



AGENDA

Strategy, Finance and Risk Committee Meeting Monday, 14 March 2022

**I hereby give notice that a Strategy, Finance and Risk Committee
Meeting will be held on:**

Date: Monday, 14 March 2022

**Time: 10.30am (Draft Local Alcohol Policy
Hearing of Submissions)**

**Location: Bay of Plenty Regional Council Chambers
Regional House
1 Elizabeth Street
Tauranga**

*Please note that this meeting will be livestreamed and the recording will be publicly available on
Tauranga City Council's website: www.tauranga.govt.nz.*

**Marty Grenfell
Chief Executive**

Terms of reference – Strategy, Finance & Risk Committee

Membership

| | |
|---------------------------|---|
| Chairperson | Commission Chair Anne Tolley |
| Deputy chairperson | Dr Wayne Beilby – Tangata Whenua representative |
| Members | Commissioner Shadrach Rolleston Commissioner Stephen Selwood Commissioner Bill Wasley Matire Duncan, Te Rangapū Mana Whenua o Tauranga Moana Chairperson Te Pio Kawe – Tangata Whenua representative Rohario Murray – Tangata Whenua representative Bruce Robertson – External appointee with finance and risk experience |
| Quorum | Five (5) members must be physically present, and at least three (3) commissioners and two (2) externally appointed members must be present. |
| Meeting frequency | Six weekly |

Role

The role of the Strategy, Finance and Risk Committee (the Committee) is:

- to assist and advise the Council in discharging its responsibility and ownership of health and safety, risk management, internal control, financial management practices, frameworks and processes to ensure these are robust and appropriate to safeguard the Council's staff and its financial and non-financial assets;
- to consider strategic issues facing the city and develop a pathway for the future;
- to monitor progress on achievement of desired strategic outcomes;
- to review and determine the policy and bylaw framework that will assist in achieving the strategic priorities and outcomes for the Tauranga City Council.

Membership

The Committee will consist of:

- four commissioners with the Commission Chair appointed as the Chairperson of the Committee
- the Chairperson of Te Rangapū Mana Whenua o Tauranga Moana
- three tangata whenua representatives (recommended by Te Rangapū Mana Whenua o Tauranga Moana and appointed by Council)
- an independent external person with finance and risk experience appointed by the Council.

Voting Rights

The tangata whenua representatives and the independent external person have voting rights as do the Commissioners.

The Chairperson of Te Rangapu Mana Whenua o Tauranga Moana is an advisory position, without voting rights, designed to ensure mana whenua discussions are connected to the committee.

Committee's Scope and Responsibilities

A. STRATEGIC ISSUES

The Committee will consider strategic issues, options, community impact and explore opportunities for achieving outcomes through a partnership approach.

A1 – Strategic Issues

The Committee's responsibilities with regard to Strategic Issues are:

- Adopt an annual work programme of significant strategic issues and projects to be addressed. The work programme will be reviewed on a six-monthly basis.
- In respect of each issue/project on the work programme, and any additional matters as determined by the Committee:
 - Consider existing and future strategic context
 - Consider opportunities and possible options
 - Determine preferred direction and pathway forward and recommend to Council for inclusion into strategies, statutory documents (including City Plan) and plans.
- Consider and approve changes to service delivery arrangements arising from the service delivery reviews required under Local Government Act 2002 that are referred to the Committee by the Chief Executive.
- To take appropriate account of the principles of the Treaty of Waitangi.

A2 – Policy and Bylaws

The Committee's responsibilities with regard to Policy and Bylaws are:

- Develop, review and approve bylaws to be publicly consulted on, hear and deliberate on any submissions and recommend to Council the adoption of the final bylaw. (The Committee will recommend the adoption of a bylaw to the Council as the Council cannot delegate to a Committee the adoption of a bylaw.)
- Develop, review and approve policies including the ability to publicly consult, hear and deliberate on and adopt policies.

A3 – Monitoring of Strategic Outcomes and Long Term Plan and Annual Plan

The Committee's responsibilities with regard to monitoring of strategic outcomes and Long Term Plan and Annual Plan are:

- Reviewing and reporting on outcomes and action progress against the approved strategic direction. Determine any required review/refresh of strategic direction or action pathway.
- Reviewing and assessing progress in each of the six (6) key investment proposal areas within the 2021-2031 Long Term Plan.
- Reviewing the achievement of financial and non-financial performance measures against the approved Long Term Plan and Annual Plans.

B. FINANCE AND RISK

The Committee will review the effectiveness of the following to ensure these are robust and appropriate to safeguard the Council's financial and non-financial assets:

- Health and safety.
- Risk management.
- Significant projects and programmes of work focussing on the appropriate management of risk.
- Internal and external audit and assurance.
- Fraud, integrity and investigations.
- Monitoring of compliance with laws and regulations.
- Oversight of preparation of the Annual Report and other external financial reports required by statute.
- Oversee the relationship with the Council's Investment Advisors and Fund Managers.
- Oversee the relationship between the Council and its external auditor.
- Review the quarterly financial and non-financial reports to the Council.

B1 - Health and Safety

The Committee's responsibilities through regard to health and safety are:

- Reviewing the effectiveness of the health and safety policies and processes to ensure a healthy and safe workspace for representatives, staff, contractors, visitors and the public.
- Assisting the Commissioners to discharge their statutory roles as "Officers" in terms of the Health and Safety at Work Act 2015.

B2 - Risk Management

The Committee's responsibilities with regard to risk management are:

- Review, approve and monitor the implementation of the Risk Management Policy, Framework and Strategy including the Corporate Risk Register.
- Review and approve the Council's "risk appetite" statement.
- Review the effectiveness of risk management and internal control systems including all material financial, operational, compliance and other material controls. This includes legislative compliance, significant projects and programmes of work, and significant procurement.
- Review risk management reports identifying new and/or emerging risks and any subsequent changes to the "Tier One" register.

B3 - Internal Audit

The Committee's responsibilities with regard to the Internal Audit are:

- Review and approve the Internal Audit Charter to confirm the authority, independence and scope of the Internal Audit function. The Internal Audit Charter may be reviewed at other times and as required.
- Review and approve annually and monitor the implementation of the Internal Audit Plan.
- Review the co-ordination between the risk and internal audit functions, including the integration of the Council's risk profile with the Internal Audit programme. This includes assurance over all material financial, operational, compliance and other material controls.

This includes legislative compliance (including Health and Safety), significant projects and programmes of work and significant procurement.

- Review the reports of the Internal Audit functions dealing with findings, conclusions and recommendations.
- Review and monitor management's responsiveness to the findings and recommendations and enquire into the reasons that any recommendation is not acted upon.

B4 - External Audit

The Committee's responsibilities with regard to the External Audit are:

- Review with the external auditor, before the audit commences, the areas of audit focus and audit plan.
- Review with the external auditors, representations required by commissioners and senior management, including representations as to the fraud and integrity control environment.
- Recommend adoption of external accountability documents (LTP and annual report) to the Council.
- Review the external auditors, management letter and management responses and inquire into reasons for any recommendations not acted upon.
- Where required, the Chair may ask a senior representative of the Office of the Auditor General (OAG) to attend the Committee meetings to discuss the OAG's plans, findings and other matters of mutual interest.
- Recommend to the Office of the Auditor General the decision either to publicly tender the external audit or to continue with the existing provider for a further three-year term.

B5 - Fraud and Integrity

The Committee's responsibilities with regard to Fraud and Integrity are:

- Review and provide advice on the Fraud Prevention and Management Policy.
- Review, adopt and monitor the Protected Disclosures Policy.
- Review and monitor policy and process to manage conflicts of interest amongst commissioners, tangata whenua representatives, external representatives appointed to council committees or advisory boards, management, staff, consultants and contractors.
- Review reports from Internal Audit, external audit and management related to protected disclosures, ethics, bribery and fraud related incidents.
- Review and monitor policy and processes to manage responsibilities under the Local Government Official Information and Meetings Act 1987 and the Privacy Act 2020 and any actions from the Office of the Ombudsman's report.

B6 - Statutory Reporting

The Committee's responsibilities with regard to Statutory Reporting relate to reviewing and monitoring the integrity of the Annual Report and recommending to the Council for adoption the statutory financial statements and any other formal announcements relating to the Council's financial performance, focusing particularly on:

- Compliance with, and the appropriate application of, relevant accounting policies, practices and accounting standards.
- Compliance with applicable legal requirements relevant to statutory reporting.
- The consistency of application of accounting policies, across reporting periods.
- Changes to accounting policies and practices that may affect the way that accounts are presented.

- Any decisions involving significant judgement, estimation or uncertainty.
- The extent to which financial statements are affected by any unusual transactions and the manner in which they are disclosed.
- The disclosure of contingent liabilities and contingent assets.
- The basis for the adoption of the going concern assumption.
- Significant adjustments resulting from the audit.

Power to Act

- To make all decisions necessary to fulfil the role, scope and responsibilities of the Committee subject to the limitations imposed.
- To establish sub-committees, working parties and forums as required.
- This Committee has **not** been delegated any responsibilities, duties or powers that the Local Government Act 2002, or any other Act, expressly provides the Council may not delegate. For the avoidance of doubt, this Committee has **not** been delegated the power to:
 - o make a rate;
 - o make a bylaw;
 - o borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan (LTP);
 - o adopt the LTP or Annual Plan;
 - o adopt the Annual Report;
 - o adopt any policies required to be adopted and consulted on in association with the LTP or developed for the purpose of the local governance statement;
 - o adopt a remuneration and employment policy;
 - o appoint a chief executive.

Power to Recommend

To Council and/or any standing committee as it deems appropriate.

Order of Business

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| 2 | Apologies | 9 |
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- 1 OPENING KARAKIA**
- 2 APOLOGIES**
- 3 PUBLIC FORUM**
- 4 ACCEPTANCE OF LATE ITEMS**
- 5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN**
- 6 CHANGE TO ORDER OF BUSINESS**
- 7 DECLARATION OF CONFLICTS OF INTEREST**

8 BUSINESS

8.1 Local Alcohol Policy Review: Hearings

File Number: A13237428

Author: Jane Barnett, Policy Analyst

Rebecca Gallagher, Policy Analyst

Authoriser: Barbara Dempsey, General Manager: Regulatory & Compliance

PURPOSE OF THE REPORT

1. To receive feedback on the draft Local Alcohol Policy (the draft policy).
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RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the written submissions on the draft Local Alcohol Policy (Attachment A).
 - (b) Receives the verbal submissions from those submitters that wish to speak to their submission.
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EXECUTIVE SUMMARY

2. On 1 November 2021, the Committee approved a draft Local Alcohol policy for community consultation.
3. Submissions were sought from 17 November 2021 to 20 December 2021.
4. 158 submissions were received and are attached in **Attachment A**. 18 of the submitters wished to speak to the Committee at the hearings today.

BACKGROUND

5. Tauranga and Western Bay of Plenty District's Joint Local Alcohol Policy (LAP) was adopted on 22 July 2015.
6. The LAP is made under the Sale and Supply of Alcohol Act 2012 (the Act), with a review required every six years. The Committee considered the matters set out in the Act (section 78(2)) and consulted with Police, the Medical Officer of Health and the Licensing inspector to prepare a draft policy.
7. The draft policy proposed the following changes
 - **Reducing on-licence hours in the Tauranga City Centre** - proposed closing time of 2:00am instead of 3:00am.
 - **A change to the one-way door provisions in the Tauranga City Centre** - this is as a result of proposing a reduction in the opening hours in the Tauranga City Centre. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. This is also likely to result in fewer patrons from other areas of the region travelling to the Tauranga City Centre following a closing time of 1am in other locations e.g. The Mount.
 - **Adding a club licence section** – a new section has been added for club licences to provide clarity for the community and applicants (provisions remain the same)
 - **Tauranga City focused** – The policy has been updated to include only matters relating to the geographical area that Tauranga City Council has responsibility for instead of having a joint policy with Western Bay of Plenty District Council.

8. On 1 November 2021, the Committee approved the draft Local Alcohol Policy and Statement of Proposal for community consultation, in accordance with the Special Consultative Procedure. Consultation was carried out from 17 November 2021 to 20 December 2021.
9. 158 submissions were received and are attached in **Attachment A**. 18 of the submitters wished to speak to the Committee at the hearings today. Table one below provides a list of submitters speaking to the Committee. An updated schedule will be provided at the hearings.

Table One

| Submission number | Submitter name or organisation |
|-------------------|--|
| 039 | Pip Mills |
| 142 | Mel Bennett and Michael Mills - on behalf of Ngāi Te Rangi |
| 067 | Isaac Jakobs |
| 098 | John Bielby |
| 143 | Laura Wood -on behalf of Kainga Tupu Taskforce |
| 144 | Kate Mason |
| 145 | Paul Radich |
| 109 | Matt Gordon |
| 146 | Melissa Renwick |
| 148 | Shannon Jenkins |
| 124 | Jonathan Cocks |
| 149 | Ashleigh Gee |
| 009 | Kate Short |
| 150 | Brian Berry - Mainstreet Tauranga Incorporated (Downtown Tauranga) |
| 140 | Susan Hodgkinson |
| 151 | Dr Nicki Jackson – Alcohol Healthwatch |
| 152 | Cathy Bruce - Te Hiringa Hauora - Health Promotion Agency |
| 157 | Western Bay of Plenty Police |

10. The consultation was advertised widely on the website and through social media. A copy of the comments we received through our social media can be found in **Attachment B**.
11. Targeted consultation was carried out with the hospitality sector, mana whenua, Hauora organisations, main street organisations, ratepayer associations and other community support organisations.
12. The community was specifically asked:
 - Do you support reducing on-licence hours in the Tauranga City Centre from 3:00am to 2:00am?
 - Do you support a change to the one-way door provisions in the Tauranga City Centre as a result of the proposed reduction in the opening hours in the Tauranga City Centre? This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre.
 - Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences to provide clarity for the community and applicants?

13. Staff met with Police and some CBD bar owners as part of the consultation process. Staff invited further submissions, acknowledging that the consultation period occurred at a busy time for the hospitality industry.
14. Staff also met with Ngāi Te Rangi during the consultation period to listen to their concerns and feedback.

STRATEGIC / STATUTORY CONTEXT

15. Currently Council is refreshing its strategic framework and developing a City Vision. This work will ensure Council has a current and cohesive strategic framework that provides a clear line of sight from Council activities and policies, to strategy documents and from there to the City's Vision and adopted Community Outcomes.
16. The LAP is one tool in working towards Council's community outcome of 'An inclusive city'. This includes people feeling safe in their homes, neighbourhoods and public places.
17. As noted above, a LAP is required to be reviewed every six years. LAP's are restricted in what they can contain (section 77 of the Act).
18. Councils must not produce a draft policy without having consulted the Police, inspectors and Medical Officers of Health (section 78(4) of the Act) and having regard to the matters set out in section 78(2) of the Act.

FINANCIAL CONSIDERATIONS

19. There are no financial considerations in receiving and listening to the submissions.

LEGAL IMPLICATIONS / RISKS

20. The legal implications and risks are dependent on the changes if any made to the draft policy but at this stage the Committee is only receiving and listening to submissions.

SIGNIFICANCE

21. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
22. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the matter.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of high significance. However, the decision to receive and hear the submissions is of low significance.

ENGAGEMENT

24. Taking into consideration the above assessment, that the decision is of low significance, officers are of the opinion that no further engagement is required prior to the Committee receiving the submissions.

NEXT STEPS

25. The Committee will deliberate on the issues raised by submitters on 16 May 2022.

ATTACHMENTS

1. **Submissions on the draft Local Alcohol Policy - A13268895** [↓](#)
2. **LAP consultation facebook posts - A13270232 (Separate Attachments 2)**

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|---|---|--|--|---|---|
| 001 | Nicki | Webster | Strongly disagree | TGA town and bars are already dead, making it worse for the city and the owners income, so sad what has become for TGA town. | Strongly disagree | I think that decision should be up to the owner of that Bar not the Tga council | Strongly disagree | I'm sure they already have enough club licenses, than making them get another one | |
| 002 | Cassie | Morris | Strongly disagree | People are going to drink, give them a controlled environment to do so | Strongly disagree | Due to the earlier closing in the Mount, people rely on the ability to go to taumaga afterward which provide a boost to the bars in the area at that time. | Neither agree or disagree | | |
| 003 | Alison | Beck | Strongly agree | | Strongly agree | | Somewhat agree | | |
| 004 | M | R | Strongly disagree | | Strongly disagree | | Strongly disagree | | Tauranga doesn't even have a nightlife. I think Tcc should be more concerned with how they can help businesses thrive and look at ways of bring in more people into the cbd shops. In my opinion adding more barriers for businesses and reducing the freedom of people is not going to achieve that. |
| 005 | Laura | Bridge | Strongly disagree | Tauranga city bars used to be a destination. 10 years ago I remember lining up down the street to get in. The few bars that are left are limping along, holding in there. Don't kick them while they're down! | Strongly disagree | Currently the Mount closes at 1am. If you do this they'll be no where to go after 1am and you'll just have people mingling on the streets and the potential for trouble rises. Give people somewhere to go, somewhere to spend their money. | Neither agree or disagree | | |
| 006 | Steve | Hamilton | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 007 | Taute | Tocker | Strongly disagree | | Strongly disagree | | Strongly disagree | | Our turnover is already down 40% due to Covid restrictions, we do not need Council imposed restrictions to impact us further. Our main turnover is generated on Friday & Saturday nights, with the majority of patrons coming through the doors between 12.30am & 2.30am. Closing the night scene down an hour earlier will not see people coming out an hour earlier, as suggested by some. The One-way door policy is already an area of frustration for patrons, causing problems for our Security staff every weekend. To bring this policy forward one hour will only intensify the problems, especially when we have crowds come from the Mount every weekend to get into the Bar before 'cutoff'. Also, need to relook at Licencing hours from 9am. It was 7am in the past which worked well for shift workers wanting to come for an early meal after work. Also worked well being able to open from 7am for early sports events, whereas now we are having to apply for special licences - another extra cost. Trying to run a business of any kind in Downtown Tauranga over the last two years has been extremely difficult. Road closures, lack of parking, emptying shops, etc. To limit the trading of Taurangas nightlife will kill this town. Instead of being a destination Town to visit and celebrate Hen's & Stag parties, 21st parties, weddings, conferences, etc. we will be bypassed, leaving hospitality, hostels, hotels, motels, and retail all suffering. |
| 008 | Jenaya | Woodmass | Strongly disagree | The Tauranga CBD is already struggling as it is. The main type of new business cropping up in the CBD is restaurants and hospitality - not shops (until this infamous Farmers building is open). So at this point, the only thing bringing people into the city centre is hospo. This change of liquor license will make it even harder to entice new, exciting eateries/restaurants/bars/pubs from wanting to open in the area and they will look elsewhere. Nightlife in Tauranga is already abysmal and without the injection of new bars it's not going to improve and the businesses who are already in the area will suffer the consequences. | Strongly disagree | This will really pull the trigger and kill what remains of Tauranga's nightlife as it means people who go out in the Mount cannot come over to Tauranga once the bars over there close. Without the flow on effect from Mount to Tauranga, it will be hard to get patrons through the doors here. It makes the Mount and Tauranga's closing times more comparable and therefore it's going to be one or the other when it comes to a night out. I would say more people would pick a night out in the Mount if this rule was to go through as there are more bars/pubs to pick from there, as there isn't much on offer in the Tauranga CBD. | Strongly disagree | | Please don't do this! Tauranga CBD needs all the help it can get and I feel like this is doing the exact opposite. |
| 009 | Katie | Short | Strongly disagree | You're taking away a control sale and supply of alcohol, people will continue partying after 2am but in a less safe environment. Doesn't make sense. You're taking away all the hard work Miss Gees has put in to reviving the night life here. | Strongly disagree | The entire mount Maunganui bar goers are gonna her no where to go, taking the controlled sale and supply leaves room for dangerous repercussions. | Neither agree or disagree | | |

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------------|---|---|---|---|--|--|---|
| 010 | Andre | Packe | Strongly disagree | Tauranga nightlife has finally started to come back to live, cutting the hours by an hour will have a massive impact on the business's that have survived the covid pandemic | Strongly disagree | | Strongly disagree | | |
| 011 | Blake | Vincent | Strongly disagree | The night life in Tauranga is finally back after some big breaks from covid. You want money and interest in Tauranga and the main attraction is miss Gees and later town nights compared to the mount. By taking this away people won't bother coming over and will take it home we're there aren't bouncers, aren't taxis aren't bar staff. Higher risk of injury and death at house parties. | Strongly disagree | If someone goes outside to help there friend get safely from the taxi to the club there punished and can't return. Doesn't make sense. Mount town finishes then and people want to continue in a safe environment in town. | Neither agree or disagree | | |
| 012 | Sean | Murray | Strongly disagree | The harm is in the off premise where liquor is cheap look at the price in supermarkets vs a bar. | Somewhat disagree | The current 2am lockdown works fine. | Neither agree or disagree | | I find it really troubling that after a lengthy period of lock downs and restrictions on trade that the council think its a good idea to take away wages from already struggling workers by reducing their available working hours. Targeting licensed venues and then turn a blind eye to liquor outlets selling 24 bottles at a time to a single person for a fraction of the price. |
| 013 | Andrew | Gormlie | Strongly agree | Two Issues (opinions) I feel- Generally speaking - I believe that negative alcohol based/fuelled incidents occur more often after midnight. No surprises there. I also do not feel there is a commercial point to be concerned over - perceived late night establishments will not lose money by closing earlier. In fact there is a good case that they will actually be more profitable if "everyone" closes earlier due to licensing law adjustment. | Strongly agree | Supports item 1 appropriately. | Somewhat agree | Yes - but that depends on the eventual provisions in it. | We run a wide variety of events. I like to study the dynamics of them a little bit too. They run a rough time cycle - of about 6 hours - before any group of people are getting "over it" and the strange stuff starts. The later (at night) the start - the higher the rate of consumption and the shorter the time span before behavior changes. The best events (for the participants) by far are the well organised - and more importantly well controlled ones with clearly defined expectations (such as last drinks timing). Thanks Andrew |
| 014 | Luke | van Veen | Strongly disagree | | Strongly disagree | | Somewhat disagree | | |
| 015 | Connor | Stables | Somewhat agree | although I myself stay in bars all night to get a sense for when is the best vibe, i feel they should shut earlier, nothing worse to get woken up at 3:30 to a drunk person making their way home with such a noise. | Strongly disagree | although one way doors are a great theoretical system, think of the door security's job. do they not already limit customers to trouble-free ones? | Strongly agree | | |
| 016 | Nick | Potts | Strongly disagree | If the concern is alcohol damage then there are other ways you can control this. ie make rules that dictate if you want to trade till 3am you must have a certain amount of Security guards per person in the venue. Have alcohol officers patrolling the few venues that are open at those times who have the power to remove people from the venues. | Strongly disagree | By doing this you are harming the business in the mount as it is at the moment they can only trade till 1am, and now you are making it so their customers have to leave an hour earlier so they can get to the venues in town. | Neither agree or disagree | I don't understand this. Aren't their already club licences? | |
| 017 | Margret | Rose | Strongly disagree | Night life is a big aspect of a city. Shortening the times on the very few bars we have wouldn't help our city. It's best left is as young people in Tauranga want to go out and party all night, they can't do that if the times restricted. Changing the time won't really make much difference anyway it may even make it worse. More people will have parties at home meaning harm from alcohol may go unnoticed as it's in a house rather than a bar then the street then the taxi. Were if something happens theres more chance somebody could help. if anything we should be encouraging more bars to open as it attracts a new demographic of people (young people) instead of shortening hours on bars making people less likley to open them. You need to focus on getting more people to come and spend money to continue making more improvements then getting more people, instead of coming up with ways only pushing people away. I mean look at the city for example, it's dead quiet | Strongly disagree | Again like I said don't push people away. Yes there are people who get harm caused by alcohol. But it doesn't mean everyone. Instead of putting more restrictions focus on how you can help. More money to police and hospital. Money to rehab places, or anything really the supports someone who's had a negative experience with alcohol | Strongly disagree | Just read the other things I've said | Don't ristrist us help us |
| 018 | Friederike | v.Bultzingslowen | Strongly agree | | Somewhat agree | Not so sure about this one. For me it would be OK but for others it could be a bit harsh | Neither agree or disagree | | I very much think we should reduce the opening hours to 2am! |

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|--|---|--|--|--|--|
| 019 | Peter | McArthur | Strongly agree | I have been the licensee of an Auckland venue with capacity of 4,000 for regular dance parties and international concerts. Nothing good happens after midnight. Downtown Tauranga after midnight Friday and Saturday night not only renders many in a dangerous state for themselves and others, including innocent families, but is a hub for distribution and consumption of illicit drugs. Bring in closed door policy at midnight and all venues close no later than 1am. Thank you, PeterMcArthur | Strongly agree | | Somewhat agree | Yes, but these venues do not provide proper supervision of those consuming alcohol on their premises and should not be allowed to continue serving alcohol beyond 3 hours after the conclusion of their sporting activity. Where such a venue is hired for a private function it's license should allow onsite consumption until midnight. | |
| 020 | Doug | Morris | Strongly agree | 2.00am is a start but 1.00am would make more headway to reduce Police & Health concerns | Strongly agree | Midnight is late enough for the one way door provisions to start | | I don't know. Can't comment | I have 3 Grandsons, 21,23,26, that frequent these late night bars maybe after a 21st or when back in town and meet up with friends. They are all surf club members and ex Bethlehem College. With earlier closing times they would likely end at a friends place or go home. For the Druggies and Alcoholics the earlier closing time means Police and Health Authorities are dealing with their behaviour earlier. I am a Tauranga City Ratepayer |
| 021 | Mariana | Shaw | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 022 | Andrea | Simmons | Strongly disagree | We have hardly any nightlife as it is. The council should be supporting business in the CBD - any time of the day/night | Somewhat disagree | We have hardly any nightlife as it is. The council should be supporting business in the CBD - any time of the day/night. Plus if you can't get into a bar after 1am people will just be on the street | Neither agree or disagree | | |
| 023 | Rosalie | Whyte | Strongly disagree | Our city is already dying. Stop taking away what little night life we have left | Strongly disagree | | Neither agree or disagree | | |
| 024 | Robert | Huggins | Strongly disagree | Hospitality is hurting my enough without punishing them even more. Leave it alone and let residents and ratepayers enjoy what they offer n | Strongly disagree | It should be up to a business who comes in and when. | Neither agree or disagree | | |
| 025 | Malory | Osmond | Strongly disagree | 2am is too early. Leave as is. | Strongly disagree | | Strongly disagree | | |
| 026 | Chris | Parnell | Strongly disagree | Nearly every city that has gone through with these measures has suffered from diminishing opinions on "vibe" and activity. Tauranga is building a student body in the CBD, and focusing on being an attractive place to live. Young people need to be a part of that and late night socialising is a constant in places with organic culture. Tightening the curfew will discourage the positive outcomes and leave only the less desired kinds of behaviour that you're trying to mitigate. | Somewhat disagree | It makes sense to address the issue of people hopping over from the Mount. But this does indicate that people don't hate being in Tauranga, there's just some work to do. | Somewhat agree | | I might agree with changing this in the future, but while we're trying to cultivate activity and atmosphere in the city now isn't the time. People who like to stay out late are part of all the great cities. |
| 027 | Phil | Bourne | Strongly agree | Just like Auckland, nothing good happens after 2.00 pm when people start to hit the streets. Many have already pre-loaded. The argument will be made that we have been badly hurt by Covid lockdowns and business needs to recover shortening hours will not help. I do not believe that argument outweighs earlier closing. | Somewhat agree | Reduces the pub/club crawl mentality and fewer people on the streets moving around should lead to less fights. | Neither agree or disagree | Would have to view that to pass meaningful comment. | Just about all areas in Tauranga, Papamoa & The Mount are short of patrolling visible Police. Increase this area and many of the other issues will be dealt with. The amount of late-night car burglaries and vandalism is surging monthly in the BOP and particularly in beach areas. |
| 028 | Jenica | Heydon | Strongly disagree | Keep them open | Strongly disagree | | Strongly disagree | | |
| 029 | Tobias | Fransson | Neither agree or disagree | | Strongly disagree | This is just a sneaky way of reducing on license hours. If you want to urbanize the CBD, the way to go is not to shut down premises. | Neither agree or disagree | | |
| 030 | Ben | Iles | Strongly disagree | Limiting Tauranga business potential, | Strongly disagree | Further restrictions for business | Neither agree or disagree | | Public transport running from mount to Tauranga city untill 2am Friday / Saturday |
| 031 | Jeremy | Brooking | Strongly disagree | People who want to drink, still will. They will preload more, or go somewhere else to drink. Someone else that isn't as controlled are bars. If people want to drink I'd rather they do it in a fully controlled environment such as a bar. I'm all for extending the hours. | Strongly disagree | People who want to drink, still will. They will preload more, or go somewhere else to drink. Someone else that isn't as controlled are bars. If people want to drink I'd rather they do it in a fully controlled environment such as a bar. I'm all for extending the hours. | Neither agree or disagree | | |
| 032 | Therese | O'Brien | Strongly disagree | In what is an already tough time for hospitality why would you now decide to take more away from them. We don't have nightclubs in Tauranga or the Mount so just leave what works alone. | Strongly disagree | No. I don't agree. Leave things as they are or you risk completely killing the CBD. | Strongly agree | | |
| 033 | Troy | Mitchell | Strongly disagree | This will only hurt our hospitality scene more than its already suffering. The CBD needs a night life especially if we want it to grow. A terrible decision. | Strongly disagree | As I have seen in other countries this just puts more people on the road side causing problems | Somewhat disagree | | |

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|-------|---------------|------------|---|---|---|---|--|---|---|
| 034 | Todd | O'Connell | Strongly disagree | Once again idiots are ruining a great thing, as it is tauranga nightlife is already dying because the council wants to do away with having Tauranga as a weekend party destination, this will pnly make things worse as people will be out on the streets earlier meaning more time for fighting and aggressive behavior | Strongly disagree | | Strongly disagree | | Changing the Closing time to earlier will only make the fights on the streets worse, as the nightbugs have extra time to do so, it will not reduce the alcohol consumption by the younger generation. Instead it will inturn mean they will drink harder in a shorter amount of time and actually be more dangerous for them than it is now. Following the harder drinking they will also turn to heavier drugs after the clubs as there drug of choice alcohol is no longer available. Does the council want more an occupied buildings on the stand, are they really that hell bent of wrecking downtown Tauranga's vibrant night life. Bar and club owners are already dealing with pressure from covid to keep their business afloat and the council wants to make it even harder, instead of trying to support local.... |
| 035 | Olivia | Scott | Strongly disagree | People will still drink, it's better to be in a controlled environment than on the streets/parks etc. Plus you penalise those who can drink responsibly for having a good night out. | Strongly disagree | This just forces drunk people to the streets as they will still try to get in and when they are denied that can create an environment for unruly behaviour. | Neither agree or disagree | I don't know what these means for clubs. If it means they could get licenses that could allow longer hours than in town - then yes I would support. | Shutting down peoples access to alcohol only exacerbates our binge drinking culture. Less time to be out so consume faster. Europe does not have the same binge drinking culture because they are trusted, are allowed to drink in public places and are open till 7am. This provides safe places for people to drink/dance. |
| 036 | Janine | Peters | Strongly agree | | Strongly agree | | Somewhat agree | | |
| 037 | Shayne | Adlington | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 038 | Richard | Griffiths | Strongly disagree | It isn't going to stop heavy drinking. Establishments just need to organise themselves better | Somewhat agree | | Neither agree or disagree | | The quality of pub on offer is dreadful anyway, why would anyone want to stay in one till 3am. Hospitality in Tauranga is hopeless |
| 039 | Pip | Mills | Strongly disagree | There is no evidence presented as to how this benefits the community as a whole. Many bars rely on patrons coming from mount maunganui to get by. Namely, miss gees, which is the only bad that attracts a younger crowd. Bring this rule in and it will be hard for miss gees to stay open. It will be extremely sad to lose the only place that has anything much going for it for young people. I'd like to see some evidence as to how this is overall benefitting the community. From where I see it, it will negatively affect business owners that are already struggling, and will hugely detract from any "vibe" that the CBD is trying to resurrect. I also think the people causing issues at 3am will just be causing them an hour earlier at 2am - where is the evidence to say the timing will make a difference here. Sincerely, Pip Mills | Strongly disagree | | Neither agree or disagree | | |
| 040 | Leanne | Ellis | Strongly disagree | | Somewhat agree | | Somewhat agree | | |
| 041 | Mechelle | Driver | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 042 | Justine | Slow | Strongly disagree | Encourage people into Tauranga town - might as well stay at the Mount if the opening hours reduce in Tauranga town | Strongly disagree | Provide freedom of choice and getting outdoors for fresh air with nights out should be encouraged | Strongly disagree | | Lets encourage people to have fun in Tauranga town not close it down and send people to the MOunt even more. Put some bars on the prime waterfront and spruce up the nightlife in our main city |
| 043 | Diane | Trentham | Strongly agree | | Strongly agree | | Strongly agree | | |
| 044 | Carolynne | Osborne | Strongly agree | | Strongly agree | | Strongly agree | | |
| 045 | Errol | Poutoa | Somewhat disagree | | Somewhat agree | | Neither agree or disagree | | |
| 046 | Tazz | Raimona | Strongly agree | | Strongly agree | | Strongly agree | | |
| 047 | Briana | Haigh | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 048 | Sandra | Davis | Strongly agree | Alcohol causes to much carnage we need to stop enabling people drinking themselves stupid to all hours of the night morning. Start thinking about the hospital/ambulance people that have to deal with this. | Strongly agree | | Neither agree or disagree | | |
| 049 | Talor | Duncan | Strongly disagree | | Strongly disagree | | Strongly agree | | |
| 050 | Steve | Everill | Strongly disagree | As a bar manager of a responsible bar I don't think this should be an across the board change. Surely council and police are aware of which bars/nightclubs cause the issues? If so then these bars should have their licenses reduced from 3am to 2am. Not fair that good businesses should suffer because bad ones cause harm. | Strongly disagree | Same answer as first question. Shouldn't be across the board. Just reduce premises that cause harm to 2pm closing and 1am closed door if necessary. | Neither agree or disagree | no comment | |
| 051 | Brian | James | Strongly agree | | Strongly agree | | Strongly agree | | |

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| 052 | Ralph | Ward | Strongly disagree | While we do not utilise our 3am licence more than 4-5 times a year given the current difficult trading any reduction in our ability to generate income is not welcomed | Strongly disagree | Comments above relevant | Strongly agree | | |
| 053 | Duncan | Newington | Strongly agree | Nothing good happens after midnight when excessive amounts of alcohol and young people are mixed together. | Strongly agree | If more drinking/partying is wanted in the early am, it's far better and safer for folk go home and do it there. | Strongly agree | Clubs also need to act responsibly to ensure their members get home safely after consuming alcohol on their premises. | |
| 054 | Steve | Tuck | Strongly disagree | <p>In my opinion the commentary in the LAP background report (e.g. ss 4.6, 5.1.9, 5.1.10) does not provide a convincing evidence base for the proposed LAP changes to on-licence operating conditions.</p> <p>The LAP background report indicates that a significant portion of the alcohol misuse problems identified are attributable to off-licence, not on-licence alcohol sales. Commentary at ss. 5.1.8 and 5.1.10 of the LAP background report about public order offences refers to the "the style of venue and demographics" as a contributing factor to comparatively better outcomes in Mt Maunganui compared to Tauranga.</p> <p>The LAP background report does not interrogate whether the proposed changes to the LAP will simply shift the Tauranga peak back one hour and does not consider whether policy changes to encourage a shift in the 'style' of on-licence offering in Tauranga would achieve improved outcomes.</p> <p>There is no consideration in the LAP background report of the outcomes of similar attempts at implementing lock-out laws, which (for example) have been shown as producing mixed (at best) outcomes in NSW between 2014 - 2020.</p> <p>Tauranga desperately needs a functioning night-time economy. Clearly the status quo is under-performing. However, the proposed LAP amendments are, in my opinion, unlikely to produce the type of shift that is necessary to progress the city towards a better situation. In my opinion, amendments to the LAP should be considered in the wider context of the land use planning and design objectives for the CBD.</p> | Strongly disagree | Please see the preceding comment. | Strongly agree | | |
| 055 | Donald | Munro | Strongly agree | Make it 1am. | Strongly agree | Make it 12pm | Strongly agree | | Reduce the hours, reduce the harm! |
| 056 | Coralea | Nelson | Strongly agree | I live downtown Mount Maunganui, our closing time of 1am works very well | Strongly agree | Drunk people moving from bar to bar in the early hours sometimes cause trouble, sometimes get into fights and are noisy. There are many people living in the CBD now. A one way door policy should work well | Neither agree or disagree | | |
| 057 | Aaron | Bryant | Strongly disagree | <p>After the year we've had, you want to reduce businesses potential to earn by punishing them further? This is supposed to be a city, although it barely has a pulse right now, in no small part your responsibility as city councillors. You need to stop treating adults like children, and create a better strategy to deal with these issues.</p> <p>Not everyone goes out as early as 7pm, or pre-drinks, but that happens in part because alcohol is so expensive. Restaurants could open later too, so that food could be consumed later in the evening... Instead of 'eating is cheating' mentality. The list is long!</p> | Strongly disagree | Still to early, 2am would be acceptable for now. | Strongly disagree | | |
| 058 | david | Nesham | Strongly agree | | Strongly agree | | Strongly agree | | |
| 059 | Ron | James | Strongly agree | Exactly what you say, a few can't handle long hours drinking and get stupid. Definitely bring in your proposed changes, can be benefit to everyone. | Strongly agree | Bar hopping is a no Brainer! Good proposal. | Strongly agree | Clubs are a controlled entity and much more able to look after their own. | Well thought out, all for the changes. |
| 060 | Briar | McGowan | Strongly disagree | You will be throttling what little nightlife Tauranga has. It's so common for people to come from the mount after midnight, reducing the hours will likely discourage them from doing this. This city is already losing a lot of draws cards and becoming more like a retirement village. | Strongly disagree | Reducing the hours to 2am and then one way from 1am means that businesses lose out on practically 2 hours of trading. | Neither agree or disagree | | Support our local establishments that provide Tauranga with nightlife, instead of choking them and reducing their ability to trade. Work to make the city safer, as it's often not the partygoers that are the problem. |
| 061 | Janine | Joyce | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |

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| 062 | Dean | Stewart | Strongly agree | Whilst I strongly agree with reducing the hours, one hour is insufficient to make a lot of difference. On-licence hours should be reduced further to midnight. | Strongly agree | Should be 11pm. | Neither agree or disagree | | |
| 063 | Cameron | Anderson | Strongly agree | I have seen and had first hand experiences with the Tauranga night life in the CBD over the past 30 years. I have see the harm caused by persons coming into the CBD from the Mt and those who pour out of premises in the CBD at closing times. The simple facts are, yes people preload before coming into town, the problem is they are then topped up by premises and then unleashed on the streets with no duty of care by the licensees. It is all profit and no care once the patrons leave the premises. Yes the hour less would mean an hour of less profit, however most people are too intoxicated at that time of night and simply purchase drinks and then (thankfully) not drink them, is this responsible license holders, serving drinks purely for profit? New Zealanders are binge drinkers and if they can drink will drink without any thought for their actions and subsequent consequences. The council, can help change this by this new policy. Another way to look at it is,if the council does not change the hours, they are effectively saying it is ok to go to a bad, great trashed and then go out and cause harm in the community. The council then becomes party to the harm caused by not trying to mitigate it. | Strongly agree | Mt Maunganui is almost the exemplar of licensed areas, the Mt CBD is empty by 1:30am with next to zero incidents happening. Those who cannot control their drinking, head to Tauranga because they know they can drink for another 2 hours. And then Tauranga has the majority of the problems. Having been involved in liquor enforcement for over 30 years, I know nothing good happens after 1:00am and have had to deal with far too many victims of serious incidents. Don't get me wrong, I enjoy a night out with the next person, but as I have previously stated New Zealanders are binge drinkers and do not have the social skills to control themselves. | Somewhat agree | It is good to have controls and rules for those places. A long time ago some clubs were a problem, but the different clubs and committees have grown and taken on responsibility for their members and over the past 15 years or more have not feature in harm related matters. This of course if purely from my observations. | Reducing the hours of operation, is the only way forward if the council are truly serious on helping reduce the harm alcohol causes. To not change the hours and one way door policy, is effectively condoning the behaviour and possibly could make the council liable to claims against them for not doing all they can to prevent harm caused to people. |
| 064 | Julie-Anne | Tucker | Strongly disagree | Reducing the hours doesn't stop people from drinking they will just guzzle it down before being put outside to create havoc in public spaces. Better to be inside a premises that has a code of conduct than wandering the city | Strongly disagree | | Neither agree or disagree | | |
| 065 | Andrew | Sommerville | Strongly agree | Should be Reduced in other areas like the Mount too to stop people then travelling there. | Strongly agree | Should be Reduced in other areas like the Mount too to stop people then travelling there. | Strongly agree | | |
| 066 | Ryan | Akers | Strongly disagree | I'm a night owl, and often work late. Catching up with friends for a drink is a great social activity and this limits the amount of time we'll be able to do that in town at a bar (which is a great suitable location compared to houses which are all a distance from each other and more difficult to get uber/taxi rides from). It would also reduce incomes of local businesses as it would force them to be open for less hours, during the time of covid where they are already struggling | Strongly disagree | I think the one-way door restriction should be for 1 hour before the end of licenced hours. Because I do not support the change from 3am to 2am, I believe the one-way door restriction should stay as 2am | Somewhat agree | More clarity of what is and isn't allowed is always good, however I don't know what the current rules or restrictions around this are so can't comment with any meaningful info | |
| 067 | Isaac | Jakobs | Strongly disagree | The Tauranga nightlife was hugely impacted by the last change, as well as Covid restrictions. Hospitality has taken a heavy hit and this will further impact those businesses negatively. Tauranga is already a very empty city during the day, it only sees activity and people come spending serious money at night. | Strongly disagree | As above. This is an already weak time framework and the nightlife will suffer greatly if these changes come into effect. | Neither agree or disagree | Could not care less about sports clubs etc | Leave the rules alone. If anything, make it longer and you can make more money. |
| 068 | Gemma | Lewis | Somewhat disagree | This will just push the parties to the suburbs where families are trying to sleep. | Strongly disagree | This I agree with. | Neither agree or disagree | | |
| 069 | Nicola | Farrant | Strongly disagree | Leave this to the business, based on their clients | Strongly disagree | | Somewhat agree | It would depend on the process and price; sports clubs have enough red-tape and expenses as it is. We want these to thrive and continue, not get down and out. | |
| 070 | Jacob | Greenfield | Strongly disagree | The tauranga township needs a nightlife. It's so vibrant. What it does need is a smaller more manageable area, so the clubs can all be closer together so security can manage any trouble easier. Then you could look at your updated precinct and move all the cbd nightclubs to one side of it. | Somewhat disagree | If you have a seperated group trying to group back together it would be safer to allow this rather than leave for example one stray vulnerable person on the street | Somewhat agree | | |
| 071 | Chantelle | Robinson | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 072 | Tyran | Smith | Strongly disagree | | Strongly disagree | | Somewhat disagree | | |
| 073 | Anton | F | Strongly disagree | | Strongly disagree | | Somewhat agree | | Look at the rest of the world! Let people consume alcohol 24/7 and you won't have any problems. Let people do fun stuff, stop turning Tauranga into giant retirement village. |
| 074 | Elisa | Clarke | Strongly disagree | The nightlife in Tauranga used to be a huge draw to Tauranga and that's been almost ruined and this will make it worse. | Strongly disagree | | Strongly disagree | | |

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|-------|----------------|----------------|---|--|---|--|--|---|--|
| 075 | Rowan | M | Strongly disagree | If people don't have bars to go to particularly young people they will find other things to do in these early hours. Less harm is done occupied in bars. This will not reduce consumption of alcohol it will simply be done by these groups in other less appropriate locations. | Somewhat disagree | Many people leave the mt when it closes and go to Tauranga. If there was a one way policy they would simply find other locations to drink eg in thier car in a public park | Strongly disagree | | |
| 076 | Dave | White | Somewhat disagree | It should depend on the establishment. If it's a night club I think 3am is fine or even later. Closing things early results in the intoxicated people / people on drugs being on the street and this is not what we want. This is when fights and other trouble starts. | Somewhat disagree | Same as above - this would result in more people causing trouble on the streets. | Neither agree or disagree | | |
| 077 | Hine | Gear | Strongly disagree | The night life in Tauranga has been on a bad decline for the last 10 plus years. | Strongly disagree | Stupid! | Somewhat disagree | | |
| 078 | Jennifer | Rozendaal | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 079 | Does it matter | Does it matter | Strongly disagree | This city is dominated by retirees and kindergarteners and the age groups 18-30 are getting pushed away let us have some fun :(| Strongly disagree | The reason people leave Mount Maunganui bars is because it closes at 1am... there will be no where to go. | Strongly disagree | To many rules... everything is so strict already, I will definitely be leaving this town if it gets any worse. Old people seem to over-ride everything here | |
| 080 | Jennifer | Eastham | Strongly agree | Get people in town earlier and going home earlier, loved it in London going for dinner then clu till 12 when they closed and still be good the next day. | Strongly agree | | Strongly agree | | |
| 081 | Pablo | Rios | Strongly disagree | Some other councils including NZ capital has license till 4am, making the city vibrant at night time. Tauranga needs more life, not more restrictions. | Strongly disagree | Just restrict more the time of operation, what happens it's only transfer the parties to house places, creating even more intoxication or trouble at the neighborhood | Neither agree or disagree | | |
| 082 | Chris | Connolly | Strongly agree | The atmosphere on the CBD after 2am is not a welcoming environment. There are often people lingering around who are argumentative and wanting to fight. I don't see there being any benefits to allowing town to remain open for another hour. | Somewhat agree | I do like this restriction as it encourages people to leave town once they have left the bar. However I also feel it results in more people lingering in the streets waiting for their friends to come out. It'll discourage people from travelling from Mount Town to Tauranga after Mount Closes at 1am. This travel is often down by intoxicated drivers. | Somewhat agree | Makes things more clear for this applying. | |
| 083 | Paula | Wilson | Strongly agree | I strongly agree with this policy. The reduced hours will reduce harmful drinking and one less hour of harmful drinking is a very good idea. I believe it will reduce alcohol related harm in our community. | Strongly agree | Anything that will minimise more harmful drinking and wandering around town bar swooping while inebriated is a very good idea. | Neither agree or disagree | | |
| 084 | Deb | Riley | Strongly agree | | Strongly agree | | Strongly agree | | |
| 085 | Julie | Torrey | Strongly agree | | Somewhat disagree | | Neither agree or disagree | | |
| 086 | Amy | Shannon | Strongly disagree | | Strongly disagree | No and make it even less desirable for young people. | Strongly disagree | | |
| 087 | Soraya | Hebert | Strongly disagree | | Somewhat disagree | | Neither agree or disagree | | |
| 088 | Lee | Corkill | Strongly disagree | The nightlife in bars in Tauranga comes alive at 1am when people come over from the mount. | Strongly disagree | 2am would be a better time to do a one way policy. | Neither agree or disagree | I'm not involved with any sports clubs or the like so don't feel qualified to pass judgment. | |
| 089 | Laura | Robichaux | Strongly disagree | The extra hour of opening time allows for increased profits for the hospo sector in Tauranga. I do not know the positive benefits of reducing the close time from 3am to 2am. The proposed policy is NIMBYism at its worst and would further hinder Town. | Strongly disagree | This would reduce the shifting between bars and the balance of business between the Mount and Town. I am not in support. | Neither agree or disagree | Am not informed enough on this to have an opinion. | |
| 090 | Moses | Anderson | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 091 | Campbell | Harrison | Strongly disagree | I think they should ve allowed to be open longer | Strongly disagree | | Neither agree or disagree | | |
| 092 | Kapua | Gate | Strongly disagree | | Strongly disagree | | Strongly disagree | | Strongly disagree. Alot of humans in tauranga are getting/got vaccinated just to go out to town. Closing bars and clubs at 2am instead of 3am will cause alot of unnecessary commotion between the local community and the council |
| 093 | Bob | Paki | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 094 | Dan | Noschang | Strongly agree | From my personal experience nothing good happens at that time of the morning. Patrons become extremely intoxicated and multiple fights start. | Strongly agree | People come from Mt Maunganui already drunk after the bars close on that side of the bridge and keep drinking in Tauranga causing fights and disorder. | Strongly agree | | |
| 095 | Jess | Cawte | Strongly disagree | | Strongly disagree | | Strongly disagree | | |

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|-------|---------------|------------|---|--|---|--|--|--|---|
| 096 | Erik | Wiese | Strongly agree | A change of hours should see a reduction of alcohol to the degree of people drinking because the bar is open. 3 am is too late and these late hours see a reduction in the ability for emergency services to respon to harm caused by alcohol, both health, mental and criminal | Somewhat agree | If hours are reduced to 3 pm then I do not see as much of a need for the one way door policy other than to get people out of town earlier preventing them being stuck waiting for a taxi giving them that idle time. | Somewhat agree | Community should be aware of the availability of alcohol in their neighbourhood and their should be more control as these clubs are generally in residential areas causing greater risk to neighbourhoods. Hours of operation for residential areas should not be the same as business zoned bars and clubs due to noise pollution and disruption caused by these clubs when they close. | I would like to see more control of the availability of alcohol in the community with a limit to the number of liquor stores able to operate in a set area. I do not want to see multiple liqourstores in a block of shops or withing a 2 km radius of each other. Over supply of these stores lead to greater harm to the community and families and give a poor impression on people living in the community and on people visiting the community and our region in general. To reduce the harm of alcohol in the community the ability to obtain alcohol should be reduced. There are no controls around consuming alcohool at home or in private and as a result there is a greater risk to the community from selling from liquor stores than there is from selling in bars and clubs. Alcohol consumption in private is not supervised or controlled and there is no security on hand to ensure people or behaviour does not get out of hand and rules are adhered to. For that reason the emphasis on alcohol sales should be around community availability around alcohol, ie hours of operation and number of liquor stores in a community. Liquor stores should not be open past 9 pm and they should not be located close together nor should there be an over representation of alcohol stores in any one area with an emphasis on the vulnerable low income neighbourhoods. Also residential tavern hours should not operate past 11 pm on weekends and 9 pm on weeknights. I reside in a neighbourhood where a tavern operates in a residential area and there is noise and issues when they close including car stereos being played loudly, people remaining on the grounds past closing and yelling and arguing in the carpark and vehicles doing burnouts. These are not isolated incidents and they cause maximum disruption but there is little people can do as there is not response to these incidents as emergency services, police or council do not respond in a timely enough manner to be effective |
| 097 | Kieran | Miller | Strongly agree | I could imagine that the most amount of harm from alcohol happens in the early hours of the morning. | Strongly agree | I support this if it reduces the amount of alcohol consumed in the early hours of the morning. | Somewhat agree | I think clubs should be separate from others but it would still depend on the conditions. | |
| 098 | John | Bielby | Strongly disagree | They should be open 24/7 | Strongly disagree | Sometimes you need to go out for some fresh air | Strongly disagree | | Just stop trying to change something that isn't broken. That's the trouble with this council. Trying to hard to change systems that don't need changing. Be a wise council and reopen links ave |
| 099 | Mike | Lane | Strongly agree | Most of the Police time is wasted on alcohol related incidents day & night. Far too many alcohol outlets in Tauranga!!! | Strongly agree | | Strongly agree | As above | |
| 100 | Jonny | Kemp | Strongly agree | | Strongly agree | | Somewhat agree | | |
| 101 | Isaac | Jarden | Strongly agree | To help reduce harm in our community. | Neither agree or disagree | | Somewhat agree | | |
| 102 | Sarah | Mcdiarmid | Strongly disagree | | Strongly disagree | | Somewhat disagree | | |
| 103 | Nicole | Banks | Somewhat disagree | Stall close at 3am, start the on-way door policy at 2am. | Somewhat disagree | Stall close at 3am, start the on-way door policy at 2am. | Somewhat agree | Support so long as they are still required to pay for their licence and arent in a better position that bars and restaurants to sell cheaper drinks - takes people away from town. | |
| 104 | Carole | Gordon | Strongly agree | Alcohol fuels violence The well-being of people in our City is the key role of the City Council. Women and children are victims of alcohol-fueled male violence. We must act in many ways to reduce violence in New Zealand and in our City I would like to see hours reduced further to midnight. | Strongly agree | | Somewhat disagree | | |
| 105 | Susan | Moy | Strongly agree | | Strongly agree | | Somewhat agree | | Less alcohol stores less pubs with clubs less of anything with alcohol is involved. |
| 106 | Tracey | Mayall | Somewhat agree | | Strongly agree | | Strongly agree | | |

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|-------|---------------|------------|---|----------------|---|----------------|--|----------------|--|
| 107 | Sinead | Stainton | Neither agree or disagree | | Neither agree or disagree | | Neither agree or disagree | | 1. Super Liquor Holdings supports the Council's proposal to make no amendments (including maximum hours) for Off Premise Licences of the existing LAP for Off Premise. 2. We note there are no changes to the maximum licensed hours for off licenses in the draft LAP. Super Liquor Holdings requests that if there are changes made to the current LAP regarding bottle stores, that whatever is settled (eg Trading hours, restriction of product, discretionary conditions etc) should apply to all premises that hold an off-licence (including bottle stores, supermarkets, grocery stores, off-licence held in the same premises as a club licence). |
| 108 | Ranjit | Singh | Strongly disagree | | Strongly disagree | | Strongly agree | | I support Hospitality New Zealand's submission on the Tauranga City Council Draft Local Alcohol Policy. |
| 109 | MATT | GORDON | Strongly disagree | See submission | Strongly disagree | See submission | Strongly agree | See submission | See submission |

The following is a submission against the suggested draft LAP policy being considered by the Tauranga City Council.

I have been in hospitality within this city for almost 20 years now and have been an owner operator since 2008. I have owned multiple venues throughout the wider Tauranga city area along with operating a number of late-night venues and nightclubs. Some of these include 'The Bahama Hut', 'Krazy Jacks', 'Flaunt Nightclub', 'Karma Stripclub', 'Flow Nightclub' and the only late-night venue still operating 'Havana Nightlife & Eatery' located on Hamilton Street.

The city centre itself has changed drastically during the last decade with the closure of over a dozen late night bars and clubs. This is largely due to a significant change in drinking culture, moving away from late night drinking within licensed venues to a more damaging and concerning culture of drinking at home or at private parties, more commonly referred to as 'pre loading'. This coupled with the significant increase in the presence of drugs within our community has seen reduced patron numbers and resulted in bars not being able to support themselves financially and closing.

There are a number of concerning suggestions that have been put forward in the draft policy along with statements that have absolutely no supporting evidence provided by the agencies. These suggestions are in relation to 'Alcohol related harm', 'Licensed hours' and the 'One way door policy'. I will touch on each of these individually as it is my opinion which has first hand witnessed all measures to date that have been implemented based on the agencies opinions or beliefs to have had a negative impact. Statements have been made by the agencies that are clearly false and in a number of cases have been contradicted by further agency statements. This to me, clearly shows there's questionable intent as to the real reasons behind the varying statements made by the agencies and perhaps it's a matter of what needs to be portrayed at any given time.

Alcohol related harm (Good Order & Amenity)

This is a topic that we as licensee's are still coming to grips with as it has put a much wider responsibility on our operation. In the past venues were expected to manage customers whilst they visited the premise and when they left responsibility was that of the individual as to their actions. The new interpretation now brings the onerous back on the licensee as to what actions an individual might make based on the fact that they've spent time at your premise. Now whilst I agree the Act is attempting to accomplish the right thing in making licensee's more responsible and to think about the wider effects that excessive alcohol consumption can cause. It also brings to play an extremely heavy handed card that the agencies seem more than willing to use when expecting licensee's to not only manage their venues but the streets, carparks and other privately owned locations around the vicinity of the venue. In some instances it almost seems as if the Police themselves are reluctant to assist with mitigating risks by removing problematic people from these areas and rather put the task back on the licensee. Should an issue arise from this it's then the fault of the licensee, rather than the specific individual or lack of police presence. Furthermore, there is now a common reference to a 'place of interest' reflecting that not only are we held accountable for the patrons that enter our venue, we are held accountable for people that come to the city in the hopes of entering our venue. If these people are refused entry and remain loitering on the streets, causing issues or impacting the areas Good Order and Amenity it's our responsibility to implement procedures to mitigate these risk.

The report provided with the draft LAP would suggest that late-night venues are the cause of a significant amount of alcohol related harm. This is an interesting statement that can be clearly debunked thanks to our well-known friend Covid-19. Late-night venues within the Tauranga CBD area have been closed for 33 weeks over the past 104 thanks to the government restrictions put in place. With that closure one would expect to have seen at the very least a 30% reduction in harm within the CBD area if the main attributing factor was indeed late-night venues. The Police statistics themselves do not support this and when looking into the wider community the numbers stay the same regardless of whether late-night venues are operating or not.

Now a more positive focus would be on venue security and venue good order and amenity which in my experience would be at an all-time high standard. As previously stated, I've been in the industry for almost 20 years and the current level of COA security staff and training available to them has created a strong and safe environment. The incidents that occur within our venues are limited and patronage safety is at an extremely high level. The Police themselves have comments on venue security and how well our 'doors' are managed, this extends to the management of the entire venue as the door is the place where all incidents either start or end. The fact Police haven't been required to take any action against the late-night trading venues itself shows the high level of operations currently within our city centre.

Licensed hours

Focusing on the big thing here is the reduction of hours from 3am to 2am and the only real reason behind such a suggestion. This is based on a widely used phrase known as the 'tip out' affect. This happens when large amounts of people leave venues as they close and end up out on the streets waiting for taxis or alternative transport. Now having been based in this city all my life and having worked in the industry for 20 years I can tell you the 'tip out' is unavoidable. It used to be at 5am when Harringtons closed, then 3am when it was Bahama Hut, Colosseum and Cloud 9 closing on Harrington Street. When all these venues closed it moved to 3am on Hamilton Street and it remains 3am when the few venues close that are still operating within our city. The key takeaway here is that it will always remain and what positive affect does it have if this is drawn back to 2am. The fact about the 'tip out' is that unless you add other mitigating factors into the scenario you'll always have an influx of people leaving venues when they close and end up waiting around. Rather than pull back the licensing hours, why not look at mitigating factors like last drink times, entertainment cut off times etc. This could have the affect where people finish their drinks or leave due to no entertainment well before closing time, resulting in the overall number of patrons left at 3am to be significantly reduced. There is strong evidence that a staggered closing time works as this was a feature when Flow Nightclub closed at 2.30am and most patrons were gone prior to the neighbouring bar The Bahama Hut closing at 3am. A staggered closing time like this significantly reduced the overall numbers of people on the streets and ultimately reduced the 3am 'tip out' by up to 50%, resulting in far less incidents on Hamilton Street.

One way door policy

The consideration to continue with a 'One Way door policy' and to further reduce the time this is implemented to 1am would absolutely be the last nail in the coffin for a number of our city centre venues. With this restriction in place, I would go as far as suggesting that late night trade would likely no longer exist in any sustainable form. This has a flow on affect to the bars and restaurants

trying to attract people into the city as part of the wider dining experience. Above all that there's a significant push to bring the vibrancy back to the city centre with residential living and planned expansions through the Waikato University. In all honesty who wants to live or study in a city that has such limited social or entertainment options, this is something that needs some serious consideration put towards it as the flow on affect to the city plan could be hugely significant.

In carrying on with the One Way door policy, it doesn't even achieve its designed outcome, to remove people from the streets and increase safety within the community. Instead, we often find groups split up and people wandering around trying to find each other before being able to head home. This raises significant risks to the people walking the streets as our city streets are poorly light and the few troublesome people that like to loiter around the city lay in wait where venue security doesn't exist.

Covid-19

Timing of this LAP review couldn't be worse, to implement further restrictions into the hospitality industry would be beyond devastating. The current Covid-19 pandemic has dragged us over the coals for the past 2 years. The government has rolled out no industry specific support whilst implementing the heaviest operational restrictions on our industry alone. The 3 venues that I own in the Tauranga CBD are down more than 50% in trade and with our ever-slimming profit margins this downturn in resulting in a weekly loss of around \$8,000. There is finally some light at the end of this very dark tunnel with the variants weakening and all things pointing to being able to manage future variants without significant lockdowns and closures.

What I would seriously like the policy review committee to consider is outlined below:

1. Remove One-Way-Door policy entirely (proven to not work locally, nationally and in Australia). Allow hospitality venues to bring people into their premises and provide a safer environment for them rather than leaving them standing on the streets separated from friends/family and becoming a target for victimisation.
2. Stick with the current 3am closing time (allow venues to manage themselves with the assistance of the agencies. Agencies to utilise conditions to manage problem venues, as per the Act allows and as they have done in the past – Flow Nightclub 2.30am closure)
3. Ask the Agencies to proactively work with licensee's and consider putting in place 'last drinks conditions' on various licensed venues in the hopes to manage the 'tip out'. Again, this has been proven to work hand in hand with closing times and significantly reduces the overall number of people on the street. Reducing the closing times will make this suggestion mute so emphasis must be placed on the importance of the 3am closing time.

Most late-night licensees would be prepared to provide an underwriting to the Agencies should mutual agreement be found. This could be staggered and proposed times are 2am and/or 2.30am.

4. Review all the above in 12 months' time to see if it's had a positive affect on the Good Order and Amenity within the city centre. Look at areas of concern being the 'tip out' affect and 'One Way Door' affects and see whether these have been managed using alternative methods

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|-------|---------------|------------|---|--|---|--|--|---|---|
| 110 | Paris | K | Strongly disagree | If we want a progressive, vibrant city then I feel that this is a backwards step. Reducing hours bars are open till won't do anything to stop people from drinking more, they'll just have more drinks in a shorter space of time. | Somewhat disagree | | Neither agree or disagree | | |
| 111 | Rochelle | Roberts | Neither agree or disagree | | Somewhat agree | | Neither agree or disagree | | |
| 112 | Shelby | Rafferty | Strongly disagree | | Strongly disagree | | Somewhat agree | | |
| 113 | Brooke | Gordon | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 114 | Adele | De'Arth | Strongly disagree | Our local hospitality businesses have struggled enough with Covid 19 and the various restrictions these last couple of years. They need every extra hour they can get to keep their staff employed and customers happy. Shutting an hour early makes no sense when everyone is trying so hard to keep our CBD alive and pumping! | Strongly disagree | So many people still go out after 1am- they have money to spend and are just looking for somewhere to have a drink and maybe a dance! Restricting this may result in people not going out at all and just staying home... Not a great way to ensure these businesses remain busy throughout the night. | Neither agree or disagree | | No changes should be made to the current licensing policies- this will have huge negative effects on these businesses, their staff, the owners and their customers. |
| 115 | Campbell | Glacon | Strongly disagree | What would this do? This would ruin the small remainder of Tauranga's nightlife. Stop taking everyone's fun away from people. | Strongly disagree | | Neither agree or disagree | | |
| 116 | Julie | Mcdougall | Strongly disagree | | Strongly disagree | | Strongly agree | | |
| 117 | James | Boyd | Strongly disagree | Please don't. | Strongly disagree | Last entry at 2. | Somewhat disagree | | |
| 118 | Zoe | Huygen | Strongly disagree | Every city in New Zealand has bars and restaurants open until late hours of the morning. Tauranga only has a handful of bars that have this compared to many other larger cities in NZ. Changing the time would be ruining the experience of having a fun night out with your friends once you get to the age limit you can. | Strongly disagree | I think this is completely unfair. You go out for drinks and a fun night out with your friends. You should be able to leave the bar and come back if you want to. Don't ruin this for us! | Strongly disagree | If a place has alcohol they have a legal agreement to sell it on the premise. They should not have to get another agreement for this. | Please do not change the time. You are ruining this for young people who need to have the experience of going out to town with friends. From the age of 16 you can't wait to turn 18 to be able to go to bars and pubs with friends and have a fun night out and not have to worry about being kicked out just after midnight. This is the joy of being young. Do not ruin this for us. |
| 119 | Lauren | Miller | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 120 | Laura | Rowland | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 121 | Rebecca | Wilson | Strongly agree | | Strongly agree | | Neither agree or disagree | | |
| 122 | Charlotte | Tocker | Strongly disagree | Tauranga is an up and coming student city. Taking away from the nightlife is not only going to harm already struggling bars & restaurants but continue to push drinking into people's homes & neighbourhoods. | Strongly disagree | This will massively impact both Tauranga City bars and Mount Maunganui bars also. At present the 2am one-way door allows people from the mount to get into the city. Loosening this will be highly detrimental to businesses and again yet another reason to avoid TGA City all together | Neither agree or disagree | | |
| 123 | emily | burke | Strongly disagree | | Strongly disagree | | Neither agree or disagree | | |
| 124 | Jonathan | Cocks | Strongly disagree | The council has no experience operating hospitality venues. The delay in improving infrastructure around Tauranga is the fault of the council and food and beverage venues should not be punished due to their incompetence. | Strongly disagree | There is no need to punish the venues already struggling to make revenue and retain customers. This will not only affect CBD but it will also have a negative detrimental impact on Mount Maunganui, Papamoa and surrounding hospitality venues. | Strongly disagree | | Do not make changes and punish venues who have been struggling due to the impact of covid-19. |
| 125 | Cody | Mitchell | Strongly disagree | | Strongly agree | | Neither agree or disagree | | |
| 126 | Levi | MacDonald | Strongly disagree | Mount Maunganui already shuts at 1pm All other major New Zealand cities have a vibrant nightlife. With the recent addition of the University, reducing Tauranga's nightlife hours could impact the quality of potential residents. I want Tauranga to be inclusive for both young and old. | Strongly disagree | I don't think there's a need to change it | Strongly disagree | It's pretty clear as it is. The people just need to take the time to ask. | |
| 127 | Mel | Pedersen | Strongly disagree | This is going to further disrupt and reduce what limited Tauranga nightlife is left as people will not come from the Mount to Tauranga any more. Tauranga's nightlife scene is already struggling so this change is unnecessary and absurd | Strongly disagree | As above | Somewhat disagree | Honestly this is all being so overcomplicated | |
| 128 | Nicole | Pedersen | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 129 | Grace | Rich | Strongly disagree | Businesses need the support now more than ever and closing at 2 will create more house parties | Strongly disagree | Same as above | | | |
| 130 | Ashley | Cutforth | Strongly disagree | | Strongly disagree | | Somewhat disagree | | |
| 131 | Megan | Chaplin | Strongly disagree | Businesses on the strand have suffered enough with all of the unsettling times we've had to now take away an hour's business (which may not seem like a big deal to someone who works in an office) but it means so much to a business like Miss Gees. | Strongly disagree | This will just cause more hurt to business in town with how poor business is at the moment (with town being an absolute ghost town) here you are trying to make things more difficult | Neither agree or disagree | | |

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|-------|---------------|------------|---|---|---|---|--|--|--|
| 132 | Chanelle | Warrington | Strongly disagree | It makes no sense to kill off 1 hour worth of sales for the bars and hospo industry. For the sake of what? People will still continue on but the noise will be in the suburbs instead of the city. | Strongly disagree | | Neither agree or disagree | | The changes are a lose, lose situation. If Tauranga wants to keep attracting tourists then the last thing you want to do is cut off the nightlife because that's what everyone does when they're on holiday. If they can't have a proper holiday here we will see a decline in patrons and tourist, absolutely. |
| 133 | Hugh | Thomas | Strongly disagree | Thinking that reducing the licensing hours by the final hour of the night will in any way reduce alcohol harm is short sighted at best. If anything people will binge drink harder and harm will increase. Any action like this should be evidence based - as you are reducing the options for young people to enjoy themselves and making Tauranga yet a more dull and lifeless place to live. | Strongly disagree | See above. In addition this will stop people coming over from the mount (which already has a ludicrously early closing time) which will lead to the town being even more deserted than it already is. If the aim is to make Tauranga an uninhabited waste land during weekends - you are going the right way. | Neither agree or disagree | I am not clear on the ramifications of this - but when you speak about clarity for consumers - is this actually the case and a benefit? Or is it a guise to reduce the options for people to have fun? | This is a terrible idea. Look at the carnage at kick out time in the Mount! Later opening hours reduce binge drinking, reduce harm on early kick out times and lead to less injury, less violence and a safer community. |
| 134 | Kate | Waldon | Strongly disagree | Tauranga night life is already struggling. Why make it even harder for them?! | Strongly disagree | | Neither agree or disagree | | |
| 135 | Holly | Samuels | Strongly disagree | It makes grate money for the community's it gives people a place to be interested of drinking at some public park | Strongly disagree | | Strongly disagree | | |
| 136 | Mickaela | Healy | Somewhat disagree | | Strongly disagree | | Neither agree or disagree | | |
| 137 | Willow | Varley | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 138 | Aaliyah | Hoera | Strongly disagree | | Strongly disagree | | Strongly agree | | I support Hospitality New Zealand's submission on the Tauranga City Council Draft Local Alcohol Policy. It's not ideal timing given we've been battling these COVID rules and that having been our focus, but if you could take a quick minute to do this TODAY then that would be fantastic! |
| 139 | Jade | Sparrow | Strongly disagree | | Strongly disagree | | Strongly disagree | | |
| 140 | Susan | Hodkinson | Strongly agree | | Strongly agree | | | | Tauranga City Council Attention Liquor Bylaw Submission on the Liquor Bylaws Leader I do not support Drinking until 3.00am as the noise and chaos continues until daybreak and I live opposite Mc Donalds and on Maunganui Rd and deserve some sleep. 1.00am is late enough I support the stay in the same bar bylaw after 11.00am I want less Liquor outlets and I want the Liquor outlets to have glass and can recycle bins I also want TCC to ensure that the Liquor Free Zones are known and displayed at all outlets Currently few Liquor outlets have these including Supermarkets I want TCC to firm up their support of their own bylaws and Liquor Free Areas. For example the entire Liquor Ban time Blake Park is a drinking venue and no one cares except me and the rubbish collectors I want a total ban on walking the streets drinking. This means no pre and post drinking enroute to and from the bar or venue This happens in countries such as Canada why not here in Tauranga Nelson and the Far North tourist towns and beaches such as Orewa have complete Liquor Ban in their towns why doesn't Mt Maunganui |

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|-------|---------------|------------|---|------------------------------|---|------------------------------|--|------------------------------|--|
| | | | | | | | | | There are also fines for breaking bottles CTV is used. Mt Maunganui is at sunrise a littered place because of the behaviour of the night time people Please look at my photos on my fb page No Cuts No Butts Mt Maunganui It is so sad that Tauranga is a littered mess and most to the roadside litter is recyclable Cans Glass and cardboard TCC must lead a change in behaviour so that our roadsides and therefore our waterways do not add to the ocean pollution NZTA and Kiwi Rail corridors are also littered with alcohol discards. TCC has a pivotal role in changing behaviour of drinkers and the liquor laws must be tightened and enforced. |
| 141 | Jill | Chalmers | | | | | | | Yes. We should limit the addition of off-licence establishments at downtown Mount Maunganui, and limit the hours of operation. I have grave concerns that, due to COVID, the "retail district is turning into an "adult entertainment district" with stores being replaced by bars (or restaurants with bars). This will have adverse effects on the area and those living in the community with increased alcohol related harm. Yes. We should limit the number of off-licenses at downtown Mount Maunganui which is turning into a "bar" district with retail establishments closing due to COVID. I'd like to also see limits placed on hours of operation so that the area does not become a late night/early morning drinking destination. |
| 142 | Mel | Bennett | Strongly agree | Please see attached document | Strongly agree | Please see attached document | Strongly agree | Please see attached document | Please see attached document |



142

7 December 2021**Submission on the draft Local Alcohol Policy
Tauranga City Council****Submitter: Te Rūnanga o Ngāi Te Rangi Iwi Trust (TRONIT)****We would like to speak to our submission when Hearings commence in 2022**

1. TRONIT was consulted prior to the adoption of the draft Local Alcohol Policy (LAP), and again at a subsequent meeting following the release of the draft Policy for consultation. In the course of those discussions, we traversed both regulatory and non-regulatory approaches that would give Iwi/Māori a stronger voice in decision-making. Virtually every Council committee now has Iwi/Māori representation, but not the District Licensing Committee. A seat(s) on the DLC would address the current situation where Iwi/Māori are treated as submitters/objectors. It is a deep concern that submitters/objectors operate in a deficit situation where they are put in the position of having to offer evidence of how 'bad' things are and how much 'worse' they will become. This is particularly true for Māori for whom the hearings process can be seen as degrading and humiliating. And this is especially so if/when the response is mute and/or ineffectual, or worse, ignored. The issue of notifications is also relevant as the statutory requirements for an applicant are minimal. Whilst agencies with a particular focus on alcohol issues may have the capacity to monitor the Council website, it is our experience that notifications are easily missed by communities of interest including local residents, businesses, and other services such as schools, counselling/treatment facilities, churches, and other sensitive sites.

