

# **Waikato District Council Development of Local Alcohol Policy (LAP)**

## **Discussion document**

## **Introduction**

The Sale and Supply of Alcohol Act allows for councils to develop a Local Alcohol Policy (LAP) for its territorial area, giving the community a chance to have a say about the sale and supply of alcohol in their district.

Waikato District Council has resolved to develop a LAP for the Waikato district.

The purpose of this discussion document is to provide information to support the development of a LAP, outline the alcohol-related issues to be addressed through the LAP and to propose a range of questions for the community to consider when providing their views on alcohol licensing which will assist in the development of a draft policy.

## **Legislation**

The Sale and Supply of Alcohol Act 2012 came into force on 18 December 2013, replacing the previous Sale of Liquor Act 1989. The Act empowers territorial authorities to develop local alcohol policies, which once adopted, will need to be considered by the District Licensing Committee and the Alcohol Regulatory and Licensing Authority when they make decisions on new licence applications. The LAP will also have some effect on existing licences. A LAP is intended to assist in meeting the objectives of the Act:

*(1) The object of the Act is that—*

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

*(2) For the purposes of subsection (1), the harm caused by the excessive or inappropriate consumption of alcohol includes—*

- (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 the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).*

Section 77(1) of the Act sets out the matters that can be addressed through a LAP. These are limited to the following licensing matters:

- Location of licensed premises by reference to broad areas
- Location of licensed premises by reference to proximity to premises of a particular kind or kinds
- Location of licensed premises by reference to proximity to facilities of a particular kind or kinds
- Whether further licences (or licences of a particular kind or kinds) 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 or kinds, subject to discretionary conditions
- One-way door restrictions.

It is important to note that while the District Licensing Committee determining licence applications must have regard to a LAP and give weight to its provisions, it is not bound to ensure

all provisions are applied (except for those given statutory effect such as maximum trading hours) and may apply its discretion in response to individual circumstances.

Section 78 of the Act provides that when producing a draft policy Council must have regard to—

- (a) The objectives and policies of its district plan
- (b) The number of licences of each kind held for premises in its district, and the location and opening hours of each of the premises
- (c) Any areas in which bylaws prohibiting alcohol in public places are in force; and
- (d) The demography of the district's residents; and
- (e) The demography of people who visit the district as tourists or holidaymakers; and
- (f) The overall health indicators of the district's residents; and
- (g) The nature and severity of the alcohol-related problems arising in the district.

Development of a LAP by Council is not mandatory. When no LAP is in force licensing decisions are made using the default criteria of the Act. These criteria are considered in all licence applications regardless of whether or not a LAP is in force. The LAP has the effect of providing further guidance to the committee on the wishes of the community in which the licence application is made.

Some provisions of a LAP are given statutory effect, and in particular maximum trading hours. Where no LAP is in force detailing maximum trading hours, the Act provides national default maximum trading hours of 8am – 4am the following day for on-licences (pubs, cafes, restaurants etc) and club licences and 7am – 11pm for off-licences (bottle stores, supermarkets, grocery stores etc). A licence cannot be issued for hours outside these default maximum hours but can be more prescriptive. A LAP may specify more restrictive or more permissive maximum hours than the default hours prescribed in the Act. When making a decision on an application the licensing committee is bound by the maximum hours specified in the LAP. Any licence that has previously been issued with greater hours than the maximum hours specified in the LAP is overridden by the hours in the LAP.

### **Alcohol Related Harm**

Excessive consumption of alcohol can cause harm directly to drinkers themselves, to people around drinkers, and to wider society, which has to cope with the consequences. Research shows that alcohol-related issues are widespread and varied, and contribute significantly to a range of costs including injury and death, other medical problems, crime (including property damage, violence and assaults), traffic accidents, absenteeism, unemployment, public disorder and treatment costs (Babor et al., 2010; Matheson, 2005; ALAC, 2008; Anderson and Baumberg, 2006). In its 2009 issues paper, the New Zealand Law Commission (p.7) stated:

*“The misuse of alcohol does not result in one single problem, but a whole set of problems, some of which affect the health and wellbeing of the individual drinker, some of which impact on those with whom the drinker comes in contact, and some of which impact on the community at large”.*

Babor et al. (2010) categorise these various alcohol-related harms into two broad classes:

- Issues affecting illness, injury and poor health
- Social problems.

