

Committee Secretariat
Governance and Administration Committee
Parliament Buildings
Wellington 6160

Dear Chair of Governance and Administration Committee

Re: Submission on Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill (No 2)

Thank you for the opportunity to provide a written submission on this consultation document.

Regional Public Health serves the greater Wellington region, through its three district health boards (DHBs): Capital and Coast, Hutt Valley and Wairarapa and as a service is part of the Hutt Valley District Health Board.

We work with our community to make it a healthier safer place to live. We promote good health, prevent disease, and improve the quality of life for our population, with a particular focus on children, Māori and working with primary care organisations. Our staff includes a range of occupations such as: medical officers of health, public health advisors, health protection officers, public health nurses, and public health analysts.

We are happy to provide further advice or clarification on any of the points raised in our written submission. We wish to appear before the committee to speak to our written submission. The contact point for this submission is:

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Yours sincerely

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Introduction

1. Regional Public Health welcomes the opportunity to comment on the proposed amendment. We believe our experience of the Act and our public health expertise provides noteworthy information for the committee.
2. We have eight Territorial Authorities in the region and we report to eight District Licensing Committees covering a population of 513,900 people. We have worked with Councils in the development of Local Alcohol Policies (LAPs) and supported communities' participation when they have requested advice and support. We have just two implemented LAPs for the region. We are well versed with the opportunities LAPs offer in reducing alcohol related harm and have experienced some of the trials and tribulations encountered in developing them.
3. This submission is intended to provide a general commentary on the intent of the Bill placed in context with LAPs, and the mechanism for achieving the desired reduction in licences.

Alcohol Related Harm in New Zealand

4. Alcohol consumption causes the death of approximately 800 New Zealanders annually (Connor et al, 2013). That level is greater than the road toll of 380¹, deaths by preventable drowning at 88² and homicide at 64³ a total of 532 deaths per year. Deaths from alcohol consumption are also higher than the annual number of suicides at 606⁴ in the 2016/17 year.
5. Mortality is only a fraction of the total burden from alcohol. An estimated 748,000 persons 15 years and over were hazardous consumers in 2016/17 (Ministry of Health, 2016/17). One in four people reported having a heavy drinker in their life, and this was associated with reduced personal wellbeing and poorer health status (Casswell, You, Huckle 2011); as well as direct harm caused by the person's alcohol consumption (Casswell, Harding et al, 2011).
6. Alcohol consumption is a significant contributor to many health conditions; cancers, cardiovascular diseases, mental health disorders, digestive disorders, diabetes and obesity, and respiratory disorders (Room et al 2005). Cancer and chronic disease account for the greater majority of the alcohol health burden at 57 per cent of the total mortality (Wilson and Blakely, 2015). Alcohol consumption also carries significant risk to the unborn child (Sellman and Connor, 2009) with lifelong consequences. The introduction of the expanded Purpose and Object of the Act and the extensive definition of harm clearly encompasses these facets.

¹ Ministry of Transport, Road Deaths <https://www.transport.govt.nz/land/road-deaths/>

² Watersafe NZ, 2017 Provisional Preventable Drowning Fatalities
<http://www.watersafe.org.nz/family-communities/research-and-information/statistics-overview/>

³ New Zealand Police, 2017. A summary of statistics about victims of Murder, Manslaughter, and Infanticide. Police National Headquarters, March 2017 <http://www.police.govt.nz/sites/default/files/publications/homicide-victims-report-2015.pdf>

⁴ Coronial Services of New Zealand. Annual Suicide Statistics 2017. <https://coronialservices.justice.govt.nz/suicide/annual-suicide-statistics-since-2011/>

