



Christchurch City Council

**ALCOHOL POLICY AND
LIQUOR CONTROL BYLAW SUBCOMMITTEE
AGENDA**

THURSDAY 2 APRIL 2009

AT 2PM

IN COMMITTEE ROOM 3, CIVIC OFFICES

Subcommittee: Councillor Sue Wells (Chairperson),
Councillors Helen Broughton, Sally Buck, Ngaire Button, Yani Johanson, Claudia Reid,
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(I) APOLOGIES

(II) ALCOHOL POLICY AND LIQUOR CONTROL BYLAW SUBCOMMITTEE

- 1. SALE AND SUPPLY OF LIQUOR AND LIQUOR ENFORCEMENT BILL**
- 2. TERMS OF REFERENCE OF THE ALCOHOL POLICY AND LIQUOR CONTROL BYLAW SUBCOMMITTEE**
- 3. TIMETABLE FOR THE REVIEW OF THE ALCOHOL POLICY**
- 4. SIGNIFICANCE POLICY ASSESSMENT**
- 5. SCOPE OF LOCAL ALCOHOL PLANS (LAPS) UNDER THE BILL**
- 6. RESEARCH AND INFORMATION NEEDS**
- 7. ENGAGEMENT**

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Meeting of the Alcohol Policy and Liquor Control Bylaw Subcommittee
2 April 2009

Agenda

1. Sale and Supply of Liquor and Liquor Enforcement Bill (*for information*)
2. Terms of reference of the Alcohol Policy and Liquor Control Bylaw Subcommittee (*for discussion and decision*)
3. Timetable for the review of the Alcohol Policy (*for discussion and decision*)
4. Significance Policy assessment (*for information*)
5. Scope of Local Alcohol Plans (LAPs) under the Bill (*for discussion and decision*)
6. Research and information needs (*for discussion and decision*)
7. Engagement (*for discussion and decision*)

1. Sale and Supply of Liquor and Liquor Enforcement Bill

The Bill amends the Sale of Liquor Act 1989, the Summary Offences Act 1981, and the Land Transport Act 1998 to implement recommendations arising from recent reviews of the sale and supply of liquor to minors, and sale of liquor and liquor enforcement issues. It also introduces a new system of enforced self-regulation of alcohol advertising.

In the context of increased consumption of alcohol by minors, the policy objectives of the Bill are to:

- support a more moderate drinking environment and culture to reduce the normalisation of youth drinking
- enhance the responsibility of friends and adults who supply alcohol to minors
- increase youth responsibility and accountability
- improve compliance and responsibility of industry
- increase community input into licensing decisions, and
- clarify the types of premises that may hold off-licenses.

One significant change proposed by the Bill is the introduction of a provision allowing councils to develop Local Alcohol Plans (LAPs), and adopt them using the Special Consultative Procedure (as set out in the LGA 2002). This would increase community input into licensing decisions. [*note LAPs will also be covered in agenda item 5*]

Attached is the Bills Digest for the Sale and Supply of Liquor and Liquor Enforcement Bill, prepared by the Parliamentary Library to summarise the bill.

Preparation of Council's submission

Submissions have been called for by the Justice and Electoral Committee and must be received by Thursday 23 April. The purpose of today's agenda item is to give a quick summary of the proposals ahead of the full Council workshop planned for 9 April and to raise the scope of the Bill in relation to the review of the Alcohol Policy.

Wider context

Development of the Bill

The Bill was originally prepared by the Labour Government before the General Election in November 2008. It has since been adopted as a Government Bill by the new National Government.

Recent related bill - Hon George Hawkins' private members' bill

Last year the private members' bill Sale of Liquor (Objections to Applications) Amendment Bill was prepared by Hon George Hawkins. The Council made a submission on this bill, which proposed allowing wider opportunity for people to object to applications for liquor licenses. Submissions to the Social Services Committee on this Bill were held over and will be considered by the Justice and Electoral Committee as part of its consideration of the Sale and Supply of Liquor and Liquor Enforcement Bill.

Law Commission review

In August 2008, the Law Commission was charged with undertaking a comprehensive review of the regulatory framework for the sale and supply of liquor. The review will examine and evaluate current laws and policies relating to the sale, supply and consumption of liquor in New Zealand.