The literature documents the differences between actual alcohol-related harms and the way that people perceive and understand them. Alcohol's role as a social lubricant or relaxant is commonly cited as explanations for people's drinking patterns. For many, alcohol is “associated with

sociability, enjoyment and for some, even a sense of cultural and national identity” (New Zealand Law Commission, 2009, p.43) and this can influence the way people perceive alcohol-related harm.

The social costs of alcohol are significant. Slack et al (2009) estimated that alcohol use cost New Zealand society \$4.9 billion in 2005/6 and up to 50 per cent of these costs were avoidable.

For many young people, getting drunk is pre-meditated, commonly involving pre-loading at private venues before visiting licensed premises which are enjoyed primarily for their entertainment value but not necessarily to drink. It is considered that the price differential between on-licences and off-licences contributes to the prevalence of pre-loading.

Evidence suggests that there is a strong link between the availability of alcohol and alcohol related harm. Availability theory considers the relationship between alcohol density and alcohol related harm with greater availability leading to greater consumption which in turn leads to negative social outcomes. Supply based policies seek to reduce alcohol consumption by restricting the availability of alcohol to consumers, such as by restricting hours of trade and density of outlets. The argument for this is that reducing the supply of alcohol will increase the cost and inconvenience of accessing alcohol and in turn reduce alcohol consumption and alcohol related harm.

The alcohol licensing regime under the Sale and Supply of Alcohol Act 2012 recognises these factors, allowing hours and density of licensed premises to be restricted through a LAP. The risks associated with different types of licensed premises are recognised within the alcohol licensing fees framework where weightings are applied after certain times (2am for on-licences and 10pm for off-licences) and their style of operation (eg a tavern is given a higher weighting than a cafe and is therefore more likely to pay a higher fee). These times are linked to research indicating that associated alcohol related harm is greatest after these times.

## **Alcohol Licences in Waikato district**

### ***Terminology***

*The kinds of licence are:*

<i>On-licence</i>	<i>Premises open to the public where alcohol is consumed on the premises such as taverns, hotels, pubs, restaurants, function centres etc.</i>
<i>Off-licence</i>	<i>Premises where alcohol is taken away to be consumed such as bottle stores, supermarkets and grocery stores and includes internet sales.</i>
<i>Club licence</i>	<i>Premises open to members of the club where alcohol is consumed on the premises such as RSAs, Workingmen’s Clubs, Cosmopolitan and sports clubs.</i>
<i>Special licence</i>	<i>Premises where a licence has been issued for a special one off event. A local alcohol policy cannot restrict the number or location of special licences but may restrict hours and provide for discretionary conditions.</i>

Waikato district has a total of 142<sup>1</sup> current licences in the district comprising:

On-licences: 50

Off-licences: 41

Club licences: 51

These are represented throughout the district as shown in Table I on the following page.

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<sup>1</sup> Current licences in force at 21 July 2014. The total will vary as new applications are determined or if existing premises close. The total number of premises is slightly less than this since some premises hold more than 1 licence - eg hotels and taverns generally hold an on-licence and an off-licence.

**Table 1: Alcohol Licences in Waikato district**

	<b>Ngaruawahia Town</b>	<b>Huntly Town</b>	<b>Raglan Town</b>	<b>Te Kauwhata Town</b>	<b>Tuakau Town</b>	<b>Rural</b>	<b>Total s</b>
<b>On Licences</b>							
Hotel/Tavern	2	2	3	1	2	8	18
Cafe/Restaurant		4	7	1	2	9	23
Function/Event Centre					1	5	6
Accommodatio n			1			1	2
Other			1				1
							<b>50</b>
<b>Off Licences</b>							
Hotel/Tavern	2		2	1	1	6	12
Standalone Bottle Store	2	3	1		1	1	8
Supermarket	1	1					2
Grocery Store	1	2	2	1	2	2	10
Winery						2	2
Club		1	1		1	1	4
Other		1			1	1	3
							<b>41</b>
<b>Club Licences</b>							
Sports/Social Cub	6	8	3	4	3	21	45
Chartered Club	1	2	1		1	1	6
							<b>51</b>
<b>Totals</b>	<b>15</b>	<b>24</b>	<b>22</b>	<b>8</b>	<b>15</b>	<b>58</b>	<b>142</b>

