

ORDINARY MEETING OF COUNCIL

Open Minutes

Meeting Date: Tuesday 29 April 2025

Time: 9.30am (Local Alcohol Policy Review Hearing)

Venue Large Exhibition Hall
War Memorial Centre
Marine Parade
Napier

Livestreamed via Council's Facebook page

Present **Chair:** Mayor Wise
Members: Councillors Boag, Browne, Chrystal, Crown, Mawson, McGrath, Price, Simpson, Tareha and Taylor

In Attendance Chief Executive (Louise Miller)
Executive Director City Strategy (Rachael Bailey)
Manager Regulatory Solutions (Luke Johnson)
Team Leader Compliance (Stephen Bokkerink)
Environmental Health and Alcohol Licencing Officer (Glenn Baker)

Also in Attendance Submitters speaking: Shaye Bird, Shane Phillips (Hospitality NZ) [online], Jorja Miles (Youth Council), Christopher and Kerry Sullivan (Thirsty Whale), Iain Thain (Foodstuffs NZ) [online], Jennifer Lamm (Alcohol Healthwatch) [online], Dr Matt Radford (Health NZ), Georgie Robertson and Peter Holly (Winery Concert Holdings Ltd), Georgie Robertson (Hospitality Licensing Ltd), Paul Radich (Woolworths NZ) [online], Nathan Cowie (Communities Against Alcohol Harm) [online], Alex Cumming (Simpson Grierson) [online], Raymond Wylie (NZ Police)

Administration Governance Advisors (Jemma McDade and Carolyn Hunt)

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ORDER OF BUSINESS

Karakia

The meeting opened with the Council Karakia

Apologies

COUNCIL RESOLUTION	Councillors Price / Taylor
	That the apologies from Deputy Mayor Brosnan and Councillor Greig be accepted.
	Carried

Conflicts of interest

Nil

Public forum

Nil

Announcements by the Mayor

It is noted that incomplete submissions were included in Attachment 1. These should be disregarded as they provide no substantive feedback for Council to consider.

Selwyn Hawthorne and Sheree Enache, who indicated that they were to speak to their submission today, will now not be speaking.

Announcements by the management

Nil

Confirmation of minutes

There are no minutes to confirm.

AGENDA ITEMS

1. DRAFT LOCAL ALCOHOL POLICY SUBMISSION ANALYSIS

<i>Type of Report:</i>	Operational and Procedural
<i>Legal Reference:</i>	Sale and Supply of Alcohol Act 2012
<i>Document ID:</i>	1845492
<i>Reporting Officer/s & Unit:</i>	Stephen Bokkerink, Team Leader Compliance

1.1 Purpose of Report

This report provides an analysis of submissions received on the draft Local Alcohol Policy (LAP) as part of the special consultative procedure and outlines recommendations to Council on proposed amendments to the draft LAP.

At the meeting

Shaye Bird # P1 spoke to his submission noting that he runs the Bottle O liquor store in Onekawa. He acknowledged that one of the benefits of people consuming alcohol in a controlled 'on premise' environment, is that staff can look out for customers. Potential issues could arise if there is nowhere for people to go once the venue closes. The new policy contains more restrictions for these controlled on-licence premises than the off-licence venues. The proposed change in opening hours will only shift the problems, not resolve them. He supports consistent opening hours between supermarkets and other stores.

Shane Phillips #118 (Regional Manager, Hospitality NZ) spoke to his submission online. He noted that a well run on-licence venue can help to address alcohol harm. He has seen a commitment from venues to reduce alcohol harm through an increased uptake in Host Responsibility Training in Hawkes Bay. Changing the closing hours will result in consumption moving to other premises or 'post-loading' out of a controlled on-licence environment. He recommends maintaining consistency with Hastings District Council (HDC).

Questions were answered clarifying:

- HDC are consulting on a 1am closing time, though there is a desire to align Napier with Hastings to prevent an influx of people from Hastings. A cover charge would not act as a deterrent, though people may choose to start and remain in the city that has later trading hours.
 - Common closing hours in smaller cities are between 2 and 3 am, though the larger Councils close at 4am.
 - Police data is not directly collected for on-licence venues and may be related to youth who have accessed alcohol through other means.
 - The proposed discretionary conditions could have the result of moving people out of controlled areas and imposing conditions not necessary for that particular event causing unnecessary cost.
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- A well-run business can provide a safe drinking environment.