7. At the individual level, alcohol-related harm varies person to person, meaning it is not easy to accurately predict the negative impact on a given individual, but there are clear patterns visible at a population level. Māori and people living in more deprived neighbourhoods bear a greater burden of the harm (Ministry of Health, 2016/17). Unfortunately, one New Zealand study found that the alcohol-related death rate for Māori was 4.2 times higher than the rate seen among people who did not identify as Māori (Connor et al, 2005). Therefore, population controls are very important levers for reducing harm. Reducing alcohol accessibility is one of the most effective measures that can be taken (Sellman et al, 2017) and that is why intervention through this Bill has the potential for such significant population benefit. These benefits go beyond reducing the negative impacts on individuals; they stretch to making our communities healthier and more harmonious places to live.
8. The negatives from harmful alcohol use go beyond physical health issues. Alcohol use has been strongly linked to physical and sexual assaults, a significant proportion of police apprehensions and around half of serious violent crimes (Sellman et al 2017). A New Zealand study estimated that in a year, more than 62,000 physical and 10,000 sexual assaults involved a perpetrator who had been drinking (Connor et al 2009) and this comprised more than half of all physical assaults and sexual assaults. In the case of physical assault, it was relatively more common for these to occur at pubs, bars and clubs or on the street than in the home (Connor et al 2009).
9. The financial cost of harmful alcohol use has been quantified in the New Zealand setting. A 2009 report estimated that harmful drug use, including alcohol, resulted in more than \$6.5 billion in social costs (costs such as crime, discrimination, informal care for the heavy alcohol user) (Slack et al 2009). This was equivalent to the gross domestic product of New Zealand's agricultural industry. Harmful alcohol use was responsible for around two-thirds of social costs. Approximate yearly costs for every harmful user of alcohol/other drugs was around \$9,800 per person (Slack et al 2009).
10. Alcohol consumption is a widespread and often socially accepted part of New Zealand life, however, it is a substance that is strongly related to physical health issues (both acute and long-term), risk of physical injury and assault, and social fragmentation. If it was to be introduced into society as a new drug, it is likely that it would be classified as a Class B drug along with morphine, dexamphetamine, and gamma-hydroxy butyrate (Sellman et al 2009).

Support for Density Restrictions on All Licence Types

11. New Zealand research has established that outlet density or proximity to alcohol outlets is associated with individual-level binge drinking and alcohol-related problems (Connor et al, 2010). New Zealand research (Day, 2012) found a shorter travel distance to the nearest off-licence resulted in higher levels of serious crime.
12. Different licence types are more commonly associated with different types of harm. In New Zealand, off-licences were most often associated with violence, antisocial behaviour, drug and

alcohol offences, sexual offences and motor vehicle accidents (Cameron et al 2013, 2017). Bars and night clubs were most often associated with antisocial behaviour and property abuses (Cameron et al 2013, 2017). Clubs were associated with violence, dishonesty offences and sexual offences (Cameron et al, 2013, 2017). However studies have found both comparable and disparate relationships between licence types and harm when comparing small areas (Cameron et al 2013, 2017), (Holmes and Meier, 2015). This could be because communities are not homogeneous and the makeup of a particular community interacts with that community's arrangement of outlets. Data that provides information on the 'lived experiences' of alcohol availability is considered vital in the decision-making process (Holmes and Meier, 2015). When implementing a LAP, an understanding of the local context is important. Health agencies, New Zealand Police, and communities have a vital role in supporting that understanding. It is important that communities are encouraged and able to participate. The process must then be engaging and enable their participation.

The Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill and Supplementary Order Paper No 2

13. Regional Public Health **supports** the intent of this Bill; it does assist in achieving the Object of the Act as outlined in clause 4.
14. The Bill acts as an enabler. It will allow alcohol policies to gain more prominence in the decision-making process in licence renewals. It may help generate support for location and density restrictions, which are not popular in LAPs at present, although research evidence and community feedback points to the need for measures to manage location and density.
15. From 1989 to 2009 the number of liquor licences more than doubled with a total of 14,183 licences held, 4,000 of those off-licences (Law Commission, 2009). This Bill will assist in addressing the concerns with excessive growth. Almost all New Zealanders agree we have too many liquor outlets, just 2 per cent think there are too few (Peck, 2011).
16. In our experience, communities have regularly expressed a desire to reduce the number of licences. In Lower Hutt councillors questioned whether a sinking lid could be applied to off-licences but accepted a cap in the provisional amendment when it was explained that the Act would not allow for a reduction as it did not cover renewals. This Bill would be welcomed by those communities.
17. We **do not support** the restriction of the Bill to off-licences only. We consider this to be an excessive restraint that would hinder the Bill's ability to meet the Purpose and Object of the Act. Alcohol-related harms are also associated with concentrations of both on-licences and club licences. The "5+ Solution" to reduce alcohol-related harm in New Zealand clearly cites reductions in alcohol accessibility as one of the most evidence-based strategies available.

