



Alcohol Healthwatch
Whakatūpato Waipiro



**A Review of
Territorial Authority
Progress Towards
Local Alcohol Policy
Development**

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Abbreviations

ARLA	Alcohol Regulatory and Licensing Authority
DLC	District Licensing Committee
LAP	Local Alcohol Policy
PLAP	Provisional Local Alcohol Policy
SD	Standard deviation

Executive Summary

Communities in New Zealand shoulder the major burden of harm resulting from the excessive or inappropriate consumption of alcohol, yet often have little control over its availability in their local areas. In part due to growing community sentiment regarding this lack of control, a new set of policy objectives enacted through the Sale and Supply of Alcohol Act 2012 (the 'Act') heralded increased community input into local licensing decisions through the devolution of policy-making from a central body to local government. The adoption of a harm minimisation approach in the Act together with a broadening of its object (to minimise a wide array of health and social harms directly or indirectly resulting from alcohol use) provided key legislative levers to reduce the harms from previously liberalised alcohol policies.

The Act provided for each Territorial Authority to develop a Local Alcohol Policy (LAP). Within a LAP, measures to control the physical and temporal availability of alcohol could be locally implemented. LAPs could be used to restrict the location of licensed premises (mostly new premises) in relation to broad areas and/or proximity to other licensed premises or sensitive facilities (e.g. schools) as well the trading hours in which they operate. As such, they offered significant potential to utilise evidence-based measures to address local concerns and target inequities in alcohol-related harm.

The Act specified that the development of a LAP is not a mandatory requirement for any Territorial Authority. Those seeking to develop a policy are required to first produce a Draft LAP in consultation with the Police, inspectors, and Medical Officers of Health, and is to be informed by a wide array of local data. Once approved by the Territorial Authority, the Draft LAP is publicly notified as required under special consultative procedure. Following submission feedback, a Provisional LAP is developed, publicly notified, and opened for appeal. Appeals can only be made in relation to an element(s) of the Provisional LAP which is perceived to be unreasonable in the light of the object of the Act. A public hearing, conducted by the Alcohol Regulatory and Licensing Authority (ARLA), is used to determine the unreasonableness of the appealed element.

Three and a half years have passed since the enactment of the Act which provided the opportunity for LAP development. This review aimed to examine the progress of development of a LAP across each of the Territorial Authorities in New Zealand. It further investigated whether policy elements were made more or less restrictive as a result of public consultation and appeal processes. Details regarding LAP development were sourced from Territorial Authority meeting minutes and documents publicly available on their respective websites. The Territorial Authority was contacted in instances when information could not be obtained.

Findings of the review showed that, as of July 1 2016, almost three-quarters (71%) of the 67 Territorial Authorities in New Zealand developed a Draft LAP. Eighteen of the 48 authorities opted to undertake and

complete a joint Draft LAP, resulting in 37 Draft policies. In total, almost 19,000 submissions were received on the 37 policies, of which 31 Provisional policies ensued. On average, the duration from notification of the Draft LAP to notification of the Provisional LAP was 279 days (standard deviation (SD) 184, range 65-727). Six Territorial Authorities were yet to make progress beyond their Draft LAP to developing and notifying a Provisional LAP.

Of the 31 Provisional policies, 30 were appealed. More than one-half of all Provisional LAPs were appealed by Progressive Enterprises, Foodstuffs, and Super Liquor Holdings. Following appeals, 12 LAPs, representing 19 authorities, were adopted. The average duration from notification of the Provisional LAP to its adoption was 616 days (SD 236). In total, one in every seven New Zealand residents resided in a Territorial Authority with an adopted LAP. Whilst Māori were more likely to live in an area with an adopted LAP, they were also more likely to live in an area which had not proceeded to develop a Draft LAP.

Over the course of policy development, a total of 165 substantive changes to policies were made. Almost half (47%) of these related to trading hours for on-licences and off-licences, with the latter comprising 29% of all changes made in policies. Almost three-quarters (71%) of the changes resulted in less restrictive provisions in the policies. Of the changes which provided tighter restrictions, all occurred following public submissions, and not following appeals. None of the 12 adopted policies were found to contain provisions which restricted the location of premises in relation to broad areas, beyond that permitted in the relevant District Plan. Only three policies addressed issues regarding the clustering of similar premises, requiring the District Licensing Committee to have regard to the proximity of licensed premises to each other within licensing decisions. With regards to the location of new premises in close proximity to sensitive sites, seven policies contained restrictions, although only one explicitly prohibited licences where close proximity was demonstrated. None of the adopted policies contained provisions which sought to reduce the overall density of premises, through restricting the further issuing of licences.

Trading hours received significant attention across the policy development process. The on-licence closing hour for residential areas in the adopted policies ranged from 1am to 3am, whilst 2am and 3am were typical closing hours for premises in urban or Central Business District (CBD) areas. Two adopted policies contained mandatory one-way door policies, whilst nine included the measure as a discretionary condition. Trading hours for off-licences in the adopted policies mostly commenced at 7am and ceased at 9pm (21%), 10pm (53%), or 11pm (26%). The average duration of trading hours (14.9 hours) was found to increase for both supermarkets and bottle stores from the Provisional to Revised Provisional or adopted LAP stage, and resulted in an average length of trading that was one hour less than the nationally-permitted length of trading (i.e. 16 hours). Many discretionary conditions were removed throughout the policy process, particularly in relation to the strength of beverages sold within on-licences and the practice of single sales from off-licences.

Overall, the findings of the review highlight the inherently complex politics of alcohol policy formulation within local government. The focus of the appeals process on individual elements of the policy resulted in a reductionist approach to policy development, rather than conceptualising the policy as a package of evidence-based measures to reduce harm. The trend (to date) for less restrictive measures included in policies as they

progressed through the stages of development signal the increasing gap between community expectations for greater control and the reality of the LAP process as it is prescribed in legislation. The consequential watering down of the policy measures to date is likely to result in a significant onus on District Licensing Committees within each of the Territorial Authorities to make sound licensing decisions that reflect the needs of the community. The current lack of strong provisions in policies is likely to result in a continuing burden for communities to be engaged in individual licensing applications. It also has the potential to reduce levels of trust, and future participation, in decision-making processes.

Introduction

Over the past decade alcohol use has been the subject of significant policy debate in New Zealand, as groups increasingly voice their concern over the disproportionate harm resulting from society's most widely used recreational drug. The focus of the debate has centred heavily on the acute harms caused by hazardous drinking or heavy episodic drinking, such as violence and injury, rather than the long-term health risks which are driven by the total volume of alcohol consumed [1].

A significant increase in alcohol consumption and related-harm in New Zealand was particularly evident following the enactment of the Sale of Liquor Act in 1989, which greatly liberalised the sale and supply of alcohol. Amendments were later made to the Act in 1999, which reduced the legal purchase age of alcohol from 20 to 18 years and introduced Sunday trading for on-licence premises as well as the sale of beer, wine, and mead from supermarkets and grocery stores [2]. A decade prior to these amendments, per capita consumption in New Zealand had been on a steep downward trajectory [3]. Following the changes in 1999 and subsequent proliferation of alcohol outlets, a reversal in the decline was evident, with the typical quantity of alcohol consumed in a drinking occasion increasing markedly [4]. This was found to be especially evident among young adolescents of both sexes and women aged 20-24 and 40-65 years. The liberalisation of alcohol policy was also associated with an increase in alcohol-related problems, such as prosecutions for disorder and driving with excess blood alcohol [2]. Overall, hazardous alcohol use characterised the national drinking pattern well into the first decade of the new millennium.

The persistent inequalities in hazardous drinking and related harm strongly signal the lack of progress of alcohol harm reduction in relation to health equity. Māori and Pacific populations, and those living in socio-economic disadvantage, have almost twice the odds of being classified as hazardous drinkers [5]. This contributes to Māori having an age-standardised death rate (attributable to alcohol use) which is two-and-a-half times greater than the rate for non-Māori [6]. The harm to others from drinking is also significant, with one in four New Zealanders reporting a heavy drinker in their life in the previous 12 months [7, 8], which is associated with experiencing a wide range of social, emotional and physical harms [9].

Heightened attention to the significant burden of alcohol-related harm in New Zealand was catalysed by a number of events. The tragic death of Navtej Singh, a liquor store owner, cast a spotlight on the issue, when, on a Saturday evening in June 2008, he tragically lost his life for a few dozen ready-to-drink beverages and the day's takings. His death also occurred at a time when community action groups throughout the country were becoming increasingly mobilised to take action on where alcohol is sold in their community, but also frustrated by their inability to influence these important decisions [10]. Frontline workers confronted with alcohol harm, including police and Emergency Department staff, were also expressing growing concern at the level of alcohol-related violence and injury [3].

In August 2008, the Law Commission was tasked to determine if the pendulum had swung too far: whether the right balance had been achieved between the liberalised alcohol policies and the harms associated with alcohol abuse. The Commission's three-year review into the regulatory framework for the sale and supply of alcohol gathered enormous attention, receiving 2939 submissions; more than any other project in its 24-year history [11]. Drawing on an accumulating body of national and international evidence and submissions received, the Commission recommended 153 regulatory measures to curb the harm from alcohol use.

The Government responded to the 153 recommendations with the Alcohol Reform Bill, cited by some as tinkering at the margins of alcohol control rather than providing a once-in-a-generation opportunity for significant law reform [12, 13]. Despite strong public support for an array of evidence-based measures [14], the Alcohol Reform Bill excluded any significant increases in tax on alcohol products or restrictions on alcohol advertising and sponsorship. National default trading hours for licensed premises were proposed, and a line was drawn in the sand prohibiting shops “commonly thought of as a dairy” or as “a convenience store” from holding an off-licence. Licensing decisions (included contested applications) were to be devolved to District Licensing Committees (DLC). In addition, the Bill provided for each Territorial Authority to develop their own Local Alcohol Policy. Although many had their own local policies or strategies in place, the policies had lacked any legislative mandate in previous legislation (i.e. the Sale of Liquor Act 1989). Following the Bill's final reading, the Government enacted the Sale and Supply of Alcohol Act (the 'Act') on December 18, 2012. In comparison to previous legislation, a broader object of the Act was provided, requiring 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 harm caused by alcohol use was further defined, and included:

- 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).

In addition, the criteria for the issue of licences were extended to allow for other matters to be considered when determining whether or not a licence application should be granted. Most importantly, the new Act explicitly included the Object of the Act as a matter of consideration in the issuing of a licence, compared to previous legislation where it was omitted from the listed criteria. Other additional criteria introduced in the Act included:

- the presence of any relevant local alcohol policy;
- the design and layout of any proposed premises;
- 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:
 - » 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—
 - » 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
 - » it is nevertheless desirable not to issue any further licences:
- whether the applicant has appropriate systems, staff, and training to comply with the law.

In relation to amenity and good order effects on the locality, the licensing authority or committee can have regard to current and possible future levels of noise, nuisance and vandalism. In addition, they can consider the number of premises for which licences of the kind concerned are already held, the compatibility of the purposes of the nearby land to the premises, and the purposes of the proposed premises. The wider Object of the Act, together with the extended criteria for decision-making (in particular the amenity and good order provisions), are considerable advances beyond that provided for in previous legislation.

Local alcohol policies

A major focus of the Act was to enable communities to have more say in relation to the availability of alcohol in their local areas. This occurred through the devolution of decision-making to District Licensing Committees, including the hearing of contested applications. In addition, the Act provided for Territorial Authorities to develop Local Alcohol Policies (Section 77 of the Act) in order to control the physical and temporal availability of alcohol. Local Alcohol Policies are not a mandatory requirement in the Act, and two or more territorial authorities can choose to adopt a single local alcohol policy for their wider district.

Section 77 prescribes the contents of the policies which can be included:

- 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.

The LAP is not permitted to include policies on any matter not relating to licensing. Subsection (c) of Section 77 closely resembles or reintroduces the provisions in Sections 92, 115, and 157 of the Sale of Liquor Act 1962 [15], whereby grounds for objections to licensed premises included the site of the premises being in the immediate vicinity of a place of public worship, hospital, or school.

Section 78 of the Act states that the Territorial Authority must first produce a draft policy, in consultation with the Police, inspectors, and Medical Officers of Health. The draft LAP is then notified and required to undergo Special Consultative Procedure as laid out in the Local Government Act 2002. Following public submissions, a Provisional LAP may be adopted and notified. A period of 30 days is provided for submitters on the Draft LAP to lodge an appeal. The only ground on which an element of the provisional policy can be appealed is that it is unreasonable in the light of the object of the Act. The onus is thus placed on the appellant to demonstrate this to the Authority.

Appeals must be dealt with by way of public hearing, held by the Alcohol Regulatory and Licensing Authority (ARLA). Only ARLA can determine whether any element is unreasonable in light of the object of the Act. If an element is deemed unreasonable, ARLA will ask the Territorial Authority to reconsider the element of the

Provisional LAP. A revised Provisional LAP, with the amended element(s), is then circulated to all who submitted on the particular element in the Draft LAP. Submitters who are not satisfied with the amended element have a period of 30 days to lodge an appeal.

If there are no appeals the Provisional LAP can be adopted 30 days after public notification. If there are appeals, but they have been dismissed by ARLA, then the policy can be adopted 30 days after appeal dismissal. If the revised and resubmitted Provisional LAP is no longer deemed to be unreasonable in light of the object of the Act, then the policy can be adopted when ARLA makes its decision. Once a LAP is adopted it is to be reviewed every six years.

Although the Act was implemented in December 2012, Territorial Authorities could only progress through to developing Draft and Provisional LAPs, whilst they awaited the development of regulations pertaining to the appeals process and public notice requirements. These regulations came into force 18 December 2013, resulting in the earliest a LAP could be adopted being 17 January 2014 (30 days after public notification of Provisional LAP, assuming no appeals).

This review aimed to provide an interim examination of the progress in LAP development for each Territorial Authority in New Zealand. Although three and a half years have passed since the implementation of the Act, the delay in regulations has resulted in a window of two and a half years to adopt a LAP. The objectives of this review were to examine:

- The progress in the development of LAPs, including public submissions and appeals; and
- Whether policy elements became more or less restrictive as a result of public consultation and appeals.

Methods

There are 67 Territorial authorities in New Zealand, ranging in population size from 610 to 1,569,900 residents (median 32,400). Information pertaining to the progress of LAP development across each authority was sourced between May 1 and July 1 2016 via online searching of public documents, including Territorial Authority minutes, websites, and submission reports. Documents were also retrieved from files held by Alcohol Healthwatch; an independent charitable trust working to reduce alcohol-related harm and who submitted on the majority of the Draft LAPs to date. Where information could not be located, the Territory Authority was contacted by email or phone for further information.

The following data were extracted and recorded for each Territorial Authority:

- i. Date of public notification of Draft LAP.
- ii. Number of submissions received on Draft LAP.
- iii. Provisions of Draft LAP in relation to Section 77 of the Act:
- iv. Date of public notification of Provisional LAP.
- v. Changes in provisions (Section 77) from Draft LAP to Provisional LAP.
- vi. Appellants to Provisional LAP.
- vii. Date of ARLA public hearing.
- viii. Date of revised Provisional LAP.
- ix. Changes in provisions (Section 77) from Provisional LAP to revised Provisional LAP.
- x. Date of adopted LAP.

The chronology of progress across the stages of LAP development was compared and contrasted across the Territorial Authorities. The reach of the LAPs adopted by Territorial Authorities, as of July 1 2016, was determined by population size, ethnicity, and low personal income. All three socio-demographic factors were derived from Territorial Authority estimates provided in the Census 2013. Ethnicity was categorised into five broad ethnic groups according to Level 1 of the Ethnicity New Zealand Standard Classification 2005 [16], allowing individuals to belong to more than one ethnic group. Low personal income was defined as personal income \leq \$30,000, which is the lowest Census income band which includes the New Zealand median income of \$28,500. For each of the five stages of LAP development, the total proportion of residents on low income across all Territorial Authorities was calculated.