Jorja Miles #131 (Chair, Napier Youth Council) spoke to their submission noting that alcohol is readily accessible in Napier and there are numerous outlets. Youth Council supports the limitation of outlets in areas for young people, for example near schools and playgrounds. Youth Council supports the reduction in closing and licencing hours, as causing inconvenience may promote changes in behaviour around alcohol purchasing and consumption. Youth Council supports restricting advertising directed at young people, especially for the appealing RTDs. There is a gap for events aimed specifically at young people that are safe and fun. Council could consider having a separate area for young people at events and limiting the sale of RTDs.

Questions were answered clarifying:

- Youth Council has upcoming events as part of youth week and organises events within its capability and scope.
- An event that could be used as an exemplar for youth provision is the New Year Soundshell concert, although alcohol was advertised on the screens between the acts.
- A provision in the LAP restricting alcohol at child focused events would be welcomed to promote positive alcohol free role modelling through all circles of society.

Christopher and Kerry Sullivan #130 and #132 (Thirsty Whale) spoke to their submissions noting 43 years of experience as a publican and as a business owner directly affected by the proposed LAP. They have a good relationship with police and take measures within their premises such as ID scanning, CCTV and intoxication checks. Out of an approximate 600 individuals visiting the venue on a typical Saturday night there are one or two incidences of excessive consumption. Drugs are a major issue. Napier is a tourist town and needs a late venue. Well run on-licence premises provide a safe controlled environment where issues can be dealt with quickly by staff, and young people can be monitored for the effects of alcohol consumption.

Questions were answered clarifying:

- There has been a huge change in behaviour since the introduction of the gang patch law.
- Thirsty Whale data shows that 15-20% of their visitors are from out of town. 30-40% are regulars who the staff know. The ID scanning technology picks up fake IDs and records those who have been banned.
- Staff are paid well to work late, a cover charge is imposed to pay for this.
- A well-controlled on-licence venue provides a safe environment for the young to enjoy themselves. The Thirsty Whale's biggest customer group is 18 year old girls. These are a mixture of locals and students returning from out of town during the holidays. An earlier closing time may move the alcohol consumption to another less secure venue.
- Thirsty Whale staff clean up the litter that is left on the street after closing time as the venue operates a restaurant during the day and has the enjoyment and safety of their daytime patrons to consider.

Iain Thain #135 and #P13 (Foodstuffs NZ) spoke to their submission noting that grocery stores differ from other stores due to specific restrictions under the Sale and Supply of Alcohol Act 2012 (the Act) regarding alcohol sales and displays. Staff in Foodstuffs stores are well trained in the sale of alcohol and have no incentive to make 'risky' sales. Foodstuffs do not support the proposed reduction in maximum trading hours as they have seen no evidence that the sale of alcohol between 7am and 9am and 9pm and 10pm poses any increased risk.

The Act requires a reasonable system of control which aims to minimise alcohol related harm from excessive consumption. Auckland Council proposed reduction in trading hours was found to be unreasonable and customer preference must be considered. Maximum trading hours can be applied to each applicant in a tailored fashion as appropriate. Discretionary conditions must be reasonable and give guidance to the District Licencing Committee (DLC). Better guidance should be included in the LAP to support local licencees. Foodstuffs considers the limitation for sale of single units of beer less than 500ml not to be reasonable. Stores are responsible and decline risky sales.

Questions were answered clarifying:

- The Act sets out the ABC of alcohol intoxication. Foodstuffs staff are trained to recognise these signs. Stores take a conservative view to serving alcohol.
- Supermarkets have responsibilities towards customers. Alcohol has to be restricted to a single area of the store. This area is approved by the DLC and must limit the exposure of alcohol to the customers in the store.
- Stores provide a range of hours to suit customer needs, there are times when the store will be quiet.

Jennifer Lamm and Andrew Brownrigg #P8 (Alcohol Healthwatch) spoke to their submission online commending the LAP review and noting that alcohol is the drug causing the highest level of harm in New Zealand, and disproportionately affecting more vulnerable groups. Measures in the Napier City Council (NCC) LAP should be consistent with HDC. They supported the restriction of further stores in Maraenui and recommended that it be extended to other areas. Restricting the availability of alcohol reduces the burden on Police and the Emergency Department ED. Limits should be placed on advertising especially near education and health facilities and at family focussed events.

Questions were answered clarifying:

- The 'one way door' policy reduces the burden on Police and the ED by keeping people in one place. This reduces the 'flashpoints' between people.

Dr Matt Radford #P22 (Health NZ) spoke to his submission noting that alcohol is addictive, causes harm across the whole community and should therefore be subject to restrictions. Napier has a high number of off-licences for a small city, more than four times the number of pharmacies. Density of stores is shown to affect purchases. He supports the proposed reduction in trading hours as reduced hours reduces harm. Supermarkets should be aligned to bottle stores, the hours in Central Hawke's Bay (CHB) are from 9am and in Wairoa from 10am. Discretionary conditions give flexibility and allow licences to be tailored. A key focus should be that non-drinkers have a safe alcohol free space. NCC and HDC should align.