**Hours of Operation**

Hours for which premises have been licensed have been set on a case by case basis in accordance with the type of premises and guided by alcohol policies developed by the Council. These previous policies have no statutory effect but have been used to guide expectations. Council currently has two policies covering the traditional Waikato district and the former Franklin district areas, summarised in Table 2. Note that some licences have been issued with hours outside those indicated, including for example one or two hotels or taverns with closing times up to 3am instead of 1am and grocery stores or supermarkets with opening hours before 9am.

**Table 2: Current guideline policy hours**

	<b>Original Waikato district</b>	<b>Former Franklin district</b>
Hotels and taverns	7am – 1am	10am – 1am Sun - Thurs 10am – 3am Fri - Sat
Cafes and restaurants	7am – 1am	10am – 12am
Function centres	7am – 1am	10am – 1am
Supermarkets, grocery stores	9am – 11pm	10am – 10pm
Off-Licences in taverns/hotels	9am – 11pm (across the bar same as on licence hours)	Same as on licence up to one hour before closing
Club Licences (eg RSA, Workingmen’s Club, Cosmopolitan)	7am – 1am	10am – 1am Sun - Thurs 10am – 3am Fri - Sat

Sports clubs	Vary depending on the purposes and operation of the club but no later than 1am	Considered on a case by case basis related to hours and days when the club is engaged in its principal activity
Special licences	Vary depending on the proposed event but generally restricted to 1am	1am Sun – Thurs 3am Fri, Sat and public holidays

### Feedback Sought

In order to develop a draft policy Council is seeking input from communities on how they perceive alcohol licensing in their area and how they wish it to develop. It should be noted that while only one policy for the district will be adopted, the policy can provide differently for different areas (eg the policy could provide that no more licences of a particular kind may be issued in one town, while allowing them in others, set different maximum trading hours in different areas etc). To set restrictions there is a general principle that decisions must be evidence based in light of the object of the Act.

Because of the broad range of type of premises and activities that fall within the various licence types, when developing policy criteria care must be exercised to ensure unintended consequences are not created. For example, if the policy simply stated that no more off-licences are permitted in a particular area this would cover all off-licences, such as a business which sells gift baskets that include a bottle of wine, while the intention may have been that no more bottle stores are permitted.

In policies developed by other councils, a major theme has been a focus on off-licences, particularly bottle stores, supermarkets and grocery stores. Waipa, Matamata-Piako and Hauraki District Councils have adopted their provisional policies<sup>2</sup>. A summary of their provisions is provided in Table 3.

**Table 3: LAP Provisions of neighbouring councils**

	Waipa	Matamata-Piako	Hauraki
<b>On-Licences</b>			
Restriction on new licences	No	No	No
Restriction on area	Commercial areas unless authorised by resource consent	No	No
Distance required between premises	Must have regard to proximity	Must have regard to proximity	No
Distance from sensitive site	Not directly bordering school, early childcare facility or place of worship unless demonstrate no significant impact; 40m from boundary in non-commercial area	No	No
<b>Hours</b>			
Hotel/Tavern	9am-2am; or within 100m of residential zone: Sun-Thurs 9am-10.30pm	7am-1am 24 hours for hotel mini-bar sales	7am-1am 24 hours for hotel mini-bar sales

<sup>2</sup> All policies noted are the subject of appeal and are not yet in force. Appeals have been made by the major supermarket chains and alcohol retailers.