ARCMap was utilised to map the variation across Territorial Authorities in relation to the status of policy development. For this review, the opening and closing hour refers to when alcohol sales commence and cease, acknowledging that premises may remain open without the sale of alcohol taking place. The focus of this review relates to policy provisions for on-licences, club licences, and off-licences and excludes the many provisions relating to special licences. Descriptive statistics were used to summarise the changes to the provisions of the LAPs as they progressed through the submission and appeal processes.

Results

Information pertaining to the development of a LAP was found for all 67 Territorial Authorities. This section details the current status of policy development, the reach of policies by population characteristics, as well as the changes made to each policy provision as policy development progressed. Provisions relating to one-way door policies are included in the section pertaining to trading hours of on-licences, given that these provisions generally relate to these types of premises (but may also apply to clubs and special licences).

(a) Status of Policy Development

i. Development of Draft LAP

As of July 1, 2016, 48 (72%) of the 67 Territorial Authorities had developed and notified a Draft LAP. Eighteen of these opted to undertake and complete a joint policy, resulting in 37 Draft LAPs throughout the country. Although the majority of Territorial Authorities chose to undertake development of their own policy, many collaborated with neighbouring Territorial Authorities to collect the local data (e.g. resident surveys) required to inform their draft policies. Of the 37 draft LAPs, 24 (65%) were notified in 2013, 12 (32%) in 2014 and 1(3%) in 2015. Nineteen (28%) of the 67 Territorial Authorities had not yet progressed to development and notification of a Draft LAP.

The 37 policies received a total of 18,776 submissions, with a median of 103. The number of submissions was skewed, with large urban authorities (i.e. Auckland, Christchurch, Dunedin, Tauranga/Western Bay of Plenty, Wellington) receiving the majority of the total submissions. Table 1 details the number of submissions on each Draft LAP as well as the status of LAP development, as at July 1, 2016.

Table 1. Number of submissions on the Draft LAP and current status of policy development

Territorial Authority	Submissions	LAP status
Ashburton District	207	Revised Provisional
Auckland	2688	Provisional
Buller District	320	Draft
Central Hawke's Bay District	41	Revised Provisional
Central Otago District	20	Draft
Chatham Island	N/A	No Draft
Christchurch City	4060	Provisional
Clutha District	N/A	No Draft
Dunedin City	4262	Provisional
Far North District	99	Provisional
Gisborne District	142	Revised Provisional
Gore, Invercargill, Southland District*	585	Adopted

Territorial Authority	Submissions	LAP status
Grey District	N/A	No Draft
Hamilton City	93	Provisional
Hauraki District	24	Revised Provisional ^b
Horowhenua District	N/A	No Draft
Hurunui District	52	Revised Provisional
Kaikoura District	26	Draft
Kaipara District	N/A	No Draft
Kapiti Coast District	N/A	No Draft
Kawerau, Opotiki, Whakatane*	40	Adopted
Lower Hutt City (Hutt City)	262	Adopted
Manawatu District	N/A	No Draft
Marlborough District	188	Draft
Masterton, South Wairarapa, Carterton*	78	Provisional
Matamata-Piako District	153	Provisional
Napier City and Hastings*	325	Draft ^a
Nelson City	631	Draft
New Plymouth and Stratford*	103	Revised Provisional
Otorohanga District	37	Adopted
Palmerston North City	N/A	No Draft
Porirua City	228	Revised Provisional
Queenstown Lakes District	N/A	No Draft
Rangitikei District	N/A	No Draft
Rotorua District	105	Provisional
Ruapehu District	23	Adopted
Selwyn District	67	Revised Provisional
South Taranaki District	N/A	No Draft
South Waikato District	N/A	No Draft
Taranua District	N/A	No Draft
Tasman District	445	Adopted
Taupo District	N/A	No Draft
Tauranga City and Western Bay of Plenty*	1044	Adopted
Thames-Coromandel District	56	Adopted
Timaru, Mackenzie, Waimate District*	39	Adopted
Upper Hutt City	N/A	No Draft
Waikato District	36	Revised Provisional
Waimakariri District	65	Adopted
Waipa District	45	Adopted
Wairoa District	N/A	No Draft
Waitaki District	N/A	No Draft
Waitomo District	21	Adopted
Wellington City	1883	Provisional

Territorial Authority	Submissions	LAP status
Westland District	N/A	No Draft
Whanganui District	N/A	No Draft
Whangarei District	283	Provisional

*Joint LAP; ^a since this review a Provisional LAP has been notified; ^b since this review the LAP has been adopted.

On further examination, minutes of the Hastings District Council Local Alcohol Policy Joint Committee showed that only one-third of the 260 submissions presented by Hospitality New Zealand on the Napier City and Hastings Draft LAP could be considered “genuine”. For example, one submitter claimed that the submission had been pre-completed, and by signing it received a free jug of beer [17].

ii. Progression to Provisional LAP

In total, 31 (84%) of the 37 Draft LAPs progressed to a Provisional LAP (Table 1). On average, it took 279 days (SD 184, range 65-727) from notification of the Draft LAP to notification of the Provisional LAP. Five (16%) Provisional LAPs were notified in 2013, 15 (48%) in 2014, and 11 (36%) in 2015.

A communication issued by ARLA provides an important context in the consideration of length of time between the stages of policy development. A minute was issued on August 1 2014, citing that the Tasman District Council and Wellington City Council hearings would be considered test cases and that no decisions would be issued until the Wellington case was heard in October and November 2014. This is likely to have resulted in many Territorial Authorities placing their draft policies on hold as they awaited the ARLA decisions.

iii. Progression to adoption of LAP

Of the 31 notified Provisional LAPs, 30 (97%) were appealed. The only Territorial Authority not to receive appeals to its policy was Ruapehu District Council. Half of all Provisional LAPs had 3 or fewer appellants, with the median number of appellants being 3.5 (range 1-19). More than one-half of all Provisional policies were appealed by Progressive Enterprises, Foodstuffs, and Super Liquor Holdings. Hospitality New Zealand, The Mill, and Independent Liquor were also appellants to more than one-third of the LAPs throughout the country. The Mill and Independent Liquor registered as joint appellants for many of the Provisional LAPs.

Twelve (39%) of the 31 Provisional LAPs, representing 19 Territorial Authorities, were subsequently adopted (Table 1). The mean duration from notification of Provisional LAP to its adoption was 616 days (SD 236). Nine Territorial Authorities had proceeded to revise their Provisional LAP following appeals, and a further 10 were in negotiation with appellants and/or awaiting a public hearing.

A change in practice following notification of the Provisional LAP was evident in the review. After the first ARLA hearing took place for the Tasman District Council Provisional LAP, Territorial Authorities opted to seek agreement with appellants regarding (un)reasonableness of a policy element through consent order processes. However, the Act maintains that only ARLA can determine whether any element is unreasonable. The consent order pathway had the effect of expediting the policy process for a Territorial Authority and avoided a more-lengthy (and costly) legal hearing. However, it also had the effect of preventing public debate on policy elements and the subsequent

establishment of relevant case law. ARLA then issued a practice note on March 19, 2015, pertaining to the need for further hearings once amendments or revisions to the Provisional LAP had been made. It stated that if elements had been agreed to by all parties, a further public hearing may not be required. An example of the consent order process is demonstrated in the progress of policy development for the joint Tauranga and Western Bay of Plenty LAP. Appellants and the Territorial Authorities reached agreement regarding the removal of the density restriction in the Provisional LAP, which was approved by ARLA via consent order on September 23, 2014. The remaining appealed elements were dealt with by way of a shorter public hearing on February 16, 2015, where the Councils also agreed that the appealed elements were unreasonable. ARLA asked the Territorial Authorities to reconsider the elements on March 18, 2015, which were then resubmitted to ARLA and approved on May 12, 2015.

iv. Reach of LAPs across New Zealand, by Territorial Authority

As of 1 July 2016, 19 (28.4%) Territorial Authorities had not proceeded to develop and notify a Draft LAP, seven (10.4%) had not progressed beyond a Draft LAP, 12 (17.9%) had prepared Provisional policies and were awaiting a hearing and/or were in negotiation, 10 (14.9%) had revised their Provisional and were awaiting a hearing or adoption, and 19 (28.4%) had adopted their Local Alcohol Policies. The geographic distribution of policy development is shown in Figure 1.

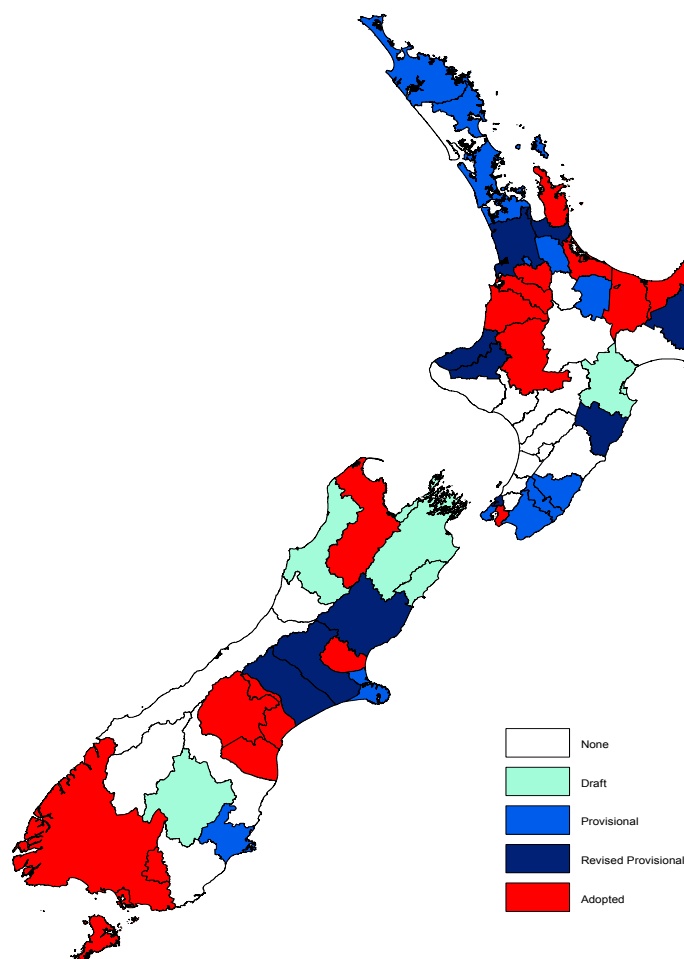


Figure 1. Geographic distribution of the stages in Local Alcohol Policy development across Territorial Authorities (as at 1 July 2016).

Approximately one in seven (15%) New Zealanders resided in a Territorial Authority with an adopted LAP (Table 2). One in every nine resided in a Territorial Authority which had not progressed to develop and/or notify a Draft LAP. Over one-half of all New Zealand residents lived in areas for which the LAP was Provisional, of which Auckland and Christchurch comprised over two-thirds.

Table 2. Reach of Local Alcohol Policies, by population size.

Status of policy	Number of residents (as at 2013)
None	516,220 (12%)
Draft	262,490 (6%)
Provisional	2,609,090 (59%)
Revised Provisional	376,360 (8%)
Adopted	678,020 (15%)
All New Zealand	4,442,180

In relation to ethnicity, one in every six (17%) Māori resided in a Territorial Authority with an adopted LAP, with the greatest number residing in Tauranga, Lower Hutt, and Whakatane (Table 3). A similar proportion (14%) lived in an area which had not yet progressed to developing a Draft LAP, with the greatest number in Palmerston North City, Wanganui, and Taupo.

Table 3. Reach of Local Alcohol Policies, by ethnicity.

Status of policy	Māori	Pacific	Asian	MELAA	European
None	14%	5%	4%	7%	13%
Draft	6%	3%	2%	3%	7%
Provisional	50%	78%	85%	80%	54%
Revised Provisional	11%	7%	3%	4%	9%
Adopted	17%	7%	6%	7%	17%

MELAA: Middle Eastern / Latin American / African

Analysis of reach by socio-economic characteristics showed that higher proportions of low income residents lived in Territorial Authorities which had not proceeded to develop a LAP (Table 4). For example, 54.1% of residents in areas which had not proceeded to develop a LAP were of low income, compared to the total proportion of low income residents in New Zealand of 51.9%. However, more low income residents also appeared to live in areas with adopted LAPs.

Table 4. Reach of Local Alcohol Policies among persons of low personal income (row percentage).

Status of policy	Proportion earning ≤\$30,000 (%)
None	54.1
Draft	54.7
Provisional	51.0
Revised Provisional	50.6
Adopted	53.1
All New Zealand	51.9

(b) Elements of the Draft, Provisional, and Adopted Local Alcohol Policies

i. Location of licensed premises by reference to broad areas

The majority of Draft LAPs referred to the relevant District Plan provisions which prescribed the broad location of alcohol outlets for their Territorial Authority. For example, the adopted Ruapehu Local Alcohol Policy states [18]:

This policy does not restrict the location of licensed premises by reference to broad areas in the district. The rules in the District Plan determine zones where the sale and supply of alcohol is a permitted activity, where resource consent is required and where sale and supply is prohibited.

Section 93 of the Act permits the development of LAPs to “be more restrictive than the relevant district plan, but it cannot authorise anything forbidden by the relevant plan”. Three Territorial Authorities proposed restrictions which extended beyond the relevant District Plans, by describing broad areas for which elements of the Draft LAP applied. Three broad areas were defined in the Auckland Council Draft LAP: City Centre, outside city centre, and 21 priority overlay areas. The Rotorua District Council Draft LAP proposed that areas with a Deprivation Index of 8 and greater would be subject to increased restrictions, especially in relation to the granting of licences for new bottle stores. The Selwyn District Council Draft LAP also defined Neighbourhood or Local Centres, for which new licences for bottle stores would not be granted.

A total of two changes in the broad area restrictions were noted following the submission process. Changes in this review were categorised according to whether the change resulted in the provision being more or less restrictive. The changes are detailed below:

More Restrictive:

Auckland – increased number of priority overlay areas from 21 to 23

Less Restrictive:

Rotorua – removal of moratorium on bottle stores in areas of Deprivation level 8 or greater. Rather, consideration was to be given to the granting of bottle stores in these areas.

Clarified:

Central Hawke's Bay – introduced a clause to prohibit the establishment of licensed premises within residential zones, as per the District Plan.

Three further changes were noted following notification of the Provisional LAP. Table 5 shows the changes that were made to policies which have to date progressed through the appeals process, to either Revised Provisional LAPs or adopted LAPs. Selwyn District Council's restriction of the granting of bottle store licences in neighbourhoods or local centres was appealed by Super Liquor Holdings Ltd, the Mill Retail Holdings Ltd, and Independent Liquor. The Council subsequently removed the clause, allowing stand-alone bottle stores to be permitted in Neighbourhood and Local Centres as identified in the District Plan. Hauraki District removed the provision to prohibit further off-licences in 'Town Centres' or 'Townships', and instead rely on District Plan requirements. Central Hawke's Bay District Council's provision (that prohibited all licensed premises in residential areas) was appealed by Foodstuffs. The Council subsequently chose to delete the provision, citing that "Council determined that while clause 2.44 reflected the community and Council's desire to prohibit the establishment of licensed premises within a residential zone, the establishment of licensed premises is currently permitted within the rules of Council's Operative District Plan" [19].

Table 5 shows the changes that were made to policies which have to date progressed through the appeals process, to either Revised Provisional LAPs or adopted LAPs. None of the 12 adopted LAPs were found to include any restrictions with regards to broad areas which extended beyond the requirements of the relevant District or Unitary Plan (Table 5).

Table 5. Changes over LAP development stages: Broad area provisions.