18. If the Bill were applied to off-licences only, it would create an anomaly in the way these licences can be treated compared with others, with no evidence base to support this. In Wellington Central there are significant numbers of on-licences and a significant positive relationship with harm (Cameron et al, 2013). If the provisions were applied to all licence types, it would enhance the Bills effectiveness. At the time of drafting the Wellington LAP, council stated that 71 per cent of all alcohol licences were issued in the Lambton Ward (Central Wellington) with 79 per cent of those being bars, night clubs and restaurants.
19. There need to be factors which regulate how this restriction functions at renewal. We recommend a simple model of last licence granted is the first licence refused. The licensee should be given an appropriate time in which to close the store.

Impact of the Amendment Nationally

20. Many areas are not yet covered by a LAP. As of 1 August 2017 only 43.3 per cent of Territorial Authorities had a LAP. Nearly a quarter (23.9 per cent) had not developed or notified a draft LAP. The remaining areas are in various stages of draft or provisional stages (Jackson and Robertson, 2017).
21. Of the implemented LAPs, none contain measures that reduce the number of off-licences in a named area i.e. give effect to renewals. Further none contain any restrictions by area for new licences beyond their zoning regulations and the district plan. A limited few describe restrictions on new licence applications by their proximity to one other, or their proximity to sensitive facilities such as schools, alcohol and drug treatment facilities, marae, and places of worship or other sites deemed as sensitive by a community. Of the few that do, most only require the DLC to have regard to proximity or require an impact report (Jackson and Robertson, 2017).
22. The amendment to the Act is likely to have little impact despite its good intentions. Unless these policies can be supported to be bolder the desired outcomes cannot be achieved. The process of LAP development should change to encourage this.
23. Greater consideration and weight needs to be given to the assessment of harm and the lived experiences of availability. Community need to be encouraged to participate which may include novel or new methods to facilitate their input during the early developmental stages.
24. Insufficient weight is currently given to the views of community with respect to their neighbourhoods. It is our experience too much deference is given to the views of the alcohol industry. We have also found that Councillors are tentative about placing restrictions within LAPs, concerned they will have a serious adverse effect on the local economy, or the vitality of a district or neighbourhood.

25. Hearings of the draft policy should be made available at times that suit community. Community participation drops significantly once the draft has been consulted on, yet often there are significant changes between the draft and the provisional policy which are not reflective of their views. Generally the policies become less restrictive (Alcohol Health Watch, 2017). Community often miss notification of those changes and even if noted rarely participate in an appeal. The legal environment hinders the participation of all parties except the alcohol industry and significantly impacts on the cost of policy development. The appeal needs to be dropped from the process or altered significantly to provide an equal representation between parties. No other council policy/bylaw is required to undergo an appeal process.

Impact of the Amendment in the Wellington Region

26. None of the two implemented LAPs, in Lower Hutt and Porirua, contain measures which restrict the number of licences by area, or by reference to proximity to one another.
27. Lower Hutt has proposed an amendment to cap existing off-licences in six priority areas at the level that exists when the policy is implemented and is under appeal. Regardless of the appeal outcome it will have no impact on renewals.
28. Porirua has named two types of sensitive sites as proximity concerns (schools, described as primary and secondary) and alcohol and drug treatment centres. No specific restriction on proximity is given. A new applicant must only complete an impact assessment. Renewals are explicitly excluded from all location and density restrictions.
29. None of the other LAPs part way through the process contain restrictions that will be enacted by the amendment. In the Wellington region, the amendment will have zero impact.

Local Alcohol Policy Process

30. We have found our involvement in LAP development time consuming and costly. It has been essential we have legal advice. It has been almost impossible to make any meaningful difference in alcohol availability. A key focus for Regional Public Health was a reduction in the hours of trading. This was seen as the area with the greatest potential to reduce harm as this control on availability could be applied to all licences including renewals, off-licences particularly as they accounted for 75 per cent or more of all alcohol sales.
31. Working closely with Territorial Authorities and police in the draft stages gave us minimal opportunity to encourage harm minimisation prior to wider stakeholder engagement. From our perspective we noted a strong acceptance of the status quo which often came from a strong economic bias supporting business and growth.
32. Community were always more supportive of greater restriction particularly in communities where alcohol harm is at its most visible. The public have not had a fair process. A process

focused on submissions and daytime hearings is not encouraging and does not support participation. For many it makes them inaccessible. Further whilst the intent of the new Act was that LAPs are expected to reflect the views of community the legal process tends to diminish the views of communities.

