

Elected Member Briefing – 4 May 2022

Time	Topic	HCC Presenter(s)	Open / Closed	Time Req'd (mins)
9.30am	Local Alcohol Policy	Joanna van Walraven, Kelvin Powell	Open	60 mins

DISCUSSION TOPIC SUMMARY

Topic: Local Alcohol Policy

Related Committee: Community Committee

Business Unit/Group: Safe Cities

Key Staff Contact/s: Kelvin Powell

Direction Discussion/Drop in Session recommended? Status: Open

PURPOSE OF TOPIC/INFORMATION

- To update members on the required steps needed to implement a Local Alcohol Plan

Background

[The Sale of Alcohol Act 2012 \(the Act\)](#) specifies that local authorities may develop Local Alcohol Policy (LAPs). The object of the Act is that the sale, supply, and consumption of alcohol should be undertaken safely and responsibly, and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

As well as determining laws around licencing, the Act gave territorial authorities the option to develop a local alcohol policy (LAP), relating to the sale, supply, or consumption of alcohol within its district.

- The purpose of a LAP is to set a clear framework for the District Licencing Committee and Alcohol Regulatory Authority when making decisions on licence applications and provide a guide for those applying for a licence. [Section 78 of the Act](#) outlines the matters that a Council must have regard to when producing a draft policy.
- In 2012 HCC began the development of a LAP. The 2016 LAP did not proceed due to legal challenge.

Alcohol Licensing

There are three types of alcohol licences that the Policy covers:

1. **On-Licence** where alcohol is sold for customers to drink on the premises (eg, pub, restaurant, cafe, bar)
2. **Off-Licence** where alcohol is sold for people to drink off a premises (eg, bottle store, supermarket, florist)
3. **Club Licence** (eg, Sports Club, Bowling Club, RSA, Commerce Club)

More information about the alcohol licensing process in Hamilton is available on the Council website [here](#)

Decisions about licences are determined by the District Licencing Committee (DLC). People who are affected by an application may make a formal objection. More information about the DLC is available [here](#)

Off-Licences Granted in Hamilton

Since 2017 there have been 10 licences granted in Hamilton

- 3 to bottles stores (Borman Road, Horsham Downs and Beerescourt)
- 7 to remote sellers, including a florist for gift baskets

Local Alcohol Policies

- A territorial authority may develop an LAP to assist decision-makers in the application of the Act to better meet the needs of individual communities
- Local Alcohol Plans (LAP) are optional, but if the Council chose to adopt LAP, the District Licensing Committee would have to consider the Policy when undertaking their decision making
- LAPs give TA's the opportunity to gather community input during the development of the Policy; If a territorial authority does not have a LAP, an authority cannot have regard to this for licensing decisions

What can a LAP do?

If an LAP is implemented, licensing bodies (the District Licensing Committee) would have to consider LAPs when they make decisions about license applications. Provisions in the LAP may do the following:

- limit the location of licences in particular areas or near certain types of facilities, such as schools or churches (does not apply to special licences)
- limit the density of licences by specifying whether new licences or types of licences should be granted in a particular area (does not apply to special licences)
- impose certain conditions on groups of licences (e.g., a 'one-way door' condition)
- restrict or extend the maximum opening hours set in the Act.
- Apply a shrinking lid provision to an area

Scope

- The Policy would apply to new licences and the renewal of existing licences
- Policy provisions would apply to **all traders** within each licence category, for example, the Off-Licence provisions specified in the Policy would apply to all Off-Licence traders irrespective of whether they are a supermarket, bottle shop or online trader.
- A LAP can have different conditions for different areas within the area.

Developing a LAP

The steps in developing a LAP:

1.	Carry out research and stakeholder engagement to accurately represent the extent of any alcohol related harm in the community.	3 months
2.	Developing a draft LAP in consultation with Police, licensing inspectors and Medical Officers of Health.	3 months (pending availability)
3.	Undertaking community consultation on the draft policy in accordance with the special consultative procedure (Local Government Act 2002)	3 months
4.	Preparing a provisional policy that considers feedback from the community	6 weeks (meeting cycle)
4.	Give public notice of the provisional policy. (The LAP can be appealed at this stage by anyone who has submitted)	6 weeks (meeting cycle)
5.	Adopting a provisional policy. A provisional policy becomes final 30 days after it's publicly notified, and any appeals are resolved	Average 2 years
6.	Give public notice of the LAP's adoption and the date it'll come into effect (as determined by council resolution)	6 weeks (meeting cycle)

Right of Appeal

- Anyone who has made a submission on the draft LAP can appeal any element of the provisional policy.
- Police and Medical Officers of Health have automatic rights of appeal.
- Any appeal must be on the grounds that an element of the provisional LAP is unreasonable when considering the object of the Act
- An appeal must be filed with the Alcohol Regulatory and Licensing Authority within 30 days of the public notification of the provisional policy
- The provisional LAP cannot come into effect until all appeals are resolved, in many cases this can take years and comes with high legal fees and staff time costs

WHAT KEY THINGS SHOULD MEMBERS THINK ABOUT/ CONSIDER IN UNDERSTANDING THIS INFORMATION?

- Hamilton City Council has not had a LAP since the Act was adopted
- Since 2017 there have been 10 approvals for Off-Licences, mostly to remote sellers
- There are risks and benefits involved with adopting a policy- and potentially unintended attached to those consequences to rules and restrictions
- There is a high likelihood of appeal depending on the policy proposal

WHERE CAN MEMBERS FIND MORE INFORMATION?

- Information about LAPs from the [Ministry of Justice](#)
- Background Reports

[Council 26 November 2015](#) – Item 10

[Council 8 February 2017](#) - Item 7

[Council 15 March 2018](#)

WHAT DIRECTION/FEEDBACK/INPUT DO YOU NEED FROM ELECTED MEMBERS

- Are there any known views of the community or do Members have any concerns around community reactions?



Purpose of Briefing/Workshop

To update members on the required steps to implement a Local Alcohol Policy



Background

Current Situation

- HCC has not had a LAP since the Sale and Supply of Alcohol Act 2012 was adopted
- Licencing decisions are made by the District Licencing Committee
- Since 2017 there have been 10 new off-licences granted in Hamilton:
 - 3 to bottle stores (Borman Rd, Horsham Downs and Beerescourt)
 - 7 to remote sellers

Previous work

- HCC began developing a LAP in 2012
- It did not proceed past 2016 due to legal challenge



What could a LAP cover?

Possible provisions included in a LAP

- Location – with reference to broad areas
- Density
- Proximity to sensitive sites
- Sinking lid option
- Default maximum trading hours
- Discretionary conditions
- One way door restrictions



Steps in developing a LAP

	Step	Approx. time
1.	Research and stakeholder engagement	3 months
2.	Develop Draft LAP with Police, licencing inspectors and Medical Officers of Health	3 months
3.	Undertake consultation using the Special Consultative Procedure	3 months
4.	Draft Provisional Policy (considers community feedback)	6 weeks
5.	Adopt provisional policy – after 30 days or when all appeals resolved	2 years (average)
6.	Give public notice of adoption (Council resolution)	6 weeks



What direction/feedback is needed from Members?

Are there any known views of the community or do Members have any concerns around community reactions?