1.1 TRONIT recommends that Council creates a permanent seat or seats for Iwi/Māori on the DLC through the proper channels and in accordance with the governing legislation. This would enable Iwi/Māori to have direct input into decision-making across all aspects of licensing undertaken by the DLC.

1.2 TRONIT recommends that the DLC take steps to make the hearings process more amenable to community and cultural sensitivities in terms of (for example) cultural protocols, meetings processes, locations, and times of hearings.

1.3 TRONIT recommends that Council implements a comprehensive notification process that actively informs and engages with local communities on licensing matters.

On-Licences

2. TRONIT supports the reduction of on-licence closing hours to 2.00pm and the consequent alignment of the one-way door policy to 1.00am. Not only will this reduce the potential for excessive

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drinking and related harm, but it will also remove the attraction for people to migrate from other parts of the city/district that have a 1.00am closing time.

3. TRONIT supports the separation and elaboration of conditions for club licences. While we would like to see this reduced to 12.00am we recognise that many clubs already have earlier closing times that are based on their members preferences.

4. TRONIT supports the Police recommendation that entertainment precincts are contained within defined areas, and that they are not allowed to spread into industrial settings that are harder to monitor and control.

Gambling Venues Policy and Location controls

5. TRONIT has recently had discussions with TCC concerning the up-coming review of the Gambling Venues Policy. This policy applies to class 4 (pokies) and TAB venue gambling in Tauranga. The policy states that:

“No new Class 4 or TAB Venues may be established within the Tauranga City boundaries. However, Council may consider granting consent for relocation of existing Class 4 Venues or TAB Venues if the premises cannot continue to operate at the existing venue site”.

The policy applies the following restriction on relocation:

“The venue is located within a commercial or industrial zone identified in the operative Tauranga City Plan, excluding areas within 100 metres of residential zones with a deprivation index of 8, 9 or 10, measured on the NZDep 2013 (and any subsequent updates), as identified on the maps in Schedule 1”.

“Except for TAB Venues, the venue shall hold a current on-licence or club liquor licence under the Sale of Supply and Supply of Alcohol Act 2012”.

A class 4 venue must have an on-licence or club liquor licence and that any relocation is within a specified commercial or industrial zone. TRONIT supports the Police recommendation that licensed entertainment venues should not be allowed to spread into industrial settings – as noted above.

TRONIT also notes that the proposed relocation zones exclude areas within 100 metres of residential zones with a deprivation index of 8, 9 or 10. These buffer zones are presented on maps accompanying the policy. TRONIT acknowledges the intent of these restrictions as an attempt to reduce/mitigate gambling harm on vulnerable communities.

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TRONIT is dissatisfied that the same precautionary approach is not taken to control the location of all licenced premises including on, off and club licences. Surely the potential harms are not limited to just the presence of pokie machines?

TRONIT is concerned at the general lack of regard for location, density, and proximity controls. We are advised that decisions concerning gambling venues are predicated on the fact that the applicant is the holder of a liquor licence and complies with the Act, and any provisions within the LAP. On that basis:

5.1 TRONIT recommends that the Gambling Venues Policy and the Local Alcohol Policy are dealt with simultaneously so that there is consistency in the regulations and controls that impact on both activities.

5.2 In particular, TRONIT recommends that TCC undertakes a thorough and detailed analysis of the vulnerable communities and sensitive sites in the city and develops the LAP and Gambling Venues Policy in relation to location, density, and proximity to those vulnerable communities and sensitive sites that are identified.

Off-licences

6. TRONIT does not support the draft LAP and we find it completely unacceptable with respect to off-licences in that:

- a. It fails to deliver on the key recommendations raised by the stakeholder agencies
- b. It fails to take into account the indisputable volume of evidence concerning the impact of location, density, hours of operation and the relationship to alcohol-related harm in local communities and for vulnerable populations
- c. It fails to take into account the judgement of the Court of Appeal on the Auckland LAP. In particular the reduction in hours of operation, and the introduction of the rebuttable presumption.
- d. By maintaining the status quo concerning off-licences, the draft LAP does not achieve the objectives of the Act, nor does it achieve its own Principles set out in section 4.

4. PRINCIPLES

- 4.1 To minimise alcohol-related harm in Tauranga City.
- 4.2 To contribute to Tauranga City being a safe and healthy City.
- 4.3 To reflect local communities' character, amenity, values, preferences and needs
- 4.4 To encourage licensed premises to foster positive, responsible drinking behaviour.

6.1 TRONIT submits that maintaining the status quo only serves to contribute to and exacerbate alcohol-related harm for vulnerable communities and populations including Māori, youth, low-

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socio-economic, and those with mental health and addictions issues. Alcohol-related harm not only relates to crime and disorder but contributes to a range of health and social challenges across the whole community.

6.2 TRONIT submits that if adopted in its present form the LAP could be appealed on the grounds that it fails to meet the objectives of the Act, and that it fails to deliver on its own stated principles.

7. Location, density, and hours of operation.

In consultation prior to the drafting of the revised LAP, the Police, Medical Officer of Health, Ngāi Te Rangi Iwi, and Tauranga Budgeting Service all made recommendations concerning the restrictions that should be in place for off-licences. These recommendations included:

- Define maximum alcohol outlet density in specific areas and zones
- Reduce off-license trading hours
- Proximity of alcohol outlets need to be capped at current levels within a specified footpath distance from schools and other education facilities.
- Limiting the areas where licensed premises would be allowed. It is proposed that none are located in areas zoned as industrial and that the areas considered as 'entertainment precincts' are limited to areas such as the Tauranga and Mount Maunganui CBD.
- A limit on the number of licensed premises in any one area and also the ability to ensure licensed premises are not in vulnerable communities.
- Restricted hours for premises directly located in high deprivation index areas and limit the location of licences.
- The number of licences, in the sub-region, was 'about right,' except that there were 'too many' off licences (bottle stores).
- Sought consideration of a range of restrictions
- Concern that most alcohol outlets and gambling establishments are in low-income areas.
- Concerned that around the clock access encourages people to continue to drink when their supplies are diminished.

None of these recommendations were accepted.

There are numerous national and international data and research that link location, density and hours of operation to increased alcohol-related harm. The MOH provided a set of references, and there is more available through reliable agencies such as Te Hīringa Hauora (HPA), Alcohol Healthwatch, SHORE & Whāriki Research Centre at Massey University.

For the purposes of this submission, we draw attention to the recent Court of Appeal judgement. The Court of Appeal noted (in the recent Auckland Appeal)

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Because it dealt expressly with the proper use of the evidence, we mention the evidence of Dr Jennie Connor, a leading epidemiologist and expert of alcohol-related harm. She recognised that all epidemiological research is subject to limitations that affect causal inference but considered that within a regulatory framework that permits a precautionary approach it is reasonable to rely on conclusions founded on critical appraisal of a wide range of studies. Good quality research can be generalised from other settings. Her own analysis of the research led her to conclude that it justified the conclusion that restrictions on off-licence hours in Auckland would reduce availability and subsequent harm. She cited overseas studies that measured a material reduction in alcohol-related harm following reduction in off-licence hours and a New Zealand study which showed that purchases from off-licences after 10 pm were approximately twice as likely to be made by heavier drinkers

It is extraordinary that the advice in the Council Report is:

- Insufficient evidence and analysis currently available to determine where a density could or should apply and what would be considered an effective density. It is also unclear that density in itself is the issue regarding alcohol.
- May be difficult to provide evidence in any potential appeal process that a reduction in the maximum trading hours would directly result in a reduction in alcohol harm.
- Insufficient evidence and analysis currently available to determine the specific distances and particular activities where the distance would be applied. (NB the 100m buffer zones contained in the Gambling Venues Policy).

It seems more likely that a driving concern in this LAP is the repeated assertion:

- May not be supported by those who appealed the last draft policy and current licence holders. This may result in an expensive process with a high likelihood of a costly and lengthy legal challenge.

We are led to conclude that the high likelihood of a costly and lengthy legal challenge outweighs the cost and harm that will occur through maintaining the status quo.

The reporting officer then states:

31. If the Committee wished to consider including amendments that were in response to option b (3), (4) or (5) additional research and analysis would be required. As such it would be advisable not to adopt a draft policy at this meeting but rather request staff to bring this information back to the Committee at a later date for consideration and adoption of a draft policy at that point in time.

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6.1 TRONIT submits that is exactly what should have happened. Staff should have done and should now be directed to do the additional research and analysis to address the complex issues around location, density, and hours of operation of off-licences (and on-licences) and their impacts on communities and vulnerable populations.

7. In support of the proposed and recommended changes in this submission, there is great encouragement in the 24 September 2021 judgement of the Court of Appeal in the Auckland Council appeal that endorses the role of the Local Alcohol Policy as a mechanism for achieving the objectives of the Act, and in particular in addressing the reduction of alcohol-related harm in the community. Auckland Council is to be commended for pursuing this through the Courts.

Key findings in the Court of Appeal judgement:

1. There is no antecedent right to sell alcohol and no presumption in favour of the status quo.
2. Local Authorities do not need to create policies for discrete subdivisions/areas but are entitled to create general policies for their entire jurisdiction.
3. LAPs are intended as a method of communities implementing their own policies on alcohol-related matters.
4. The communities' policies need not be evidence-based only reasonable in light of the object of the Act.
5. LAPs are entitled to take a precautionary approach, i.e., "harm reduction measures need not await proof but may be tested by imposing restrictions."
6. There is no onus on Authorities to justify departure from the national default hours.
7. Both New Zealand and international research are valid bases for implementing policies.
8. Supermarkets are part of the problem.

Now there is a 'window of opportunity,' and every Council should feel emboldened to use their Local Alcohol Policy to address the objectives of the Act ie:

- (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.

It is in this positive and proactive spirit that TRONIT supports the following key changes proposed in the draft LAP with recommendations to enhance the intent of those changes:

8. 5.1.1 Maximum licensed hours
 - Maximum licensed hours for off-licences shall be 7am to 10pm.

8.1 TRONIT does not support the 10.00pm closing time. TRONIT recommends the 9pm closing time for all off-licences.

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In assessing the Auckland appeal, ARLA and the Court of Appeal did not find the closing hour restriction of 9pm to be unreasonable. The Court of Appeal found there is sufficient evidence to support the view that reducing the hours to 9.00pm for all liquor outlets will potentially be beneficial in reducing alcohol-related harm and that Council has the right to implement/test it.

8.2 TRONIT recommends that the opening hours commence at 9.00am as a discretionary condition taking into account the location of the premises with respect to educational facilities and other sensitive sites unless there is a good reason not to do so. Where these considerations are not relevant, then the default of 7am would be accepted.

Adjusting the opening hours to 9.00am reduces the exposure of children and young people to on-the-street direct alcohol marketing during the period that they are going to school. It also reduces the likelihood that they will encounter intoxicated persons loitering on the streets and in bus stops who have already made early morning purchases. It is unlikely that this will have a negative impact on retailers. Afternoon closing should also be considered where appropriate. Mechanisms for addressing this are through conditions that are discussed in (9.) below.

8.3 TRONIT recommends separating out the opening and closing hours within the LAP so that each element can then be dealt with separately on appeal (if any).

9 Compulsory and discretionary conditions

The Court of Appeal accepted as reasonable the imposition of specified condition for off-licences and that those conditions could be compulsory unless there was a good reason not to do so.

Auckland Council Provisional LAP, 4.4.1. Pursuant to section 77(1)(f) of the Act, the Council's policy position is that when issuing or renewing off-licences in the Auckland region, the DLC and ARLA should include the following conditions unless there is a good reason not to do so.

The legislative mandate to impose conditions are sections 116 and 117 of the Act.

Section 116 sets out the discretionary and compulsory conditions established under the Act.

Section 117 (1) The licensing authority or licensing committee concerned may issue any licence subject to any reasonable conditions not inconsistent with this Act.

The following recommendations could be imposed as noted above, or discretionary, or as undertakings.

9.1 TRONIT recommends that TCC introduce the following conditions (s116) (1) in the issuing or renewing of off-licences (as set out in the Act):

- Ensure that no intoxicated persons are allowed to enter or to remain on the premises; and

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- Ensure that signs are prominently displayed detailing the statutory restrictions on the sale of alcohol to minors and intoxicated persons adjacent to every point of sale.
- in the case of premises where (in the opinion of the authority or committee) the principal business carried on is not the manufacture or sale of alcohol, conditions relating to the kind or kinds of alcohol that may be sold or delivered on or from the premises.

9.2 TRONIT recommends:

- The licensee must maintain a register of material alcohol-related incidents, noting the date, time and details of each incident, and the steps taken by the licensee in response to the incident. The purpose of this condition is that it places the requirement on the licensee to monitor and record the behaviour of customers, and the training and competence of staff.
- For the purposes of this condition, the term “material alcohol-related incidents” includes, but is not limited to the following situations:
 - o a customer or staff member is injured or seriously threatened; or
 - o fighting occurs on the premises; or
 - o an external agency such as the Police, Māori Wardens or emergency services has been contacted; or
 - o a customer has been forcibly evicted and/or banned from the premises; or
 - o property is wilfully damaged by a customer.
 - o customers are found to be involved in any illegal activities on the premises
 - o where the excessive or inappropriate consumption of alcohol has been a contributing factor.
- The register of incidents must be available for inspection by the Police and Licensing Inspectors at any time that the premises is open to the public.
- The incident should be recorded in the incident register within 12 hours of the incident occurring.

9.3 TRONIT recommends that the DLC should consider imposing conditions relating to the following matters

- Conditions relating to CCTV
- Conditions relating to exterior lighting
- Conditions relating to single sales
- Conditions relating to morning and afternoon closing of premises near education facilities and other sensitive sites.

These conditions are enabled by s116 (3) In deciding the conditions under subsection (2)(a) subject to which a licence is to be issued, the licensing authority or licensing committee concerned may have regard to the site of the premises in relation to neighbouring land use.

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This condition may also be considered with respect to education facilities and other sensitive sites if there is support for the condition from the community. The Court of Appeal accepted that communities may implement their own policies on alcohol-related matters. Toi Te Ora Public Health Issues of Health and Wellbeing Population Survey 2020 report: Over 60% of respondents said they support reducing the number of places that can sell alcohol; When asked about a range of times when bottle stores and supermarkets should be allowed to start selling alcohol the most common response was 10am with nearly three quarters (71.4%) of respondents stating this option. Nearly one in five (18.8%) thought that it was suitable for bottle stores and supermarkets to start selling alcohol before 10am.

9.4 TRONIT strongly recommends that the LAP be extended to incorporate remote sales and deliveries. Any holder of an off-licence can sell alcohol remotely via the internet, telephone, or by mail order. There is no requirement that the intention to sell remotely be disclosed at the time of licensing and therefore the opportunity to have licence conditions relating to such activity may be missed. During the recent COVID-19 lockdown, many off-licensed premises that had never considered selling remotely, began to engage in this process – with almost no controls to ensure that harm was minimised.

TRONIT recommends as part of the licensing process, all off-licences (new and renewal) should have appropriate conditions attached concerning remote sales/deliveries. Conditions for off-licences are specifically covered under Sections 116 and 117 of the Act: Particular discretionary conditions, and other compulsory conditions: off-licences.

S116 (2) The licensing authority or licensing committee concerned must ensure that every off-licence it issues is issued subject to conditions—

(a) stating the days on which and the hours during which alcohol may be sold or delivered

It is an offence to sell or supply alcohol to an intoxicated person. However, the Act is silent on how this can be assessed for a remote sale. The only practical mechanism is for intoxication assessments to be carried out at the point of delivery. TRONIT recommends that as part of the off-licence application process, the applicant should demonstrate how they will ensure that alcohol is not sold/delivered remotely to intoxicated persons.

Under the current legislation, remote sellers may deliver alcohol at any time between 6 am and 11 pm (s49). TRONIT recommends that as a discretionary condition, remote delivery of alcohol should only be within the permitted trading hours of the premises.

A further condition could be that any remote sale of alcohol made after 6pm should be delivered the following day. This would help prevent the extension of hazardous drinking into the night.

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10 Further licences should be issued in the city or parts of the city

10.1 TRONIT recommends that TCC adopts a Rebuttable Presumption across the whole city. The responses from Police, Health, Iwi, and community agencies indicate there are enough or too many off-licences in the city. Most want tighter controls/restrictions on the number, location, and hours of operation. The Presumption is that applications for new off-licences should be refused and that this presumption may be rebutted by the applicant.

- This approach is more flexible than a policy based on arbitrary numbers and formulas such as a cap on the number of licences, or the number of licences per head of population that could be appealed.
- This approach allows new applications to be presented at any time but places the onus on the applicant to demonstrate why there is a need for their proposed new liquor licence, and in doing so, how they can assure the DLC that they will achieve the objectives of the Act. At the moment, an applicant only has to show that they will properly manage their business to their front door, and the burden is on agencies and communities to produce evidence of the likely harm. The Act was predicated on the proposition that licences would be 'hard to get and easy to lose' but the record shows that across the country, licences are still being granted in the face of overwhelming opposition.

The following is the relevant section from the Provisional Auckland LAP.

3.3. Overview of policy tool: Rebuttable presumption against the issue of New Off-licences

Presumption

3.3.1. The Presumption is that applications for New Off-licences should be refused in the areas specified at 4.1.2., 4.1.4, and 4.1.6.

3.3.2. This Presumption may be rebutted by the applicant. Deciding whether the presumption is rebutted

3.3.3. In deciding whether the Presumption is rebutted by the applicant under clause 3.3.2, the DLC and ARLA should have regard to: (a) the Local Impacts Report (b) information provided, and representations made, by the applicant. Explanatory Note for Reporting Agencies

3.3.4. The presumption against the issuing of off-licences is not intended to relieve Reporting Agencies of the obligation to inquire into an application, nor remove their right to oppose an application if they have grounds for concern based on the criteria for issuing licences under the Act.

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The Court of Appeal endorsed ARLA's judgement concerning the rebuttable presumption.

The effect of this decision is that:

ARLA's decision that the temporary freeze and rebuttable presumption (elements 3.2 and 3.3) are not unreasonable in light of the object of the Act is reinstated.

The Court of Appeal recognised that while the Local Impact Reports established in the Auckland Provisional LAP were not mandated in the legislation, they stated:

In our view, the policy element dealing with Local Impact Reports is cl 3.1, which provided for them as a "policy tool."

In essence, the Local Impacts Reports are completed by the Licensing Inspectorate at the Council and the Auckland Provisional LAP sets out the Relevant Matters:

A Local Impacts Report should address the following matters to the extent that the information is available:

- (a) the existing licensed premises in the Reporting Area, including the number, their locations relative to the proposed site, the kinds and mix of licences, the type of premises, their trading hours, and their risk profiles under the Sale and Supply of Alcohol (Fees) Regulations 2013; and
- (b) whether any of the following sensitive sites exist within the Reporting Area, and the proximity of these to the proposed site (including whether the relevance of the proximity is impacted upon by any significant physical barriers, such as a river or motorway):
 - (i) early childhood centres and childcare facilities; and
 - (ii) Education Facilities; and
 - (iii) addiction treatment facilities; and
 - (iv) marae
- (c) for on-licence applications, the transport options available during the times the proposed licence would be open to the public, including buses, trains, and taxis; and
- (d) the other types of land uses within the Reporting Area; and
- (e) the nature and severity of alcohol-related harm in the Reporting Area, including incidence of alcohol-related crime, anti-social behaviour, alcohol related health issues and any other information relevant to section 4(2) of the Act; and
- (f) the nature of the licence application being considered, including the kind of licence applied for, the type of premises, the patron capacity, the hours of operation sought, and the likely risk profile under the Sale and Supply of Alcohol (Fees) Regulations 2013; and
- (g) the steps the applicant will take to manage the premises so as to minimise alcohol-related harm, as outlined in the application.

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10.2 TRONIT recommends that in addition to the matters (a)-(g) above, and the duties to report by Police and the Medical Officer of Health, there should be provision in the Local Alcohol Policy for a discretionary Iwi/Māori cultural report. This “policy tool” would enable Iwi/Māori to have a direct voice in licensing matters that concern them, rather than the current situation where they must make submissions in order to express their views.

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| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|---|---|---|---|---|--|---|---------------------------------|
| 143 | Laura | Wood (on behalf of Kainga Tupu Taskforce) | Strongly agree | Please refer to the task force submission attached. | Strongly agree | Please refer to the task force submission attached. | Strongly agree | Please refer to the task force submission attached. | |

Kāinga Tupu
Growing Homes

KĀINGA TUPU TASKFORCE SUBMISSION TO TAURANGA CITY COUNCIL REVIEW OF ALCHOL POLICY

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Introduction

The Kāinga Tupu: Growing Homes Taskforce appreciates the opportunity to submit to the Tauranga City Council (TCC) review of Alcohol Policy. We welcome the opportunity to present our submission to Commissioners. Point of contact is through the Kāinga Tupu Taskforce Secretariat: wbophomelessstrategy@gmail.com

About Kāinga Tupu: Growing Homes

In March 2020 the Kāinga Tupu: Growing Homes strategy was launched to the wider homelessness sector across the western Bay of Plenty sub-region. The strategy was developed, drafted, and supported by stakeholders across the community sector. The strategy is intentionally not owned by any one organisation but reflects the collective aspirations of the sector.

The Kāinga Tupu: Growing Homes strategy is governed by the Kāinga Tupu Taskforce and coordinated by the Kāinga Tupu Advisor within the Community Development team of Tauranga City Council with financial support from a range of organisations represented on the Taskforce. Within the operational structure of the Kāinga Tupu: Growing Homes strategy, there are four key workstreams (supported by action groups) focussing on the strategic priority areas of: Prevention, Support, Supply and System Enablers.

Overview of Strategy & Action Plan

Kāinga tupu – growing homes

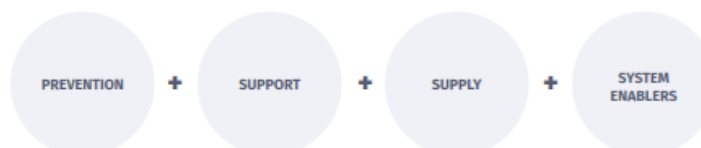
He taupua tangata, he kāinga tupu – A person supported to support oneself, a flourished home established

Western Bay of Plenty homelessness strategy

Vision
Homelessness in the western Bay of Plenty is prevented where possible, or is rare, brief and non-recurring

Mission
As a sub-region, all residents have the right to housing that is warm, safe, habitable and affordable

Strategic framework



Kāinga Tupu
Growing Homes

Kāinga Tupu Taskforce Members

- Accessible Properties NZ Ltd
- Bay of Plenty District Health Board
- BayTrust
- Department of Corrections
- EmpowermentNZ
- Kāinga Ora: Homes and Communities
- Member of Parliament (Labour)
- Ministry of Housing and Urban Development
- Ministry of Social Development
- New Zealand Police
- Ngāti Ranginui Iwi Society
- Tauranga City Council
- Te Pūni Kōkiri
- Under the Stars

General Feedback - Proposed Changes to TCC Alcohol Policy

The Kāinga Tupu Taskforce agrees with the sentiment of the Tauranga City Council (TCC) in that while many consume alcohol responsibly, harm caused by the excessive or inappropriate consumption of alcohol can have serious negative impacts on our communities. It is essential that we protect our vulnerable communities from harm.

Alcohol has significant detrimental impact on health, social and cultural wellbeing outcomes in our community. For some groups in our community, these negative health outcomes are experienced at greater, and inequitable rates. There is a need to apply an equity lens when addressing the consumption of alcohol through harm reduction. The control of the sale, supply, distribution, and accessibility of alcohol (through addressing hours of operation, location & proximity, and online ordering systems) all play a significant part in reducing alcohol related harm and for many in our community levels of significant harm and addiction.

High levels of alcohol consumption, either in one-off occasions or sustained over time on many/ daily occasions further exacerbates other social harms within our community including but not limited to: social isolation, mental health, drug use/ dependency, relationship and/or family breakdown, debt, family harm, sexual harm and trauma. In addition, a common linkage is the ability for a person to remain in stable, long-term housing. Over-consumption and reliance on alcohol is a common experience for many of our whānau experiencing various levels of homelessness across the housing continuum. In particular, the negative impact on youth, Māori and people experiencing homelessness are of greatest concern as evidenced in the report "Alcohol in our lives – curbing the harm" prepared by the New Zealand Law Commission in 2010.

<https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R114.pdf>

Overall, the Kāinga Tupu Taskforce wishes to see continued alliance between Tauranga City Council and Western Bay of Plenty District Council to allow for a unified (and less confusing) sub-regional approach. The Taskforce has also submitted to the Western Bay of Plenty District Council on this matter.

Specific feedback on the proposed WBOPDC Alcohol Policy changes

| PROPOSED CHANGES | COMMENTS |
|--|---|
| Reducing on-license hours in the Tauranga City Centre. <i>Proposal – closing time of 2am instead of 3am</i> | <ul style="list-style-type: none"> - Agree that on-licence hours in the Tauranga City Centre be reduced to 2am instead of 3am. - This would allow alignment with the WBOPDC proposal. |



| | |
|---|--|
| Change to the one-way door provisions in the Tauranga City Centre. <i>Proposal – one-way door restriction to commence at 1am in the city centre.</i> | <ul style="list-style-type: none"> - Agree that one-way door provisions in the Tauranga City Centre should commence at 1am in line with Mount Maunganui. - This proposal also discourages 'bar hopping' around the district to chase later licensing hours as we see between Mount and Tauranga currently. |
| Addition of a club licence section. <i>Proposal – new club licence section to provide clarity for the community and applicants.</i> | <ul style="list-style-type: none"> - Agree that there should be a new club licence section within the TCC Alcohol Policy. - Encourage a requirement for club/bar staff involved in the sale and supply of alcohol to undertake training in harm minimisation, host responsibility, and de-escalation. |
| Tauranga City Focused. <i>Stand alone policy separate to Western Bay of Plenty District Council.</i> | <ul style="list-style-type: none"> - We encourage alignment between the two TLA Alcohol Policies given that residents work and socialise across the sub-region and given that many off-licence premises have ownership of chain stores across the sub-region. Alignment between the TLA Alcohol Policies also discourages 'bar hopping' around the district to chase later licensing hours as we see between Mount and Tauranga. |
| OTHER CONSIDERATIONS | COMMENTS |
| Off licence hours reduced to 9am to 9pm (currently 7am to 10pm) for resident customers and 8am to 9pm for business-to-business sales. | <ul style="list-style-type: none"> - Request a new provision that off-licence hours should be reduced to 9pm as an acceptable and appropriate closing time. - Request the commencing time of 7am be reviewed as this has a negative impact on consumers who are drinking in harmful ways e.g street sleepers, and car sleepers. - Request that an opening hour of 9am to resident customers is applied. However, consideration for business-to-business sales from 8am to allow for deliveries to conduct business. - Request that consideration of business hours also apply to online off-licence and delivery sales including online alcohol orders and deliveries with meals (through on-licence premises). - Overall we are concerned that the proposed changes of the TCC Alcohol Plan do not consider changes in provisions to off-licensed premises. |
| No further licences to be issued for premises in Tauranga City Centre, Mount Maunganui and neighborhoods of high deprivation. | <ul style="list-style-type: none"> - Request a new provision for no further bottle stores in the Tauranga City Centre and Mount Maunganui Centre. - Request a new provision for no further bottle stores in neighborhoods of high deprivation. - We commend the strong stance of the WBOPDC with their proposed change and would like to see a similar stance made by TCC. - This stance sends a strong message in regards to prioritising community wellbeing over economic profit and prioritises the principles of minimising alcohol-related harm and contributing to a safe and healthy city. |
| Stricter consideration on proximity and location of bottle stores across the TCC boundaries. | <ul style="list-style-type: none"> - We request stronger consideration for the location of off-licence premises in proximity to schools, school bus routes, public housing (emergency, transitional and social housing), community centres and marae given the inequitable outcomes associated with alcohol consumption for youth, Māori and people experiencing homelessness. |
| Restrictions on the sale of single serve alcoholic beverages. | <ul style="list-style-type: none"> - We request strong restrictions on the sale of single serve alcoholic beverages through off-licence premises (including online orders and deliveries). We believe this negatively |



| | |
|---|--|
| | impacts on youth, Māori and people experiencing homelessness. |
| Introduction of discretionary conditions for off-licence premises | - We note that in the draft TCC Alcohol Policy that there are no discretionary conditions imposed on off-licence premises. We request that discretionary conditions are introduced into the policy for off-licence premises (including online ordering) to ensure that a harm minimisation focus is applied. |
| Introduction of Off-Licence Accord | - Consider the introduction of an Off Licence Accord - a partnership between retailers, council and regulatory enforcement to promote the responsible sale of alcohol within the western Bay of Plenty areas, with the aim of reducing the incidences of alcohol related harm. |
| Notification requirements to local Iwi | - We support the submission of Ngāi te Rangi and agree that an introduction of an automated notification system to Iwi be applied for any new licence applications. |
| Review of Alcohol Bylaw | <ul style="list-style-type: none"> - We request that a review of the TCC Alcohol Bylaw is undertaken to reconsider Alcohol Control Areas in the Tauranga City Centre, Mount Maunganui Centre and neighborhoods of high deprivation. - We encourage the inclusion of 'special areas' for Alcohol Control Areas such as parks and/or reserves which are frequently used by rough sleepers and car sleepers that fall outside of the City Centre. |

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|-------------------------|---|-------------------------|--|------------------------|---------------------------------|
| 144 | Kate | Mason | Strongly agree | See written submission. | Strongly agree | See written submission. | Strongly agree | See written submission | |



144

16th December 2021

Draft Local Alcohol Policy
Tauranga City Council
Private Bag 12022
Tauranga 3143

Submission to the Tauranga City Council on the Local Alcohol Policy

Organisation Name: Cancer Society Waikato Bay of Plenty Division Inc.
Postal address: 111 Cameron Road, Tauranga 3110
Email: katemason@cancersociety.org.nz
Contact Person: Kate Mason, Health Promotion Coordinator
Ph: 027 880 5687

Signed:
Shelley Campbell, Chief Executive, Waikato Bay of Plenty Cancer Society
Date: 16th December 2021

Introduction:

Waikato Bay of Plenty Cancer Society sincerely thank Tauranga City Council and welcome the opportunity to provide feedback on the Draft Local Alcohol Policy.

Waikato Bay of Plenty Cancer Society is a division within the New Zealand Cancer Society federation that works across the cancer continuum including health promotion, supportive care, provision of information and resources, and funding of research. Cancer is New Zealand's single biggest cause of death.

We support the Council in their commitment to develop a Local Alcohol Policy (LAP). Not only can a strong LAP minimise alcohol-related harm in our region, but it can also significantly alleviate the burden placed on community members involved in individual licensing applications.

Alcohol and cancer risk:

Waikato Bay of Plenty Cancer Society advocates alcohol is a key cause of preventable cancers and is conscious few New Zealanders are aware of the harmful impact of alcohol use.



Alcohol is a Group 1 carcinogen like tobacco and asbestos, there is no safe level of alcohol consumption, in relation to cancer ¹¹.

Consistent international research has identified alcoholic products increase the risk of at least seven cancers including cancer of the mouth, pharynx, larynx, oesophagus, breast in women (pre- and post-menopausal), bowel, and liver ¹².

In New Zealand, breast cancer is the leading cause of death from alcohol among women ³ and makes up over 60% of alcohol-attributable deaths for both Māori and non-Māori women. Despite this, many New Zealanders are not aware of the risk associated with drinking alcohol and cancer ¹¹. Māori are disproportionally affected by alcohol-attributable cancer with Māori 2.5 times more likely to die than non-Māori and suffering a greater average loss of healthy life². Reducing population alcohol consumption could prevent about 6% of all cancer cases⁷.

Alcohol is readily available, affordable, and widely promoted in digital and print media, in our neighbourhoods and more so in low-socioeconomic areas ⁵. This significantly contributes to the inequitable distribution of poor health, and death, including from alcohol-attributable cancers ⁶.

There is strong national and international evidence that suggests policies which address alcohol availability, affordability and marketing are the most cost-effective ways to reduce inequities through a reduction in consumption, and therefore a reduction in alcohol attributable harm, including cancer deaths ¹⁰.

Proposed policy changes:

Do you support reducing on-licence hours in the Tauranga City Centre from 3am to 2am?

- A) The Waikato Bay of Plenty Cancer Society **supports** the reduction in on-licence trading hours from 9am-3am to 9am-2am. We also recommend that the opening and closing hours for on-licences be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.
- B) Reducing the on-licence trading hours would likely see a reduction in alcohol-related harm. The New Zealand Health Survey identified 25.6% of the total population of the Bay of Plenty as hazardous drinkers in the year 2019/2020. This is higher than the New Zealand average of 21.3% ¹⁵.
- C) We support the discretionary conditions for on-licences.

Do you support a change to the one-way door provisions in the Tauranga City Centre? This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre.

- A) The Waikato Bay of Plenty Cancer Society **supports** a change to the one-way door provisions. This would slow the migration of patrons during risky late-night periods and would reduce alcohol-related problems associated with late night premises. This would also support our recommendation of making alcohol less available, thus reducing alcohol-related harm.



Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences? This will provide clarity for the community and applicants.

- A) We **recommend** the reduction of trading hours from 9am-1am to a 12pm closing for clubs both within and outside the Tauranga City Centre.
- B) We **recommend** the opening and closing hours for club licences be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.
- C) We **support** the discretionary conditions for on-licences and club licences.
- D) We **support** the discretionary conditions for special licences.

Additional Comments:

Off-licences: no new off-licences

- A) We **recommend** Tauranga City Council considers including restrictions on off-licence availability in the proposed LAP.
- B) Restricting off-licence alcohol availability is a key strategy to minimising alcohol-related harm. In New Zealand, almost three-quarters (73%) of all heavy drinking occasions occurs in private homes, enabled by highly accessible, cheap off-licence alcohol. COVID-19 may have further embedded home drinking (and drinking as a coping mechanism), meaning off-licence availability has even greater importance, especially during lockdowns. Minimising the harm from alcohol is also key to reducing the burden on our health system during a pandemic.
- C) In New Zealand, areas of high deprivation have been found to have more liquor outlets than those of low deprivation⁹. Research also shows young Māori and Pacific males (i.e. 15-24 years) and young European females are more vulnerable to the effects of living in close proximity to alcohol outlets and communities with a high number of outlets, respectively¹.
- D) We **recommend** that a cap be placed on the number of bottle stores, to prevent additional bottle stores being located in areas of high socio-economic deprivation and/or areas with a high proportion of Māori residents. This occurs in the LAPs of other Councils in New Zealand and will assist Tauranga City Council to honour their obligations to Te Tiriti o Waitangi and actively protect Māori health. There should be no more bottle stores permitted in Gate Pa, Greerton, Kairua, Matapihi, Tauranga Hospital and Yatton Park, as these are all areas of high deprivation. Environmental Health Intelligence New Zealand identified in their 2016 Alcohol-related harm report, that there is on average 1.48 off-licences per 1,000 adults aged 15 years and over in the aforementioned suburbs⁴.
- E) A high concentration of alcohol outlets is also associated with heavy drinking among adolescents¹. A cap on alcohol stores would better protect Rangatahi and Tamariki, reduce alcohol harm within the community including less alcohol-attributable cancers, and de-normalise alcohol use. This applies to both off- and on-licences.
- F) High numbers of outlets may increase harm through:
 - 1) increasing the accessibility of alcohol (reducing time/distance to access alcohol),



- 2) increasing price competition which lowers the price of alcohol,
- 3) decreasing the amenity and good order in a community.
- 4) outlets also present problems in terms of harmful exposure to alcohol advertising ⁸.
- G) Alternatively, the total number of bottle stores permitted across Tauranga, for the duration of the LAP, could be stated. This would set the maximum limit for bottle store numbers (as occurs in the Whanganui and Wairoa LAPs), whilst freezing the growth of bottle stores in areas of high deprivation. The whole of Tauranga appears overserved by off-licence premises with 81 off-licences at present, which is a 19% increase from 2015.

Off-licences: trading hours

- H) Of people surveyed in the Bay of Plenty District Health Board region in 2020, 71.6% believed that 10am or later was a suitable opening time for bottle stores and supermarkets to start selling alcohol¹⁴. We **support** this and encourage Tauranga City Council to consider an opening hour of 10am for all off-licences. An opening hour of 10am would allow children to travel to school, free from the influence of exposure to alcohol and its marketing. A later opening hour would also protect our residents with an alcohol use disorder, such as dependence.
- I) We **recommend** 9pm as the closing hour for off-licence premises. Earlier closing hours minimise the opportunity for drinkers to purchase more alcohol to keep drinking, thus reducing alcohol-related harm such as cancer.
- J) We **recommend** the opening and closing hours be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.

Off-licences: discretionary conditions

- A) We **recommend** Tauranga City Council considers including discretionary conditions for off-licences in the LAP.
- B) It is recognised that New Zealand's liquor laws already provide for licensing committees to include conditions on a licence on a case-by-case basis.
- C) However, we believe the inclusion of discretionary conditions in a LAP can provide transparency to both the licence applicant and the community as to expectations around the sale of alcohol. Conditions are especially important when outlets are located in vulnerable areas and/or near sensitive sites such as schools.
- D) We **recommend** the following discretionary conditions for off-licences are included in the LAP:
 - Prohibiting the sale of single alcohol products (e.g. single mainstream beers and Ready to Drinks (RTDs);
 - Prohibiting the sale of certain types of products (e.g. light spirits, shots) and/or products sold below a certain cost;
 - Not displaying RTDs at the principal entrance to the store or within three metres of the front window;
 - Signage to be limited to displaying the store name and logo on the existing roof display;
 - No bright colours to be used in the external decoration of the premises; and



- No specific product or price specials to be displayed externally.

Off-licence: sensitive site protections

- A) We **recommend** there is an increase of protections, provided in law, for sensitive sites in the LAP.
- B) Should an area-wide cap on bottle stores (or freezes in high-risk areas) not be adopted, the LAP should require that off-licences should not be located within 100m of the boundary of sensitive sites. This includes early childhood centres, primary and secondary schools, playgrounds, parks and reserves, Marae, health facilities, alcohol treatment centres, and places of worship.
- C) Other Local Alcohol Policies in New Zealand offer these protections. The Rotorua Lakes Council¹³ prohibits the issue of a new bottle store within 200m of the boundary of a sensitive site.



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| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|----------------|---|----------------|--|----------------|--|
| 145 | Paul | Radich | | | | | | | Please see supporting document for submission. |



145

SUBMISSION ON TAURANGA CITY COUNCIL DRAFT LOCAL ALCOHOL POLICY**To:** Tauranga City Council ("**Council**")**Submitter:** General Distributors Limited ("**GDL**")**Summary**

1. GDL welcomes the opportunity to submit on the Tauranga City Draft Local Alcohol Policy ("**Draft LAP**"). As an off-licence holder for seven stores in Tauranga City, GDL has an interest in the matters raised in the Draft LAP.
2. GDL supports the use of local alcohol policies and the objectives of minimising alcohol related harm in the district. GDL acknowledges that local alcohol policies play an important role in providing certainty to both councils and licence holders about their obligations and that they can be an effective tool in ensuring safe consumption of alcohol.
3. GDL supports the Draft LAP as it relates to off-licences and in particular, supports the retention of the maximum off-licence hours of 7.00am – 10.00pm.

GDL as an off-licence holder

4. GDL's operations include over 180 Countdown supermarkets across New Zealand, as well as distribution centres and support offices. GDL is also the franchisor for both the Freshchoice and Supervalu supermarket brands across New Zealand.
5. As a holder of over 150 off-licences in New Zealand, GDL is an experienced licence holder and is committed to being a responsible retailer of alcohol. GDL acknowledges that it has a shared responsibility to prevent alcohol related harm and ensure that consumption of alcohol is undertaken safely and responsibly.
6. In the Tauranga City area, GDL holds seven off-licences.¹ All of these stores trade until 10.00pm with the exception of Countdown Greerton, which trades until 9.00pm.
7. While GDL also has two other stores located in the Bay of Plenty region, these are within the Western Bay of Plenty District Council's jurisdiction² which GDL understands will fall under the Western Bay of Plenty's local alcohol policy if this proceeds as an individual policy, as proposed.

¹ Countdown Bureta Park; Countdown Bethlehem; Countdown Greerton; Countdown Fraser Cove; Countdown Bayfair; Countdown Papamoa; and Countdown Tauranga.

² Countdown Katikati and Countdown Te Puke, both supermarkets are open until 9.00pm.

GDL's position on the Draft LAP

8. GDL supports the Draft LAP as it relates to off-licences and in particular, supports the retention of the maximum off-licence hours of 7.00am – 10.00pm. The retention of these trading hours is appropriate to enable GDL's existing stores in Tauranga City to continue to trade as they currently do in a safe and responsible manner.
9. GDL wishes to be heard in relation to its submission.

Signature:**GENERAL DISTRIBUTORS LIMITED**

Paul Radich

National Alcohol Responsibility Manager

Date:

17 December 2021

Address for Service:

Paul Radich
paul.radich@countdown.co.nz

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|----------------|---|----------------|--|----------------|---|
| 146 | Melissa | Renwick | Strongly disagree | | Strongly disagree | | Somewhat agree | | Please see attached written submission. |

146

**Hospitality New Zealand Bay of Plenty Branch
representing Tauranga City**



**TO TAURANGA CITY COUNCIL
SUBMISSION ON THE LOCAL ALCOHOL POLICY 2021
DECEMBER 2021**

CONTACT DETAILS: Hospitality New Zealand

Contact: Melissa Renwick
Phone: 027 507 2771
melissa@hospitality.org.nz
www.hospitality.org.nz

About Hospitality New Zealand

Hospitality New Zealand is a member-led, not-for-profit organisation representing approximately 3,000 businesses throughout New Zealand, including Taverns, Pubs, Bars, Restaurants, Cafes, Retail Liquor and Commercial Accommodation providers such as Camping Grounds, Lodges, Motels, Hotels and Backpackers.

We have a team of 8 locally based Regional Managers across the country, with a National Head Office based in Wellington. We have our own lawyer, who specialises in employment and alcohol licensing matters as well as being able to advise on the entire range of hospitality-related statutes and legislation. Our team is available 24/7 for members to obtain assistance, advice and guidance on a range of topics, questions and queries as they arise, and we have over 130 written resources available to members.

As well as our own resources, Hospitality New Zealand also work closely with Police, Local Government and the Health Promotion Agency to educate and ensure correct legal guidance for our members through the production of additional resources and interactive workshops.

Hospitality New Zealand also offers training and up-skilling courses to our members and their staff. Some of these modules include but are not limited to: 'LCQ training' and 'becoming a responsible host'. In addition, Hospitality New Zealand have recently launched an online learning management system designed for the Hospitality industry, this aims to get easy to consume, relevant training on Host Responsibility into the hands of our teams.

Based on the aforementioned information, Hospitality New Zealand considers themselves as part of the solution to preventing alcohol related harm by helping our members provide a safe and regulated environment for the consumption of alcohol.

Hospitality New Zealand has a 115-year history of advocating on behalf of the hospitality and tourism sector and is led by Chief Executive, Julie White. The Bay of Plenty Hospitality New Zealand branch president is Reg Hennessy of Hennessy's Irish Pub, Rotorua, and the Regional Manager for the Branch is Melissa Renwick.

The Bay of Plenty Branch of Hospitality New Zealand represents Tauranga City, which is made up of 186 members.

Hospitality New Zealand wishes to speak at any committee hearing in support of our submission.

We appreciate the opportunity to make a submission on the Local Alcohol Policy.

TAURANGA CITY LOCAL ALCOHOL POLICY (LAP)

Introduction and Overall Comments

1. The Hospitality industry is not only a significant employer in New Zealand, but it is the cornerstone of our culture and plays a vital role in our social life.
2. The production and sale of alcohol is a significant driver of economic activity, with more than 137,000 full-time equivalent employees working Nationwide in the food and beverage sector, or rather 172,458 filled jobs (Infometrics, 2021). The food and beverage sector in particular, is now the fifth largest area of financial spend for both international and domestic tourism, behind accommodation services, air transport and recreational activities.
3. Following the International lockdowns of 2020 & 2021 the value of hospitality venues in a post-COVID world have been identified in various International studies. One found 66% of adults polled across 10 countries agreed the social and mental wellbeing of the general population has been negatively impacted as a direct result of the closure of hospitality venues. It also went on to determine that 1 in 5 people said hospitality venues have a greater significance as places to avoid feelings of loneliness and 18% say they have increased in value as a place to meet new people. (IARD, 2021) We believe that this highlights the importance of having successful hospitality venues of varying styles to create a vibrant hospitality and night-time scene.
4. Government research shows 80% of New Zealand drinkers are staying at or below the Ministry of Health's recommended number of standard drinks per week. (HPA, 2021). Furthermore, the same data reported individuals drinking less frequently to intoxication and being more aware of moderating behaviours through food consumption and low alcohol beverages.
5. Research from NZ Alcohol Beverages Council shows that a third (29%) of individuals think the majority of New Zealanders don't drink moderately and responsibly, even though statistics show 80% of Kiwis do. Additionally, 47% thought that there were more 15-17 year olds drinking than a decade ago. Yet research shows 22.8% fewer younger people had alcohol in the past year. Perhaps most interestingly is 53% wrongly think New Zealanders drink more alcohol than most other developed countries. (NZABC, 2021)
6. Bridget MacDonald, NZABC's Executive Director has commented following research completed in April 2021, "We are seeing positive trends such as a general decline in hazardous drinking, fewer younger people drinking, our consumption is decreasing, and per capita, we consume less alcohol than the OECD average."

7. The consumption of alcohol also appears to have decreased within on-premise establishments as opposed to off-premise establishments. A 2018 report from the Health Promotion Agency estimated that on-premises establishments now account for around 14% of all alcohol sales in New Zealand, with 84% relating to off-premise sales. Supermarket and grocery store sales now account for the largest share of sales by total beverage volume (HPA 2018).

Comments relating specifically to the Tauranga City Council Statement of Proposal

8. Hospitality New Zealand supports the need for reduction and minimisation of alcohol-related harm.
9. We do not believe that the proposed changes to the current Local Alcohol Policy are evidence based with regards to increased restrictions on on-licensed premises.
10. We do not believe the proposed increased restrictions on on-licensed premises will reduce alcohol-related harm in the areas where the biggest gains and reduction of harms can be made – in unlicensed premises, the home and on the streets.
11. We do not believe the proposed changes to the LAP address the object of the Sale & Supply of Alcohol Act around excessive or irresponsible consumption of alcohol or that it is reasonable in relation to on-licensed premises. It does not fully reflect or recognise that on-licenses are where the sale, supply or consumption of alcohol is undertaken the most safely and responsibly or that on-licensed premises are the only places where the harm from excessive or inappropriate consumption of alcohol is minimised (as per the object of the Act) – nor that on-licensed premises are the most heavily monitored and checked places of alcohol consumption and where the most accountability for the behaviour of the public is placed and enforced.
12. Hospitality New Zealand opposes the proposed changes to the Local Alcohol Policy as outlined in the Statement of Proposal.

Reduction in closing hours for on-licenses in Tauranga City Centre

13. Hospitality New Zealand opposes the reduction of closing hours for on-licenses in the Tauranga City Centre.
14. We do not believe that the proposed reduction of closing hours for on-licenses in the Tauranga City Centre will address alcohol related harm in line with the objective of the Act with regards minimising excessive or inappropriate consumption of alcohol.

15. We believe that Police evidence highlights the fact that the vast majority of alcohol related harm is happening outside of on-licensed premises and that actions to reduce harm need to be focused on these areas.
16. Reducing the availability of safe, controlled and supervised premises risks increasing the consumption of alcohol in unlicensed environments and therefore risks promoting additional alcohol related harm, rather than reducing it.
17. Operators of on-licensed premises already invest substantially in security, systems, training and processes to ensure compliance with the Sale & Supply of Alcohol Act and no evidence has been presented to show (or even suggest) that the operation of these venues under the current LAP settings is in breach of any of the objectives of the act.
18. The current LAP in place is already one of the most restrictive in New Zealand with closing hours and one-way door policies that are more restrictive than the National default settings. There is no evidence to suggest that moving further out of step with the majority of other TLAs in further restricting access to safe and controlled on-licensed environments will reduce alcohol related harm.

Change to One-way door policy in Tauranga City Centre

19. Hospitality New Zealand opposes the proposed change to the One-Way Door policy, reducing the start time of the restriction from 2am to 1am.
20. One-way door policies are a measure that has been tried repeatedly in overseas jurisdictions and in NZ over the previous 15 years. They have been largely rejected because they didn't work and were actually found to increase behavioural problems.
21. Evidence provided by Police in their submission to this proposed change does not show any clear link between the current one-way door policy and a reduction in alcohol related harm. It also draws no link between incidents and on-licensed premises, rather it suggests that alcohol related harm is being caused by groups that have been drinking in other (unlicensed) environments.
22. Later closing hours in Tauranga City Centre (relative to Mount Maunganui) provide an option for people to socialise in a controlled and supervised environment after venues close in other areas. Making a change to reduce one-way door start times specifically to exclude people that have been socialising in other areas removes a safe and controlled option for them and increases the likelihood of harm if these people choose to consume alcohol in unlicensed areas.
23. Following are some details of studies undertaken in other markets to determine the effectiveness of one-way door policies. It is Hospitality New Zealand's view that these

policies do not meet the objectives of the Sale & Supply of Alcohol Act to reduce the excessive or irresponsible consumption of alcohol.

24. In 2006, an ABC documentary reported on the effectiveness of Brisbane's one-way door policy. It reported that it failed to reduce the number of assault victims admitted to the Royal Brisbane and Women's Hospital. Taxi drivers were interviewed as part of the report and they supported the view that the policy had failed to curb late night violence. Newcastle's one-way door policy has also been shown to be ineffective in reducing assaults. Professor Kypros Kypri, of the University of Newcastle, compared assault rates in the Newcastle CBD with those of the nearby suburb of Hamilton, which had not been subject to any restrictions. What he found was no significant reductions in assault rates.
25. Respected Australian criminologist Professor Ross Homel of Griffith University has extensively researched one-way door policies. He emphatically told the Legislative Assembly of Queensland's Law, Justice and Safety Committee that, "The 3am lockout is a complete, absolute, 100 per cent failure from all of the data that we have been able to observe... It is what I regard as a politically attractive but completely ineffective strategy."
26. Similar studies have been carried out in the past decades in Sydney and Melbourne, the results have been the same and the trials were scrapped in both cities.

Summary of recommendations from Hospitality New Zealand

In summary, Hospitality New Zealand opposes the proposed changes to the Tauranga City Council LAP. Specifically;

1. Hospitality New Zealand opposes any reduction in closing hours for on-licences in the Tauranga City Centre
2. Hospitality New Zealand opposes any earlier implementation of one-way door policies in the Tauranga City Centre.

Based on experience in other locations of New Zealand Hospitality New Zealand recommends that rather than seeking to place further restrictions on on-licenced premises, the Council and Police should focus on reducing alcohol related harm using existing tools available to them. The following ideas both support the aims of the Act to reduce alcohol related harm, while enhancing the vibrancy and safety of the Tauranga City Centre at night and supporting the provision of safe and controlled on-licenced environments in the CBD.

- Improved public transport options at night
- Greater enforcement of liquor bans by Police and minimisation of pre-loading
- Greater Police presence in the Tauranga CBD

We would welcome the opportunity to work more closely with both Police & Public Health to further explore these recommendations and ways Hospitality NZ members can assist.

Hospitality New Zealand wishes to speak at any committee hearing in support of our submission.

References

- Economic impact of the New Zealand hospitality sector – Infometrics (November 2021)
- Insights: The value of hospitality venues to social and mental wellbeing – IARD (October 2021)
- Where people drink alcohol – HPA (April 2019)
- Kiwis' (mis)perceptions of alcohol attitudes and behaviours – NZ Alcohol Beverages Council (January 2021)
- Affordability of Alcohol in New Zealand – HPA (2018)
- KPMG (2008) Evaluation of the Temporary Late-Night Entry Declaration
- Law, Justice and Safety Committee, Legislative Assembly of Queensland (2010) Inquiry into Alcohol-Related Violence – Final Rep

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|--|---|----------------|--|----------------|---------------------------------|
| 147 | Jessica | Mackenzie | Strongly disagree | The problems that are bought up will simply be shifted to 2am. This wont solve any problems. | Strongly disagree | | Somewhat agree | | |

147

Dear Tauranga City Council,

Thank you for giving us the opportunity to provide feedback on the proposed Local Alcohol Policy.

We understand the need to have alcohol regulations in order to keep everyone safe. However, we believe that there is a larger, overarching issue here and with a more collective approach would achieve similar results. Creating limitations will do more harm than good, and once restricted, they will never be extended out again.

As hospitality owners in the CBD, we support the reduction of alcohol related harm. We all do our best to make sure that our customers are safe while they visit our premises, we monitor their drinking, we slow people down, we often provide free food and arrange transportation for them to get home safely. However, we feel that the proposed changes do not actually focus on the issues, and rather look to create a blanket reduction of regulations within the hospitality industry in hope that the problems will go away.

We believe that by working together with the hospitality industry and the other interested industries, we can create outcomes that enhance the city centre rather than limit it.

There is a public perception that downtown Tauranga offers very little. With the construction that is happening around the city, road works, street closures, the parking crisis, low foot count and the empty shops throughout the city provide a very dim place to visit. As an industry, we bring people in at all hours of the day, we provide offers and packages to entice people from all over the region. As a whole, we can provide all day experiences, from breakfast, coffees between shops, lunches with colleagues, afterwork drinks and nibbles with friends, a late night drink or bite to eat after going to the movies, and even dancing till the wee hours of the morning. It is experiences like this that create culture and ambiance to a city. What is Melbourne without its restaurants, the Viaduct without the bars?

Our customers are from all walks of life, and yes, while we can agree that some of those customers like to cause trouble, most people are just out to have a good time with friends. There are many reasons that groups are drawn to The Bay. Many people from the smaller regional towns come here to go shopping, enjoy nice food in 'The City', enjoy all of the great bars and restaurants that the area has to offer, then, a lot of those tourists enjoy a night out dancing and celebrating with friends.

Tauranga's Hospitality precinct continues to support activity in the CBD. By creating an environment where people want to be, we can continue to increase the business throughout the entire city. Our current business climate has a lot of disruption, and it makes doing business very difficult. We face an abundance of inefficiencies at the moment, from running on a skeleton staffing model with decreased custom, immigration restrictions to the more obvious Covid-19 restrictions. It is a struggle to deliver the service that customers expect and deserve. Tauranga's CBD needs to be celebrated, we need to be a place where people want to visit and spend their money.

While we love people coming out and celebrating, getting rid of this aspect of hospitality won't just hurt us, they will affect motels, hotels, backpackers, annual events such as One Love and any other event held at Wharepai Domain. Every weekend we see the entire customer journey, and after a late night out, they come right back to the CBD for breakfast the next morning. Customers tell us about what they got up to the night before, how much

fun they had in our establishments and how lucky we are to be in such an awesome area of the country. The business community will be greatly hurt by a move such as these proposed liquor licence changes.

We ask that the council think about the long term plans for Tauranga. We are a growing city and are the fifth largest in the country. We should have all the amenities that a city has. A lot of work is underway to develop the city so that it is a welcoming hub of the region, a place where people can enjoy themselves. Tauranga's hospitality sector has already been pulled in a multitude of ways, a move such as this alcohol policy will see many businesses go under.

By limiting the trading hours of hospitality, you are also limiting potential investment into the city centre. To enable the city centre to grow, we need to grow our hospitality scene. This proposal should be focused on increased development and what the city centre is to be in years to come. By limiting trade to vulnerable hospitality businesses, Tauranga could miss out on the development of hotels, apartments and other possible expansion such as metro supermarkets that come with increased foot traffic in the area.

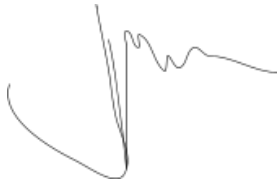
As hospitality venue owners, we do an enormous amount of work to ensure that customers are drinking responsibly and have a safe environment to be in. Yes, we do agree that there are some issues, such as pre-loaders, but the way that hospitality business owners conduct their businesses does not cause this. We train all our bar staff, they hold LCQ certificates and are ultimately given responsibility by you, the council and police. They are deemed responsible people and are able to make sure that our environment is safe for patrons.

The industry, as a whole, has been through an insurmountable number of problems in the last two years, the most obvious being covid. With this, the industry has faced a lot of problems, with many venues closing down. Acting as the government's enforcer of covid regulations, we have a lot of extra work on our plate. We ask that Tauranga City council work with us to find solutions to your problems. Simply restricting and moving the issues will not create results, not only will the CBD see even further decreased foot traffic, but we will see businesses go under and also the mental health of operators suffer.

Those of us who operate late at night, employ security, we train bar staff and managers, our managers are also trained externally through the LCQ course and then approved as responsible people by your liquor licensing officer, the police and ARLA. The issue is not with our operations.

I ask that before any changes are made to the local alcohol policy, that Tauranga is viewed as a whole? Where do we want to be? What do we want Tauranga CBD to look like? Please, collaborate with the hospitality industry to find alternative solutions to your problems.

Kind regards,



Jessica Mackenzie,

Director

SUNDAY
GROUP

THE
**CROWN
& BADGER**
YOUR English PUB

Volare

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|---|---|---|--|---|---|
| 148 | Shannon | Jenkins | Somewhat disagree | <p>In the recent hearing in regards to the licence of The Bahama Hut. The police had the stance that a 3am tip-out was a serious concern due to the amount of people on the street. Reducing licensing hours leads to 2 areas that have the ability to make this tip out worse. The first being more people in the bars open at 2am this leads to a larger amount of people at the new "tip-out" time. The second potential issue being more venues being open at the earlier time. This again leads to more people on the streets which the police have mentioned can lead to an increase in alcohol related harm.</p> <p>By closing the current CBD bars at an earlier time only leads to a larger amount of people on the street in the CBD an hour earlier.</p> <p>From 1am onwards people currently tend to start leaving venues naturally. Some of the late night taverns or venues are already closed or closing around this time also. As it is right now there is only 3 or 4 venues which operate until 3am.</p> <p>It has been mentioned many times to staff throughout the CBD that the current close time clashes with a shift change with the police. Some police are asked to work "unpaid" to look after the CBD. I believe some of the desire from the police wanting a change in hours is to alleviate this problem and not entirely about alcohol related harm in the CBD.</p> | Strongly disagree | <p>There is no solid evidence that any one way door policy prevent alcohol related harm. I have attached statistics pulled from the police.govt.nz website which tracks hourly victimisations in the Tauranga CBD over the previous 5 12 month periods.</p> <p>There is currently a one way door policy at 2am in Tauranga. The hour from 2am-3am over the previous 5 years has been either the worst or second worst time for victimisations according to the police data. This clearly shows that keeping customers outside of the bars at 2am has not reduced the alcohol related harm in the CBD area.</p> <p>To be clear I have removed the thefts from the data as, after working in town for the past 12 years, theft doesn't seem to be the larger concern in the CBD at closing times of the bars.</p> | Somewhat agree | <p>I have no opinion on this personally but any clarification for the public and community on what a license intends to be used for can only be a good thing.</p> | <p>If there was any strong evidence to show the 2am door policy has made the CBD in Tauranga a safer place then I am happy to read it and make a different informed opinion.</p> <p>The agencies haven't been open to providing anything with us and there has been very little to no consultation with current venue operators in regards to the reasons for wanting to change the current LAP.</p> <p>The statistics available through the police website shows that the original 1 way door policy has not shown to be effective in reducing harm in the CBD.</p> <p>If it did I would expect to see an increase in victimisations in the hour prior to the one way door. I would also expect a significant increase in the hour following the one way door if it is having a positive effect.</p> <p>Thank you for considering my submission.</p> |

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How to interact with this page

- Select a period of interest by dragging the ends of the slider at the right hand side of the page. The report will then display victimisations reported to Police during that period.
- Select an area of interest to zoom in to that area.
- Select the layer of details to display on the map (e.g. Region, Area Unit, etc)
- Select the type(s) of crime (ANZSOC Division or Group) you are interested in.
- In the map click on an area to display when victimisations occurred throughout the week.

Select Time Period

1/12/2016 to 30/11/2017

Zoom to the Area of InterestRegion
Bay of Plenty RegionTerritorial Authority
Tauranga City.Area Unit
Tauranga Central.**Boundary to display**

Meshblock

Choose Crime TypeANZSOC Division
AllANZSOC Group
Multiple values**Number of Victimisations****Occurrence hour and day of the week**

| Hour | Sun | Mon | Tue | Wed | Thu | Fri | Sat | Total |
|-------|-----|-----|-----|-----|-----|-----|-----|-------|
| 0 | 6 | 1 | | | | | 2 | 9 |
| 1 | 8 | 1 | 1 | 1 | | | 3 | 14 |
| 2 | 12 | | | | | 1 | 9 | 22 |
| 3 | 2 | | 2 | | 1 | 1 | 7 | 13 |
| 4 | | | | | 1 | | 3 | 4 |
| 5 | | | | | | 2 | | 2 |
| 8 | | | | 1 | | 1 | | 2 |
| 9 | | | | 1 | | | | 1 |
| 10 | | | | | | 1 | | 1 |
| 11 | | 2 | | | 3 | 2 | 1 | 8 |
| 12 | 1 | | 1 | 2 | 4 | | | 8 |
| 13 | | | 1 | 1 | 1 | | | 3 |
| 14 | 1 | 1 | 1 | 1 | | 1 | 1 | 6 |
| 15 | | 1 | | | 1 | | 1 | 3 |
| 16 | 3 | | 1 | 2 | | 1 | | 7 |
| 17 | 1 | | | 2 | | 1 | 2 | 6 |
| 18 | | | 2 | 1 | 3 | | 1 | 7 |
| 20 | | | | | 1 | 1 | | 2 |
| 21 | 1 | 1 | | | | | 3 | 5 |
| 22 | | 1 | 1 | | 1 | | 1 | 4 |
| 23 | | | | 1 | 5 | 1 | 6 | 13 |
| Total | 35 | 8 | 10 | 13 | 21 | 13 | 40 | 140 |

Note: Victimisations where the time of day or the day of week are unknown are excluded from the table.

