

Liquor (Mornington) Amendment Regulation 2023

Explanatory notes for SL 2023 No. 139

Made under the

Liquor Act 1992

General Outline

Short Title

Liquor (Mornington) Amendment Regulation 2023

Authorising law

Sections 173G, 173H, 173I and 235 of the *Liquor Act 1992*.

Policy objectives and the reasons for them

The objectives of the *Liquor (Mornington) Amendment Regulation 2023* (Amendment Regulation) are to:

- implement the request from the Mornington Shire Council (Council), in consultation with the Community Justice Group for the Mornington Shire (Junkuri Laka Wellesley Islands Aboriginal Law, Justice and Governance Association Inc) to increase the alcohol carriage limit for the Mornington Shire and surrounding foreshores (Mornington Shire); and,
- build on the positive health and safety outcomes arising from the current alcohol carriage limit for the Mornington Shire.

Since 16 April 2022, the Mornington Shire has had a prescribed alcohol carriage limit of 4.5L (the equivalent of 12 x 375ml cans) of permissible alcohol, being any combination of beer or pre-mixed spirits with an alcohol concentration of up to and including 4% alcohol by volume (ABV). The community previously had a zero-alcohol carriage limit implemented in 2003.

The current alcohol carriage limit was introduced to provide residents of the Mornington Shire with a lawful alternative to the dangerous production and consumption of illicit home brew, which was identified as adversely impacting community health and safety.

Since the introduction of a regulated supply of alcohol, residents of the Mornington Shire have observed positive health and safety outcomes for the community, including a downward trend in alcohol-related hospital presentations and a reduction in the number of people consuming illicit homebrew. There have also been no significant incidents reported since the introduction of the current alcohol carriage limit.

On 27 October 2022, the Council wrote to the then Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships with a request to increase the alcohol carriage limit to 11.25L (the equivalent of 30 x 375ml cans) of permissible alcohol, being any combination of beer or pre-mixed spirits with an alcohol concentration of up to and including 4% ABV. The increase to the alcohol carriage limit requested by the Council was informed by community consultation and is reflected in the revised Community Safety Plan (CSP) for Morningson Shire, which proposes an alcohol carriage limit of 11.25L of permissible alcohol. The Council's proposal also has the support of the Morningson Shire community.

Supporting discrete communities to co-design and implement alcohol management changes, including minor modifications to alcohol carriage limits, forms part of the Queensland Government's *Renewed Approach to Alcohol Management* (Renewed Approach).

Consequently, the Amendment Regulation increases the alcohol carriage limit for the Morningson Shire to allow for the lawful possession of up to 11.25L of beer or pre-mixed spirits, with an alcohol concentration of up to and including 4% ABV, as prescribed in Schedule 11 of the *Liquor Regulation 2002*.

Achievement of policy objectives

The policy objective of the Amendment Regulation is achieved by amending Schedule 11 of the *Liquor Regulation 2002* to increase the current alcohol carriage limit from 4.5L to 11.25L of low to mid-strength beer or pre-mixed spirits (or any combination of both) to provide a lawful and convenient alternative to illicit home brew consumption causing significant harm in the community.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the *Liquor Act 1992*, which include the regulation of the supply of liquor in particular areas to minimise harm caused by alcohol abuse and misuse and associated violence.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is largely consistent with the harm minimisation policy objectives of liquor legislation in other Australian states and territories. Similar legislation relating to restricted areas (also known as dry areas) exists in the Northern Territory and Western Australia under the *Liquor Act 2019* (NT) and the *Liquor Control Act 1988* (WA).

In 2013, the High Court of Australia determined that Queensland alcohol restrictions were a 'special measure' under the *Racial Discrimination Act 1975* (Cth) as they impose constraints on individual liberties in favour of promoting safety for the broader community (*Maloney v the Queen* [2013] HCA 28).

Alternative ways of achieving policy objectives

Amending the alcohol carriage limit prescribed in the *Liquor Regulation 2002* to allow a limited type and volume of liquor is the only way to effectively regulate and manage alcohol-related harm in the Mornington Shire.

Repealing Mornington Shire's designation as a regulated restricted area would enable residents and visitors to be in possession of all types and quantities of liquor in the Mornington Shire. There would be no ability to restrict the volume or variety of liquor in an individual's possession. It is anticipated unregulated access to liquor would result in significant adverse impacts to individual and community health and safety, amplifying the existing negative impacts resulting from the consumption of illicit high alcohol content home brew prevalent in Mornington Shire.

Allowing a restricted amount of low and mid-strength liquor is intended to provide a safer alternative to illicit home brew or unregulated access to liquor.

Benefits and costs of implementation

The Amendment Regulation recognises the Mornington Shire's community's progress in alcohol management. It allows Mornington Shire residents and visitors to be in possession of regulated alcoholic beverages, enabling responsible liquor consumption while helping to curb demand for illegal high alcohol content home brew. It is expected that this will allow the Council to build on the health and safety benefits that appear to be arising from the existing alcohol carriage limit for the Mornington Shire.

Any expenditure associated with the implementation of the Amendment Regulation will be met through existing budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

The proposal to increase the alcohol carriage limit for the Mornington Shire submitted by the Council has received support from key community stakeholders, including the Community Justice Group for the Mornington Shire (Junkuri Laka Wellesley Islands Aboriginal Law, Justice and Governance Association Inc), Mission Australia, the local Queensland Police Service (QPS) for the Mornington Shire, the Domestic and Family Violence Shelter service provider, and Elders of the Mornington Shire. The proposal has also received support from the community more broadly.

The Department of the Premier and Cabinet, Queensland Treasury, and QPS did not raise any issues with the proposal to increase the alcohol carriage limit for the Mornington Shire.

The relevant Ministers, being the Premier and Minister for the Olympic and Paralympic Games, Minister for Treaty, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Communities and Minister for the Arts and the Ministerial Champion for the Mornington Shire, also support the proposal to increase the alcohol carriage limit for the Mornington Shire.

In accordance with the *Queensland Government Better Regulation Policy*, an Impact Assessment Statement (IAS) was prepared for the Amendment Regulation. The IAS determined the Amendment Regulation is minor and has zero/negligible regulatory costs. The Amendment Regulation will not add to the burden of regulation and is unlikely to result in significant adverse impacts, therefore, no further regulatory impact analysis was required.

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