	Draft LAP	Provisional LAP	Revised Provisional LAP or adopted LAP	Change following appeals process
Ashburton	Where District Plan permits	Where District Plan permits	Where District Plan permits	
Central Hawke's Bay	District Plan provisions	District Plan provisions, but prohibiting new premises within residential zones.	District Plan provisions only	Less restrictive
Eastern Bay of Plenty	Where District Plan permits	Where District Plan permits	Where District Plan permits**	
Gisborne	Not specified	Not specified	Not specified	
Gore/Invercargill/ Southland	Not specified	Not specified	Not specified**	
Hauraki	No further off-licences in 'Town Centres' or 'Townships' (as in District Plan). Supermarkets / grocery stores exempt.	No further off-licences in 'Town Centres' or 'Townships' (as in District Plan). Supermarkets/ grocery stores exempt.	Relies on District Plan to control effects	Less restrictive
Hurunui	Not specified	Not specified	Not specified	
Lower Hutt City	Case by case basis	Not specified	Not specified**	
New Plymouth /Stratford	Has district plan provisions	Has district plan provisions	Has district plan provisions	
Otorohanga	Where District Plan permits	Where District Plan permits	In District Plan licensing precinct**	
Porirua City	Not specified	Not specified	Not specified	
Ruapehu	No restrictions	No restrictions	No restrictions**	
Selwyn	Off-licences will not be granted for a Neighbourhood or Local Centre	Off-licences for bottle stores will not be granted for a Neighbourhood or Local Centre	New bottle stores only in Business zones or Neighbourhood and Local Centres as identified in District Plan.	Less restrictive
Tasman	Where District Plan permits	Where District Plan permits	Where District Plan permits**	
Tauranga City / Western BOP	Where District Plan permits	Not mentioned	Not mentioned**	
Thames-Coromandel	No restrictions	No restrictions	No restrictions**	
Timaru/Mackenzie/ Waimate	Where District Plan permits	Where District Plan permits	Where District Plan permits**	
Waikato	Where District Plan permits	Where District Plan permits	Where District Plan permits	
Waimakariri	No restrictions	Bottle stores in Business 1 or 2 Zones (as in District Plan)	Bottle stores in Business 1 or 2 Zones (as in District Plan) **	
Waipa	Where District Plan permits	Where District Plan permits	Where District Plan permits**	
Waitomo	Where District Plan permits	Where District Plan permits	Business areas**	

**** (in bold) adopted LAP**

ii. Location of licensed premises by reference to proximity to premises of a particular kind or kinds

This element particularly addresses the spatial clustering of particular types of premises, which has been found to be associated with increased alcohol-related harm [20]. Similar to the provision previously described, the majority (25, 68%) of Draft LAPs did not specify any restrictions in relation to the location of new premises in close proximity to other licensed premises. Many of the policies stated that the Act was sufficient in this regard. Of the remaining 12 Draft LAPs, five proposed that the DLC would consider, or have regards to, proximity issues during decision-making processes. One Territorial Authority sought to use impact reports to examine such issues, whilst another required an impact report only upon opposition to a licensed premises application outside of the City Centre. Another Territorial Authority opted to deal with any high-risk premises by way of a public hearing.

The remaining four Draft LAPs proposed distance thresholds for which no further off-licences would be granted; within 50m (1), 500m (1), and 1000m (2) of another off-licence. In addition, one policy proposed no new tavern applications would be granted within 5km of an existing tavern or hotel.

Very few changes in the restrictions were made following the submission process, as detailed below:

Less Restrictive:

Porirua City – the requirement in the Draft LAP for a cumulative impact report to be conducted where there was opposition to the granting of a liquor licence outside of the City Centre was deleted in the Provisional LAP, leaving no restrictions in relation to this element.

Tauranga / Western Bay of Plenty – the Draft LAP specification, that no new licensed premises would be granted within 500 metres of a bottle store or an off-licence issued to a hotel or tavern was deleted in the Provisional LAP, requiring the DLC to have regard to the issue of proximity in relation to other licensed premises.

Towards adoption of the LAPs three further changes were noted (Table 6):

Less Restrictive:

Tauranga / Western Bay of Plenty – the requirement to have regard to issues of proximity was deleted, leaving no provision in the adopted policy.

Waikato – the Provisional LAP, which provided for a 1km proximity restriction for new bottle stores, licensed supermarkets or grocery stores was amended. The revised Provisional LAP maintained the 1km restriction, with the exception of premises within business zones that can demonstrate that close proximity would not result in significant adverse effects.

Table 6 shows the changes that were made to policies which have to date progressed through the appeals process, to either Revised Provisional LAPs or adopted LAPs. Of the 12 adopted LAPs, only three policies (Otorohanga, Waipa, Waitomo) contained any provision relevant to this element (Table 6). All three policies required the DLC to have regard to the proximity to other licensed premises where it considers it relevant.

Table 6. Changes over LAP development stages: Proximity to other licensed premises provisions.

TA	Draft LAP	Provisional LAP	Revised Provisional LAP or Adopted LAP	After Appeals
Ashburton	No restrictions	No restrictions	No restrictions	
Central Hawke's Bay	No restrictions	No restrictions	No restrictions	
Eastern Bay of Plenty	No restrictions	No restrictions	No restrictions**	
Gisborne	No restrictions	No restrictions	No restrictions	
Gore/Invercargill, Southland	Community Impact Statement required for off-licences	No restrictions	No restrictions**	
Hauraki	No new off-licences within 50m of existing off-licence (supermarkets exempt)	No new off-licences within 50m of existing off-licence (supermarkets exempt)	No new off-licences within 50m of existing off-licence (supermarkets exempt)	
Hurunui	No restrictions	No restrictions	No restrictions	
Lower Hutt City	No restrictions	No restrictions	No restrictions**	
New Plymouth /Stratford	No restrictions	No restrictions	No restrictions	
Otorohanga	DLC to consider proximity	DLC to consider proximity	DLC to consider proximity**	
Porirua City	Proximity assessed in opposed applications outside City Centre	No restrictions	No restrictions	
Ruapehu	No restrictions	No restrictions	No restrictions**	
Selwyn	No restrictions	No restrictions	No restrictions	
Tasman	No restrictions	No restrictions	No restrictions**	
Tauranga City / Western Bay of Plenty	No new licensed premises within 500m of bottle store, hotel off-licence, tavern, club (CBD exempt).	DLC to have regard to proximity when issuing new off-licences	No restrictions**	Less restrictive
Thames-Coromandel	No restrictions	No restrictions	No restrictions**	
Timaru, Mackenzie, Waimate	No restrictions	No restrictions	No restrictions**	
Waikato	No new taverns (outside commercial areas) within 5km of existing tavern/hotel. No new bottle stores within 1km of any existing bottle store, licensed supermarket or grocery store.	No new taverns (outside commercial areas) within 5km of existing tavern/hotel. No new bottle stores within 1km of any existing bottle store, licensed supermarket or grocery store.	No new tavern (outside commercial areas) within 5km of tavern/hotel. No new bottle store within 1km of any bottle store, supermarket/ grocery store, unless in business zone of Te Kauwhata, Tuakau, Pokeno, and no amenity/good order effects.	Less restrictive
Waimakariri	No restrictions	Bottle stores in Business 1 or 2 Zones (as per District Plan).	Bottle stores in Business 1 or 2 Zones (as per District Plan). **	
Waipa	DLC to have regard to proximity	DLC to have regard to proximity	DLC to have regard to proximity**	
Waitomo	DLC to have regard to proximity	DLC to have regard to proximity	DLC to have regard to proximity**	

** (in bold) Adopted LAP

iii. Location of licensed premises by reference to proximity to facilities of a particular kind or kinds

Of the three LAP elements which can be used to restrict the location of licensed premises (Section 77(1) a-d of the Act), proximity to facilities of a particular kind was most commonly included in the Draft LAPs. It was also the location-related element which changed most substantially over the course of LAP development for many Territorial Authorities.

Fourteen (38%) of 37 draft LAPs contained no restrictions with regards to proximity to particular facilities. Three of these draft policies noted that it was considerably difficult to establish a definition of 'proximity' which was robust and workable, particularly for small townships [21-23].

Of the remaining 23 policies, the 'facilities of a particular kind' were commonly referred to as 'sensitive sites'. Draft LAPs were found to contain the following proposals for sensitive sites (number of policies in parentheses):

- Requiring impact reports to be conducted (one policy only required this upon opposition) (2);
- Requiring the DLC to consider the issue in decision making (4);
- Requiring the owners of the neighbouring property to a new on-licence or club licence to be consulted upon application (1); and
- Prohibiting new licences (mostly off-licences) in close proximity (range 40m to 500m) to sensitive sites (16). In four of these policies, the restriction would be waived if it could be demonstrated that there was no significant impact on the good order and amenity of the sensitive sites as a result of the granting of the licence.

A range of sensitive sites were defined within the Draft policies:

- school or educational facilities (21);
- early childhood centres, specifically (16);
- playgrounds (7);
- places of worship (7);
- recreational activities (5);
- health facilities (5);
- alcohol treatment centres (4);
- Marae (4);
- community facilities (3);
- high crime areas (2);
- high deprivation areas (2);
- residential areas (1); and
- parks (1).

The changes made to the Draft policies are indicated below:

More Restrictive:

Whangarei – extended the provision in the Draft LAP for the DLC to have discretion around the issuing of on- and off-licences (some exceptions) within 100m of sensitive sites, to 300m in the Provisional LAP.

Porirua City – extended the impact assessment to all new applications in close proximity to sensitive sites, not just those which had been opposed. There was also clarification with regards to impact reports, which were to relate to whether the users of the sensitive sites would be likely to be exposed to alcohol promotion, users of alcohol, and any other adverse effects. No new licences would be granted if the exposure could not be mitigated.

Gore / Invercargill / Southland – extended the requirement for evidence of consultation with owners for any proposed off-licence (in addition to new on-licence and club licence)

Less Restrictive:

Far North – deleted the prohibition of new on- and off-licences within 100m of a sensitive site (unless no impact could be demonstrated) and replaced it with the ability of the DLC to have regard to the proximity to sensitive sites in licensing decisions.

Tauranga / Western Bay of Plenty – deleted the prohibition of licences within 500m of sensitive sites, and replaced it with the ability of the DLC to have regard to these issues.

New Plymouth / Stratford – amended the prohibition of new licensed premises within 100m of a sensitive site to only apply outside business areas.

Thames-Coromandel – amended the Draft LAP provision which permitted the DLC to consider the issuing of off-licences in close proximity to sensitive sites, to only permitting the DLC to consider more restrictive hours relative to the location and proximity to sensitive sites.

Waitomo – amended the Draft provision which prohibited new premises in close proximity to sensitive sites, to allow licences to be granted where it can be demonstrated that the hours, signage, and operation of the premises will not have material impact on the sensitive sites.

Clarified:

Gisborne – defined “close proximity” in the Provisional LAP to be within 300m.

Following the notification of the Provisional LAP and appeals process, five policies were revised (below, Table 7).

Less Restrictive:

Eastern Bay of Plenty – amended the provision which prohibited licences within a 100m radius of sensitive sites, to permit the DLC to have discretion regarding the granting of any licence in a sensitive location where no significant adverse effects would arise.

Gisborne – reduced the distance threshold relating to the prohibition of new licences from 300m to 150m, and provided off-licences to be exempt from this clause if the applicant could demonstrate that the hours, signage and operation of premises would have no impact on the site or persons using sensitive sites.

Otorohanga – Amended the Provisional LAP which required that the new off-licence applicant had to demonstrate “no impact” on the sensitive site, to require “no significant impact”. Further specified impact to only relate to the hours, signage, or operation of premises.

Porirua City – Supermarkets were exempt from the sensitive sites provision, which required an impact report.

Tauranga / Western Bay of Plenty – the requirement for the DLC to have regard to issues of proximity was deleted, leaving no provision in relation to this element.

Table 7 shows the changes that were made to policies which have to date progressed through the appeals process, to either Revised Provisional LAPs or adopted LAPs. Of the 12 adopted LAPs, five had no restrictions or noted that the Sale and Supply of Alcohol Act 2012 was sufficient in this regard. Of the remaining seven, only one policy (Waitomo) explicitly prohibited licences which directly border a sensitive site, although this only applied to new on-licences. Three policies prohibited new licences in close proximity to sensitive sites unless no impact could be demonstrated (Otorohanga, Waipa, Waitomo) and three included sensitive site provisions as a discretionary condition (Eastern Bay of Plenty, Thames-Coromandel, Timaru/Waimate/Mackenzie). The joint Gore, Invercargill, and Southland policy required evidence of consultation with owners and occupiers of nearby (within 50m) sensitive premises.

Table 7. Changes over LAP development stages: Sensitive site provisions.

	Draft LAP	Provisional LAP	Revised Provisional LAP or adopted LAP	Change following appeals process
Ashburton	No restrictions	No restrictions	No restrictions	
Central Hawke's Bay	No restrictions	No restrictions	No restrictions	
Eastern Bay of Plenty	No new on, off or club licences within close proximity to sensitive sites.	No new on, off or club licences within close proximity to sensitive sites.	DLC has discretion to grant a licence in close proximity to sensitive site, where no significant adverse effects can be demonstrated.**	Less restrictive
Gisborne	No new licence of any type (restaurants, cafes exempt), in close proximity to sensitive sites.	No new licence of any type (restaurants, cafes, and Special Licences exempt) within 300m of sensitive sites.	No new licence of any type (same exceptions) within 150m of sensitive sites. Off-licences exempt if the hours, alcohol-related signage, and/or operation of the premises have no significant impact on sensitive sites.	Less restrictive
Gore, Invercargill, Southland	To require evidence of consultation with nearby owners for a new on-licences and club licences.	To require evidence of consultation with nearby owners for a new on-licences, off-licences and club licences.	To require evidence of consultation with nearby owners for a new on-, off-licences and club licences.**	
Hauraki	No further off-licences within 50m of sensitive sites (supermarkets exempt).	No further off-licences within 50m of sensitive sites (supermarkets exempt).	No further off-licences within 50m of sensitive sites (supermarkets exempt).	
Hurunui	No restrictions	No restrictions	No restrictions	
Lower Hutt City	No restrictions	No restrictions	No restrictions**	
New Plymouth Stratford	No new on-licence or off-licence premises (excluding supermarket and grocery store) outside the CBD or business zones shall be allowed within 100m of a sensitive site.	No new on-licence or off-licence premises (excluding supermarket and grocery store) outside the CBD or business zones shall be allowed within 100m of a sensitive site.	No new on-licence or off-licence premises (excluding supermarket and grocery store) outside the CBD or business zones shall be allowed within 100m of a sensitive site.	