Questions were answered clarifying:

- The harm from hazardous drinking is the same regardless of where the alcohol is purchased.
- Other locations have a 'sinking lid' policy.
- Reducing hours will reduce the harm, there are no statistics to show whether those presenting to ED have been harmed at a licenced venue or at a private event/party.

Georgie Robertson #P22 (Winery Concert Holdings Ltd) was joined by Peter Holly (CEO Mission Estate) to speak to their submission. The most recent Mission Estate concert host

50,000 people, 35,000 of whom are from outside Napier, bringing investment and employment to the region and supporting numerous local groups and charities. ID and intoxication checks are completed. Guidelines are given for the special licences. Excluding all glass bottles would increase the plastic waste. Serve reductions are already happening in discussions with the Police. Most events stop selling alcohol before the end of the event.

- Closing at 2am will not stop people drinking, instead people will be unsupervised. Supervised environments are safer.
- Health and Safety legislation provides a vast regulatory framework for large events to comply with to ensure the safety of attendees.
- Plastic bottles would not be economically viable.

Georgie Robertson #P21 (Hospitality Licensing Ltd) spoke to her submission noting that some of the proposed discretionary conditions may result in unintended consequences. Discretionary conditions must be based on real risk, must be reasonable, specific and each licence considered on its merits. They should not become mandatory by default and should be discussed with the applicants before they are imposed.

Questions were answered clarifying:

- Guidance could be included in the LAP for the application of specific discretionary conditions. The conditions should be well defined and enforceable.
- Breaches of liquor licences can be genuine or blatant and a educative approach can be taken in some circumstances.

Paul Radich #P18 (Woolworths NZ) spoke to his submission online outlining concerns with the process for applying discretionary conditions, noting the general approach is that they are seen as a list of conditions that must be imposed. The legal test for discretionary conditions is that they must deal with a specific harm in a particular location to reduce alcohol harm. It should be made clear in the LAP that these conditions are discretionary.

Questions were answered clarifying:

- An evidential approach is needed to change trading hours.
- The reasonableness test for shortening the trading hours in the LAP is evidence of alcohol related harm. It is more complicated regarding those who do not want to be exposed to alcohol.
- Online shopping, click and collect and home delivery options are available with an option to limit the visibility of alcohol products and advertising for those dealing with alcohol addictions.

Nathan Cowie #P20 (Communities Against Alcohol) spoke to his submission online noting that he represents a number of stakeholders who support the options proposed in the review. The changes in trading and licencing hours are supported. Council should balance retailers and community needs looking at the actual harm. The discretionary conditions are supported with the suggestion that the LAP provides further advice to the DLC enabling them to work with applicants to balance of protections. Wording should be more specific as there has been an emergence of high strength beers in 500ml cans, a price guide can be a helpful limiting tool. There is a causal link between advertising and youth drinking. Health warnings are not in the proposal currently, they could be considered as a discretionary condition.

The meeting adjourned at 12:31pm and reconvened at 1:05pm

Deliberations

Manager Regulatory Solutions (Luke Johnson) joined the officer to present the report providing the update that 147 submissions were received, with 102 remaining after the incomplete submissions had been disregarded.

Questions were answered clarifying:

- There were about ten submissions attributed to the Thirsty Whale group.
- None of the questions were mandatory and it has been noted that there may be contradictions in the responses. The questions were reviewed internally.
- The current LAP lapses in August 2025. The draft LAP will be amended following this meeting and brought back to Council for adoption in June.
- The names of the DLC members are available on the Council website.
- Alcohol licences are approved by the DLC, although they can be granted on the papers with staff providing information.
- Enforcement is a dual role between Council and the Police under the Sale and Supply of Alcohol Act 2012. There is an educative element to this role.
- Submissions support the closing hours remaining at 3am even when the Thirsty Whale submissions are counted as one submission. This grouping analysis had not been applied to other groups from whom multiple submissions had been received.
- HDC and NCC currently have a joint LAP, the decision to separate was made last year for largely administrative reasons, though officers have been working together with the aim of alignment where possible.
- The DLC members are experienced in applying appropriate discretionary conditions. The list of discretionary conditions in the LAP are not exhaustive and the DLC may apply other reasonable conditions. It is not intended that every discretionary condition would be applied to every licence.