The Law Commission is an independent crown entity funded by government. It is a central advisory body established by statute to undertake the systematic review, reform and development of the law of New Zealand.

One issue the Commission will be examining is whether the pendulum has swung too far in the direction of liberality and the availability of alcoholic drinks.¹

The Minister of Justice, Hon Simon Power, has asked the Law Commission to expedite the review, which was due to be completed in 2011. The Commission will now be releasing a discussion document in the middle of 2009 and a final report in mid-2010. This may well lead to a bill, which could be introduced before the end of 2010.

2. Terms of reference of the Alcohol Policy and Liquor Control Bylaw Subcommittee

The Subcommittee was established by Council at its 29 May meeting in 2008. The membership of the Subcommittee is the same as that of the Regulatory and Planning Committee.

The terms of reference for the Subcommittee are:

"To work with staff to carry out the initial review of the Alcohol Policy and Liquor Control Bylaw, and consider other measures (regulatory and non-regulatory) the Council could adopt to address liquor related behavioural problems and make recommendations to the Regulatory and Planning Committee"

Discussion and decision: Are these terms of reference still appropriate/relevant?

3. Timetable for the review of the Alcohol Policy

A timetable for the review of the Alcohol Policy was agreed by Council at its 28 May 2008 meeting, but was then replaced by a timetable agreed at the 14 August 2008 Council meeting. The timetable agreed at the 14 August Council meeting is now out of date.

Timetable agreed at the 14 August 2008 Council meeting

Policy review – liquor licensing	Timing
Early stages of policy development occurs alongside development of bylaw	Now onwards
Any relevant information arising from submissions and hearings on the bylaw is fed into the policy development process	Alongside bylaw process
General agreement from Subcommittee on the form and coverage of the revised policy	Early 2009 – Feb/Mar
Draft policy text agreed by the Subcommittee	Mar/Apr 09
Draft policy considered by Regulatory and Planning Committee – for recommendation to Council	Meeting in April 09 (report submission deadline Mar/Apr 09)
Draft policy adopted by Council – for consultation	Meeting in May 09 (report submission Apr/May 09)
Consultation(and hearings?)	Jun/Jul 09 (depending on date of Council approval and whether or not hearings are held)
Final policy approved by Council	Meeting in Aug 09 (report submission deadline Jul 09)

¹ Speech given by Rt Hon Sir Geoffrey Palmer at the PAN Liquor Industry Symposium in Auckland on 24 February 2009.
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Current draft timetable (April 2009)

This would see the draft policy agreed by Council before the end of 2009, with consultation in the new year.

Timetable:	Early February	Project team meets and begins work
	April	Subcommittee reconvenes and meets until draft policy is agreed
	(at the very latest...)	
	September	Policy and report finalisation
	5 October	Regulatory and Planning Committee report submission deadline
	5 November	Regulatory and Planning Committee meeting – consideration of draft policy for recommendation to Council
	26 November	Council meeting – consideration of draft policy for adoption for consultation
	Feb/Mar 2010	Public consultation (using Special Consultative Procedure)
	April 2010	Public hearings
	May 2010	Hearing panel report to Council

An alternate response would be to adopt the draft policy in 2010 (February), consult through March/April, hold hearings in May and have the hearing panel report to Council for consideration by the Council at the June or July meeting. This would mean having the wording finalised by November, rather than September.

Timetable:	Early February	Project team meets and begins work
	April	Subcommittee reconvenes and meets until draft policy is agreed
	(at the very latest...)	
	November	Policy and report finalisation
	January 2010	Regulatory and Planning Committee report submission deadline
	February 2010	Regulatory and Planning Committee meeting – consideration of draft policy for recommendation to Council
	February 2010	Council meeting – consideration of draft policy for adoption for consultation
	Mar /Apr 2010	Public consultation (using Special Consultative Procedure)
	May 2010	Public hearings
	Jun/July 2010	Hearing panel report to Council

Note: the next local body elections will be held on 9 October 2010 (second Saturday in October).

Discussion and decision: Which timetable should the Subcommittee recommend to the Regulatory and Planning Committee, for adoption by Council?