	Draft LAP	Provisional LAP	Revised Provisional LAP or adopted LAP	Change following appeals process
Otorohanga	An on-licence or off-licence will not be issued where it directly borders (or minimum 40m) a sensitive site, unless no impact demonstrated.	An on-licence or off-licence will not be issued where it directly borders (or minimum 40m) a sensitive site, unless no impact demonstrated.	An on-licence or off-licence will not be issued where it directly borders (or minimum 40m) a sensitive site, unless no significant impact demonstrated. Off-licence impact further defined. **	Less restrictive
Porirua City	Impact assessment required for objections and oppositions.	No new licences may be granted in close proximity to a sensitive site, unless exposure mitigated. Impact report required.	No new licences in close proximity to a sensitive site, unless exposure mitigated. Impact report required. Supermarkets exempt.	Less restrictive
Ruapehu	No restrictions	No restrictions	No restrictions**	
Selwyn	No restrictions	No restrictions	No restrictions	
Tasman	No restrictions	No restrictions	No restrictions**	
Tauranga City and Western BOP	No new licensed premises within 500m of sensitive sites (Tauranga CBD exempt).	DLC to have regard to proximity to sensitive sites when issuing or renewing off-licences.	No restrictions**	Less restrictive
Thames-Coromandel	Discretionary condition: more restrictive trading hours relative to proximity to sensitive sites	Discretionary condition: more restrictive trading hours relative to proximity to sensitive sites	Discretionary conditions: More restrictive trading hours where off-licence is within 50m of a sensitive facility. More restrictive trading hours for on-licences relative to proximity to sensitive sites. **	
Timaru, Mackenzie, Waimate	Discretionary condition: No new on or off licensed premise to be within 100m of sensitive site.	Discretionary condition: No new licensed premise to be within 100 m of sensitive site (exceptions in business/commercial zones).	Discretionary condition: No new licensed premise to be within 100 m of sensitive site (exceptions in business/commercial zones). **	
Waikato	No new on-licence (tavern, class 1 restaurant, hotel) which directly borders sensitive site, unless no impact demonstrated. No new bottle stores within 100m of sensitive site, unless no impact demonstrated.	No new on-licence (tavern, class 1 restaurant, hotel) which directly borders sensitive site, unless no impact demonstrated. No new bottle stores within 100m of sensitive site, unless no impact demonstrated.	No new on-licence (tavern, class 1 restaurant, hotel) which directly borders sensitive site, unless no impact demonstrated. No new bottle stores within 100m of sensitive site, unless no impact demonstrated.	
Waimakariri	No restrictions	No restrictions	No restrictions**	
Waipa	No new on- or off-licences which directly border (or within 40m of) a sensitive site, unless no impact demonstrated.	No new on- or off-licences which directly border (or within 40m of) a sensitive site, unless no impact demonstrated.	No new on- or off-licences which directly border (or within 40m of) a sensitive site, unless no impact demonstrated. **	
Waitomo	No new premises which directly border (or within 40m of) sensitive sites	No new premises which directly border (or within 40m of) sensitive sites. Off-licences are exempt if hours, signage, and operation have no impact on sites.	No new premises which directly border (or within 40m of) sensitive sites. Off-licences exempt if hours, signage, and operation have no impact on sites. **	

** (in bold) Adopted LAP

iv. Whether further licences (or licences of a particular kind or kinds) should be issued

Almost two-thirds of the Draft LAPs (23, 62%) contained no specifications which sought to control the overall density of licensed premises, or types of premises. Most of these policies referred to the amenity and good order provisions in the Sale and Supply of Alcohol Act 2012 to address this issue. Of the remaining 14 Draft LAPs, the following provisions were proposed (number of policies in parentheses):

- Requiring a public hearing for high risk premises (1);
- Requiring impact reports (2);
- Implementing a freeze on the issuing of new bottle store applications for 24 months in priority areas, and a rebuttable presumption against the issuing of new licences within other specified areas; and
- Implementing a cap on the number of off-licences within a given area (10).

Six policies were amended following the submission period, outlined below:

More Restrictive:

Dunedin – introduced a moratorium of new off-licence outlets in priority areas of the city, rather than requiring consideration of amenity and good order which was proposed in the Draft LAP.

Less Restrictive:

Gore / Invercargill / Southland – deleted the requirement for an impact statement to accompany any off-licence applications, leaving no restrictions in the Provisional LAP.

Hutt City – deleted the cap on the number of licences, stating that the District Plan and Sale and Supply of Alcohol Act 2012 were sufficient in this regard.

Rotorua – as detailed previously, the moratorium on bottle stores in areas of Deprivation level 8 or greater was amended, to require only consideration to be given to the granting of bottle stores in these areas.

Clarified:

Rotorua – social impact reports were described in greater detail, requiring the applicant to demonstrate how the proposed outlet would reduce harm in the community, add amenity value, and meet the object of the Act.

Waimakariri – clarified that this element was dealt with by way of District Plan provisions.

Whangarei – clarified that the prohibition of the further granting of bottle store licences was limited to the period of six years from the implementation of the Policy (i.e. until Policy review).

Following appeals, three further amendments to Provisional policies were made (Table 8):

Less Restrictive:

Gisborne – removed the provision to prohibit no new stand-alone bottle stores in the Gisborne district. Instead, specified that “applicants should be aware that the DLC will consider whether an area is a high crime area when making decisions on licensing applications”.

Hauraki – amended the cap on the number of off-licences to specify that there was a presumption that no new off-licences would be granted unless the applicant could demonstrate that they could deliver significant social and other (e.g. economic) benefits to the community.

Tauranga / Western Bay of Plenty – deletion of the cap on the number of licences within each ward, leaving no provision in relation to this element.

Table 8 shows the changes that were made to policies which have to date progressed through the appeals process, to either Revised Provisional LAPs or adopted LAPs. None of the 12 adopted LAPs contained provisions which restricted the issuing of further licences, beyond the restrictions contained within the relevant District Plan.

Table 8. Changes over LAP development stages: Provisions relating to the issuing of further licences.

	Draft LAP	Provisional LAP	Revised Provisional LAP or adopted LAP	Change following appeals process
Ashburton	No restrictions	No restrictions	No restrictions	
Central Hawke's Bay	No restrictions	No restrictions	No restrictions	
Eastern Bay of Plenty	No restrictions	No restrictions	No restrictions**	
Gisborne	No new bottle stores within the Gisborne District.	No new bottle stores within the Gisborne District.	DLC to consider issuing of licences in high crime areas.	Less restrictive
Gore, Invercargill, Southland	A community impact statement for off-licence applications.	No restrictions	No restrictions**	
Hauraki	Cap in Paeroa, Ngatea, Waihi (supermarkets exempt).	Cap in Paeroa, Ngatea, Waihi (supermarkets exempt).	Presumption of no new off-licences in Paeroa, Ngatea, Waihi unless it can be demonstrated to deliver significant social and other benefits (including economic).	Less restrictive
Hurunui	No restrictions	No restrictions	No restrictions	
Lower Hutt City (Hutt City)	Off-licences: Eastbourne Ward cap=2 max, Central Ward no more; Eastern Ward only off-licences selling beer and wine	No restrictions	No restrictions**	
New Plymouth Stratford	Cap on bottle stores, with discretion regarding low risk premises.	Cap on bottle stores, with discretion for premises taking active steps to minimise harm.	Cap on bottle stores, with discretion for premises taking active steps to minimise harm	
Otorohanga	No restrictions	No restrictions	No restrictions**	
Porirua City	No restrictions	No restrictions	No restrictions	
Ruapehu	No restrictions	No restrictions	No restrictions**	
Selwyn	No restrictions	No restrictions	No restrictions	
Tasman	No restrictions	No restrictions	No restrictions**	
Tauranga City and Western Bay of Plenty	The number of off-licences <1:2,868 people)	Off: No more licences in each ward.	No restrictions**	Less restrictive
Thames-Coromandel	No restrictions	No restrictions	No restrictions**	
Timaru, Mackenzie, Waimate	No restrictions	No restrictions	No restrictions**	
Waikato	No restriction: on-licences. Bottle store cap in Ngaruawahia, Huntly and Raglan.	No restriction: on-licences. Bottle store cap in Ngaruawahia, Huntly and Raglan.	No restriction: on-licences. Bottle store cap in Ngaruawahia, Huntly and Raglan.	
Waimakariri	No restrictions	No restrictions	No restrictions**	
Waipa	No restrictions	No restrictions	No restrictions**	
Waitomo	No restrictions		No restrictions**	No restrictions

** (in bold) adopted LAP

v. Maximum trading hours: on-licences

The national default trading hours for on-licences, as prescribed in Section 43 of the Act, are 8am to 4am. Of the Territorial Authorities which developed a Draft LAP, variation in on-licence trading hours was evident within, and across, local boundaries. Many Territorial Authorities with large urban centres proposed differential trading hours between city centres and residential areas, whilst others implemented variation across larger regional areas within a Territorial Authority. Many of the joint LAPs contained specific provisions relating to hours for each of the Territorial Authorities included in the policy. This variation resulted in the [analysis in this review of trading hours by Territorial Authority](#), rather than by policy. Policies which defined specific hours for CBD areas are analysed and presented separately. Where hours were further defined in the policy by the day of the week, only the maximum trading hours are reported (usually pertaining to Fridays and Saturdays).

Opening hour:

Of the 48 Territorial Authorities with a draft LAP, commencement of trading ranged from 7am to 10am (Figure 2).

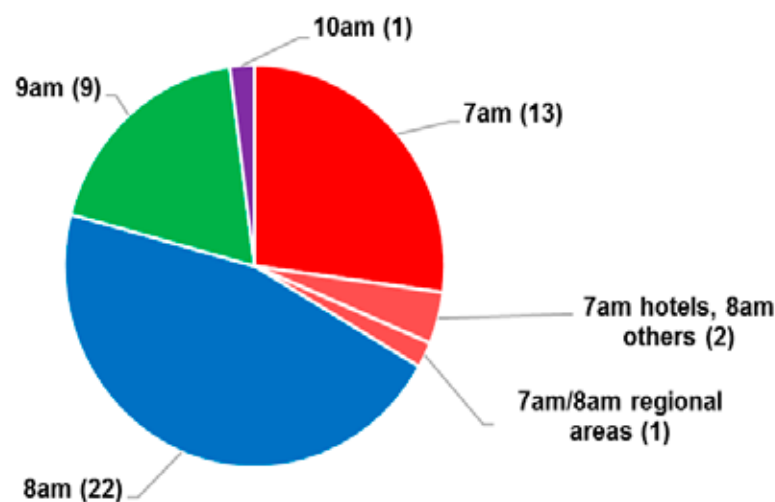


Figure 2. Proposed trading hours: On-licence opening hour.

Forty-one Territorial Authorities proceeded to developing a Provisional LAP. Of these, nine opted to amend their hours (amending 8 policies in total):

- 5 introduced an earlier opening hour (3 by 1 hour, 2 by 2 hours)
- 4 introduced a later opening hour (2 by 1 hour, 2 by 1-2 hours (hotels vs other)).

Table 9 shows the on-licence trading hours for policies which have, to date, progressed through the appeals process to either Revised Provisional LAPs or adopted LAPs. As shown in Table 9, no changes to the opening hour of on-licences were made following notification of the Provisional LAP. Of the 19 Territorial Authorities with adopted LAPs, the trading hour commenced at 7am for six authorities, 8am for six authorities, and seven adopted a 9am opening trading hour.

Closing hour:

The proposed hour that the sale of alcohol ceased is detailed below, noting that CBD-specific hours included in policies are presented separately. Figure 3 refers to policies which either contained one set of trading hours for all areas or policies which only applied to residential areas. Figure 3 shows that the majority of draft LAPs proposed a 1am closing time.

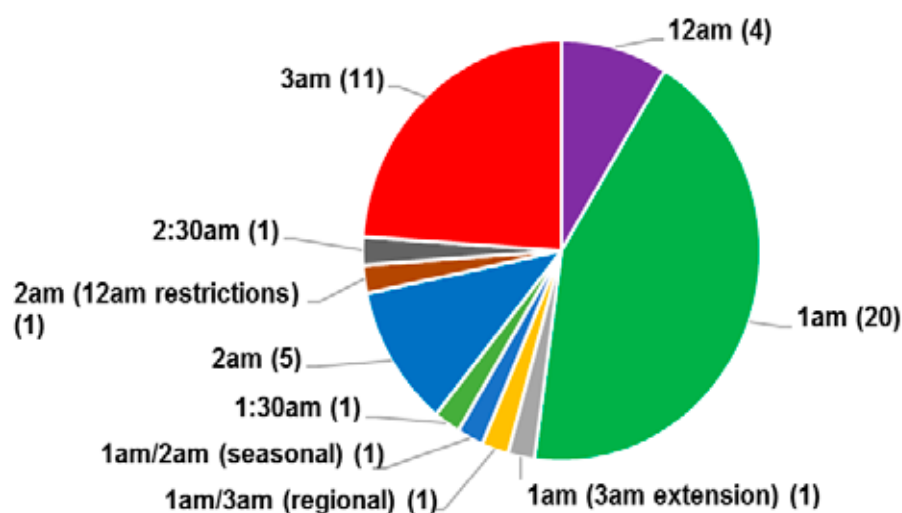


Figure 3. Proposed trading hours: On-licence closing hour.

One joint policy between two Territorial Authorities provided two options for on-licence closing hour in the draft policy: 1) a 3am closing with a one-way door policy, or 2) a 2am closing. This is not included in Figure 3.

Following submissions, nine changes were made to the policies which impacted upon 11 Territorial Authorities. Hamilton also extended their Monday to Thursday hours, from 11pm to 1am (below).

More Restrictive:

Ashburton – 3am to 2am (-1 hour)

New Plymouth / Stratford – 3am to 2am (-1 hour)

Tauranga / Western Bay of Plenty – 3am to 1am (-2 hours)

Thames-Coromandel – seasonal hours ranging from 1-2am reduced to 1am year round (-1 hour)

Less Restrictive:

Auckland – 1am (with the ability to apply to extend up to 3am) to 3am for all (+2 hours)

Hutt City – 1am to 1am plus 2 hour extension to 3am for those currently trading to 3am (as long as they comply with legislation) (+2 hours)

Porirua – 1am to 2am (+1 hour)

Tasman – 1:30am to 2am (+0.5 hour)

Wellington – 12am to 1am (+1 hour)

Less Restrictive on Some Days:

Hamilton – From 11pm Monday-Thursday to 1am for Monday-Sunday

Only one change was noted to a Provisional LAP (Table 9). Selwyn District Council received an appeal from Hospitality New Zealand in relation to its on-licence closing hour of 1am. Although Council minutes demonstrated that a 1am closing was recommended by the Police and Medical Officer of Health, and was aligned with what neighbouring Territorial Authorities were proposing, the Council felt it had insufficient evidence to maintain the 1am closing [24]. As such, the hours for taverns and hotels were extended to 2am.

Of the 19 Territorial Authorities with adopted policies, the closing hours are as follows (Table 8):

- 12am (2, 11%)
- 1am (8, 42%) with one allowing those to currently trade until 3am to do so,
- 1am / 3am regional differences (1, 5%)
- 2am (3, 16%) with one requiring those near order 3 roads to close at 12am,
- 3am (5, 26%)

Trading hours in Central Business Districts or specified urban areas:

Among the Draft LAPs, specific trading hours for CBDs and urban areas were proposed for 15 Territorial Authorities. Opening hours were mostly the same as those for on-licences outside of CBD areas, with the exception of Dunedin City Council which permitted on-licences in the CBD to open one hour earlier at 8am rather than 9am.

The majority of CBD-specific provisions permitted later closing times when compared to residential area restrictions, with 12 of the 15 policies proposing a 3am closure. Two Territorial Authorities with 3am closing also proposed to allow best-practice premises to apply for a 2-hours extension (i.e. to 5am). Three Draft LAPs proposed a 2am closing in urban areas.

Fourteen Territorial Authorities with CBD-specific hours progressed to a Provisional LAP. Five changes were made following submissions:

More Restrictive:

Waikato – 2am to 1am for main urban areas

Less Restrictive:

Auckland – 3am (with ability to extend to 5am) to 4am, although with no ability to extend trading hours

Dunedin – 3am to 4am (for night clubs only)

Christchurch – 3am to 4am (for night clubs only)

Wellington – 3am (CBD, 5am for best practice)/2am (central area, 3am for best practice) to 5am all

Other:

Hutt City – introduced a probationary one-way door from 1am for premises trading until 3am.

No further changes were noted to the Provisional LAPs. Of the 19 Territorial Authorities with adopted LAPs, five specified CBD-specific hours: three had 3am closing (1 with a probationary one-way door), and two had 2am (Table 9).

Table 9. Changes over LAP development stages: On-licence hours (am. to am.)