	Fri-Sat 9am-12.00 midnight 24 hours to hotel guests		
Restaurant/Cafe/ Function Centre	7am-1am	7am-1am	7am-1am
Other	9am-1am	7am-1am	7am-1am
One way door restrictions	Hotels/Tavern with closing time later than midnight - Thurs, Fri, Sat 1 hour before max closing time	May be considered	May be considered
<b>Off-Licences</b>			
Restriction on new licences	No	Bottle stores capped to existing number in Matamata, Morrinsville, Te Aroha	No further off-licences in Paeroa, Ngatea and Waihi (excludes supermarkets and grocery stores) until numbers fall below specified limits for each town
Restriction on area	Commercial areas unless authorised by resource consent (excluding remote sellers)	Commercial areas unless authorised by resource consent (excluding remote sellers)	Town Centre or Township zones (excludes remote sellers, supermarkets or grocery stores)
Distance required between premises	Must have regard to proximity	Must have regard to proximity	50m from site boundary of existing off-licence premises. (Excludes supermarkets or grocery stores)
Distance from sensitive site	Not directly bordering school, early childcare facility or place of worship unless demonstrate no significant impact; 40m from boundary in non-commercial area; Must have regard to proximity of new premises to public park, car park or reserve	Must have regard to proximity to schools, early childhood education centre, Council administered playground, place of worship; 50m from boundary in non commercial area	50m from site boundary of schools, early childhood education centre, Council administered playground. (Excludes supermarkets or grocery stores)
<b>Hours</b>			
Supermarket/ Grocery	7am-10pm	7am-9pm	7am-9pm
Bottle stores	9am-10pm	7am-9pm	7am-9pm
Other	9am-10pm	7am-9pm	7am-9pm
<b>Club Licences</b>			
Restriction on new licences	No	No	No
Restriction on area	Located at or close to facilities used by the club	Located at or close to facilities used by the club	No
Distance required between premises	Must have regard to proximity	No	No
Distance from sensitive site	Must have regard to proximity to any school, early childcare facility, place of worship or residential	Must have regard to proximity to schools, early childhood education centre, Council	No

	area	administered playground, place of worship	
Hours	9am-1am	7am-1am RSA- from 5am on Anzac Day	7am-1am
<b>Special Licences</b>			
Hours	1am the day following the event except in exceptional circumstances as determined by the DLC	7am-1am	Set on a case by case basis with regard to the nature of the event
One-way door restrictions	may be imposed where warranted no earlier than 2 hours before the closing time	may be imposed	may be imposed

## Questions

### So what should the community consider when providing feedback?

The following questions are posed to stimulate thoughts on the issues that the LAP can consider:

- What are the alcohol-related issues in your town?
- Are there too many licensed premises of a particular type?
  - On-Licences: Hotels/Taverns  
Cafes/Restaurants
  - Off-Licences: Standalone bottle stores  
Bottle stores/off licence sales from hotels or taverns  
Grocery stores  
Supermarkets
  - Club Licences: Sports clubs  
Chartered clubs
- Should a restriction be imposed on more licensed premises of a particular type establishing in your town? If so, what type of premises and should it be a blanket ban (no more allowed) or cap limited to the number of existing licensed premises of that kind?
- Where should licensed premises be located? (eg in the business zone of the district plan in your town). Should all licensed premises be restricted to this area? (Consider home-based businesses such as gift baskets, internet only retailing, cafe's in other zones, sports clubs).
- Should a separation distance be imposed between licensed premises? If so, what type of licensed premises should this apply to and what should the separation be?
- Should a separation distance be imposed between licensed premises and other premises or facilities that may be considered sensitive (eg schools). If so what type of licensed premises should this apply to and what should the separation be? What type of premises or facilities should be considered sensitive?

- What maximum trading hours (opening and closing times) are appropriate for various types of licence and premises (opening and closing time)? eg

On-licences: Hotels/Taverns (should weekend hours be any different to weekday hours?)  
Cafes/Restaurants  
Function centres

Off-licences: Standalone bottle stores  
Bottle stores/off-licence sales from hotels or taverns  
Grocery stores  
Supermarkets  
Internet sales  
Other such as gift basket, delicatessen

Club licences: Sports clubs  
Chartered clubs

Special licence events: (consider range of events that may be sought)

- Should a one-way door restriction<sup>3</sup> be required as a discretionary condition on licences? If so what type of premises should it apply to and from what time?
- Are there any other conditions which you think should be considered by the District Licensing Committee when considering licence applications?