I have been working in the Tauranga CBD for the past 12 Years. More than 10 of those in venues, and at times of the day/night, that the council and police would consider high risk. During that time, I have watched the CBD change drastically.

At the initial request for submissions we did not put one forward as we did not have an issue with the current LAP as it was running. If at the time we knew that a 2am close and 1am one-way door was being proposed we definitely would have given our feedback. In hindsight, we acknowledge that we should have supported the status quo at that stage of the process. I only hope that this submission may support the need to leave the LAP unchanged, if not relaxed, from its current state.

This is an addendum to my original submission as we had previously not seen the background report prior to being asked to submit on the first draft. I was personally named by one of the officers in the testimonials and would like to add some context to the statements around an earlier closing time reducing harm on Hamilton Street.

For background 2012 saw a revision on the Sale and Supply of Liquor Act. Most significantly was to add the concept of alcohol related harm to the Object of the Act. As we explain to all our staff, it now encompasses the effects of the consumption of alcohol on the wider community. In our case it now means all staff need to be aware of the consequences of the alcohol someone may drink with us when they leave our doors. In the past bars have taken the approach to only manage issues within the bar and not the streets surrounding them. The concept of alcohol related harm as it applies to night life becomes important when we discuss changes to the inner city and the belief, and anecdotal evidence, the one-way door policy has a positive effect. This part of the object of the act will be what I refer to regularly in this submission.

Hamilton Street Issues and Police Testimonial

Firstly, I would like to address the testimonial of the Police member who mentioned me. The relationship with the officer was one which started on reasonably bad terms. As we both worked together on solutions to the issues that were occurring, I believe we developed a good working relationship.

In his testimonial he mentions that after the closure of the Bahama Hut there had been “disorder, fighting and assaults” around Flow Nightclub. At the time this was occurring Police and Council were both suggesting they would object to our license, and we would need to head to the Licensing Committee for a hearing to renew our license.

In trying to avoid this situation we agreed to have some discretionary conditions placed on our license to try to mitigate the harm occurring on the streets. We agreed that the congregation of people on the streets between 2am and 3am was causing some issues so we decided to change how our staff would manage that.

We suggested the following changes:

- Closing the smoking area so people would not congregate and cause issues there.
- Placing cones in the carparks directly outside of the bars. This is to prevent people being able to sit and drink in their cars.
- Chaining off of the Hamilton Street car park to prevent cars from parking there and consuming alcohol during the night.
- 2 permanent staff on the street on busy nights to manage alcohol related harm in the car park and all of Hamilton Street from Willow Street to the Strand.

We were told we needed to include a 2.30am closing time and close the external food service area at 2.20am. These conditions were necessary for the license to be processed unopposed by the regulatory bodies. The testimonial goes on to say we accepted that an earlier closing time would help with the alcohol related harm on Hamilton Street.

While I did acknowledge a reduction on Hamilton Street there was an increase across the other areas of the CBD as the one-way door prevented our customers from entering any other bar.

What isn't mentioned is that the one-way door was left at 2am. We managed to increase the good order and amenity without having to keep people out for the full hour, as police are suggesting. The One-way door policy has little effect on whether people go home or stay out on the streets as mentioned in later police testimonials.

This is the perfect example of discretionary conditions being used to manage what was at the time considered a problem area. What must be noted, and I will cover it later, is that the decrease in alcohol related harm in the direct vicinity was offset by increases elsewhere. This led to a net increase in harm in the CBD.

This will become the main point I would like to reinforce. Closing what police consider to be "attractors" does not reduce alcohol related harm to a significant or even reasonable degree. It only moves the problem elsewhere. The police evidence points to an alcohol use problem throughout society. We are not the root of that problem.

Many alcohol harm reduction officers that have come through regularly mention "pre-loading" as a significant issue with younger drinkers. The alcohol they consume is from off-licenses selling bulk amounts of alcohol for small prices.

Information in the Police Evidence in the Local Alcohol Policy Background Report

In 2009 the last venue with a 5am license closed. It was closed and sold after discussions with Police and Licensing Inspectors were heading towards the 5am close being opposed. This was due to the migration of other customers and the harm it created on the street. The answer was to stop all 5am licenses and create a safer inner city.

After that goal had not been adequately achieved, they asked, and had implemented, a one-way door policy in the new LAP that went into effect in July 2015. The police backed this to reduce alcohol related harm and it would make for a safer inner city. The introduction of the one-way door created confusion with customers and more specifically those from out of town. It led to people being left on the streets between 2am and 3am.

The Police continue to make submissions to councils around the country that suggest when customers come out after the one-way door system starts, they know they can't get in, so they just go home. Below, highlighted in yellow, is the statement they made that is in the background information they provided in their evidence for a change to the LAP. This is taken from page 40 of the LAP Background Report.

One-way door restrictions:

The one-way door restriction set out in the LAP for on-licensed premises in the Tauranga city CBD has assisted in the reduction of alcohol related harm. The one-way door restrictions offer a simple yet effective method of lowering the risk of late night (pending premise closure) binge drinking. It also has the benefit of reducing the risk of people loitering outside licensed premises as they know they will not be admitted.

I have worked the CBD late night since the implementation of the one-way door policy. At 2am some people go home after not being allowed in. Many choose to loiter outside and at times can cause issues for the staff at the bars and for the police.

This is reinforced in two of the testimonials provided by 2 current officers in the background report, one of which is the current Senior Sergeant of the Police Alcohol Harm Reduction Team. Both of the following attached statements use the same wording and suggest patrons unable to enter "mill around" on the streets which leads to an increased risk of alcohol related harm.

Second Police Testimonial - Page 37 of the LAP Background Report

In recent years the Tauranga CBD was affected by a 0200hrs one-way door policy. This has its obvious positive side but there is also a negative side effect of this policy. A large number of persons arrive in the Tauranga CBD after the Mount Maunganui premises close at 0100hrs and miss the 0200hrs one-way door policy. This leads to large numbers of people standing outside these premises, milling around on the road and often while intoxicated. These additional persons add to the volume of people at the 0300hrs closing time and contribute to the violence that occurs after 0300hrs. Having an earlier closing time in Tauranga to match the 0100hrs closing time in Mount Maunganui will reduce a lot of these issues. Even if the Tauranga premises had a closing time of 0200hrs with a one way policy starting at 0100hrs that would stop the introduction of large numbers of already intoxicated persons arriving in Tauranga on mass after the Mount Maunganui premises close at 0100hrs. Essentially patrons would need to choose which CBD they will socialise in. In my opinion this would have a positive effect on alcohol fueled violence in the Tauranga CBD and reduce the number of drink drivers commuting between Mount Maunganui and Tauranga.

Third Police Testimonial - Page 38 of the LAP Background Report

In recent years, I know the Tauranga CBD was affected by the 0200 hours one-way door policy. When this was brought in, it had an obvious positive effect, however it also brought in a negative aspect and that is people were leaving the Mount at or by the 0100 hours closing time and making their way to Tauranga. However, due to the 0200 hours one-way door policy, they were unable to gain entry to licensed premises.

This resulted in a large number of people congregating outside these premises where they tend to mill around, often while heavily intoxicated. These additional persons added to the volume of people that are present at the 0300 hours closing time and contribute significantly to the violence and disorder and alcohol-related harm experienced by the community at closing time.

Both testimonials point out that customers previously drinking in Mount Maunganui are coming across and loitering outside while they cannot come in and cause issues at 3am. Both officers, who have clarified their years of service and extensive time physically policing the CBD, have said that the customers do not go home when not allowed in and instead add to alcohol related harm during the closing period.

The object of the act must be looked at when considering these statements. While statistics may show problems happening on the streets of Tauranga, both officers have clearly pointed to customers of Mount Maunganui bars as directly adding to the harm being caused.

Both officers use the word "intoxication". Section 249 of the Sale and Supply of Liquor act states it is an offense for a premise to allow a patron to become intoxicated. Both officers state there is intoxication coming to Tauranga from the Mount and adding to alcohol related harm.

Just to fully reinforce this. Bars in other areas breaching section 249 of the Liquor Act which are causing alcohol related harm issues. Adding to these issues is a one-way door policy leaving them on the streets and not in the bars. Both of these situations are progressing the city negatively towards achieving the Object of the Act (s4).

If the customers who are not intoxicated are allowed inside, then the problem is avoidable.

Police believe that to fully realise the benefits of a one-way door that any licensed premise that operates past midnight must have a one-way door policy that takes effect one hour prior to closing (the end of the licensed hours).

Police see this as a change that would further minimise alcohol related harm caused by the excessive or inappropriate consumption of alcohol. This would progress positively towards achieving the Object of the Act (s4).

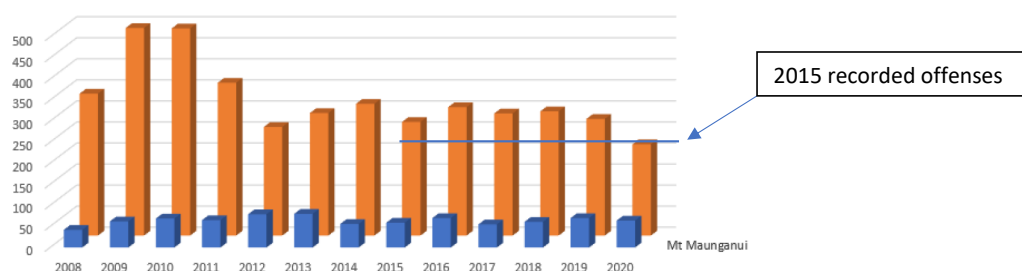
Highlighted here in orange is the second part of the police statement that to fully realise the benefits of a one-way door it must be in place for an hour before closing. During the early closures of Flow Nightclub in 2019 the one thing the police did not impose was moving the one-way door time. The Alcohol Harm Reduction Sergeant noted an increased amenity and good order on Hamilton Street. Having only 30 minutes of customers on the street helped with less time for confrontations to occur and helped with this increased good order and amenity. This shows that alternative solutions can be found without having to resort to mandatory restrictions across the board.

My final point on the one-way door policy is that while the testimonials from police officers state there are positive impacts to the one-way door policy, they have not provided any supporting evidence. There are many reports involving one-way door policies implemented across New Zealand and Australia. They raise many interesting talking points both negative and positive. But one common finding is that one-way door policies can be part of a toolkit to help with alcohol related harm but do little when introduced in isolation. One-way door policies can potentially work when combined with regular open collaborations with Police and Licensees, visible police presence on the streets and enforcing the liquor bans in public areas. As a city we are looking at the one-way door policy in a vacuum without support and it will not have the positive effect it is expected to produce.

Below is the table police used to illustrate the difference in offending between the Mount and Tauranga CBD. It also shows an interesting insight into the success of the one-way door policy in the CBD. Keeping in mind the one-way door policy was implemented in July 2015 so, if it was to have a positive effect, I would expect to see a decline in offending over the years following its implementation.

3rd Police Graph - Page 39 of the LAP Background Report

Due to the change in the way Police have recorded / captured statistical data and changes in focus (the move away from prosecuting lower end offending e.g. breach of the liquor ban in favor of alternative action resolutions) comparing year on year statistics is difficult and can be misleading.



Graph 3: Shows offending in both Mount Maunganui and the Tauranga for the period 2008 to 2020. The offences captured in this data are those listed below in table 2. Please note the figures for 2020 are heavily impacted on by the Covid 19 Pandemic and subsequent restrictions. The data show a relatively consistent level of offending for both areas from 2012 onwards i.e. the issues seen in the

I have added a line across the total offences from 2015 onward. It clearly shows no decline in offences during this time. The graph provided in the background report from the police also clearly states there has been a consistent level of offending from 2012 onwards. This graph suggests there does not appear to be the positive impact on alcohol related harm in the centre city with the implementation of a one-way door policy and yet we continue to promote this as a solution to the problem, again with no evidence to support the claim.

Bar Operating Hours Causing Alcohol Related Harm

Below is the table included by the police in the background information showing the two mesh-blocks that includes most of the inner-city late-night venues. It does show an increase in victimisations during the late-night trade period. It doesn't include a time frame or what the victimisations were during those times. If also doesn't factor in that during these times, there can be up to 2000 people in this area across the Friday and Saturday nights. While any victimisation should not be minimised, if there is on average 2 arrests per weekend that would mean 99.99% of people in the inner city are behaving appropriately.

1st Police Table - Page 35 of the LAP Background Report

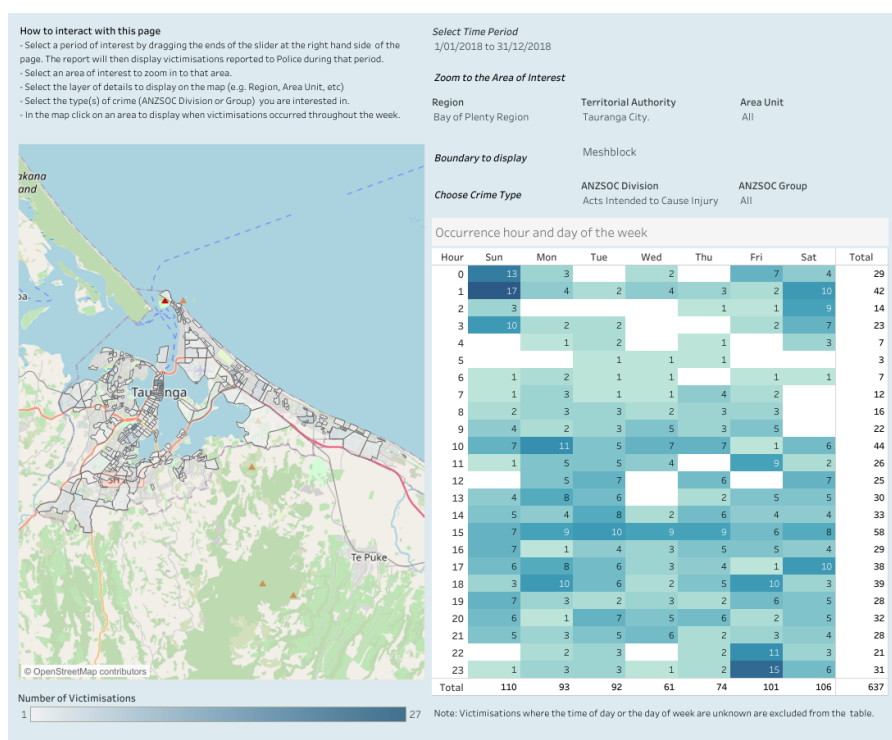
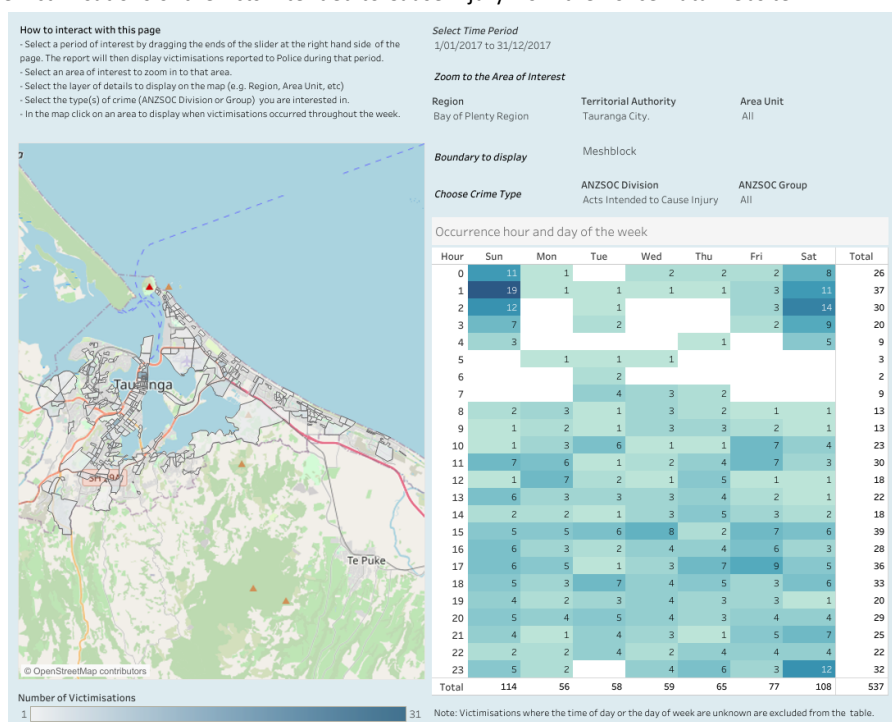


Table 1: <https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz/victimisation-time-and-place>

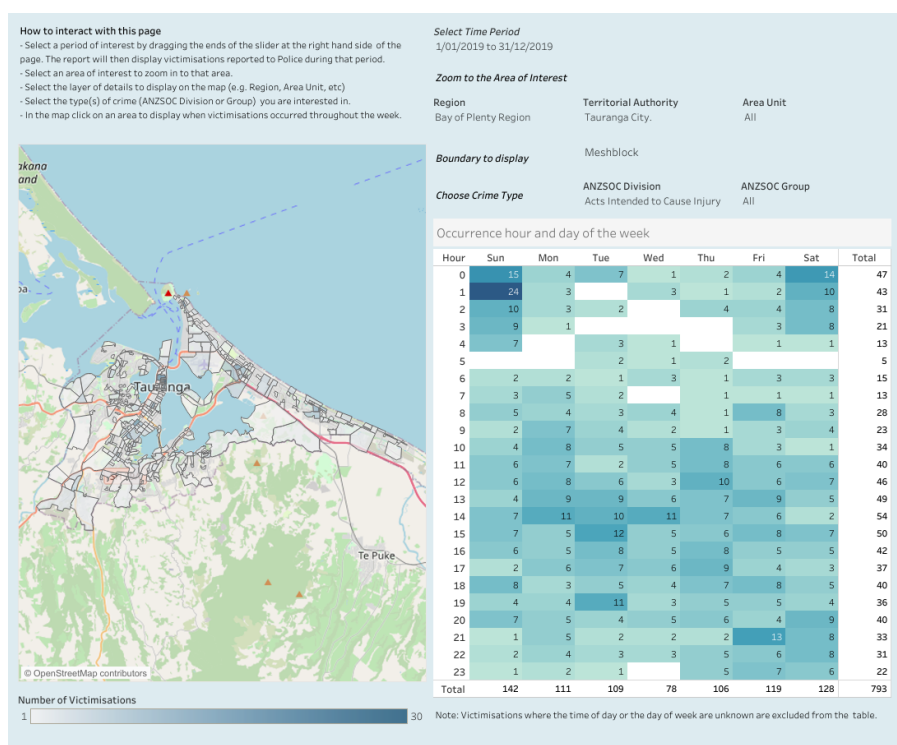
Considering the Object of the Act is to reduce alcohol related harm it should consider the impact to the wider city if the bars were to close. It is our belief that closing the inner city early will only lead to people drinking more at home in the suburbs in an unsupervised environment. Normally we would be unable to actually show anything to support that belief. Unfortunately for the late-night bar industry Covid-19 has decimated us in the previous 2 years. We have been closed or severely limited in our ability to operate based on restrictions. For a total of 33 weeks across 2020 and 2021 we have been unable to operate nightclubs at all, that means fully closed. It is only in the most recent Red light setting that Nightclubs have been able to operate under the 100 person, seated restrictions.

The Police suggest by closing earlier the Alcohol Related Harm would be reduced. In the small area of the Centre City this may be true. But the Object of the Act asks us to consider the wider effects. Covid-19 allows us to see the effect not opening late night bars at all has on the alcohol related harm across the city. After being closed for almost a third of all weekends across two years there should be a significant decrease in victimisations across the two years effected by Covid-19. But this is not the case.

The following tables are victimisations across all of Tauranga. They are taken from the police crime data website as is table above. As police testimonials mentioned, assaults seem to be the largest concern late at night so I have included the victimisations of the Acts Intended to Cause Injury from the Police Data website.



The above two tables show the statistics for all of Tauranga in 2017 and 2018. 537 in 2017 and 637 in 2018.



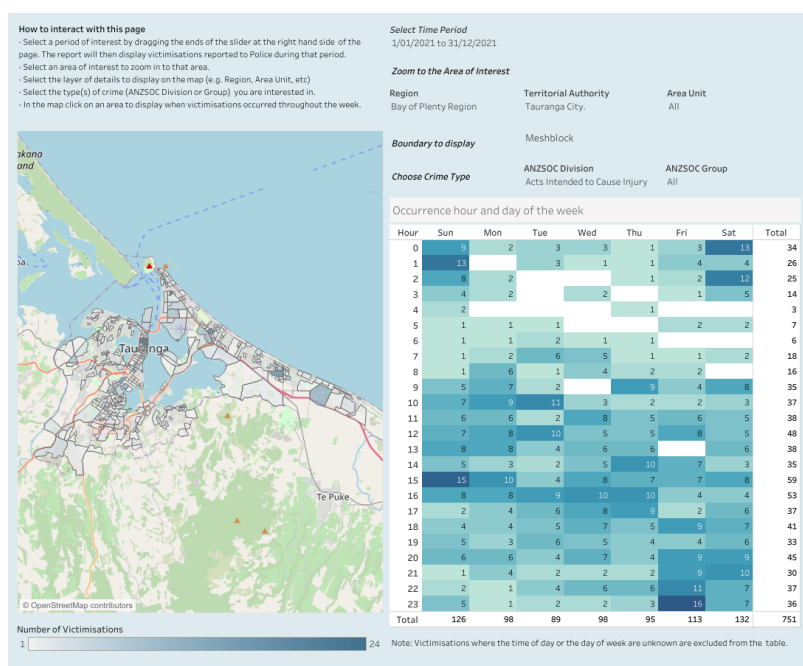
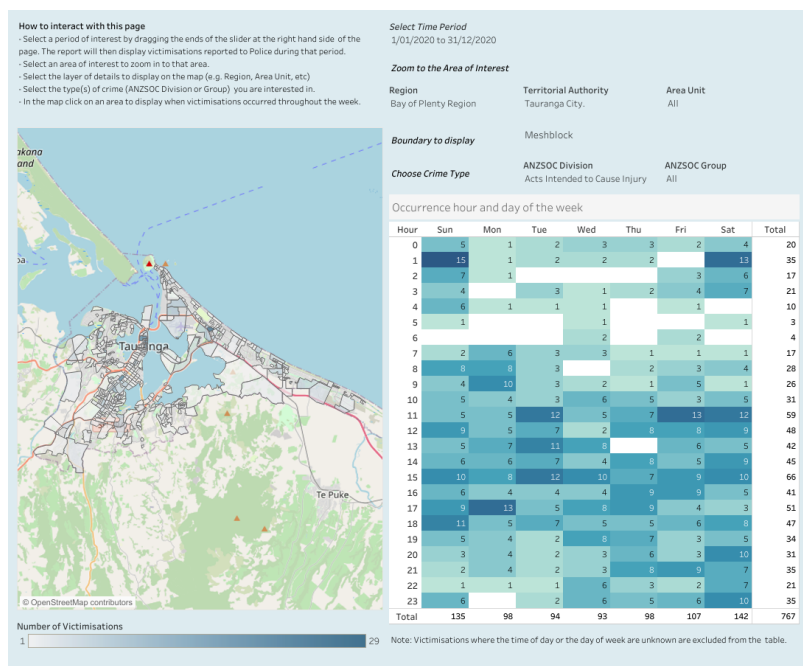
2019 is a year which needs a little more context, in December 2018 the council and police opposed the license of a nightclub in the Tauranga CBD. The hearing was in regards to The Bahama Hut. The hearing can be found on the Tauranga Council website if you would like to read the comments regulatory agencies made about decreasing alcohol related harm. After the DLC decided a reduction of hours may help to meet the Object of The Act it was opposed by the regulatory agencies and was eventually overturned in a higher court. The reason being that they strongly believed that closing what they called “the problem bar” would significantly increase the good order and amenity of the centre city.

The agencies pushed to have the venue closed before New Years Eve of 2019 as their view was it would be of a serious risk to increased alcohol related harm to allow the venue to trade over the busy period. In closing this venue, we would expect to see a “more than minor decrease” to the late-night statistics if the assumptions made by Police were correct.

It was also during 2019 that the 2.30am close was enforced on another bar on Hamilton Street as mentioned above. This was also with the belief from the agencies that it would increase the good order and amenity and reduce alcohol related harm. As stated above the harm in the immediately surrounding area, in this case the one street, was improved. But a bigger picture must be looked at to see the effects of the changes imposed.

The overall statistics for 2019 show a significant **INCREASE** in Acts Intended to Cause Violence during the late-night hours. The agencies reduced hours at one of only 4 late night bars and completely closed one for this year and it had a **NEGATIVE** effect on late night alcohol related harm.

This clearly illustrates how naïve it can be to place the blame of the alcohol problem solely at the feet of business owners in the late-night industry. Police have pushed for bars to close and have had the current one-way door in place, yet their own statistics show a 18-24% increase in victimisations year on year during this 3 year period.



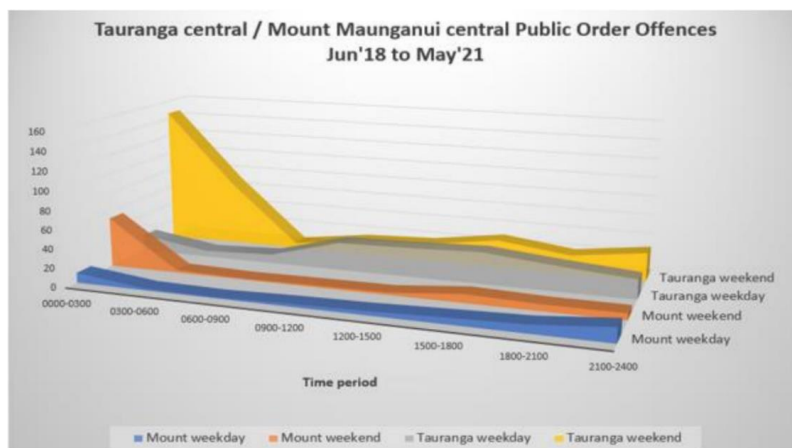
Above are the 2 tables showing the 2 years in which we had periods of time at Level 4, 3 or 2 in the Covid-19 protection framework. During 3 and 4 no nightclubs could open. During level 2 we could if patrons were seated, and we had no more than 100 people. As stated earlier we operated at these levels for a total of 33 weeks.

There is a 3% decrease one year and a 2% decrease the next. Again, these table clearly show that while it is easy to point to the late-night venues as the cause of the problems, when a larger picture is looked at the harm throughout the city is not affected by the time people drink in bars and nightclubs. Being closed or limited for such a large period should show a significant decrease in Acts Intended to Cause Harm (up to 33%) if the police evidence is correct. Again, their own statistics don't show a decrease at a time when Covid-19 was keeping late night venues closed.

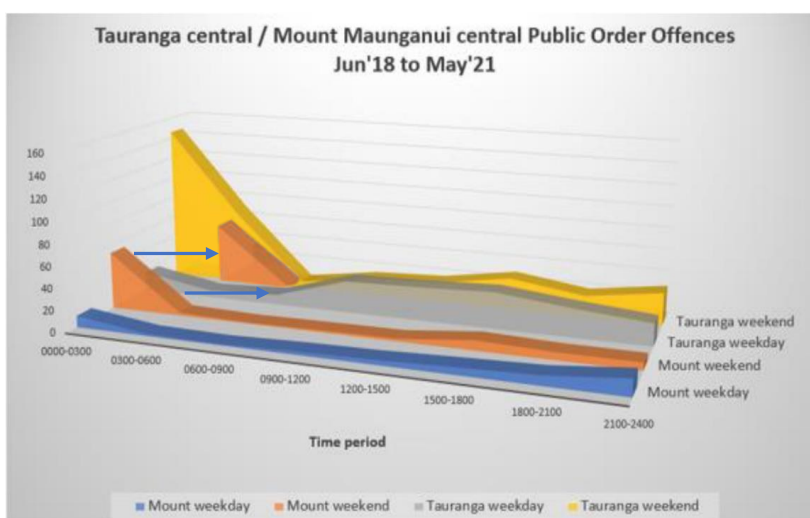
Comparing the Mount Close Time to Tauranga CBD

The police evidence provides the following graph to illustrate the differences in the two CBD areas.

1st Police Graph - Page 35 of the LAP Background Report



Police testimonials in the LAP Background Report have pointed to the tip-out at 3am being one of the biggest reasons to reduce licensing hours. They state that they believe the earlier close at the Mount as a reason for less issues at their closing time. But also state that many move off to the CBD. If you are to look at the times in a more comparative way, it shows the close times of the bars would seem to have a fairly similar number of issues. It should be noted at this point that the centre city bars and restaurants also report issues early to try to mitigate problems escalating, so because of this the statistics will reflect higher figures.



If you align the closing times to make for an easier comparison you can see that the issues at closing times of the bars are reasonably similar. I would suggest that closing at 2am will not stop the harm but rather just move it to another time. Police evidence stating that the Mount is noticeably better at closing time does not appear to be supported by the graph they provided in the background report.

Effects of Covid and the Timing of LAP Changes

Finally, I just want to reiterate what may be the most important aspect for us as a late-night venue. Covid-19 over the past 2 years has absolutely ravaged the hospitality and tourism sector.

In hospitality there was nowhere that felt it more than event venues and nightclubs. We have had to close the doors for extended periods of time. We have had restrictions on numbers. We have had to close all dancefloors which is our biggest drawcard at nights. We have lost staff to mandates. We have been financially decimated by the lack of income as people stop coming out as bars are listed as "High-Risk" in the current Covid-19 environment. Minimum wage has increased each year while we are already struggling to pay basic costs.

While the government has put a lot of money on keeping this industry afloat, we are truly on our knees. The timing of this LAP change could potentially be the final nail in the coffin for some, if not all of the late-night venues in Tauranga. Having to turn customers away at 1am will lead to closures for most. It will also see them "milling around" on the street as they already do at 2am. People who have been drinking do not just go home because they can't come in the door. They will loiter and some will cause disruptions as the Police have mentioned in their own testimonials.

After the hardest 2 years this industry has ever seen rents and bills have continued to pile up while we live with restrictions that significantly reduce our ability to earn revenue. I believe the public health measures are necessary for the wellbeing of the whole country but to follow up those Covid-19 restrictions with the early closure of the late-night bars would be absolutely devastating.

In conclusion I would like to emphasise the following points.

- The police have had 6 years of a one-way door policy in Tauranga to show it has had a positive effect on alcohol related harm. They have not shown any empirical evidence the one-way door in Tauranga has decreased offending.
- Acts Intended to Cause Harm (assaults) do not decrease significantly even when all the late-night bars are closed. There is no empirical evidence that shows closing bars earlier leads to less harm. Police statistics would suggest that the problem just moves to other areas throughout the wider city.
- The changes in this draft policy around closing times seriously effects a part of the hospitality industry which has just come through Covid-19 and may finally be able to see a light at the end of the tunnel with this pandemic. Unfortunately, the Police would like to shut that tunnel altogether through testimonials and anecdotal evidence.
- Most steps taken involving closing times and one-way doors have done little to minimise harm in the Tauranga CBD. They have removed 5am licenses and trouble has moved to the earlier closing times. They have closed "problem bars" and the trouble has moved to other bars. They implemented a one-way door that has led to customers loitering on the streets and creating further issues. The newest suggestion is to move the closing time again. Attitudes towards drinking in this country are a significant issue no question. Closing nightclubs earlier and/or stopping people from entering an hour before closing time does not address the true issue of cheap alcohol from bottle stores and supermarkets. It is the 12 beers/rtds someone drinks at home not the 2 drinks in a bar that is the larger issue that needs addressed.

Shannon Jenkins
Pegasus Hopo Limited

[REDACTED]
[REDACTED]

21/ON/22067/2018

IN THE MATTER

of the Sale and Supply of Alcohol Act 2012 ('the Act')

AND**IN THE MATTER**

of an application by **LYGER INVESTMENTS LIMITED** pursuant to s.120 & 127 of the Act for the variation and renewal of an ON Licence in respect of premises situated at Unit 1, 18 Hamilton Street, Tauranga now known as "The Bahama Hut".

HEARING BEFORE THE TAURANGA DISTRICT LICENSING COMMITTEE

Chairman: Murray Clearwater
Member: Mary Dillon
Member: Bev Edlin

HEARING at Tauranga on 3 May 2018 and reconvened on 9 & 10 July 2018.

APPEARANCES

Mr R L M Davies– for the applicant Lyger Investments Limited
Mr Graeme Cushing – Tauranga Alcohol Licensing Inspector – in opposition
Mr Pawson – for Police and the Police Alcohol Harm Reduction Officer – in opposition
Ms. Dawn Meertens- representing the Medical Officer of Health- in opposition

RESERVED DECISION OF THE COMMITTEE**Introduction**

1. This is an application to vary and renew the ON Licence 21/ON/18669/2015 issued to Lyger Investments Limited on the 7th of November 2014 for premises previously known as Karma Strip Club & Groove Lounge Bar', now trading as Bahama Hut.

2. The director and sole shareholder of the applicant company is Matthew Benjamin Lee Gordon. In all he has 7 licensed premises in the Tauranga area of which two are in Mt Maunganui, one in Greerton, one in Gate Pa and three in the Tauranga CBD.
3. The applicant purchased 'The Bahama Hut' name and brand from James McCarthy in 2016 and 'moved the brand' to the Hamilton Street address on 27 January 2017. Prior to this, the Bahama Hut operated from a Wharf and then then Harington Street sites.
4. The variation and renewal were duly advertised in October 2017 and no objections were received from the public.
5. The variation requests are as follows: The applicant seeks to formally record the change of name of the premises from "Karma Strip Club & Groove Lounge Bar" to 'The Bahama Hut.'
6. The applicant seeks a change of designation for the upstairs area from Restricted Area to Supervised Area and to amend the hours for that area from 12 noon to 3am to 9am to 3am.
7. In addition, it was confirmed at the hearing that the applicant seeks a small external area in front of the premises to be included in the licensed area.
8. Pursuant to the operative Tauranga and Western Bay of Plenty Local Alcohol Policy a One-Way-Door is applicable from 2am.
9. As required under the Act, reports were sought from the Agencies. All three reporting agencies have lodged adverse reports in opposition to the renewal.
10. The business is a tavern nightclub, basically only operating on Thursday, Friday and Saturday nights from 10pm to 3am the following morning. There is a dance floor, smokers area and a DJ booth downstairs and the alcohol service is from a bar that has been moved upstairs.
11. Usually there are 10 security staff on duty each night to monitor entry into, and egress from, the premises and to oversee general patron behaviour inside the bar and at the immediate front of the premises.
12. We often say at the outset of a hearing that the onus is firmly on the applicant to satisfy the Committee that the licence should be renewed. The Police, or any other agency for that matter, do not have to prove anything at renewal time. The responsibility is on the applicant, in this case, Lyger Investments Limited alone, who must create a positive finding in the eyes of the Committee.

13. We expect the agencies to report to us on any areas of concern they hold relating to the operation of licensed premises and the criteria for renewal found in Section 131 of the Act. Indeed, they would be remiss to not advise the Committee of any adverse occurrences, incidents and offences detected during the renewal period.
14. In this case this would include any incidents or offences detected at Karma Strip Club & Groove Lounge Bar between 2014 and January 2017. We note that the police opposition relates to incidents and offences since January 2017 when the Bahama Hut 'brand' was moved to this site on Hamilton Street.
15. It is not mandatory for the Police to take all offences that occur to the Alcohol Regulatory Licensing Authority (ARLA). They are quite entitled to bring matters to the Committee at renewal time as they have done in this case.
16. They responsibly operate a Graduated Response Model and have a number of options short of taking enforcement proceedings including warnings, infringement notices or even the laying of an Information in the District Court (DC).
17. We expect all such interventions to be brought to the Committee at renewal time including convictions in the District Court and adverse findings determined by ARLA.
18. Section 131(1)(d) says (When deciding whether to renew a licence): the licensing committee **must** have regard to the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.

Applicant's Evidence

19. Mr Davies called two witnesses for the applicant. First, we heard from a joint director and sole shareholder of the company; Matthew Benjamin Lee Gordon.
20. Mr Gordon told the Hearing that he has been spending less time in his premises as he has site managers at each of them and an overall General Manager, Shannon Jenkins, who has taken over the late-night supervision of the downtown premises. Mr Gordon told us he works from home Monday to Saturday and has a family day on Sunday. He visits his businesses for a few hours each day 3 days a week and does all the bookwork, banking and payroll.
21. In regard to 'The Bahama Hut' he is in regular contact with Jason McCarthy, his Venue Manager, and trusts him to run the bar compliantly. His other premises on Hamilton Street are the City Sports Bar, a tavern with gaming machines and Flow, a R&B Reggae venue.
22. He said he has developed a working relationship with Sgt Trevor Brown since the

changeover of the role took place late last year. Prior to that he believed he had a good relationship with Sergeant Nigel McGlone, the AHRO at that time.

23. He conceded that the target market for Bahama Hut was the 18-25-year-olds who enjoyed Top 40 mainstream music and fun promotions such as a recent paint party. He also agreed that the younger market can present challenges to a licensee. To that end he has employed a strong security presence and has recently formed a Street Team of security staff who patrol the street fronting both his businesses and the nearby Cornerstone Pub and Flannagan's.
24. He told the Committee that he was *"proud to say that in all my time running these businesses I have never been penalised by any of the agencies or by the courts..."* He went on to say *"It is because we genuinely work hard to maintain order and to provide a place for people to have fun safely."*
25. Mr Gordon described the layout of the premises and did not accept that the stairs were narrow and difficult to navigate. He conceded that they had been overloading the premises in the early days but that was a genuine error on his part calculating the loadings. They are now permitted to have up to 272 persons on site and they have measures in place to monitor and not breach that number.
26. In response to one of the concerns of the Police that he was never to be seen late at night at any of his premises, he said he trusts his venue managers and overall General manager Shannon to perform that roll on his behalf. In paragraph 9 of his evidence he told us: *"I feel that budgeting and cashflow systems, along with internal systems and procedures, are just as important as being in the venues themselves."*
27. Further in paragraph 11 he stated, *"I believe that we have one of the most competent management teams in the industry."* Given the issues that were before the Committee at this hearing this was a long bow to draw by Mr Gordon.
28. He then described the physical layout of the Bahama Hut. Following the Halloween night incident, the management team had moved the bar up to the second level and the dance floor to the ground level. This has, in their opinion, improved the flow of customers and the extra lighting upstairs assists with patron assessments when they purchase alcohol.
29. He outlined the styles and demographics of the other bars and nightclubs on Hamilton Street and commented that he believed there was a significant (Police) resourcing issue in the Western Bay of Plenty, based on their lack of attendance when called to some incidents in and around Hamilton Street.
30. Mr Gordon then spoke to his management practices. He believed it was advantageous for patrons and the Police to have most, if not all, of the late-night premises, based on one street even though it did create congestion and potential for conflicts between groups of people.

31. He mentioned his Street Team again saying his competitors did not contribute to the cost of this initiative but enjoyed the added safety and security it could bring to the area. Significantly he did not mention if there was a CBD Accord of licensed premises owners. In our experience these associations and accords can be very valuable to set consistent standards of behaviour and dress codes etc.
32. He again argued that the targeted enforcement of Bahama Hut, instead of working alongside licensees, was a change from the regime of Sergeant McGlone.
33. In regard to staffing levels at Bahama Hut he said the standard roster each night was 4 bar staff, 2 certificated managers and 10 security, 3 outside and the other 7 strategically placed around the inside. The Committee finds these 'security levels' remarkably high compared with similar sized and risk-rated premises around the country. We put to Mr Gordon that this suggested to us that the 'flash point' for problems; such as fighting and intoxicated behaviour, was very high. He denied that this was the case saying these levels gave them confidence of keeping control of the patrons both inside and outside the business.
34. He then commented on the reports of the agencies and the Police witnesses that were to be called to give evidence. He felt the Inspector was unfair to place the issues on Hamilton Street at the door of Bahama Hut.
35. In regard to the opposition from the Medical Officer of Health, and in particular the allegations of non-compliance with the Smokefree Environments Act 1990, Mr Gordon admitted there had been delays in getting the smoking area compliant with the legislation but said the methods employed by the Ministry to calculate the open space percentage changed during that time, but he was happy to report that MOoH had finally declared Bahama Hut as compliant recently. The MOoH opposition based on amenity and good order issues carries little weight as the MOoH and/or his delegated officer failed to attend the second and third days of the hearing in support of that opposition. We comment on that later in this decision.
36. Mr Gordon challenged the 'disorder offence data' that is to be led by the Police in their opposition to the renewal. He said there was no substantive evidence showing the increase in 'occurrences' in Hamilton Street was attributable solely to Bahama Hut's move from Harrington Street to Hamilton Street. Broadly we agree that they should not be blamed for all disorder occurring in Hamilton Street as there are other contributing premises and of course those persons who choose to spend the night on the streets and not in licensed premises. Often, they are the ones who initiate trouble when coming in to contact with bar patrons.
37. Mr Gordon again lamented his belief that at times Police resources were so stretched that sometimes no Police are available in town.

38. He again accepted that they had been overcrowding the facility in the early days and accepted responsibility for that error. They now have an agreed figure of 272 and they make sure they don't breach that loading number.
39. He disagreed with Sergeant Brown's evidence that it was difficult to navigate around the premises and assess intoxication levels. He said that his staff are trained to assess intoxication under these conditions including the darkened dance floor. In our view he is sadly mistaken in this belief and it is little wonder that issues have arisen in and around the premises.
40. He acknowledged that there had been two serious violent incidents namely the stabbing in the smoking room and another incident involving his door staff assaulting a group of men at the front of the nightclub. One man was knocked unconscious by his head doorman.
41. He said his staff were instrumental in detaining the suspects. They may well have followed and identified the suspect near the Police station sometime after the event, but the CCTV footage clearly shows the suspects being thrown out of the establishment and being allowed to leave the scene. In fairness, Mr Gordon's team were probably unaware of the seriousness of the incident at that early stage.
42. Not surprisingly Mr Gordon down played the 'thuggish' culture that was clearly evident in some members of his door staff. His head of security Eruera Piwari's COA had expired on 27 July 2017. It was a serious on-going failure of Mr Gordon and his team to allow this behaviour to go on for several months right up to the October and November assaults. When questioned by the Committee he acknowledged that he could still be subject to prosecution for employing an uncertificated crowd controller on his door. To make matters worse Mr Piwari was not even working on that night and was affected by alcohol when he assaulted the men outside of Bahama Hut.
43. Unbelievably Mr Gordon was still of the view that the incident could not have been prevented, even with hind sight! Ensuring that his staff were fully certificated, trained and monitored springs immediately to mind for us. We note the Police and the Inspectorate hold similar views to the Committee.
44. It is equally unbelievable to us, that both he and his venue manager Jason McCarthy allowed Mr Piwari to have his 15/16 year old brother with him on the door of the premises late at night for nearly a year. Mr Piwari and another door staff Tamati are no longer working at the premises and have been charged with assaults by the Police. In his evidence before the Committee he (and Jason McCarthy) acknowledged that it was an error of judgement to allow that situation to develop.
45. Mr Gordon challenged the probative value in the statistical material provided to the Committee and those stated in the Alcohol Related Offending in Tauranga CBD Crime Profile, dated 17 January 2018. We accept that stats can be interpreted in

several ways and the figures and analysis are indicative only and as such can have limited weight placed on them. We prefer to hear evidence directly from those persons on the front line, be they hospitality workers, Inspectors or the Police on the streets.

46. In closing his evidence - Mr Gordon made it clear to the Committee in paragraph 110 that ***"we've never had incidents where the Police have taken enforcement action against us."***
47. He said Trevor (Sergeant Brown) was pleased with the changes they had made (moving the bar upstairs to the better lit area).
48. In paragraph 111 he told us again: ***"My suitability as a licensee shouldn't be reasonably questioned as there is no evidence to back this up. I have run multiple venues over the past 10 years, never once convicted, nor opposed."***
49. He repeated that he had sound systems in place that were followed by his staff. He defended the attack on his on-site manager, Jason McCarthy that alleged that he had poor management skills and reflected a thuggish presence at the premises. He said McCarthy was widely regarded as "the best promotions and marketing person..." by previous employers. We are prepared to accept that he may have impressive skills as an entertainment promotor but the CCTV evidence of his inaction and acquiescence during the thuggish attacks by his door staff on a number of occasions paints a different picture.
50. Finally, he rejected the notion that the Bahama Hut was the 'No 1 problem premises in the CBD' and repeated that he believed the police were "exceptionally under resourced" and unfairly blamed the Hamilton Street issues on the Bahama Hut.
51. Mr Gordon was then cross-examined at length by Mr Pawson for the Police. He denied the suggestion that he did not have the capacity to properly manage the Bahama Hut. He said he did not have "too much on his plate." He was asked did he have records of his staff training sessions. Mr Gordon said he did not and preferred verbal training. He agreed with Mr Pawson that not having formal records of training etc. made it difficult for him to substantiate his claim that his staff are fully trained in the company's systems.
52. It was put to him that there was already a number of management failures disclosed namely; exceeding occupancy of the premises, no training records, off duty staff committing offences, door staff without a valid COA, and no incident recording and debriefing policy. Mr Gordon eventually conceded he could do better in those areas.
53. The Police asked for some of the CCTV compilation to be played and invited comments from Mr Gordon on some of them. He agreed that it had been two weeks before he was advised of the assaults by Tamati and Eruera and weeks later before he reviewed the tapes of the incident. He said his staff were often threatened by

trouble makers on the street but conceded that did not entitle his staff to physically assault those persons.

54. When questioned by the Committee he accepted that he probably did not have enough, or sufficiently comprehensive, policies and manuals. When asked about who would follow-up incidents? He said it was Shannon Jenkins job to do that.
55. When asked; how did he know if he was running a good business? he said, staff happy, low staff turnover, catch ups with the agencies, good feedback in the last 3 months. When asked how he upskilled himself he said he measured his businesses against those of his peers. He mentioned by name John Lawrenson who owns 14 licensed premises in Hamilton.
56. It was an interesting choice of mentor as we note, as do the Police, that Mr Lawrenson lost the licence for 'The Hood' in April 2018, following a DLC hearing.
57. We understand Mr Lawrenson has appealed the DLC decision and blamed the Police for finding a 'loophole' to say the bar was affecting the amenity and good order of the area by more than a minor extent. Media around this event said this bar featured in the Police Last Drink Survey and was among the country's most notorious along with the Bahama Hut in Tauranga!
58. When reexamined by his counsel he conceded he was 'appalled' when he saw the CCTV footage of the thuggery of his door staff and said that he took decisive action as soon as it was brought to his attention.

This was the end of day one and the hearing was adjourned sine die.

Hearing reconvened 9th and 10th of July 2018

59. The first order of business was an application by the Police for the DLC to recall Matthew Gordon to explain a contradictory statement regarding a suspension of one of his bar's licence and his own managers certificate in January 2012. This contradicted the evidence made by Mr Gordon on 3 May 2018 at the first day of this hearing that he had "*never been penalised by the agencies or the Courts...*"
60. The application was granted and Mr Pawson put a series of questions to Mr Gordon.
61. Mr Gordon told the Committee that he now recalls the suspension that arose after a series of Police compliance inspections during the Rugby World Cup in 2011.
62. He and his staff had received a number of 'pink slips' from attending Police alleging that intoxicated persons had been found on the premises, intoxicated person had been served alcohol and that they had allowed intoxicated persons to remain on

premises. He said that staff signed the slips but were 'unaware' that they could have contested the Police assessments of the patrons.

63. He said he was approached by Sergeant McGlone sometime after the Rugby World Cup and offered a 'negotiated resolution' or he could appear before the Alcohol Regulatory Licensing Authority. He chose to accept the negotiated resolution and the suspension of the base licence and his own manager's certificate subsequently came through the system from ARLA.
64. He wanted us to believe it was an honest mistake and that he had not deliberately attempted to deceive the DLC when promoting his own suitability and lack of 'penalties and convictions'.
65. With some reluctance, we accept his explanation but add the incident, and the lack of knowledge of staff at the time of the Police contacts, to the growing list of systematic failures around the management of this business.

Evidence of Jason Michael McCarthy

66. We then heard from Jason Michael McCarthy, the Venue Manager for Bahama Hut, who told us that he had been in hospitality all his life and had worked his way up from a glassie to running his own premises. He said he owned the Bahama Hut brand.
67. He too, told the Committee *"I've never been in front of a Court answering allegations about my performance as a manager."* He said the Police initially opposed the renewal of his manager's certificate in 2014 but later withdrew their opposition after they decided they could trust him. He did not elaborate on why the Police initially opposed the renewal.
68. He said *"I'd like to think I'm one of the most effective promoters in the country"* when he described to us some of the promotions he ran at the venue. He added *"I'm on the site whenever it is open, and I take a hands-on role to monitoring our customers."* We note that this statement appears to be contrary to what we saw on the CCTV footage when his door staff were beating up people outside. The footage showed him standing there with his hands in his pockets most of the time. Throughout the compilation we saw very little interaction between him and his customers.
69. He talked about his relationships with the various Police officers who have held the alcohol portfolio from time to time. He made a specific mention of a situation just before Christmas 2017 when they decided to move the bar upstairs and the dance floor downstairs. He told us the Police were impressed with the change especially around the ability to monitor customers when they were purchasing alcohol.
70. He said one of the biggest problems facing the business, and for the Police, was

the behaviour of people on the street. With the three premises belonging to the same the company (the applicant) he had 17 security personnel available to him on any given night. From this group they had set up a Street Team that monitored the frontages of the businesses and attempted to persuade people to move along and they also offered bottles of free water to these people.

71. In regard to exceeding the occupancy number for the building, he told us "*we had no idea we were exceeding our occupancy numbers...*" We say that is an extraordinary statement and both naive and unprofessional. Surely one of the first things a competent operator would do would be to thoroughly establish the maximum occupancy number especially in an old two level wooden building!
72. He believes they have proper controls on numbers now and they monitor the numbers coming in and going out.
73. He then related his recollection of the stabbing incident in November 2017. He saw the people involve arrive and noted that they were not their '*ideal customers*' as had collared shirts, dress pants and shoes on, as opposed to the casual dress code for their regular customers.
74. The group of two males and a female were allowed in but it was only 15 minutes before they were involved in a 'scuffle' in the smoking area.
75. The incident was captured on CCTV and appeared to us to be violent and dangerous not only for the combatants but also the other patrons and security staff trying to intervene and remove the offenders.
76. The offenders were ejected from the premises and allowed to leave the scene.
77. In regard to Police comments about the lack of lighting on the dance floor he accepted that the dance floor is "*not super lit*" He believes that he and his team can monitor intoxication and behaviour even in those low light conditions. When Police told him, the cage was nicknamed 'The Zoo' by some people they removed the bars and changed the security pattern to avoid people sneaking in. He accepted that the metal bars gave a heavy impression and he was pleased that they are gone.
78. Mr McCarthy also expressed his view that the Police attitude to Bahama Hut and Hamilton Street generally was because of their "*massive lack of resourcing.*"
79. As we have said previously, it is not the Police' role to manage the behaviour of patrons in and around licensed premises. It is their role to prevent breaches of the peace and to allow lawful users of the public areas to go about their business without being accosted by intoxicated person or disorderly behaviours. There is merit in having all the late-night premises in one street but that does have a down side as it concentrates all the issues and disorder that may occur from time to time.

80. He then told us about the incident of 4 November 2017 where his door staff set upon a group of men who were refused entry. In his evidence he said that he was unaware of Eruera Piwari's full involvement in the incident and that Matt Gordon was not shown the CCTV footage for several weeks. He accepts that the actions of his staff were unacceptable and stated that they no longer work for the company.
81. He accepted that he had permitted Eruera's 16-year-old brother to hang at the front of the premises saying he had told Eruera that the boy was not employed and was never to enter the premises. He said he didn't have a problem with the boy being there for about 12 months before the assaults.
82. In our view the lack of immediate action after the assaults and tackling the violent culture of his staff was a serious misjudgment on behalf of Mr McCarthy. He also acknowledged that allowing Eruera's brother to be outside of the premises late at night with security was not a wise decision.
83. Under cross-examination by the Police Mr McCarthy admitted that he had received diversion in 2012 for a Crimes Act assault on a patron that was being restrained by other security staff. He down-played the incident saying he had 'pulled' the punch and the victim was not hurt. He agreed with Mr Pawson that he would have plead guilty to the offence for diversion to have been granted.
84. He was asked why he needed 10 security staff on duty each night and why the Committee should not draw the inference that that number was required to act quickly as trouble was always close at hand. He denied that was the case.
85. When quizzed on dress standards displayed on the front door he said they were a guide only and acknowledged many of their patrons wore baseball caps in breach of the dress standard requirement of "No Hats." He said their target market was 18-25-year old's who wore cut off jeans and casual shoes.
86. When asked about how many 'bluies' (Trespass Notices) he has issued he said none: *"as by the time you get the book out they have gone"*. He said they take photos of people they eject and pin them on the wall. He clearly did not see the merit in a controlled and effective system of controlling re-entry of persons who had committed offences on the premises.
87. When asked if the amenity and good order of the locality would improve if the licence was refused he said there are other bars on the street and street people would still be present.
88. He said patrons from Cornerstone Bar often came along to Bahama Hut and caused problems. He was unable to accurately recite the definition of intoxication and said he relied on his 19 years of experience to tell if someone was intoxicated.

89. He accepted that he had been spoken to by Police and received a letter in 2015 about a 'choking culture' adopted by his door staff and that there had been a number of meetings between him and the agencies.
90. When asked if he could not recite the 'object' of the Sale and Supply of Alcohol Act 2012. He recalled the old one of the Sale of Liquor Act 1989, but not the 'new' one.
91. Mr Pawson then quizzed him on his decision-making processes and record keeping. He believed there was a Risk Management Policy that he had seen but had not read. He admitted there was no register of the security guards and their COAs.
92. When pressed on whether he agreed that certificated guards had to wear their COA's visible on their clothing. He replied "Yes, *but they don't do that*"
93. He was shown his incident report on the assaults on 4 November 2017. He accepted his four-sentence report was poor considering the gravity of the offending. He confirmed that Mr Gordon was not briefed on the full details and shown the CCTV footage of the incident for several weeks.
94. He told the Committee that they have now outsourced the security aspect of the business to a local security firm. He could not recall their name initially but later told us it was Platinum Security. He believed they were doing a good job.
95. Finally, he answered questions about his management of intoxication levels and training methods for new staff. He said the alcohol percentage in their cocktails was kept low and he offered free food and water to patrons he could see were 'slightly intoxicated.' He conceded that he had had no formal managerial training.
96. Before Mr Davies closed the case for the applicant he sought leave to introduce a number of recently drawn up policies and guidelines his client had prepared. He said Mr Gordon had taken on board criticisms on the lack of documentary records on day one of the hearing on 3 May 2018.
97. Leave to tender those documents was strongly opposed by the Police. Mr Pawson said it would be grossly unfair to allow the applicant to paper over deficiencies in their case and he likened the request to 'moving the goalposts.'
98. The Committee considered the request and ruled that only the delay between day one and day two of the hearing allowed Mr Gordon the ability to write up and attempt to produce the documents. They appeared to be considerable in volume and content and it would be unfair to expect the Police and Inspectorate to peruse them and make comment.
99. Even though we have considerable powers under s.207 of the Act to receive as evidence any statement, document, information or matter that in our opinion may

assist us to deal effectually with any matter before us on this occasion we decline to do so as a matter of fairness. As a small compromise we indicated to the applicant that we would note the fact that he had prepared a suite of written records and policies.

That was the case for the applicant.

Police Evidence

100. Mr Pawson opened the Police opposition by first calling Sergeant Cameron Allan Anderson.
101. He told us that he is the current Alcohol Harm Reduction Team (AHRT) Team Leader and that he has been in the role since December 2017. Prior to taking on that role he was the Public Safety Team (PST) Supervisor for 15 years and in that role, he told us, he had attended *"hundreds if not thousands of alcohol related harm incidents."*
102. His current duties involve the monitoring of licensed premises and enforcement of the laws in relation to the Act.
103. He recalls when The Bahama Hut was one of three licensed premises on Harington Street and during those years Harington Street was the hub of disorder and alcohol related assaults. Even when Bahama Hut became the sole licensed premises on the street it was the Sergeant's evidence that the street was still the scene of serious disorder and assaults.
104. He said with Bahama Hut now in Hamilton street it has created a 'funnel effect' where the drinkers from the Western Bay of Plenty end up in a small block bounded by Hamilton Street, The Strand, Wharf Street and Willow Street.
105. At the 3.00am tip-out, up to 500 patrons from Flow, Flanagan's, Cornerstone Pub and the Bahama Hut congregate on Hamilton Street. A burger bar, owned by the applicant, operates between Bahama Hut and City Sports bar and up until November 2017 they stayed open to 4.00am keeping patrons in the vicinity.
106. This combination, said Sergeant Anderson, was a catalyst for fighting and general disorder in the area resulting in a decline in the amenity and good order of the area.
107. It was the evidence of Sergeant Anderson that Matthew Gordon, and his company Lyger Investments Limited, was not a suitable entity to operate high risk premises such as Bahama Hut. He said he had never found Mr Gordon at the premises late at night and was always dealing with Jason McCarthy.

108. He raised his concerns about occupancy numbers with Mr McCarthy in December 2017 after he believed excessive numbers of patrons were being permitted to enter and remain the building. His estimates were significantly different to those calculated by Mr McCarthy.
109. After that incident he was pleased when management moved the bar upstairs and the dance floor downstairs where greater monitoring could take place (at the time of purchase). He also confirmed the recent change in the security team and reduced the hours the burger bar stays open.
110. These changes, the Sergeant told us, have made compliance checks easier and there has been a better feel in the premises.
111. He told us about the Police concerns around dark alley way between Bahama Hut and Flannigan's Pub. We noted on the CCTV footage evidence of door staff dragging patrons around into this area out of site of the CCTV cameras. To his credit, Mr McCarthy very quickly arranged for an electrician to replace a faulty light in the area and improve safety in this area. On the downside we ask why it took the Police to point this hazard out to management. One would think that a competent operator should have identified this issue and dealt with it months prior.
112. The Sergeant lamented that on Thursday, Friday and Saturday nights the Police have to deploy their whole team AHRT team and all available Swing Shift officers in to Hamilton Street to supervise the 3.00am tip out and try to deter disorderly behaviour, fights and assaults. It was the Sergeant's evidence that they do this *'almost every week without fail.'*
113. Under cross-examination he confirmed to counsel for the applicant that the AHRT was currently redeployed to other serious crime enquiries and he has not been policing in Hamilton Street in recent weeks.
114. He stated to the Committee that the level of intoxication in the Bahama Hut at 2.00am was "pretty high" although he was unable to tell us of any formal patron assessments he and his team had done of Bahama Hut patrons.
115. When asked if he believed that the amenity and good order of the locality would increase by more than a minor extend if the renewal of licence was refused he said "possibly".
116. He said the recent reduction in occupancy numbers had been helpful to the overall situation but that the previous security staff were not active at moving patrons on. He could not comment on the new contractors in this role.
117. Next to speak to us was Senior Sergeant Phillip Greenbanks. He is currently the Area Response Manager for the Western Bay of Plenty Area. He said it is his role

to manage staff requirements to respond to calls for service. There is a wide geographical spread of communities within the district and he is always prioritizing as to where staff should be deployed for best effect.

118. Part of the Police National Business strategy is to deploy staff to prevent harm rather than having to deal with harm incidents after they happen. To this end he deploys staff in a high visibility approach and gets them to conduct compliance 'hotel visits' earlier in the night to maintain a presence.
119. The Senior Sergeant tasks the Swing Shift to conduct high visibility hotel visits at the Mount until 1.00am and then in the Tauranga CBD as the Mount drinkers come over after the Mount bars close and the city pre-loaders come in to town.
120. At about 2.45am he deploys all available staff to Hamilton Street to prepare for up to 500 patrons to tip out in to the street at 3.00am.
121. It was his belief that the patrons of the different bars do not mix well in the early hours of the morning affected by alcohol.
122. He said the combination of the dark, packed out, interior of Bahama Hut made patron assessments difficult for the Police and the grill (now removed) at the front of the bar and the 'animalistic behaviour' of the patrons has earned the bar the nickname of the 'Zoo.' *"It is Tauranga's No 1 problem licensed premises"* he said.
123. He did concede however that there had been an improvement in recent months with a more vigilant and pro-active security team and the *"reduction in patron numbers has allowed for better control. However, there is still a high level of harm that falls out of the premises of the Bahama Hut"* he added.
124. When questioned by the Committee it was suggested to him that the compliance checks undertaken by Police weren't as thorough as they could be. He said the current Police response on Hamilton Street was to prevent breaches of the peace during the tip out rather than gather evidence for enforcement actions. He did not have hard evidence of documented patron assessments showing intoxicated persons were found in and around Bahama Hut. He did pass his observations, as do his other staff members, to Sgt Brown the current AHPO for follow up.
125. He agreed that it was policy to target to risk which is why he has his staff on Hamilton Street to monitor the tip out at 3.00am.
126. He agreed that thorough compliance inspection and documented patron assessments were required to undertake enforcement proceedings.

Due to the time of the day the Police opposition was paused, and we heard from the Inspectorate.

127. Inspector Gareth Young presented his report and related his impressions of the night he accompanied the Police on a compliance inspection of the Bahama Hut. He said the bar was so packed out it was difficult to navigate, and the atmosphere was threatening. He felt unsafe and would not go in there alone late at night.
128. He did say the removal of the bars on the smoking area was an improvement, but he did not support the variation request to include a portion of the footpath as part of the licensed premises. He said this would bring patrons and those in the queue into conflict and it would be difficult to manage.

Day Three of the hearing

Before we heard from the last three witnesses for the police we confirmed with Mr Gordon that he was a member of Hospitality NZ and that he was aware of the support and resources available to members from the organisation. He replied in the affirmative.

129. Police then called Detective Sergeant Darryn Lewys Gabb to the stand. He told us that on the 1st of October 2017 he was an Acting Senior Sergeant for the Western Bay of Plenty.
130. Shortly after 1.00am on that night he was sent to the Bahama Hut as he had been advised that there had been a stabbing and his role was to direct and manage the scene.
131. He said the scene of the stabbing had been the smoking room and on arrival there was about 40 people in the room. He had difficulty trying to get patrons to move. He said the bar was very busy and a large number of the patrons were on the footpath and "*in a very intoxicated state.*"
132. He spoke to James McCarthy and told him that his patrons were "way too intoxicated and he needed to have identified this earlier and not continued serving them (sic)"
133. He pointed out a male who had passed out on a car bonnet and there was a pile of vomit on the footpath. He said that Mr McCarthy told him "*that he didn't have the power to do anything about it*" and that "*he needed more powers to deal with it.*"
134. Detective Sergeant Gabb believed this showed a lack of ownership and that he took no responsibility for the state of his patrons. We note that earlier in the hearing Mr McCarthy recalled this conversation with Det Sgt Gabb but said he was referring to intoxicated persons on the street not in his premises.
135. He told us he was in the Public Safety Team from May to November 2017 and the Bahama Hut was "*always a hotspot for fighting and general drunken disorder in the small hours.*"

136. Under cross-examination he refuted Counsel's suggestion that Mr McCarthy was referring to drunkenness outside the premises not inside.
137. Next, we heard from David Craig Warner who has manned the CCTV camera for 17 years. He produced the CCTV footage and a number of logs he had prepared during his nightshifts on the cameras. He rated his knowledge of the CBD and its goings on as 'highly'.
138. He was asked to confirm that the Bahama Hut was the 'worse' premises in town. He was reluctant to name it as such but did say it was in the top two problem premises.
139. He too noted the improvement in the security team activity now that a new contractor has been engaged.
140. Finally, we heard from Sergeant Trevor Ernest Brown. He told us he has been the Alcohol Harm Prevention Officer (AHPO) and Liquor Licensing Co-Ordinator for the Western Bay of Plenty Police Area since October 2016.
141. He was also of the view that when Bahama Hut moved from Harington Street to Hamilton Street it adversely contributed to the funnel effect with up to 500 patrons tipping out in to the street at 3.00am of Thursdays, Fridays and Saturdays.
142. He said the burger bar that used to stay open until 4.00am was an attractor and kept people in the street long after the pubs had closed.
143. He told us that he has opposed the renewal as he does not believe that Lyger Investments Limited, and in particular its alter ego, Matthew Gordon, has sufficient processes and systems to operate a high risk licensed premises. He acknowledged that Mr Gordon's other lower risk premises seldom come to notice but his 'hands off' management of Bahama Hut has allowed a number of serious incidents to occur.
144. In particular he noted a bad culture and assaults by his door staff had developed over a period of months and a stabbing occurred in the smoking area in October 2017.
145. He acknowledged the good work recently by Mr Gordon around the occupancy numbers and the relocation of the bar to the upper level. Both measures have alleviated some of the concerns of the Police.
146. He too spoke of the potentially dangerous situation where there was a confrontation upstairs in a packed bar during a compliance inspection with council licensing inspectors. He said the black walls and poorly lit interior made him become

extremely concerned how he was going to get an aggressive patron out of the premises.

147. On another occasion he estimated patron numbers were over 350 and it was virtually impossible to navigate around the premises let alone monitor intoxication levels.
148. He told us about the incident on the 4th of November 2017 where the off-duty head of security and his 16-year-old brother were involved in a vicious assault of a person in front of the Bahama Hut. Enquiries later revealed that his COA had expired in July 2017 and his continued employment in security was in breach of the Private Security Personnel and Private Investigators Act 2010. Mr McCarthy early admitted that there was no active register of his security personnel and their COA certificates.
149. The four-sentence incident report did not align with the CCTV footage and Mr Gordon was not made aware of the seriousness of the incident either, the Sergeant told us.
150. In the Sergeant's view the lack of control systems and inaction during much of 2017 meant that the object of the Act was not being met by the operation of this licence.
151. He produced a statistical graph that he said showed that disorder offending had followed the business around from the Harington Street venue to the Hamilton Street one.
152. He then responded to criticism about the change in relationships between his predecessors and himself with the applicant and his team. He defended his decision to gather the offences and incidents together and to present them to the DLC rather than take individual enforcement actions to ARLA.
153. He said he supports the Graduated Response Model (GRM) that Police adopt when dealing with licensed premises. Bahama Hut was 'new' to Hamilton Street and the renewal process was close. He believes it was right to work with the applicants in the early stages and then escalate the regulatory response as further offending arose. We agree and comment more on this later in our discussions and reasons for our final decision.
154. He produced a crime profile report entitled Alcohol Related Offending in Tauranga CBD dated 17 January 2018. Mr Davies expressed concerns about the introduction of the report in to the proceedings. He pointed out that it was an indicative report and was not 'evidence' by the author's own admissions. We have allowed its introduction on that basis i.e. background information and in our view our decision will not turn on the contents of this report.

That was the case for the Police opposition.

Evidence of the Medical Officer of Health

155. The delegated officer for the Medical Officer of Health lodged a report in opposition to the renewal of this licence and was in attendance on the first day of hearing on 3 May 2018.
156. Neither the officer, nor the Medical Officer of Health himself, appeared to support their report in opposition on days 2 and 3 of the hearing. We expect agencies who lodge a report with matters in opposition to then appear before us and present evidence on the matters of concern to them.
157. In this case it appears that the issues of non-compliance with the Smokefree Environments Act 1990 have been resolved and the amenity and good order concerns have been well canvassed by the Police and the Inspector.