	Draft LAP	Provisional LAP	Revised Provisional LAP or adopted LAP	Draft to Provisional	Following appeals
Ashburton	7 to 3 (20 hrs)	7 to 2 (19 hrs)	7 to 2 (19 hrs)	-1.0	
Central Hawke's Bay	7 to 1 (18 hrs)	8 to 1 (17 hrs)	8 to 1 (17 hrs)	-1.0	
Gisborne	10 to 2 (16 hrs)	10 to 2 (16 hrs)	10 to 2 (16 hrs)		
Gore	8 to 3 (19 hrs)	8 to 3 (19 hrs)	8 to 3 (19 hrs)**		
Hauraki	9 to 1 (16 hrs)	7 to 1 (18 hrs)	7 to 1 (18 hrs)	+2.0	
Hurunui	8 to 2 (18 hrs)	8 to 2 (18 hrs)	8 to 2 (18 hrs)		
Invercargill City	8 to 1 (17 hrs) 8 to 3 CBD (19hrs)	8 to 1 (17 hrs) 8 to 3 CBD (19hrs)	8 to 1 (17 hrs)** 8 to 3 (19hrs)**		
Kawerau	9 to 1 (16 hrs)	9 to 1 (16 hrs)	9 to 1 (16 hrs)**		
Lower Hutt City	7 (8 East Ward) to 1 (17-18 hrs) 7 to 3 (CBD) (20 hrs)	7 to 1 (18 hrs) 7 to 3 a (20 hrs)	7 to 1 (20 hrs)** 7 to 3 a (20 hrs)**	+1.0 (East Ward)	
Mackenzie	7 to 3 (20 hrs)	7 to 3 (20 hrs)	7 to 3 (20 hrs)**		
New Plymouth	8 to 3 (19 hrs)	8 to 2 (18 hrs) 8 to 3 (CBD) (19 hrs)	8 to 2 (18 hrs) 8 to 3 (CBD) (19 hrs)	-1.0 (Residential)	
Opotiki	9 to 1 (16 hrs)	9 to 1 (16 hrs)	9 to 1 (16 hrs)**		
Otorohanga	9 to 2 (17 hrs) 9 to 12 (near order 3 roads) (15 hrs)	9 to 2 (17 hrs) 9 to 12 (near order 3 roads) (15 hrs)	9 to 2 (17 hrs)** 9 to 12 (near order 3 roads) (15 hrs)**		
Porirua City	8 to 1 (17 hrs)	8 to 2 (18 hrs)	8 to 2 (18 hrs)	+1.0	
Ruapehu	7 to 1/3 regional (18-20 hrs)	7 to 1/3 regional (18-20 hrs)	7 to 1/3 regional (18-20 hrs)**		
Selwyn	8 to 1 (17 hrs)	7 to 1 (18 hrs)	7 to 2 (19 hrs)	+1.0	+1.0
Southland	8 to 3 (19 hrs)	8 to 3 (19 hrs)	8 to 3 (19 hrs)**		
Stratford	8 to 3 (19 hrs)	8 to 2 (18 hrs)	8 to 2 (18 hrs)	-1.0	
Tasman	8 to 1:30 (17.5 hrs)	8 to 2 (18 hrs)	8 to 2 (18 hrs)**	+0.5	
Tauranga City	Hotels 7/other 8 to 3 (19-20 hrs)	9 to 1 (16 hrs) 9 to 3 (CBD) (18 hrs)	9 to 1 (16 hrs)** 9 to 3 (CBD) (18 hrs)**	-4.0 (Hotels) -3.0 (Others)	
Thames- Coromandel	7 to 1/2 (seasonal) (18-19 hrs)	7 to 1 (18 hrs)	7 to 1 (18 hrs)**	-1.0 Dec-Mar	
Timaru	7 to 3 (20 hrs)	7 to 3 (20 hrs)	7 to 3 (20 hrs)**		
Waikato	9 to 1 (residential) (16 hrs) 9 to 2 (17 hrs)	7 to 1 (residential) (18 hrs) 9 to 1 (16 hrs)	7 to 1 (residential) (18 hrs) 9 to 1 (16 hrs)	+2.0(Residential) -1.0(Urban)	
Waimakariri	8 to 1 (17 hrs)	8 to 1 (17 hrs)	8 to 1 (17 hrs)**		
Waimate	7 to 3 (20 hrs)	7 to 3 (20 hrs)	7 to 3 (20 hrs)**		
Waipa	9 to 12 (residential) (15 hrs) 9 to 2 (17 hrs)	9 to 12 (residential) (15 hrs) 9 to 2 (17 hrs)	9 to 12 (residential) (15 hrs)** 9 to 2 (17 hrs)**		
Waitomo	9 to 12 (residential) (15 hrs) 9 to 2 (17 hrs)	9 to 12 (residential) (15 hrs) 9 to 2 (17 hrs)	9 to 12 (residential) (15 hrs)** 9 to 2 (17 hrs)**		
Western Bay of Plenty	Hotels 7/other 8 to 3 (19-20 hrs)	9 to 1 (16 hrs)	9 to 1 (16 hrs)**	-4.0 (Hotels) -3.0 (Others)	
Whakatane	7 to 2 (19 hrs)	8 to 2 (18 hrs)	8 to 2 (18 hrs)**	-1.0	

** (in bold) adopted LAP; a for existing licences with a 3am closing

Restaurant hours:

Twenty-three of the 48 Territorial Authorities with a draft LAP specified trading hours for restaurants, cafés, etc. The Tauranga and Western Bay of Plenty joint LAP proposed differentiated opening hours for hotels (7am) versus other licensed premises (8am). The Waikato Draft LAP proposed a 7am opening for restaurants (and 9am for outdoor areas) compared to a 9am opening for all other on-licence types.

Few changes were made to the opening hours of restaurants and cafés over the course of policy development. The Tauranga and Western Bay of Plenty joint policy removed the differentiation of opening hours between types of on-licence premises, proposing a 9am opening for all on-licences in their Provisional policy. Waipa introduced a differential opening hour in its Provisional policy (which was later adopted), opting for 7am opening for restaurants and 9am for all other on-licences.

More commonly, differentiated hours by on-licence type applied to the closing hour. Of the 21 Territorial Authorities which proposed differentiated hours for restaurants, cafés etc. in their Draft LAP, 7 specified 12am, 13 specified 1am, and 1 had a 12/1 residential split. Of the 15 which progressed to a Provisional LAP, 3 changes were made which all resulted in an extension to the closing hour for restaurants and cafés:

Less Restrictive:

Hurunui – 1am to 2am (removed the restaurant/café differentiation)

Waipa – 12am to 1am

Tasman – 12am to 2 am (removed the restaurant/café differentiation)

Of the 19 Territorial Authorities with adopted LAPs, 10 maintained differentiated hours for restaurants and cafés: 8 required such premises to cease trading at 1am (3 of which allowed class 1 restaurants to be open until 3am), and 2 at 12am. Closing hours were not differentiated by type of on-licence for the remaining Territorial Authorities.

vi. One-way door restrictions

One-way door provisions are described in this review in relation to the policy, rather than by Territorial Authority. The use of a one-way door provision was generally found to apply to on-licence premises with late trading hours permitted, requiring them to implement the provision for the final one-hour of trading. Of the 37 draft LAPs, the following type of one-way door provisions were proposed:

- Mandatory one-way door policies (15 policies, 40%)
- Mandatory one-way door policies for specific areas (e.g. CBDs) and as discretionary condition for licences outside of CBD areas (3 policies, 8%)
- As a discretionary condition (12 policies, 32%)
- On a trial basis by way of a licensing accord (1 policy, 3%)
- Providing two options to submitters; to make it mandatory or a discretionary condition (1 policy, 3%).

The remaining five policies (14%) did not specify one-way door restrictions, or described that it was not justified in their district, or was currently provided for in Sections 110 and 111 of the Act.

Of the 31 policies proceeding to the Provisional stage, 18 were amended (below):

Less Restrictive:

Mandatory condition to discretionary condition – 10 policies

Mandatory condition for all to mandatory for some, discretionary for others – 2 policies

By way of Licensing Accord to Discretionary condition – 1 policy

Discretionary condition to deleted – 1 policy

Further specified mandatory condition – 3 policies (only those open after 12am / only inner city that are open after midnight / only premises licensed to open until 3am and for large events (further defined as exceeding 100 people))

Further specified the discretionary condition – 1 policy (relates to nightclubs only)

Following appeals, the Eastern Bay of Plenty joint Provisional LAP was amended so that the use of a one-way door was a discretionary condition, rather than mandatory requirement.

Of the 12 adopted LAPs, two had mandatory one-way door policies, nine included restrictions as a discretionary condition, and one did not specify any restrictions. The mandatory policies are as follows:

Timaru / Waimate / Mackenzie – “All premises licensed to open to 3.00am shall apply a one-way door restriction at 2.00am on Friday, Saturday and Sunday morning and for any event exceeding 100 people occurring at the premises.”

Tauranga / Western Bay of Plenty – “Any on-licensed premises licensed until after 2am shall have a one-way door restriction in place from 2am.”

vii. Maximum trading hours: off-licences

Opening hour:

As presented in Figure 4, over one-half of all Territorial Authorities had Draft LAPs which proposed an opening hour of 7am; the same hour as provided by the default hours in the Act. Five policies proposed differential opening hours for supermarkets and bottle stores.

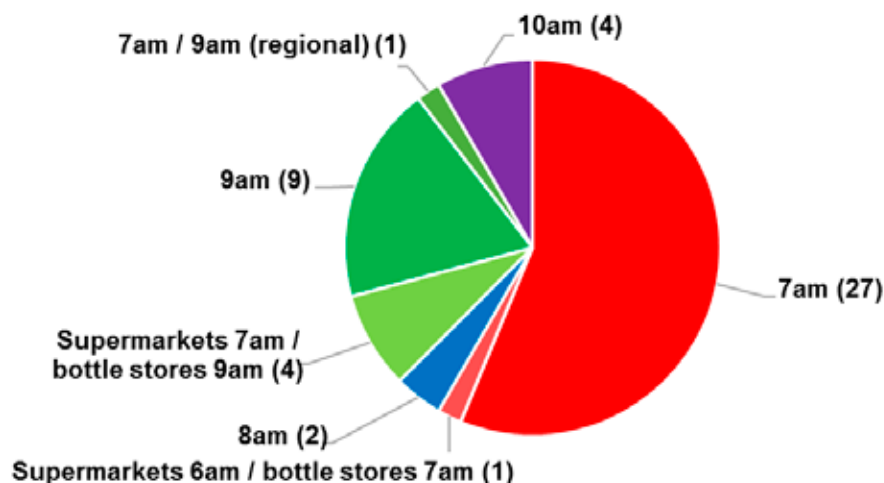


Figure 4. Proposed trading hours: Off-licence opening hour.

Of the 41 Territorial Authorities with Provisional LAPs, 15 had amended the Draft LAP opening hours.

More Restrictive:

Dunedin – 7am to 9am

Waimakariri – 7am to 8am

More Restrictive for Some Types of Premises:

Central Hawke's Bay – 7am to 7am (but 9am for tavern off-licences)

Hutt City – 7am (9am Eastern Ward) to 9am (7am for large supermarkets)

Waitomo – 7am to 7am supermarkets/9am for other off-licences

Whakatane – 6am supermarkets/7am other off-licences to 7am for all off-licence types

Otorohanga, Far North, and Whangarei – Supermarket 7am/other 9am to 9am all

Less Restrictive:

Hamilton, Hauraki, Waikato – 9am to 7am

Stratford – 10am to 7am

Rotorua – 10am to 9am

Gisborne – 10am for all to 7am supermarkets, 9am others

Following appeals, policies were revised to extend trading hours in eight Territorial Authorities (below):

Less Restrictive:
Ashburton – 8am to 7am
Waimakariri – 8am to 7am
Gisborne – 7am supermarkets/9am others to 7am
Otorohanga – 9am to 7am
New Plymouth – 10am to 7am
Waipa – 7am supermarkets/9am others to 7am for all
Waitomo – 7am supermarkets/9am others to 7am for all
Hutt City – 9am (7am large supermarkets) to 7am for all

Table 10 shows the changes that were made to policies which have to date progressed through the appeals process, to either Revised Provisional LAPs or adopted LAPs. Of the 19 adopted LAPs, 18 policies permitted a 7am opening (Table 10). Only one Territorial Authority (Kawerau) permitted an 8am opening. Therefore, the majority of the adopted LAPs were found to closely mirror the default opening hour as prescribed in the Sale and Supply of Alcohol Act 2012.

Closing hour:

The national default closing hour for off-licences, as prescribed in Section 43 of the Act, is 11pm. The proposed closing hours of trading in the 48 draft LAPs are shown in Figure 5.

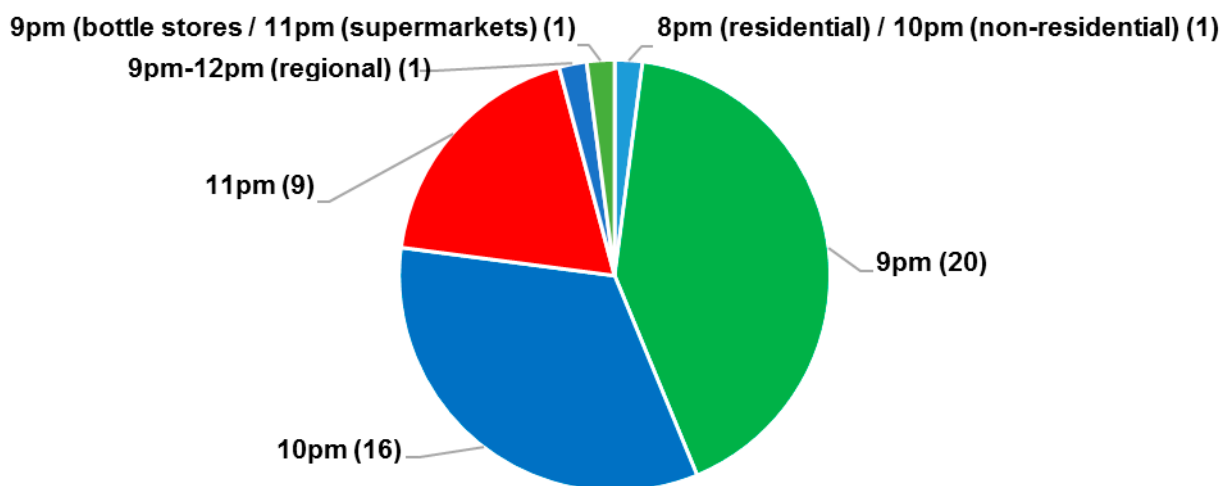


Figure 5. Proposed trading hours: Off-licence closing hour.

Of the 41 Provisional Policies, over one-half (23, 56%) amended their closing hours as proposed in the Draft LAP (below):

More Restrictive:

Whangarei / Selwyn / Hamilton / Auckland / Dunedin – 10pm to 9pm

Hurunui – 11pm to 10pm

Mackenzie / Timaru / Waimate – 11pm to 9pm

Other:

Hutt City – 9pm-12am (regional differences) to 11pm supermarkets and 9pm other off-licences

Less Restrictive:

Tauranga / Western Bay of Plenty / Carterton / Masterton / South Wairarapa / Stratford / Tasman – 9pm to 10pm

Central Hawke's Bay / Wellington – 9pm to 11pm

Gore / Invercargill – 10pm to 11pm

Rotorua – 10pm (8pm residential) to 10pm for all

More and Less Restrictive by Licence Type:

Porirua – 9pm (11pm supermarkets in City Centre) to 10pm for all

Following appeals, three Provisional LAPs were amended to extend the closing hour (Table 10):

Less Restrictive:

Ashburton / New Plymouth – 9pm to 9:30pm

More and Less Restrictive by Licence Type:

Hutt City – 9pm (other off-licences)/ 11pm (supermarkets) to 10pm for all

Of the 19 adopted LAPs, 4 policies require cease of trading at 9pm, 10 policies at 10pm, and 5 policies at 11pm (Table 10). The average duration of trading hours across the Territorial Authorities was found to increase for both supermarkets and bottle stores following appeals, with the average length of trading (14.9 hours) in the Revised or Adopted LAPs approximately one hour less than the nationally-permitted total trading hours (i.e. 16 hours, 7am to 11pm).