4. Significance Policy assessment

This policy is about determining the significance of the decisions to be made by Council. At this point, the review of the Alcohol Policy is at a very early stage and consequently, for a number of areas in the checklist, it is not clear what decision the Council will actually be faced with. This is therefore only an initial assessment of significance. Further assessments against the Policy on Determining Significance should be carried out as the review of the policy progresses.

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Significance		High/ Medium/ Low
Impact on social, economic, environmental or cultural wellbeing	Depending on the outcome of the review the policy could have a moderate to large impact on social well being over time through changes to the availability of alcohol and controls around it. The review could have a considerable impact on the economic well being of some businesses in the City (largely those selling alcohol). The impact on the overall economic well being of the city is more uncertain. If successful the policy review could help to reduce vandalism and broken glass in the city and consequently have a positive impact on environmental well being.	Medium to high
Impact on Council's capacity	Depending on the outcome of the review and subsequent policy it could have a significant impact on the Liquor Licensing operations of the Council and possibly a lesser impact on other activities. In terms of the overall capacity of the Council however the impact is likely to be relatively small.	Low
Alignment with the LTCCP or Annual Plan	The policy review is unlikely to make any major difference to the degree of alignment with either the 2006-16 LTCCP or the 2009-19 Draft LTCCP.	Low
Expenditure required and magnitude of the decision in terms of its net cost to the Council	The review of the policy is unlikely to trigger the financial thresholds for significance i.e. \$5m capital or \$1m operational.	Low
Potential effects radically different	It is difficult to gauge this at this early stage of the policy review process. The fact that the Council is choosing to review the policy suggests there is at least some inclination to change from the existing policy. How different the effects will be under the new policy is difficult to judge. Suggest rating as medium at this point.	Medium
Degree of controversy	The further the reviewed policy departs from the existing policy the more controversial it is likely to be. A number of active stakeholders that would like to see greater control of liquor licensing through the policy are already apparent. Similarly a number of stakeholders that could have their economic well being directly affected by greater controls are also apparent. Wider public opinion of the policy is probably not so clear at this point. The fact that there are strong views on both sides of the argument suggests the policy review will have a high degree of controversy.	High
Reversibility of the decision	The decisions coming out of the policy review will be reversible by the Council (having applied a suitable process).	Low
Certainty of information	A significant proportion of the information used in the review will be quite certain (e.g. records of number of licenses issued, statistics on the number of offences in which alcohol is a factor). Some information may be less certain or difficult to obtain (e.g. the amount of alcohol actually being sold in the city, health impacts of alcohol and how they relate to licensing). There is some information for which the degree of certainty is unknown at this stage in the review (e.g. the relationship or causality between the number of liquor licenses and/or hours of opening and the amount of alcohol sold, offences committed or harm caused). Suggest it is rated medium at this stage.	Medium
Impact on strategic assets	Little if any impact.	Low

Significance		High/ Medium/ Low
Change to mode of delivery of a group of activities	No change in mode of delivery.	Low
Change to level of service of a group of activities	There are no levels of service specific to liquor licensing in the 2006-16 LTCCP. In the Draft 2009-19 LTCCP the following Level of Service in relation to Liquor Licensing is included. All high-risk liquor premises (assessed using CCC Liquor Licensing Team risk assessment methodology) are inspected at least twice a year. The policy review is unlikely to lead to a change in this level of service.	Low
<u>If this is a significant decision in relation to land or a body of water</u>	NA	Low
Any other relevant matters	NA	Low
Should the proposal be decided through LTCCP (or amendment)?	No	Low

Summary

Whilst there are quite a few areas in the checklist for the Policy on determining Significance that score low, there are a few which score medium and high. On the basis of these medium to high ratings and particularly around the potential for the policy to be controversial it is suggested that the policy review be rated medium to high at this initial stage.

It should be noted that the Policy on determining Significance in the Draft 2009-19 LTCCP is significantly different to the current one. The policy review and consequently the Council decisions will be made after the 2009-19 LTCCP has been adopted. As a result the decisions to be made will need assessing against the new policy in due course.