Closing Submissions

158. Mr Graeme Cushing is an experienced Inspector and believes that the moving of the Bahama Hut 'brand' from Harington Street to Hamilton Street in January 2017, although legal, did not allow the agencies to input into the appropriateness of the building itself and the location in general.
159. The overcrowding issues should have been foreseen by the operators from a public safety stand let alone any potential Sale and Supply of Alcohol Act issues.
160. He correctly submits that the applicants must create a positive finding in the eyes of the Committee. In his submission they have failed to do so. He believes they have put their suitability on the line and not ensured that alcohol has been sold, supplied and consumed in a safe and responsible manner and that the harm from the excessive and inappropriate consumption of alcohol has not been minimised.
161. He reminded us that both Matthew Gordon and James McCarthy had failed to tell the Committee that they had been before the Court or ARLA on alcohol related matters. To compound those omissions both men gave sworn evidence to the effect that they had not appeared before the authorities but that was not true.
162. He pointed us to Section 105(1)(j) that prescribes one of the criteria of which we must have regard: whether the applicant has appropriate systems, staff and training to comply with the law. He said there had been clear evidence of a lack of systems to manage, train and supervise staff.
163. He further directed us to Section 131(1)(b) to which we must have regard that says:

whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence

164. The Inspector believed a refusal to renew the licence would see an increase in the amenity and good order of the area. He has no issue with the variation request to alter the designation regime of the premises and the rationalization of the hours for both levels of the premises. He was opposed to the request to include a small part of the frontage in to the licensed area. He believed this would bring those queuing and the people on the street in to even more conflict that there currently is.
165. Mr Pawson presented closing submissions for the Police. He referred to his opening submissions and the evidence adduced throughout the hearing of a systematic failure to have effective business systems in place and failing to promptly recognise a 'concerning security culture' in his door staff team.
166. He pointed to Mr McCarthy's evidence that his 19 years in the business was sufficient for him effectively run the business. He described Mr McCarthy's methods as 'old school' as indicated by his inability to recall the current Object of the Act that has been in force for more than 5 years.
167. He commented on the applicant's several references to the Police lack of resources as a contributor to the issues in Hamilton Street and that they had not taken enforcement action.
168. Mr Pawson correctly points out that it is the applicant who must safely and responsibly manage his business - not the Police. They cannot allege that the lack of Police resources contributes to the issues in downtown Tauranga.
169. And finally, he referred us to the recent HC appeal decision **LION LIQUOR RETAIL LIMITED CIV-2017-485-506 [2018] NZHC 1123** in which Clark J said at paragraph [68]

It is not necessary to establish, as the Authority required, that the proposed operation "would be likely to lead to" alcohol-related harm. To require demonstration of a link to this degree of specificity is not much different from requiring proof. Requiring proof of "a causative link is not only unrealistic but is contrary to the correct legal position" and at [71]

With respect to the Authority I am of the view it both misdirected itself and reached a conclusion which I consider contradicts the true and only reasonable conclusion available on the evidence.

170. It was the recommendation of the Police that we decline the renewal.

171. Mr Davies also referred us to his opening submissions and he emphasised that a reasonable licensing system invokes concepts of proportionality. The Authority has previously accepted the effect of refusing to renew an on-licence is equivalent to its cancellation. He said the Committee is required to undertake an evaluative exercise and it needs to stand back and form a view on to whether the granting of the renewal application would contribute toward the Act's object, in light of its purpose.
172. He argued although the standard of proof remains the balance of probabilities, it is equally accepted that stronger evidence is required of more serious allegations before the issue in question can be proved to the reasonable satisfaction of the decision-maker.
173. We do not intend to transcribe the contents of his extensive submissions, but we will comment on our positions on the various points he raised as we go through the renewal criteria to which we must have regard.
174. His bottom line was that Lyger Investments Limited, including its directors and staff, was a suitable entity to be granted a renewed and varied licence on the conditions it has sought.

Relevant legislation

175. Section 3 of the Act states the purpose of the Act as follows:
- (1) ***The purpose of Parts 1 and 3 and the schedules of this Act is, for the benefit of the community as a whole, –***
 - (a) ***to put in place a new system of control over the sale and supply of alcohol, with the characteristics stated in subsection (2); and***
 - (b) ***to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.***
 - (2) ***The characteristics of the new system are that–***
 - (a) ***It is reasonable; and***
 - (b) ***Its administration helps to achieve the object of this Act.***
176. Section 4 states the object of the Act as follows:
- (1) ***The object of this 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 and indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).**

177. Sections 131/132 of the Act provides the criteria that the licensing committee must have regard to in deciding whether to approve a renewal of the licence:

131 Criteria for renewal

(1) *In deciding whether to renew a licence, the licensing authority or the licensing committee concerned **must have regard** to the following matters:*

- (a) *the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):*
- (b) ***whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:***
- (c) ***any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:***
- (d) ***the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.***

178. The clauses in 105 that we must consider are:

105 Criteria for issue of licences

(1) *In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:*

- (a) *the object of this Act:*
- (b) *the suitability of the applicant:*
- (c) *any relevant local alcohol policy:*
- (d) *the days on which and the hours during which the applicant proposes to sell alcohol:*
- (e) *the design and layout of any proposed premises:*
- (f) *whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:*
- (g) *whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:*
- (j) *whether the applicant has appropriate systems, staff, and training to comply with the law:*
- (k) ***any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under [section 103](#).***

Discussion

179. Section 131 Criteria for renewal:
- (1) In deciding whether to renew a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:**
- (a) the matters set out in paragraphs (a) to (g), (j), and (k) of section 105(1):*
- (b) whether (in its opinion) the amenity and good order of the locality would be likely to be increased, by more than a minor extent, by the effects of a refusal to renew the licence:*
- (c) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made by virtue of section 129:*
- (d) the manner in which the applicant has sold (or, as the case may be, sold and supplied), displayed, advertised, or promoted alcohol.*

Section 105(1)(a) The Object of the Act

180. Section 105(1)(a) of the Act requires the licensing committee to have regard to the object of the Act and in particular that the sale, supply and consumption of alcohol should be undertaken safely and responsibly.
181. As counsel for both sides have indicated the Committee must stand back and conduct an evaluative exercise of the evidence that has been put before us and ask ourselves are we satisfied, on the balance of probability, that the renewing of this licence will help achieve the object of the Act.

Section 105(1)(b) Suitability of the Applicant

182. The applicant must be a suitable entity to hold an ON-licence. Suitability is not established in a vacuum, it is based on proven performance and dealing with challenges that occur from time to time especially in late night taverns and nightclubs.
183. In our view the example needs to be set from the top. A basically absentee licensee is not a good starting point. Mr Gordon conceded that he does not visit his premises late at night and relies on his General Manager, Shannon Jenkins, and his venue managers to run the day to day business and keep him informed. His knowledge of any concerns and issues arising is solely sourced from his managers and when he gets called in to account by the Police or the Inspectorate.
184. We accept there is no requirement for a licensee to be on premises at all times, but he must have competent managers acting in his stead. The risk for Mr Gordon is that he is reliant on what he is told and not on what he has seen firsthand. We note that at day two of the hearing Mr Davies told a Police witness that Mr Gordon has recently been doing some 'late shifts' at the Bahama Hut.
185. We accept that the Committee must undertake an evaluative approach and

conduct a merits-based assessment of the application. The authorities for establishing suitability are well known.

186. The High Court in **Christchurch Medical Officer of Health v J & G Vaudrey Ltd** confirmed there is no presumption that a new licence **or renewal** of an existing licence will be granted: Justice Gendall said: *Thus, when the relevant body receives an application, they must consider it against s 105 in deciding “whether to issue a licence”. There is no presumptive position, and certainly no foregone conclusion. I think the reality of the position is that if the object of the Act cannot be achieved by the application, then it cannot succeed.*
187. He went on to say, “*The Committee must consider whether a causal nexus would exist between the effect of granting the application, and the harm which the object of the Act seeks to minimise.*”
188. The Liquor Licensing Authority accepted under the previous legislation the ordinary dictionary definition of suitability as being “*well fitted for the purpose, appropriate*”.
189. In **Re Nishchay’s Enterprises Ltd**, the Authority said that: ... *suitability is a broad concept and the assessment of it includes the character and reputation of the applicant, its previous operation of premises, its proposals as to how the premises will operate, its honesty, its previous convictions and other matters.*
190. In **Page v Police Pankhurst J held**: [Section] 13(1)(a) provides that the applicant for an on-licence must demonstrate his or her suitability. In other words what is required is a positive finding. That implies an onus upon the applicant to demonstrate suitability. Such suitability is not established in a vacuum but in the context of the particular case.
191. In **Hayford v Christchurch DLA, 3/12/93 Holland J, HC Christchurch, A201/92**. Holland J stated: “*A holder of a liquor licence under the Sale of Liquor Act 1989 is granted a privilege. It permits him to sell liquor when others are not permitted to do so. Deliberate failure to carry out conditions attached to the licence or the terms of the licence must be a strong factor justifying a conclusion that the holder of the licence is not a suitable person to hold the licence.*”
192. The question for the Committee is “Has Lyger Investments Limited established and preserved its suitability to operate high-risk premises at this location?”

Section 105(1)(c) Relevant Local Alcohol Policy

193. There is a current Local Alcohol Policy against which this application does not offend.

Section 105(1)(d) The days and hours of operation of the licence

194. The current operating hours are Monday to Sunday 12 noon to 3.00am upstairs and

9am to 3.00am the following day downstairs. The applicant seeks to rationalise the hours to 9.00am to 3.00am throughout the whole of the premises.

195. The hours sought are within the default national maximum trading hours for ON licences and equivalent to the hours for similar premises in the Tauranga CBD.
196. We say that late closing hours are a privilege that must be earned and respected. Greater challenges occur later in the evening as intoxication levels rise. Operators must have the skills, training and commitment to respond to these challenges and deal with them appropriately and firmly. Reducing the hours of operation is an option open to the Committee.

Section 105(1)(e) The design and layout of any proposed premises

197. Clearly there was issues with the design and layout of the premises. Mr McCarthy told us the premises on Harington Street was larger than the Hamilton Street venue. It was perhaps irresponsible to bring the clientele from that venue and jam them into the Hamilton Street one. It should not be the role of the Inspectorate or the Police to raise the issue of overcrowding from both a management perspective or for public safety reasons.
198. Any competent owner would have foreseen the potential issues and dealt with them and not waited until their hand was forced by the authorities.
199. In recent times the occupancy levels have been properly determined and the 'cage' removed from the smoker's area. What still remains is the darkened interior which is inherently difficult for the agencies, and more importantly the applicant, to properly assess intoxication levels and patron behaviours.
200. The applicant, and his staff, acknowledge that their target market is young, and that pre-loading, before coming to town or from other premises, is prevalent. They have willingly and deliberately cultivated this market. It goes without saying that they must then have sound systems and processes in place to manage this problem demographic.
201. Having a safe and manageable environment is part of that regime. Overloading the premises and installing a 'cage' are not the actions of a responsible and competent licensee.
202. The Committee conducted a site inspection at the conclusion of the hearing. We were dismayed to find that an additional bar has recently been installed downstairs negating the advantages, promoted earlier in the hearing, that patrons would have to go upstairs, to the better lit area, where proper intoxication assessment could be undertaken. The new bar, installed after the first day of the hearing, was not mentioned in evidence by the applicants. Any credit gained for moving the bar upstairs has now been compromised.

203. We could not help but notice that more the 90% of the chiller space was taken up with a colourful array of RTDs and only a very small selection of beer was displayed. There was large electronic signage advertising \$6 cocktails and \$5 shots. A range of spirits and shot glasses were on surround shelves and bench tops. But there were no equally bright and prominent signs for the food options that were available.

Section 105(1)(f) Whether the applicant is engaged in or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods;

204. No 'other' goods, other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food are sold on the premises.

Section 105(1)(g) Whether the applicant is engaged in or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, and food, and if so, which services.

205. The business operates as a nightclub and offers themed parties, live music and dancing.

Section 105(1)(j) Whether the applicant has appropriate systems, staff, and training to comply with the law

206. The applicant advised that there are generally 4 bar staff and two managers with manager's certificates working each evening. Up until recently they personally employed up 10 COA qualified door staff for security from Thursday to Saturday nights. Now they have a contracted security service from Platinum Security providing that service.
207. There have been significant deficiencies uncovered within the business as to its levels of formal training, training manuals and policies. Both principals of the business told us that most of the training is verbal and on the job. Mr Gordon told us "if you give them something in writing they don't read it" or words to that effect.
208. He conceded that the business did not have comprehensive manuals, policies and records. We find this inexcusable especially as he also confirmed that they are members of Hospitality NZ that has a vast array of support mechanisms and training materials available for their members.
209. This applicant has been found wanting on more than one occasion during this tenure of the Hamilton Street premises, in particular the failure to keep records of

his door staffs COAs and their expiry dates resulting in one of them being employed for several months on an expired certificate. Failure to adequately ensure that his door staff were properly trained, managed and operating within the law is unacceptable.

Section 105(1)(k) Any matters dealt with in any report of the Police, an Inspector and the Medical Officer of Health under Section 129

- 210. The Police have raised matters in opposition and strongly submit the licence should not be renewed.
- 211. The Medical Officer of Health lodged an adverse report but then failed to attend the resumed hearing to support their opposition.
- 212. The Inspector reports that, in his opinion, the amenity and good area of the locality would be improved by more than a minor extent by the refusal of the renewal of licence. He was highly critical of the lack of systems and absence of pre-emptive actions by the applicant and his team.

Reasons for the Decision

- 213. Section 3 requires us to act reasonably in the exercise of our duties and to administer the Act to help achieve to the Object of the Act.
- 214. To do that we need to stand back and evaluate the evidence that has been put before us and ask ourselves would the renewal and variation of the licence, as sought, help achieve the object of the Act.
- 215. Are we satisfied that the sale, supply and consumption of alcohol is being undertaken safely and responsibly, and is the harm caused by the excessive or inappropriate consumption of alcohol being minimised?
- 216. The short answer is no. Is the overall gravity of the situation, given that some changes have occurred, as we have discussed above, and is the strength of the evidence, that has been put before us, sufficient for us to refuse the renewal?
- 217. On balance the answer is no, but it was very close indeed.
- 218. Firstly, had we been presented with a pattern of documented patron assessments showing intoxicated persons in, or emanating from, the Bahama Hut a refusal to renew the licence was very much on the cards.
- 219. We suspect the regulatory agencies will be keeping a very close eye on the operation of Bahama Hut in this regard. No doubt, if offences are detected, conclusive evidence will be gathered and put before ARLA by way of enforcement

actions or to the DLC for regulatory action.

220. Secondly, the CCTV evidence showed systematic thuggery on the part of the door staff. This should never have occurred in the first place if the team was properly trained and managed by Mr Gordon and his managers. They failed to recognise the issue in its infancy and deal with it effectively.
221. Thirdly, there was very poor record keeping and a lack of policies in place for staff and management. These safeguards are designed to keep abreast of the risk factors of being in business and to guide and support staff when things go wrong as they will do from time to time in most businesses. We note for the record that Mr Gordon has recently had prepared or written a suite of policies and procedures.
222. It was a surprise to the Committee that the company holds a Hospitality NZ membership but clearly, they did not think that they required the support and guidance that this valuable organisation offers.
223. Pursuant to Section 131(1)(b) of the Act the Committee must have regard as to whether the operation of this licence has adversely affected the amenity and good order of the area by more than a minor extent, and, whether in our opinion, the amenity and good order of the area would be increased by more than a minor extent by refusing the renewal.
224. We agree with the HC dictum in Lion Retail that it is sufficient if it is evidentially proven that an individual premises contributes to the overall alcohol related harm experienced in an area. In Lion Retail it was sufficient for the HC to confirm the DLC decision **to reduce the hours of sale**.
225. For the above reasons although in our opinion Bahama Hut does contribute to ARH experienced in Hamilton Street we draw short of refusing the renewal.
226. We will approve a renewal but will impose several conditions that we think are necessary to ensure compliance with this Act.
227. Firstly, the licence will be renewed for 15 months only as we believe the business requires another 'probationary year' at this site to prove to the Committee and the agencies that it can operate compliantly in this late-night environment. That renewal will be from the date of expiry of the current licence i.e. 7 November 2017 through to the 7th of February 2019 some 6 ½ months from the date of this decision.
228. This will take the business through the busy Christmas season and it will be up to the applicants to demonstrate whether they will sink or swim.
229. We accept that Jason McCarthy may well be a skilled and competent promotor

of events in licensed premises, but we believe he has either 'dropped the ball' or is insufficiently skilled on the management of alcohol harm related matters.

- 230. The hours will be rationalised as sought but the closing time will be brought back to 2.00am finish. We have little confidence that the current management structure can closely manage intoxication and behaviour levels and later hours will need to be earned.
- 231. The contracted crowd controller services are to be maintained as required to perform door control duties and monitor patron behaviour within the premises. All persons performing this function are to be COA qualified and properly attired and identified.
- 232. We vary the designation of the premises so that is all now a Supervised Area.
- 233. We formally acknowledge the name change of the business to 'The Bahama Hut'.
- 234. We decline to extend the licensed area to include the paved frontage as the potential for conflict between patrons, queue gatherers and passerby's is highly likely. A new plan is to be prepared excluding this small area at the front.
- 235. We require the applicant to sign up to a six-point undertaking outside the conditions we intend to set. Failure to fulfil those undertaking will go towards the overall suitability of the applicant. The approval of this restricted renewal is conditional on the applicant signing and returning the attached undertaking at appendix one.
- 236. A refusal to sign up for the undertaking will leave the Committee with only one option.
- 237. We suspect this will be a severe wake up call for Mr Gordon and his team. He needs to fully comprehend that alcohol is no ordinary commodity and it is a privilege to hold a licence to sell alcohol, not a right.

The Decision

The District Licensing Committee, acting pursuant to the Sale and Supply of Alcohol Act 2012, approves an application by Lyger Investments Limited for a renewal and variation of the ON Licence in respect of premises situated at 1/18 Hamilton Street, Tauranga known as "The Bahama Hut."

The Licence is renewed for 15 months only from 7 November 2017 subject to the following conditions.

1. Alcohol may be sold or supplied for consumption on the premises only on the following days and hours **Monday to Sunday 9.00am to 2.00am the following day;**
2. No alcohol is to be sold or supplied on the premises on Good Friday, Easter Sunday, Christmas Day or before 1pm on Anzac Day to any person other than a person who is on the premises to dine;
3. The whole of the premises is designated as a **Supervised Area;**
4. Drinking water is to be provided to patrons free of charge from a water supply prominently situated on the premises;
5. **A minimum of two COA qualified door staff are to be engaged on entry and exit management from 10.00pm to 2.30am on each night the premises is open;**
6. The Licensee must have available for consumption on the premises, at all times when the premises are open for the sale and supply of alcohol, a reasonable range of non-alcoholic and low-alcohol beverages,
7. Food must be available for consumption on the premises at all times the premises are open for the sale and supply of alcohol, in accordance with the sample menu supplied with the application for this licence or menu variations of a similar range and standard. Menus must be visible and food should be actively promoted,
8. A properly appointed certificated or Acting or Temporary Manager must be on duty at all times when the premises are open for the sale and supply of alcohol, and their full name must be on a sign prominently displayed-in the premises,
9. The Licensee must provide information, advice and assistance about alternative forms of transport available to patrons from the licensed premises,
10. The Licensee must display:
 - a. At every point of sale, signs detailing restrictions on the sale and supply of alcohol to minors and intoxicated persons;
 - b. At the principal entrance to the premises, so as to be easily read by people immediately outside the premises, a sign stating the ordinary hours of business during which the premises will be open for sale of alcohol;
 - c. A copy of the licence attached to the premises so as to be easily read by persons attending the premises.
11. The licence is subject to a signed undertaking, attached as appendix one, for the duration of the renewal.

DATED at TAURANGA this 19th day of July 2018

A handwritten signature in black ink, appearing to read 'Murray Clearwater', is written over a horizontal line.

Murray Clearwater
Commissioner
For the Tauranga District Licensing Committee

NOTE

Sections 152 to 155 of the Act relating to the right to appeal this decision are in effect. This decision is suspended until 10 working days after the date on which notice of this decision is given to the applicant, Inspector and the Police.

Appendix One**Undertaking Given**

The undersigned agrees to implement and maintain the following directions and functions:

1. At renewal time the applicant agrees to produce evidence of a full audit of the company's training records, manager register, procedures and policies by Hospitality NZ, or similar consultancy;
2. At renewal time the applicant agrees to produce evidence of designing and implementing formal training for all staff;
3. There will be a dedicated certificated manager on duty (not Jason McCarthy) responsible for compliance with the provisions of Sale and Supply of Alcohol Act whenever the premises is open for the sale, supply and consumption of alcohol;
4. All staff are to attend training on the formal identification of intoxicated persons using the Intoxication Assessment Tool;
5. A Trespass Notice system, similar to that offered by Hospitality NZ, is to be implemented and strictly enforced for appropriate cases of offending.
6. A comprehensive Incident Report Form is to be prepared and used on every occasion when incidents occur. Action is to be taken to prevent reoccurrences and the forms are to be forwarded to the regulatory agencies as part of an effective and regular liaison regime with them.

As stated we will expect to be provided with evidence of on-going compliance with these six requirements should a renewal be sought in February 2019.

Signed_____

Date_____

Matthew Benjamin Lee Gordon
on behalf of Lyger Investments Limited

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|----------------------------|---|----------------------------|--|----------------------------|---------------------------------|
| 149 | Ashleigh | Gee | Strongly disagree | Please refer to submission | Strongly disagree | Please refer to submission | Somewhat agree | Please refer to submission | Please refer to submission |

149

20th December 2021

Rebecca Gallagher
Tauranga City Council

Dear Rebecca

RE: Submission in reply to proposed changes to Tauranga City Council Local Alcohol Policy

My name is Ashleigh Gee. I am 32 years of age and own Miss Gee's Bar & Eatery. For those in the council who have never been to Miss Gee's, we are located on The Strand adjacent to Masonic Park. Our services include dining, cocktails, events and music. On Friday and Saturday nights, we trade through till 3AM with a supervised license and bring talented DJs from NZ and overseas to play for those in the community who enjoy music, dancing and socialising with friends.

Miss Gee's was opened in October 2019 and traded for 5 months before the first COVID-19 lockdown closed our doors. Our license to sell and supply alcohol was renewed by the Council for 3 years after having only a few incidents requiring police – most incidents happening outside of our licensed premises. We take a very serious approach to ensuring a safe environment for our patrons and based on the size and capacity of our venue, we employ one of the biggest security teams out of all the bars in Tauranga and Mount Maunganui.

I am writing this submission to the Tauranga City Council as an owner of an establishment that will be directly impacted by the proposed changes to the Local Alcohol Policy, but also as a 32-year-old woman who lives in Tauranga and enjoys socialising with friends in bars and restaurants. I have spent the last six years of my life bringing people together throughout Tauranga and Mount Maunganui and know that these changes will not reach the outcome we as a community require.

Listed below are my responses to each proposed change.

Overall, I do not agree with the proposed changes the Tauranga City Council has drafted and I would like the opportunity to speak in front of the commissioners once the hearing date has been determined.

1. Reducing on-licence hours in the Tauranga City Centre

A reduction in the opening hours of on-licence premises (bars, restaurants) in the Tauranga City Centre with a proposed closing time of 2am instead of 3am.

The current plans and spaces being rolled out by the Tauranga City Council do not match the results the reduction in opening times venues. I believe the plan is to try and bring more people back into the CBD? With new hotels, a possible casino one day, more central living and the major city redevelopments being announced, why are we then looking to have the city centre closing earlier?

Reducing the opening times of bars in Tauranga's CBD, will result in more people on the street. More people hanging around aimlessly looking to start issues. Less people coming into the CBD at night. Less tourists visiting the bay aged 20 to 40. Hospitality workforce from Mount Maunganui now left with no where to go after their shifts, therefore a reduction in desire to work in Mount bars as

minimal work/life balance. Reduction in tourists wanting to work in the bay in our hospitality venues. Reduction in people aged 18 to 40 wanting to work and live in Tauranga.

If alcohol harm related incidences are the reason for closing our venues earlier, then we should be working on how we change how our CBD operates for the better. Look at places overseas and try new ideas – not just give up and put in the too hard category. After all the backward decisions I have seen and experienced from the council in my short six years of living here, I think correcting our CBD nightlife and creating a safer place for everyone to enjoy should be where we all, as a collective, focus our efforts. Showing to our community that our council is passionate about providing us with better life opportunities will surely create more confidence in our council from our community.

As a 32-year-old, the council's proposed changes have only indicated that they do not care for activities a massive part of our community enjoys – so why would I want to live here in the future?

2. A change to the one-way door provisions in the Tauranga City Centre

This is as a result of the proposed reduction in the opening hours of on-licence premises in the Tauranga City Centre. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. This is also likely to result in fewer patrons from other areas of the region travelling to the Tauranga City Centre following a closing time of 1am in other locations e.g. The Mount.

From my experience over the last few years, the one-way door policy is one of the biggest problems leading to alcohol harm related incidences in the CBD. New Zealand is one of the only countries in the world who still uses this method for managing intoxicated patrons. This method is old school and only causes problems around venues putting extra pressure on venues to manage patrons both inside and outside the premises.

Our one-way door policy is not the same as other areas, therefore patrons that are visiting Tauranga for holidays or events are not aware of the rule and often have receive a miserable end their night of celebrating. Why can we not continue to let customers into our safe environments until close to closing time and get those who are deemed not to be intoxicated, off the streets? As venues, it is up to us to decide who we allow into our premise, the one-way door policy leaves these people out on the street and create opportunity for others to create incidences, fights etc. The safest place to be in the CBD in the early hours of the morning, is in venues where their safety is monitored. Less people walking around aimlessly and aggravated because their night has been cut short, will lead to less fights the police have to attend to. I have seen a few incidences that could have been avoided where sober people have been attacked by other intoxicated people because they were left out in the cold and easy prey for those looking for a fight.

Recent reports from Sydney's trial period of their one-way door policy showed that it created heightened incidences in the CBD and also pushed the issues out further to the surrounding suburbs. Sydney has since gone back to their previous trading times and adopted a 'last drinks' policy instead – requiring all licence venues to have the same cut off time for serving drinks – this being 30 mins prior to the venues closing time. This was announced earlier in 2021. Once drinks are finished, patrons begin to leave slowly rather than all together at closing time.

My recommendations that the council should consider would be to get rid of the one-way door policy to reduce the number of people outside of venues and to start providing a security or CBD warden system to assist our venue staff and the police in moving on those patrons who are causing issues. This would then in turn, create a safer environment to those exiting bars at closing time and reduce those coming into the CBD to purposely cause issues. Adopt a 'last drinks' policy instead of a one-way door.

3. Adding a club licence section

A new section has been added for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants (provisions remain the same).

I believe this should be adopted however the council needs to create a position in the Alcohol Licensing team that manages clubs better. Special licenses for events of less than 100 people at licenced club venues should not be a requirement as based on the proposed changes, clubs will be held to the same restrictions of trade as on-premises venues. Special licenses are time consuming on both council staff and club volunteers.

More communication and access to documentation or guidance for clubs needs to be provided by the council. Most clubs are run by volunteers of our community and the council is leaving them in situations where people are putting themselves at risk to host events that benefit their club – not them personally. A preferred security service for those clubs that do not normally have security staff should be determined to make it easier for clubs to obtain security guards for events.

Conclusion

I would like to ask the Tauranga City Council to come together with the venues and the police and have a discussion around how we can collectively work together to create a safer and more vibrant environment. From my experience of growing Miss Gee's over the last couple of years, people will change if you give them a second chance. Work with us, not just close us down.

I thank you for your time in reading this and am open to meeting with the council and the police to assist in creating a better and safer CBD environment. It can be done.

Cheers & beers

Ashleigh Gee
Owner – Miss Gee's Bar & Eatery

hello@missgees.co.nz

As an owner of a licensed premises that will be dramatically impacted by the proposed changes to the LAP, I wish to speak at today's hearing about several concerns I have with the current LAP and the proposed changes outlined in the Draft Policy. Given the short time slot, I will have to be brief, but if the commissioners or licensing team want to talk more in detail, I am available at Miss Gee's, where I've been for over two years now.

In short:

From the short experience that I have had with Tauranga's one-way-door policy, I have seen more negative effects than positive, and this comes from being both a patron and a licensee. This is also shown in the Police's background report showing no decline in incidences since deployment, so, much like the rest of the world, we need to try another approach.

Issues I see include:

1. Patron's that are sober are left outside potentially in harm's way – resulting in easy prey for those people walking around the CBD looking to fight
2. Enhances anger or disappointment for those not aware of the rules – often people from Auckland who are used to 4AM close
3. Splits groups up and leave some people on their own waiting for friends
4. People tend to gather outside the venue putting extra strain on our staff having to manage people inside and outside the premises
5. Attracts homeless and other people hanging around town to hassle our customers for money and cigarettes or just hurl abuse and profanity to our staff, customers and guards

Is the goal here not to get people off the street and into safe environments? Less people hanging around outside venues equals less people hanging around town to pick fights or cause harm to others.

I opened Miss Gee's in 2019 with the vision of creating a safe space for females to go to in Tauranga. On any Friday or Saturday night, we have at least 10 staff looking after our patrons including 6 experience security guards. We have always taken the safety of our patrons seriously and will continue to do this.

Most of the incidents that my team have had to deal with over the last couple of years have been outside our venue. In areas where lighting is poor. Where people are left lingering as they were unable to get into a safe venue with staff to look after them. If our guards and staff are trusted and licensed to evaluate patrons being sober enough to gain entrance into venues from 9PM to 2AM currently, why can they not be trusted to look after our patrons safely until 3AM.

The change of one-way door time will completely kill the CBD nightlife – which is what we understand the Police are keen to do. But is our mission here not to rejuvenate the CBD and attract more people to live and play here? By locking out patrons from 1AM, the foot traffic from the Mount to Tauranga will go as the bars would essentially be closing at the same time. Are the police ready to attend to 'fights' both sides of the bridge at the same time.

In my view, the one-way door policy is old school and does not help to reduce harm but make it easier for those looking for a fight to find prey. Where is the line for what our staff should be dealing

with and when it becomes the council/police's issue? Our duties as licensees are to look after our patrons but the one-way door policy enforces us to leave our customers on the street.

As Tauranga grows and with the current plan to enhance and attract people to want to live here, we need to be looking at our current policies and adapting this as well. The biggest issue that we must deal with is intoxication from patrons that doesn't happen inside the venues. There is so many bottle stores around Tauranga providing cheap, high percentage RTD's and our venues are the ones left to manage with the result of their sales come 1AM.

Instead of just giving up why don't we spend a year trialling something else – something that the police, licensees and council agree upon and work on as a team. If it doesn't work in 12 months' time, then we look at it again. We are trying to be a proactive city. Stamping out people's social lives is not proactive and will only work in the opposite direction.

I would like to see the one-way door policy gone with a 'last drinks' initiative developed. Then this is up to our licensees to ensure their venues and patrons are managed professionally. If a bar doesn't take their management seriously, then they should be worked with on a case-by-case basis. Sending Police to stand outside venues that have no issues week on week is a waste of resources when they could be working with other venues that may require more assistance and training.

Off the back of COVID, we have seen a massive increase in house parties getting out of control. I spoke to some customers recently that attended a house party with friends that have over 200 people at the residence. Fights, overdoses and intoxication to the point of black outs were viewed. All of which would have never got to this point if those customers were in professionally run venues. But this will be more and more common when you shut the Mount and Tauranga at 1AM.

Believe it or not, young people still want to have fun. And statistics from Government research shows 80% of New Zealand drinkers are staying at or below the Ministry of Health's recommended number of standard drinks per week. Furthermore, the same data reported individuals drinking less frequently to intoxication and being more aware of moderating behaviours through food consumption and low alcohol beverages.

I have so many questions for the Council.

Why are we still okay with spending hundreds of thousands of dollars a year on security guards to sit at the bus stop?

Why is it so easy to stamp out nightlife, businesses, livelihoods and social hubs for people? But not stamp out people getting high and drinking illegally outside our venues.

Why are not enforcing the liquor ban or stop some of the ridiculous scenarios our businesses must endure.

Detailed in an article on 13th July 2021, the council was estimated to be spending between \$700,000 to \$1M on security services for 3 bus stops around Tauranga. Why can't we get some guards working at night (that are friendly) and help our security staff to ensure everyone is safe around town just like during the day.

Why are people receiving their duty manager licenses without having an interview with a licensing inspector?

Why do I not even know who my licensing inspector is?

My last licensing inspector hadn't even been into Miss Gee's while we were open to the public.

The current licensing team's procedures are a joke – and we just had an increase in our licensing fees? FOR WHAT?

Why do we not hear from anyone until our license is due for renewal – then the black book comes out with a list of incidences?

Why aren't we regularly meeting as a group and developing better systems and processes?

Why aren't we working as a team to create something awesome?

MY RECOMMENDATIONS

The current LAP is not working to create a safe and friendly environment in the CBD. We should line up our trading with Auckland's trading seeing as they are some of our biggest tourist brackets.

The LAP needs a complete overhaul – done with Council, Hospitality and Police as a unit.

I would like to develop a 'Tauranga Hospitality Association' or something similar, to create a more effective way for licensees, the Council Licensing team and Police to communicate. This is currently non-existent and is showing by the current issues we are having across the board.

The one-way door policy needs to be dissolved and a trial of last drinks at 2:30am be put in place or even follow closer to Auckland's trading times. We are trying to rejuvenate the CBD, and this only works in the opposite direction. Closing times are then determined on good behaviour and best practice – put ownership on the venues, encourage them to up their game – but work with us.

Last question.

Why are we spending so much money on the CBD, if no one is going to be here to see it?

Here and ready to help.

Ash Gee

Owner – Miss Gee's Bar & Eatery

[REDACTED]

Hello@missgees.co.nz

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|--|---|----------------|---|----------------|--|----------------|---------------------------------|
| 150 | Brian | Berry - Mainstreet Tauranga Incorporated (Downtown Tauranga) | Strongly disagree | See submission | Somewhat disagree | See submission | Somewhat agree | See submission | |



**SUBMISSION FROM MAINSTREET TAURANGA INCORPORATED
TO TAURANGA CITY COUNCIL'S
PROPOSED CHANGES TO THE LOCAL ALCOHOL POLICY (LAP)**

OVERVIEW

Mainstreet Tauranga Incorporated (Downtown Tauranga) advocates for and on behalf of the businesses in our boundary as defined by the Rules of Mainstreet Tauranga Incorporated (1.1C The Tauranga Central Business District ("CBD") means that area bounded by the seas to the east, Cameron Road to the west, 1st Avenue to the south, Harington Street and part of McLean Street to the north).

Mainstreet Tauranga supports work around reducing alcohol harm, however, feel that the proposed changes to the local alcohol policy singularly focuses on the feedback from Police and Medical Officer of Health and does not focus on why the issues are happening and if there are ways of mitigating these without resorting to the proposed blanket reduction in trading hours and earlier one way door system that will significantly impact on the city centre hospitality sector. There is no reference to the biggest issue faced by these businesses or consideration given to the proposed Tauranga city centre developments which will introduce and see a demand for a more vibrant night life in the city centre.

SUBMISSION

Mainstreet Tauranga notes that the proposed change to the LAP gives little consideration to Tauranga city no longer being seen as a town but instead growing into the civic, cultural, and commercial heart of the region and is New Zealand's fifth largest city and as such need to have the amenities of a city. We are a developing and growing city with plans for a hotel, possible expansion into a casino and nightclubs and as such we should be planning for this increased night-time activity, developing a plan with all parties working together to showcase our city - rather than trying to close the nightlife down. The proposed changes are based on what is in the city centre today and as we are all too aware it is easy to decrease the bar trading hours but near impossible to increase them again. Therefore, as part of the review, we respectfully suggest that more work needs to be done first including asking:

- With the new developments what will our city look like?
- What do we want our city to be?
- How do we want people to behave and how can we influence this behaviour?
- How can ALL stakeholders deal with anti-social behaviour? How can everyone work as one to tackle these issues?

We feel that there are several factors that are not considered as part of the changes to the LAP:

- Pre-loaders who then come into the city centre causing problems for patrons and responsible bar owners and managers is one of the biggest issues – this group has nothing to do with the way bar owners conduct their businesses or how those owners conduct themselves under their liquor licensing. These people don't come from other bar establishments.
- Considering the 'perceived' need to mitigate the excessive or inappropriate consumption of alcohol in the city centre and the proposed changes to the LAP as a result, the hospitality sector is not seeing a strong police presence in the city centre, nor have they been approached to discuss how they could operate differently to mitigate said concerns. We are interested to know the number of incidents compared to the number of social, responsible drinkers that frequent these establishments to get a balanced view of the need to introduce these stringent across the board changes



- Based on the reasoning for proposing the reduction in hours for bars in the Tauranga city centre and in turn the earlier change to the one-way door provision - this would indicate that the biggest problem in excessive or inappropriate consumption of alcohol at this time of night is in the city centre. Again, we would be interested to know the statistics behind this to warrant the blanket change. Changing the timing of the one-way door provisions in Tauranga city centre will significantly affect those businesses that rely on that movement of trade from other areas such as the Mount. The only time the city centre is given any advantage as a city over the outlying areas. These businesses already need to adhere to their liquor licence conditions and through their liquor licence are already charged with monitoring excessive alcohol consumption on their premises.
- If the problem is around migration onto the street at closing time, then moving the time is only going to move the problem. Instead of having everyone close at the same time has there been consideration given to staggering the closing times for the bars in the city centre, while keeping the current one-way door policy start time. This would mitigate the mixing of patrons from various bars and have smaller pockets of revellers leaving the city centre at any one time. A progressive city could trial no regulated closing times and allow demand to dictate this, however, we appreciate that this would be a bold move at this time.
- There is a further reaching repercussion that these changes could have on the wider economy. There is not only an economic impact to the bars and restaurants affected but also across other sectors that benefit from this later trade. This potentially affects the attractiveness of the region to tourists and visitors, wedding parties, rolling through to motels and hotels, and on the ground businesses catering to the movement of people including taxis and Uber drivers etc. All who have been significantly affected by covid restrictions.

Because of the conversations still to be had Mainstreet Tauranga has requested Council put together a workshop for all parties to attend (police, health, bar owners/managers, restaurant owners/manager – the hospitality sector – Mainstreet Tauranga, tangata whenua (all the groups you want to hear from etc) to have a constructive discussion on the issues, talk about what can be done to possibly mitigate these issues, and to find solutions that do not necessarily mean blanket changes to the LAP across the industry. By giving all parties the opportunity to see things from each other's perspective there could be some great conversations, understandings, and out of the box solutions as a result.

We understand and appreciate that some people when they drink are violent, disruptive, and are a concern for the police and health services. However, we need to keep these people in context, that they are a minority, they should not be given the power to dictate restrictions over the majority, who are responsible drinkers. As a progressive city we should be looking at how we can engage in this sector to create a more vibrant city after hours that is safe, responsible, and responsive without the need to limit or restrict hours of trade. We have an opportunity to think outside the square and set the standard of acceptable behaviour for our city centre, limiting those who choose to be disruptive and antisocial without penalising those who demonstrate acceptable behaviour.

It should be noted that there is a concern among our hospitality members that the immediate response to issues is to revert to restrictions without fully understanding the industry and acknowledging those businesses that do try to mitigate the issues in and around their premises. These businesses are the eyes and ears of the police some nights, especially when police numbers are stretched across the region, reporting antisocial or out of control behaviour. Therefore, the timing of the submission process for this LAP felt like a disconnect from the industry it purports to support. This time of the year is the busiest for these businesses and after two years of disrupted trade and covid restrictions they are fully focused on catering to the Christmas trade and getting familiar with, and adhering to, the new government traffic light system trading policies and Council chose now to review the LAP with submissions closing just days before Christmas. We feel that this could have been better timed with consideration given to the hospitality sector, crucially the party most affected by the proposed changes.

Mainstreet Tauranga's Responses To The Proposed Changes To The Local Alcohol Policy Questions:



Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am?

Strongly disagree

Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre.

Strongly disagree

Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants?

Somewhat Agree

Mainstreet Tauranga asks to be able to speak to our submission in front of the commissioners as we strongly feel that further work needs to be done in this area before any final decisions are made to decrease trading hours in the city centre.

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**ADDENDUM TO SUBMISSION FROM MAINSTREET TAURANGA INCORPORATED
TO TAURANGA CITY COUNCIL'S
PROPOSED CHANGES TO THE LOCAL ALCOHOL POLICY (LAP)**

Mainstreet Tauranga requests that in addition to our original submission that this addendum be included as agreed at the stakeholder meeting.

Addendum to Submission

Mainstreet Tauranga requested Tauranga City Council hold a meeting with all stakeholders to better understand the issues, and to hear from each other's perspective the impact the proposed changes will make, as the proposed changes to the Local Alcohol Policy (LAP) have far reaching consequences for the city centre. This meeting was held on 2nd February via Teams. Mainstreet Tauranga representatives have since met with the bars on two further occasions, 8th February and 22nd February to further understand the impact and background to the decision process and to discuss the background report. This addendum to our submission comes out of the information garnered through these meetings, subsequent investigation, and the views expressed.

We would like to specifically add the following points raised to our initial submission;

- Communication - the disconnect between liquor licensing, police, and the bars.
- One-way door policy and why it doesn't work in isolation
- The 'tip out' and why it will not be mitigated, just moved, and will possibly escalate
- The real issues and solutions

Communication - the disconnect between liquor licensing, police, and the bars:

It is unfortunate that it is only when a policy like this or a bar licence is up for renewal that the issues are raised, when remediation discussions could have been held earlier. What has been apparent through this process is that there is no regular communication between all parties. This is something that we would like to see change. The bars would be happy to attend a monthly/bi-monthly/quarterly meeting with the police and liquor licensing officer, and anyone else that would like to attend, so that some good communication can be started, and issues sorted before escalating. This is important from the perspective that the bars do not feel heard and that without communication there is the fear of the big stick mentality when the bars do report problems., especially when it is not their customers who are causing the trouble.

It should be noted that when asked, none of the bars could tell us who the liquor licensing officer at Tauranga City Council was. This should be the first thing that is rectified.

When asked when the last time any of them had been visited to talk about an issue in and around their business it appeared to be over a year ago and for many longer than that. This is reflective in their reaction and concern with the proposed changes to the LAP.

The bars are already forming closer relationships with each other in the form of combining their security teams when situations look like escalating on the streets but are frustrated that the liquor licensing ban in the parking areas appear to go unabated. As a minimum these activities need to be nipped in the bud before they escalate and start making trouble for people out having a responsible good time.



It was interesting to note when talking to the bar owners that on average they only serve 1-2 drinks per person. It is a much smaller group that drink more excessively. Most are just out to socialise with friends.

Part of the communication needed between all parties is around prevention versus reaction. There is solid evidence to show that where visible deterrent measures are taken that fights and criminal activity declines.

One-way door policy and why it doesn't work in isolation:

The one-way door policy in cities and towns in New Zealand and Australia have been discredited for not having the impact on alcohol harm as expected when introduced in isolation and in some cases for creating more problems than it resolves. The University of Waikato did an evaluation on the Whangarei one-way door policy in May 2018 and in their introduction said *"One-way door restrictions are designed to minimise disorder and crime resulting from large numbers of people on the streets by stopping patrons entering premises after a particular time. Patrons are able to remain on the premises until the closing time, but if they leave, they will not be able to re-enter, or enter another premises. The argument is that this has the potential to stagger departure times, and by deterring large numbers of people from exiting licensed premises at the same closing time to reduce the potential for disorder and crime because of the reduced number of interactions between impaired drinkers. However, it may also be argued that a one-way door restriction can increase conflict, particularly among patrons who are attempting to enter a licensed premise before the restriction time begins, as well as if departure times that were previously staggered instead concentrate at closing time."*

In fact, their study found that any reduction in serious violent offences and alcohol harm only happened when a number of strategies were implemented at the same time. This meant that they could not categorically say that the one-way door system worked or not in Whangarei as even though rates had decreased, they had introduced CitySafe Officers at the same time.

"Monitoring of the CBD our participants identified a number of changes that may have had a confounding effect on alcohol-related harm in the CBD. Although it is difficult to assess the impact of these, potentially, the most significant of these involved changes in the way the CBD is being patrolled and monitored. Prior to the policy, police patrolled the streets in the CBD without support or communication. As previously noted, as part of the implementation of the one-way door policy the Whangarei District Council hired CitySafe Officers to patrol the streets at night-time, both to act as ambassadors for the council, and to monitor the behaviour and incidents that occurred within the CBD. The CitySafe officers have radio contact with each other, the CCTV volunteers, and the police. This is believed to have improved the police response to incidents in the CBD.

*Citysafe Officers have been on patrol since the implementation of the policy, with four officers originally being employed to work on weekends from 12 a.m. to 4 a.m. Originally, they were employed for one year as a part of the implementation process, but due to the success of the officers, this has been extended. **It seems plausible to assume that both the presence of Citysafe officers and a quicker police response would enhance safety in the CBD. While we have not been able to quantify the impact (see the previous section), it is possible that these changes could have contributed to reductions in alcohol-related harms."***



To back up the theory that monitoring and an improved police presence has an impact the report went on to say *“A voluntary one-way door restriction was implemented in central Christchurch from October 2006 to March 2007 as part of the Christchurch Central Business District Alcohol Accord. This involved a one-way door policy on Thursday, Friday and Saturday nights from 4am. An evaluation by the Alcohol Advisory Council (ALAC) found the goal of a 10% reduction in alcohol-related crime and violence in the inner city was not met, but that there were reductions in some subsets of crime, such as serious violence offences on Saturday/Sunday nights (Kirkwood and Parsonage, 2008). There was also a positive impact on perceptions of safety and crime levels. The majority of licensees reported that their turnover had not been adversely affected by the policy. **However, like the Whangarei one-way door policy, the policy in Christchurch was part of a package of interventions, which included increased enforcement of the liquor ban area.***

*Several studies have evaluated one-way door policies in Australia and have shown inconsistent results in terms of the efficacy of these policies. Kypri et al. (2011) reported that the introduction of a 3 am lockout in Newcastle (NSW) reduced the incidence of assault by 37%. In a subsequent five-year follow-up on the same intervention, Kypri et al. (2014) report that the reduction in assault rates has been sustained. However, they also report that the same lockout restriction in nearby Hamilton had no effect on assault rates. **The Newcastle lockout policy was not a pure lockout intervention, in that a number of other alcohol outlet management strategies were implemented at the same time. Thus, it is difficult to attribute the effect to the lockout itself, or to identify the proportion (if any) of the reported change in assault rates in Newcastle is attributable to the lockout policy rather than the other contemporaneous policy changes.***

The concerns that the police have raised in the Local Alcohol Policy Background Report 2021 refer to a number of the same issues being experienced in the city centre that have not been curbed by the one-way door policy, however they want to continue with the same policy but bring it forward to an earlier time, because the exemplar area, the Mount, is sending too many inebriated people to the city centre in the hour in between.

- Firstly, the city centre cannot be held responsible for people coming from the Mount to the city centre and these people will be on the roads regardless. This can be policed with two checkpoints, as there are only two ways to get across the water from the Mount, which is a policing issue.
- Secondly, the report states that *“most of the reported violent crime and antisocial behaviour around licenced premises still occurs in the central city.”* (Page 34). Is this because this is also one of the most monitored areas and that the bars when seeing an incident log this with the police or TTOC— as we were all asked to do to assist in getting police response times raised? Mainstreet Tauranga feels a little aggrieved that we were asked to get our members, day and night, to report any issues, antisocial behaviour etc to police regardless of whether they respond as this would assist in having police resourcing allocated to where there is a trend or need. It now feels that this is being used against the businesses who have been doing this.

The report goes on to state that *“The Tauranga CBD, from midnight onwards has become encumbered by late night disorder often fuelled by alcohol preloading. The CBD appears to be a drawcard for groups who have been drinking in other areas to congregate...”*

- The issue here is preloading, however drinking from cars on the waterfront continues to go unabated and liquor ban areas ignored and the city centre bars are again being held



responsible for something they are not responsible for. Again, this is a monitoring and policing issue.

Page 40 of the report under On-way door restrictions states....*"The one-way door restriction set out in the LAP for on-licensed premises in the Tauranga city CBD has assisted in the reduction of alcohol related harm. The one-way door restrictions offer a simple yet effective method of lowering the risk of late night (pending premise closure) binge drinking. It also has the benefit of reducing the risk of people loitering outside licensed premises as they know they will not be admitted."*

- This is contrary to Testimonial 2 on page 37 that states that these people continue to loiter and don't dissipate *"In recent years the Tauranga CBD was affected by a 0200hrs one-way door policy. This has its obvious positive side but there is also a negative side effect of this policy. A large number of persons arrive in the Tauranga CBD after the Mount Maunganui premises close at 0100hrs and miss the 0200hrs one-way door policy. This leads to large numbers of people standing outside these premises, milling around on the road and often while intoxicated. These additional persons add to the volume of people at the 0300hrs closing time and contribute to the violence that occurs after 0300hrs."*
- Again, if these people are milling around and creating a disturbance and have not been drinking in city centre businesses then this is a police matter. City centre bars are following the rules but are now potentially being penalised for something that has occurred in another area. Ironically the area that continues to be held up as exemplar by police, according to their testimonials.

What we do know from reviews done in other cities and countries is that the one-way-door system does not work in isolation, however there are other proven solutions from these same reports that show there is a way to mitigate the unruly behaviour exhibited by these minority groups that are ruining it for everyone else.

The 'tip out' will not be mitigated, just moved, and will possibly escalate:

The problems outlined will only be shifted rather than resolved and Mainstreet Tauranga would like to reiterate that once an earlier closing time is implemented it will never be allowed to increase again hence why this is a very important decision that you, the Commissioners, are being asked to make. At the stakeholder meeting this was raised, and police advised that the times can be revisited each time the LAP is reviewed, but we all know that it is far easier to decrease times and near impossible to increase them again, so we implore the Commissioners to take their time deliberating and taking all the feedback and information into account before making a decision.

Some of the bars in the city centre already impose a 'last drinks' call half an hour before closing, they have implemented this voluntarily to assist with patrons leaving over that half hour before closing rather than all at once. They turn the lights up in their establishments to encourage patrons to leave and they have added security looking after their own establishments, and assisting each other, and watching the streets keeping an eye on mingling people.

Moving the time to an hour earlier is still going to have the same 'tip out' affect at closing time. The difference the police say is that they will be less inebriated due to an hour less drinking, but provide no evidence to support this, apart from a comparison to the Mount who has the earlier closing time. However, it is also claimed by the police that Mount patrons come over to the city centre to cause



problems. This would indicate that under the proposed changes rather than them dispersing from the Mount they will linger with nowhere else to go, potentially now creating two hotspots for police to control, further putting police resources under strain.

There is a potential for problems to escalate further, just at an earlier time, as the problem of preloading is still not being addressed. This will leave people out on the street at an earlier time where they don't want to go home because it is too early, creating a potential for even greater escalation criminal activity on the street and in greater numbers. We think it is naïve to think that they will just disperse and go home.

The real issues and solutions

We have met with the licensees and if we avoid over analysis of statistics, which we believe are flawed as provided, we view the key issues and solutions as follows:

1. **Lack of Communication** – There has been a glaring disconnect in comms between the Police, the Licensing Authority ("Council") and the licensees.
 - Feedback from the licensees is that there has been no programmed contact from the Police since 2020
 - The existing regime is solely reactive and punitive with the only real feedback given to and liaison made with the licensees when their licences are up for review as that is when the Police and Council have leverage.
 - The request for feedback from the licensees was issued by email on 22/7/21 with the subject 'Local Alcohol Policy for Review'. This provided no guidance as to what was being considered and no supporting background information, other than to state the current regulations with feedback requested by 30/7/21 per 'we welcome your insights and feedback. Please can you send any comments by 30/7/21). This should have been workshopped.
 - **Solution** – hold a scheduled monthly meeting between the Police, Council and the licensees to discuss issues experienced in the preceding month and to find solutions. There should be an element of forward looking as to what events are coming up, what associated challenges are likely to be and how they can be dealt with. Apart from specific events there is definitely a seasonal focus required as the industry moves into the summer months.
2. **Policing of Alcohol Free Zones** – it is recognised by all parties that pre-loading is a universal problem. This pre-loading can occur not only before patrons enter bars, but also during the opening hours as to safe cost patrons can temporarily exit the bars and gravitate to vehicles to drink before returning to the bars. This is being largely ignored by Police and presumably due to lack of resourcing. Bars cannot be held responsible for patrons pre-loading outside of their premises. Alcohol-free zones need to be policed, including enforcement.
3. **Proactive Police Resourcing** – At this stage, bars see problems about to arise and deal with those with their own security staff. Bars generally have a greater presence of security staff than just 'doormen'.
 - Due to lack of resourcing and presence, the Police are reactive and wait for issues to arise and feedback is that they are often slow to react due to a lack of resourcing and, we understand that there is a conflict between Police shift changeovers at the peak time that any issues are likely to be experienced in the CBD.



- **Solutions** – Police ‘feet on the street’ is the best deterrent to bad behaviour. Increase Police resourcing for the CBD so that there is a continual physical presence of Police circulating in the CBD between the hours of say 1am and 4am. A further solution that has been successful elsewhere is the use of CitySafe Ambassadors to circulate during those times also.
- 4. **The Policing of the Homeless/Derelicts** – these people cause major issues and especially around the Masonic Park area. This is the major issue that the licensee of Miss Gee’s that fronts onto Masonic Park, Ashleigh Gee experiences.
- 5. **CBD Amenity Solutions** – it has been proven that problems more often occur in locations with low light and Council has a fantastic opportunity to install feature lighting across the core CBD area such as up-lighting in trees to both improve the ambience of the CBD in the night-time and reduce locations where people can cause trouble and or avoid being seen pre-loading.

Summary:

At a time where the city centre is finally getting the investment and attention that it deserves the proposed changes to the LAP will significantly hamper the city centre from expanding its nightlife appeal. A city of Tauranga’s size should have a bustling nightlife and the more bustling it is the safer it will become. We believe that improving the amenities and having visual monitoring on the ground will be far more impactful and get results rather than simply reducing trading times and moving the problem.

The proposed changes to the LAP as they stand are a default mechanism rather than one of true benefit. We ask the commissioners to reject the proposed changes and keep the status quo. Then allow all parties to work together to look at ways that will actually make a difference.

We also ask the commissioners if they would consider helping with a fund for the city centre for improved lighting on The Strand and side streets to the parking buildings and for a trial of night-time guardians/ambassadors, to really make a difference to safety in the city centre.

Mainstreet Tauranga asks to be able to speak to our submission in front of the commissioners as we strongly feel that further work needs to be done in this area before any final decisions are made to decrease trading hours in the city centre.

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| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|------------------|---------------------|---|----------------|---|----------------|--|----------------|---------------------------------|
| 151 | Dr Nicki Jackson | Alcohol Healthwatch | Strongly agree | See submission | Strongly agree | | Somewhat agree | See submission | See submission |



151

Submission on the Tauranga City Council Draft Local Alcohol Policy**December 20, 2021**

Alcohol Healthwatch is an independent charitable trust working to reduce alcohol-related harm. We are contracted by the Ministry of Health to provide a range of regional and national health promotion services. These include: providing evidence-based information and advice on policy and planning matters; coordinating networks and projects to address alcohol-related harms, such as alcohol-related injury and fetal alcohol spectrum disorder; and coordinating or otherwise supporting community action projects.

Thank you for the opportunity to provide feedback on the Tauranga City Council Draft Local Alcohol Policy.

We would like the opportunity to speak to our submission.

If you have any questions on the comments we have included in our submission, please contact:

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Summary of issue and recommendations

Overall

- restricting the local availability of alcohol is a pro-equity, evidence-based intervention to reduce the level of, and inequities in, alcohol harm in the Tauranga City region
- **recommend** Council advocate to Government for a wide review of the Sale and Supply of Alcohol Act 2012, recommending implementation of evidence-based policies that address low alcohol prices, high availability and pervasive alcohol advertising and sponsorship
- **recommend** Council work closely with the DHB to encourage collection of alcohol-related Emergency Department data
- **recommend** that the opening and closing hours for each licence type be listed as separate elements in the LAP

Off-licence provisions

- **do not support** the off-licence closing hour of 10pm, recommend 9pm
- **do not support** the proposed off-licence opening hour of 7am, recommend 10am
- **do not support** the lack of provisions to restrict the growth of off-licences in the City
- **recommend** Council impose a cap on bottle store numbers in areas of high deprivation (deprivation deciles 8-10)
- **recommend** Council additionally consider a cap on bottle store numbers across the entire City (using numbers at the time of policy adoption, or specifying the maximum number/upper limit that will be permitted)
- **recommend** the inclusion of discretionary conditions relating to off-licences – especially relating to advertising and signage, single sales, and types of product sold
- **if a region-wide cap is not adopted, recommend** that consideration be given to decisions on new licences intending to locate within at least 100m of sensitive sites
- **recommend** measures are put in place to ensure that Council is aware of all premises in the district selling alcohol online, to allow effective monitoring and compliance activities

On-licence provisions

- **support** the on-licence trading hours for premises outside the Tauranga City Centre
- **support** the reduction in on-licence trading hours, to 9am to 2am for premises in the City Centre
- **support** the earlier one-way door policy, commencing at 1am
- **support** the discretionary conditions for on-licences

Club licence provisions

- **do not support** the closing trading hours for clubs in all locations, recommend 12am
- **support** the discretionary conditions for club licences

Special licence provisions

- **recommend** the LAP specify maximum trading hours for special licences, preferably no later than 3am
- **support** the discretionary conditions for special licences
- **recommend** a discretionary condition for events with over 1000 attendees (or as otherwise considered appropriate) that requires an Event Alcohol Risk Management Plan
- **recommend** the LAP include provisions that protect children in the region, by not allowing special licences to be granted for child-focussed events

Introduction

1. Firstly, Alcohol Healthwatch commends the Tauranga City Council on their commitment to review their Local Alcohol Policy (LAP).
2. We wish to acknowledge the efforts of the policy team, Council members and stakeholders in reviewing the LAP on behalf of their community. We further acknowledge the effort and expertise that Council officers and alcohol harm reduction partners have put into preparing the Local Alcohol Policy Background Report¹ to inform the review of the LAP.
3. We strongly believe that a LAP is a package of measures which, when used comprehensively, can significantly minimise rates of hazardous drinking and subsequent alcohol-related harm. For this reason, we recommend that the LAP is considered not just as a collection of isolated elements but as a cohesive package to reduce alcohol-related harm, insofar as can be achieved with measures relating to licensing.
4. A LAP which has the effect of reducing the overall availability of alcohol has significant potential to further minimise alcohol-related harm and improve community well-being. Measures that reduce accessibility and availability of alcohol have particular benefits for those who experience significant inequities in harm (i.e. Māori and those socio-economically disadvantaged). To date, alcohol outlets in New Zealand have been inequitably distributed to the most deprived neighbourhoods and the unequal harms from this must be addressed.
5. By incorporating evidence-based measures to address both the physical and temporal availability of alcohol, a LAP can support other harm reduction interventions in the local area and assist in sending a strong signal to communities regarding the harms associated with alcohol use.
6. The content of a LAP must be determined on its ability to contribute to achieving the object (section 4) of the Sale and Supply of Alcohol Act 2012,² that being:
 - (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.*

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).*
7. Therefore, a LAP must seek to do two things: Firstly, it needs to **minimise** alcohol-related harm in Tauranga City. Secondly, it needs to **prevent** further alcohol-related harm from happening (where able). Given alcohol is, by far, the most harmful of all drugs available in society,^{3,4} residents deserve the strongest protections available from its range of harms.
8. We note that a study published this year found no significant changes in crime following the adoption of local alcohol policies in New Zealand.⁵ The authors note that the failure to identify significant reductions in crime may partly reflect the lack of meaningful reductions

in trading hours, as many Territorial Authorities explicitly acknowledged that their LAP trading hours reflected actual trading hours at the time of policy adoption. This meant that, in many Territorial Authorities, the majority of on-licences were unaffected by the adopted trading hours in the LAP.

9. Local Government has a mandated role to promote the social, economic, environmental, and cultural well-being of their communities. Inequities in harm from alcohol will significantly reduce wellbeing for current and future generations, and must be urgently addressed. In particular, the council must consider the burden of alcohol-related harm on Māori. Māori are significantly more likely to drink hazardously than non-Māori,⁶ and experience higher levels of both acute and chronic health harm from alcohol.^{7,8} Research on premature deaths and disability attributable to alcohol has shown that alcohol-related mortality in Māori was double that of non-Māori in 2007.⁹ This is especially relevant to Tauranga City, which has a slightly higher proportion of Māori residents (18.2%) than New Zealand as a whole (16.5%). The LAP Background Research Report notes that there is a projected increase in the proportion of Māori residents within Tauranga City.
10. Young Māori males (15-24 years) have been shown to have disproportionately higher risks of hazardous drinking from living close to licensed outlets¹⁰ and tamariki Māori have at least five times the exposure to alcohol advertising compared to European/other children, with a significant proportion of this exposure arising from shop-front advertising and signage.¹¹
11. Alcohol Healthwatch **supports** Councils around the country to develop wider alcohol harm reduction strategies that extend beyond licensing issues covered in a LAP. We further recommend Councils contribute to discussions on alcohol legislation at a national level with a view to influencing alcohol consumption and related harms at a local level. While **alcohol remains more affordable than ever before**¹², it is a hard ask for Territorial Authorities to create a paradigm shift in the local drinking culture. Councils must advocate for evidence-based law change to **address the low price of alcohol, its high availability and pervasive marketing**.
12. As the Minister of Justice has announced a review into New Zealand's liquor laws, to be scoped this Parliamentary term, it is especially important that the voice of local government is heard. We encourage all local governments to write to the Minister outlining their experiences with upholding community wishes for greater control of alcohol availability (e.g. through licence application processes and/or LAP adoption and appeal processes). We commend the recent letter to the Minister co-signed and sent by the Mayor of Whanganui District Council on the challenges they have faced upholding community wishes through licensing decisions and LAP processes.

Importance of community input into the LAP

13. As stated above, the priority objective of the Sale and Supply of Alcohol Act 2012 is to "improve community input into local alcohol licensing decisions".
14. LAPs were intended as a method for communities to have a greater say on local alcohol availability. This is emphasised in the Court of Appeal decision ([2021] NZCA 484) in relation to Auckland Council's Provisional Local Alcohol Policy:

[32] The second and more general point is that revealed community preference has an important role to play under the Act. That is shown by provision for local alcohol policies, the extent to which it is permissible for such policies to govern the supply of alcohol, and delegation of decision-making to territorial authorities. As Mr McNamara submitted for the

Council, a local alcohol policy is a means by which communities can implement, through participatory processes, some of their own policies on alcohol-related matters in their districts. Because those policies are the product of a process designed to discover and implement a community preference, they need not be evidence-based. If an objectively unreasonable preference finds its way into a proposed local alcohol policy, the remedy lies in an appeal to ARLA.

15. The Health and Wellbeing Population Survey 2020 clearly demonstrates support among Bay of Plenty residents for restrictions to the availability of alcohol.¹³
16. We are **strongly concerned** that the proposed LAP does not sufficiently address community concerns around local alcohol availability.

Local Alcohol Policies within the context of a global health pandemic (COVID-19)

17. It is clear that the global pandemic has had an immediate impact on alcohol consumption in New Zealand, and that it represents a picture of both good news and bad news.
18. Health Promotion Agency research¹⁴ found that **19%** of New Zealanders (who had consumed alcohol in the past four weeks) reported **increasing their alcohol use** during Level 4 lockdown in April 2020, when compared to consumption patterns pre-lockdown. Almost one-half of drinkers (47%) had consumed the usual amount, and **34% had consumed less** (Figure 1). Although these findings are from a national study, we see no reason why they may not apply to residents in the Tauranga City area.
19. Post lockdown in July 2020, the proportion of drinkers that had increased their consumption reduced from 19% in Level 4 to 14% in Level 1, while the proportion drinking less reduced from 34% to 22% (Figure 1).

Of those who reported drinking in the last four weeks:

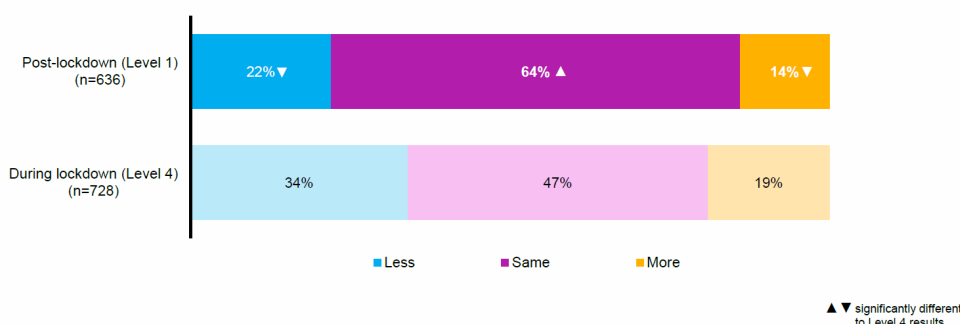


Figure 1. Changes in drinking during Level 4 lockdown and Level 1 of the COVID-19 pandemic.

20. When looking at changes in the average amount of alcohol consumed per week during Level 4 lockdown, results show an increase (from 12.82 standard drinks per week pre-lockdown to 14.09 drinks during Level 4). This reduced to 13.47 drinks per week in Level 1. This finding points towards the reduced intake by many New Zealanders not offsetting the increased volume of alcohol consumed by those who increased their consumption. It is likely that heavy drinkers were the drinkers who consumed more, whilst it was low-risk drinkers that consumed less.

21. It is imperative that we do everything we can to support New Zealanders who have maintained lower levels of drinking during, and after, Level 4 lockdown. This is the 'good news' of alcohol use during the global pandemic.
22. Findings by ethnicity show that 22% of Māori drinkers increased their consumption in Level 4 lockdown, when compared to pre-lockdown. This **prevalence did not decrease** following the cease of Level 4 lockdown, with 22% reporting higher consumption in Level 1 when compared to pre-lockdown (Figure 2). This has important implications for minimising alcohol harm among Māori in the Tauranga City area and upholding Treaty obligations to promote and protect the health of Māori.
23. Among Pasifika drinkers, the proportion that increased their consumption had halved at Level 1, from 20% in Level 4 lockdown to 10% in Level 1.¹⁴ Therefore, there remain significant inequities by ethnicity in post-lockdown drinking.

Of those who reported drinking in the last four weeks:

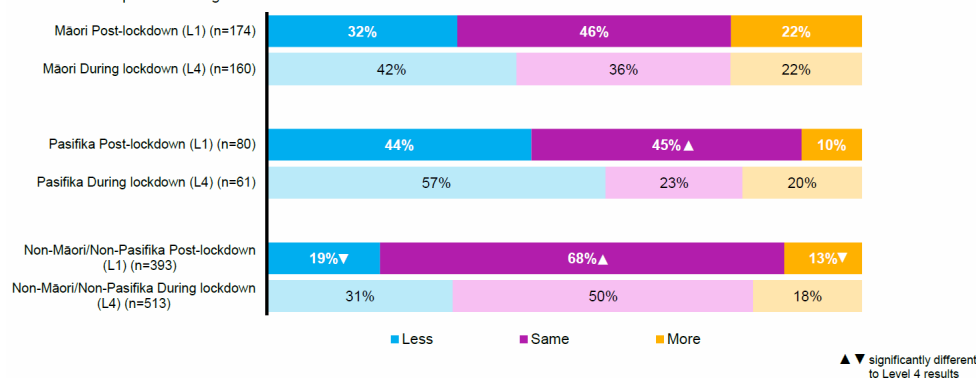


Figure 2. Changes in drinking during Level 4 lockdown and Level 1 of the COVID-19 pandemic, by ethnicity.