Table 10. Changes over LAP development stages: Off-licence hours (am. to pm.).

	Draft LAP	Provisional LAP	Revised Provisional LAP or adopted LAP	Draft to Provisional	After appeals
Ashburton	8 to 9 (13 hrs)	8 to 9 (13 hrs)	7 to 9:30 (14.5 hrs)		+1.5
Central Hawke's Bay	7 to 9 (14 hrs)	7 (9 tavern) to 11 (14-16 hrs)	7 (9 tavern) to 11 (14-16 hrs)	+2.0 Non-taverns	
Gisborne	10 to 9 (11 hrs)	7 SM / 9 to 9 (12-14 hrs)	7 to 9 (14 hrs)	+3.0 SM / +1.0 Other	+2.0 Non-SM
Gore	7 to 10 (15 hrs)	7 to 11 (16 hrs)	7 to 11 (16 hrs)**	+1.0	
Hauraki	9 to 9 (12 hrs)	7 to 9 (14 hrs)	7 to 9 (14 hrs)	+2.0	
Hurunui	7 to 11 (16 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)	-1.0	
Invercargill City	7 to 10 (15 hrs)	7 to 11 (16 hrs)	7 to 11 (16 hrs)**	+1.0	
Kawerau	8 to 10 (14 hrs)	8 to 10 (14 hrs)	8 to 10 (14 hrs)**		
Lower Hutt City	Regional variation 7-9am to 9pm-12am (13-17 hrs)	9 to 9/11 SM (12-14 hrs)	7 to 10 (15 hrs)**	variation by area and premises type	+3.0 Non-SM +2.0 SM
Mackenzie	7 to 11 (16 hrs)	7 to 9 (14 hrs)	7 to 9 (14 hrs)**	-2.0	
New Plymouth	10 to 9 (11 hrs)	10 to 9 (11 hrs)	7 to 9:30 (14.5 hrs)		+3.5
Opotiki	7 to 10 (15 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)**		
Otorohanga	SM 7/other 9 to 10 (13-15 hrs)	9 to 10 (13 hrs)	7 to 10 (15 hrs)**	-2.0 SM	+2.0
Porirua City	7 to 9/11 SM CBD (14-16 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)	-1.0 SM / +1.0 other	
Ruapehu	7 to 11 (16 hrs)	7 to 11 (16 hrs)	7 to 11 (16 hrs)**		
Selwyn	7 to 10 (15 hrs)	7 to 9 (14 hrs)	7 to 9 (14 hrs)	-1.0	
Southland	7 to 11 (16 hrs)	7 to 11 (16 hrs)	7 to 11 (16 hrs)**		
Stratford	10 to 9 (11 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)	+4.0	
Tasman	7 to 9 (14 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)**	+1.0	
Tauranga City	7 to 9 (14 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)**	+1.0	
Thames-Coromandel	7 to 9 (14 hrs)	7 to 9 (14 hrs)	7 to 9 (14 hrs)**		
Timaru	7 to 11 (16 hrs)	7 to 9 (14 hrs)	7 to 9 (14 hrs)**	-2.0	
Waikato	9 to 10 (13 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)	+2.0	
Waimakariri	7 to 10 (15 hrs)	8 to 10 (14 hrs)	7 to 10 (15 hrs)**	-1.0	+1.0
Waimate	7 to 11 (16 hrs)	7 to 9 (14 hrs)	7 to 9 (14 hrs)**	-2.0	
Waipa	SM 7/9 to 10 (13-15 hrs)	SM 7/9 to 10 (13-15 hrs)	7 to 10 (15 hrs)**		+2.0 Non-SM
Waitomo	7 to 10 (15 hrs)	SM 7/9 to 10 (13-15 hrs)	7 to 10 (15 hrs)**	-2.0 Non SM	+2.0 Non-SM
Western Bay of Plenty	7 to 9 (14 hrs)	7 to 10 (15 hrs)	7 to 10 (15 hrs)**	+1.0	
Whakatane	7/6 SM to 11 (17-18 hrs)	7 to 11 (16 hrs)	7 to 11 (16 hrs)**	-1.0 SM	
Average SM	14.6 hours	14.6 hours	14.9 hours		
Average bottle-store	14.2 hours	14.3 hours	14.9 hours		

SM = Supermarket; ** (in bold) adopted LAP

viii. Maximum trading hours: club licences

Opening hour:

The national default trading hours for club-licences, as prescribed in Section 43 of the Act, is from 8am to 4am. Of the 48 Territorial Authorities with Draft LAPs, the following opening hours were proposed:

- 7am (5, 10%)
- 8am (22, 46%)
- 9am (14, 29%)
- 10am (2, 4%)

The Carterton/Masterton/South Wairarapa joint policy proposed an opening trading hour of 10am for sports clubs and 8am for all other clubs. The Draft LAPs of Hutt City and Selwyn District Council made no reference to club opening hours.

Following submissions, changes were made to five policies, affecting eight Territorial Authorities:

More Restrictive:

Tauranga / Western Bay of Plenty – 8am to 9am

Central Hawke's Bay – 7am to 8am

Dunedin City Council – 9am to 10am

Less Restrictive:

Carterton/ South Wairarapa/ Masterton – 8am (10am sports clubs) to 8am for all (case by case basis)

Hauraki District Council – 9am to 7am

No further changes were made to the Provisional policies. Of the 19 adopted LAPs, 3 policies provide for 7am trading, 5 for 8am, 10 for 9am, and 1 for 10am (see total trading hours overleaf).

Closing hour:

As shown in Figure 6 overleaf, the majority of the 48 Territorial Authorities which developed Draft LAPs proposed a 1am cease of trading for club licences. Hutt City did not specify trading hours for clubs, giving effect to the default trading hours (8am to 4am) as prescribed in the Sale and Supply of Alcohol Act 2012.

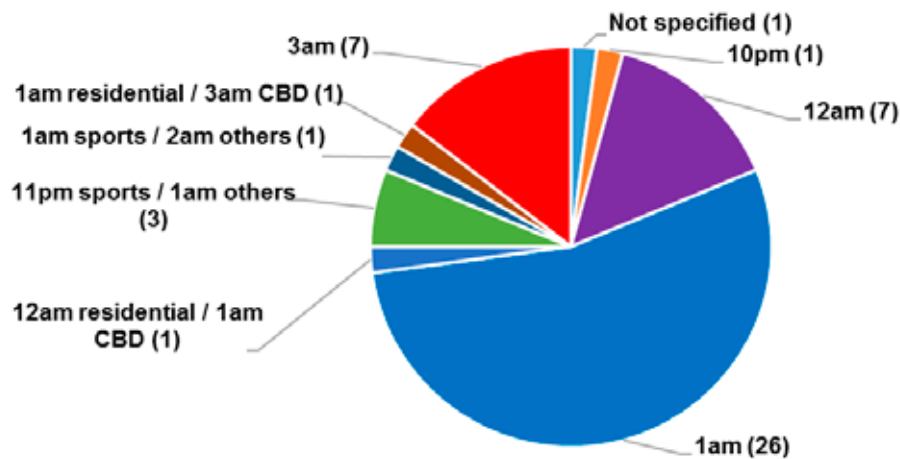


Figure 6. Proposed trading hours: Club licence closing hour.

Five Draft LAPs, affecting seven Territorial Authorities, were amended following submissions.

More Restrictive:

Tauranga / Western Bay of Plenty – 3am to 1am

Stratford – 3am to 2am

New Plymouth – 3am to 3am (CBD) / 2am (outside CBD)

Less Restrictive:

Tasman / Porirua – 1am to 2am

Wellington – 12am/ (1am CBD) to 1am for all

Other:

Hamilton – From 11pm Monday-Thursday to 1am for Monday-Sunday

There were no further changes following notification of the Provisional LAP. Of the 19 Territorial Authorities with adopted LAPs, the following trading hours (am. to am.) are permitted:

Eastern Bay of Plenty – 9-1 Kawerau / 10-1 Opotiki / 7-2 Whakatane (sports clubs 12)

Gore, Invercargill, Southland District – 8 to 3

Lower Hutt City (Hutt City) – not specified (Act default hours apply)

Otorohanga District – 9 to 1

Ruapehu District – 9 to 1

Tasman District – 8 to 2

Tauranga City, Western Bay of Plenty – 9 to 1 (3 in CBD)

Thames-Coromandel District – 7 to 1

Timaru, Mackenzie, Waimate District – 9 to 1

Waimakariri District – 8 to 1

Waipa District – 9 to 1

Waitomo District – 9 to 1

ix. Discretionary conditions

There was considerable variation across the draft policies with regards to their proposed discretionary conditions. Many Territorial Authorities referred to Sections 110, 116, and 117 of the Act which provide for DLCs to issue an on-licence, club licence, or off-licence subject to conditions. Specific features as noted in the draft policies included:

- restrictions on the single sale of alcoholic beverages from off-licences (7 policies);
- requiring the cleaning of surrounding areas with regards to litter and/or vomit (6 policies);
- restricting the sale and strength of beverages in on-licences after a particular hour (7 policies);
- requiring a duty manager to be on site at all times within rugby clubs (1 policy);
- requiring Alcohol Accord membership (1 policy); and
- restricting hours of sale beyond the hours prescribed in the LAP (2 policies).

However, many of these specific conditions, although discretionary, were removed from the Draft LAP following the submission process:

LESS RESTRICTIVE:

Removed requirement to clean up litter and/or vomit (2 policies)

Removed conditions relating to strength of beverages sold at various times (3 policies)

Removed single sales restrictions as an off-licence condition (3 policies)

Removed the requirement for a duty manager to be present (1 policy)

Some Territorial Authorities opted to add discretionary conditions into their Provisional LAPs. For example, restrictions for off-licences were introduced relating to single sales or trading hours when students leave school (i.e. 3-4pm) as well as on-licence restrictions relating to the hour of sale associated with the strength of beverages and requirements to clean up litter in surrounding areas.

Discretionary conditions were also removed from the Provisional LAP following appeals. The Tauranga City and Western Bay of Plenty Councils opted to delete the discretionary conditions relating to single sales and product advertising on the shop front of an off-licence.

None of the 12 adopted LAPs contained provisions relating to single sales, although many included restrictions relating to the sale and strength of beverages within on-licensed premises. Table 11 shows that, when compared to on-licences, there were fewer discretionary conditions for off-licensed premises.

Table 11. Discretionary conditions in adopted Local Alcohol Policies.

	On-licence	Off-licence
Eastern Bay of Plenty - Kawerau, Opotiki, Whakatane	<p>Refers to Section 110(1), relating to:</p> <ul style="list-style-type: none"> • provision of alcohol to prohibited persons (e.g. additional security staff after a particular hour, restrictions on the time and size or 'last orders' and queue management). • the management of the premises (e.g. CCTV, exterior lighting, minimum seating and restrictions on the use of outdoor areas). • people to whom alcohol may be sold or supplied (e.g., training requirements for bar staff). 	<p>Refers to Section 116(1), relating to:</p> <ul style="list-style-type: none"> • the sale or supply of alcohol to prohibited persons (for example, the display of safe drinking messages/ material and the suitable designation of all bottle stores to ensure unaccompanied minors do not enter) • people to whom alcohol may be sold or supplied
Gore, Invercargill, Southland District	<p>More than 20 conditions relating to:</p> <ul style="list-style-type: none"> • Premises layout and design • Host responsibility - including ten minutes of no service every hour / Limits on number of drinks sold at one time / No shots after midnight • Amenity and good order - including the requirement to clean outside premises and surround • Management of incidents and staffing • CPTED principles 	<p>Conditions apply to all licences, although most would appear to relate to on-licences only.</p>
Lower Hutt City (Hutt City)	<p>Includes 16 conditions, including:</p> <ul style="list-style-type: none"> • more restrictive closing hours • staffing and number of duty managers • incident reporting • removing litter prior to closing 	<p>Supervised designation of all bottle stores to ensure unaccompanied minors do not enter the premises.</p>
Otorohanga District	<p>Refers to Sections 110 of the Act</p>	<p>Refers to Sections 116 of the Act, including the requirement that at least 50% of store front glazing be transparent and no more than 30% of the external area of any side of the premises may contain alcohol related signage/advertising</p>
Ruapehu District	<p>Refers to Sections 110 of the Act, referring to:</p> <ul style="list-style-type: none"> • The provision of alcohol to prohibited persons. • Management of the premises. • The people to whom alcohol may be sold/ supplied. • Conditions imposing one-way door restrictions. • Requiring a manager to be on duty in clubs • The kind or kinds of alcohol that may be sold 	<p>Refers to Sections 116 of the Act, and includes the same provisions as described for on-licences.</p>
Tasman District	<ul style="list-style-type: none"> • One-way door' restrictions • The time entertainment finishes • Provision of additional security (staff) after 'x' hour • The installation and operation of CCTV cameras • Provision of effective exterior lighting • Restrictions on the size of servings and time of 'last orders' • Management of patrons queuing to enter the licensed premises • Restriction on the use of outdoor areas after 'x' hour • More restrictive trading hours for new licences • Application of the principles of CPTED principles 	<ul style="list-style-type: none"> • Supervised designation of all bottle stores to ensure unaccompanied minors do not enter bottle stores • Display of safe drinking messages/ material • Application of the principles of CPTED principles (e.g. lighting, internal layout, CCTV, staffing).

	On-licence	Off-licence
Tauranga City and Western Bay of Plenty	Includes 17 conditions, relating to: <ul style="list-style-type: none"> • security and staffing • restrictions on the size (e.g. 'doubles') and time of 'last orders', • no shots or particular types of drinks to be served after specified times. 	None
Thames-Coromandel District	<ul style="list-style-type: none"> • One-way door restriction • More restrictive trading hours relative to the location to sensitive facilities or neighbouring land use • Requiring a separate point of sale (for holders of on-licences and off-licences) • Defining specific maximum number of patrons to be permitted • Requiring a management plan for the management of patrons in outdoor areas • CPTED: lighting, CCTV. • Incident reporting and register • Licensed outside areas are to be monitored at all times. 	<ul style="list-style-type: none"> • More restrictive trading hours relative to sensitive sites and neighbouring land use • Requiring a separate point of sale • Display of safe drinking messages • No more than 50% of the main façade shall be devoted to alcohol product advertising • At least 50% of any store front glazing shall be transparent • Application of CPTED principles (e.g. lighting, CCTV, staffing, internal layout) • Incident reporting and register • Conditions that prohibit the access to the bottle stores by unaccompanied minors.
Timaru, Mackenzie, Waimate District	<ul style="list-style-type: none"> • Dedicated door security staff (Thursday-Saturday nights and for any event occurring at any Tavern, Hotel, Bar and Nightclub with ≥100 people) • Restrictions in outdoor areas • Proximity to sensitive sites • No shots or double spirit mixes should be sold from 30 minutes prior to closing. 	<ul style="list-style-type: none"> • Proximity to sensitive sites • Supervised designation for bottle stores to ensure unaccompanied minors do not enter bottle store premises.
Waimakariri District	<ul style="list-style-type: none"> • CPTED principles (staffing, lighting, CCTV) • Restriction on the use of outdoor areas • Noise control • One-way door restrictions • Extension of hours for premises in non-residential areas 	None
Waipa District	Refers to Section 110(1) and 117, including: <ul style="list-style-type: none"> • Prohibited persons • Management of premises • People or kinds of people to be served • Low and non-alcoholic beverages • Transport options • Exclusion of the public. 	Refers to Section 116(1) and 117, including: <ul style="list-style-type: none"> • Prohibited persons • People to be served and kinds of alcohol to be sold • Display of nationally consistent safe drinking messages/material • Application of CPTED principles (CCTV, internal layout, staffing and lighting) • At least 50% of any store front glazing shall be transparent, and no more than 30% of the external area of any side of the premises may contain alcohol related signage or advertising • External signage must comply with the District Plan.
Waitomo District	Same as above	Same as above

x. Total number of changes made during the policy development process

Table 12 shows the number of substantive changes made by Territorial Authorities across the LAP development process which had an effect of being more or less restrictive on the operation of licensed premises. Most changes were found to result in a less restrictive policy measure. Upon further examination, all policies which were strengthened (i.e. became more restrictive) occurred from the Draft to Provisional stage, and not following appeal. Of the 48 draft and 41 Provisional policies, the largest proportion of changes were made in relation to off-licence and on-licence trading hours, which together comprised almost half (47%) of all major changes made to date.