### Previous Survey Information

The survey carried out in July 2013 attracted 56 responses. Not all respondents answered all questions. The responses below are based on the number of responses to the question and may not necessarily reflect the percentage of the total number of surveys returned. Responses from the previous survey undertaken indicated that:

- 60% thought the number of bottle stores in their area was about right, 24% thought there were too many or far too many, 4% thought there were too few or far too few and 13% didn't know.
- 64% thought the number of licensed grocery stores in their area was about right, 19% thought there were too many or far too many, 4% thought there were too few or far too few and 13% didn't know.
- 66% thought the number of licensed supermarkets in their area was about right, 13% thought there were too many or far too many, 10% thought there were too few or far too few and 11% didn't know.
- 65% thought the number of licensed restaurants/cafes in their area was about right, 6% thought there were too many or far too many, 19% thought there were too few or far too few and 10% didn't know.

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<sup>3</sup> One-way door restriction is a requirement that during the hours stated in the restriction no person may be admitted or readmitted to the premises. It may apply to on-licence or club licence premises.

- 74% thought the number of hotels/taverns in their area was about right, 10% thought there were too many or far too many, 10% thought there were too few or far too few and 6% didn't know.
- 74% thought the number of licensed clubs such as RSA, Cosmopolitan and Workingmens clubs in their area was about right, 2% thought there were too many or far too many, 7% thought there were too few or far too few and 17% didn't know.
- 57% thought the number of licensed sports clubs in their area was about right, 12% thought there were too many or far too many, 10% thought there were too few or far too few and 21% didn't know.

When considering the district as a whole some differences were noted:

- 31% thought the number of bottle stores was about right, 44% thought there were too many or far too many, 0% thought there were too few or far too few and 25% didn't know.
- 35% thought the number of licensed grocery stores was about right, 43% thought there were too many or far too many, 0% thought there were too few or far too few and 20% didn't know.
- 56% thought the number of licensed supermarkets was about right, 22% thought there were too many or far too many, 2% thought there were too few or far too few and 11% didn't know.
- 53% thought the number of licensed restaurants/cafes was about right, 18% thought there were too many or far too many, 10% thought there were too few or far too few and 19% didn't know.
- 74% thought the number of hotels/taverns was about right, 10% thought there were too many or far too many, 10% thought there were too few or far too few and 6% didn't know.
- 65% thought the number of licensed clubs such as RSA, Cosmopolitan and Workingmen's clubs was about right, 4% thought there were too many or far too many, 4% thought there were too few or far too few and 27% didn't know.
- 48% thought the number of licensed sports clubs was about right, 20% thought there were too many or far too many, 4% thought there were too few or far too few and 28% didn't know.

When asked if they thought the number of licensed premises should be restricted:

- 80% said bottle store numbers should be restricted, 12% said no and 8% didn't know.
- 78% said licensed grocery store numbers should be restricted, 14% said no and 8% didn't know.
- 60% said licensed supermarket numbers should be restricted, 34% said no and 6% didn't know.
- 40% said licensed restaurant/cafe numbers should be restricted, 46% said no and 14% didn't know.

- 63% said hotel/tavern numbers should be restricted, 27% said no and 10% didn't know.
- 48% said licensed clubs such as RSA, Cosmopolitan and Workingmens club numbers should be restricted, 38% said no and 14% didn't know.  
56% said licensed sports club numbers should be restricted, 28% said no and 16% didn't know.
- 80-90% thought that all licensed premises should be restricted from operating near a kindergarten, early childhood centre or school with a lesser number of 40-50% indicating that they should be restricted from operating near a place of worship or community hall.

Of those who thought licensed premises should be restricted from operating near the type of premises above:

- 36% thought the distance should be 500m
- 24% thought the distance should be 300m
- 12% thought the distance should be 400m
- 5% thought the distance should be 100m
- 2% thought the distance should be 200m
- 2% thought the distance should be 50m
- 19% indicated other distances.