The meeting adjourned at 1:27pm and reconvened at 1:41pm

The meeting discussed the lack of evidence relating to harm occurring due to the purchase of alcohol during the hours of 7am-9am and 9pm-10pm. The issue of business viability and vibrancy along with the lengths taken to manage on-licence venues was considered when discussing retaining the 3am closing time. It was noted that there was no direct evidence to show that longer trading hours resulted in greater alcohol related harm, but that the work done in venues to provide a safe, controlled environment was reassuring. Council could continue to work with the licenced environments within their sphere of control.

It was noted that the LAP should provide advice that the discretionary conditions were for consideration only.

The District Plan is the better place to consider limitations to signage as there could be unintended consequences to including them in the LAP.

COUNCIL RESOLUTION

Councillors Price / Mawson

That Council:

- a. **Receive** and consider all submissions received on the draft Local Alcohol Policy (LAP).
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- b. **Direct** Officers to make any required amendments to the draft Local Alcohol Policy (LAP) following the hearings on 29 April 2025.
- c. **Accept** the information provided by Health New Zealand and New Zealand Police as early letters and information prior to the formal consultation process. These have not been counted as formal submissions to the process.
- d. **Accept** the changes to the draft LAP as follows:
- i. **Amend** the draft LAP location provisions to read:
From the date this LAP comes into force, no additional off-licences may be issued beyond the current number for any premises being a bottle store on land located within: Maraenui, Marewa and Onekawa – the Reserve, Suburban Commercial and Residential Zone.
 - ii. **Amend** the draft LAP proposal to include in section 3- Discretionary Conditions, a note that clarifies ‘substantial food items’ as listed under: On-Licences and Club Licences, Club Licences, and Special Licences as follows:
Three substantial food options must be available. These must be similar to the menu submitted as part of the alcohol licence application. A reasonable range of different types of food should be available in portions suitable for a single customer.
 - iii. **Remove** the following discretionary conditions from the draft LAP:
On-licences and club premises:
 - require impact assessments by an applicant if a premises is in a particularly low socio-economic area or an area known to have alcohol related harm issues. This impact assessment should detail how the applicant will mitigate any issues with amenity and good order and may result in conditions imposed on the licence to ensure the minimisation of alcohol related harm on the surrounding community,
 - Maintain and provide as part of the application process and upon request from an inspector or constable supply an incident register of alcohol related incidents.**Off-licences:**
 - Limit on alcohol related exterior signage or advertising to 30% of the building or glass exterior,
 - No single sale of Ready to Drink (RTD) or mainstream beer under 500ml,
 - Utilise the principles of Crime Prevention through Environmental design (CPTED),
 - Require impact assessments by an applicant if a premises is in a particularly low socio-economic area or an area known to have issues,
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- Maintain and provide as part of the application process, and upon request from an inspector or constable supply an incident register of alcohol related incidents.

Special licences:

- Requirement of a separate line or service area for non-alcoholic beverages where the special licence is likely to have patrons that are under the legal drinking age,
 - For class one events:
 - security staff, port-a-loos and rubbish bins provided in the surrounding areas to assist with issues with amenity and good order,
 - no full bottle wine sales for onsite consumption,
 - serve reduction systems in place to manage intoxication levels – maximum serves of 4 per sale reducing to 2,
 - prescribed ratio of security staff to patrons,
 - high visibility clothing to be worn by security staff and be visible to others,
 - means of egress for emergency services,
 - submission of applications at least 25 working days prior to the event to allow for processing and potential stakeholder meetings,
 - a sufficiently detailed Alcohol Management Plan as per Section 143 of the SSAA 2012.
- iv. **Change** to draft LAP proposal Definitions: Grocery store has the meaning given by section 33(1) of the Sale and Supply of Alcohol Act 2012.

Carried

Attachments

- 1 2025-04-29 - Memo - Further information on submissions analysis
DOC ID 1851259
 - 2 2025-04-29 - Incomplete Submissions Update - DOC ID 1851263
 - 3 2025-04-29 - Submissions made on behalf of organisations update -
DOC ID 1851266
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**COUNCIL
RESOLUTION**

Councillors Price / Mawson

Officers Recommendation:

That Council:

- e. **Accept** the Officers recommendation regarding the draft LAP as follows:
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- i. **Retain** the provisions in the existing LAP regarding Maximum Trading Hours.
 - ii. **Retain** the provisions in the existing LAP regarding the 'one way door' restriction.

Carried

Councillors Boag, Browne and Taylor voted against the motion

Minor matters

Nil

The meeting closed with a karakia at 2:47pm

Approved and adopted as a true and accurate record of the meeting.

Chairperson

Date of approval