Table 12. Number of changes (affecting any Territorial Authority) in LAP provisions to date.

	More restrictive	Less restrictive	Total
Location			
Broad areas	1	4	5
Proximity to kinds of premises	0	6	6
Proximity to kinds of facilities	5	13	18
Further licences	1	9	10
Trading hours			
On-licence ^a	11	19	30
Off-licence	18	30	48
Club licence	8	8	16
One-way door policy	0	19	19
Discretionary conditions ^b	4	9	13
TOTAL	48 (29%)	117 (71%)	165

^a includes changes made to restaurant and CBD-specific hours

^b only includes major changes made, not minor amendments to conditions

Discussion

In Aotearoa New Zealand, efforts to increase community input into licensing decisions have resulted in the responsibility for several evidence-based policy measures to reduce alcohol-related harm being devolved to local government. In particular, the Sale and Supply of Alcohol Act 2012 provided for local government to control the physical and temporal availability of alcohol, through controlling the density and location of licensed premises as well as their maximum trading hours. Devolvement of decision-making to strengthen the hand of local government and the community has also been found in a number of other countries, including Norway, Belgium, France, Sweden, Finland and the United Kingdom [25-28]. For some countries, this has also been prompted by the presence of free-trade agreements and harmonisation of law and regulations (e.g. European Union) which limit the scope of policies to be set at a national level [29].

The strong evidence pertaining to the harmful effects of high alcohol outlet densities [30, 31] and long trading hours [32-35] highlights the significance and potential of strong local alcohol policies as levers to achieve harm reduction [36]. The devolvement of policy making to local authorities also enables decisions to be appropriately tailored to the cultural, economic, and physical factors which give rise to regional variation in alcohol consumption and harm [37]. For example, variation in age structures, population density, geographic size and location (urban/rural), access to transportation networks, ethnicity, land use, deprivation, social organisation, amenity and good order, and drinking patterns across local government areas may play a role in the substantial variation in relationships between alcohol outlet densities and social harms demonstrated in New Zealand and across other geographic contexts [38-41]. In New Zealand, the population groups shown to experience the most harm as a result of high outlet densities in their local areas are young Māori and Pacific people, young European females, and middle-aged (55-64) and older males (75 and above) [42]. This variability underscores the importance of locally-specific policies to be developed [38]. Furthermore, controlling the density of outlets also has the potential to address the economic availability of alcohol in a neighbourhood. High outlet densities, particularly in areas of high deprivation [43] and/or with high numbers of large chain outlets [44], have been shown to be associated with lower prices of alcohol. This presents particular concerns given the overall increasing affordability of alcohol in the New Zealand context [45] and price sensitivity of low income groups [31].

Enabling local communities to be involved in decision-making is also ethically and morally appropriate. Alcohol problems in the community are experienced personally [46], with the community shouldering the majority of the types of harms outlined in the Sale and Supply of Alcohol Act. Moreover, creating healthy policy and engagement in democracy is a cornerstone of the Ottawa Charter for Health Promotion [47], whereby community participation and empowerment are essential components of increasing control over one's life [48]. As demonstrated in this review, in some local areas, community voice in the submission process was found to be overshadowed by a large number of industry submissions, some of which were later found not to be genuine.

The findings in this review demonstrate considerable variation across Territorial Authorities with regards to Local Alcohol Policy development. Over one-quarter (28%) of Territorial Authorities, covering 678,020 residents, had not progressed to develop and notify a Draft LAP. Māori were more likely than any other ethnic group to reside in a Territorial Authority which has not progressed to developing a LAP, having important implications for health equity. Future research could seek to explore the reasons why Territorial Authorities have yet opted to undertake LAP development. It would be concerning if the absence of a policy led to an increase in alcohol availability, resulting from the national default trading hours in the Act extending beyond the trading hours which were previously in operation across the Territorial Authority.

Over one-quarter of Territorial Authorities had adopted and implemented (or were within the process of enacting) a Local Alcohol Policy. The highest reach of adopted policies was found for Māori and European populations, with Pacific populations among the least likely to be 'protected' by a Local Alcohol Policy. The length of time taken to adopt a LAP was found to be substantial, likely due to the time taken for the first LAP appeal hearings (Tasman District Council and Wellington City Council) to be completed and decisions to be issued by ARLA. Communication with Territorial Authorities also revealed that the upcoming Local Government election in October 2016 was also likely to close a window of opportunity to adopt or progress policies. Such delays in LAP development also have flow-on effects, whereby individual licensing decisions are delayed [49] whilst the DLC awaits an adopted LAP to give guidance regarding maximum trading hours.

The majority of Territorial Authorities were found to have developed a Provisional LAP and were awaiting a public hearing or adoption of a revised Provisional LAP by ARLA. Of the 48 Territorial Authorities which developed policies, 18 opted to complete a joint policy with neighbouring authorities. This resulted in a total of seven joint policies, of which four progressed to being adopted and implemented. The advantages and disadvantages of joint policy making processes are unknown and could be further investigated. It is possible that residents of Territorial Authorities with joint policies may be less likely to experience any negative spill-over effects, whereby the implementation of weaker policies in one authority has effects in nearby authorities [50]. For example, New Zealand research [51] has found that surrounding areas experience greater harms, including traffic offences, dishonesty offences, anti-social behaviour, violent offences and property abuses as a result of neighbouring high levels of outlet density. Consequently, the effects of residing in a Territorial Authority which has restrictions in their LAP to limit outlet density may be diluted if a nearby authority has no policy in place, or has weaker restrictions. Alternatively, some protection may be afforded to those who live in a Territorial Authority without a LAP but who also live in close proximity to a Territorial Authority which has a strong policy. Such spatial effects need to be considered in the evaluation of local alcohol policy efforts.

Many of the Territorial Authorities undertook a comprehensive assessment of alcohol-related issues in their region in order to inform the development of their Draft LAP. Section 78 of the Act requires that, in the development of their Draft LAP, each Territorial Authority must have regard to the demography of its residents and tourists/holidaymakers, the overall health indicators of its residents, and the nature and severity of alcohol-related problems. The Territorial Authority must also consult with Police, inspectors, and the Medical Officer of Health in the drafting of the policy. As a result, the Auckland Council Draft LAP (for example) is underpinned by a 94-page research report, providing a comprehensive overview of alcohol availability, consumption, and related harm within the Auckland Council boundaries. This report is likely to have ongoing use for many organisations working to reduce alcohol-related harm in the Auckland area. Similar to many other Territorial Authorities, Auckland Council

also undertook a public survey to understand community perceptions of alcohol-related harm and availability. Therefore, many of the Draft LAPs which were underpinned by a robust collection of alcohol-related data could be considered to best reflect an evidence-based local alcohol policy.

It is uncertain whether a Health Impact Assessment (HIA) was used to underpin the development of the Draft LAPs. HIAs can identify the potential impacts of the Draft LAP on the health of the population [52] and for this reason, the Health Promotion Agency developed a guide to undertaking HIA for local alcohol policies [53]. Future research could explore the barriers and facilitators to employing the HIA process in relation to local alcohol policies.

Addressing the physical availability of alcohol

Few draft policies were found to include provisions which restricted the physical availability of alcohol in relation to broad areas, beyond the requirements as prescribed within the relevant District Plan. Only three draft policies contained broad area provisions which were more restrictive than the relevant district plan; a moratorium on new bottle stores in areas of Deprivation level 8 or greater (Rotorua District Council), no new off-licences in priority overlay areas for 24 months (Auckland Council), and no new bottle stores in neighbourhoods or local centres (Selwyn District Council).

Justifications for the exclusion of location restrictions were provided in Council minutes and policy documents, and centred on the ability of the DLC (under the Sale and Supply of Alcohol Act) to consider the effects of a licensed outlet on the amenity and good order of the locality and the purposes for which land near the premises concerned is used. Some Territorial Authorities [21-23, 54] were concerned that:

“general restrictions on the location of premises may lead to unintended and undesirable consequences such as a ‘cluster’ of licensed premises located just outside an area where premises are not permitted.”

Relying on the provisions of the Act to control location on a case by case basis could result in further strain on communities (particularly those communities which contain sensitive sites and/or high numbers of outlets) to stay informed of licence applications, collect relevant evidence to object where necessary, and attend DLC hearings. In contrast, provisions set in a LAP could greatly reduce the burden on communities to deal with each licensed premises application as they arise. Relying on the District Plan to control location also has disadvantages, given these plans are not explicitly developed to address alcohol-related harm. Furthermore, a District Plan is only required to be reviewed every 10 years, and that is only once it becomes operative (which can take many years to occur as a result of lengthy appeals). Concern has been expressed previously about the inability of the Resource Management Act and district planning processes to take the social impacts into account when making decisions on location, as a result of prioritising an ‘environmental bottom line’ [55], rather than addressing an inequitable distribution of alcohol outlets [56].

None of the adopted policies to date were found to contain provisions which restricted the location of outlets in broad areas. Only Auckland Council’s Provisional LAP, which is awaiting an appeal hearing, contained specific measures to protect broad areas, or priority overlays as they are referred to in the policy. For example, a freeze on the issuing of off-licence applications in the priority areas for a period of 24 months is proposed. Rotorua Council’s moratorium of outlets in deprived areas in the Draft LAP was removed, whilst Selwyn Council’s Provisional LAP restriction of outlets in neighbourhood centres was deleted when it was revised following negotiation with

appellants. The proposed priority overlay areas in the Auckland Council Provisional LAP mirrors the approach used in the United Kingdom (UK), whereby changes made to the Licensing Act 2003 permitted local authorities to implement Cumulative Impact Policies, which strengthened local powers to restrict the growth of alcohol outlet density in broad areas [27]. Many local authorities in the UK chose to adopt these areas, or zones, which provide for a rebuttable presumption that new no licences (or modifications to existing licences) would be granted unless the applicant could demonstrate that the licence would not violate the licensing objectives. As such, this presents a reversal on the “normal burden of proof” [57], and is similar to the rebuttable presumption against the issuing of new licences included in Auckland Council’s Provisional LAP once the freeze period has ended. Legal challenges to the Cumulative Impact Policies in the UK ensued, with a magistrate court ruling to allow an appeal by a large supermarket chain against a refusal of a liquor licence. Despite this, an empirical evaluation of the Cumulative Impact Policies found that the local authorities with the strongest policies experienced greater reductions in alcohol-related admissions [26].

Territorial Authorities were found to be more restrictive in their draft policies with regards to the location of outlets relative to other licensed premises and/or sensitive sites. For example, many authorities proposed that no new licensed premises would be granted if they were in close proximity to other types of outlets, using a distance threshold to define ‘close proximity’. Other Territorial Authorities proposed provisions whereby issues of proximity to other licensed premises and sensitive sites would be considered in DLC decision-making. However, in practice, this mechanism is already provided for in Section 105(1, h-i) of the Act.

Minutes of Council meetings highlighted the perceived problems in developing proximity restrictions. Statements in the policy documents of Christchurch City Council, Nelson City Council, Tasman District Council, Marlborough District Council, and Hutt City Council all pointed to difficulties in creating a workable definition of proximity. For example, the minutes of the Hutt City Council stated [58]:

“There are practical problems with such an approach. For example, if you said no licensed premises can establish within 500metres of a sensitive site it could effectively mean that no suitable location would be available.”

Following submissions and appeals, many of the proximity restrictions were deleted in the policies, or watered down to such an extent that only the hours of operation could be considered in relation to an application for a premises in close proximity to a sensitive site. Porirua City Council’s Draft LAP requirement for a cumulative impact report to be completed when there are proximity issues was deleted, and even the requirement to “have regard to the issues of proximity” was deleted in the Tauranga/Western Bay of Plenty Provisional LAP following appeals. Of the adopted LAPs to date, the only provision pertaining to the proximity of licensed premises to other premises permitted the DLC to have regard to proximity where it considers it relevant. As stated previously, this is already provided for in the Sale and Supply of Alcohol Act.

A cap on the number of licensed premises (mostly off-licences) was proposed in more than one-quarter of the Draft LAPs. Of these, five policies progressed to a revised Provisional LAP or were adopted, of which two caps were deleted, leaving no restriction. Gisborne’s revised Provisional LAP removed the cap and replaced it with a provision for the DLC to consider whether an area is a high crime area when making licensing decisions. Hauraki District

Council amended the cap and replaced it with a rebuttable presumption that no new off-licences would be granted in the major towns in the region unless the applicant could demonstrate that they would deliver significant social and other benefits (including economic) to the community. Only Waikato's revised Provisional LAP maintained a cap on the number of standalone bottle stores in the urban areas of Ngaruawahia, Huntly, and Raglan. In total, there will be seven bottle stores across these towns for the period of the local alcohol policy.

Overall, many of the strong measures proposed to control the physical availability of alcohol did not survive the appeals process. Any proximity restrictions adopted to date were found to be generally small and only applied in relation to very close proximity (40-100m) to sensitive sites. Furthermore, as the policies only apply to new licence applications and not to existing premises at the time of the policy, the overall impact on outlet density would likely be low.

The lack of density provisions in the adopted policies has significant implications for health equity and obligations to protect Māori health under the Treaty of Waitangi. Māori, Pacific peoples, and those of lower socio-economic position experience disproportionate harm from their drinking, and suffer the greatest negative impact from a high density of alcohol outlets [42]. In order to improve Māori health and achieve equity it is recommended that policy makers prioritise Māori rights [59]. Completion of the Health Equity Assessment Tool [60] during the Draft LAP development process could greatly assist in understanding the impact of a policy on health inequalities. It may also signpost the importance of protecting the Marae as a sensitive site in relation to proximity to licensed premises.

Addressing the temporal availability of alcohol

Significant changes to trading hours were made during the policy-making process. In total, 78 changes were made to the proposed on-licence and off-licence hours, representing almost one-half of all changes made to the alcohol policies. Almost two-thirds (61%) of the changes related to off-licence trading hours.

The adopted closing hour for on-licences was commonly found to be 1am in residential areas and 3am in city centres. Of the five adopted policies with on-licence closing hours beyond 2am, two had mandatory one-way door policies. When compared to research which detailed permitted on-licence trading hours in seven Territorial Authorities prior to the Sale and Supply of Alcohol Act [61], the adopted LAP hours are found to be the same for some authorities or an increase beyond the former trading hours. Many policy documents referred to previous policies or the usual hour that premises closed (which may be well-before the permitted closing hour) to justify their policy positions. Alternatively, in the Tasman decision [62], the rationale for the proposed on-licence hours were “as a result of a “gentleman’s agreement” between the Police and the Motueka licensees, whereby on-licence premises in the Motueka area closed at 2am.” This agreement played a role in the Judge deciding that any extension in hours currently permitted would overturn the voluntary accord, and likely lead to an increase in alcohol-related harm.