24. Age differences in drinking during and post-lockdown were striking. It is clear that a higher proportion of 18-24 year olds reduced their consumption during Level 4 lockdown, when compared to other age groups. However, as Figure 3 shows, the proportion of young adults that increased their consumption did not change between Level 4 lockdown (19%) and Level 1 (23%).¹⁴

Of those who reported drinking in the last four weeks:

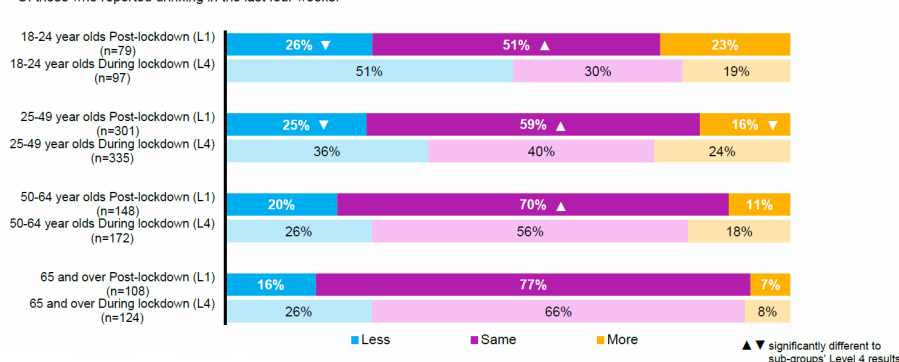


Figure 3. Changes in drinking during Level 4 lockdown and Level 1 of the COVID-19 pandemic, by age group.

25. Across all study participants, reasons given for drinking more included: 1) It helps me relax/switch off, 2) I have been feeling stressed out/anxious, and 3) I have been bored.¹⁴
26. Reasons given for drinking less included: 1) haven't been able to, or haven't wanted to, socialise as much or go out/visit the pub etc., 2) money/cost, 3) haven't wanted to go out and buy alcohol, 4) physical health reasons (e.g. weight, health condition, to be healthier), and 5) the lockdown period was a good time to reduce how much I drink and I want to continue drinking less.¹⁴
27. We suggest that the context of the global pandemic warrants additional considerations in relation to alcohol licensing decisions and local alcohol policy development and review. A LAP can play a significant role in minimising alcohol harm, particularly among those who have increased their consumption during the pandemic.
28. Previous public health and economic crises inform the predictions of alcohol use going forward. Researchers propose that the COVID-19 pandemic will influence consumption via two main pathways:¹⁵
 - (a) *increase consumption*: due to psychological distress triggered by financial difficulties, social isolation and uncertainty about the future
 - (b) *reduce consumption*: due to income reductions from unemployment and reduced working hours leading to tighter budgets.
29. It is suggested that some impacts will be immediate, whilst others will occur over a longer time period.¹⁵ The longer term impacts of the pandemic are believed to include a normalisation of home drinking, reinforcing or introducing drinking as a way to self-medicate symptoms of stress, anxiety, and boredom and increased prevalence of alcohol dependence.^{16–19}
30. Many people will use alcohol to cope with the on-going impacts of the pandemic. Research shows that individuals who drink for coping reasons are at a heightened risk of developing problems with alcohol.²⁰ Depression and anxiety have been found to be associated with drinking to cope.²⁰
31. A cross-sectional study in Australia found that depression and anxiety were associated with increased alcohol consumption during the first few months of COVID-19 pandemic.^{21,22}
32. Factors such as unemployment and time spent unemployed may also play a role in increased alcohol harm, in addition to redundancies and job losses leading to increased workloads for others and reduced workplace morale.²³
33. Alcohol use has always played a role in New Zealand's reduced productivity and levels of unemployment, and is inversely related to economic growth. At a time when New Zealand needs full employment and maximum productivity, we need to take alcohol control measures that effectively reduce harm. Persons trapped in the mire of unemployment and debt are likely to have heightened vulnerability to developing new, or exacerbating existing, alcohol and related problems.²³
34. Increases in alcohol use are likely to lead to a long-term increase in newly diagnosed patients with alcohol use disorders.²⁴
35. At a time when New Zealanders are also likely to feel anxious, stressed and vulnerable, efforts should encourage measures that limit alcohol, not facilitate it.²⁵ The World Health

Organisation advises that restrictions on access to alcohol should be upheld or even reinforced during the pandemic.²⁶

36. We propose that the effects of the pandemic will cast a shadow over the entire period that the reviewed Tauranga City LAP is in force. The LAP has the potential to minimise any additional alcohol harm created by the pandemic, and thus improve community well-being.
37. A particular issue in New Zealand has been the expansion of bottle stores selling alcohol online. It has been argued that, in Australia, the licensing system has not kept pace with the changes in the market, and that online sales operate under much lower levels of scrutiny than the traditional bricks and mortar store.²⁷
38. In New Zealand, we witnessed an overnight increase in bottle stores selling online during Level 4. However, there remains a lack of knowledge regarding who is selling online as off-licences have the default ability to sell in a physical shop as well as online. Compliance is therefore challenging, as there appears to be no list of online sellers (apart from those with a S40 remote sales only licence).
39. We **recommend** measures are put in place to ensure that Council is aware of all premises in the district selling online, so that monitoring and compliance activities can be effectively carried out.
40. Certainly, alcohol use places a major burden on health care.²⁸ Reducing the harm from alcohol will reduce any future burden on the health services.
41. In relation to the COVID-19 illness, alcohol is an immunosuppressant and increases acute respiratory distress syndrome via multiple pathways.^{29,30} Alcohol use disorders need to be considered as a predictor for COVID-19 disease severity and Intensive Care Unit admission.²⁹

Prevalence of health harms from alcohol in the Tauranga City area

42. The LAP Research Report clearly outlines the patterns of alcohol use and prevalence of harm in the City.
43. In general, there appears to be an admission rate for wholly alcohol-attributable conditions among residents of the Tauranga City that is higher than the national average (Figure 4).

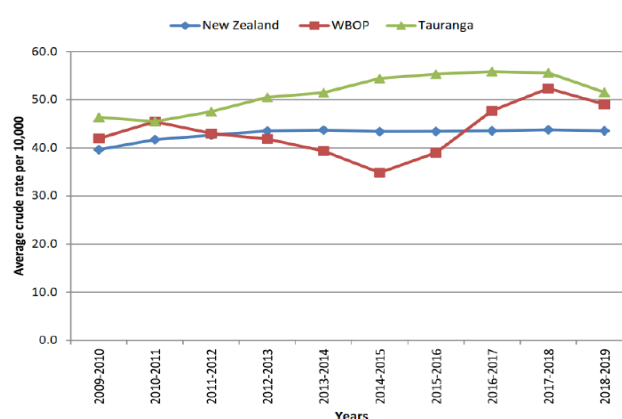


Figure 4. Crude rate of admissions to hospital for conditions wholly attributable to alcohol, 2009-2019.

44. Similarly, the level of chronic harm from alcohol appears to be higher than the national average (Figure 5). Note that these are crude rates, unadjusted for demographic differences between populations.

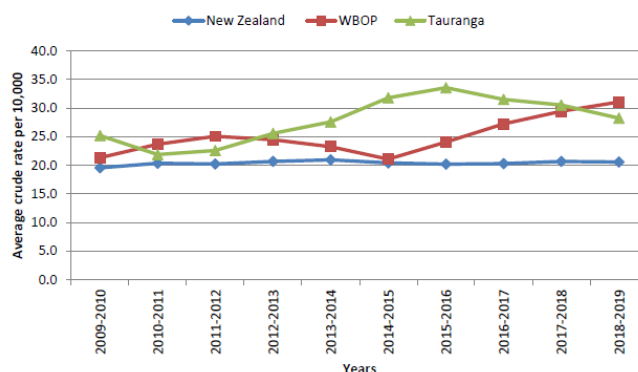


Figure 5. Crude rates of admissions to hospital for people with chronic conditions wholly attributable to alcohol use.

45. It is important to note that the data masks differences by age, ethnicity, sex and level of socio-economic deprivation. Therefore, it does not show the trends for groups that are experiencing disproportionately more harm.
46. Alcohol Healthwatch believes that no Council nor community is immune from alcohol harm. The national average represents a high level of harm across the country and so any comparisons need to take that into consideration.

Off-licences

47. Off-licences sell approximately 75% of all alcohol in New Zealand (43% from bottle stores, 32% from supermarkets).³¹ This means that the majority of alcohol is purchased (often cheaply) and consumed in situations where there may be little control or supervision, such as private homes or public places.
48. A minority of the alcohol sold is consumed at on-licence premises or at licensed events, where there must be supervision, control and an expectation of host responsibility.
49. New Zealand research³² shows that 73% of all very heavy drinking occasions occurs in private homes. Around one in every ten heavy drinking occasions occurs in bars.
50. The closure of hospitality businesses during COVID-19 lockdowns has meant that off-licence availability became the main supply of alcohol to communities.
51. As such, evidence-based strategies to minimise the harm from off-licence availability are essential and desirable, and can make a meaningful difference to the well-being of local residents. Restrictions to availability are also pro-equity, given the unequal distribution of off-licences to the most deprived areas.
52. The Background Research Report shows that alcohol is involved in a significant proportion of offending in Tauranga.

Trading hours - closing

53. Alcohol Healthwatch **does not support** the continuation of the off-licence closing hour of 10pm. We **recommend** 9pm as the maximum trading hour for off-licence alcohol sales.

54. The Court of Appeal decision ([2021] NZCA 484) in relation to Auckland Council's Provisional Local Alcohol Policy stated that there was no onus on Authorities to justify departure from the national default hours:
- [32] So far as trading hours are concerned, ss 43–45 establish no presumption in favour of the default hours and nothing in them requires that a local authority justify departure from those hours. The default hours are merely those that apply if a territorial authority has chosen not to establish a local alcohol policy.
55. The decision by the Alcohol Regulatory and Licensing Authority (ARLA) on Auckland Council's Provisional Local Alcohol Policy ([2017] NZARLA PH 247-254), the Authority did not consider that the closing hour restriction of 9pm was unreasonable in light of the object of the Act (see paragraph 146).³³
56. New Zealand research has shown that the purchase of alcohol from an off-licence premise after 10pm was approximately twice as likely to be made by heavier drinkers.³⁴
57. New Zealand research published this year demonstrated the positive impacts of reduced trading hours on young people.³⁵ The introduction of the default maximum trading hours in New Zealand in 2013, which saw all bars and clubs close at 4am and no off-licence alcohol sales after 11pm, was found to be associated with a reduction in the number of assault-related hospitalisations by 11%. The decline was the largest among 15 to 29-year-olds (who made up more than half of those hospitalised), at 18%. There was also a reduction in the number of night-time assaults coming to Police attention.
58. While these results point to the role of very late trading hours on alcohol-related harm, we agree with the authors of the study who suggest that further reductions in trading hours could provide many benefits.
59. In Switzerland, the province of Geneva reduced their off-licence trading hours from 24 hours per day to 7.00am to 9.00pm, and also prohibited the sale of alcohol from petrol stations and video stores. An examination of the effect of the policy change to reduce the availability of alcohol demonstrated that it led to an estimated reduction in the rate of hospitalisation due to intoxication by 35.7% among 10-15 year olds, and a 24.6% reduction in 16-19 year olds.³⁶
60. In the Swiss province of Vaud, the capital city of Lausanne reduced the trading hours for all shops (including liquor shops) such that they had to be closed between 8pm on Friday and Saturday and 6am the next morning. Two years later, the hours were reduced across the whole province with restaurants and off-licences selling beer and spirits (but not wine) being required to close between 9pm and 6am every night of the week. However, the shops in the city of Lausanne were still required to close at 8pm. An analysis of its effects found reduced hospitalisations for alcohol intoxication (by 29%) across all age groups in Lausanne. Again, the greatest reduction was found among those aged 16-19 years (56.4%), monotonically decreasing with age. However, as the absolute number of admissions for alcohol intoxication were higher in adulthood than adolescence, the estimated change in number of cases was also relevant to public health among 20–69-year-olds.³⁷
61. In a province of Germany, trading hours for off-licences were reduced from 24 hours per day to 5am to 10pm. When compared to the control provinces, the policy resulted in 7% fewer hospitalisations for intoxication among adolescents aged 15-19 years.³⁸
62. Given the evidence that sales restrictions in the evening are associated with reduced heavy drinking and adverse consequences (especially among young people), Alcohol

Healthwatch **strongly recommends** a closing hour of 9pm being implemented across the City and actively monitored.

63. Alcohol Healthwatch **recommends** that the opening and closing hours be listed as separate elements in the LAP. We believe this approach to trading hours in LAPs reduces the potential for appeals to the entire element, although this remains to be tested in the legal appeals.

Trading hours - opening

64. Alcohol Healthwatch **does not support** the proposed off-licence opening hour of 7am.
65. In regards to the early opening hour of 7am, we believe it is not unreasonable to require an off-licence premises to open after 10am.
66. Core hours for bottle stores and supermarkets in Scotland include an opening hour of 10am,³⁹ and although our average consumption is less than the Scots, we see no reason why a similar approach could not be adopted here.
67. Research in Russia showed that the introduction of later opening hours was associated with reduced alcohol use, but that the magnitude of the effects of restricting the closer hour was 3.5-4 times stronger than the effects of later opening hours.⁴⁰ Unfortunately, there is a lack of New Zealand research on off-licence opening hours and harm.
68. The purpose of the LAP is to minimise harm; one of the ways this can be addressed is through reducing the exposure of alcohol (and its advertising) to children on their journey from home to school.
69. Research has documented the association between exposure to alcohol advertising around schools and intentions to use alcohol among very young adolescents.⁴¹ Exposure to in-store displays of alcohol may also predict an increased probability of drinking.⁴² Existing and new outlets will pose a risk in relation to exposure to alcohol advertising.
70. Protecting the current generation (particularly vulnerable groups such as children) from harm can greatly assist in minimising future harm from alcohol use in the communities of Tauranga City.
71. Furthermore, a later opening hour will restrict the accessibility of alcohol to those with an alcohol dependence. Social service providers in New Zealand have previously described to us the negative impact of early opening hours on persons with alcohol dependence.
72. Alcohol Healthwatch believes that there are many more positive benefits accrued from a later opening hour when compared to any loss of profits from the off-licence sector. Furthermore, economic imperatives regarding the chosen elements included in a LAP (e.g. justifying early opening hours using economic reasons) are not permitted.⁴³ Rather, minimising harm, and reflecting community views should be what determines the shape of a LAP.
73. It is important to note that 71.6% of persons surveyed in the Bay of Plenty District Health Board region in 2020 believed that 10am or later was a suitable opening time for bottle stores and supermarkets to start selling alcohol.¹³

Issue of new licences

74. Alcohol Healthwatch **does not support** the lack of restrictions for off-licence availability in the proposed LAP.

75. We note in the Background Research Report that the number of off-licences has grown by 19%, slightly higher than population growth since 2015 (16%).
76. Research in Manukau, Auckland, found that areas with a higher density of off-licences had lower alcohol prices, longer operating hours, and later weekend closing times.⁴⁴ These factors are strongly associated with alcohol harm.
77. Further, there is an accumulating body of international evidence showing that off-licences are associated with greater levels of harm in deprived areas compared to least deprived areas.⁴⁵⁻⁴⁹ Although two New Zealand studies did not find this relationship.^{50,51} Research also shows that low income drinkers experience more harm per litre of alcohol consumed, when compared to higher income drinkers with the same level of drinking.⁵²
78. As noted in the Research Report, there are 81 off-licences in the Council region. Having obtained the raw data, there appears to be duplication of two records (one a bottle store, one a grocery store). Of the 79 off-licences, 39 (49%) are bottle stores, 29 are licensed grocery/supermarkets, 7 are tavern off-licences, and 4 are club or other off-licences.
79. Having assigned the deprivation decile (at the SA1 small area level) to each off-licence, it appears that 15 (38%) of the 39 bottle stores are located in areas with a deprivation decile 8-10. The distribution of off-licences by deprivation is shown in Figure 6, with a greater proportion in the top 40% of deprived neighbourhoods versus the 40% of least deprived. It is important to note that a further 5 bottle stores are located in very close proximity (e.g. across the road or very nearby) to decile 8-10 neighbourhoods.

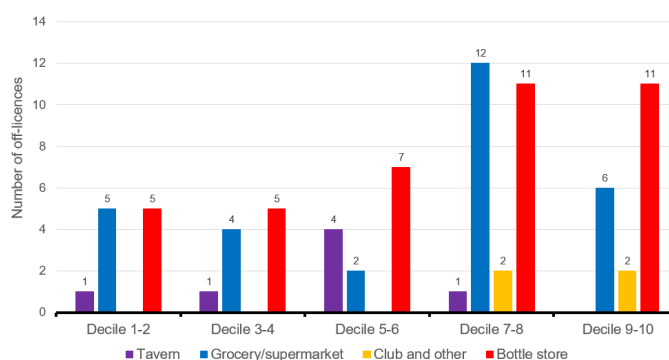


Figure 6. Distribution of off-licences in Tauranga City, by deprivation decile (SA1 level).

80. The relationship with deprivation at SA2 level (a larger geographic area akin to a neighbourhood) is less pronounced, but still shows a higher proportion of off-licences in the top 40% of deprived neighbourhoods (Figure 7).

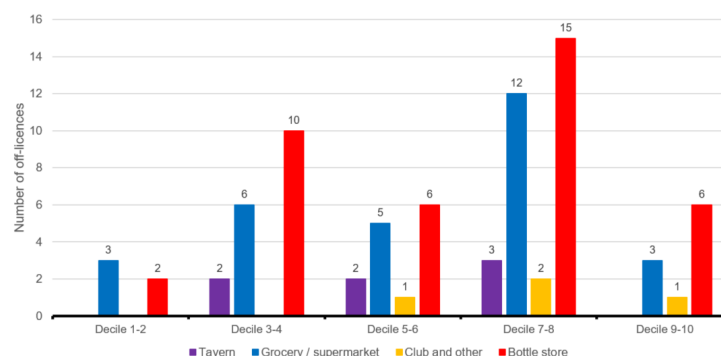


Figure 7. Distribution of off-licences in Tauranga City, by deprivation decile (SA2 level).

81. The importance of restrictions to off-licence availability of alcohol are underpinned by a number of New Zealand studies demonstrating a significant association between off-licence density and a range of alcohol-related harms.^{50,51,53-55}
82. As described previously, Māori and Pacific young males (15-24 years) have been found to be more negatively impacted by living close to alcohol outlets (note: on-licence and off-licence types combined).¹⁰
83. For the above reasons, Alcohol Healthwatch **recommends** consideration is given to imposing a cap on bottle stores in high deprivation suburbs (deciles 8-10 of the New Zealand Index of Deprivation) of Tauranga City.
84. As an example, Hutt Valley City Council Local Alcohol Policy⁵⁶ specifies the number of off-licences permitted in Naenae, Stokes Valley, Taita, Avalon, Hutt Central and Wainuiomata.
85. Alcohol Healthwatch further **suggests** that the current provision of bottle stores in the City is likely to be sufficient to cater for population growth. For this reason, we suggest that a cap on bottle stores (i.e. the number at the time the LAP is adopted) is placed across the entire City, as occurs in the Whanganui and Wairoa District Local Alcohol Policies.
86. Alternatively, the total number of bottle stores permitted in Tauranga City for the duration of the LAP, could be stated. This would set the maximum limit for bottle store numbers, whilst still providing high deprivation areas a freeze on no new bottle stores for the duration of the LAP.

Discretionary conditions

87. Alcohol Healthwatch **recommends** the inclusion of discretionary conditions relating to off-licences in the LAP.
88. It is recognised that New Zealand's liquor laws already provide for licensing committees to include conditions on a licence on a case-by-case basis.
89. However, we believe that the inclusion of discretionary conditions in a LAP can provide transparency to both the licence applicant and the community as to expectations around the sale of alcohol. Conditions are especially important when outlets are located in vulnerable areas and/or near sensitive sites such as schools.'

a) Discretionary conditions to restrict advertising and signage

90. In the 2020 Population Health and Wellbeing Survey, 59.5% of Bay of Plenty DHB residents supported restrictions to alcohol advertising and sponsorship.¹³
91. Alcohol Healthwatch **recommends** including a discretionary condition to control the amount of alcohol advertising that is visible within 500m from schools and early childhood facilities.
92. This year, ARLA issued the following signage and advertising conditions on an off-licence that was within 500m of a primary school and pre-school and nursery ([2021] NZARLA 123):
- (i) Signage shall be limited to displaying the store name and logo on the existing roof display.
 - (ii) No bright colours shall be used in the external decoration of the premises.
 - (iii) No specific product or price specials shall be displayed externally.
 - (iv) No external advertising shall be displayed by way of flags or sandwich boards outside the store.
93. From November 12, 2019, Ireland no longer permits alcohol advertising within 200m of schools, crèches, or council playgrounds.⁵⁷ The Tauranga City Council could follow the leadership shown in Ireland and require (in the local alcohol policy) a similar provision to apply to licensed premises.
94. Harm from signage and advertising also extends to Tauranga City residents with alcohol use disorders. Research shows that heavy or problem drinkers can be more responsive to alcohol advertising and imagery (particularly of their favourite drink), placing them at risk of triggering alcohol use in relapse and maintaining alcohol dependence.^{58,59}
95. It is suggested that reducing alcohol cues in outdoor advertisements (especially scenes showing drinking and/or alcohol products) could potentially reduce the occurrence of episodes of acute craving and cue reactivity in persons with alcohol dependence.⁵⁹
96. Further, the Law Commission noted³¹ that the pervasiveness of alcohol signs and advertising at liquor stores is likely to have a negative impact on community well-being. They stated that large obtrusive alcohol price advertisements and product branding on shop fronts, adjoining walls and sandwich boards is, in part, due to the pressure to compete with other liquor stores in a local community. They considered that the presence of this advertising can significantly lower the aesthetic value of an area, which in turn has flow-on effects for the community in terms of reduced amenity values and community welfare.

b) Discretionary conditions to restrict single sales

97. Alcohol Healthwatch **recommends** discretionary conditions in the LAP that restrict the sale of single alcoholic beverages (known as single sales). Restrictions on single sales can greatly assist compliance with liquor bans throughout the region and may reduce pre-loading or side-loading surrounding licensed premises.
98. International research has documented the association between single sales and alcohol-related violence and crime.⁶⁰ Furthermore, an intervention to reduce single sales was found to reduce rates of alcohol-related ambulance attendances among 15 to 24 year olds.⁶¹
99. Single units of alcohol are likely to be favoured by those who are heavy drinkers and also price sensitive; namely adolescents and young adults, and those with an alcohol

dependence. Many off-licences include conditions prohibiting single sales. For example, the Auckland District Licensing Committee⁶² imposed a condition on a licence that no single sales of:

- i. Beer or ready to drink spirits (RTDs) in bottles, cans, or containers of less than 440mls in volume may occur except for craft beer; and*
- ii. Shots or pre mixed shots.*

100. Again, the ARLA decision in the case of a bottle store in Pleasant Point ([2021] NZARLA 123), the following condition on single sales was imposed:

[157] No single sales of beer, cider, or RTDs priced at, or less than, \$6.00 per unit are to be sold.

101. The adopted Whanganui District Council Local Alcohol Policy has the following single sales condition:

The licensee must not break down the retail packaging of packages containing less than 445ml units of beer, cider or RTDs for sale from the licensed premises, except where the retail packaging of those alcohol products has been accidentally damaged and in which case the licensee may re-package those alcohol products for sale in packages containing no less than 4 units.

102. We see no reason why this provision cannot be included as a discretionary condition within the draft Local Alcohol Policy.

c) Discretionary conditions that relate to the type of product sold and/or its price

103. Alcohol Healthwatch **suggests** that discretionary conditions that relate to type of product and/or its price should be considered.

104. In a recent decision by the Auckland DLC regarding a new off-licence, the DLC outlined conditions (see paragraph 136)⁶³ around RTDs, pricing, and advertising.

- (h) *No sales of:*
RTDs 7% abv or above
No RTDs over 500ml
Shots
Light spirits (being spirits under 14% ABV)
Single sales from packs
Cask wine
- (i) *RTD pricing as follows:*
No RTD 4 pack below \$12.99
No RTD 6 pack below \$16.99
No RTD 10 or 12 pack below \$26.99
No RTD 18 pack below \$36.99
- (j) *External advertising on the front window is limited to a maximum of 25% and the name/brand of the store.*
- (k) *There will be no advertising of alcohol products or brands outside the premises (apart from the trading name of the premises), such as (but not limited to) sandwich boards, billboards, flags, or similar forms of advertising.*

(l) *There will be no floor displays inside the premises.*

105. Discretionary conditions that relate to the type of product sold and/or its price should be considered by the Tauranga City Council.

Sensitive sites

106. Should a suburb-based or City-wide cap on off-licences not be supported by Council, Alcohol Healthwatch **does not support** the lack of protections in the proposed LAP that are provided in section 77(1(b)) of the Sale and Supply of Alcohol Act 2012 ("location of licensed premises by reference to proximity to premises of a particular kind or kinds").
107. Alcohol Healthwatch believes that every Council should consider offering protection from new licences (of any type) opening in close proximity to a variety of sensitive sites, including but not limited to, early childhood centres, primary and secondary schools, playgrounds, parks and reserves, Marae, health facilities, alcohol treatment centres, and places of worship.
108. Alcohol Healthwatch **recommends** that consideration be given to decisions on new licences intending to locate within at least 100m of sensitive sites. The Horowhenua District Council Local Alcohol Policy⁵⁶ prohibits the issue of new bottles stores within 100m of sensitive sites.
109. Alcohol Healthwatch would not support a 50m restriction (as evident in other local alcohol policies around the country) as our experience working with communities throughout New Zealand to support them in their licensing objections demonstrates that 50m is simply too restrictive. This approach usually means that the provision is only applied to sensitive sites that are directly next door or directly across the road. Sensitive sites that are slightly further away are then neglected from this protection.

On-licence hours

110. Of the mechanisms available in a LAP, restricting the trading hours of licensed premises is likely to have one of the greatest impacts on reducing harm.^{64,65} This is because a consistent and strong body of high-quality evidence has demonstrated the impact of on-licence trading hours on alcohol-related harm.
111. Alcohol Healthwatch **supports** the on-licence trading hours of 9am to 1am for premises outside the Tauranga City Centre.
112. Alcohol Healthwatch **supports** the on-licence trading hours of 9am to 2am for premises in the Tauranga City Centre. The data provided by the Police concurs with research evidence that there is an increased risk of harm (including serious assault) when venues close after midnight, especially when premises cluster together. Increased trading hours increase the amount of time alcohol can be consumed and a patron's level of fatigue, lowering their ability to inhibit aggression.⁶⁶
113. Alcohol Healthwatch **supports** the earlier one-way door policy for premises licensed until after 1am.
114. Alcohol Healthwatch **recommends** that the opening and closing hours be listed as separate elements in the LAP. We believe this approach to trading hours in LAPs may reduce the potential for appeals to the entire element, but recognise this is yet to be tested.

115. Alcohol Healthwatch **supports** the discretionary conditions for on-licences in the proposed LAP.

Club licences

116. Club licences, in particular those held by sports clubs, have been shown in research to contribute to the risky drinking behaviours among participants at the club.⁶⁷
117. In addition, club licence density in New Zealand has been shown to be significantly associated with higher levels of violence and a range of alcohol-related offences.^{51,68} In New Zealand, the effects of club licence density on violence are shown to be stronger in areas with low populations (e.g. rural areas).⁵¹ Analysis of Pasifika youth drinking patterns in New Zealand found that participation in a sports team or club outside of school was independently associated with increased risk of binge drinking.⁶⁹
118. Alcohol Healthwatch **does not support** the proposed cease of trading of 1am for club licences outside the Tauranga City Centre, Monday to Sunday. We **recommend** a 12am closing hour.
119. Alcohol Healthwatch **does not support** the proposed cease of trading of 2am for club licences inside the Tauranga City Centre, Monday to Sunday. Again, we **recommend** a 12am closing hour.
120. Club licences have fewer obligations than on-licences, as they are afforded some leniency under the Act. Minors are also present in the drinking environment. For these reasons, club licences should not have the same privileges as on-licence taverns, without operating under the same conditions as these premises. Clubs seeking a level playing field with taverns should seek a tavern licence.
121. Alcohol Healthwatch **recommends** that the opening and closing hours be listed as separate elements in the LAP. We believe this approach to trading hours in LAPs reduces the potential for appeals to the entire element, although we recognise it is yet to be tested in the appeals process.
122. Alcohol Healthwatch **supports** the discretionary conditions for club licences.

Special licences

123. Alcohol Healthwatch **recommends** that maximum trading hours for special licences be specified in the LAP. We recommend a 3am maximum closing hour.
124. Alcohol Healthwatch **supports** the discretionary conditions for special licences.
125. Alcohol Healthwatch **recommends** a discretionary condition for any event with over 1000 attendees (or as otherwise considered appropriate), to require an Event Alcohol Risk Management Plan.
126. Alcohol Healthwatch **recommends** the Council adopt special licence provisions that protect children in the region, mirroring the approach used in Wairoa. The Wairoa District Council Local Alcohol Policy requires that:

Licences will not be granted for child-focussed events. A child focussed event is an event that is centred around minors. This includes but is not limited to galas, children's sports games, school kapa haka events, etc.

127. The Population Health and Wellbeing Survey 2020 showed that only 14% of Bay of Plenty DHB residents agreed with the statement “It’s OK for alcohol to be available at events held on school grounds (e.g., galas and fundraisers)”.¹³

Monitoring, evaluation, and review

128. Alcohol Healthwatch **recommends** the Council develop a monitoring and evaluation plan for the LAP. It is important that monitoring occurs throughout the six-year duration of the LAP, with results regularly reported to Council.
129. Alcohol Healthwatch suggests to every Council to include a broad range of indicators in a monitoring and evaluation plan, e.g.:
- number/rate of alcohol-related police events (e.g. drunk custodies, breach of liquor ban, late night assaults, drink-drive offences);
 - alcohol-related Emergency Department presentations, wholly-alcohol attributable hospitalisations, ambulance pick up data;
 - crash-analysis data (single, night time vehicle crashes);
 - alcohol consumption data (annual New Zealand Health Survey)
 - feedback from community members and local enforcement agencies (licensing inspectors, Medical Officer of Health, and Police).
130. Whilst the Tauranga City Background Research Report includes many of these indicators, we note the absence of Emergency Department data on alcohol-related presentations. We **recommend** that the Council advocate strongly to the DHB regarding the importance of this regular data collection. Many DHBs throughout New Zealand are routinely collecting, reporting on, and publishing data on alcohol-related Emergency Department presentations.
131. However, Alcohol Healthwatch **recommends** a cautious approach to interpreting monitoring and evaluation data. Changes in reporting practices around alcohol-related Emergency Department presentations, for example, could indicate a higher number of presentations due to more consistent data collection practices. Some indicators may require a longer lead time before harm reductions become detectable, for example alcohol-related chronic diseases may take a long time to show any change. However, some alcohol-related chronic diseases (e.g. gastritis) may be more responsive to short term changes in the regulation of licensed environments.
132. As stated earlier, the pandemic will greatly affect alcohol use in the coming years. Having up-to-date data is essential to monitor trends in alcohol harm, with the option to bring a review of the LAP forward if necessary.

Conclusion

133. Alcohol Healthwatch **supports** the Council in proposing restrictions to the closing hours of on-licences in the Tauranga City region.
134. We are **strongly concerned** about the lack of protections from the main source of alcohol and harm, namely off-licences, and believe this needs to be addressed in the Provisional Local Alcohol Policy.

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| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|---|---|----------------|---|----------------|--|--|---------------------------------|
| 152 | Cathy Bruce | Te Hiringa Hauora - Health Promotion Agency | Neither agree or disagree | See submission | Strongly agree | See submission | Neither agree or disagree | Consider restricting trading hours to midnight for club licences | See submission |



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20 December 2021

Local Alcohol Policy Consultation
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To Whom It May Concern

Tauranga Local Alcohol Policy Review

Thank you for providing the opportunity for Te Hīringa Hauora/Health Promotion Agency to comment on the Tauranga City Council Local Alcohol Policy (LAP) review.

Te Hīringa Hauora wishes to speak to this submission.

INTRODUCTION

Te Hīringa Hauora has the statutory function of giving advice and making recommendations on the sale, supply, consumption, misuse and harm from alcohol. Since 1 July 2012 Te Hīringa Hauora assumed the functions of the former Alcohol Advisory Council of New Zealand, Health Sponsorship Council and some functions of the Ministry of Health.

Te Hīringa Hauora encourages councils to review their LAPs and to undertake wide engagement with the community as part of that review. A review offers an opportunity to assess whether the current LAP is meeting its policy objectives, and it provides a further opportunity for the community to become involved in how alcohol is sold in their neighbourhoods.

The object of the Sale and Supply of Alcohol Act 2012 is that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised¹. LAPs play an important role in meeting these objectives and provide councils with a mechanism to reflect the needs of their community and to minimise the harm caused by alcohol in the region.

¹ Sale and Supply of Alcohol Act 2012. <http://www.legislation.govt.nz/act/public/2012/0120/84.0/DLM3339333.html>

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Overall, we congratulate the Tauranga City Council (the Council) for listening to community concerns, and we encourage the Council to make improvements so that the LAP better meets the policy purpose and principles.

LAP REVIEW

The draft policy was easy to read and the content was easy to understand. A clear, concise policy will not only be easier for your community and licensees to understand, but will also be more useful to your District Licensing Committee (DLC).

We would like to commend the Council on its background report. Te Hīringa Hauora is aware that many councils are finding it difficult to source good data, especially local data. Given these constraints we note that the Council has provided useful information to inform the review of the LAP. It is also apparent that the Council has engaged with relevant partners and accessed relevant data to assist with the review.

OFF-LICENCES

Maximum licenced hours

Te Hīringa Hauora encourages territorial authorities to set maximum hours of sale that are appropriate for the location, minimise harm, and take into account the views of the community. Off-licences contribute to community harm, and are responsible for the majority of alcohol sales in communities. Alcohol from off-licences is cheaper, easily accessed, and the consequential harms often occur in homes, and are often hidden.

There is evidence that harm is reduced by limiting off-licence hours of sale². There are also suggestions from recent research that limiting off-licence hours of sale after 9.00pm may reduce harm^{3,4}.

The Background Report 2021 shows that the Bay of Plenty has higher levels of hazardous drinking than the national average, and that Tauranga has a higher rate of wholly attributable hospital admissions, and of conditions from chronic alcohol use than the rest of New Zealand.

Many councils that have developed LAPs have taken the opportunity to limit off-licence availability, with many now restricting hours of sale to no later than 9.00pm⁵. Earlier limits have also been supported by the Alcohol Regulatory and Licensing Authority (ARLA), and the Court of

² Health Promotion Agency (2017). Alcohol off-licence purchases and subsequent harm. Wellington: Health Promotion Agency.

³ Sherk A, Stockwell T, Chikritzhs T, Andréasson S, Angus C, Gripenberg J, Holder H, Holmes J, Mäkelä P, Mills M, Norström T, Ramstedt M, Woods J. (2018). Alcohol Consumption and the Physical Availability of Take-Away Alcohol: Systematic Reviews and Meta-Analyses of the Days and Hours of Sale and Outlet Density. *J Stud Alcohol Drugs*. 2018 Jan;79(1):58-67.

⁴ Atkinson J.A., Prodan A., Livingston M., Knowles D., O'Donnell E., Room R., Indig D., Page A., McDonnell G. & Wiggers J. (2018) Impacts of licensed premises trading hour policies on alcohol-related harms. *Addiction*. 2018 Jul;113(7):1244-1251. doi: 10.1111/add.14178. Epub 2018 Mar 2.

⁵ Jackson, N. (2016). A review of Territorial Authority progress towards Local Alcohol Policy development. Auckland: Alcohol Healthwatch

Appeal in appeal hearings^{6,7}. Te Hīringa Hauora strongly encourages the Council to take the opportunity to reduce off-licence hours of sale to 9.00pm given the high levels of harm in the area. A reduction in off-licence evening hours of sale will not only reduce the availability of alcohol within your community but is also likely to reduce unplanned heavy drinking sessions.

We support consistent hours of sale across all off-licences types.

Recommendation

1. That off-licence hours are reduced to 9.00pm.

Density provisions

Te Hīringa Hauora notes that the draft policy has no provision relating to the number/density of outlets. The overwhelming majority of New Zealand^{8,9} and international studies¹⁰ find that the more alcohol outlets of all types there are in a region the more evidence there is of crime and violence. The evidence also shows that the demographic make-up of the area is a factor in the strength of this association¹¹.

When off-licensed premises cluster together, particularly in low income suburban areas, competition between outlets has been found to lead to lower prices, longer opening hours, and later weekend closing times¹², which stimulates demand and contributes to alcohol-related harm. There is a broad range of harms, including domestic violence, anti-social behaviour, and sexual offences^{13,14} linked to high density of off-licences.

Overall, the evidence behind outlet density contributing to alcohol-related harm is strong. We therefore support councils to utilise tools that will assist with limiting the numbers of outlets. A number of councils around New Zealand have developed measures for limiting density within their draft LAPs, especially in communities where there is already high community stress and/or alcohol-related harm. Measures include local impact reports, implementing freezes on new off-licences (or

⁶ Alcohol Regulatory and Licensing Authority. Decision: Auckland Council Provisional Local Alcohol Policy. Redwood Corporation et al vs Auckland Council. Wellington, New Zealand: <http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZARLA/2017/247.html?query=redwood>

⁷ Court of Appeal of New Zealand. Decision: Auckland Council v Woolworths New Zealand Limited [2021] NZCA 484 (24 September 2021) <http://www.nzlii.org/cgi-bin/sinodisp/nz/cases/NZCA/2021/484.html?query=Redwood>

⁸ Cameron, M.P., Cochrane, W., Gordon C., & Livingston M. (2016a). Alcohol outlet density and violence: a geographically weighted regression approach. *Drug and alcohol review*

⁹ Cameron, M.P., Cochrane, W., Gordon C., & Livingston M. (2016b). Global and locally-specific relationships between alcohol density and property damage: Evidence from New Zealand. *Australasian Journal of Regional Studies*, The, 22(3), 331.

¹⁰ Taylor N., Miller P., Coomber K., Mayshak R., Zahnow R., Patafio B., Burn M. & Ferris J. (2018) A mapping review of evaluations of alcohol policy restrictions targeting alcohol-related harm in night-time entertainment precincts. *Int J Drug Policy*. 2018 Dec;62:1-13. doi: 10.1016/j.drugpo.2018.09.012. Epub 2018 Oct 19.

¹¹ Cameron, M. P., Cochrane, W., Gordon, C., & Livingston, M. (2013). *The locally-specific impacts of alcohol outlet density in the North Island of New Zealand, 2006-2011*. Research report commissioned by the Health Promotion Agency. Wellington: Health Promotion Agency.

¹² Cameron, M.P., Cochrane, W., McNeill, K. Melbourne, P., Morrison, S.L., Robertson, N. (2010b). *The spatial and other characteristics of liquor outlets in Manukau City: The impacts of liquor outlets report no.3*. Wellington: Alcohol Advisory Council of New Zealand.

¹³ Livingston, M 2008, 'A longitudinal analysis of alcohol outlet density and assault, *Alcoholism: Clinical and Experimental Research*, vol. 32, no. 6, pp. 1074-9.

¹⁴ Livingston, M 2013, 'To reduce alcohol-related harm we need to look beyond pubs and nightclubs', *Drug and Alcohol Review*, vol. 32, no. 2, p. 113-14.

specifically bottle stores), and implementing caps on the number of off-licences (or specifically bottle stores) in a particular area.

Given the levels of harm already referred to within the Tauranga community, and the fact that the number of off-licences has grown in the area, Te Hiringa Hauora encourages the Council to consider a policy around whether further off-licences should be issued in Tauranga or any part of Tauranga. We especially encourage you to consider this in areas where there is already high levels of community stress and harm, there is high deprivation, or there are already high numbers of alcohol premises, especially off-licences. The LAP Research Report would suggest that there are six suburbs that should be considered. They include: Gate Pā, Greerton, Kairua, Matapihi, Tauranga Hospital and Yatton Park.

Recommendation

2. That the council considers a policy that limits the number off-licences.

Discretionary Conditions

We note that discretionary conditions have not been included for off-licences. Given the high levels of harm that can occur from alcohol sold from off-licences, we encourage the Council to think about adding discretionary conditions for off-licences as well. A number of licences now have conditions around:

- not stocking particular cheap, high alcohol products
- limits on selling single beers, ciders, RTDs and single shot products
- limits on store colours, and requirements around security and lighting in and outside of the store
- the placement of particular products (eg, not in doorways)
- limits on advertising and signage
- stores being closed during times when children are coming and going from school.

An indicative list does not fetter the discretion of the DLC to impose '...any reasonable condition' on a licence as set out in section 117(1) of the Act, and is very helpful in cases where reporting agencies or members of the public may be asked by the DLC to consider what conditions they think might minimise any negative impacts if the licence were to be granted. Carefully considered licence conditions can be an effective measure to promote the safe, responsible sale and supply of alcohol and to minimise the harm caused by its excessive or inappropriate consumption in line with the object of the Sale and Supply of Alcohol Act 2012.

Recommendation

3. That the Council add discretionary conditions for off-licences.

ON-LICENCES

Te Hiringa Hauora supports the current on-licence trading hours within the current LAP. We also support the inclusion of the one-way door from 1.00pm.

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CLUB LICENCES

Clubs are not immune to high levels of harm, indeed many are often high-risk drinking environments. They often attract young people, provide cheap alcohol, do not always have a Manager on duty, and are sometimes located in areas where there are limited transport options. Te Hīringa Hauora encourages Territorial Authorities to consider limits on club trading hours and to ensure that the LAP aligns with the actual hours generally being utilised by clubs. Clubs are not taverns and therefore it is unusual for them to have trading hours similar to bars. The sale of alcohol is not their primary business, which is providing a place for recreation. Te Hīringa Hauora suggests that restricting trading hours to midnight would be more appropriate, and if on occasion a club would like to trade later for an event, a special licence can be applied for.

Recommendation

4. That the Council consider restricting trading hours to midnight for club licences.

OTHER CHANGES TO CONSIDER

Separate elements for trading hours

It may be useful to consider separating the hours of operation into two elements for each type of premises ie, making the onset of trading hours and the end of trading hours separate elements. Although untested in the Courts it may save the whole element being deemed unreasonable if it is appealed to ARLA, but ARLA finds only a part of it unreasonable. This was the situation in the Auckland Provisional LAP appeal¹⁵.

Sensitive Sites

Te Hīringa Hauora notes that the reviewed policy has no provisions relating to sensitive sites. The Law Commission's consultation found that communities feel strongly about the location of premises where alcohol is sold¹⁶. The purpose of policies around location are to protect the most vulnerable and to limit the growth of premises in areas that have sensitive sites. Therefore, Te Hīringa Hauora encourages the Council to consider the location of licensed premises by reference to proximity to facilities of a particular kind or kinds in its revised policy.

The majority of draft LAPs (62%) have contained restrictions on licensed premises around sensitive sites¹⁷. Types of policies include: requiring impact reports; requiring the DLC to consider sensitive sites in their decision making; consulting neighbours; and limiting new premises within close proximity (next door, over the road or 40m to 500m). The most common examples of sensitive sites in draft policies include schools or education facilities, early childhood centres,

¹⁵ Redwood Corporation Limited vs Auckland City Council [2017] NZ ARLA PH 247-254 sections 158-159.

¹⁶ Law Commission. (2010). *Alcohol in our Lives: Curbing the Harm: A report on the review of the regulatory framework for the sale and supply of liquor*. Wellington: Law Commission.

¹⁷ Jackson, N. (2016). A review of Territorial Authority progress towards Local Alcohol Policy development. Auckland: Alcohol Healthwatch

playgrounds, places of worship, recreational facilities, health facilities, alcohol treatment centres, marae, community facilities, high crime areas and high deprivation areas.

Recommendations

5. That the Council consider separating trading hours into separate elements within the LAP.
6. That the Council includes a policy on sensitive sites covering location of licensed premises by reference to proximity to site or facilities of a particular kind or kinds.

CONCLUSION

Once again, thank you for the opportunity to comment on the review of the Tauranga City Council LAP. Please do not hesitate to contact Cathy Bruce, Principal Advisor Alcohol, e-mail c.bruce@hpa.org.nz, phone 03 963 0218 if you would like to discuss any parts of this submission further.

Yours sincerely



Derek Thompson
Manager Alcohol Policy & Advice

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| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|--|---|----------------|--|--|---------------------------------|
| 153 | Mark | Hamilton | Somewhat agree | I do not support the reduction in on-licence trading hours, from 9am-3am to 9am-2am. A further reduction in trading hours of 11am-2am is recommended | Strongly agree | | Somewhat agree | I do not support the trading hours (9am-1am) for clubs outside the Tauranga City Centre. A 12am closing is recommended. I do not support the proposed trading hours for club licences in the Tauranga City Centre (9am-2am). A closing hour of 12am is recommended. I recommend that the opening and closing hours for club licences be listed as separate elements in the LAP. This approach to trading hours reduces the potential for appeals to the entire element. I support the discretionary conditions for on-licences and club licences. I support the discretionary conditions for special licences. | See Submission |

Submission to the Tauranga City Council Local Alcohol Policy

Name: Mark Hamilton

153

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Email: [REDACTED]

Organisation (if applicable)

Date: 17/12/21

☐ I would like to speak to my submission.

1. I thank the Tauranga City Council for the opportunity to have a say on the proposed Local Alcohol Policy (LAP).
2. Responding to community concerns upholds the priority objective of the Sale and Supply of Alcohol Act 2012, being to "improve community input into local alcohol licensing decisions". Alcohol is an inexpensive, widely-available and heavily abused drug where the costs of policing, preventing harm and providing treatment are disproportionately carried by the community as a whole. Alcohol should not be normalised, but recognised as a leading contributor to a multitude of harmful behaviours and side effects such as crime, addiction and compromised health in our community. As such, controls should be applied to alcohol's availability to ensure it is used safely and responsibly.
3. Please note my specific comments below:

a) On-licences (pubs, bars, etc.) hours and discretionary conditions

4. I **do not support** the reduction in on-licence trading hours, from 9am-3am to 9am-2am. A further reduction in trading hours of 11am-2am is recommended
5. I **support** the one-way door restriction for on-licences being applied one hour earlier (from 2am to 1am) to align with the reduced trading hours for on-licences.
6. I **recommend** that the opening and closing hours for on-licences be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.
7. I **support** the discretionary conditions for on-licences.

b) Club licence hours and discretionary conditions, and special licences

8. I **do not support** the trading hours (9am-1am) for clubs outside the Tauranga City Centre. A 12am closing is recommended.
9. I **do not support** the proposed trading hours for club licences in the Tauranga City Centre (9am-2am). A closing hour of 12am is recommended.
10. I **recommend** that the opening and closing hours for club licences be listed as separate elements in the LAP. This approach to trading hours reduces the potential for appeals to the entire element.
11. I **support** the discretionary conditions for on-licences and club licences.
12. I **support** the discretionary conditions for special licences.

c) Off-licences: no new off-licences

13. I **do not support** the lack of restrictions on off-licence availability in the proposed LAP.
14. Restricting off-licence alcohol availability is a key strategy to minimise alcohol-related harm. In New Zealand, almost three-quarters (73%) of all heavy drinking occasions occurs in private homes, enabled by highly accessible, cheap off-licence alcohol. COVID-19 may have further embedded home drinking (and drinking as a coping mechanism), meaning off-licence availability has even greater importance, especially during lockdowns. Minimising the harm from alcohol is also key to reducing the burden on our health system during a pandemic.
15. New Zealand research clearly shows that the burden of alcohol-related harm falls disproportionately on Māori and low income communities. Research also shows that Māori and Pacific young males (15-24 years) are more negatively impacted by living close to alcohol outlets.

16. I **recommend** that a cap be placed on the number of bottle stores, to prevent additional bottle stores being located in areas of high socio-economic deprivation. Currently, bottle stores are inequitably concentrated in the most deprived areas of Tauranga City. It is therefore **recommended** that there should be no more bottle stores permitted in Tauranga City, and a 'sinking lid' policy for existing bottles stores in areas of high deprivation (deprivation deciles 8-10) for the duration of the policy. The whole of Tauranga City is sufficiently serviced by off-licence premises at present, even accounting for future population growth.

d) Off-licences: trading hours

17. I **do not support** the proposed off-licence opening hour of 7am. Instead, an opening hour of 10.30am is recommended to allow children to travel to school, free from the influence of exposure to alcohol and its marketing. A later opening hour would also protect our residents with an alcohol use disorder, such as dependence. It is important to note that 71.6% of persons surveyed in the Bay of Plenty District Health Board region in 2020 believed that 10am or later was a suitable opening time for bottle stores and supermarkets to start selling alcohol.
18. I **do not support** the closing hour of 10pm and recommend 9pm as the closing hour Monday to Saturday, and 7pm on Sundays. Earlier closing hours minimise the opportunity for drinkers to purchase more alcohol to keep drinking.
19. I **recommend** that the opening and closing hours be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.

e) Off-licences: discretionary conditions

20. I **do not support** the absence of discretionary conditions for off-licences in the LAP.
21. It is recognised that New Zealand's liquor laws already provide for licensing committees to include conditions on a licence on a case-by-case basis.
22. However, I believe that the inclusion of discretionary conditions in a LAP can provide transparency to both the licence applicant and the community as to expectations around the sale of alcohol. Conditions are especially important when outlets are located in vulnerable areas and/or near sensitive sites such as schools.
23. I **recommend** the following discretionary conditions for off-licences are included in the LAP:
- Prohibiting the sale of single alcohol products (e.g. single mainstream beers and Ready to Drinks (RTDs);
 - Prohibiting the sale of certain types of products (e.g. light spirits, shots) and/or products sold below a certain cost;
 - Not displaying RTDs at the principal entrance to the store or within three metres of the front window;
 - Signage to be limited to displaying the store name and logo on the existing roof display;
 - No bright colours to be used in the external decoration of the premises; and
 - No specific products or price specials to be displayed externally.

f) Off-licence: sensitive site protections

24. I **do not support** the lack of protections, provided in law, for sensitive sites in the LAP.
25. Should an area-wide cap on bottle stores (or freezes in high-risk areas) not be adopted, the LAP should require that off-licences should not be located within 100m of the boundary of sensitive sites. This includes early childhood centres, primary and secondary schools, playgrounds, parks and reserves, Marae, health facilities, alcohol treatment centres, and places of worship.
26. Other Local Alcohol Policies in New Zealand offer these protections. The Horowhenua District Council Local Alcohol Policy prohibits the issue of a new bottle store within 100m of the boundary of a sensitive site.

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|----------------|---|----------------|--|---|---------------------------------|
| 154 | Brian | Pointon | Strongly agree | | Strongly agree | | Neither agree or disagree | I do not support the trading hours (9am-1am) for clubs outside the Tauranga City Centre. A 12am closing is recommended. I do not support the proposed trading hours for club licences in the Tauranga City Centre (9am-2am). A closing hour of 12am is recommended. I recommend that the opening and closing hours for club licences be listed as separate elements in the LAP. This approach to trading hours reduces the potential for appeals to the entire element. | See submission |

Submission to the Tauranga City Council Local Alcohol Policy

Name: Brian Pointon

154

Address: [REDACTED]

Email: [REDACTED]

Organisation (if applicable) N/A (retired public health manager)

Date: 17 December 2021

☐ I would like to speak to my submission.

1. I thank the Tauranga City Council for the opportunity to have a say on the proposed Local Alcohol Policy (LAP).
2. It is clear that the levels of hazardous drinking prevalence and health harms from alcohol in the Bay of Plenty District Health Board region are higher than the national average. This is coupled with high levels of public support for tighter regulatory controls on the local availability of alcohol.
3. Responding to our concerns upholds the priority objective of the Sale and Supply of Alcohol Act 2012, being to "improve community input into local alcohol licensing decisions".
4. I mostly support the proposed LAP for its greater control on on-licence availability but are **deeply concerned** about the lack of protections from off-licence alcohol supply. Further amendments to the LAP, as outlined below, are required to meaningfully and equitably minimise alcohol harm in our city.

a) On-licences (pubs, bars, etc.) hours and discretionary conditions

5. I **support** the reduction in on-licence trading hours, from 9am-3am to 9am-2am.
6. I **support** the one-way door restriction for on-licences being applied one hour earlier (from 2am to 1am) to align with the reduced trading hours for on-licences.
7. I **recommend** that the opening and closing hours for on-licences be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.
8. I **support** the discretionary conditions for on-licences.

b) Club licence hours and discretionary conditions, and special licences

9. I **do not support** the trading hours (9am-1am) for clubs outside the Tauranga City Centre. A 12am closing is recommended.
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12. I **support** the discretionary conditions for on-licences and club licences.
13. I **support** the discretionary conditions for special licences.

c) Off-licences: no new off-licences

14. I **do not support** the lack of restrictions on off-licence availability in the proposed LAP.
15. Restricting off-licence alcohol availability is a key strategy to minimise alcohol-related harm. In New Zealand, almost three-quarters (73%) of all heavy drinking occasions occurs in private homes, enabled by highly accessible, cheap off-licence alcohol. COVID-19 may have further embedded home drinking (and drinking as a coping mechanism), meaning off-licence availability has even greater importance, especially during lockdowns. Minimising the harm from alcohol is also key to reducing the burden on our health system during a pandemic.
16. New Zealand research clearly shows that the burden of alcohol-related harm falls disproportionately on Māori and low income communities. Research also shows that Māori and Pacific young males (15-24 years) are more negatively impacted by living close to alcohol outlets.

17. I **recommend** that a cap be placed on the number of bottle stores, to prevent additional bottle stores being located in areas of high socio-economic deprivation and/or areas with a high proportion of Māori residents. This occurs in the LAPs of other councils in New Zealand and will assist Tauranga City Council to honour their obligations to Te Tiriti o Waitangi and actively protect Māori health. Currently, bottle stores are inequitably concentrated in the most deprived areas of Tauranga City. It is therefore **recommended** that there should be no more bottle stores permitted in areas of high deprivation (deprivation deciles 8-10) for the duration of the policy.
18. Alternatively, the total number of bottle stores permitted across the whole of Tauranga City, for the duration of the LAP, could be stated. This would set the maximum limit for bottle store numbers (as occurs in the Whanganui and Wairoa LAPs), whilst still freezing the growth of bottle stores in areas of high deprivation. The whole of Tauranga City is sufficiently serviced by off-licence premises at present, even accounting for future population growth.

d) Off-licences: trading hours

19. I **do not support** the proposed off-licence opening hour of 7am. Instead, an opening hour of 9am is recommended to allow children to travel to school, free from the influence of exposure to alcohol and its marketing. A later opening hour would also protect our residents with an alcohol use disorder, such as dependence. It is important to note that 71.6% of persons surveyed in the Bay of Plenty District Health Board region in 2020 believed that 10am or later was a suitable opening time for bottle stores and supermarkets to start selling alcohol.
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21. I **recommend** that the opening and closing hours be listed as separate elements in the LAP. This approach to trading hours in LAPs reduces the potential for appeals to the entire element.

e) Off-licences: discretionary conditions

22. I **do not support** the absence of discretionary conditions for off-licences in the LAP.
23. It is recognised that New Zealand's liquor laws already provide for licensing committees to include conditions on a licence on a case-by-case basis.
24. However, I believe that the inclusion of discretionary conditions in a LAP can provide transparency to both the licence applicant and the community as to expectations around the sale of alcohol. Conditions are especially important when outlets are located in vulnerable areas and/or near sensitive sites such as schools.
25. I **recommend** the following discretionary conditions for off-licences are included in the LAP:
- Prohibiting the sale of single alcohol products (e.g. single mainstream beers and Ready to Drinks (RTDs);
 - Prohibiting the sale of certain types of products (e.g. light spirits, shots) and/or products sold below a certain cost;
 - Not displaying RTDs at the principal entrance to the store or within three metres of the front window;
 - Signage to be limited to displaying the store name and logo on the existing roof display;
 - No bright colours to be used in the external decoration of the premises; and
 - No specific product or price specials to be displayed externally.

f) Off-licence: sensitive site protections

26. I **do not support** the lack of protections, provided in law, for sensitive sites in the LAP.
27. Should an area-wide cap on bottle stores (or freezes in high-risk areas) not be adopted, the LAP should require that off-licences should not be located within 100m of the boundary of sensitive sites. This includes early childhood centres, primary and secondary schools, playgrounds, parks and reserves, Marae, health facilities, alcohol treatment centres, and places of worship.
28. Other Local Alcohol Policies in New Zealand offer these protections. The Horowhenua District Council Local Alcohol Policy prohibits the issue of a new bottle store within 100m of the boundary of a sensitive site.

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|---------------|------------|---|----------------|---|----------------|--|---|---------------------------------|
| 155 | Anna | Voss | Strongly agree | | Strongly agree | | Neither agree or disagree | I do not support the trading hours (9am-1am) for clubs outside the Tauranga City Centre. A 12am closing is recommended. I do not support the proposed trading hours for club licences in the Tauranga City Centre (9am-2am). A closing hour of 12am is recommended. I recommend that the opening and closing hours for club licences be listed as separate elements in the LAP. This approach to trading hours reduces the potential for appeals to the entire element. | See submission |

Submission to the Tauranga City Council Local Alcohol Policy**Name:** Anna Voss

155

Address: [REDACTED]**Email:** [REDACTED]**Organisation (if applicable)****Date:**☐ **I would like to speak to my submission.**

1. I thank the Tauranga City Council for the opportunity to have a say on the proposed Local Alcohol Policy (LAP).
2. It is clear that the levels of hazardous drinking prevalence and health harms from alcohol in the Bay of Plenty District Health Board region are higher than the national average. This is coupled with high levels of public support for tighter regulatory controls on the local availability of alcohol.
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 - No bright colours to be used in the external decoration of the premises; and
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26. I **do not support** the lack of protections, provided in law, for sensitive sites in the LAP.
27. Should an area-wide cap on bottle stores (or freezes in high-risk areas) not be adopted, the LAP should require that off-licences should not be located within 100m of the boundary of sensitive sites. This includes early childhood centres, primary and secondary schools, playgrounds, parks and reserves, Marae, health facilities, alcohol treatment centres, and places of worship.
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|-------|-----------------|-------------------------|---|----------------|---|----------------|--|----------------|---------------------------------|
| 156 | Dr Tony Farrell | Alcohol Action Tauranga | Strongly agree | | Strongly agree | | Strongly agree | | |

156

Submission to Tauranga City Council

Proposed Local Alcohol Policy and Alcohol Control Bylaw changes.

Alcohol Action Tauranga

30/11/2021

Alcohol Action Tauranga is a subsidiary branch of Alcohol Action New Zealand which has advocated for a public health approach to alcohol legislation, using evidence to guide alcohol harm reduction policy. The public health measures proposed by AANZ comprise what is well known as the “5 + Solution.”

The 5+ Solution was formulated by Alcohol Action NZ in 2009, based on the best public health science available, and has been endorsed by the Law Commission in 2010, the Mental Health and Addiction Enquiry in 2018, and more recently, from the combined voice of the executive officers of 20 DHBs.

1. Dismantle marketing,
 2. Increase the price,
 3. Reduce accessibility,
 4. Raise the purchase age,
 5. Strengthen drink driving countermeasures,
- PLUS, Increase treatment opportunities for heavy drinkers.

Tauranga City Council is consulting on changes to its Local Alcohol Policy and Alcohol Control Bylaw. Alcohol Action Tauranga commends the council for this review as it signifies the importance of responding to community concerns about the impact of alcohol use in their district which is in keeping with the priority objective of the Sale and Supply of Alcohol Act 2012.

Three significant changes are proposed

- Off licence hours reduced with alcohol sales ending at 9pm (not 10pm). Includes alcohol stores, grocery stores and supermarkets for example.
- No new bottle stores in the Te Puke-Maketu ward
- And through the bylaw, increasing the coverage of the ban on alcohol in public places (Alcohol Control Area) in Te Puke to cover the entire urban area, not just the town centre.

Other changes are suggested including:

- Reducing on-licence hours in the Tauranga City Centre
A reduction in the opening hours of on-licence premises (bars, restaurants) in the Tauranga City Centre with a proposed closing time of 2am instead of 3am.

- A change to the one-way door provisions in the Tauranga City Centre
This is as a result of the proposed reduction in the opening hours of on-licence premises in the Tauranga City Centre. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre.
- Adding a club licence section
A new section has been added for club licences (e.g., sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants (provisions remain the same).
- Tauranga City focused
The policy has been updated to include only matters relating to the geographical area that Tauranga City Council has responsibility for instead of having a joint policy with Western Bay of Plenty District Council.

Alcohol Action Tauranga is strongly in favour of the proposed changes as they are in principle in keeping with one of the “best buys” for alcohol harm reduction: reducing accessibility of alcohol. However, section 5.1.1 of the current Tauranga City council local alcohol policy states that maximum hours for off-licences shall be from 7 am to 10 pm. We do not support this early opening time and recommend that 10 am be adopted.

We observe that the draft LAP and Alcohol Control Bylaw appears to be focussed on specific harms, including criminal behaviour and violence, drink driving and public nuisance from intoxication. The use of alcohol in our society is associated with many other types of harm, including cancer (5 New Zealand deaths per week), foetal alcohol syndrome, loss of productivity, addiction, and self-harm (alcohol is associated with up to 33 per cent of suicides). Risky use of alcohol is likely to impinge on compliance for public health measures against the COVID-19 pandemic, further endangering our economy and the region’s health.

Note that hazardous drinking occurs in New Zealand at a high rate:

One in five adults (20.9%) were classified as hazardous drinkers in 2019/2020. This equates to 838,000 drinkers. Alcohol causes over 800 deaths per year in New Zealand. (1). It is therefore a high-risk drug requiring careful consideration of measures required to reduce the considerable harm it causes.

Among the total population:

- Males (28.7%) were twice as likely as females (13.6%) to be hazardous drinkers.
- 44% of Māori men and 29% of Māori women reported hazardous drinking. *
- 37% of males and 28% of females aged 18-24 reported hazardous drinking; and
- Hazardous drinking prevalence was high among those aged 25-34 (24%), 35-44 (22%) and 45-54 (27%).

*Despite Maori and non-Maori to be *as likely* to drink alcohol. (2)

Most importantly, consideration to Te Tiriti should be foremost in mind when considering changes to local policy. There is evidence of significant inequities between Maori and non-Maori for alcohol-related harm. For example, the New Zealand Health surveys from 2012/13 to 2015/16 found rangatahi Māori males and females were two to three times more likely to be classified as hazardous drinkers than non-Māori males and females (3)

Research shows that deprived communities experience more harm per drink, when compared to the least deprived communities with the same level of drinking and in New Zealand there was found to be disproportionately more harm per drink among drinkers who were unemployed or of low socio-economic status (5). Census data across all socioeconomic indicators has shown non-Maori to be financially advantaged with respect to Maori.

Māori have:

- Higher exposure to alcohol outlets when living in deprived areas. (6)
- Disproportionately higher risk of hazardous drinking (among young Māori males) when living in closer proximity to alcohol outlets (7)
- Higher exposure to cheap alcohol (via price competition in areas with outlet proliferation) and higher likelihood of purchasing very cheap alcohol. (8)
- Substantially higher exposure to alcohol advertising among tamariki, especially in their neighbourhood environments. (9)

There are a large proportion of Maori citizens living in the Te Puke and Maketu areas (10), who according to the inequities listed above would stand to benefit from a more restrictive local alcohol policy. Evidence points to restricted trading hours reducing the amount of violence associated with hazardous drinking. In 2014, a study in Newcastle Australia noted reduced assaults after trading hours were reduced, with other outlet management strategies not having impact on violence associated with drinking. (10)

While there may be some impact on businesses with reducing hours of trade, the overall benefit to the community in our view far outweighs those impacts. There are not many products sold in this country that kill 15 people per week with such widespread accessibility, advertised without due warning of potential consequences of consuming the product, at relatively cheap prices. It is our view that a modicum of reduction in accessibility is the least that can be done at this stage.

Other suggestions include:

Off- licences:

- Imposing a cap on licences on other townships in the Western Bay of Plenty
- The inclusion of discretionary conditions relating to off-licences, especially relating to advertising and signage, single sales and types of products sold.

- Consideration being given to decisions on new licences intending to locate within 100 m of sensitive sites, e.g., schools
- Putting systems in place to keep council aware of all premises in the district selling online alcohol, to allow for effective monitoring and compliance.

Club licences:

- The trading hours of 1 am for club licences be limited to 12 am (due to more violence associated with club licences)

Special licences:

- Specify maximum trading hours for special licences, no later than 3 am
- Discretionary condition for events with over 1000 attendees to require an Event Alcohol Risk Management plan

Children:

- The LAP should include provision that protect children in the region, by not allowing special licences to be granted for child focussed events

Alcohol Action Tauranga is not a prohibitionist organisation but is fully committed to a public health approach to protect drinkers and the community against preventable harm. Reducing accessibility is one of the strongest levers to achieve this, and as stated above, would urge that precautions be taken to limit the availability of alcohol. We have had a public health approach to COVID-19, to reduce death and harm from *communicable disease*, and we can use a similar approach to *non-communicable* harm. This will help prevent death, violence, self-harm, loss of productivity, over 200 medical conditions relating to alcohol, and disadvantage to tangata whenua. We support the council with its review of the Local Alcohol Policy and Alcohol Control Bylaw and ask that it consider further measures in the interest of a safer, more productive community.

Dr Tony Farrell
Chair
Alcohol Action Tauranga
Fellow of Chapter of Addiction Medicine
Fellow of Royal NZ College of General Practitioners.

References:

1. Alcohol Healthwatch (2020). Evidence-based alcohol policies: Building a fairer and healthier future for Aotearoa New Zealand. Auckland: Alcohol Healthwatch
2. Ministry of Health. Annual Update of Key Results 2019/20: New Zealand Health Survey. 2020 <https://www.health.govt.nz/publication/annual-update-key-results-2019-20-new-zealand-health-survey> (accessed Nov 19, 2020).

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11. Kypri K, McElduff P, Miller P. Restrictions in pub closing times and lockouts in Newcastle Australia 5 years on. *Drug Alcohol Rev* 2014; 33:323–326]

| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|------------------------------|------------|---|----------------|---|----------------|--|----------------|---------------------------------|
| 157 | Western Bay of Plenty Police | | Strongly agree | see submission | Strongly agree | See submission | | | see submission |

Q1: Do we still need the LAP? The Benefits of the LAP.

General: It is the Western Bay of Plenty Police's position, that a LAP is still required. A LAP is essentially to ensure the sale, supply and consumption of alcohol is undertaken in a safe and responsible manner and the harm caused by the excessive consumption of alcohol is minimised. The LAP provides a framework that balances public safety and commercial interests. It should articulate the number, location (area), type and operating hours for licensed premise in our community in a manner that promotes actual public safety while supporting business. Without a LAP there is a real risk that financial gain (which benefits few) will be promoted above community safety. It also supports an even playing field for business and mitigates the risk of bias in that all licensee are bound to the same set of rules.