When asked thoughts on hours in the original Waikato district:

- 51% thought the hours for hotels and taverns were about right, 8% thought they were too restrictive, 29% too lenient and 12% didn't know.
- 60% thought the hours for cafes and restaurants were about right, 4% thought they were too restrictive, 30% too lenient and 6% didn't know.
- 50% thought the hours for off licences were about right, 9% thought they were too restrictive, 30-38% too lenient and 4-11% didn't know.
- 52% thought the hours for clubs such as RSA, Cosmopolitan and Workingmen's clubs were about right, 6% thought they were too restrictive, 31% too lenient and 11% didn't know.
- 64% thought the hours for sports clubs were about right, 2% thought they were too restrictive, 23% too lenient and 11% didn't know.
- 66% thought the hours for special licences were about right, 11% thought they were too restrictive, 13% too lenient and 10% didn't know.

When asked for thoughts on the hours in the former Franklin part of our district:

- 29% thought the hours for hotels and taverns were about right, 11% thought they were too restrictive, 42% too lenient and 18% didn't know.
- 64% thought the hours for cafes and restaurants were about right, 11% thought they were too restrictive, 8% too lenient and 17% didn't know.
- 45% thought the hours for off licences were about right, 23% thought they were too restrictive for supermarkets and grocery stores, 6% thought they were too restrictive for tavern/hotel off-licences, 22% too lenient and approximately 16% didn't know.
- 38% thought the hours for clubs such as RSA, Cosmopolitan and Workingmen's clubs were about right, 3% thought they were too restrictive, 41% too lenient and 18% didn't know.

- 53% thought the hours for sports clubs were about right, 3% thought they were too restrictive, 23% too lenient and 21% didn't know.
- 40% thought the hours for special licences were about right, 6% thought they were too restrictive, 37% too lenient and 17% didn't know.

When asked what hours should apply to premises:

- 14% favoured bottle stores opening at 9am, 27% at 10am, 25% at 11am with the remainder at varying other times or didn't know.
- 22% favoured bottle stores closing at 9pm, 31% at 10pm, 24% at 11pm with the remainder at varying other times or didn't know.
- 19% favoured grocery stores and supermarkets opening at 7am, 11% at 8am, 20% at 9am, 17% at 10am with the remainder at varying other times or didn't know.
- 32% favoured grocery stores and supermarkets closing at 9pm, 27% at 10pm, 18% at 11pm with the remainder at varying other times or didn't know.
- 15% favoured cafe/restaurants opening at 7am, 10% at 8am, 19% at 9am, 19% at 10am, 21% at 11am with the remainder at varying other times or didn't know.
- 14% favoured cafe/restaurants closing at 11pm, 27% at midnight, 39% at 1am with the remainder at varying other times or didn't know.
- 18% favoured hotels and taverns opening at 9am, 31% at 10am, 22% at 11am with the remainder at varying other times or didn't know.
- 12% favoured hotels and taverns closing at midnight, 51% at 1am, 10% at 2am with the remainder at varying other times or didn't know.
- 10% favoured clubs such as RSA, Cosmopolitan and Workingmen's clubs opening at 9am, 36% at 10am, 28% at 11am with the remainder at varying other times or didn't know.
- 18% favoured clubs such as RSA, Cosmopolitan and Workingmen's clubs closing at midnight, 47% at 1am, 8% at 2am with the remainder at varying other times or didn't know.
- 14% favoured sports clubs opening at 9am, 27% at 10am, 29% at 11am with the remainder at varying other times or didn't know.
- 10% favoured sports clubs closing at 11pm, 18% at midnight, 41% at 1am with the remainder at varying other times or didn't know.
- 23% favoured special licences closing at midnight, 38% at 1am with the remainder at varying other times or didn't know.

47% favoured allowing pubs such as hotels/taverns a later closing time during the weekend while 53% were opposed. Of those in favour, 52% favoured a 2am closing, 22% a 3am closing and 26% indicated various other times.

68% favoured a one way door policy, 19% were not in favour and 13% didn't know.

## References

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