33. Unless community views are better represented in policy and also in DLC hearings there is a real chance of community apathy developing rather than fostering their increased participation in decision-making.
34. In the appendix a brief case study is taken of the development of the Wellington City LAP and its subsequent abeyance as well as an example of a more progressive policy from draft to provisional policy and later amendment in Lower Hutt, which still has minimal impact on addressing availability.

Recommendations

We request the select committee recommend the following (listed in no particular order):

- a. Encourage District Licensing Committees to hold licensing decisions in community settings and during hours that encourage and enable community input.
- b. Encourage Territorial Authorities to consider novel ways to ensure the engagement of communities in policy development.
- c. Encourage Territorial Authorities to hold hearings in community settings and during hours that encourage and enable community input.
- d. Encourage Territorial Authorities to include provisions that explicitly address location and density.
- e. Require District Licensing Committees to apply the provisions set out in a local alcohol policy.
- f. Make it mandatory to have Local Alcohol Policies.
- g. Consider making it difficult for the alcohol industry to challenge Local Alcohol Policies that may jeopardise efforts to reduce alcohol-related harm in communities. For example, greater weight should be placed on evidence of harm and community views.

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Appendix

Wellington City LAP

| Draft LAP Provisions | Central City Precinct | Wellington Central | Suburban Centres |
|--|---|---|------------------|
| Hours on-licences* | 7am to 3am 7am to 5am for best practice premises (high risk premises excluded) | 7am to 2am 7am to 3am for best practice premises (high risk premises excluded) | 7am to 12.00pm |
| Hours off-licences Supermarket, grocery and liquor store* | 7am to 9pm | 7am to 9pm | 7am to 9pm |
| Density | Applications assessed as high risk will be dealt with by public hearing. | | |
| Proximity/Sensitive sites | Applications assessed as high risk will be dealt with by public hearing. | | |
| Risk Assessment Tool | The Draft LAP had a risk assessment framework that sat alongside the policy | | |
| Provisional LAP | | | |
| Hours on-licences* | No change | No change | No change |
| Hours off-licences Supermarket, grocery and liquor store* | 7am to 11pm | 7am to 11pm | 7am to 11pm |
| Density | Applications assessed as high risk will be dealt with by public hearing. | | |
| Proximity/Sensitive sites | Applications assessed as high risk will be dealt with by public hearing. | | |
| Risk Assessment Tool | The Provisional LAP retained the risk assessment framework. | | |

*Hours in the table reference retail on- and off- licences, not included are clubs, conveyances, caterers, hotels, airport bars and brothels

Comments

Initial stages

Wellington City Council completed a resident survey, provided online discussion forums, held ward based workshops and consulted with industry and stakeholder groups in the development stages. Police and public health were consulted as separate stakeholders. The majority of the population reported favourably on restricting availability.

The draft strategy had a 9pm closure for all off-licences. Research contracted by council had identified a problematic culture of pre-loading and side-loading on Friday and Saturday nights and that the majority of the purchases from supermarkets in the centre of the city after 9pm were alcohol only. Historically a number of on-licence premises in the city centre were trading beyond the maximum national default hours therefore they continued this later trading in the policy to 5am if they meet certain criteria.

Regional Public Health's priority was on reducing availability of alcohol from on and off-licences through a reduction in hours as this was the only means that a meaningful reduction in alcohol availability could be achieved with existing premises.

Provisional Policy

The key change between the draft and provisional policy was the change in off-licence hours. Wellington City Council chose to change these hours back to the default national maximum of 11pm. The reason given was that there was no evidence that a reduction in off-licence hours was successful in reducing harm in New Zealand.

The provisional policy was appealed by Police, Regional Public Health and Capital & Coast DHB regarding the on-licence hours to 5am and off-licence hours to 11pm. The Alcohol Regulatory and Licensing Authority determined the risk assessment tool was in breach of the Act and the 5am hours were counter to the Object of the Act. The policy is in indefinite abeyance.

Current on-licence hours are the national default hours of 4am still later than the policy described for many areas and notably more so than the city centre 3am except for exempted premises. Community have no additional controls on off-licences despite anticipating a 9pm closure.

Subsequently WCC worked with key off-licence representatives, police, public health and researchers to try to establish a voluntary reduction in off-licence hours to 9pm for a set period and evaluate its effectiveness. Generally the process was contentious and it was difficult to get agreement on the methodology. Foodstuffs was unwilling to dictate terms of trading as a franchise organisation and getting individual licence holders to participate was problematic. The trial never went ahead.