Harm caused by the abuse of Alcohol: An excess number of licensed premises and trading hours for licensed premises can lead to undue alcohol harm and a reduction in amenity and good order.

Alcohol abuse is an underlying factor for many social issues and is estimated to cost New Zealand society \$7.85 billion each year. This includes costs resulting from lost productivity, unemployment, as well as justice, health, ACC, welfare costs etc.

<https://www.actionpoint.org.nz/cost-of-alcohol-to-society#:~:text=In%20contrast%2C%20alcohol%20misuse%20is,ACC%2C%20welfare%20costs%2C%20>

Alcohol is a significant driver of crime and road trauma in New Zealand. Approximately 40% of all assault, abduction, robbery, threats or damage to property offences involve alcohol, and one third of all family violence incidents are known to involve alcohol ([New Zealand Crime and Safety Survey 201; New Zealand Crime and Victims Survey 2018](#)).

In New Zealand for the 2019 calendar year there were 137 fatal crashes, 286 serious injury crashes, where alcohol / drugs were a contributing factor. In these crashes, 160 people died, 391 people were seriously injured, and 1936 people suffered minor injuries. In 2019, 17 people died in motor vehicle crashes in the Bay of Plenty and which alcohol/drugs were a contributing factor.

<https://www.transport.govt.nz/statistics-and-insights/safety-annual-statistics/sheet/alcohol-and-drugs>

Benefits of a LAP: One of the key benefits is that it sets local maximum trading hours for all licenses in the district instead of using the default hours (8am-4am for on licenses and 7am- 11pm for off licenses) that the Sale and Supply of Alcohol Act 2012 imposes.

Police have no doubt that alcohol related crime in our community would be higher if the maximum trading hours were set at the default hours. Previous experience clearly demonstrates that a reduction trading hours has had a positive impact on decreasing alcohol related offending in the Western Bay of Plenty.

Q2: Is there evidence for changing the existing policy? What matters require change and why?

Western Bay of Plenty (Tauranga) is a rapidly growing area that has seen significant change and therefore it is time to review and consider changing the current LAP. It is the Western Bay of Plenty Police's position that changes are required in the following areas;

- Operating hours in the Tauranga CBD.
- One-way door restrictions.
- Location of licensed premises.

Operating hours in the Tauranga CBD.

General: Urban spread has changed where people are socialising with there now being satellite entertainment destinations. Despite this, most of the reported violent crime and antisocial behaviour around licensed premises still occurs in the central city.

Police offer anecdotal evidence based on experience and observation that the Mount Maunganui entertainment precinct, with its 1:00am closing time has a thriving and vibrant nighttime economy with significantly higher amenity and good order. There is a marked difference in the calls for service and alcohol related harm relative to the Tauranga CBD.

The Tauranga CBD, from midnight onwards has become encumbered by late night disorder often fueled by alcohol preloading. The CBD appears to be a drawcard for groups who have been drinking in other areas to congregate, which often brings together different factions resulting in conflict (both as a result of intoxication and the mixing of conflicting groups).

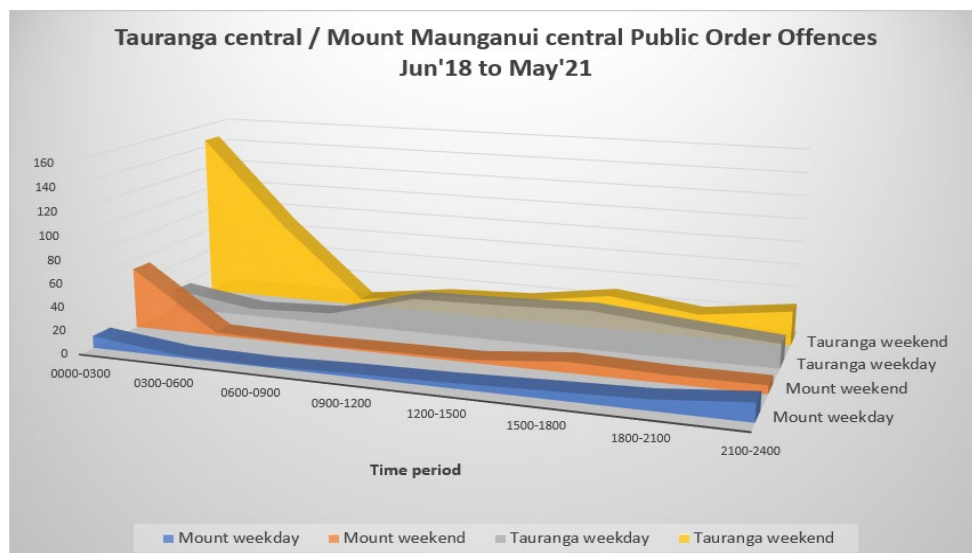
The most significant difference between the two areas is the different licensing hours for Mount Maunganui and the Tauranga CBB.

Examples: Time and Place temporal distribution table for the two main data mesh blocks in the Tauranga CBD entertainment precinct below (table 1) shows the increase risk of victimisation between midnight and 4am Saturday and Sunday mornings.



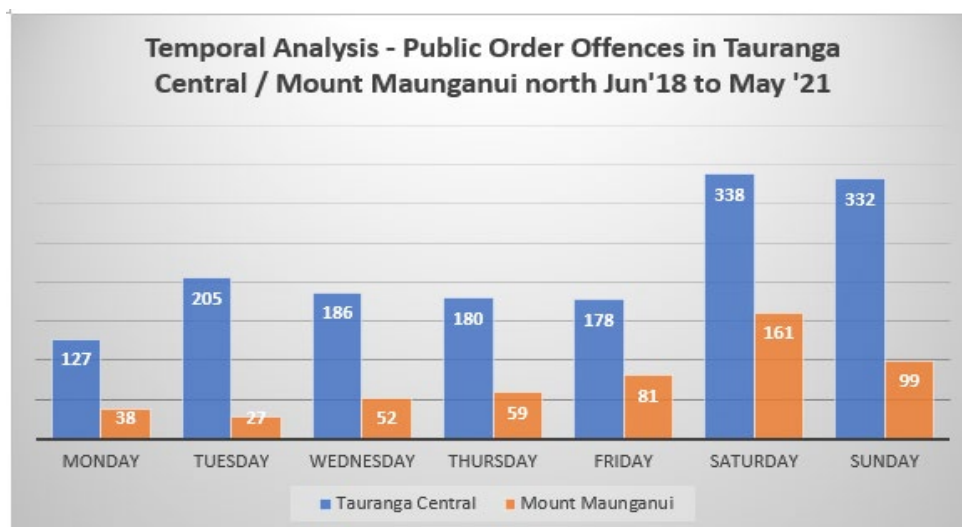
Table 1: <https://www.police.govt.nz/about-us/publications-statistics/data-and-statistics/policedatanz/victimisation-time-and-place>

Temporal analysis of public order offences in the Tauranga Central area show a heightened distribution on the weekends and peaks at the midnight to 03:00am time period.



Graph 1: Illustrates the temporal distribution of Public order offences. Data values are combined for weekend and weekdays with totals being averaged. Visual comparison of Tauranga Central and Mount Maunganui Central areas show a spike in incidents in the midnight to 03:00am time period. This is attributed to the presence of nighttime entertainment licensed venues in both areas.

It is notable that the spike in the Mount Maunganui area is dramatically lower than that in Tauranga Central. Police attribute this to the earlier closing time of the licensed premises, being 1:00am compared to that of Tauranga central being 3:00am. Style of venue and demographics also contribute.



Graph 2: Shows the difference in Public Order offence for Tauranga CBD and Mount Maunganui by day of week

Impact on Road Safety: In a recent Road Policing operation held over two consecutive weekends respectively (Operation Tri Cities 7/8 May and 14/15 May 2021), Police apprehend 85 and 95 drivers respectively who were driving with an excess of alcohol in their system (breath/blood). Apprehension rates were higher on Saturday nights than on Friday nights and there was a noticeable increase in the apprehension rate from Midnight through to 4am.

To provide context Western Bay of Plenty Police officers have offered the following testimonials.

Testimonial 1:

I am a Sergeant in the New Zealand Police. I have 44 years' Service. From October 2016 to April 2020 I was the Alcohol Harm Prevention Officer for Western Bay of Plenty Police. My duties in this role included the monitoring of licensed premises and enforcement of the laws in relation to the Sale and Supply of Alcohol Act 2012.

In May 2018 a hearing was held before the Tauranga District Licencing Committee (DLC) after Police opposed the licence renewal of "The Bahama Hut". Police opposed The Bahama Hut due to ongoing issues relating to intoxication and public disorder. In their decision the District Licencing Authority viewed the reduction of hours of sale to 2 am as a key tool in reducing alcohol harm.

Police, as a result of ongoing disorder, fighting and assaults resulted outside the Flow Bar and the general lack of amenity and good order around The Manger, in consultation with Police, agreed

1. Closure of the smoker's area at 2 am to ensure there is no loitering of customers on the exterior of the area
2. Closure of the City Burger Bar 10 minutes prior to bar service stopping from within Flow and City Sports Bar.
3. Closure of City Sports bar and Flow at 2.30 am
4. When required Security staff on the street after 2.30 am to maintain a presence to manage crowds to minimise disorder and impact on amenity and good order.
5. Active monitoring of the Hamilton street carpark to ensure there is not preloading and the area is not an attractor for alcohol related harm.

The agreement highlighted the licensee's acceptance that the longer operating hours does impacted on the ability to control Patron behaviour and the impact on the surrounding amenity

The reduced hours resulted in increased amenity and good order of the surrounding streets (Willow/Hamilton and The Strand) and a decrease in calls for service to Police. Further the licensee [REDACTED] indicated that there was a cultural adjustment of patron drinking behavior (arriving earlier) and that considering reduced staff hours the impact financially was not dramatic.

Prior to my departure in 2020 I had informal discussion with the key licensees in the Tauranga CBD in relation to their view on a reduction of trading hours. All but one licensee agreed that they would be open to discussion as long as there as an even playing field where all premises closed at the same time. There was a stronger appetite for a reduction to 2.30 am last drinks as opposed to 2 am last drinks.

Testimonial 2: I am a Senior Sergeant in the New Zealand Police based in Tauranga. I have 17 1/2 years' service, all of which has been served on the frontline. Two of these years were spent as the alcohol harm reduction Sergeant here in Tauranga which primarily involved Policing licensed premises on Friday and Saturday nights, three out of the four weekends per month.

During my time based in Tauranga, 15 years I have Police licensed premises across Western Bay of Plenty but the two main areas being the Mount Maunganui and Tauranga CBD's. There is a clear and obvious difference in the amount of alcohol related harm between the Mount Maunganui and Tauranga CBD's. The Tauranga CBD would see a significantly higher number of assaults, fights, disorder, drink driving and other alcohol related issues. My observation over the years is that the 0100hrs closing time for the licensed premises in Mount Maunganui is the main factor in the lower number of alcohol related issues.

In recent years the Tauranga CBD was affected by a 0200hrs one-way door policy. This has its obvious positive side but there is also a negative side effect of this policy. A large number of persons arrive in the Tauranga CBD after the Mount Maunganui premises close at 0100hrs and miss the 0200hrs one-way door policy. This leads to large numbers of people standing outside these premises, milling around on the road and often while intoxicated. These additional persons add to the volume of people at the 0300hrs closing time and contribute to the violence that occurs after 0300hrs. Having an earlier closing time in Tauranga to match the 0100hrs closing time in Mount Maunganui will reduce a lot of these issues. Even if the Tauranga premises had a closing time of 0200hrs with a one way policy starting at 0100hrs that would stop the introduction of large numbers of already intoxicated persons arriving in Tauranga on mass after the Mount Maunganui premises close at 0100hrs. Essentially patrons would need to choose which CBD they will socialise in. In my opinion this would have a positive effect on alcohol fueled violence in the Tauranga CBD and reduce the number of drink drivers commuting between Mount Maunganui and Tauranga.

The Strand and surrounding streets become heavily congested with private vehicles and taxis post 0100hrs. There is no designated taxi stand meaning they simply stop on the road to drop off/pick up patrons causing congestion at the intersections and round-a-bouts. This issue would also be resolved by reducing the closing time as there would be no need to travel from the Mount Maunganui licensed premises across to Tauranga as they would either be shut or have a one way door policy matching the Mount Maunganui closing time.

I am a Police Sergeant based in Tauranga. I have been a member of the New Zealand Police for 20 years, all of which has been served on the frontline. My main role is responding to calls for service across the Western Bay of Plenty which includes the supervision of Police staff and resources, coordinating and overseeing our response.

I have worked on both the Public Safety Team and Team Policing Units dealing with disorder and alcohol-related harm, including numerous New Year's Eve events.

Two of my 20 years were spent attached to the Alcohol Harm Reduction Team here in Tauranga. The role meant I was primarily involved in policing licensed premises across the Western Bay of Plenty on Thursday, Friday and Saturday nights three out of four weekends per month. As part of this role I was also tasked with policing larger public events within the Western Bay of Plenty where alcohol was sold and consumed.

I believe my varied roles and experience gives me a very good understanding of the policing issues across the Western Bay of Plenty area where I regularly work late shifts and night shifts and observe alcohol-related harm amongst the Mount and Tauranga communities.

There is a clear and obvious difference in the amount of alcohol-related harm between the Mount Maunganui business district and the Tauranga business district. The Tauranga CBD is seen as a significantly higher risk area with the number of serious assaults, sexual assaults, fights, disorder, drink/driving offences and other alcohol-related issues.

My observations over the years is that the 0100 hours closing time that we have in the Mount Maunganui area is the main factor for the lower number of alcohol-related harm in the Mount Maunganui business district.

In recent years, I know the Tauranga CBD was affected by the 0200 hours one-way door policy. When this was brought in, it had an obvious positive effect, however it also brought in a negative aspect and that is people were leaving the Mount at or by the 0100 hours closing time and making their way to Tauranga. However, due to the 0200 hours one-way door policy, they were unable to gain entry to licensed premises.

This resulted in a large number of people congregating outside these premises where they tend to mill around, often while heavily intoxicated. These additional persons added to the volume of people that are present at the 0300 hours closing time and contribute significantly to the violence and disorder and alcohol-related harm experienced by the community at closing time.

My belief is that moving the Tauranga premises to 0200 hours closing time with the one-way door policy starting at 0100 hours, would alleviate the pressure that the current closing and one-way door policy times create on the Tauranga business district. This would mean that patrons would essentially have to choose which business district they would like to socialise in and in my opinion, this would be a positive effect on alcohol fueled violence, dishonesty, and social harm within the Tauranga CBD. It would also have an impact on the reduction of drink/driving and driving-related offending with alcohol as a contributing factor between the Mount Maunganui and Tauranga business districts.

The current structure of the Tauranga CBD, the 0300 hours closing time and the surrounding streets of The Strand and the central business district here in Tauranga means that at this time the area becomes heavily congested both with pedestrian traffic and vehicle traffic, including private vehicles

and taxis. There are no designated taxi stands around The Strand and where these night spots are and so people simply stop on the road to drop off and pick up patrons which causes significant congestion – both from vehicles and pedestrians.

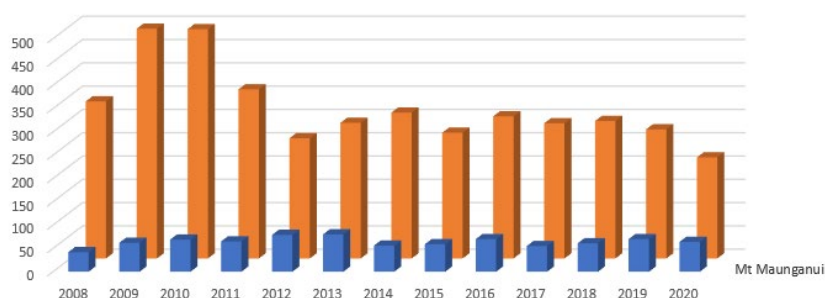
The congestion from the bars invariably leads to brawls often involving large numbers of intoxicated and aggressive patrons. These brawls either start inside licensed premises and are continued out onto the street or are carried out by people who have had confrontations inside the premises, are evicted from the premises but mill around on the street until closing time to continue and identify the parties they were having a confrontation with. These brawls are often quite serious by nature, resulting in hospitalisation of people and not only the risk to community but also the risk to Police staff who are often having to respond.

We have a large and unsatisfactory drinking culture that is only exacerbated through the current closing times of the Tauranga central business district night spots.

In my opinion the Mount Maunganui 0100 hours closing time has provided us little concern and the amount of alcohol-harm related offending is significantly lower than what we experience in Tauranga. In my opinion the Mount is an example of how things can be run without extensive and unnecessary alcohol-harm relating to the community.

This would likely make the central business district more attractive to families to come and socialise and partake and enjoy our city. It would have a dramatic change to the culture and the feel of the central business district.

Due to the change in the way Police have recorded / captured statistical data and changes in focus (the move away from prosecuting lower end offending e.g. breach of the liquor ban in favor of alternative action resolutions) comparing year on year statistics is difficult and can be misleading.



Graph 3: Shows offending in both Mount Maunganui and the Tauranga for the period 2008 to 2020. The offences captured in this data are those listed below in table 2. Please note the figures for 2020 are heavily impacted on by the Covid 19 Pandemic and subsequent restrictions. The data show a relatively consistent level of offending for both areas from 2012 onwards i.e. the issues seen in the CBD are not new.

| | | |
|---------------------------------|---|------------------------------------|
| Grievous Assaults | Sexual Affronts | Disorder |
| Serious Assaults | Abduction For Sex | Breach Of The Peace |
| Minor Assaults | Sexual Attacks | Obstructing/Hindering/Resisting |
| Intimidation/Threats | Rape | Unlawful Assembly |
| Crimes Against Personal Privacy | Domestic Dispute | Breach Of Local Council Liquor Ban |
| Drunk Custody/Detox Centre | Domestic Violence | Sale of Liquor offences (old Act) |
| Drunk Home | (Sale and Supply of Alcohol offences – new Act) | |

Table 2

Police position - Maximum Trading Hours for on-licenses

It is the proposal of the Western Bay of Plenty Police that:

- On-licensed premises in the Tauranga CBD area close at 2.00am (a reduction of 1 hour on current maximum trading hours in the present LAP).
- On-licensed premises in the Mount Maunganui CBD area close at 1.00am (maintain the status quo).
- All other on-licensed premises throughout Tauranga or the Western Bay of Plenty close at 1.00am, unless they already have an earlier closing time (maintain the status quo).

One-way door restrictions:

The one-way door restriction set out in the LAP for on-licensed premises in the Tauranga city CBD has assisted in the reduction of alcohol related harm. The one-way door restrictions offer a simple yet effective method of lowering the risk of late night (pending premise closure) binge drinking. It also has the benefit of reducing the risk of people loitering outside licensed premises as they know they will not be admitted.

Police believe that to fully realise the benefits of a one-way door that any licensed premise that operates past midnight must have a one-way door policy that takes effect one hour prior to closing (the end of the licensed hours).

Police see this as a change that would further minimise alcohol related harm caused by the excessive or inappropriate consumption of alcohol. This would progress positively towards achieving the Object of the Act (s4).

Locations for licensed premises:

Western Bay Police do not agree with the locating of licensed premises in areas zoned as industrial. These areas historically have a lack of community oversight. They are often away from any form of public transport and have attracted a heavy drinking culture.

Police are of the opinion that there should be a limit to the number of areas that would be considered 'entertainment precincts' in the WBOP. These have traditionally been identified as the Tauranga and Mount Maunganui CBD areas, where there is a high concentration of licensed premises of all types (taverns, pubs, restaurants and bars) in a relatively small geographical area.

Police would not want to see numbers of such precincts established in other areas that are currently identified as commercial or retail shopping areas (such as Fraser Cove and Papamoa Plaza). This would severely reduce the ability of Police to monitor these premises and deal with the alcohol related issues that arise from these entertainment precincts.

Police believe that an emerging industry of remote sellers (selling remotely from the premise i.e. for delivery) poses significant risk of alcohol related harm. This was a topic for discussion at a recent (July

2021) Alcohol Harm conference at the Royal New Zealand Police College attended by representatives of the Police, Ministry of Justice, Crown Law, Te Hīringa Hauora / Health Promotion Agency, the Medical Officer of Health and Alcohol Healthwatch.

Police are aware of some incidents where OFF Licence holders were providing a 30-minute delivery service for alcohol purchases which enabled them to continue to run the bottle store past closing time and deliver to persons waiting outside. This topic will be discussed further at a national level for submissions on the re-write of the Act.

The LAP provides the ability to restrict the number and placement of a licensed premises.

This is an import function which when drafted and applied correctly can mitigate the risk of alcohol related harm by, ensuring licensed premises are not in vulnerable communities / areas e.g. adjacent to a school or Rehabilitation clinic. Further, the number / density of licensed premises in an area can result in cut priced alcohol being made readily available which is a driver of antisocial behaviour.

The Alcohol Regulatory Licensing Authority recently stated in [2021] NZARLA 50 Townill that a 'population-based' is only provided for in the context of a Local Alcohol Policy.

Police working in the Te Puke area have become concerned that the number of License premise in the Te Puke area is driving offending including antisocial behaviour in the community. Between August 2018 – July 2020, of the 1082 violence, disorder and drink driving offences committed in the Te Puke area, 154 offences are known to be alcohol related and a further 334 were estimated to be alcohol related. Further 225 of these offences were family harm offences (WBOP/IR/200908).

Anecdotal, local officers have received complaint of homeless persons coming to Police attention due to their behaviour. We also know that when they are refused alcohol they have become aggressive towards the proprietors often resulting in calls to Police. Police are aware that when trespassed from licensed premises they will loiter nearby and get 'associates' or accost passers-by to buy alcohol on their behalf. The high concentration of Off-Licence is an attractor for crime and public disorder.

Te Puke has an estimated population of 8,500 people, which fluctuates with seasonal workers coming into the area. In the Te Puke area there are

8 OFF-licence - all in the CBD and are all within a 500m stretch. Of these 8 off licence, 5 of them are bottle stores, 2 are supermarkets & 1 is the Four Square.

A further 7 ON-licence premises within the same 500m stretch

There are a further 8 separate CLUB licences within the Te Puke area, excluding Maketu, Pukehina & Paengaroa.

It is the Polices submission that consideration be given to the number of liquor Licenses, particularly OFF-Licenses in the Te Puke area.

Further to that, consideration needs to be given to how the maximum number of licences issued in an area is calculated. A holistic method is required, issuing licenses purely based on population may not be effective for ensuring amenity and good order.



18 February 2022

Jane BARNETT
Policy Analyst
Tauranga City Council

RE: TAURANGA CITY LOCAL ALCOHOL POLICY Review

Following the 2nd of February Council facilitated on-line meeting with representatives of the Tauranga CBD licensed premises, Hospitality NZ and brand and marketing specialists from Tuskany agency, Police would like to submit briefly on the breadth required Local Alcohol Policy.

The contentious issue for the meeting participants was the draft adoption of a 2am licensed hours closing time restriction, and the associated 1am one way door policy.

Local Alcohol Policies (LAP's) are constructed pursuant to the Sale and Supply of Alcohol Act 2012 (the Act).

Content of a LAP is covered by section 77 of the 'Act' and needs to be reasonable to meet the Purpose of the Act (section 3). The LAP must also be mindful of the most important section in the 'Act' – the Object (section 4).

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.

The scope of what is considered as harm is wide.

The Council is charged with community wide policy construction. The LAP must be mindful of this.

The LAP is restricted to the contents described in section 77 and must not contain matters not relating to licensing.

Sergeant Dan ROSER - Licensing and Alcohol Harm Prevention Co-ordinator
Western Bay of Plenty Police - 11 Monmouth Street OR P O Box 144, TAURANGA
Ph 021 191 3804 E-mail: Daniel.Roser@police.govt.nz

Because the nature of the licensed businesses in the Tauranga CBD affected by the proposed 2am closing is that of late-night entertainment and drinking; and the fact that alcohol related harm is not simply a phenomenon contained solely to the 'on premises' consumption of alcohol, the Council is well within its remit to consider the effect of the proposed LAP changes to the present 3am closing time on alcohol harm in the area wide community.

Police submit that the Council is required to maintain an area wide perspective when considering the licensed hours of the Tauranga CBD.

Even if a CBD premises complies with the requirements of the 'Act' and its offence provisions / licence conditions they can still contribute to alcohol related harm when patrons leave premises and potentially drive while intoxicated, damage property on their walk home or engage in domestic dispute upon arriving home intoxicated.

If the manner of operation of a premises was to constitute an offence or breach licence conditions, then there are provisions in the 'Act' to take appropriate enforcement action for that specific Manager / Licensee and/or premises.

The proposed hours change in the draft LAP should not be viewed as punishment of premises; it needs to be viewed as working toward achieving the Object of the 'Act'.

Police see that it is reasonable to reduce the licensed hours of the Tauranga CBD due to alcohol related harm occurring in the CBD and beyond.

The concept of "Reasonableness" as it relates to Local Alcohol Policies and bylaws in general, was well discussed by the New Zealand Court of Appeal (CV160/2020 [2021] NZCA 484) when ruling on the Auckland LAP.

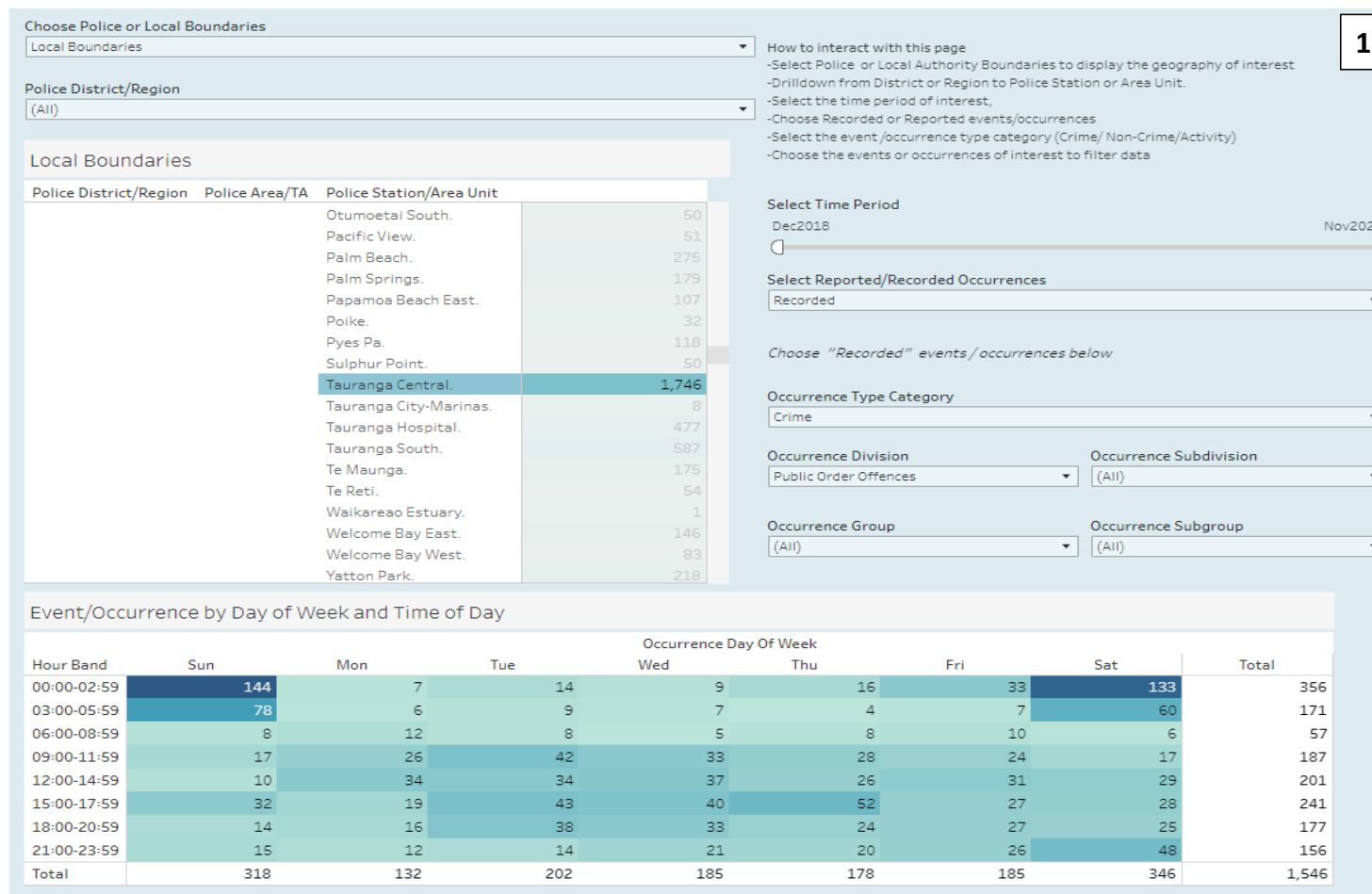
The Appeal Court case is of significant importance and well worth reading for decision makers.

Kind regards



Dan ROSER
Sergeant (DRI941)
Alcohol Harm Prevention Co-ordinator
WESTERN BAY OF PLENTY

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Choose Police or Local Boundaries

Local Boundaries

Police District/Region

(All)

How to interact with this page

- Select Police or Local Authority Boundaries to display the geography of interest
- Drilldown from District or Region to Police Station or Area Unit.
- Select the time period of interest.
- Choose Recorded or Reported events/occurrences
- Select the event/occurrence type category (Crime/ Non-Crime/Activity)
- Choose the events or occurrences of interest to filter data

2

Local Boundaries

| Police District/Region | Police Area/TA | Police Station/Area Unit | |
|------------------------|----------------|----------------------------|------------|
| | | Inlet-Tauranga Harbour. | 20 |
| | | Judea. | 132 |
| | | Kairua. | 11 |
| | | Kaitemako. | 45 |
| | | Matapihi. | 38 |
| | | Matua. | 67 |
| | | Maungatapu. | 85 |
| | | Mt Maunganui North. | 596 |
| | | Omanu. | 285 |
| | | Otumoetai North. | 132 |
| | | Otumoetai South. | 50 |
| | | Pacific View. | 51 |
| | | Palm Beach. | 275 |
| | | Palm Springs. | 179 |
| | | Papamoa Beach East. | 107 |
| | | Poike. | 32 |
| | | Pyes Pa. | 118 |
| | | Sulphur Point. | 50 |

Select Time Period

Dec2018 Nov2021

Select Reported/Recorded Occurrences

Recorded

Choose "Recorded" events/occurrences below

Occurrence Type Category

Crime

Occurrence Division v **Occurrence Subdivision**

Public Order Offences (All)

Occurrence Group v **Occurrence Subgroup**

(All) (All)

Event/Occurrence by Day of Week and Time of Day

| Hour Band | Occurrence Day Of Week | | | | | | | Total |
|--------------|------------------------|-----------|-----------|-----------|-----------|-----------|------------|------------|
| | Sun | Mon | Tue | Wed | Thu | Fri | Sat | |
| 00:00-02:59 | 52 | 9 | 7 | 6 | 10 | 20 | 63 | 167 |
| 03:00-05:59 | 2 | 2 | | 2 | 2 | 1 | 11 | 20 |
| 06:00-08:59 | 3 | 4 | | 1 | | 2 | 3 | 13 |
| 09:00-11:59 | 4 | 3 | 2 | 3 | 2 | 3 | 6 | 23 |
| 12:00-14:59 | 7 | 4 | 5 | 8 | 4 | 3 | 3 | 34 |
| 15:00-17:59 | 19 | 7 | 3 | 12 | 5 | 5 | 28 | 79 |
| 18:00-20:59 | 9 | 2 | 4 | 11 | 20 | 9 | 26 | 81 |
| 21:00-23:59 | 6 | 4 | 6 | 11 | 18 | 36 | 35 | 116 |
| Total | 102 | 35 | 27 | 54 | 61 | 79 | 175 | 533 |

How to interact with this page

- Select a period of interest by dragging the ends of the slider at the right hand side of the page. The report will then display victimisations reported to Police during that period.
- Select an area of interest to zoom in to that area.
- Select the layer of details to display on the map (e.g. Region, Area Unit, etc)
- Select the type(s) of crime (ANZSOC Division or Group) you are interested in.
- In the map click on an area to display when victimisations occurred throughout the week.

Select Time Period
 1/12/2016 30/11/2022

Zoom to the Area of Interest

Region
 Bay of Plenty Region

Territorial Authority
 Tauranga City.

Area Unit
 Tauranga Central.

Boundary to display
 Meshblock

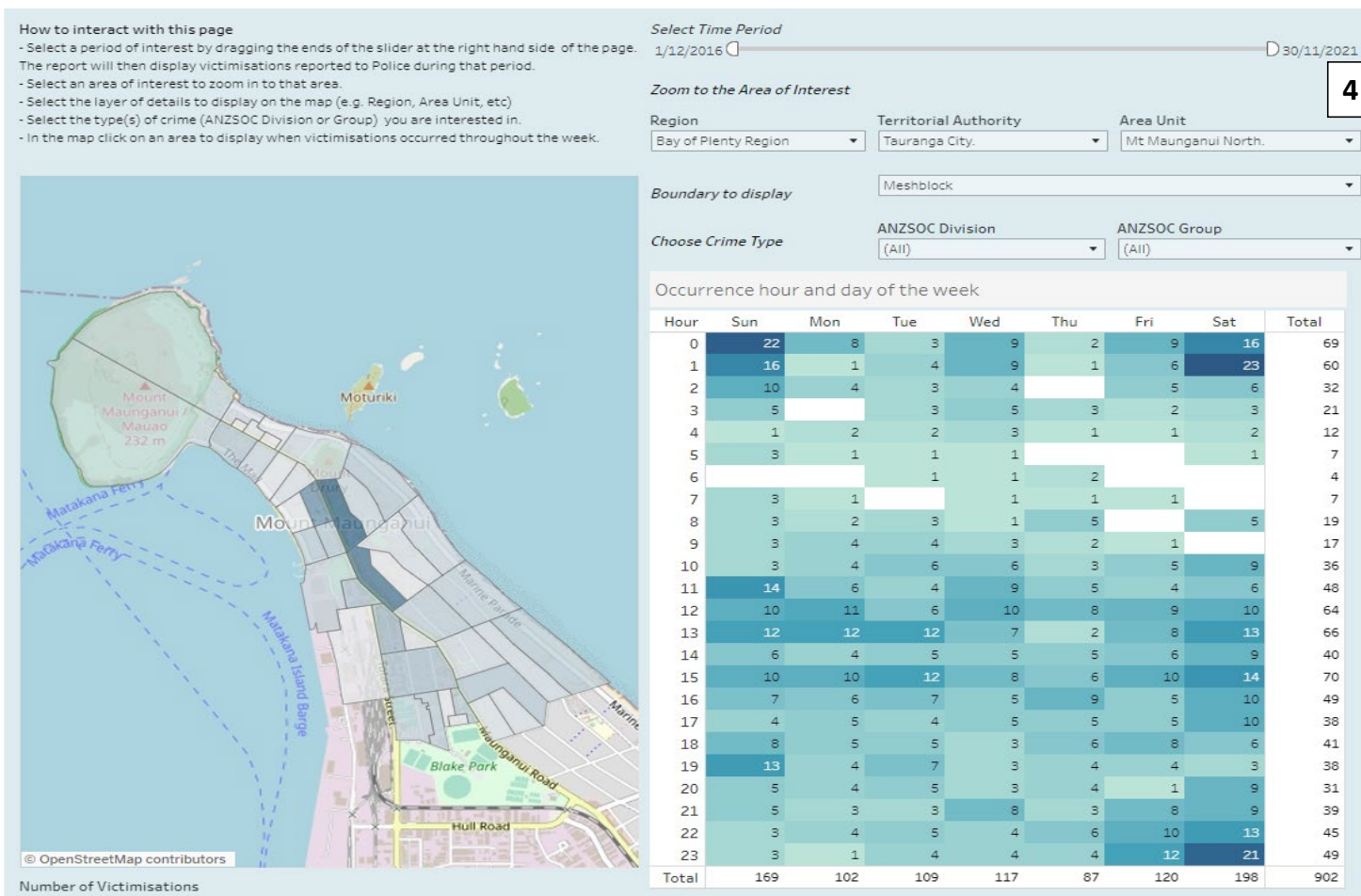
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 (All)

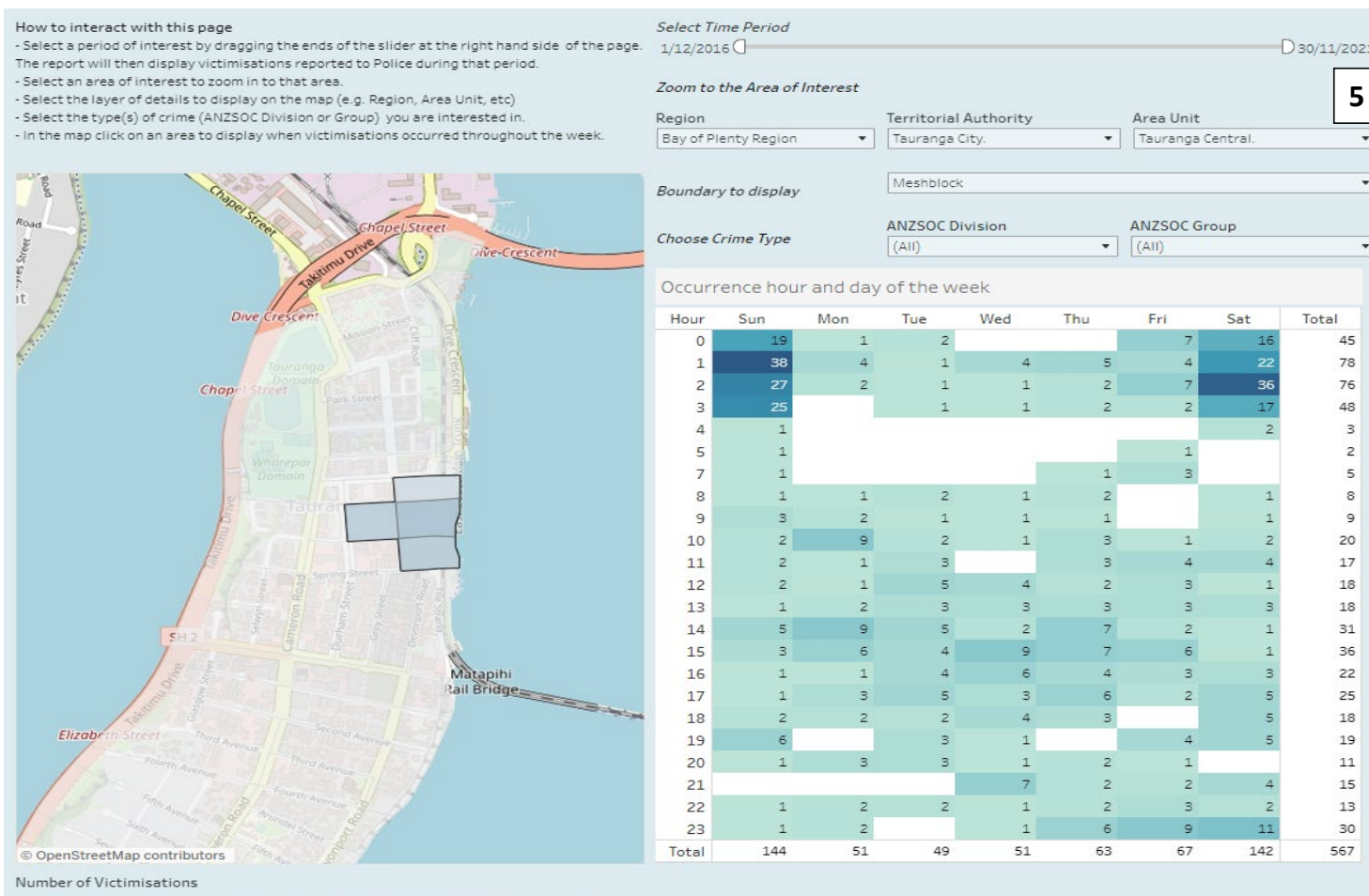
ANZSOC Group
 (All)

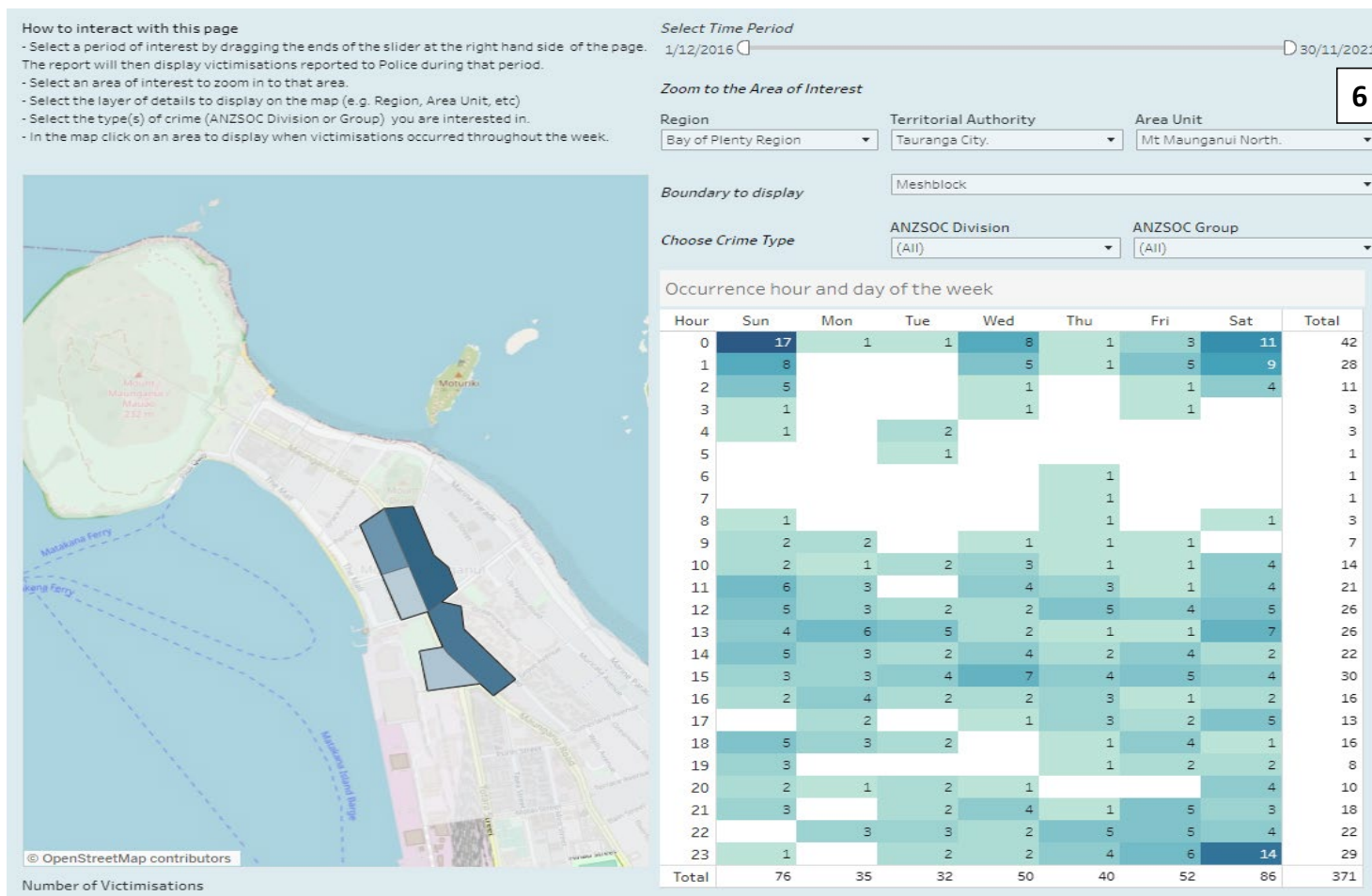
Occurrence hour and day of the week

| Hour | Sun | Mon | Tue | Wed | Thu | Fri | Sat | Total |
|-------|-----|-----|-----|-----|-----|-----|-----|-------|
| 0 | 29 | 3 | 6 | 6 | 6 | 11 | 25 | 86 |
| 1 | 46 | 7 | 1 | 6 | 11 | 8 | 31 | 110 |
| 2 | 40 | 4 | 6 | 4 | 6 | 8 | 47 | 115 |
| 3 | 32 | 2 | 6 | 5 | 5 | 12 | 32 | 94 |
| 4 | 6 | | | | 7 | 1 | 13 | 27 |
| 5 | 2 | 3 | 1 | 5 | 3 | 4 | 2 | 20 |
| 6 | 3 | 3 | 2 | 5 | 3 | 5 | 3 | 24 |
| 7 | 6 | 8 | 4 | 3 | 4 | 10 | 6 | 41 |
| 8 | 11 | 13 | 13 | 11 | 19 | 15 | 14 | 96 |
| 9 | 12 | 23 | 26 | 18 | 12 | 20 | 18 | 129 |
| 10 | 26 | 38 | 35 | 28 | 32 | 21 | 17 | 197 |
| 11 | 29 | 35 | 21 | 19 | 31 | 41 | 32 | 208 |
| 12 | 23 | 42 | 41 | 26 | 44 | 43 | 29 | 248 |
| 13 | 19 | 34 | 34 | 21 | 32 | 31 | 31 | 202 |
| 14 | 43 | 40 | 38 | 25 | 44 | 36 | 38 | 264 |
| 15 | 32 | 36 | 40 | 35 | 43 | 34 | 30 | 250 |
| 16 | 29 | 31 | 25 | 37 | 38 | 34 | 38 | 232 |
| 17 | 28 | 23 | 20 | 21 | 34 | 17 | 29 | 172 |
| 18 | 24 | 18 | 21 | 15 | 24 | 9 | 31 | 142 |
| 19 | 22 | 14 | 15 | 14 | 17 | 14 | 23 | 119 |
| 20 | 14 | 12 | 13 | 7 | 18 | 20 | 12 | 96 |
| 21 | 7 | 11 | 8 | 14 | 7 | 19 | 21 | 87 |
| 22 | 10 | 4 | 11 | 7 | 10 | 14 | 9 | 65 |
| 23 | 5 | 5 | 4 | 4 | 13 | 17 | 21 | 69 |
| Total | 498 | 409 | 391 | 336 | 463 | 444 | 552 | 3,093 |



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IN THE COURT OF APPEAL OF NEW ZEALAND**I TE KŌTI PĪRA O AOTEAROA****CA160/2020
[2021] NZCA 484**

| | |
|---------|---|
| BETWEEN | AUCKLAND COUNCIL Appellant |
| AND | WOOLWORTHS NEW ZEALAND LIMITED First Respondent |
| AND | FOODSTUFFS NORTH ISLAND LIMITED Second Respondent |
| AND | ALCOHOL REGULATORY AND LICENSING AUTHORITY Third Respondent |

Hearing: 15–16 June 2021

Court: Kós P, Miller and Goddard JJ

Counsel: PMS McNamara and T R Fischer for Appellant (Auckland Council)
J S Cooper QC and A W Braggins for First Respondent (Woolworths New Zealand Ltd)
I J Thain and I E Scorgie for Second Respondent (Foodstuffs North Island Ltd)
D R La Hood for Interested Party (Medical Officer of Health)

Judgment: 24 September 2021 at 11.30 am

JUDGMENT OF THE COURT

A The appeal is allowed. We make the orders specified at [126]–[127].**B The cross-appeal is dismissed.**

AUCKLAND COUNCIL v WOOLWORTHS NZ LTD & OTHERS [2021] NZCA 484 [24 September 2021]

- C The first and second respondents must pay the appellant one set of costs on the appeal and cross-appeals for a complex appeal on a band A basis, with usual disbursements. We certify for second counsel.**

REASONS OF THE COURT

(Given by Miller J)

[1] Auckland Council developed a local alcohol policy which would limit trading hours for off-licences; restrict the granting of new off-licences by imposing a temporary freeze in certain central city areas and a rebuttable presumption against new off-licences in certain areas; require local impact reports in connection with licence applications; and establish certain discretionary conditions that might be imposed when issuing or renewing off-licences.

[2] The Council adopted the Policy in 2015 as a provisional local alcohol policy under s 75 of the Sale and Supply of Alcohol Act 2012, which allows a territorial authority to have a policy relating to the sale, supply or consumption of alcohol within its district. The Policy is to cover the entire Auckland district.

[3] The first and second respondents operate New Zealand's major supermarket chains. We will call them "Woolworths" and "Foodstuffs" or "the Supermarkets". They sell alcohol from those premises under off-licences. The Supermarkets objected to the Policy. They appealed to the Alcohol Regulatory and Licensing Authority, which we will call ARLA, on the ground that elements of the Policy were unreasonable having regard to the object of the Act. ARLA held they had failed to satisfy it that some of those elements were unreasonable.

[4] The Supermarkets sought judicial review of ARLA's decision. In a judgment delivered on 27 February 2020 Duffy J found for them on two grounds: ARLA had erred in law by not giving reasons for its decision, and elements of the Policy were

ultra vires the Act.¹ The Judge remitted the affected elements of the Policy to ARLA for reconsideration.

[5] The Council now appeals the High Court's decision on judicial review. The appeal addresses aspects of what are known as policy elements 1 (maximum trading hours), 2 (among other things, a temporary freeze and rebuttable presumption against new off-licences), and 4 (discretionary conditions on licences).

[6] Woolworths has cross-appealed and both Supermarkets have given notice of intention to support the judgment under appeal on other grounds. They challenge ARLA's invocation of the precautionary principle, which they say forms no part of the Act, and maintain that ARLA applied the wrong test to element 1 by failing to balance public harm against the public interest in the safe and responsible supply of alcohol. They say that element 2 is ultra vires the Act. And they contend that, contrary to the view arguably taken by the Judge, ARLA was obliged to form its own view of reasonableness by reference to the merits.

[7] The Medical Officer of Health, who supports the Policy, has been heard as an interested party.

Outline

[8] Because this appeal is ultimately an exercise in statutory interpretation, we begin by discussing relevant provisions of the 2012 Act, remarking as we go on aspects of the High Court and ARLA decisions. We then outline the Policy elements and summarise relevant parts of ARLA's decision before addressing the judgment under appeal.

¹ *Woolworths New Zealand Ltd v Alcohol Regulatory and Licensing Authority* [2020] NZHC 293 [Judgment under appeal].

The legislation

Background

[9] The 2012 Act marked the end of an experiment in the regulation of alcohol supply in New Zealand. Its immediate predecessor, the Sale of Liquor Act 1989, had the modest objective, which was not expressly incorporated in that Act's licensing criteria, of establishing "a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse, so far as that can be achieved by legislative means".² It was thought at that time that New Zealand's drinking culture would be best addressed through public education. As this Court remarked in 2002, the 1989 Act differed markedly from its predecessors by departing from the notion that limits on supply would reduce alcohol abuse in the community:³

In marked contrast with its predecessors the [1989] Act does not provide for general economic regulation of the liquor industry ... The notion that if the availability of licenses to sell and supply liquor is restricted the abuse of liquor will be diminished has been at the heart of licensing systems in New Zealand since 1881.

After the introduction of the 1989 Act, an applicant for a new licence need no longer show that the licence was "necessary and desirable".⁴ Rather, any licensee and premises that met the 1989 Act's criteria might be licensed. The effect was to allow availability and price to be determined by the market. It was under the 1989 Act that the Supermarkets were first permitted to sell alcohol.

[10] The Law Commission found in 2010 that the experiment had not been a success.⁵ The 1989 Act had not reduced alcohol-related harm and was insufficiently ambitious about doing so.⁶ The problem had worsened, partly through proliferation of outlets.⁷ The Commission emphasised that levels of alcohol-related harm in the community were high, both for those who consume alcohol and those who are affected

² Sale of Liquor Act 1989, s 4(1).

³ *Meads Brothers Ltd v Rotorua District Licensing Agency* [2002] NZAR 308 (CA) at [24].

⁴ As was required under the Sale of Liquor Act 1962, ss 74–75.

⁵ Law Commission *Alcohol in our Lives: Curbing the Harm* (NZLC R114, 2010).

⁶ See generally ch 3, and specifically see [3.23]–[3.29].

⁷ The Law Commission considered the relationship between drinking and the availability of liquor in detail in ch 6. See in particular the conclusion at [6.45]–[6.46].

directly or indirectly by others' consumption.⁸ The problem is not confined to binge drinking, drinking to intoxication and offending while under the influence. Alcohol misuse affects children from conception,⁹ it reduces workplace productivity and safety,¹⁰ and it increases the risk of death from alcohol-related causes for the many New Zealanders who consume more than two drinks a day.¹¹ Its effects are disproportionately felt by Māori and those in lower socioeconomic groups.¹²

[11] As the Law Commission recognised, the concept of a “reasonable system of control” assumed importance in the 1989 Act and industry groups were anxious to retain it. The Commission accepted that it was “essential that, in addition to providing a focus on the key alcohol-related harms that the Act aims to prevent, the object of the Act should include the establishment of a reasonable system for the sale, supply and consumption of alcohol” and that control should be “for the benefit of the community”.¹³ But the Commission rejected submissions arguing that the object of the 1989 Act should be retained:¹⁴

However, our review has shown us that fundamental changes are needed to the way in which we regulate the sale, supply and consumption of alcohol. Many sections of New Zealand society have told us clearly that there are problems with alcohol-related harms that are not adequately addressed by the current regime. While several elements of the proposed scheme are consistent with the existing legislation, a new focus is needed if New Zealand is to achieve a reduction in alcohol-related harms. We consider it to be essential that the object of the new Act sets out aims that relate directly to the broad spectrum of alcohol-related harms. We are convinced that the current state of alcohol-related harms means a new approach is warranted. The object of the new Act should signal this. The legislation needs to take a wider focus than that of simply contributing to the reduction of liquor abuse. Preventing liquor abuse is clearly important, but there are wider effects of alcohol use and misuse that should be emphasised, such as crime, disorder, public health, accidents, the amenity of public places and the resource use of our public services. The problems related to alcohol in New Zealand are at a point where a more proactive approach to addressing harms is needed.

[12] The Commission proposed a suite of reforms which included restrictions on opening hours and allowing more local input into licensing policy and decisions.

⁸ See generally ch 3.

⁹ At [3.76]–[3.81].

¹⁰ At [3.99]–[3.102].

¹¹ At [3.12].

¹² At [3.103]–[3.110].

¹³ At [5.41].

¹⁴ At [5.42].

A reasonable system of control would encourage responsible attitudes, contribute to minimisation of social harms, delay the onset of youth drinking, protect public health and promote public safety, and reduce the impact of alcohol abuse on police and public health resources.¹⁵ Among the Commission's proposals were restrictions of various kinds on supply.¹⁶

[13] In a Cabinet Paper dated 5 August 2010 the Minister of Justice, then the Hon Simon Power, responded to the Law Commission's report. He proposed to accept most of the Commission's 153 recommendations, in whole or in part, but added that he did not want "to unduly inconvenience low and moderate drinkers".¹⁷ He proposed "to focus on the availability and accessibility of alcohol to reduce opportunities for excessive drinking".¹⁸ With respect to licensing, he proposed to improve community input into licensing decisions and to reduce the availability of alcohol. He stated that there was evidence that high outlet density and lengthened trading hours lead to greater levels of harm.¹⁹

[14] Speaking on the Bill's third reading on 11 December 2012, the Hon Judith Collins, by then the Minister of Justice, spoke of "clear evidence" linking availability and harm and stated that the Bill's "key measures" included restrictions on access to alcohol.²⁰ Referring to local alcohol policies, she said that:²¹

Another important measure to give local communities a greater say is the option for communities to adopt a local alcohol policy. Under these policies, communities will be able to restrict or extend maximum trading hours. They will also be able to limit the location of licensed premises near certain facilities, such as schools, and specify whether further licences should be issued in a defined area. There have been calls to make local alcohol policies mandatory; however, there are important reasons why policies should be optional. Firstly, there is significant cost associated with the development of a local alcohol policy. Some territorial authorities—particularly the smaller ones—may not want to fund the development of a policy. Secondly, some communities may consider that a local alcohol policy is unnecessary for their area, and that the national maximum trading hours, a new criteria in the bill, adequately address their needs. It is very important that we allow

¹⁵ At the summary at [35]. See also [5.44].

¹⁶ See the summary at [8] and [36].

¹⁷ Office of the Minister of Justice "Alcohol Law Reform" (5 August 2010) at [9].

¹⁸ At [10].

¹⁹ At [13].

²⁰ (11 December 2012) 686 NZPD 7348.

²¹ (11 December 2012) 686 NZPD 7349.

communities to decide what is best for them, especially given the aim of increasing community input and control over licensing.

The object of the 2012 Act

[15] We begin with the object of the Act because an appeal against an element of a proposed local alcohol policy must be decided by reference to it. As we explain at [33] below, the question for ARLA on such an appeal is whether the element is unreasonable in light of the Act's object. It is found in s 4:

4 Object

- (1) The object of this 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).

[16] It will be seen that subs (1)(a) and (b) form a single object. The Act does not envisage that there will be conflict between the two subsections, or a need to balance one against the other. They are directed toward the same end. The Act permits the sale, supply and consumption of alcohol, provided *all* of those things are done safely and responsibly and provided the harm caused by excessive or inappropriate consumption is minimised.

[17] The definition of alcohol-related harm (meaning harm caused by excessive or inappropriate consumption) was a significant departure from the 1989 Act. The term is extensively defined to include both harm from injury, illness, disease, death, damage, crime, or disorderly behaviour to which misuse of alcohol has contributed

directly or indirectly, and harm to society generally or the community resulting directly or indirectly from such injury, illness or misconduct. This is a very broad concept of harm, not limited to those who misuse alcohol or directly experience the consequences of its misuse. It envisages that harm relating from supply of alcohol may occur after sale, where the alcohol is consumed or the consequences of its misuse felt. And it recognises that society and communities experience harm and have an interest in minimising it.

[18] The Act also contains a purpose statement, which is found in s 3:

3 Purpose

- (1) The purpose of Parts 1 to 3 and the schedules of this Act is, for the benefit of the community as a whole,—
 - (a) to put in place a new system of control over the sale and supply of alcohol, with the characteristics stated in subsection (2); and
 - (b) to reform more generally the law relating to the sale, supply, and consumption of alcohol so that its effect and administration help to achieve the object of this Act.
- (2) The characteristics of the new system are that—
 - (a) it is reasonable; and
 - (b) its administration helps to achieve the object of this Act.

[19] We make several points about s 3. The first, which is obvious but bears labouring having regard to the Supermarkets' submissions before us, is that the legislature chose, as the Law Commission had recommended, not to retain the object of the 1989 Act. It will be recalled that the object of that Act was a "reasonable system of control" which aimed to contribute, so far as legislation could do, to the reduction of alcohol abuse.²² Section 3 of the 2012 Act refers to a system of control that is reasonable, but it is to be a "new system of control";²³ it is not carried over from the system established under the 1989 Act.

²² Sale of Liquor Act, s 4. The 1989 Act spoke of "liquor"; alcohol has been used in the 2012 Act because it is in common use to describe alcoholic beverages.

²³ Sale and Supply of Alcohol Act, s 3(1).

[20] Second, the new system of control is not only to be reasonable but also to help achieve the object of the Act, which differs very significantly from that of the 1989 Act. In contrast to the 1989 Act, the reasonable system of control is not the Act's end in itself.

[21] Third, the content of a reasonable system of control should be gleaned from the legislation itself and the legislative history, including the Law Commission's report which, as we have explained, the legislation sought to implement in significant measure. We observe that it is a premise of the 2012 Act that licensing policy can reduce alcohol-related harm; that was the lesson the legislature took from the 1989 Act, under which increased outlet density and longer trading hours contributed to increased harm.²⁴ We have referred at [12] above to what the Commission identified as characteristics of a reasonable system of control. We observe too that it is a feature of the 2012 Act that the system of control should facilitate local preferences about alcohol supply.²⁵

[22] In what we have to say below it will be apparent that we respectfully think Duffy J did not attach sufficient weight to these features of the Act's object and purpose provisions. She considered that the Act balances a "freedom" to sell alcohol against a community freedom to take reasonable steps to protect people from harm.²⁶ But there is no antecedent right or freedom to sell or supply alcohol; the right to do so is conferred under the Act and on its terms. Section 4 does not speak of balancing competing rights or freedoms, though it undoubtedly recognises that alcohol may be consumed lawfully and safely, and that alcohol-related harm cannot be eliminated. And, perhaps most importantly, there is no presumption in favour of the status quo; the 2012 Act looks to a new system of control.

Default trading hours and terms

[23] Section 43 establishes "default national maximum trading hours", relevantly the hours between 7 am and 11 pm on any day for the sale of alcohol on premises for

²⁴ For the connection between density and alcohol-related harm see Law Commission, above n 5, at Chapter 6. For the connection between trading hours and alcohol related harm see [9.27]–[9.39].

²⁵ See (11 December 2012) 686 NZPD 7348–7349. See also sections 75 (permitting local alcohol policies) and 189 (establishing District Licensing Committees) of the 2012 Act.

²⁶ Judgment under appeal, above n 1, at [54].

which an off-licence is held.²⁷ Where a local alcohol policy setting maximum trading hours is in force, s 45(1)(a) provides that the applicable maximum trading hours for any licensed premises are those stated in the policy.

[24] Speaking generally of the Act's provisions for sale, supply and consumption, Duffy J held that:²⁸

[55] The provisions for the sale, supply and consumption of alcohol must indicate Parliament's view on what will generally achieve the [Act's] purpose and object, because otherwise they would not be in their present form. They are a general default standard from which there should be reason for departure. The presence of Part 2 Subpart 2 of the [Act], however, with provisions for [local alcohol policies], indicates that Parliament also recognises the [Act's] general provisions may require tailoring to meet specific features of individual communities, if the purpose and object of the [Act] are to be met. Accordingly, the elements of a [provisional local authority policy] need to be formulated with these matters in mind.

[25] We do not agree. So far as trading hours are concerned, ss 43–45 establish no presumption in favour of the default hours and nothing in them requires that a local authority justify departure from those hours. The default hours are merely those that apply if a territorial authority has chosen not to establish a local alcohol policy. Where a policy is established, any limit on trading hours prevails unless ARLA finds that element of the policy unreasonable in light of the Act's purpose, as we explain below.

Local alcohol policies

[26] Under s 75 a territorial authority may have a local alcohol policy, which may discriminate among parts of its district and between kinds of licence:

75 Territorial authorities may have local alcohol policies

- (1) Any territorial authority may have a policy relating to the sale, supply, or consumption of alcohol within its district (or to 2 or all of those matters).
- (2) A local alcohol policy—
 - (a) may provide differently for different parts of its district; and
 - (b) may apply to only part (or 2 or more parts) of its district; and

²⁷ Section 43(1)(b).

²⁸ Judgment under appeal, above n 1.

- (c) may apply differently to premises for which licences of different kinds are held or have been applied for.
- (3) A local alcohol policy must be produced, adopted, and brought into force, in accordance with this subpart.
- (4) No territorial authority is required to have a local alcohol policy.

[27] Section 77 sets out what a local alcohol policy may contain:

77 Contents of policies

- (1) A local alcohol policy may include policies on any or all of the following matters relating to licensing (and no others):
 - (a) location of licensed premises by reference to broad areas:
 - (b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:
 - (c) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:
 - (d) 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:
 - (e) maximum trading hours:
 - (f) the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions:
 - (g) one-way door restrictions.

[28] It will be seen that a policy may include restrictions on new licences and trading hours. It may provide for licences to be issued subject to discretionary conditions. The policy must be confined to matters relating to licensing. Under s 94 it must also be consistent with the Act and the general law.

[29] Under s 78 the territorial authority must produce a draft policy which has regard to certain matters, and it must not produce the draft without consulting the police, licensing inspectors and Medical Officers of Health:

78 Territorial authorities must produce draft policy

- (1) A territorial authority that wishes to have a local alcohol policy must produce a draft policy.

- (2) When producing a draft policy, a territorial authority must have regard to—
 - (a) the objectives and policies of its district plan; and
 - (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; and
 - (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.
- (3) For the purposes of subsection (2), a district's residents include people who have holiday homes there.
- (4) The authority must not produce a draft policy without having consulted the Police, inspectors, and Medical Officers of Health, each of whom must, if asked by the authority to do so, make reasonable efforts to give the authority any information they hold relating to any of the matters stated in subsection (2)(c) to (g).

[30] The territorial authority must then produce a provisional policy, following a prescribed public consultative process, if it wishes to proceed.²⁹

[31] We return to s 78 at [110] below. We pause here to make two points about it. The first is that a local alcohol policy need not discriminate among parts of the territorial authority's district. There is no presumption that, as the Judge held, a policy may require "tailoring to meet specific features of individual communities, if the purpose and object of the [Act] are to be met".³⁰ On the contrary, there may be good reason not to discriminate. By way of example, evidence as to alcohol-related harm may be generally applicable; put another way, there may be no reason to doubt that it affects the entire district. (In this case, by way of illustration, there was general evidence that those purchasing alcohol after 9 pm are likely to be abusing it.) Subdivision of a district into boundaries may tend to defeat the purpose of a control

²⁹ Section 79.

³⁰ Judgment under appeal, above n 1, at [55].

on off-licences, since people may travel to buy alcohol and may consume it anywhere. Attempts to draw boundaries are prone to engender controversy, making the policy difficult and costly to develop and administer.³¹ This last point is a relevant consideration because the Act recognises that a local alcohol policy imposes burdens on a territorial authority; the legislative record suggest that is why local alcohol policies were not made compulsory and why two or more local authorities may adopt a joint policy.³²

[32] The second and more general point is that revealed community preference has an important role to play under the Act. That is shown by provision for local alcohol policies, the extent to which it is permissible for such policies to govern the supply of alcohol, and delegation of decision-making to territorial authorities.³³ As Mr McNamara submitted for the Council, a local alcohol policy is a means by which communities can implement, through participatory processes, some of their own policies on alcohol-related matters in their districts. Because those policies are the product of a process designed to discover and implement a community preference, they need not be evidence-based. If an objectively unreasonable preference finds its way into a proposed local alcohol policy, the remedy lies in an appeal to ARLA.

Appeals

[33] Anyone who made submissions during the consultative process may appeal to ARLA. The sole ground on which “an element of” the policy can be appealed against is that it “is unreasonable in the light of the object of this Act”.³⁴ Section 83 prescribes how ARLA is to deal with an appeal:

83 Consideration of appeals by licensing authority

- (1) The licensing authority must dismiss an appeal against an element of a provisional local alcohol policy if it—
 - (a) is not satisfied that the element is unreasonable in the light of the object of this Act; or

³¹ As demonstrated by the Redwood appeal, heard by ARLA at the same time as the appeal by the Supermarkets and dealt with in a separate but related judgment of Duffy J. See our discussion of the Redwood appeal at [84] below.

³² See (11 December 2012) 686 NZPD at 7349.

³³ The consultative processes are found in the Local Government Act 2002, s 5(1): see the Sale and Supply of Alcohol Act, s 5(1) definition of “special consultative procedure”.

³⁴ Section 83.

- (b) is satisfied that the appellant did not make submissions as part of the special consultative procedure on the draft local alcohol policy concerned.
- (2) The licensing authority must ask the territorial authority concerned to reconsider an element of a draft local alcohol policy appealed against if it is satisfied that—
 - (a) the appellant made submissions as part of the special consultative procedure on the draft local alcohol policy concerned; and
 - (b) the element is unreasonable in the light of the object of this Act.
- (3) The licensing authority must notify the appellant and territorial authority of its decision.
- (4) The appellant has no right of appeal against the decision of the licensing authority.
- (5) Subsection (4) does not limit or affect the Judicature Review Procedure Act 2016.

