereby increasing the likelihood of successful applications and reducing the administrative burden on businesses. Would not involve the use of House time. Administration burden falls to the Ministry of Justice.
<b>Overall assessment</b>	0	4	4

**What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?**

- 56. We consider that options two and three could each address the issues associated with the men’s RWC 2023, as reflected in the even overall scores in the option analysis in the table above.
- 57. The Ministry’s preferred approach is option three, the use of operational guidance to support existing regulatory provisions. As the steward of the Act, the Ministry of Justice supports the retention of current harm-minimisation requirements, which are integral to the object of the Act. The use of existing licensing structures means that harm-mitigation tools could be leveraged, retaining the integrity and efficacy of the Act.
- 58. We have assumed that option two will result in some increased alcohol-related harm. While we do not have specific data on the harm-related impacts of previous RWC tournaments, research supports the notion that extended trading hours and sports events are linked to increased alcohol-related harm.
- 59. We also note that by bypassing the licensing processes set out by the Act, option two removes the opportunity for communities to input into and influence decisions about alcohol availability in their areas during the RWC 2023 tournament.
- 60. Arguments in favour of option two are weighted towards the interests of business and parts of the rugby-supporting community. Option two would provide businesses with a relatively expedient and familiar process that also ensures a high degree of certainty in their ability to extend their hours of operation. Rugby fans wishing to watch live games in licensed premises would likely have a greater choice of venues.
- 61. The Minister of Justice has indicated her preference to seek Cabinet agreement to temporary legislative change (option two) for the men’s RWC 2023. We have therefore assessed the marginal costs and benefits of option two, below.

**What are the marginal costs and benefits of the option?**

Affected groups	Comment	Impact	Evidence certainty
<b>Additional costs of the preferred option compared to taking no action</b>			
Police (enforcement)	<p>Increased costs of deploying Police to monitor facilities over the 51-day period of the RWC. Although there is potential for the impact to be greater, Police seek to mitigate the costs of last-minute shift changes through careful planning and encouragement of licensees to make earlier notifications.</p> <p>Assumption: that there will be a reasonably high uptake of extended trading hours and some degree of increased disorderly conduct as a result.</p> <p>Medium certainty based on Police insights from previous experiences (note a lack of data to help estimate uptake of extended trading hours and expected increase in disorderly conduct).</p>	<p>Low</p> <p>Monetisable (unquantified)</p>	Medium
Ministry of Justice	<p>One-off costs associated with preparing legislation and implementation of the changes.</p>	<p>Low</p> <p>Monetisable (unquantified)</p>	High

	Assumption: can rely on previous work from 2015 and 2019 amendments. High certainty based on previous experience.		
New Zealand public	Costs associated with some increased alcohol-related harm.  Assumption: extended trading hours will lead to some degree of increased alcohol-related harm, including unquantifiable harm (such as children encountering debris or intoxicated patrons on the way to school) but that the overall increase will be low.  Medium certainty based on the evidence base that extended trading hours and sports events lead to increases in alcohol-related harm (note a lack of data on impact of previous amendments).	Low  Monetisable/non-monetisable (unquantified/unquantifiable)	Medium
<b>Total monetised costs</b>		N/A	N/A
<b>Non-monetised costs</b>		N/A	N/A
<b>Additional benefits of the preferred option compared to taking no action</b>			
Regulatory agencies (Alcohol Harm Prevention Police Officers, Medical Officers of Health and Licensing Inspectors) and DLCs	One-off administrative cost saving from not having to process special licences for the RWC.  Assumption: that the hospitality industry would not use special licences to extend trading hours when they have access to the notification system.  High certainty based on previous experience.	Low  Monetisable (unquantified)	High
New Zealand public	Social and cultural benefits for some people from greater access to watching live games at licensed premises.  Medium certainty based on research and data showing high interest in the RWC and the All Blacks. <sup>26</sup>	Medium  Non-monetisable (unquantifiable)	Medium
Hospitality industry	Expedient process and certainty for planning to enable enjoy maximum commercial benefits from RWC.  Assumption: that there will be a high uptake of extended trading hours and that the events are made financially viable by high demand.  Medium certainty based on previous experience. (Note a lack of data to estimate demand for extended trading hours and an inability to estimate demand for events ahead of time).	High  Monetisable (unquantified)	Medium

<sup>26</sup> Roy Morgan, August 04 2018: Rugby viewership more than double Rugby League in NZ. Available at [Rugby viewership more than double Rugby League in NZ - Roy Morgan Research](#); [Super Rugby TV ratings drop ahead of Blues-Crusaders showdown \(1news.co.nz\)](#); [Why do Kiwis watch rugby? - The Shout Magazine \(New Zealand\)](#)

<b>Total monetised benefits</b>		N/A	N/A
<b>Non-monetised benefits</b>		N/A	N/A

## Section 3: Delivering an option

### How will the new arrangements be implemented?

62. Option two has the benefit of being a familiar process for stakeholders. The Ministry of Justice will need to issue communications to territorial agencies and the regulatory agencies to ensure streamlined implementation but can likely rely on materials produced from the previous amendments.
63. As noted, the hospitality industry raised a concern about confusing messaging around notification requirements in previous years. The Ministry will therefore need to ensure that communications for 2023 unambiguously convey responsibilities and requirements. Any changes made to refine the drafting of the 2023 amendment will also need to be clearly communicated to avoid confusion.
64. This option will likely result in some degree of increased alcohol-related harm. It is therefore important that the 2023 amendment includes harm mitigation strategies, such as those provided for in 2015 and 2019, and any other reasonable measures identified by the regulatory agencies. For example, Police have noted that it is important they have clarity on which licensed premises are extending trading hours, so they have appropriate resources in place to mitigate any additional harm that may arise.

### How will the new arrangements be monitored, evaluated, and reviewed?

65. Should Cabinet agree to amend legislation in the context of the men's RWC 2023, the Ministry will give effect to its stewardship responsibilities by leading work with other agencies to monitor and review the outcomes.
66. We anticipate data collection will focus on the:
- number and nature of notifications of extended trading hours (covering type, size, and geographical location of establishment),
  - periods for which extended hours were notified (hours and dates) over the 2023 RWC period, and closing times, and
  - period of notice given (in advance of extended hours).
67. This information could form part of the notification process, with data collected by local councils and/or Police in the first instance. The Ministry could collate and analyse data to better understand the level and patterns of interest in extended trading hours across different types of licensed premises. It would also provide important insights into the geographical locations most impacted by extended trading hours.
68. Ultimately, this data could be analysed alongside Police data (at a regional level) to identify possible correlations between extended trading hours and reported incidents of violence and anti-social activity – addressing a core gap in our information. Officials would also investigate the potential to examine any links to other alcohol-related harms, such as physical injuries resulting in hospital visits.

69. Further work is required to assess how this could best be implemented across agencies. This data will be an important input into future decision-making, including an assessment of the efficacy of future (permanent or temporary) legislative changes that link licensed trading hours to the men's RWC and other special events.