Any controls on alcohol availability by policy or trial were thus abandoned. The Council was forced to resort to more traditional less evidenced based methods to reduce harm. The council formed an Alcohol Forum, a group of interested stakeholders to work collectively on harm reduction in the city centre. Activities were focused on improving a drinkers' behaviour using less effective methods such as social marketing and tools to allow bars to better communicate with one another primarily to prevent the entry of intoxicated persons on to premises, which of course made little change on the streets.

The group has since undergone further changes. Now known as the Night-time City Forum the alcohol focus has been further eroded. The framework collectively is city vibrancy and economic success with a nod to harm reduction with an assessment of safety. This is well removed for the original starting point of the Purpose and Object of the Sale and Supply of Alcohol Act.

Lower Hutt

| Draft LAP Provisions | Lower Hutt CBD | Other areas | Petone Jackson Street | Eastern Ward | Western Ward |
|--|---|-------------|-----------------------|--------------|--------------|
| Hours Taverns/Hotels/Nightclubs | 7am to 3am | 7am to 1am | | | |
| Hours Restaurants | 7am to 1am | | | | |
| Hours off-licences | 7am to 12pm | 7am to 11pm | 7am to 12pm | 9am to 10pm | 9am to 9pm |
| Density | Limit of 2 off-licences in Eastbourne Cap on off-licences in the central ward excluding the CBD Waiwhetu shopping area beer and wine sales only | | | | |
| Proximity/Sensitive sites | No restriction | | | | |
| Provisional LAP | | | | | |
| Hours Taverns/Hotels/Nightclubs | 7am to 3am | 7am to 1am | 7am to 3am | 7am to 1am | |
| Hours Restaurants | 7am to 1am | | | | |
| Hours liquor stores, grocery under 1,000m ² | 9am to 9pm | | | | |
| Hours supermarkets | 9am to 11pm | | | | |
| Density | No restriction | | | | |
| Proximity/Sensitive sites | No restriction | | | | |
| Adopted LAP off-licence hours | 9am to 10pm | | | | |
| Provisional LAP Amendment | | | | | |
| Density | Cap on off-licences in 6 named areas | | | | |

Comments

Initial stages

Hutt City conducted a resident survey and staff consulted with council ward representatives. Generally residents who responded were in favour of restriction.

Draft LAP

The closure for off-licence hours was dependent on location with commercial areas granted hours beyond the national default hours. All off-licences were treated equally. Regional Public Health and Police were not in favour of the extended hours, but supported all off-licences being treated equally. Our preference was for a 9pm closure for all off-licences. On-licence hours were not causing concern.

The density restrictions were a peculiar mix which had come through the ward consultations, perhaps not reflective of the wider community and lacked any reference to harm or risk within the detailed areas. A strong community voice came through the draft's hearing calling for restriction on the number of off-licences, particularly in the more socially and economically deprived areas, more so than hours.

The Provisional Policy

Community voice was overlooked in developing the provisional policy. Density restrictions were removed rather than reinforced.

Consideration for the varying views of different parties regarding hours resulted in significant changes, particularly arguments from the supermarkets. Rather than hours being determined by location they were split by licence type with supermarkets and large grocery stores able to operate the latest hours to 11pm. Regional Public Health and Police were not in favour of the split.

The policy's off-licence hours were appealed by Police, the Medical Officer of Health and the Hutt Valley District Health Board as did representatives for the liquor stores who were closing earlier at 9pm. A negotiated settlement for all off-licences to 10pm was agreed, heard by ARLA and agreed.

On the day council adopted the LAP community protested at the council meeting upset that they had not been listened to and that they were continuing to have to mobilise and fight applications. Following that protest council agreed to develop an amendment to the policy to cover the proliferation concerns.

Hutt City Council requested information from Regional Public Health and Police to inform the amendment. A briefing paper on the evidence pertaining to density controls as a means to reduce harm and a comparative risk analysis of various harm indicators by area was completed. This resulted in six priority areas being identified. These six areas have a cap on the number of licences limited to those existing at the time the policy is implemented. It is one of the few LAPs that would implement a direct cap on off-licences. Council had enquired as to whether a sinking lid could apply but were advised that the Act would not support this as renewals could not be included. This amendment is under appeal by Progressive Enterprises and Foodstuffs New Zealand.