[34] It will be seen that ARLA must dismiss an appeal against an element of the policy if not satisfied that the element is unreasonable. If satisfied that the element is unreasonable it must ask the territorial authority to reconsider that element. In contrast to appeals on licensing matters under ss 154–158, which are by way of rehearing,³⁵ ARLA may not substitute its own view of the merits.

[35] Duffy J held that the words “in light of the object of this Act” do no more than invoke well settled administrative law principles for assessing the exercise of administrative powers; that is to say, ARLA’s jurisdiction must be exercised to promote the policy and objects of the legislation.³⁶ The latter proposition is of course correct, but it was an error to view ARLA’s jurisdiction through an administrative law lens. The Judge went on to hold that ARLA must decide whether the inclusion of an impugned element was something that no reasonable territorial authority acting in light of the object of the Act would have done, and she stated that unreasonableness is generally understood to mean *Wednesbury* unreasonableness.³⁷ It was common ground before us that this was an error, for ARLA’s task under s 83 is evaluative.

³⁵ Section 158.

³⁶ Judgment under appeal, above n 1, at [47], citing *Padfield v Minister of Agriculture* [1968] AC 997 (HL) at 351.

³⁷ At [56].

We agree. It must decide for itself whether a given element is unreasonable in light of the Act's object. ARLA correctly took that approach in this case.³⁸

[36] The appeal standard has built into it a substantial degree of deference to the preferences of the territorial authority; only if an element is unreasonable in light of the Act's object may ARLA intervene, and then only by asking the territorial authority to reconsider. When exercising this jurisdiction ARLA must bear in mind that, as noted above, community preferences have a substantial role to play in deciding what is reasonable.

[37] Counsel before us debated whether the standard of review to be applied by ARLA is the same as used in the bylaw cases, the leading examples of which are *Kruse v Johnson*³⁹ and *McCarthy v Madden*.⁴⁰ ARLA itself adopted what it described as the proportionality principle applied in those cases,⁴¹ holding that it is likely the policies in a Local Alcohol Policy will be unreasonable in light of the object of the Act if:⁴²

- (a) the proposed measures constitute a disproportionate or excessive response to the perceived problems;
- (b) the proposed measures are partial or unequal in their operation between licence holders;
- (c) an element of the [provisional local alcohol policy] is manifestly unjust or discloses bad faith; or
- (d) an element is an oppressive or gratuitous interference with the rights of those affected.

[38] The authority ultimately relied on for these propositions in a licensing context is *Hospitality New Zealand Inc v Tasman District Council*, in which ARLA held:⁴³

[44] It was suggested that when considering "unreasonableness" consideration should be given as to how the concept was considered under the Sale of Liquor Act 1989. The Authority agrees. In particular, the comments

³⁸ *Redwood Corp Ltd v Auckland City Council* [2017] NZARLA PH 247–254 [Decision of ARLA] at [30].

³⁹ *Kruse v Johnson* [1898] 2 QB 91.

⁴⁰ *McCarthy v Madden* (1914) 33 NZLR 1251.

⁴¹ Decision of ARLA, above n 38, at [31]–[36].

⁴² At [32].

⁴³ *Hospitality New Zealand Incorporated v Tasman District Council* [2014] NZARLA PH 846.

of the Court of Appeal in *Meads Brothers Limited v Rotorua District Licensing Agency*, [2002] NZARLA 308 (CA) at [53] are pertinent:

“It is to be remembered that the statutory object is to establish a **reasonable** system of control. This envisages that at a certain point, at the extreme end of the scale, the administration of the licensing may become unreasonable in its pursuit of the aim of reducing liquor abuse.”

[45] The comment made in *Meads Brothers Limited* was reiterated in *Christchurch District Licensing Agency v Karara Holdings Limited*, [2003] NZAR 752 (CA) at [26]. This the Authority confirmed in *New Zealand Police v Absolute Caterers Limited*, [2013] NZARLA 946 at paragraph [12]. Thus, it will be an indicator that a particular element of a [provisional local alcohol policy] is unreasonable if those wishing to purchase or consume alcohol in a safe and responsible manner find that the element is a disproportionate response to possible alcohol-related harm.

[46] The same principle can be deduced from the by-law cases. As was stated in the leading case of *McCarthy v Madden*, [1914] 33 NZLR 1251 (SC):

“The reasonableness or unreasonableness of a by-law can be ascertained only by relation to the surrounding facts including the nature and condition of the locality in which it is to take effect, the evil, danger, or inconvenience which it is designed or professes to be designed to remedy, and whether or not public or private rights are unnecessarily or unjustly invaded.”

[47] An important aspect of reasonableness discussed in the by-law cases is proportionality. In essence, proportionality involves the assessment of the interference with a public right, against the benefits sought to be achieved by the provision.

(Emphasis in original.)

[39] We accept Mr La Hood’s submission, for the Medical Officer of Health, that ARLA erred to the extent it held that “the proportionality principles used in bylaw cases” apply under the 2012 Act.⁴⁴ The context is not the same.

[40] It is correct, as noted above, that an element is not unreasonable merely because ARLA might take a different view of its merits than did the territorial authority. The bylaw cases stand for that proposition, holding that a bylaw cannot be condemned as unreasonable “merely because it does not contain qualifications which commend themselves to the minds of Judges”.⁴⁵ Deference must be paid to the preferences of the community.

⁴⁴ Decision of ARLA, above n 38, at [32].

⁴⁵ *McCarthy v Madden*, above n 40, at 1259 per Stout CJ and 1268 per Denniston and Edwards JJ, quoting *Slattery v Naylor* (1888) 13 App Cas 446 (PC) and 453.

[41] What is not appropriately transferred from the bylaws context to alcohol regulation under the 2012 Act are the propositions that (a) the reasonableness of a bylaw depends in part on “whether or not public or private rights are unnecessarily or unjustly invaded” and (b) any bylaw must be unreasonable if it unnecessarily abridges or interferes with a public right without producing for local inhabitants a benefit that is “real and not merely fanciful”.⁴⁶ As explained above, under the 2012 Act there is no antecedent right to sell alcohol that must be balanced against a given control on supply. It is inherent in a licensing regime, and to be expected given the object of the 2012 Act, that controls may have an adverse economic impact on licensees.⁴⁷ Nor is it necessary to prove that tangible harm reduction is more likely than not to result from a given policy element, as we explain below. And finally, the concept of a “reasonable” system of control under the 2012 Act is not the same as it was under the 1989 Act, as explained at [19] above. We add that for that reason, care should be taken when applying authorities decided under the 1989 Act.

No further appeal, except for the territorial authority

[42] An appellant before ARLA has no right of further appeal, but the territorial authority may appeal ARLA’s decision to the High Court under s 84:

84 Actions territorial authority may take if asked to reconsider element of provisional policy

- (1) If the licensing authority asks a territorial authority to reconsider an element of a provisional local alcohol policy, the territorial authority must—
 - (a) resubmit the policy to the licensing authority with the element deleted; or
 - (b) resubmit the policy to the licensing authority with the element replaced with a new or amended element; or
 - (c) appeal to the High Court against the licensing authority’s finding that the element is unreasonable in the light of the object of this Act; or
 - (d) abandon the provisional policy.

⁴⁶ *McCarthy v Madden*, above n 40, at 1269.

⁴⁷ As the Court noted in *Meads Brothers Ltd v Rotorua District Licensing Agency*, above n 3, at [56].

[43] Section 85 provides that if the High Court overturns ARLA's decision the affected element stands as part of the policy, otherwise the territorial authority must delete the element, abandon the policy or resubmit the policy to ARLA with an amended element:

85 Effect of High Court decisions on appeal by territorial authority

- (1) If the High Court overturns the licensing authority's finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the element stands as part of the policy.
- (2) If the High Court upholds the licensing authority's finding that an element of a provisional local alcohol policy is unreasonable in the light of the object of this Act, the territorial authority must—
 - (a) resubmit the policy to the licensing authority with the element deleted; or
 - (b) resubmit the policy to the licensing authority with the element replaced with a new or amended element; or
 - (c) abandon the provisional policy.

Judicial review

[44] The Act recognises judicial review, providing in s 83 both that an appellant before ARLA has no right of further appeal and that the prohibition on appeal does not limit or affect the Judicial Review Procedure Act 2016.

[45] However, the 2012 Act does no more than specify, for the avoidance of doubt, that the prohibition on appeals does not preclude judicial review. It goes without saying that judicial review must be conducted by reference to the particular statutory powers and processes found in the 2012 Act. So, for example, it may be relevant that the legislature established a consultative process for the adoption of local alcohol policies by territorial authorities and conferred a limited right of appeal in which (a) an appellant must show an element of the policy is unreasonable in light of the object of the Act and (b) ARLA or the High Court may not substitute their own view but must refer an unreasonable element back to the territorial authority for reconsideration.

[46] Judicial review is not an appeal. The consequence of the Supermarkets' success in judicial review in the High Court is not that the Council must revise the elements as it would be required to do on losing an appeal under s 85. It is not the

policy but ARLA's decision that has been found wanting, and it is ARLA which must reconsider.

Onus and proof in appeals to ARLA under s 81

[47] ARLA's functions under the Act extend to deciding licence applications, deciding appeals from decisions of licensing committees, deciding applications for variation, suspension or cancellation of licenses and managers certificates and deciding appeals against elements of draft local alcohol policies.⁴⁸ Within the scope of its jurisdiction it must be treated as if it were a Commission of Inquiry.⁴⁹

[48] Section 205 deals with rights to appear on appeals under s 81:

205 Right of persons to appear in relation to appeal under section 81

- (1) The following persons may appear and be heard, whether personally or by counsel, and call, examine, and cross-examine witnesses in an appeal under section 81 (which relates to an appeal to the licensing authority against any element of a local alcohol policy that is a matter relating to licensing):
 - (a) the appellant:
 - (b) any person authorised in that behalf by a territorial authority.
- (2) With the leave of the chairperson of the licensing authority, the following persons may appear and be heard, whether personally or by counsel, and call evidence:
 - (a) any inspector:
 - (b) any constable:
 - (c) any Medical Officer of Health:
 - (d) any other party who made a submission as part of the special consultative procedure on the draft local alcohol policy:
 - (e) any other person who satisfies the licensing authority that he or she has an interest in the proceedings, apart from any interest in common with the public.

⁴⁸ Sale and Supply of Alcohol Act, s 170.

⁴⁹ Section 201(1).

[49] Under section 207, ARLA may receive as evidence any statement, document, information or matter that in its opinion may assist it to deal effectually with any matter before it.

[50] ARLA held, citing its own previous decisions, that in an appeal under s 81 the onus of proof is on the appellant and the standard of proof is the balance of probabilities.⁵⁰

[31] The onus of proof is on the appellant. The standard of proof is ‘on the balance of probabilities’. In *Tasman* we said at [36]:

“the onus is on the appellant to satisfy the Authority that the appealed element is unreasonable in light of the object of the Act. The very wording of the ground of appeal places that onus on the appellant. Should an applicant fail to discharge its onus on the balance of probabilities then there would be no need for a territorial authority respondent to do anything.”

[51] Judicial review was not sought on the ground that ARLA misdirected itself on this point, but Duffy J decided that it had done so. She stated that burden and standard of proof are “evidential principles to be applied when there is a need to make factual determinations on evidence in the context of a *lis inter partes*” and cited a licensing decision, *Re Venus NZ Ltd*, for the proposition that there is no onus.⁵¹

[52] It is not in dispute that the Judge was correct to hold there is no legal burden in an appeal to ARLA under s 81. Rather, an appellant bears a persuasive burden of showing that an element included by the territorial authority was unreasonable in light of the Act’s object.

[53] Ultimately ARLA must be satisfied that a given element of a policy is unreasonable. Sometimes that may call for proof of facts on the balance of probabilities. An appeal may raise a question of past or present fact that is capable of proof to that standard. But an appeal may also raise factual propositions that are not capable of proof on the balance of probabilities. As ARLA plainly recognised, evidence of alcohol-related harm may not be directly traceable to a given licensee or

⁵⁰ Decision of ARLA, above n 38.

⁵¹ Judgment under appeal, above n 1, at [64]–[65], citing *Re Venus NZ Ltd* [2015] NZHC 1377, [2015] NZAR 1315 at [52]–[53] and [57]–[61].

class of licensee, but that does not preclude intervention if it may reduce the harm.⁵² ARLA may also be required to evaluate what will happen with and without a given policy element. Such an inquiry involves predictions about what might happen in future in two states of regulation, one current and the other hypothetical. Neither outcome is likely to be capable of proof on the balance of probabilities. It would be an error — because the object of the Act could not be achieved — to insist on proof that, for example, restrictions on trading hours will reduce alcohol-related harm. Rather, ARLA must make a decision on the information and evidence available to it, incorporating the likelihood that a given element will reduce alcohol-related harm. A prospective benefit may be taken into account if there is a real and appreciable possibility that the element will deliver it.

[54] We doubt ARLA meant to hold, in the passage quoted at [50] above, that an appeal under s 81 must be “proved” on the balance of probabilities. An appeal may raise questions of law as well as fact, and ARLA itself recognised that causes of alcohol-related harm cannot be proved on the balance of probabilities; it sufficed that there was evidence of “a relationship” between off-licence trading hours and consumption and harm.⁵³ ARLA did not rest its decision on a burden of proof; it evaluated each element in light of the object of the Act. When dealing with element 1, for example, it examined the evidence about the relationship between trading hours and alcohol consumption and harm and satisfied itself that there was an evidential foundation for the restriction on closing hours. It concluded that it had not been established that the closing hours restriction was unreasonable in light of the object of the Act.⁵⁴

[55] Woolworths invited us to classify appeals under s 81 as *de novo*. We decline to do that. The term is inapt. It is correct that evidence may be called before ARLA and there is no provision for transmission to ARLA of any record created in the

⁵² See *Medical Officer of Health (Wellington Region) v Lion Liquor Retail Ltd* [2018] NZHC 1123, [2018] NZAR 882 at [64]–[65] and [68]–[70]; and *Capital Liquor Limited v Police* [2019] NZHC 1846, (2019) 15 TCLR 375 at [66].

⁵³ Decision of ARLA, above n 38, at [146].

⁵⁴ At [146].

territorial authority's process.⁵⁵ But Woolworths sought to argue that because the appeal is de novo there is no presumption that the local authority's decision was correct. We cannot accept that. A distinction must be drawn between appellate process and the standard of appellate review, which is provided for in s 81; the element stands unless ARLA is satisfied that it is unreasonable in light of the object of the Act.

The precautionary principle

[56] ARLA invoked the precautionary principle, citing the judgment of this Court in *My Noodle Ltd v Queenstown-Lakes District Council*, which was decided under the 1989 Act.⁵⁶

[40] In *Tasman*, we said that the precautionary principle applies to the development of a local alcohol policy (at [54]). This was deduced from *My Noodle Ltd v Queenstown-Lakes District Council* (Court of Appeal) [2009] NZCA 564; 2010 NZAR 152. There Glazebrook J said at [74]:

"In our view, the Authority is not required to be sure that particular conditions will reduce liquor abuse. It is entitled to apply the equivalent of the precautionary principle in environmental law. If there is a possibility of meeting the statutory objective (as the Authority found there was in this case), then it is entitled to test whether that possibility is a reality. In this case, it clearly intended to test its hypothesis and keep the matter under review: ..."

[57] ARLA went on to explain that it would apply the precautionary principle where there was an evidential basis supporting it, meaning that there is evidence sufficient to show that a proposed element may have a "positive effect" on alcohol-related harm or "has the possibility of meeting the object of the Act".⁵⁷

[58] Duffy J accepted that the precautionary principle is available but reasoned that ARLA erred when applying it: in her view, ARLA understood the principle to mean that it need not interrogate the evidence itself but could simply defer to the Council.⁵⁸

⁵⁵ We are not called on in this appeal to decide to what extent ARLA, which has the powers of a Commission of Inquiry, may limit or control the evidence adduced in an appeal under s 81; compare *Meads Brothers Ltd v Rotorua District Licensing Agency*, above n 3, at [53], where the Court held ARLA has control over the nature and scope of evidence it will receive.

⁵⁶ Decision of ARLA, above n 38.

⁵⁷ At [42]–[43].

⁵⁸ Judgment under appeal, above n 1, at [69].

ARLA must have applied the precautionary principle, but because its reasons were inadequate the Judge found it impossible to say how.⁵⁹

[59] As we explain below, we consider that ARLA did not fail to evaluate the evidence for itself and its reasons were adequate. We focus here on Woolworths's cross-appeal, in which it is alleged that the Judge was wrong to conclude that ARLA might apply the precautionary principle. Woolworths contends that *My Noodle* is not binding because there was no provision for local alcohol policies under the 1989 Act; the precautionary principle is expressly applied in environmental regulation but is nowhere mentioned in the 2012 Act; the principle applies where there is scientific uncertainty about harm, which is not the case with alcohol; and if it is to be used at all, it must be done in a rigorously scientific way.

[60] The precautionary principle is usually traced in law to the Rio Declaration, Principle 15 of which provides that "[i]n order to protect the environment, the precautionary approach shall be widely applied ... [w]here there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".⁶⁰ The principle has been employed in New Zealand environmental legislation, in which it may simply require that decisionmakers favour caution where information about effects is uncertain or inadequate.⁶¹

[61] *My Noodle* concerned a territorial authority proposal, adopted by ARLA,⁶² to reduce on-licence trading hours in Queenstown to reduce alcohol-related harm.⁶³ 24-hour trading had been in place since 1989. The question was not whether there was evidence of alcohol-related harm — there was — but to what extent a blanket reduction in trading hours (from 24 to 21 hours in the day) would mitigate it. One of the questions on appeal was whether ARLA must be sure the new conditions would reduce alcohol abuse. The Court held that ARLA need not be sure; it could impose

⁵⁹ At [71] and [73].

⁶⁰ *Rio Declaration on Environment and Development* UN Doc A/CONF151/26, Vol 1 (12 August 1992), annex I.

⁶¹ By way of example, see Fisheries Act 1996, s 10, and formerly the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012, s 87E (repealed on 1 June 2017).

⁶² In its former incarnation as the Liquor Licensing Authority.

⁶³ *My Noodle Ltd v Queenstown Lakes District Council* [2009] NZCA 564, [2010] NZAR 152.

conditions and assess later whether they had the desired effect.⁶⁴ It was in this context that the Court held ARLA might apply the equivalent of the precautionary principle.

[62] We have reached the same conclusion by a more direct route under the 2012 Act, holding that the appellate standard does not require that ARLA be sure a given element will reduce alcohol-related harm. It suffices that there is a real and appreciable possibility that the element will do so. As Mr McNamara submitted for the Council, this is consistent with the Act's requirement that an element be "reasonable" in light of the Act's object. This approach can be described as "precautionary", in that it admits remedial measures to reduce harm although their effects are uncertain.

[63] It follows that we do not accept the submission for Woolworths that a precautionary approach is unavailable because the effects of alcohol on the body are well understood. The Act is concerned with the licensing of alcohol, and the effects of specific licensing measures on alcohol abuse are not easy to measure.

[64] Woolworths also argued that if a precautionary approach is to be used ARLA must adopt a specific hypothesis and incorporate specific provision for testing the hypothesis by measuring harm and the effects of policy elements. It will be apparent from what we have already said that this submission rests on a misunderstanding of *My Noodle*, in which the Court employed the precautionary principle not as scientific methodology but by analogy, to emphasise that harm reduction measures need not await proof but may be tested by imposing restrictions. It is correct that there is a need to keep licensing policies under review, but the Act itself provides for it. Under s 97 territorial authorities review local alcohol policies at intervals of not less than six years. There is no warrant for reading any additional requirement into the legislation. As we see it, the argument is an attempt to defend a status quo which developed under the 1989 Act by insisting that any change to existing licensing arrangements be founded on thorough proof of effectiveness. To impose such a requirement would be contrary to the harm reduction and community decisionmaking purposes of the 2012 Act.

⁶⁴ At [74].

Implementation of a local alcohol policy in practice

[65] The Act contains a series of provisions for implementing a local alcohol policy once it has been notified and any objections dealt with. It is ultimately given effect through the grant or renewal of licences. Licences are granted in the first instance by district licensing committees (DLCs)⁶⁵ which must be chaired by a member of the territorial authority.⁶⁶ The Council has one licensing committee which sits in panels to deal with the volume of work.

[66] A licensing committee or ARLA may refuse to issue a licence if that would be inconsistent with a local alcohol policy, which may for example establish maximum trading hours.⁶⁷ A licence may be issued subject to conditions if it would be inconsistent with the policy to issue it without those conditions.⁶⁸ Section 105 provides that:

105 Criteria for issue of licences

- (1) In deciding whether to issue a licence, the licensing authority or the licensing committee concerned must have regard to the following matters:
 - (a) the object of this Act:
 - (b) the suitability of the applicant:
 - (c) any relevant local alcohol policy:
 - (d) the days on which and the hours during which the applicant proposes to sell alcohol:
 - (e) the design and layout of any proposed premises:
 - (f) whether the applicant is engaged in, or proposes on the premises to engage in, the sale of goods other than alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which goods:
 - (g) whether the applicant is engaged in, or proposes on the premises to engage in, the provision of services other than those directly related to the sale of alcohol, low-alcohol refreshments, non-alcoholic refreshments, and food, and if so, which services:

⁶⁵ Section 187.

⁶⁶ Section 189(2).

⁶⁷ Section 108.

⁶⁸ Section 109.

- (h) whether (in its opinion) the amenity and good order of the locality would be likely to be reduced, to more than a minor extent, by the effects of the issue of the licence:
 - (i) whether (in its opinion) the amenity and good order of the locality are already so badly affected by the effects of the issue of existing licences that—
 - (i) they would be unlikely to be reduced further (or would be likely to be reduced further to only a minor extent) by the effects of the issue of the licence; but
 - (ii) it is nevertheless desirable not to issue any further licences:
 - (j) whether the applicant has appropriate systems, staff, and training to comply with the law:
 - (k) any matters dealt with in any report from the Police, an inspector, or a Medical Officer of Health made under section 103.
- (2) The authority or committee must not take into account any prejudicial effect that the issue of the licence may have on the business conducted pursuant to any other licence.

[67] It will be seen that a local alcohol policy is one of 11 statutory criteria to which a licensing committee or ARLA must have regard in the exercise of its decision to grant a licence. Under s 117 it may impose any reasonable conditions that are not inconsistent with the Act's object. The jurisdiction affords licensing authorities significant discretion and admits a wide range of relevant considerations, as Clark J held in *Medical Officer of Health (Wellington Region) v Lion Liquor*.⁶⁹

[43] On any analysis of the Act, and the various functions of the bodies making decisions under it, the object of the Act is the first criterion when considering applications for renewals. What the Court of Appeal described as the "modest object" of the Sale of Liquor Act 1989 has been replaced by a new Act signalling "a new community-oriented approach incorporating both purpose and object provisions". Decision-making in the context of Lion's application is essentially rooted in a risk assessment. The factors to be considered in the course of assessing an application for a licence or for renewal, as the appellants submitted, stand to be assessed in terms of their potential impact upon the prospective risk of alcohol-related harm.

[44] An application for renewal of a licence is to be assessed in light of a range of factors relevant to the particular application. There is no one test. Regard must be had to the object of the Act and the statutory criteria for renewal. The criteria relevant to this application include the suitability of the applicant, the days on which and the hours during which the applicant

⁶⁹ *Medical Officer of Health v Lion Liquor Retail Ltd*, above n 52.

proposes to sell alcohol, the design and layout of the premises, and the matters dealt with in the reports from the Police and Medical Officer of Health. There is also to be regard for the amenity and good order of the locality and whether it would be likely to be increased by more than a minor extent, if a renewal were refused.

[45] The statutory provisions must be applied in a way that promotes the twin statutory objects which are that the sale, supply and consumption of alcohol should be undertaken safely and responsibly *and* that alcohol-related harm should be minimised. The aim of minimisation requires alcohol-related harm to be reduced to the smallest amount, extent or degree.

[46] No party contests that the proper approach to the application is evaluative and merits based. The following further principles may be taken from the cases:

- (a) There is no presumption that an application for a licence will be granted or that a licence will be renewed.
- (b) This is made reasonably plain by the fact the approach to renewal is virtually the same as the process engaged by an application for an initial licence.
- (c) A licensing committee or Authority, after having regard to the criteria for renewal in s 131, is then to step back and consider whether there is any evidence indicating that granting the application will be contrary to the statutory object in s 4. Or, as Heath J articulated a “test”:

Although the “object” of the 2012 Act is stated as one of 11 criteria to be considered on an application for an off-licence, it is difficult to see how the remaining factors can be weighed, other than against the “object” of the legislation. It seems to me that the test may be articulated as follows: is the Authority satisfied, having considered all relevant factors set out in s 105(1)(b)–(k) of the 2012 Act, that grant of an off-licence is consistent with the object of that Act?

- (d) The breadth of the Authority’s functions suggests the application of rules involving onus of proof may be inappropriate. Similarly there is no onus on the reporting agencies to prove the application should not be granted.
- (e) The criteria for the issue of licences, and for renewal, are not to be interpreted in any narrow or exhaustive sense. The Authority may take into account anything which, from the terms of the statute as a whole, appears to be regarded by the legislature as relevant to licence conditions and the terms on which they should be granted. “That must include the statutory object referred to in s 4.” The matters raised by s 4 are to be approached on a nationally consistent basis.
- (f) The Authority is not required to be sure that particular conditions will reduce liquor abuse:

It is entitled to apply the equivalent of the precautionary principle in environmental law. If there is a possibility of meeting the statutory objective ... then it is entitled to test whether that possibility is a reality.

(Footnotes omitted, emphasis in original.)

[68] Consistent with the object of the Act, which we discussed at [15]–[16] above, Clark J recognised that restrictions on supply by a given off-licensee may be justified although the licensee conducts its business lawfully, provided there is reason to think the premises contribute to excessive or inappropriate consumption.⁷⁰ That may happen, for example, where premises are located in an area in which alcohol-related harm is common; the premises contribute to harm merely by making alcohol accessible to those who go on to abuse it. We return to this point at [119] below.

[69] We address at [125] below the question whether the discretionary conditions in the Policy in this case were ultra vires the Act as an impermissible fetter on the discretion of a licensing committee.

The Auckland Council Provisional Local Alcohol Policy

[70] The Policy was recorded in a document dated May 2015 and accompanied by an explanatory document. It was to be the first local alcohol policy adopted for the Auckland region. It applied to the entire region but identified discrete areas of concern; they were the City Centre and the Priority Overlay (which comprised named suburban centres).

[71] With respect to element 2 (the temporary freeze and rebuttable presumption), the Policy stated in cl 3.2.1 that the Council's policy position was that there should be a temporary 24-month freeze in the City Centre and Priority Overlay areas and in cl 3.3.1 that there should be a rebuttable presumption against new off-licences in those areas (and in certain neighbourhood centres) following expiry of the freeze.

⁷⁰ At [67]–[70].

[72] With respect to element 1 (trading hours), the Policy stated that no licences should be issued with longer trading hours than that specified in the Policy.⁷¹ Initially the off-licence maximum trading hours were 9 am to 9 pm Monday to Sunday, but they were revised after ARLA found there was no evidence that a starting hour of 9 am would reduce alcohol-related harm compared to the default statutory starting hour of 7 am.⁷² The Policy envisaged that individual licences might be issued with more restrictive hours.⁷³

[73] Element 4 comprised policies relating to off-licences. Parts of element 4 concerned hours of delivery from remote sellers, which ARLA found to be ultra vires.⁷⁴ That was not in issue on judicial review and we need say no more about it.

[74] Clauses 4.4.3 and 4.4.4–4.4.5 contained discretionary conditions intended respectively to ensure that alcohol is not sold to prohibited persons and that licensees must maintain a register of alcohol-related incidents. The Policy specified, in cl 4.4.1, that it was the Council’s policy that the specified conditions be imposed “unless there is good reason not to do so”. It was these elements that were in issue before Duffy J, the Supermarkets contending that while the specified conditions were not intrinsically objectionable they were made ultra vires by the requirement that they be imposed unless there was good reason not to.

[75] The Council further recommended, in cl 4.5.1, that licensing committees and ARLA consider conditions relating to CCTV, exterior lighting, single sales and closure of premises near education facilities. We record that the last two of these items were referred back by ARLA for reconsideration, the Council having conceded that there were shortcomings with their drafting.⁷⁵ These elements were not in dispute on judicial review.

[76] It is not in dispute that the Council consulted the police, licensing inspectors and the Medical Officer of Health before producing a draft of the Policy, and we were

⁷¹ Clause 3.4.1.

⁷² Decision of ARLA, above n 38, at [153]–[157].

⁷³ Clause 3.4.2.

⁷⁴ Decision of ARLA, above n 38, at [195]–[196].

⁷⁵ At [198].

given to understand that the police and the Medical Officer of Health support those parts of it that are in issue before us. (In some respects they wished the Council had gone further.)

ARLA's decision

[77] The Provisional Policy having been notified following consultation, and appeals having been filed, ARLA held a four-week hearing at which a number of interested parties, including the Supermarkets, were represented. It heard a good deal of factual and expert evidence about alcohol-related harm and its linkage to the sale and supply of alcohol. The evidence addressed behaviour in the City Centre and Priority Overlay areas and the linkage between trading hours and alcohol-related harm as experienced by police and health professionals. ARLA heard evidence that the Council had sought to target the Policy toward at-risk populations and applied a risk-based approach to defining the City Centre and Priority Overlay areas. It noted evidence that off-licence density is associated with high levels of criminal offending.⁷⁶

[78] ARLA referred to the views of the police and Medical Officer of Health that there is a linkage between off-licence hours and alcohol-related harm.⁷⁷ It considered expert evidence that, among other things: purchases from off-licences after 10 pm are likely to be made by heavier drinkers;⁷⁸ a high proportion (compared to national averages) of hospital presentations in Auckland is attributable to alcohol;⁷⁹ off-licences were the source of the last drink for most alcohol-related presentations in the early hours of weekend mornings;⁸⁰ the practices of pre-loading and side-loading with cheap alcohol are harmful in themselves and lead to other harm;⁸¹ up to 80 per cent of alcohol sold in Auckland is sold from off-licences and consumed in an unlicensed place;⁸² and violent and disorderly offending, including in the home, correlates with off-licence opening hours.⁸³

⁷⁶ At [120].

⁷⁷ At [132].

⁷⁸ At [134].

⁷⁹ At [136].

⁸⁰ At [138].

⁸¹ At [137].

⁸² At [139].

⁸³ At [140]–[141].

[79] The evidence heard by ARLA included expert evidence of Dr Douglas Fairgray, Dr Francesca Kelly and Michael Foster for the Supermarkets. There was also evidence from Natalie Hampson about the timing of alcohol-related offending, relative to off-licence hours. The evidence was to the effect that the Policy ought to discriminate by area and population characteristics and among types of off-licence. The witnesses challenged the theory that availability contributes to alcohol-related harm. They considered that the evidence did not sufficiently link supermarkets to harm, which is predominantly associated with bottle stores. ARLA referred to the Supermarkets' arguments based on this evidence but did not expressly refer to most of the witnesses.

[80] The purpose of element 1 (trading hours) was that of targeting what the Council described as high risk purchases. ARLA concluded that:

[146] Notwithstanding that evidence of reduction in harm from specific reductions in trading hours of off-licences is sparse, there is evidence to establish a relationship between off-licence trading hours and alcohol consumption and harm. Given the level of alcohol-related harm in Auckland, the Authority does not consider that it has been established that the closing hour restriction is unreasonable in light of the object of the Act. Given this evidential basis for the closing hour restriction, if the Council considers the closing hour restriction for off-licences has the possibility of meeting the object of the Act, then the Council is entitled to test whether that possibility is a reality.

It will be seen that ARLA considered the evidence, though sparse, justified this element of the Policy and it was reasonable for the Council to test the possibility that earlier evening closing hours would reduce the high level of alcohol-related harm in Auckland.

[81] With respect to element 2 (the freeze and rebuttable presumption in the City Centre and Priority Overlay areas), ARLA reasoned that the freeze was justified and did not discriminate unfairly against off-licences:

[82] The Authority does not consider that the Priority Overlay areas have an unequal and disproportionate policy impact on supermarkets and grocery stores compared to other types of off-licences. This is discussed below in relation to the impact of the "freeze" and "rebuttable presumption" elements of the [provisional local alcohol policy].

...

[84] Otherwise, the Authority is not satisfied that it has been shown that it is illogical that the [provisional local alcohol policy] imposes restrictions on new off-licences in the City Centre and Priority Overlay areas but does not put any restrictions on new on-licences given the impact of on-licences on alcohol-related harm. The proposed cls 5.1.4 - 5.1.5 and 5.2.2 – 5.2.3 impose restrictions on on-licences in the Priority Overlay areas. Given the nature of off-licences, it has not been shown that these restrictions are unreasonable in light of the object of the Act because they are different from those which apply to on-licences.

[82] ARLA held that the rebuttable presumption was not *ultra vires* the Act:

[114] The Authority considers that the freeze and rebuttable presumption elements, at best, provide guidance to the Committee and the Authority on the Council's preferred outcome. They do not operate automatically to prevent the issue of off-licences in all cases. A licence may still be issued where an applicant, in light of the information contained in the Local Impacts Report, satisfies the DLC or Authority that a licence should be granted.

[115] The Authority does not agree that the rebuttable presumption is *ultra vires* s 77(1) of the Act. The rebuttable presumption is a policy that goes to whether further licences should be issued for stated parts of Auckland. In the Authority's view, the rebuttable presumption falls within the types of policies permitted by s 77(1)(d) of the Act and provides some guidance to the DLC and the Authority on the Council's preferred treatment and outcome of certain licensing applications.

[116] As the parties have acknowledged, these elements do not act as a prohibition on the issue of licences. Because the local alcohol policy is but one of the matters in s 105 to which the DLC or the Authority must have regard to when deciding whether to issue a licence, a licence may still be issued depending on the weight given to the local alcohol policy relative to the other matters in s 105. While the Council hopes that the DLC or Authority will give significant weight to the freeze and rebuttable presumption, that remains a matter for the decision-maker.

[117] The rebuttable presumption is able to be considered on a case by case basis having regard to the information in the Local Impacts Report and information put forward by the applicant. As the circumstances of each application will vary, the rebuttable presumption simply requires that in certain cases, the information required to persuade the DLC will be greater than what might otherwise be the case. The effect of this is that the rebuttable presumption may require the applicant to provide more information to the DLC to satisfy it that the criteria in s 105 have been met. Alternatively, the applicant may need to state how the applicant proposes to address a matter of concern. This will, in time, lift the quality of applications.

[118] The Authority is also not persuaded that there will be unintended consequences for Auckland as a result of the [provisional local alcohol policy] or that the freeze or rebuttable presumption is disproportionate in effect. While there will undoubtedly be development pressures arising from the application of the Auckland Unitary Plan as regards supermarkets in residential areas (which may see some supermarkets developed outside Priority Overlay areas), the Authority consider that this impact is overstated.

The freeze and rebuttable presumption are not intended to operate in metropolitan centres. Nor will they apply to town centres or local centres unless those centres are in the Priority Overlay areas. As the Authority heard from Mr Andrews, Team Manager Resolutions within the Resource Consents Department of the Council:

“Supermarkets are already well-established in the City Centre and Priority Overlay. The Priority Overlay affects a relatively small proportion of centres. The Neighbourhood Centre zone anticipates smaller scale supermarkets where land size allows. New off-licences for supermarkets are not precluded in the City Centre or Priority Overlay (after the temporary freeze) or in Neighbourhood Centres; there is simply a higher threshold for granting because the presumption against granting must be rebutted. For these reasons I consider that Mr Foster overstates his concerns that the [provisional local alcohol policy] will “drastically change the zoned opportunity for supermarket and grocery store growth.”

[83] As explained above, element 4.4.3 and elements 4.4.4–4.4.5 contained discretionary conditions intended respectively to ensure that alcohol is not sold to prohibited persons and that licensees must maintain a register of alcohol-related incidents. ARLA dismissed the appeal with respect to these elements. It found that the proposed register of alcohol-related incidents was not ultra vires:⁸⁴

... that these clauses indicate the Council’s preferred position in respect of their imposition does not mean that they will necessarily be imposed. The words “unless there is a good reason not to” in cl 4.4.1 means that the DLC and the Authority still retain the ability to [not] impose the condition and the conditions are, therefore, still discretionary in nature. There is nothing in the [provisional local alcohol policy] which fetters what the DLC or Authority may consider to be a good reason not to impose the condition.

It will be seen that ARLA’s view generally was that appropriately drafted conditions are permissible provided licensing authorities retain the discretion to not impose those conditions. We infer that ARLA took the same view with respect to sales to prohibited persons; the decision does not refer expressly to them.⁸⁵

⁸⁴ At [202].

⁸⁵ Woolworths’ submissions suggested that both cls 4.4 and 4.5 were in issue on the basis they fettered ARLA’s discretion. Neither ARLA nor the High Court engaged with cl 4.5 and we infer that only cl 4.4 is now in dispute.

The judicial review applications

Separate review applications by the Supermarkets and Redwood

[84] Separate appeals were brought before ARLA by the Supermarkets and by Redwood Corporation but ARLA held one hearing and delivered a single decision. The Supermarkets and Redwood then brought separate applications for judicial review. Their applications were heard together but not consolidated, and Duffy J delivered separate decisions.

[85] The Judge's decision in the Redwood appeal has not been appealed to this Court, though it rested on similar grounds, principally what she saw as an absence of reasons.⁸⁶ The Judge "set aside in its entirety" ARLA's "decision on Redwood's appeal" and directed that ARLA reconsider the appeal.⁸⁷

Consequence of judicial review for ARLA

[86] We have referred to the judicial review jurisdiction at [44] above. In granting judicial review the Judge presumably envisaged that ARLA would revisit its reasons and decide whether to remit the affected elements to the Council under s 83. Because the question for the High Court was not whether a given element was unreasonable in light of the Act's object, it need not be the case that ARLA must decide to remit an element in respect of which the High Court set its decision aside. ARLA presumably would have no alternative to the extent the High Court found a given element ultra vires the Act, but it could address a failure to give reasons by reconsidering its reasons against the evidence that was before it at the first hearing, following which it might remain of the view that an element was not unreasonable and dismiss the Supermarkets' appeals accordingly. We record that counsel for the Supermarkets accepted this before us, and further recognised that ARLA might make such a decision on the papers, if it thought fit. We accept that ARLA might also choose to hold another hearing or even to receive further evidence about the elements concerned; that would be a matter for ARLA. But this litigation has dragged on long enough, and it should

⁸⁶ *Woolworths New Zealand Ltd v Alcohol Regulatory and Licensing Authority* [2020] NZHC 971 [Redwood Decision].

⁸⁷ At [126].

be of concern to all involved that not until it is concluded by ARLA will Auckland finally get a local alcohol policy.

No res judicata or issue estoppel in this appeal

[87] For Woolworths, Ms Cooper QC argued that the relief sought by the Council cannot be granted, for ARLA issued a single decision dealing with appeals by both the Supermarkets and ARLA and the Council has not appealed Duffy J's decision setting aside ARLA's decision in Redwood's appeal. It is true that the Judge delivered separate judgments in separate judicial review applications, but her reasons overlapped; it is difficult to see how ARLA's decision could be set aside for Redwood but not the Supermarkets.

[88] The argument is without merit. As noted, in her *Redwood* judgment the Judge set aside ARLA's decision on Redwood's appeal, so severing those parts of ARLA's decision dealing with Redwood from those dealing with the Supermarkets. Redwood was not party to the Supermarkets' appeals and they are not privies. The subject matter differed; Redwood's concern was with the definition of City Centre and the Policy's provision for a closing hour of 3 am, rather than the statutory default hour of 4 am, for on-licences in the City Fringe area, where Redwood's premises (a brothel) are located. Those elements were not the subject of the Supermarkets' appeal to ARLA. Further, the Council is entitled to pursue its right of appeal in this judicial review proceeding. To the extent that the appeal raises questions of law or fact that were addressed in both the judgment under appeal and the Judge's subsequent decision in *Redwood*, we cannot be bound by her conclusions. Lastly, there is no reason to suppose that ARLA or the Council will be bound by conflicting outcomes, since it may be assumed that ARLA will take this Court's decision into account, so far as relevant, when reconsidering the policy elements at issue in Redwood's appeal.

The obligation to give reasons

[89] The 2012 Act does not specify that ARLA must give reasons for its decisions on appeals under s 81, but it was common ground before us that it must do so.⁸⁸ As Mr Braggins contended, arguing this part of the appeal for Woolworths, reasons are integral to the open justice principle, they discipline the decisionmaker, and they allow a court exercising supervisory jurisdiction to assess the decision's lawfulness.⁸⁹

[90] Counsel cited the judgment of this Court in *Belgiorno-Nettis*, which was said to be analogous.⁹⁰ There was a statutory obligation to give reasons and the legislation, recognising the scale of the task and the likely number of interested parties, provided that reasons might be grouped.⁹¹ The Court confirmed that reasons might be of a summary nature but they must give some articulation of the decisionmaker's thinking.⁹² The decisionmaker had set out a general approach to zoning and height controls in an overview report, but that was no more than a statement of principles; it did not provide reasons for accepting or rejecting competing submissions on zoning and height restrictions in specific areas.⁹³

[91] Duffy J relied on *Belgiorno-Nettis*, reasoning that ARLA here made the error of dividing its decision into general comment on the specific elements on appeal, then failed to give specific reasons for accepting or rejecting specific submissions.⁹⁴

[92] In our view what the Court had to say in *Belgiorno-Nettis* was merely an application, in a very particular statutory and factual setting, of the general rule as to adequacy of reasons which was summarised in *Lewis v Wilson & Horton*:⁹⁵

[81] The reasons may be abbreviated. In some cases they will be evident without express reference. What is necessary, and why it is necessary was

⁸⁸ *Lewis v Wilson & Horton Ltd* [2000] 3 NZLR 546 (CA); and *Belgiorno-Nettis v Auckland Unitary Plan Independent Hearings Panel* [2019] NZCA 175, [2019] 3 NZLR 345. Section 211 of the 2012 Act does provide that ARLA must give written decisions, with reasons, on applications, but this was an appeal.

⁸⁹ *Lewis v Wilston & Horton Ltd*, above n 88, at [76]–[82].

⁹⁰ The judgment was delivered on judicial review of decisions by a specialist body established to make recommendations on a unitary plan for Auckland. There were limited rights of appeal.

⁹¹ *Belgriorno-Nettis v Auckland Unitary Plan Independent Hearings Panel*, above n 88, at [52].

⁹² At [65].

⁹³ At [77] and [83].

⁹⁴ Judgment under appeal, above n 1, at [104].

⁹⁵ *Lewis v Wilson & Horton*, above n 88.

described in relation to the Civil Service Appeal Board (a body which carried out a judicial function) by Lord Donaldson MR in *R v Civil Service Appeal Board, ex parte Cunningham* [1991] 4 All ER 310 at p 319:

“... the board should have given outline reasons sufficient to show to what they were directing their mind and thereby indirectly showing not whether their decision was right or wrong, which is a matter solely for them, but whether their decision was lawful....”

[93] As the Court said there, reasons may be abbreviated and in some cases they will be evident without express reference. The decision under review must be read as a whole.

Element 1: trading hours

[94] We have referred at [77]–[80] above to ARLA’s conclusions about the association between off-licences and alcohol-related harm and the adoption of a 9 pm closing time. ARLA considered that there was an evidential basis for the restriction and the Council was entitled to test whether it would be effective.

[95] Duffy J’s approach turned on her view that the Act sets default standards from which there should be reason for departure on a community by community basis. We have quoted what she had to say about that at [24] above. Partly because of her view about default standards, she took the view that the Council was required to justify discriminating between supermarkets and other off-licences:⁹⁶

[96] None of the submissions or evidence in support of reduced closing hours, to which ARLA refers, differentiates between supermarket and grocery store off-licences on the one hand and bottle store off-licences on the other. The alcoholic beverages that each group sells differ. The types of problems identified in the evidence of those supporting the [provisional local alcohol policy] are not problems one would usually associate with off-licence sales from supermarkets and grocery stores throughout the Auckland region. Why those outlets and their customers should be subject to reduced closing hours is not clear from this evidence. Nor is it clear from the available evidence why the closing hours of all bottle stores in the Auckland region should be reduced to 9pm, when Parliament considers that in general 11pm closing hours will meet the object of the [Act]. The idea the examples given of alcohol-related harm can be associated with all bottle stores wherever located in the Auckland region is not self-evident.

⁹⁶ Judgment under appeal, above n 1.

[96] She concluded that ARLA gave no reasons for concluding that the same closing hours restriction could apply across all of Auckland:

[97] ARLA's dismissal of the appeals against the off-licence closing hours restriction must mean ARLA found it was not unreasonable in light of the object of the [Act] for the same closing hours restriction to apply to all off-licences in the Auckland region. But, ARLA gives no reasons for this outcome. This is in circumstances where reasons for the outcome are not self-evident, nor can they be inferred from the evidence and submissions ARLA mentions in its decision. ARLA uses the language of "proof" in its conclusion; stating that it "does not consider that it has been established that the closing hour restriction is unreasonable...". ARLA also uses language which suggests it was influenced by the precautionary principle. For the reasons set out below I consider these to be errors of law by ARLA, which led to it wrongly dismissing the appeals of Woolworths and Foodstuffs.

(Footnote omitted.)

[97] She returned to the subject of default hours when concluding that the Council was obliged to consider the individual characteristics and needs of the various local communities within Auckland:

[113] The [Act] recognises the freedom to consume alcohol in a reasonably safe and responsible way. Parliament considers 11pm closing hours for off-licences to be consistent with the purpose and object of the [Act], otherwise those hours would not have been adopted as default hours. As Foodstuffs submitted, Auckland Council's replacement of the default hours with the reduced hours in the [provisional local alcohol policy] appears to be an attempt to re-write the [Act] by substituting an earlier closing time for the statutory time, without proper regard being paid to the individual characteristics of the various local communities within Auckland and their respective needs.

[98] Ultimately, however, she did not conclude that the Policy was unreasonable for these reasons, though she doubted how "the comprehensive substitution of the [Act's] provisions with the restrictions imposed by the reduced closing hours ... could ever satisfy the [Act's] requirements for a [provisional local alcohol policy]".⁹⁷ Rather, she granted the application for review and remitted the matter of closing hours to ARLA for reconsideration:

[212] Whilst the outcomes of those decisions are not necessarily excluded by the [Act], it is difficult to see how: (a) the comprehensive substitution of the [Act's] provisions with the restrictions imposed by the reduced closing hours; and (b) the comprehensive application of the temporary freeze and rebuttable presumptions could ever satisfy the [Act's] requirements for a

⁹⁷ At [212].

[provisional local alcohol policy]. However, this is a matter that should be left to ARLA to determine. The discipline which the requirement to provide reasons imposes on a decision-maker should ensure that when ARLA comes to determine the appeals against those elements again they receive proper consideration.

It will be seen that the Judge dealt with element 2 (temporary freeze/rebuttable presumptions) in the same paragraph and on the same basis as element 1.

[99] As we have made clear at [23]–[25] above, we do not accept that there is any onus on a territorial authority to justify departure from the statutory hours. Nor does the Act presume that trading hours should be set on an area by area or community by community basis within the district. On the contrary, there may be good reason to adopt an area-wide policy, as we explained at [31] above.

[100] The Judge's view about default standards informed her expectations of ARLA's reasons. She recognised that she might look to the evidence and submissions that were before ARLA for inferences about its reasons, but found the evidence linking off-licence trading hours with criminal offending was at best weak.⁹⁸ The evidence could not be accepted without considering the extent to which other causes (on-licence hours) might play a part, whether the harm was attributable to a type of off-licence rather than off-licences generally, and whether the pattern was district-wide:

[107] First, ARLA referred to evidence that it considered showed a pattern of violent and disorderly behaviour offences between 7.00am and 12 midnight and off-licence trading hours, which currently end at 11pm. This is as far as the evidence went. There was no consideration of other factors that may contribute to this pattern of offending, such as: (a) the extent to which on-licence trading hours play a part; (b) whether it is a certain type of off-licence supplier rather than all off-licence suppliers; and (c) whether this pattern of offending happens throughout the entire Auckland region or only in certain parts of the region. But without such consideration the correlation that ARLA purports to draw between off-licence trading hours and alcohol related offending to support a blanket reduction in off-licence closing hours throughout the entire Auckland region appears to be no more than an expression of the post hoc ergo propter hoc fallacy. There is nothing inferentially available here to explain why ARLA dismissed Woolworths and Foodstuffs appeal.

(Footnotes omitted.)

⁹⁸ At [106].

[101] For similar reasons, she rejected the evidence that many alcohol presentations at hospitals occur at around 1 am and 80 per cent of alcohol purchases are made from off-licences:

[108] Secondly, ARLA referred to evidence from medical experts regarding alcohol presentations at hospitals around 1 am. ARLA accepted this evidence did not identify where alcohol was purchased and therefore the influence of on-licence supply could not be discounted. ARLA also referred to other evidence that showed 80 per cent of alcohol purchases were made from off-licence suppliers. This gave ARLA the confidence to find that off-licence supply was a contributor to the late-night/early morning presentations at hospital emergency departments. Again, the extent of the contribution from off-licence suppliers, to what extent any such contribution by them could be attributed to all off-licence suppliers, rather than a particular type of supplier, in all districts, rather than some districts, was not touched on. Again, the failure to address those factors leaves ARLA's reasoning open to the inference it has fallen victim to the post hoc ergo propter hoc fallacy. Again, there is nothing inferentially available here to explain why ARLA dismissed Woolworths and Foodstuffs appeal.

[102] Similarly, the Judge rejected the evidence about reported incidence of risky drinking behaviour among young people in Auckland, their pattern of buying alcohol between 9 pm and 11 pm, and pre-loading and side-loading:

[109] Thirdly, ARLA took evidence from Ms Turner that 25 per cent of Aucklanders had reported risky drinking behaviour "in the last four weeks", that those most likely to engage in consumption in this way were young people between 15 and 24 years old, those living in south/south east Auckland and Māori and Pacific populations, and combined this evidence with evidence from Dr Clough that most young people between 18 and 24 years do their alcohol spending between 9pm and 11pm. ARLA does not say how the combined effect of this evidence would indicate the need for a blanket restriction on off-licence closing hours throughout the entire Auckland region, nor is it inferentially apparent.

[110] Fourthly, ARLA had heard evidence that pre-loading was a well-planned activity and heard submissions to the effect that this suggested the restriction of off-licence closing hours would not control alcohol consumption, except for those who failed to plan. ARLA expressly referred to and relied on a contrary submission from a Police Officer from the Counties Manukau district who said that pre-planning was not a feature of lower socio-economic groups, where the relationship between alcohol and consumption is "more immediate" and opportunities for stockpiling are more limited. For those persons alcohol is not consumed when it is not available. However, this evidence does not address whether such persons seek their supplies from all off-licences or whether they are drawn to those off-licence suppliers that supply alcoholic beverages with a higher alcohol content than beer, wine and mead, and only to those off-licences near to where they live or frequent. Logic would suggest such persons prefer beverages with higher levels of alcohol for quick effect and are likely to purchase them from suppliers close to where they live and frequent. Again, ARLA does not say why it thought this evidence

supported a blanket restriction on off-licence closing hours throughout the entire Auckland region, nor is it inferentially apparent.

[103] The Judge expressed the opinion that supermarkets and grocery stores are less likely to be associated with alcohol-related harm than are other off-licences:

[112] Such evidence as there is of a link between reduced trading hours of off-licences, alcohol consumption and alcohol-related harm does not distinguish between the different types of off-licence suppliers. Supermarkets and grocery stores are restricted to selling beverages with a lower alcohol content. Supermarkets and grocery stores are not self-evidently associated with displays of excessive alcohol consumption or alcohol related harm, nor are those features generally associated with their customers. ...

[104] We agree with the Judge that the evidence, and ARLA's account of it, may be considered when examining ARLA's reasons for sufficiency. We differ in the conclusions to be drawn from that exercise. In short, and notwithstanding her adoption of a *Wednesbury* standard and acceptance of the precautionary principle, we consider that the Judge insisted the evidence meet a higher standard than the legislation requires.⁹⁹ This is perhaps best seen in her view that correlation between alcohol-related harm and trading hours is not sufficient justification to reduce trading hours, in the absence of evidence identifying supermarkets and grocery stores as the cause of such harm.

[105] We accept the submissions of Mr McNamara, for the Council, and Mr La Hood that the evidence was sufficient to justify the restriction on closing hours. Specifically, the Council's evidence discussed region-wide evidence of harm, including survey evidence.¹⁰⁰ The evidence indicated that 25 per cent of Aucklanders had reported recent risky drinking behaviour. It is more prevalent among young people, for whom excess consumption is also more likely to manifest in public drunkenness, offending and hospitalisation, but it is not limited to them. There was evidence about the practices of pre-loading and side-loading by young people, using cheap alcohol purchased from off-licences to become intoxicated before driving to an on-licence in the city. Price is the main driver of this behaviour, which is associated with excess consumption and alcohol-related harm. Preloading occurs until about 11 pm.

⁹⁹ As discussed at [47]–[55] above.

¹⁰⁰ For example, Health Promotion Agency *Attitudes and Behaviour towards Alcohol Survey 2013/14 to 2015/16: Auckland Regional Analysis* (Health Promotion Agency, Wellington, November 2016).

The supplier is usually a bottle store, but it is reasonable to infer that supermarkets would be used if bottle stores were closed, so long as supermarkets are accessible and the alcohol is cheaper than it would be at on-licence premises.

[106] Before us counsel for the Supermarkets sought to support the Judge's conclusion that the Policy ought to discriminate by area and by type of off-licence. We do not agree. There was expert evidence, based on New Zealand and overseas experience, that there is a relationship between off-licence hours and alcohol-related harm, and that reducing availability is one of the most cost-effective ways of reducing harm. Because it dealt expressly with the proper use of the evidence, we mention the evidence of Dr Jennie Connor, a leading epidemiologist and expert of alcohol-related harm. She recognised that all epidemiological research is subject to limitations that affect causal inference, but considered that within a regulatory framework that permits a precautionary approach it is reasonable to rely on conclusions founded on critical appraisal of a wide range of studies. Good quality research can be generalised from other settings. Her own analysis of the research led her to conclude that it justified the conclusion that restrictions on off-licence hours in Auckland would reduce availability and subsequent harm. She cited overseas studies that measured a material reduction in alcohol-related harm following reduction in off-licence hours and a New Zealand study which showed that purchases from off-licences after 10 pm were approximately twice as likely to be made by heavier drinkers. We add that there was also evidence, from Dr Nicola Jackson, the Executive Director of Alcohol Healthwatch, that the incidence of alcohol-related harm is significantly higher among young people in Auckland than in other parts of New Zealand; and further, that the incidence of hazardous drinking has increased year on year since 2011.

[107] As noted above, there is also evidence that an off-licence was the most common source of a last drink for intoxicated people who present at hospital around 1 am on a Saturday or Sunday morning. They may have been drinking in a city on-licence, but their pre-loading usually happens in a home, which may be in any part of the district, and alcohol-related harm resulting from their consumption may be

experienced anywhere. There is a correlation between alcohol-related offending, which peaks around midnight, and off-licence closing times.¹⁰¹

[108] The Supermarkets contest the inferences to be drawn from much of this evidence. Before us Mr Braggins sought to show, by reference to a New South Wales study, that there is a weak correlation between off-licence hours and alcohol-related offending. The argument rested on the false premise that the Council must prove harm associated with supermarkets as a class of licensee before it can justify restrictions on off-licence hours in any given area. The evidence that ARLA cited sufficiently established a correlation between the serious alcohol-related harm experienced in Auckland and off-licence trading hours, such that restricting the latter might reasonably reduce the former. Ultimately, that was sufficient to justify the Policy's supply restrictions.

[109] It is true, as Ms Cooper submitted, that ARLA did not expressly engage with the witnesses for the Supermarkets and explain why their evidence was rejected. But we accept Mr McNamara's submission that when its decision is read as a whole ARLA relied on the evidence led in support of the Policy for its conclusions that "there is evidence to establish a relationship between off-licence trading hours and alcohol consumption and harm".¹⁰² It was not necessary that ARLA reach a final view about the relationship between trading hours and harm. It sufficed, as we have explained, that there was a real and appreciable possibility that an earlier closing time would reduce alcohol-related harm. And that, in essence, is what ARLA decided in the passage quoted at [80] above, in which it referred to the evidence it had mentioned and concluded that there was an evidential basis for the closing hours restriction.

[110] We specifically reject Mr Thain's submission, for Foodstuffs, that ARLA's reasons were inadequate because it is implicit in s 78 that reasons must be given for failing to discriminate by area and population type. To cite s 78 as the source of an obligation to give reasons is to criticise the Council, whose policy it is, not ARLA. In any event, we have explained at [31] above that s 78 allows that a local policy may

¹⁰¹ Decision of ARLA, above n 38, at [140].

¹⁰² Decision of ARLA, above n 38, at [146].

discriminate by area and demographic characteristics, but does not require it. A policy need be no more than a local preference about a licensing matter.

[111] It follows that in our respectful opinion Duffy J was wrong to find that ARLA did not give reasons for its decisions. It did, and in our view its reasons were adequate.

Element 2: temporary freeze and rebuttable presumption against new off-licences in certain areas

[112] We have quoted ARLA's decision on this element at [81]–[82] above. In short, it reasoned that the freeze and rebuttable presumption were not unreasonable, nor did they preclude the issue of new off-licences; they were at best guidance for licensing committees and ARLA itself.

[113] Duffy J surveyed the evidence, arguments and ARLA's decision at some length before finding that ARLA had failed to provide reasons for treating supermarkets and grocery stores in the same manner as other off-licences, or for finding that a policy against new licences in the short term was not unreasonable. She did not conclude that the temporary freeze and rebuttable presumption were unreasonable.

[114] Nor did the Judge find that these elements were necessarily ultra vires the Act. She observed that under s 77(1)(a) it is permissible to include a policy on the location of licensed premises. She reasoned, however, that before doing so it would be necessary to consider the relevant considerations set out in s 78, "which would include the different types of off-licences and the different impacts they might have on the relevant factors set out in s 78".¹⁰³ She held that ARLA had again failed to provide reasons:

[154] By upholding the [provisional local alcohol policy's] comprehensive application of the temporary freeze and rebuttable presumptions to all off-licences in the City Centre, Priority Overlay areas and Neighbourhood Centres ARLA has found this element of the [provisional local alcohol policy] is not unreasonable in light of the object of the Act. However, ARLA gives no reasons for this finding. For the Court to assess the lawfulness of the decision-making process that led to the inclusion of this element, whether it complied with the requirements of ss 77 and 78 and whether ARLA properly considered this aspect of the appeal the Court needs to know ARLA's reasons for its decision. How and why the decision was reached needs to be seen. Whether

¹⁰³ Judgment under appeal, above n 1, at [153].

due regard was paid to the relevant factors in s 78 and whether the discretionary authority in s 77(1)(a) and (d) were properly exercised cannot be properly assessed when no reasons have been given. In short, the absence of reasons to explain ARLA's decision on this element, including the failure to explain why Woolworths' arguments were rejected prevent any proper analysis by this Court of the ultra vires ground of review.

[115] She concluded that in the absence of reasons the Court could not decide whether the "comprehensive application" of the temporary freeze and rebuttable presumption to all off-licences was unreasonable in light of the object of the Act. We observe that this appears to assume the Court was engaged in a merits review. Notwithstanding that s 77 expressly contemplates that a local alcohol policy may include policies on location of licensed premises by reference to broad areas, she contemplated that the Policy might ultimately prove to be ultra vires.¹⁰⁴ It is not clear to us how that could be so.

[116] The Judge went on to dismiss the Council's arguments:

[157] Auckland Council contended that the temporary freeze and rebuttable presumption were not ultra vires as they comprised a policy that goes to whether further licences should be issued in certain stated parts of Auckland, which brought them within s 77(1) of the [Act]. The Council also submitted that the evidence of Dr Cameron, before ARLA, suggested there was no basis for different treatment of supermarkets and other off-licences, and thus ARLA was entitled not to find elements of the [provisional local alcohol policy] unreasonable on account of their failure to differentiate between different off-licence locations. The Medical Officer of Health made minimal submissions on this point, opting to support the submissions made by the Council, but he also noted that if an element could be linked to the minimisation of alcohol related harm, because this was an objective of the [Act], the element would not be unreasonable in light of the object of the Act. Regarding the temporary freeze and the rebuttable presumption sufficient evidence was placed before ARLA to establish the necessary link that rendered the policy reasonable.

[158] I reject the opposing submissions. First, if ARLA was influenced by the suggested inferences that Auckland Council draws from Dr Cameron's evidence I would expect ARLA to refer to those inferences as part of its discussion of Dr Cameron's evidence. But it does not. ARLA simply refers to Dr Cameron's evidence in relation to Neighbourhood Centres and says it shows an association between off-licence density and higher levels of violence, sexual offences and drug and alcohol offences. This outline of Dr Cameron's evidence is not enough to support the inference ARLA either understood or accepted that the features Dr Cameron identified are something that is common to all types of off-licences. Secondly, Auckland Council took me to aspects of Dr Cameron's evidence and invited me to infer from those that his evidence showed there was no basis for differentiation between

¹⁰⁴ At [156].

different types of off-licences when it came to their association with alcohol-related harm. However, unlike ARLA I have not had the benefit of seeing and hearing all of Dr Cameron's evidence. So, I am not well-placed to assess his evidence or to draw the inferences that Auckland Council wants me to draw. Accordingly, I propose to approach Dr Cameron's evidence from the perspective of how it was outlined in ARLA's decision.

[159] More importantly, it is not apparent from ARLA's decision whether evidence that it understood as showing linkage between off-licences and alcohol-related harm was evidence that generally referred to off-licences, without the researchers taking account of any distinction between the different types of off-licences; or whether they had taken this factor into account and then found that much the same level of alcohol-related harm could be linked to all types of off-licences. The former circumstance may well render the same treatment for all off-licences unreasonable in light of the object of the [Act], whereas the latter may not. Even if the level of alcohol-related harm were found to be the same for all types of off-licences, the next question is whether that would be the case for all areas within the region, or whether it would differ according to the local characteristics of the various areas. Until a view is formed on these questions, it is not possible to say whether an approach that may limit the number of all new off-licences in all parts of the Auckland region is not unreasonable in light of the object of the [Act]. The arguments advanced by Auckland Council and the Medical Officer of Health rely on an overly superficial view of the evidence and relevant issues.

[117] It will be seen that the Judge again considered that the Policy must justify a decision not to discriminate among licensees and among communities within Auckland. She recognised that there was evidence to support the view that there was no basis for differentiation among off-licences, but reasoned that ARLA itself had not discussed whether the evidence applied to all off-licences.

[118] We do not agree. In its decision ARLA reviewed the evidence and arguments at length, concluding among other things that the definition of areas affected by the freeze/presumption was reasonable having regard to extensive evidence of harm there,¹⁰⁵ that it was reasonable to distinguish between on-licences and off-licences for this purpose,¹⁰⁶ and that there was evidence of an association between off-licence density and the more severe forms of alcohol-related harm.¹⁰⁷ We accept Mr McNamara's submission that the Judge again focused on the perceived absence of reasons for failing to discriminate among off-licence types. We have already held that the Policy need not do that, in circumstances where the evidence sufficiently justified

¹⁰⁵ Decision of ARLA, above n 38, at [80].

¹⁰⁶ At [84].

¹⁰⁷ At [120].

the inference that there is a relationship between off-licence density and alcohol-related harm in these areas. The evidence applied generally to off-licences.

[119] There is force in Mr La Hood's submission that the Judge's approach rested in part on assumptions that supermarkets cause less harm because they are restricted to "selling beverages with a lower alcohol content" and "are not self-evidently associated with displays of excessive alcohol consumption or alcohol related harm, nor are those features generally associated with their customers".¹⁰⁸ Those assumptions are not warranted on the evidence. It cannot be assumed that those who are pre-loading are consuming beverages with a higher alcohol content than wine or beer. Alcohol-related harm is not confined to public displays of drunkenness; it extends to health effects on those who drink to excess, perhaps in their suburban homes. It is a reasonable inference that those who are pre-loading or making impulse purchases will frequent supermarkets if they are allowed to sell alcohol when other off-licences are closed; what matters is that the alcohol is accessible and cheaper than it would be in an on-licence.

[120] The Supermarkets sought to defend the Judge's decision to remit this element of the Policy to ARLA on a collateral ground, namely her decision that the Policy's provision for Local Impact Reports was ultra vires the Act.¹⁰⁹ The Reports were intended as a tool to guide licensing committees and ARLA in licensing decisions. The Policy envisaged that the Reports would provide information about matters including the number of licensed premises in the area, proximity to education facilities and nature and severity of alcohol-related harm in the area. The Judge's decision that they were ultra vires has not been appealed.

[121] The Supermarkets argue that it must follow that, as the Judge directed, ARLA should reconsider the freeze/presumption element because ARLA expressly relied on Local Impact Reports to justify its conclusion that the element was reasonable and the Reports were part of the element, which ARLA must reconsider in its entirety.

¹⁰⁸ Judgment under appeal, above n 1, at [112].

¹⁰⁹ At [189].

[122] ARLA did rely on Local Impact Reports when reasoning that the element was not ultra vires because licences could still issue, having regard to information contained in the Reports.¹¹⁰ But the Reports would duplicate responsibilities already assigned to reporting authorities under the Act; they were intended to ensure those authorities do their job consistently and thoroughly.¹¹¹ It may be true that the Reports imposed stricter reporting requirements than the Act, but as Mr McNamara submitted, there is no express link between the Reports and the temporary freeze, and the rebuttable presumption refers to them in cl 3.3.3(a) only by requiring that licensing committees and ARLA should consider them when deciding whether to issue a licence. Element 2 functions without provision for the Reports.

[123] Mr Thain took a jurisdictional point, arguing that the decision to amend a local alcohol policy can be made by the territorial authority only after ARLA has referred the policy back for reconsideration. We do not agree. It is correct, as noted at [33] above, that an appeal to ARLA addresses an element of a local alcohol policy, but “element” is not defined. Division into elements is a question of fact and judgement. In our view, the policy element dealing with Local Impact Reports is cl 3.1, which provided for them as a “policy tool”. The temporary freeze was a separate policy tool, provided for in cl 3.2, as was the rebuttable presumption, provided for in cl 3.3. They are discrete policy elements which the Policy treats as separate tools and which ARLA might treat separately. The Reports were intended to apply to all licensing decisions, not just those affected by the temporary freeze and rebuttable presumption, which concerned new off-licences in specified areas.

Element 4: discretionary considerations

[124] We can deal with this ground of appeal shortly. Ms Cooper argued that the Policy left little room for “any real exercise of discretion” by licensing committees and ARLA; in effect cl 4.4.1 was directive, requiring that the relevant conditions be imposed. She accepted, as noted above, that the conditions themselves would not be ultra vires the Act if a licensing committee chose to require them under s 117.

¹¹⁰ Decision of ARLA, above n 38, at [114] and [117].

¹¹¹ As the Judge discussed at [181]–[182] of the Judgment under appeal, above n 1.