5. Scope of Local Alcohol Plans (LAPs) under the Bill

The Sale and Supply of Liquor and Liquor Enforcement Bill contains a provision allowing councils to develop Local Alcohol Plans (LAPs), and adopt them using the Special Consultative Procedure (as set out in the LGA 2002). The scope of LAPs is specified in the Bill. The Bill states:

Section 84A: Territorial authorities may adopt local alcohol plans

A territorial authority may at any time, by using the special consultative procedure,—

- (a) adopt a plan relating to the sale or consumption of alcohol within its district, or any part or parts of its district; or
- (b) amend any local alcohol plan it has adopted; or
- (c) revoke any local alcohol plan it has adopted, and adopt another in its place; or
- (d) revoke any local alcohol plan it has adopted without adopting another in its place.

Section 84B: Contents of local alcohol plans

A local alcohol plan may include requirements relating to any or all of the following matters (in relation to outlets for the sale of liquor generally, outlets for the sale of liquor holding a licence of any particular kind, or both):

- (a) the hours during which liquor may be sold:
- (b) where outlets may be located:
- (c) a maximum density for outlets:
- (d) a minimum distance outlets must be from—

- (i) particular community premises:
- (ii) community premises of any particular kind or description:
- (e) responsible business practices and event management:
- (f) information to be submitted with applications for the granting or renewal of a licence:
- (g) the submission with applications for the granting or renewal of a licence of a social impact report:
- (h) the matters to be contained in social impact reports:
- (i) the persons or kinds of persons by whom social impact reports are to be prepared:
- (j) conditions that are to be or may be imposed on licences under sections 14, 37, 60, or 80:
- (k) criteria to be used in assessing applications for the granting or renewal of licences, or licences of particular kinds:
- (l) a policy (which may include a statement of circumstances in which applications are to be granted or refused) on how any criteria or conditions in the plan are to be applied to applications for the granting or renewal of licences, or licences of particular kinds.

“community premises—

(a) means any premises to which the public has a right of access, regardless of who may own, occupy, or have control of them; and

(b) includes pre-school institutions, schools, tertiary education institutions, and premises owned, occupied, or under the control of a district health board

Discussion and decision: Is this appropriate scope as a starting point for the review of the Council's Alcohol Policy?

6. Research and information needs

What research will be required for the work on reviewing the Alcohol Policy and developing a Local Alcohol Plan/Policy?

- Alcohol research, for example, about availability and supply
- Liquor licensing data for the Council's district
- Deprivation index mapping (similar to gambling approach?)
- Other liquor licensing policies
- Liquor Licensing Authority case law

Discussion and decision: What other information will we need to develop the Council's policy?

7. Engagement

Engagement versus consultation

Consideration needs to be given as to with whom and when we engage during the policy's development. A useful of considering this is to consider two separate phases – engagement and consultation.

Engagement can happen before, during or after a draft policy has been developed to seek feedback, input and views from key groups.

Consultation, in this sense, is the wider process of seeking the views of anyone interested in the proposal, which we will do in this case through the Special Consultative Procedure, as set out in the Local Government Act 2002.

Partners versus stakeholders

Council, Police and Health all have responsibilities under the Sale of Liquor Act for different, but complementary, aspects of licensing and certificate approvals, as well as enforcement and compliance monitoring.

The partnership is unofficial and is about how they work together to effectively discharge their responsibilities under the Sale of Liquor Act on a daily basis. Cooperation of these agencies is essential to the effective operation of the Act (this point was emphasised in the Auditor-General's report on TLA's liquor licensing performance in late 2007).

Health and Police should not be thought of as stakeholders, but as regulatory partners - though the policy would be Council policy, supported, rather than owned, by the other agencies.

Additionally, the Liquor Licensing Agency (LLA), in considering cases before it, will give a liquor licensing policy more weight if it is supported by all three agencies.

Discussion and decision:

Which groups do we need to engage with, and when in the process?

- Elected member engagement or staff engagement?
- As part of scoping, as proposals are developing, or once proposals are developed?
- Which groups?
- What is manageable and practical, given the timeframes?

Should the Police and Canterbury District Health Board/Community and Public Health be treated as partners or as stakeholders? And if they are to be treated as partners, how will this work in practice?