When local authorities amended their alcohol policies in Norway, changes to the on-licence trading hours received the most of attention in the media and were found to generally result in an extension of hours which mirrored the maximum trading hours permitted in legislation [25]. This supports the suggestion that the process of local government alcohol policy making is centred on compromise [25], which prioritises the appeasement of all stakeholders involved in the process [63]. In the New Zealand LAP context, a compromise approach in the appeals process may be shown in the finding that many Territorial Authorities amended their trading hour policies by a limited extent (e.g. 30 minutes).

Many Territorial Authorities considered the impact of the LAP on the local economy, and linked the LAP with District Plan objectives (as required in the Act). For example, many District Plans include objectives which relate to the development of a vibrant and attractive city centre environment. Wellington City Council's LAP referred to their "Wellington Towards 2040: Smart Capital vision" strategy whereby one goal is for the CBD to continue to drive the regional economy. In the Wellington Provisional LAP (PLAP in decision) hearing, Judge Hole referred to the use of economic-driven goals in the development of a LAP:

[67] (d) ...PLAP had its genesis not only in an attempt to further the object of the Act but also to promote a "dynamic central city" and a "people centred city". This emphasis on the "dynamic central city" and "people centred cities" is evident, also, from Mr Dyhberg's evidence. Section 77 makes it clear that a PLAP is a very limited document. The contents of s.77 are all related in general terms to the safe and responsible consumption of alcohol and the minimisation of alcohol-related harm. They have nothing to do with the wider concerns expressed in the PLAP of creating a "dynamic central city" and a "people centred city".

In the policy documents of Nelson City Council, Christchurch City Council, Marlborough District Council, and Tasman District Council [21-23, 54] the "negative economic consequences" were considered in local alcohol policy decisions. Marlborough District Council, in their justification for not further restricting off-licence hours (beyond a 9pm closing), stated that it would be an "unreasonable restriction on shopping opportunities, lifestyle and commercial activity" [23]. Commercial reasons have been cited internationally in relation to licensing policies, with decision-makers in the United States concerned about the importance of alcohol sales to the local economy and the problems with interfering in the market [37]. Rossow et al. [25] also found that the media concentrated on the potential impacts of local alcohol policies on the economic and competition conditions within the hospitality industry.

The adopted LAP off-licence hours generally commenced at 7am, with four Territorial Authorities closing at 9pm, ten at 10pm, and five at 11pm (mirroring the national default trading hours). As described earlier, the majority of changes made in policies related to off-licence premises and generally resulted in an extension of trading hours. Upcoming appeals to Provisional LAPs around the country will assist to determine if the devolvement of decision-making relating to trading hours provides any real test of these evidence-based measures.

Despite the Sale and Supply of Alcohol Act permitting the use of discretionary conditions for licensed premises, discretionary conditions were nevertheless appealed. In the Tauranga/Western Bay of Plenty joint LAP the discretionary conditions for off-licences, relating to single sales and advertising, were deleted in the adopted policy. Interestingly, some Territorial Authorities were able to maintain their policy provisions relating to the cleaning of surrounding areas, whilst other authorities removed the provisions following appeals.

Appeals and hearings

The review found five key appellants to the Provisional LAPs, representing the various stakeholders in the alcohol industry. Supermarkets were represented by Progressive Enterprises and Foodstuffs, whereas The Mill Holdings, Super Liquor, and Independent Liquor were the major appellants to provisions relating to bottle stores. Many provisions were also appealed by the Medical Officer of Health in the relevant district. Similar to the experience in Norway [25], Facebook groups were also established whilst policies were being developed in order to rally support, emphasising the right to individual liberty (e.g. Save Dunedin Nightlife, Dance Till Dawn).

Of the Provisional LAPs notified to date, only one was not appealed. This policy, developed by Ruapehu District Council, excluded any restrictions pertaining to the number and location of licensed outlets and proposed to implement the national default off-licence trading hours (i.e. 7am to 11pm). On-licence hours were also close the national default hours, with 7am to 3am in the Waimarino, Waiouru, and National Park areas, and with no one-way door restrictions.

Media attention to the legal processes involved in developing local alcohol policies was highlighted:

“Hauraki Mayor John Tregidga says the supermarket chain made it clear from the start that legal action would result if the off-licence hours were not what it wanted. This was despite the fact that Hauraki’s two stores closed at 9pm anyway. The council had proposed 9am to 9pm based on the feedback from extensive community consultation.” [64]

Minutes of Tasman Council [22] noted that the appeals process was considered, among many other factors, in justifying whether or not to place more restrictive hours for on-licence and off-licensed premises in their policy. It was stated that more restrictive hours were not justified because of:

“The cost and time that may be associated with defending an appeal against the LAP, which is more likely if the LAP sets conditions that are considered unreasonably restrictive by any community or industry group.”

The appeals process raised many issues, especially in relation to the eligibility to lodge an appeal, the reductionist approach of the appeals process, and the types of evidence required to prove a policy element was unreasonable in the light of the object of the Act. In relation to the former, only those who submitted on an element of the Draft LAP were eligible to lodge an appeal. If an element (e.g. one-way door policy) was removed following submissions or appeals, there were no grounds for appeal. Those wishing to lodge an appeal were required to pay a fee of \$517.50, which may, or may not, have provided a financial barrier to community members or groups wishing to take part in the appeals process.

Secondly, appeals were required to be lodged in relation to a specific element of the LAP. This approach is likely to result in a LAP being perceived as a series of elements, rather than a package of evidence-based measures to reduce harm. It is likely that LAP elements work synergistically, resulting in a policy which is greater than the sum of its parts. Reducing appeals to individual elements may give an effect of “not seeing the forest for the trees”.

Thirdly, evidence to claim a policy element was unreasonable in light of object of the Act was fiercely debated. Conflicting views pertaining to evidence were expressed throughout the local alcohol policy process, with health agencies traditionally using scientific evidence to support their claims [65]. However, the Tasman District Council decision [62] pointed to the importance of ‘local’ evidence:

[53] A LAP is just that. It is not a national policy and evidence of national characteristics will seldom be of value except to provide a background for evidence of local issues. It is a local policy prepared by local people who know and understand the local problems in their locality. The criteria in s.78(2) reinforce this view.

Further, in the Wellington City Council decision national evidence was stated to have “minimal value”, adding that [66]:

[45] *The Authority is not dealing here with national trends (which is the province of the legislation) but with the specific alcohol-related problems associated with Wellington City.*

[66] *... Authority has indicated in this decision that the academic research and evidence based upon it was only relevant to international or national issues and had little or no relevance to whether or not a PLAP was unreasonable in the light of the object of the Act given its application to local circumstances and conditions.*

In the absence of local evidence, the precautionary principle was supported. In the Tasman District Council decision it was noted [62]:

[54] *The territorial authority does not need to be sure that a particular element of its PLAP will minimise alcohol-related harm. This can be deduced from the judgment of the Court of Appeal in My Noodle Ltd v Queenstown-Lakes District Council [2009] NZCA 564; (2010 NZAR 152 at paragraph [74]). A precautionary approach can be used to see if it will achieve the statutory object.*

[56] *The playing field is not an even one. It is weighted against an appellant in favour of the territorial authority. This is not because of any presumption that a PLAP is reasonable in the light of the object of the Act. Rather, it arises from the onus on an appellant, if it is to succeed, to satisfy the Authority on what is a negative proposition. That is more difficult than establishing a positive one. Further, the proportionality approach is weighted against an appellant because the PLAP does not have to achieve the statutory object: rather it must constitute an attempt to do so and can employ the precautionary principle described in My Noodle (supra) at paragraph [74].*

Evidential debates in licensing decisions are not unique to New Zealand. In the UK, authorities can only consider evidence that relates directly to a premises in question. The linking of problems relating to a particular premises or cumulative impact zone are perceived to be issues generating heated discussion, with different types of evidential claims being submitted [27]. Evidence relating to a particular premises is given greater legal weight, making it less vulnerable to appeal. In both the UK and New Zealand contexts, this presents significant challenges for the use of routine health data as it can rarely be linked to a licensed premises. As such, it is more likely to be considered irrelevant within licensing decisions [57, 67].

In contrast, the experience in both New Zealand and the UK shows that the alcohol industry seeks to play a role in providing the necessary local ‘evidence’, through demonstrating that their operators act responsibly or that areas in which licensed premises operate (or wish to operate) experience low levels of harm [27, 62]. When Cumulative Impact Policies were challenged in the UK, the industry made claims that they were “creating jobs” and “investing in the community”, or that on-licences were important “food-led” establishments, where community members could come together to “simply have a glass of wine with food” [27]. In the New Zealand LAP appeal hearings, Hospitality New Zealand made the following claim in their appeal of the Tasman District Council Provisional LAP [62]:

[59] *The appellant called evidence from three on-licensees. One of those has licensed premises in Collingwood. The next has licensed premises in Murchison and the third has licensed premises in Richmond. In each case, the evidence was that the premises are well conducted and on occasion each of the premises closes at 3.00 am.*

The evidentiary requirements for local data has significant implications for local alcohol policy development. It is suggested that this necessity requires a fundamental shift in the traditional gathering of local health data [57], so that non-health sectors can develop effective policies which improve health. The Cardiff Model has been recommended as a pioneer in the production of detailed local health data [57], whereby anonymized data on

alcohol-related injuries is linked to the precise location of where the injury occurred [68]. The recent advancements in Geographic Information System methodologies are believed to offer great promise to the development of spatially-informed alcohol policies [69].

The demonstrated shift in the strength of policies over the course of policy development may reflect how power (i.e. influence on the policy process) is distributed in the policy making process [63]. Prior research in New Zealand has shown that even when local policies to control the sale and supply of alcohol had no legislative power or mandate, the alcohol industry still had a significant presence in the debate [63]. This concurs with evidence from the United States [37], whereby the decision-makers who were able to adopt stronger controls on high-strength beer in their cities were reported to be strongly supported by a public mandate, and more resistant to industry opposition and potential threat of legal challenge. In contrast, those that did not implement policies were found to be more likely to favour industry arguments. In England and Wales, many authorities have abandoned their policies due to the threat of legal challenge [67].

The adoption of the Consent Order process, followed by ARLA's Practice Note regarding the need for a substantive hearing following amendments to a Provisional LAP, appeared to set forth a different path of policy development for many Territorial Authorities. Since the first use of the Consent Order process in late 2014, there has been a halt in lengthy appeal hearings. The Thames-Coromandel and Tasman cases, which both dealt with one element being appealed, took two and three days of public hearing, respectively. The hearing for Wellington's Provisional LAP, which had many more elements appealed, took eight days. However, following the first use of the Consent Order process by the Tauranga and Western Bay of Plenty Councils, many other Territorial Authorities have opted to take this route. As described earlier, this process excludes open debate regarding policy elements in a formal setting and does not permit relevant case law to be established. Although Consent Orders are not 'rubber stamping' processes, they have appeared to be popular in local alcohol policy making.

This type of mediation or negotiation process is not unique to Local Alcohol Policy processes. For example, the settlement of disputes is encouraged within Section 268(1) of the Resource Management Act 1991 (Section 268(1)). In relation to Environment Court pre-hearings and mediation, the advantages and disadvantages have been fully described. Zeinemann [70] summarises some of the relevant advantages, including a promotion of understanding of other peoples' perspectives, reduced court caseloads and expenses, and restoring the influence of community values. In contrast, the disadvantages are seen to stem from resource and power imbalances which are commonplace in mediation [70, 71]. Powerful parties are suggested to impose their will on weaker parties, in a setting which is more informal and providing fewer safeguards than more formal hearings [70]. In addition, it is suggested that the focus of mediation on individual disputes hides the issues from public view and scrutiny, many of which have significant societal implications [70, 71]. Finally, a pre-hearing process which subsequently fails can be financially, practically, and emotionally costly to the parties [72]. For these reasons, scepticism remains whether one can protect the public interest in a process which occurs outside the limelight of a public hearing [71]. The private nature of mediation is also likely to have significant implications for the prioritising of indigenous rights in New Zealand, particularly the enhancement of tino rangatiratanga (Māori self-determination) and oritetanga (protecting Māori health and achieving health equity), if Māori are not adequately represented in the mediation process. Previous attention has been drawn to the importance of effective mediation processes in New Zealand to enable genuine iwi participation [73].

The negotiation process also had significant implications with regards to the shifting of the burden of proof, especially once a Provisional LAP had been revised. For example, many industry appellants negotiated with Territorial Authorities to amend (i.e. increase) the Provisional LAPs trading hours, outside of the formal hearing process. The revised Provisional LAP was then notified and the 30-day process commenced for those wishing to lodge an appeal. The burden of proof now lay with those seeking reduced hours in the LAP to prove the unreasonableness of the amended element. For many organisations working in harm reduction, the limited local evidence available to show the difference in harm when hours are extended by 30mins or an hour precluded the lodging of an appeal.

Prior to the implementation of the Act concern was expressed as to whether the provision for the development of Local Alcohol Policies would empower communities or rather be subverted by commercial interests [74]. This review has shown that in many cases the provisions in the Draft LAP were watered down, or removed altogether. Where provisions were in place within adopted policies, many of them closely aligned with national legislation. The lack of provisions in policies results in licensing decisions which need to be made on a case by case basis, placing substantial burden on communities to be involved in the DLC licensing process. Experience from the first year of the new Act has shown significant variation across DLC practices, including interpretations of the Act and evidential requirements [65]. Furthermore, it is unknown whether communities have perceived the LAP process to be a positive or negative experience. If the latter is shown to be true, this may lead to lower levels of participation in future decision-making processes [75], including licensing decisions. This is of concern, given the recent findings that New Zealanders already have low levels of trust in local government [76], especially in relation to displaying sound and effective leadership [77].

Strengths and limitations

This review provides a descriptive analysis of the local alcohol policy process to date. As shown, only 15% of the population are currently covered by a local alcohol policy, leaving 85% of the population subject to the default provisions in the Sale and Supply of Alcohol Act until a LAP is adopted. The adopted LAPs to date may not be representative of all LAPs to be subsequently adopted, especially as the appeal hearings for the Provisional LAPs in New Zealand's largest urban areas are yet to occur. In addition, it is possible that the Revised Provisional LAPs may still be appealed, and hence may change from what is presented in the current review.

Information for the review was collected from Council minutes and websites. The accuracy and veracity of this data could not be determined. Furthermore, it is not possible to adequately determine the extent to which community concerns were upheld in the policy making process given that individual submissions on each policy were not reviewed. However, in many policy documents and minutes it was clearly evident that Territorial Authorities wished to uphold their community concerns which called for tight restrictions on the availability of alcohol. The number of submissions to the Law Commission advocating for more restrictive measures also signals the direction the community wanted to take in terms of alcohol availability. Importantly, research has been funded in New Zealand [78] which will greatly assist to quantify the level of involvement of the community, including iwi, in the local alcohol policy process. This research will also identify how the previous alcohol policies and strategies operational in some Territorial Authorities prior to the new Act compare to the LAPs recently developed. Of particular importance, the study will assess the impact of LAPs on indicators of alcohol-related harm.

Conclusion

This review has demonstrated the inherently complex politics of alcohol policy formulation in Territorial Authorities across New Zealand. The new Act brought promises of increased community input into decision making, but for many New Zealanders this is yet to be realised. In reality, the new Act devolved responsibility, but not power. As a result, many of the adopted LAPs to date closely align with national legislation, providing no real test of the effectiveness of local measures. The lack of provisions within many of the adopted LAPs reinstates a significant burden on communities to be involved in individual licensing decisions. This places an increased onus on each District Licensing Committee to make sound licensing decisions which reflect the needs and aspirations of the community, so that any positive benefits of bringing alcohol control back to the community can be realised.

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