[125] In our view cl 4.4.1 plainly is not ultra vires. Section 77 permits the Council to include a policy about discretionary conditions. There is no reason why a policy cannot include a preference about how the discretion to impose a condition should be exercised. That is all that cl 4.4.1 amounts to. It is not a direction to licensing committees to include the specified conditions. On the face of the legislation, such a policy could not fetter their express statutory discretion with respect to conditions.¹¹² As the Judge recognised, cl 4.4.3 replicates mandatory considerations relating to prohibited persons; that being so, it can hardly be ultra vires the Act.

Disposition

[126] The Council's appeal is allowed. Woolworths' cross-appeals is dismissed. The High Court order remitting ARLA's decision on the Supermarkets' appeals for reconsideration is set aside. The effect of this decision is that:

- (a) The orders made by ARLA at [203(b)] to (d) of its decision stand (this includes its decision that cl 4.4.1 is not ultra vires or unreasonable);
- (b) ARLA's decision is reinstated with respect to trading hours (noting that the effect of the order made at [203(a)] of its decision was that the Council need reconsider only the opening hours component of this element of the Policy); and
- (c) ARLA's decision that the temporary freeze and rebuttable presumption (elements 3.2 and 3.3) are not unreasonable in light of the object of the Act is reinstated.

[127] Those elements of the Policy that were not the subject of the Council's appeal to this Court (being provision for Local Impact Reports and certain discretionary conditions) remain subject to reconsideration as agreed by the Council or directed by Duffy J. We record that the effect of her decision was only that certain elements must be reconsidered by ARLA, which may in turn remit them to the Council for reconsideration. She could not and did not quash, or declare unreasonable, any

¹¹² Section 105(1)(c). Clause 4.5.1 also expresses the Council's preference that certain discretionary conditions be considered by the District Licensing Committee.

element of the Policy herself. To the extent that any element is in fact ultra vires the Act, we agree with the Judge that it could not be found reasonable in light of the Act's object. However, the question whether any element is ultra vires or unreasonable must be reconsidered by ARLA by reference to the law as explained in this judgment. ARLA is not bound by the Judge's reasons to the extent they differ from those given here.

[128] The Supermarkets must pay the Council one set of costs on the appeal and cross-appeals for a complex appeal on a band A basis, with usual disbursements. We certify for second counsel.

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Effects of Extensions and Restrictions in Alcohol Trading Hours on the Incidence of Assault and Unintentional Injury: Systematic Review

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ABSTRACT. Objective: We undertook a systematic review to assess the effects of extensions and restrictions in trading hours of on- and off-license alcohol outlets. We included new primary studies that help address limitations in previous reviews. **Method:** We systematically searched electronic databases and reference lists, up to December 2018, and contacted the authors of eligible studies. Studies were eligible if (a) the design was randomized, or nonrandomized with at least one control site/series; (b) the intervention evaluated extensions or restrictions in trading hours at on- or off-license premises; and (c) the outcome measures were assault, unintentional injury, traffic crash, drink-driving offenses, or hospitalization. Two reviewers independently extracted data using a standard form that included study quality indicators. **Results:** After screening 3,857 records, we selected 22 studies for the

systematic review, all of which used an interrupted time series design. In the included studies, extension of trading hours concerned on-license premises only, whereas restriction concerned both on- and off-license premises. Extending trading hours at on-license premises was typically followed by increases in the incidence of assault, unintentional injury, or drink-driving offenses. Conversely, restricting trading hours at on- and off-license premises was typically followed by decreases in the incidence of assault and hospitalization. **Conclusions:** On balance, this review augments existing evidence that harm typically increases after extensions in on-license alcohol trading hours. It provides new evidence that alcohol-related harm decreases when on- and off-license trading hours are restricted. (*J. Stud. Alcohol Drugs*, 81, 5–23, 2020)

GLOBALLY, HARMFUL CONSUMPTION of alcohol is the third leading risk factor for morbidity and mortality, accounting for 3 million (5% of all) deaths per annum (World Health Organization [WHO], 2018), and around half of this burden is the result of the acute effects of alcohol consumption, including traffic injury and violence (WHO, 2018). According to Availability Theory, levels of drinking in a society are partly a consequence of how affordable and accessible alcohol is to the population (Stockwell & Gruenewald, 2004).

The interaction between the physiological effects of alcohol, characteristics of consumers, and drinking environments help explain the association between alcohol consumption and harm (Leonard et al., 2003; Plant et al., 2002). The euphoria and increased confidence consumers experience at low doses give way to depressant effects as the dose increases (Dimeff, 1999). As their blood alcohol levels rise, drinkers exhibit impaired coordination, ataxia, poor judgment,

and labile mood (Schuckit, 2000). Reductions in fear and anxiety, and impaired problem-solving skills increase drinker propensities for aggression and risk taking (Room et al., 2005; Schuckit, 2000).

Increased availability of alcohol is positively associated with harm (Babor et al., 2010), with the incidence of violence typically being greater with higher geographic density of alcohol outlets and with a closer proximity of outlets to people's homes (Fitterer et al., 2015; Kearns et al., 2015). For example, across New Zealand, each additional off-license outlet within 1 km of people's homes was associated with a 4% increase in the odds of binge drinking and a 2% increase in harms to people's personal relationships, physical health, work, studies, and employment opportunities (Connor et al., 2011).

Five systematic reviews have previously examined the association between alcohol trading hours and alcohol-related harm. In their review of 14 studies with baseline

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and control observations, Stockwell and Chikritzhs (2009) found that extensions in on-license trading hours were typically followed by increases in the incidence of alcohol-related harm or hazardous drinking. Similarly, reviewing 11 studies, Popova et al. (2009) found that extensions in on-license trading were followed by increased purchasing of high-alcohol beverages and increased alcohol-related harm. One review concluded that on-license trading extensions of 2 or more hours were associated with increased harm and that evidence was too weak concerning increases of less than 2 hours (Hahn et al., 2010). This limitation is noteworthy given that smaller changes are most relevant to mature alcohol markets, where drastic policy changes are uncommon. The focus of research examined in those reviews—namely, the impact of trading hour extensions—reflects the trend of market deregulation in the latter half of the 20th century (Babor et al., 2010).

More recent reviews (Sanchez-Ramirez & Voaklander, 2018; Wilkinson et al., 2016) suggest that restrictions in on- and off-license trading hours were followed by decreases in harm, but those reviews identify methodologic limitations that make inferences from this smaller body of evidence “less compelling” in relation to injury outcomes.

These reviews included some studies that lacked counterfactuals, such that associations potentially reflect changes other than trading hours, and none formally assessed the risk of bias in the primary studies. Our aims were to update the literature to account for new primary studies and address the limitations of previous reviews by including only primary studies with counterfactuals, formally assessing the risk of bias in each.

Method

We used the Cochrane Effective Practice and Organization of Care (EPOC) framework (The Cochrane Collaboration, 2017), pre-registered the review (Registration number: CRD42015027584), and filed the report according to PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses; Moher et al., 2009).

Eligibility criteria

Studies were eligible if they investigated extensions or restrictions in trading hours at on- or off-license premises, included the whole population of the study area, and used a counterfactual. On-licenses are outlets where people drink alcohol, whereas off-licenses sell alcohol for consumption elsewhere. The counterfactual could be matched control locations with an alternative intervention/no intervention, or a single location in an interrupted time series with sufficient pre-intervention data to estimate the pre-change trend serving as a counterfactual.

Outcomes eligible for inclusion were violence, unintentional injury (ICD-10 codes S or T, including traffic injury;

ICD10Data.com, 2016), drink-driving, and alcohol-related hospitalization. The latter included patients admitted with excessive alcohol consumption/harmful use/alcohol poisoning, toxicity/alcohol-related injury, and mental/behavior disorder. Following EPOC, we defined as eligible for inclusion randomized trials, controlled nonrandomized trials, controlled before-and-after studies, and interrupted time-series (ITS) designs. Our criteria did not exclude studies using regression discontinuity or instrumental variables, but our search identified no such studies. In an ITS design, the point in time that the intervention commenced had to be specified, with more than three data points before and afterward (The Cochrane Collaboration, 2017). We placed no restriction on language and considered publications up to December 31, 2018.

Information sources and search strategy

Table 1 describes our search, informed by previous reviews and consultation with a librarian. We deployed the search strategy (Table S1) in Medline, translated for other databases, and imported records into Endnote, where we removed duplicates. (Supplemental material appears as an online-only addendum to the article on the journal's website.) SN and RH independently reviewed titles, abstracts, and, where necessary, full text to identify eligible studies. In accordance with Cochrane (Higgins et al., 2019), we re-ran in August 2019 the search that we had conducted more than 12 months previously. SN reviewed titles, abstracts, and full text of new eligible studies.

Data extraction

We adapted the Cochrane Data Extraction Form (The Cochrane Public Health Group, 2011) and had three pairs of reviewers (SN and RH/TT/TB) extract data, resolve disagreements through discussion, and consult a third reviewer (KK) to adjudicate where necessary. Upon agreeing on the results to be extracted, we tabulated effect-size estimates along with a confidence interval or *p* value. Where exact *p* values were not provided, we placed the significance test result in quotation marks (e.g., “*p* < .05”).

Risk of bias in primary studies

We relied on EPOC Guidelines (The Cochrane Collaboration, 2017), the only bias assessment protocol with criteria for ITS designs. Our pilot testing showed that studies addressing the question of interest commonly used ITS designs to which several EPOC criteria (e.g., blinding of assessors, selective outcome reporting) were not relevant. Accordingly, we retained criteria that applied to ITS designs (i.e., confounding due to unadjusted differences between groups,

TABLE 1. Information sources, search strategy, and risk of bias assessment

| |
|--|
| <p>Keywords: <i>alcohol, consumption, drinking, alcoholic beverage, trading hour, closing time, extend, restrict, extend*, restrict*, relaxed, increase*, open*, hour*, trad*, policy, liquor license, sale, licensing, alcohol-related harm, assault, injury, violence, and traffic crash.</i></p> |
| <p>Electronic databases: CINAHL, Embase, Google Scholar, Medline, Medline In-Process, ProQuest, PsycINFO, and Scopus. Duration of search: May 1, 2016, to December 31, 2016, repeated in August 2017, December 2018, August 2019 We considered articles published from all years to December 2018.</p> |
| <p>Other sources: - Citation searching: manual search of reference lists and studies that have cited the included studies - Contact with authors of included studies for nomination of literature not identified through our search</p> |
| <p>Risk of bias assessment criteria applied to studies identified in the review (1–3; The Cochrane Collaboration, 2017), with additional criteria to address seasonality and displacement 1) <i>Confounding due to baseline differences</i> between intervention and control areas; 2) <i>Confounding due to other changes</i> coinciding with intervention; 3) <i>Contamination</i> due to control site(s) being exposed to some aspect of the intervention; 4) <i>Seasonality</i>: whether seasonal variation in the outcome was accounted for analytically; and 5) <i>Displacement</i>: whether the intervention caused the outcome to shift geographically (from either the intervention or control site), or temporally—from one time period to another—that is, from earlier in the night to later, or vice-versa.</p> |

the effects of other changes at the time of intervention, and contamination bias). In Table 1, we present additional criteria for design issues that EPOC does not address.

Results

Study selection

Figure 1 shows how we arrived at the 22 studies that met the eligibility criteria.

Study characteristics

Eligible studies were conducted in Australia (7), Canada (4), Germany (1), Norway (1), the Netherlands (1), Sweden (1), Switzerland (1), the United Kingdom (4), and the United States (2). Fifteen evaluated extensions, six evaluated restrictions, and one evaluated both. Twenty studied on-licenses, and two studied off-licenses. All used ITS designs, including 15 with control localities, 6 with the pre-intervention trend as the counterfactual, and 1 with a contemporaneous control (Table S2). The outcomes reported were assault (9), all injury (6), traffic crashes, including traffic injury (3), traffic fatalities (2), drink-driving (5), and alcohol-related hospitalization (2).

Suitability for meta-analysis

Studies varied substantially in outcome specification and analytic methods. We judged only three as comparable in intervention and outcome (Kypri et al., 2011; Menéndez et al., 2017; Rossow & Norström, 2012) and two of those examined the same jurisdiction; therefore, we deemed meta-analysis unfeasible.

Results of individual studies

Extending trading hours at on-license premises. Table 2 summarizes studies of extended trading hours. All studies of extensions concerned on-license premises in the United Kingdom, Canada, Australia, United States, Norway, the Netherlands, and Sweden. Eleven showed an increase and two a decrease, on at least one outcome; two found no association.

In June–August 2014 in Visby, Sweden, premises were permitted to extend trading from 2:00 A.M. to 3:00 A.M. Norström et al. (2018) found a 71% reduction in police-recorded assault compared with corresponding periods in 2010–2013.

From April 2009, premises in two nightlife areas of Amsterdam were permitted to extend trading from 3:00 A.M. to 4:00 A.M. on weekdays, and from 4:00 A.M. to 5:00 A.M. on weekends. Comparing intervention areas with neighboring areas where trading hours did not increase, de Goeij et al. (2015) found a 34% increase in ambulance attendances for alcohol-related injury.

From June 2009, on-licenses in San Marcos, TX, were permitted to extend trading from midnight to 2:00 A.M. Chamlin and Scott (2014) found a 72% increase in “physical disturbances” but no effect on “verbal disturbances” and drink-driving offenses, in downtown San Marcos. In the remainder of the city they found decreased “physical disturbances” and increased drink-driving offenses but no effect on “verbal disturbances.”

In England and Wales, before the Licensing Act (2003) came into effect in 2005, on-licenses with a standard license were allowed to serve alcohol from 11:00 A.M. to 11:00 P.M. (10:30 P.M. on Sunday) and with a “Special Hours Certificate” from 11:00 A.M. to 2:00 A.M. (3:00 A.M. in London). Examining Manchester from February 2004 to December

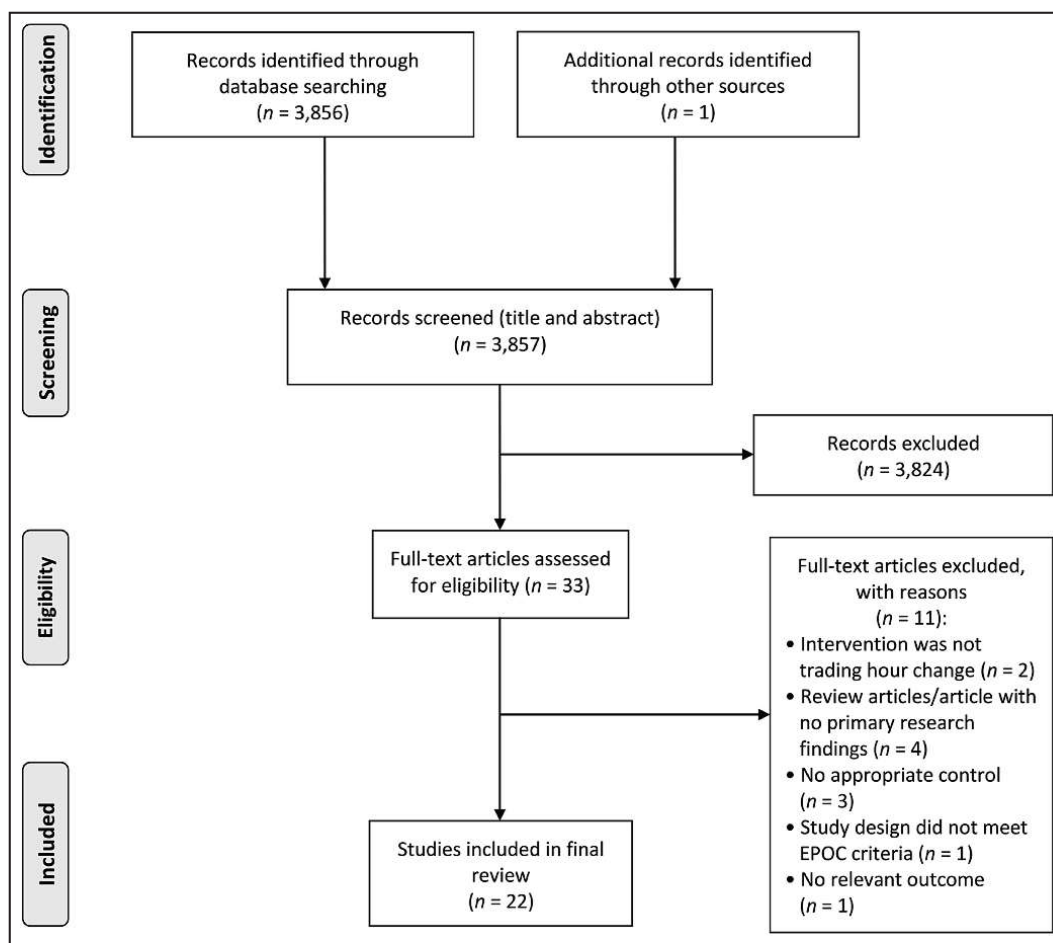


FIGURE 1. PRISMA (Preferred Reporting Items for Systematic Reviews and Meta-Analyses) flowchart. EPOC = Effective Practice and Organization of Care.

2007, Humphreys et al. (2013) found no increase in the overall incidence of police-recorded assault after trading hour restrictions were removed, but a 36% increase between 3:00 and 6:00 A.M. Given evidence on indicators of alcohol-related injury (Langley et al., 2008; Nepal et al., 2019), we judged assault at “any time of day” a choice of outcome that would bias estimates toward the null, because of low sensitivity to change in late-night alcohol availability. We therefore relied on the analysis of assaults occurring between midnight and 3:00 A.M., and from 3:00 A.M. to 6:00 A.M. in our assessment.

Also in England and Wales, Green et al. (2014) estimated a 13% decrease in the incidence of traffic crashes rela-

tive to Scotland over the same period, the decrease being greatest among 18- to 25-year-olds and during late nights and early hours of weekends. The primary inference in that study relies on the rough equivalence of the pre-extension trend in the two jurisdictions, but figures in the article demonstrate that Scotland had a much steeper reduction in traffic crash incidence than did England and Wales before trading hours were extended in the latter. This, along with the inexplicable change in slope (a relative increase) in Scotland after trading hours were extended in England and Wales, undermines the validity of the primary inference.

From 2000 to 2010, eight Norwegian municipalities granted permission for on-licenses to extend their hours by

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TABLE 2. Characteristics of included studies examining extension of trading hours

| Study, country | Setting | Intervention | Study design/analysis/outcome | Findings | Relative effect estimates and comments |
|--|--|--|--|--|--|
| <i>On-license premises</i> Norström et al. (2018), Sweden | Intervention: Visby Control: Pre-intervention period | On a trial basis, between June 9, 2014, and August 17, 2014 (Week 24-Week 33), the latest permissible closing time for on-license premises was extended from 2:00 A.M. to 3:00 A.M. | Study design: ITS with no control site Analysis: Difference-in-Difference (DiD) Outcome: Assault | The 1-hour extension was associated with a reduction of 3 assaults per week when compared to the pre-intervention period ($p < .001$). | The extension was associated with a 71% decrease in the incidence of assault, compared to the pre-intervention period. |
| de Goeij et al. (2015), the Netherlands | Intervention: The Leidseplein and Rembrandtplein, Amsterdam Control: Dam, Koningsplein, and Red-light district, Amsterdam | From April 1, 2009, the municipality of Amsterdam permitted two of the five nightlife areas to extend closing times of on-license premises by 1 hour (2 hours for daytime venues during weeknights). The trading hour changes implemented were as follows: <i>Daytime venues</i> Weeknights: from 1:00 A.M. to 3:00 A.M. Weekend: from 3:00 A.M. to 4:00 A.M. <i>Evening venues</i> Weeknights: from 3:00 A.M. to 4:00 A.M. Weekends: from 4:00 A.M. to 5:00 A.M. <i>Night-time venues</i> Weeknights: from 4:00 A.M. to 5:00 A.M. Weekend: from 5:00 A.M. to 6:00 A.M. Three of the nightlife areas in Amsterdam did not implement the closing time extension, and served as a control. | Study design: ITS with control site Analysis: Segmented time-series design Outcome: Alcohol-related injury (with alcohol involvement judged by ambulance officers) | The 1-hour extension was associated with an increase in the incidence of injury in the intervention areas compared to the control areas. Total injuries: <i>Intervention area</i> Before (April 1, 2006, to April 1, 2009): 499 After (April 1, 2009, to April 1, 2011): 480 <i>Control area</i> Before: 544 After: 357 | After adjusting for time of injury, sex, age, transportation to a hospital, and involvement of violence, a 34% increase in injury was associated with the extension in the intervention area relative to the control area. (incidence rate ratio = 1.34, 95% CI [1.12, 1.61]) |

Table continued

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TABLE 2. Continued

| Study, country | Setting | Intervention | Study design/analysis/outcome | Findings | Relative effect estimates and comments |
|---------------------------------------|--|--|---|--|---|
| Chamlin & Scott (2014), United States | Intervention: San Marcos Control: Pre-intervention period | In May 2009 the city council of San Marcos, Texas, adopted a law allowing on-license premises to extend their trading hours by 2 hours, from midnight to 2:00 A.M. | Study design: ITS with no control Analysis: Autoregressive integrated moving average (ARIMA) Outcome: Calls for police services for assault (verbal and physical disturbances), drink-driving offense | <i>Downtown San Marcos</i> Verbal disturbances Extended trading hours + increased police patrol): $\omega_{10} = .50$ ($^*p < .01$) Extended trading hours only: $\omega_{20} = .19$ (n.s.) Physical disturbances Extended trading hours + increased police patrol): $\omega_{10} = .71$ ($^*p < .001$) Extended trading hours only: $\omega_{20} = .19$ ($^*p < .05$) Drink-driving offenses Extended trading hours + increased police patrol): $\omega_{10} = .65$ ($^*p < .01$) Extended trading hours only: $\omega_{20} = .28$ (n.s.) <i>Rest of San Marcos</i> Verbal disturbances Extended trading hours: $\omega_{10} = -.01$ (n.s.) Physical disturbances Extended trading hours: $\omega_{10} = -.29$ ($^*p < .01$) Drink-driving offenses Extended trading hours: $\omega_{10} = .60$ ($^*p < .001$) | No relative effect estimate reported. |
| Green et al. (2014), United Kingdom | Intervention: England and Wales Control: Scotland | In November 2005, the Licensing Act was introduced under which trading hour restrictions on licensed premises were removed. Previously premises with a standard license were allowed to serve alcohol between the hours of 11:00 A.M. and 11:00 P.M. (10:30 P.M. on a Sunday) and between 11:00 A.M. and 2:00 A.M. (3:00 A.M. in London) with a "Special Hours Certificate." No extension was implemented in Scotland which served as a control. | Study design: ITS with a control site Analysis: DiD Outcome: Traffic crash involving injury, recorded by police | The extension was associated with a decrease in traffic crash counts in local jurisdictions in England and Wales, compared with those in Scotland. The association was strongest among 18- to 25-year-olds. Average monthly traffic crash counts per local jurisdiction are not presented for both countries. Instead we estimate them from Figure 2: <i>Intervention</i> Before (2002–2005): 33 After (2006–2008): 30 <i>Control</i> Before (2002–2005): 22 After (2006–2008): 14 | The extension was associated with a 13% decrease in traffic crash counts in the intervention areas (England and Wales), relative to the control areas (Scotland). Actual p values associated with effect estimates are not reported but decrease from $< .10$ in the simplest model to $< .01$ in models adjusted for population size, jurisdiction area, seasonality, and clustering. |

Table continued

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TABLE 2. Continued

| Study, country | Setting | Intervention | Study design/analysis/outcome series | Findings | Relative effect estimates and comments |
|---|---|---|---|---|---|
| Humphreys et al. (2013), United Kingdom | Intervention: Manchester Control: Non-equivalent dependent variables (robbery and total crime) | As reported for Green et al. (2014), above. | Study design: ITS with control series Analysis: ARIMA Outcome: Assaults occurring at any time of the day at weekends | The Licensing Act was not associated with a change in the overall incidence of assault (at any time of day) at weekends, but a 36% increase in assaults occurring from 3:00 A.M. to 6:00 A.M. on Saturday or Sunday. | No relative effect estimate reported. |
| Rosow & Norström (2012), Norway | Intervention: 18 Norwegian cities (city center) Control: Assaults in city periphery | Between 2000 and 2010, 18 Norwegian municipalities granted permission to on-license premises to either extend or restrict their trading hours. Eight cities extended their hours, by between 30 and 120 minutes up to a maximum of 3:00 A.M. closing. | Study design: ITS with control site Analysis: ARIMA Outcome: Assault recorded by police | Each 1 hour of extension was associated with an increase in violence. Mean: 29.2 assaults per 100,000 inhabitants | After adjusting for violence in the city periphery, each additional 1-hour extension was associated with an increase of 16% (95% CI [9, 24]) in violent cases in the intervention areas, relative to control areas. |
| Vingilis et al. (2008), Canada | Intervention: Towns of London and Windsor Control: Pre-intervention period | On May 1, 1996, the Liquor License Act of Ontario, Canada was amended to extend on-license alcohol trading hours from 1:00 A.M. to 2:00 A.M. | Study design: ITS with no control Analysis: Poisson and negative binomial regression Outcome: Drink-driving, violence | <i>Drink-driving:</i> The 1-hour extension was associated with a decrease in drink-driving, between 11:00 P.M. and 4:00 A.M., in London ($p < .01$) and Windsor ($p < .01$). In London, the extension was associated with a decrease in drink-driving, between 1:00 A.M. and 2:00 A.M. for Sunday–Wednesday ($p < .0001$) and also for Thursday–Saturday ($p < .0001$). An increase was found between 3:00 A.M. and 4:00 A.M. for Sunday–Wednesday ($p = .004$). In Windsor, the extension was associated with a decrease in drink-driving, between 1:00 A.M. and 2:00 A.M. for Sunday–Wednesday ($p = .00004$) and also for Thursday–Saturday ($p < .00001$). An increase was found between 2:00 A.M. and 3:00 A.M. ($p = .014$) and 3:00 A.M. and 4:00 A.M. ($p = .037$) for Sunday–Wednesday. An increase was also found between 2:00 A.M. and 3:00 A.M. for Thursday–Saturday ($p = .0004$). <i>Violence:</i> The 1-hour extension was not associated with any change, from pre- to post-intervention, in London and Windsor. In London, the extension was associated with a decrease between 1:00 A.M. and 2:00 A.M. for Thursday–Saturday ($p = .004$). An increase was found between 2:00 A.M. and 3:00 A.M. for Sunday–Wednesday ($p = .03$) and between 3:00 A.M. and 4:00 A.M. for Thursday–Saturday ($p = .02$). In Windsor, an increase in violence was found, between 2:00 A.M. and 3:00 A.M. for Thursday–Saturday ($p = .001$). | No relative effect estimate reported. |

Table continued

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TABLE 2. Continued

| Study, country | Setting | Intervention | Study design/analysis/outcome | Findings | Relative effect estimates and comments |
|--|---|--|--|--|--|
| Bouffard et al. (2007), United States | Intervention: Minnesota Control: Pre-intervention period | From July 1, 2003, on-license premises in Minnesota were allowed to extend their trading hours from 1:00 A.M. to 2:00 A.M. | Study design: ITS with no control Analysis: ARIMA Outcome: Police stops for suspected drink-driving with BACs over the legal limit of .08 g/dl | <i>Pre-intervention (January 2002 to June 2003)</i> <i>Post-intervention (July 2003 to December 2005)</i> The 1-hour extension was associated with an abrupt increase in the number of stops for drink-driving ($\alpha = .398$, $t = 2.067$, $p < .05$). | No relative effect estimate reported. |
| Chikritzhs & Stockwell (2007), Australia | Intervention: On-license outlets with extended trading hours in Perth Control: On-license outlets without extended trading hours | Between 1989 and 1997, as a consequence of the Liquor Licensing Act of 1988, on-license outlets in Perth were allowed to extend trade from midnight to 1:00 A.M. by obtaining an extended trading permit (ETP). The control sites were outlets continuing to operate with midnight closing. | Study design: ITS with control series Analysis: Multiple linear regression Outcome: Mean breath alcohol level (BAL) of drivers apprehended on testing positive in roadside random breath testing | <i>Female drivers</i> Estimates were not presented for BALs of female drivers apprehended between 12:01 A.M. and 2:00 A.M. because the association was "nonsignificant." However, for 10:01 P.M. to midnight (before closing), female drivers' mean BALs associated with ETP outlets decreased by 14% ($p < .01$) whereas mean BALs associated with non-ETP outlets increased by 3%. <i>Male drivers</i> For 12:01 A.M.–2:00 A.M., mean BALs associated with drinking at ETP outlets increased by 1.5% ($p < .05$) whereas mean BALs associated with drinking at non-ETP outlets decreased by 9%. No estimate for all drivers apprehended for drink-driving offenses was reported. | No relative effect estimate reported. |
| Vingilis et al. (2007), Canada | Intervention: Ontario Control: Pre-intervention period | As reported for Vingilis et al. (2008). | Study design: ITS with no control Analysis: Linear regression analysis Outcome: Traffic and nontraffic injury | <i>Traffic injuries:</i> 1,094 cases were recorded during the 11:00 P.M.–3:00 A.M. period. The extension was associated with a decrease in MVC injuries between 11:00 P.M.–midnight ($p = .019$) and 1:00 A.M.–2:00 A.M. ($p = .001$). <i>Nontraffic injuries:</i> 765 cases were recorded during the 11:00 P.M.–3:00 A.M. period. The extension was associated with an increase in non-MVC injuries between 2:00 A.M. and 3:00 A.M. ($p = .027$). | No relative effect estimate reported. |
| Chikritzhs & Stockwell (2006), Australia | Intervention: On-license outlets with extended trading hours in Perth Control: On-license outlets without extended trading hours | As reported for Chikritzhs & Stockwell (2007), above. | Study design: ITS with control series Analysis: Multiple linear regression Outcome: Traffic crash involving an alcohol-impaired driver | After adjusting for traffic crash associated with standard trading outlets and the introduction of freeway "booze buses" (random breath testing units), mean traffic crash with an alcohol-impaired driver, per outlet per month increased by 47% ($p < .05$). No change was seen in the incidence of drink-driving offenses. Mean monthly traffic crash rates: ETP outlets Before: 0.055 traffic crash per outlet After: 0.081 traffic crash per outlet Non-ETP outlets: Not reported. | No relative effect estimate reported. |

Table continued

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TABLE 2. Continued

| Study, country | Setting | Intervention | Study design/analysis/outcome sites | Findings | Relative effect estimates and comments |
|--------------------------------|---|--|---|--|--|
| Vingilis et al. (2006), Canada | Intervention: Windsor (USA) Control: Detroit, Michigan (USA) | As reported for Vingilis et al. (2008). The control site implemented no extension. | Analysis: Poisson and negative binomial regression Outcome: Traffic crashes (includes fatalities and injury) | <p><i>Total traffic injury between 11:00 P.M. and 3:00 A.M.</i></p> <p>Windsor (Between January 1, 1992, and December 31, 1999)—the extension was not associated with motor vehicle injury.</p> <p>Detroit (May 1, 1992, to April 30, 1999)—the extension was associated with a decrease in motor vehicle injury ($p = .036$).</p> <p><i>Total alcohol-related traffic injury between 11:00 P.M. and 3:00 A.M.</i></p> <p>Windsor (between January 1, 1992, and December 31, 1999)—the extension was associated with an increase in alcohol-related traffic injury ($p = .035$).</p> <p>Detroit (May 1, 1992, to April 30, 1999)—a decrease in alcohol-related traffic injury ($p < .0001^{**}$) was found.</p> <p><i>Total and alcohol-related traffic fatalities between 11:00 P.M. and 3:00 A.M.</i></p> <p>In Ontario, the extension was not associated with total traffic fatalities; a decrease was seen in alcohol-related traffic fatalities ($p = .013$). During the weekdays, the extension was associated with a decrease in alcohol-related traffic injury during 1:00 A.M.–2:00 A.M. ($p = .022$), and an increase during 2:00 A.M.–3:00 A.M. ($p = .005$). During the weekends, the extension was not associated with change in alcohol-related traffic crashes.</p> <p>In Michigan, no association between either total or alcohol-related traffic fatalities.</p> | No relative effect estimate reported. |
| Vingilis et al. (2005), Canada | Intervention: Ontario Control: New York and Michigan (USA) | As reported for Vingilis et al. (2008). The control sites implemented no extension. | Analysis: Poisson and negative binomial regression Outcome: Total and BAL positive traffic fatalities | <p>The article reports on the difference in trends before and after the intervention in the intervention and control sites, presenting graphical information but no statistical estimates.</p> <p>The extension showed no consistent impact on trends of BAL positive traffic fatalities in Ontario.</p> <p>Ontario: Downward trends for BAL positive traffic fatalities were seen for Sunday–Wednesday 12:01 A.M.–1:00 A.M. ($p = .024$) and 1:00 A.M.–2:00 A.M. ($p = .01$).</p> <p>New York and Michigan: Downward trends for BAL positive traffic fatalities Thursday–Saturday, midnight–1:00 A.M. ($p = .03$) and 2:00 A.M.–3:00 A.M. ($p = .001$).</p> <p>There were diverging trends between Ontario and the control states of New York and Michigan.</p> <p>Total BAL positive traffic fatalities: Not reported.</p> | No relative effect estimate reported. |

Table continued

TABLE 2. Continued

| Study, country | Setting | Intervention | Study design/analysis/outcome | Findings | Relative effect estimates and comments |
|---|--|--|---|--|--|
| Chikritzhs & Stockwell (2002), Australia | Intervention: On-license outlets with extended trading hours in Perth Control: On-license premises without extended trading hours | As reported for Chikritzhs & Stockwell (2007), above. | Study design: ITS with control series Analysis: Multiple linear regression Outcome: Assaults recorded by police | The mean monthly assault incidence rate in ETP outlets increased by 55% whereas the rate for non-ETP outlets increased by 19%. After controlling for the assault incidence rate in non-ETP outlets, the mean incidence in ETP outlets increased by 70% ($p < .01$) compared with before the law change. Overall assault incidence rate: <i>ETP outlet</i> Before: 0.121 cases per outlet per month (0.064, 95% CI [0.094, 0.148]) After: 0.187 cases per outlet per month (0.072, 95% CI [0.166, 0.208]) <i>Non-ETP outlet</i> Before: 0.112 cases per outlets per month (0.038, 95% CI [0.095, 0.128]) After: 0.133 cases per outlets per month (0.034, 95% CI [0.123, 0.143]) | No relative effect estimate reported. |
| Duffy & Pinot de Moira (1996), United Kingdom | Intervention: England and Wales Control: Scotland | In August 1988, a new law was implemented in England and Wales that permitted extensions in opening hours for licensed premises, allowing them to open between 11:00 A.M. and 11:00 P.M. on weekdays and Saturday; on Sundays premises were permitted to open at 11:00 A.M. instead of 12:00 noon. No changes were implemented in Scotland during the study period. | Study design: ITS with control site Analysis: Logistic linear regression Outcome: The incidence of traffic crash, and apprehensions for drink-driving and assault | The extension was associated with an increase in traffic injury in England and Wales while no impact was found on drink-driving offenses An initial rise was seen in the incidence of assault in England and Wales, however, this declined by 1989. Total traffic crash: Not reported. Total drink-driving offense: Not reported. Total violent cases: Not reported. | Adjusting for "extra-binomial" variation, the extension was associated with a 4% increase in traffic injury in England and Wales relative to Scotland. The extension was also associated with an initial increase of 16% in the incidence of assault in England and Wales relative to Scotland. This subsequently decreased by 9% in the following years. The article provided insufficient information to compute p-values or confidence intervals for the estimates. |
| Duffy, J. C., & Plant, M. A. (1986), United Kingdom | Intervention: Scotland Control: England and Wales | On-license premises were allowed to extend their trading hours from 10:00 P.M. to 11:00 P.M. starting December 1976. The licensing changes were not applied in England and Wales. | Study design: ITS with control site Analysis: Figure plotting data on a logarithmic scale; no statistical results reported. Outcome: Drink-driving offenses | Based on graphical representation of the data, the extension was not associated with change in the incidence of apprehensions for drink-driving in Scotland. All apprehensions for drink-driving: Not reported. | No relative effect estimate reported. |

Notes: ITS = interrupted time-series; CI = confidence interval; N.S. = not significant; BAC = blood alcohol concentration; UK = United Kingdom; MVC = motor vehicle crash.

between 30 and 120 minutes, to no later than 3:00 A.M. Examining police-reported assault with outer areas as a control, Rossow and Norström (2012) found that each 1-hour extension was associated with a 16% increase in the incidence of assault.

In Ontario, Canada, licensees were granted permission to extend trading from 1:00 A.M. to 2:00 A.M., from May 1996. Vingilis et al. (2005) found no evidence of effects on BAC-positive traffic fatalities compared with the states of New York and Michigan. Comparing Windsor (Ontario) with neighboring Detroit (Michigan), they found no changes in nonfatal traffic injury, an increase in alcohol-related traffic injury, and a simultaneous decrease in all injury and alcohol-related injury in Detroit. Vingilis et al. reported an increase in alcohol-related traffic and nontraffic injury between 2:00 A.M. and 3:00 A.M. on weekdays (Vingilis et al., 2006) but no change in all traffic injury (Vingilis et al., 2007). In a fourth study of drink-driving and violence in London, Ontario, Vingilis et al. (2008) found an increase in drink-driving offenses between 3:00 A.M. and 4:00 A.M. on weekdays and increased police-recorded assault between 2:00 A.M. and 3:00 A.M. on weekdays, and between 3:00 A.M. and 4:00 A.M. on weekends.

In Minnesota, on-licenses were allowed extensions from 1:00 A.M. to 2:00 A.M., from July 2003. In the 2.5 years following the change, Bouffard et al. (2007) found an abrupt and sustained increase in police stops for suspected drink-driving in which drivers exceeded the legal limit of 0.08 g/dL, compared with the 1.5 years before.

In Perth, Australia, from 1989 to 1997, on-licenses were allowed extensions from midnight to 1:00 A.M. Comparing premises that extended trading versus those that did not, Chikritzhs and Stockwell found substantial increases in police-recorded assault (2002), traffic crashes (Chikritzhs & Stockwell, 2006), and blood alcohol levels of men apprehended for drink-driving (Chikritzhs & Stockwell, 2007). They found no significant change in blood alcohol levels of women apprehended after midnight, and lower levels from 10:00 P.M. to 12:00 midnight (i.e., before closing time; Chikritzhs & Stockwell, 2007).

In 1988, amendments to the England and Wales Licensing Act allowed on-licenses to open from 11:00 A.M. to 11:00 P.M. (We were unable to determine the previous limits.) Duffy and Pinot de Moira (1996) found an increase of 4% in the incidence of traffic crashes, relative to Scotland, where hours were unchanged. They found no change in drink-driving offenses and an increase in the incidence of police-recorded assault in England and Wales of 16% (relative to Scotland), which subsequently declined by 9%.

In December 1976, Scotland permitted on-licenses to trade until 11:00 P.M., rather than 10:00 P.M. Comparing trends in drink-driving offenses in Scotland with England and Wales, Duffy and Plant (1986) found no evidence of an impact.

Restricting trading hours

Table 3 summarizes studies of restricted trading, of which five concerned on-licenses and two off-licenses. All found decreases in at least one outcome, and none showed an increase in any outcome.

On-license premises. In January 2014, on-licenses in Kings Cross and the Central Business District (CBD) of Sydney, Australia, required last drinks to be served no later than 3:00 A.M. (previously 5:00 A.M.) with a “lockout” from 1:30 A.M., allowing patrons to continue drinking until closing but forbidding entry of patrons after 1:30 A.M. Menéndez et al. (2017) found reductions in police-recorded assault of 45% in Kings Cross and 23% in the CBD, against a stable trend in the rest of New South Wales (NSW). They found no evidence of displacement to neighboring areas or other areas accessible by public transport (Menéndez et al., 2017).

In March 2008, in the CBD of Newcastle, Australia, on-licenses were required to close at 3:30 A.M. (previously 5:00 A.M.), with a 1:30 A.M. lockout. Kypri et al. (2011) found a 37% reduction in police-recorded assault in the CBD compared with nearby Hamilton, where trading continued to be permitted to 5:00 A.M. In an independent study of the same restriction, Hoffman et al. (2017) found a 47% reduction in hospital presentations for alcohol-related facial injury, from pre- to post-intervention.

In another Australian study, Miller et al. (2014) compared the same set of restrictions in Newcastle with voluntary licensing conditions in Geelong, a demographically similar city in the neighboring state of Victoria. The Newcastle restrictions were associated with a reduction of 344 emergency department presentations for alcohol-related injury per year, whereas the Geelong voluntary licensing conditions had no effect on injury presentations.

Rossow and Norström’s (2012) evaluation of changes in Norway included 10 cities that restricted closing by 30–60 minutes, where previously they were open until 3:00 A.M. Overall, each hour of restriction was associated with a 20% reduction in the incidence of assault.

Off-license premises. From March 2010, in the German state of Baden-Württemberg, off-licensed premises were prohibited from selling alcohol from 10:00 P.M. to 5:00 A.M.; previously they could trade 24 hours a day (Marcus & Siedler, 2015). Comparing hospitalizations in Baden-Württemberg with the rest of Germany, a 7% relative reduction in hospitalizations among adolescents and young adults was detected.

From February 2005 in Geneva, Switzerland, off-licenses were prohibited from selling alcohol from 9:00 P.M. to 7:00 A.M. (the authors advise that they were unable to determine what actual trading hours were before the restriction). Comparing alcohol-related hospitalizations in cantons with and without the restrictions, Wicki and Gmel (2011) estimated a relative reduction in the intervention areas of 36% among

TABLE 3. Characteristics of included studies examining restriction of trading hours

| Study, country | Setting | Intervention | Analysis/outcome | Findings | Relative effect estimates |
|-----------------------------------|--|---|--|--|--|
| <i>On-license premises</i> | | | | | |
| Hoffman et al. (2017), Australia | Intervention: Newcastle Central Business District (CBD) Control: pre-intervention period | In March 2008, trading hour restrictions were imposed on 14 pubs in the Newcastle CBD. This included a 3:30 A.M. closing (previously 5:00 A.M.) and 1:30 A.M. lockout. In addition to these restrictions, licenses were also required to develop a plan of management, to undergo compliance audits, to have a "responsible service of alcohol" officer present from 11:00 P.M. until closing, were not allowed to serve shots after 10:00 P.M., had to cease selling alcohol 30 minutes before closing, could not permit stockpiling of drinks, had to use shared radio procedures, and the licenses had to notify their staff of all conditions. | Study design: ITS with no control site Analysis: Segmented regression assuming negative binomial and Poisson distributions Outcome: Hospital admission for all maxillofacial injury and alcohol-related maxillofacial injury | The number of hospitalizations for all oral and maxillofacial injury increased at a rate of 14% per year in the pre-intervention period (2003–2008). In the post-intervention period (2009–2015), the number of hospitalizations for oral and maxillofacial injury decreased at a rate of 21% per year. The number of hospitalizations for all oral and maxillofacial injury increased at a rate of 57% per year in the pre-intervention period (2003–2008). In the post-intervention period (2009–2015), the number of hospitalizations for oral and maxillofacial injury decreased at a rate of 17% per year. | The relative effect estimate for oral and maxillofacial injury, that is, adjusting the post-change decrease for the pre-change increasing trend, was a -31% (relative rate ratio: 0.69; 95% CI [0.60, 0.79]). The relative effect estimate for alcohol-related oral and maxillofacial injury, that is, adjusting the post-change decrease for the pre-change increasing trend, was a -47% (relative rate ratio: 0.53; 95% CI [0.37, 0.75]). |
| Menendez et al. (2017), Australia | Intervention: CBD and Kings Cross entertainment precincts of Sydney Control: Proximal displacement area: area spatially contiguous to the CBD and Kings Cross Distal displacement area: composite of Double Bay, Newtown, Coogee and Bondi | On February 24, 2014, new restrictions were implemented to counter violence in the CBD and Kings Cross, including: 3:00 A.M. cessation of alcohol service and 1:30 A.M. lockouts in on-license premises The control areas were not subject to the restrictions. | Study design: ITS with control site Analysis: Time series structural models Outcome: Assaults recorded by police | The restriction was associated with a 45% reduction in the incidence of assault in Kings Cross (95% CI [9%, 67%]) and a 23% reduction in the CBD (95% CI [12%, 33%]), and a 27% overall reduction across both areas (95% CI [17%, 36%]), with little evidence of displacement to the control areas. The reduction in violence in the rest of NSW was 1% (95% CI [2%, 5%]). Total violent cases: Not reported. | No relative effect estimate reported. |

Table continued

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TABLE 3. Continued

| Study, country | Setting | Intervention | Analysis/outcome | Findings | Relative effect estimates |
|------------------------------------|--|--|--|---|--|
| Miller et al. (2014), Australia | Intervention: Newcastle Control: Geelong | As reported for Hoffman et al. (2017), above. Between 1990 and 2010, various voluntary initiatives were implemented in Geelong which included: radio connection between security staff, street cleaners and CCTV operators, use of ID scanners, increased police visibility during high-risk hours, improved radio contact between licensees and police, and a media campaign that showed celebrities endorsing safe drinking and violence reduction. | Study design: ITS with control site Analysis: ARIMA time series Outcome: Emergency department presentations for injury during "high alcohol hours", times of the night previously found to have a high incidence of injury presentations in which alcohol judged a likely cause. | Models examining immediate, delayed, and gradual changes in the outcome after interventions were introduced (between January 1, 2005, and June 30, 2011). Following the restriction, in Newcastle, there was a decline of 344 emergency department presentations per year ($p < .001$) for injury during high alcohol hours. None of the voluntary interventions in Geelong was associated with a decline in emergency department injury presentations. Total emergency department injury presentations: Intervention: 127,022 (4,538 during high alcohol hours) Control: 63,282 (2,828 during high alcohol hours) | No relative effect estimate reported. |
| Rosow & Norström (2012), Norway | Intervention: 18 Norwegian cities (city center) Control: Peripheral area of each city | In the early 2000s, Norway granted municipalities the power to vary closing time between 1:00 A.M. and 3:00 A.M. Up to 2010, 18 municipalities either extended or restricted their trading hours. Ten restricted their hours, by between 30 and 120 minutes. | Study design: ITS with control site Analysis: Pooled cross-sectional time-series analysis Outcome of interest: Assault recorded by police | Each 1 hour of restriction was associated with a decrease in the incidence of assault. 29.2 assaults per 100,000 inhabitants: per quarter | After adjusting for incidence rates city peripheries, each additional 1-hour restriction was associated with a decrease of 20% in the incidence of assault. |
| Kypri et al. (2011), Australia | Intervention: Newcastle CBD Control: Hamilton | As reported for Hoffman et al. (2014), above. From November 2009, pubs in Hamilton voluntarily adopted some of the interventions. | Study design: ITS with control site Analysis: negative binomial regression Outcome of interest: Violence | The restriction was associated with reduction in incidence of violent cases in Newcastle CBD, relative to Hamilton. Total violent cases: Intervention: Before – 5,205 After – 750 Control: Before – 1,236 After – 281 | After adjusting for any secular trend and seasonal variation in violence, it was found that the restriction was associated with a 37% reduction in incidence of violent cases in Newcastle CBD, relative to Hamilton. (incidence rate ratio = 0.63, 95% CI [0.49, 0.81]) |

Table continued

TABLE 3. Continued

| Study, country | Setting | Intervention | Analysis/outcome | Findings | Relative effect estimates |
|---|--|--|--|--|---|
| <i>Off-licence premises</i> Marcus & Stedler (2015), Germany | Intervention: State of Baden-Württemberg Control: Other German states | The State of Baden-Württemberg banned the sale of alcoholic beverages at off-licence premises (e.g., gas stations, supermarkets, kiosks), between 10:00 P.M. and 5:00 A.M. Before the ban, it was possible to buy alcoholic beverages 24 hours a day. The other states continued to permit sales 24 hours a day. | Study design: ITS with control site Analysis: Basic Difference-in-Difference (DiD) and regression DiD models Outcome: "hospitalization for alcoholic intoxication," a composite of three ICD-codes: F10.0 (acute alcohol intoxication), F10.1 (harmful use of alcohol), and T51.0 (toxic effects of alcohol) | The restriction was associated with a decrease in the incidence of ARH either for mental health and behavioral disorders or toxic effect of alcohol in Baden-Württemberg, relative to the other German states; the decrease being most marked among adolescents and young adults. Incidence of alcohol-related hospitalization per 100,000 persons, per month: <i>Intervention:</i> Before: 45.87 (15- to 19-year-olds), 26.25 (20- to 24-year-olds), 24.06 (25- to 29-year-olds), 35.85 (≥30-year-olds), 35.00 (all ages) After: 46.09 (15- to 19-year-olds), 26.67 (20- to 24-year-olds), 26.73 (25- to 29-year-olds), 35.77 (≥30-year-olds), 35.14 (all ages) <i>Control:</i> Before: 44.20 (15- to 19-year-olds), 25.03 (20- to 24-year-olds), 23.92 (25- to 29-year-olds), 38.44 (≥30-year-olds), 36.84 (all ages) After: 48.05 (15- to 19-year-olds), 27.13 (20- to 24-year-olds), 26.35 (25- to 29-year-olds), 38.29 (≥30-year-olds), 37.22 (all ages) | After adjusting for seasonal variation, there was an overall decrease of 2% ($p < .01$) in alcohol-related hospitalization; and a decrease of 7% in alcohol-related hospitalization among 15- to 19-year-olds ($p < .01$) and 20- to 24-year-olds ($p < .01$). |
| Wicki & Gmel (2011), Switzerland | Intervention: The canton of Geneva Control: rest of Switzerland | In February 2005, off-licence trading hours were restricted in Geneva, Switzerland, no longer permitting the sale of alcohol between 9:00 P.M. and 7:00 A.M. It is not known what the previous permitted trading hours were. Contemporaneously, the sale of alcohol was no longer permitted (i.e., not at any time) at petrol stations and video stores. No restrictions were imposed in most of Switzerland. Some cantons imposed the same restrictions toward the end of the study period but they were judged to be poorly enforced and therefore included in the control data. | Study design: ITS with control site Analysis: ARIMA time series Outcome: "hospitalization for alcoholic intoxication," a composite of three ICD-codes: F10.0 (acute alcohol intoxication), F10.1 (harmful use of alcohol), and T51.0 (toxic effects of alcohol) | The restriction was associated with a decrease in hospitalization for alcoholic intoxication in Geneva, relative to the rest of Switzerland (where rates increased to a greater extent than in Geneva). Mean number of alcoholic intoxication cases per month and rates (per 1,000 cases): <i>Intervention:</i> Before: 7.4 (10- to 15-year-olds), 5.4 (16- to 19-year-olds), 2.3 (20- to 29-year-olds), 2.9 (≥30-year-olds), 3.1 (all ages) After: 7.3 (10- to 15-year-olds), 9.2 (16- to 19-year-olds), 4.2 (20- to 29-year-olds), 6.1 (≥30-year-olds), 5.9 (all ages) <i>Control:</i> Before: 5.6 (10- to 15-year-olds), 12.4 (16- to 19-year-olds), 7.9 (20- to 29-year-olds), 7.6 (≥30-year-olds), 7.7 (all ages) After: 10.3 (10- to 15-year-olds), 18.7 (16- to 19-year-olds), 12.4 (20- to 29-year-olds), 10.0 (≥30-year-olds), 10.5 (all ages) Population: Not reported. | The restriction was associated with relatively in the outcome in the three younger age groups: -36% ($p = .003$) among 10- to 15-year-olds, -25% ($p = .046$) among 16- to 19-year-olds, and -40% ($p < .001$) among 20- to 29-year-olds. The change in outcome among ≥30-year-olds was 9% ($p = .640$). |

Notes: ITS = interrupted time-series; CI = confidence interval; NSW = New South Wales; CCTV = closed-circuit television; ID = identification; ARIMA = autoregressive integrated moving average; ICD-10 = *International Statistical Classification of Diseases and Related Health Problems, 10th revision*.

10- to 15-year-olds, 25% among 16- to 19-year-olds, and 40% among 20- to 29-year-olds.

Risk of bias

Table 4 summarizes our risk of bias assessments in the primary studies.

Displacement. We rated 5 studies at high risk of displacement and 11 at low risk; 6 did not provide the information required to make an assessment (Table 4). In Amsterdam, patrons from the control area may have moved to the intervention area after hours were extended in the latter, increasing the incidence of injury in the intervention area and reducing it in the control area, thereby inflating the effect estimate (de Goeij et al., 2015). Similarly, Ontario (Vingilis et al., 2005, 2006, 2007, 2008) is likely to have attracted youth from Detroit because of the extension and lower minimum age of drinking in Canada. We assessed the risk of bias as low in other studies because they used noncontiguous intervention and control areas, making displacement less likely.

Contamination. We rated one study at high risk and seven at low risk; eight did not provide the information necessary to assess prevailing conditions in control areas or the pre-intervention period (Table 4). This criterion was inapplicable to studies using the pre-intervention trend as the counterfactual.

We rated the study by Kypri et al. (2011) at high risk, because outlets in the control area started implementing aspects of the intervention following its success in the CBD, potentially leading to underestimation of the true intervention effect. In five studies, control areas were in different countries, and in one, it was a different jurisdiction, making contamination unlikely.

Confounding due to unadjusted differences at baseline. We rated four studies at high risk and eight at low risk (Table 4). In the former group, baseline differences were not adjusted for, so estimates may at least partly reflect differences in the study areas. Ten studies did not provide the information needed to make an assessment.

Confounding due to other changes at the time of intervention. We rated 12 studies at high risk and four at low risk (Table 4). Two adjusted for co-interventions, and one reported that no other relevant changes occurred.

Seasonality

We rated all studies at low risk because they measured outcomes for an equivalent number of high incidence seasons before and after changes, or used a contemporaneous control series. Because of the absence of prospectively registered study protocols, we could not assess bias arising from changes in the choice of outcome, multiple testing, selective reporting, and nonpublication of small, negative studies.

Discussion

The overall pattern of results, from various jurisdictions, justifies the conclusion that changes in trading hours are typically followed by changes in the incidence of alcohol-related harm. Studies of trading hour extensions typically reported increases in at least one outcome, whereas trading hour restrictions all reported decreases in harm.

Exceptions to the overall pattern included (a) Swedish and Canadian studies in which extensions were associated with large decreases in assault (Norström et al., 2018) and no apparent increases in traffic fatalities (Vingilis et al., 2005) and (b) two British studies, one showing a decrease in traffic crashes (Green et al., 2014) and another showing no significant change in drink-driving (Duffy & Plant, 1986) after trading-hour extensions.

Strengths of our study include the use of independent reviewers to extract data and assess bias. Our risk-of-bias assessment suggests that the main limitation in the primary studies is unadjusted confounding from nonequivalence of comparators in some primary studies. For example, outlets granted extensions in Perth (Chikritzhs & Stockwell, 2002) were located in inner-city areas assumed to be serving younger patrons than were comparators in outer suburbs. Such nonequivalence usually arises from pragmatic study design decisions that highlight the infeasibility of more robust designs, particularly where policymakers do not incorporate evaluation in the planning of important changes (Kypri et al., 2009).

Twelve studies were of changes implemented with co-interventions, such that their effect alone could not be isolated. In these studies, effect estimates are probably confounded because of unmeasured or insufficiently adjusted effects of co-interventions or other changes. In Visby, Sweden, the contemporaneous implementation of other countermeasures, including increased supervision of venues by alcohol inspectors, and Responsible Server Training programs, may account for part or all of the decrease in assaults following trading hour extensions (Norström et al., 2018). Downtown San Marcos was subject to increased police patrolling along with trading hour extensions, potentially accounting for increases in assault and drink-driving offenses (Chamlin & Scott, 2014). Similarly, in Ontario, road safety initiatives introduced from 1994 to 1996 may have affected traffic crash incidence.

In Sydney, restrictions included orders to prevent “trouble-makers” from entering premises in intervention areas, a ban on takeaway alcohol sales after 10:00 P.M., and a lockdown from 1:30 A.M. (Menéndez et al., 2017). Although the findings are consistent with those in other countries where only changes in trading hours occurred, the possibility remains that the decline could be attributable to other elements of the intervention. However, it should be noted that findings on the effectiveness of lockdowns are equivocal at best (Nepal

TABLE 4. Risk of bias assessment

| | Nosrati et al. (2018) Trading hour change: Extension Outcome: Assault | Hoffman et al. (2017) Trading hour change: Restriction Outcome: Facial injury | Menendez et al. (2017) Trading hour change: Restriction Outcome: Assault | de Goeij et al. (2015) Trading hour change: Restriction Outcome: Injury | Marcus & Siedler (2015) Trading hour change: Restriction Outcome: Hospitalization | Chamlin & Scott (2014) Trading hour change: Extension Outcome: Physical and verbal disturbances, public intoxication, drink driving offenses | Green et al. (2014) Trading hour change: Extension Outcome: Traffic crash | Miller et al. (2014) Trading hour change: Restriction Outcome: Injury | Humphreys et al. (2013) Trading hour change: Extension Outcome: Assault | Rossow & Norström (2012) Trading hour change: Extension and restriction Outcome: Assault | Wiski & Gmel (2011) Trading hour change: Restriction Outcome: Hospitalization | Kypri et al. (2011) Trading hour change: Restriction Outcome: Assault |
|---|---|---|--|---|---|--|---|---|---|--|---|---|
| Displacement | Low | Low | Low | High | Unclear | Low | Low | Low | Low | Unclear | Unclear | Low |
| Contamination | N.A. | N.A. | Unclear | Unclear | Unclear | N.A. | Low | Low | N.A. | Unclear | Unclear | High |
| Confounding- Unadjusted differences at baseline | Low | Low | Low | Low | Unclear | Unclear | Low | Low | Unclear | Low | Unclear | High |
| Confounding- Intervention independent of other change | High | High | High | Unclear | Unclear | High | Unclear | Unclear | Low | Low | High | High |
| Seasonality | Low | Low | Low | Low | Low | Low | Low | Low | Low | Low | Low | Low |

| | Vingilis et al. (2008) Trading hour change: Extension Outcome: Drink-driving offenses, assault | Bouffard et al. (2007) Trading hour change: Extension Outcome: Assault | Chikritzis & Stockwell (2007) Trading hour change: Extension Outcome: Drink-driving offenses | Vingilis et al. (2007) Trading hour change: Extension Outcome: Injury (Traffic and non-traffic) | Chikritzis & Stockwell (2006) Trading hour change: Extension Outcome: Traffic crash | Vingilis et al. (2006) Trading hour change: Extension Outcome: Traffic crashes (injury and fatalities) | Vingilis et al. (2005) Trading hour change: Extension Outcome: Traffic fatalities | Chikritzis & Stockwell (2002) Trading hour change: Extension Outcome: Assault | Duffy & Pinot de Mora (1996) Trading hour change: Extension Outcome: Drink-driving offenses | Duffy & Plant (1986) Trading hour change: Extension Outcome: Traffic injury, drink-driving offense |
|---|--|--|--|---|---|--|---|---|---|--|
| Displacement | High | Low | Unclear | High | Unclear | High | High | Unclear | Low | Low |
| Contamination | N.A. | N.A. | Unclear | Low | Unclear | Low | Low | Unclear | Low | Low |
| Confounding- Unadjusted differences at baseline | Unclear | Unclear | High | Unclear | High | Unclear | Unclear | High | Low | Unclear |
| Confounding- Intervention independent of other change | Low | High | High | High | Low | High | High | Low | Unclear | Unclear |
| Seasonality | Low | Low | Low | Low | Low | Low | Low | Low | Low | Low |

Notes: We assessed the studies as having high or low risk of bias on each criterion. In the absence of relevant information, we assessed the risk as unclear. N.A. = not applicable.

et al., 2018), and there is no evidence to support the other strategies used in Sydney.

Although the two recent UK studies did not discuss other changes or co-interventions (Green et al., 2014; Humphreys et al., 2013), our literature search identified aspects of the legislation implemented alongside longer trading hours that may have biased effect estimates. These include extending police powers to close problematic premises, shifting the responsibility for licensing from magistrates to local authorities, increasing penalties for sale to minors, and giving community members the right to review licenses and provide feedback on new applications (Hough & Hunter, 2008). In addition, it has been noted that the police workforce increased by 13% in England and Wales between 2003 and 2010 (Allen & Uberoi, 2017), raising the possibility that greater police presence reduced alcohol-related crime.

Our findings are consistent with previous reviews and extend evidence concerning the effects of (a) changes of less than 2 hours, (b) trading hour restrictions, and (c) changes at off-license premises. In regard to the limitations of the literature identified by Hahn and colleagues (2010) a decade ago, we found evidence from four studies since their review on trading hour restrictions of less than 2 hours, including one from Norway involving 18 cities (Hoffman et al., 2017; Kypri et al., 2011; Menéndez et al., 2017; Rossow & Norström, 2012). Those studies showed that changes of 30–90 minutes were followed by large reductions in assault.

Stockwell and Chikritzhs (2009) found too little evidence to reach a conclusion concerning the effects of restricting trading hours, and none of the studies reviewed by Popova et al. (2009) assessed restricted hours. In addition to synthesizing new evidence concerning on-licenses, our review shows that restricting off-license trading is followed by reductions in hospitalization, particularly among young people (Marcus & Siedler, 2015; Wicki & Gmel, 2011).

Our findings align with the most recent reviews (Sanchez-Ramirez & Voaklander, 2018; Wilkinson et al., 2016) and expand on them in the following ways. First, by pre-registering our protocol and applying more stringent design criteria, we offer more secure conclusions regarding the associations of interest. For example, we excluded the study by Newton et al. (2007) because it used a pre-post study design that did not protect against other changes that occurred at the same time; this study was included in the review by Wilkinson et al. (2016). Second, we formally assessed the risk of bias in primary studies to inform our interpretation. Third, we included one previously unidentified study (Chamlin & Scott, 2014) that adds to the evidence on extended trading, and three new studies (Hoffman et al., 2017; Menéndez et al., 2017; Norström et al., 2018) that build on the previously less substantial evidence concerning trading restrictions. Our findings are consistent with availability theory (Stockwell & Gruenewald, 2004) in showing that increases and decreases

in the availability of alcohol are usually followed by more and less harm, respectively.

Further research is needed to quantify the economic consequences of extensions and restrictions, particularly in relation to off-license trading, given that most of the alcohol consumed is purchased from such outlets (Ellaway et al., 2010). Research is also needed to fill the evidence gap in low- and middle-income countries, where the burden of alcohol-related harm will increase as economies grow and transnational corporations promote their products (Casswell & Thamarangsi, 2009; Jernigan et al., 2000). Not all studies provided sufficient information to assess the risk of bias. Consideration should be given to reporting standards for quasi-experimental studies to facilitate future data synthesis (e.g., <http://www.equator-network.org>).

Conclusions

On balance, this review augments existing evidence that harm increases after extensions in on-license trading hours, and consolidates new evidence that harm decreases when on- and off-license trading hours are restricted.

Acknowledgments

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| Sub # | First name: * | Surname: * | Do you support reducing on-licence (bars, restaurants) hours in the Tauranga City Centre from 3am to 2am? | Please comment | Do you support a change to the one-way door provisions in the Tauranga City Centre? This change aligns with the proposed change in opening hours. This would mean that the one-way door restriction would start at 1am in the Tauranga City Centre. | Please comment | Do you support the addition of a separate club licence section to the draft Local Alcohol Policy for club licences (e.g. sports clubs who sell alcohol for consumption on the premises) to provide clarity for the community and applicants? | Please comment | Any other comments or feedback? |
|-------|--------------------------|------------|---|----------------|---|----------------|--|----------------|---------------------------------|
| 158 | Toi Te Ora Public Health | | Strongly agree | see submission | Strongly agree | See submission | Strongly agree | See submission | See submission |



Toi Te Ora Public Health
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8 September 2020

Tauranga City Council and Western Bay of Plenty District Council
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Tēnā koutou

Thank you for the invitation to provide feedback on the Western Bay of Plenty District Council/Tauranga City Council Local Alcohol Policy (LAP). This letter provides the summary feedback from the Medical Officers of Health for the Bay of Plenty and Lakes District Health Board districts.

Overall, it is strongly recommended the Western Bay of Plenty District Council/Tauranga City Council LAP is retained and strengthened. A large body of research supports the idea of addressing alcohol-related harm and improving health outcomes through population-based prevention strategies that focus on changing physical and social environments. The further strengthening of the LAP provides a significant opportunity for council to improve the local environment and culture around the drinking of alcohol.

The following is required to strengthen the existing LAP:

- Define maximum alcohol outlet density in specific areas and zones
- Reduce off-license trading hours
- Implement a one-way door policy in the last hour of opening for all on-licensed premises that are open after 1.00am
- Proximity of alcohol outlets need to be capped at current levels within a specified footpath distance from schools and other education facilities.

Issues of Health and Wellbeing – Populations Survey 2020

In 2020, Toi Te Ora Public Health undertook a Health and Wellbeing Population Survey. This is an important source of information as it helps us understand the views of people who reside in the Bay of Plenty, across a range of issues relevant to public health. Alcohol related findings showed:

- Two thirds of respondents' support reducing the number of places that sell alcohol
- Two thirds of respondents support more restrictions on advertising and sponsorship by alcohol companies
- 71% of respondents believe supermarkets and liquor stores should not be selling alcohol before 10am
- Almost two thirds of respondents believe more restrictions on alcohol availability would improve safety in towns and cities at night (Toi Te Ora Public Health, 2020).

These results indicate the community is supportive of tighter regulatory measures to manage issues such as alcohol outlet density, sponsorship, trading hours and availability. A strengthened LAP will help council achieve the policy goal to *'reflect local communities' character, amenity, values, preferences, and needs'* (Western Bay of Plenty District Council, Tauranga City Council, n.d).

Alcohol outlet density

Research shows increased alcohol outlet density is associated with an **increase** in:

- Alcohol consumption (Campbell et al., 2009)
- Levels of serious violent offending (Connor et al, 2020)
- Alcohol-related traffic crashes
- Harm to quality of life, including effects on work performance, relationships, physical health, and finances
- Under-age youth access and consumption of alcohol (Chen et al., 2009).

Alcohol outlet density is positively associated with social deprivation in New Zealand (Cameron et al., 2017; Hay et al., 2009). Overall, people have greater access to alcohol outlets when they live in more socially deprived areas.

Higher alcohol outlet density results in premises competing on price and longer opening hours, further accelerating accessibility to cheap alcohol, higher levels of alcohol consumption and alcohol related harm (Cameron et al, 2019).

Council has a statutory ability to cap, and then lower, alcohol outlet density via the LAP.

Off-license trading hours

Increased alcohol outlet trading hours are associated with increased alcohol consumption and related harms. Evidence indicates:

- High risk drinkers are more likely to take advantage of longer trading hours
- Longer trading hours correspond with an increase in motor vehicle crashes
- Restrictions to trading hours will prevent alcohol-related harm.

Research shows that restricting on and off license trading hours has the most significant impact on alcohol harm reduction amongst 15 – 29-year-olds. (Connor et al., 2020). The LAP and associated trading hour restrictions could play a pivotal role in minimising alcohol-related harm in the Western Bay of Plenty.

Thank you for the opportunity to provide this feedback. Please contact me if you would like to clarify any points raised in this letter.

Nāku noa, nā



Dr Phil Shoemack

Medical Officer of Health

(On behalf of the Medical Officers of Health for the Bay of Plenty and Lakes districts)

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9 DISCUSSION OF LATE ITEMS

10 CLOSING KARAKIA