
Strategy & Policy Committee

OPEN MINUTES

Minutes of a meeting of the Strategy & Policy Committee held in Council Chamber, Municipal Building, Garden Place, Hamilton on Tuesday 29 September 2015 at 1:00pm.

PRESENT

Chairperson	Cr A O’Leary
Deputy Chairperson	Cr A King
Members	Her Worship the Mayor J Hardaker Cr G Chesterman Cr K Green Cr D Macpherson Cr G Mallett Cr L Tooman Cr E Wilson Cr P Yeung
In Attendance	Debra Stan-Barton – Acting General Manager City Environments Aaron Fleming – Strategy and Research Unit Manager Kelvin Powell – City Safe Unit Manager Tegan McIntyre – Programme Manager – Policy & Bylaws Ihsana Ageel – Acting Programme Manager, Strategy & Relationships Management Julie Clausen – Programme Manager - Strategy
Committee Advisors	Mr B Stringer and Mrs M Birch

1. Apologies

It was noted that Her Worship the Mayor (2:45pm) and Councillor Wilson (3:00pm) would need to retire early from the Meeting.

Resolved: (Cr O’Leary/Her Worship the Mayor Hardaker)

That the apologies from Councillors Gallagher, Pascoe and Forsyth be received and accepted.

2. Confirmation of Agenda

Resolved: (Her Worship the Mayor Hardaker/Cr O'Leary)

The Committee to confirm the agenda.

3. Declarations of Interest

Councillor Green declared a conflict of interest in relation to Item 5 – Local Alcohol Policy (LAP) deliberations report – and retired from the Meeting (1:04pm).

Councillor O'Leary declared an interest to the Committee by acknowledging that during the 2013 Local Body Election she received a donation from Good George Brewery. Councillor O'Leary affirmed that she did not believe a conflict of interest arose and that she was able to continue to perform her duties impartially.

4. Public Forum

A public forum was not required.

5. Local Alcohol Policy (LAP) - deliberations report

The City Safe Unit Manager ('Unit Manager') and Programme Manager – Policy & Bylaws ('Programme Manager') introduced the report and, in response to questions, confirmed that in the event that the Provisional Local Alcohol Policy ('PLAP') was appealed, a revised PLAP would be resubmitted to the Alcohol Regulatory Licensing Authority ('ARLA'). Staff advised that any person who sent a submission on the draft LAP would be entitled to appeal the revised PLAP to ARLA, even if they were not an original appellant. It was believed that the costs incurred for the appeal process would principally be borne by Council.

Issues and Options

The Chairperson referred the Committee to the Issues and Options table (Attachment 3 to the staff report – 'the Issues Table') and proposed that the Committee work through the Issues Table in order to provide a clear decision, and rationale for each decision, in relation to the key issues.

A version of the Issues Table displayed in the Chamber, was updated during the Meeting for the purpose of recording the Committee's decisions and the rationale for each decision. This table would then be confirmed by the Committee in a "catch-all" resolution at the conclusion of the Meeting.

- **Issue 1: Trading hours of bars located outside the central city**

Staff provided a summary of the submissions received and highlighted that a number of submitters involved in the alcohol-service industry argued for longer maximum trading hours for suburban establishments.

The Unit Manager and Programme Manager responded to questions on the following points:

- i. The rationale for adopting different trading hours for bars located within the central city from those situated outside the area would need to be based on minimisation of harm, rather than economic development. There was limited evidence of harm that had

occurred as a result of the sale of alcohol in suburban on-licences.

- ii. The LAP set out a framework for maximum trading hours; the District Licensing Committee ('DLC') would have the discretion to restrict these further for any specific application.
- iii. The recommended option in the Issues Table advocated standard hours apply throughout the week for on-licences located outside the central city. Staff advised that generally submitters were agreeable to an extension from 11pm to 1am, Sunday to Thursday.

Motion: (Her Worship the Mayor Hardaker/Cr O'Leary)

That the maximum hours of operation for on-licences and club licences located outside the central city be Monday to Sunday, 7am to 1am the following day.

Amendment: (Crs Macpherson/Tooman)

That the maximum hours of operation for on-licences and club licences located outside the central city be Sunday to Thursday 7am to 11pm, and Friday to Saturday 7am to 1am the following day.

Those for the Amendment: Councillors King, Wilson, Yeung, Tooman and Macpherson

Those against the Amendment: Her Worship the Mayor Hardaker, Councillors Chesterman, Mallett and O'Leary

The Amendment was declared carried and Put as the Substantive Motion.

Resolved: (Crs Macpherson/Tooman)

That the maximum hours of operation for on-licences and club licences located outside the central city be Sunday to Thursday 7am to 11pm, and Friday to Saturday 7am to 1am the following day.

Those for the Motion: Councillors King, Wilson, Yeung, Tooman and Macpherson

Those against the Motion: Her Worship the Mayor Hardaker, Councillors Chesterman, Mallett and O'Leary

- **Issue 2 – Commencement of trading hours of on-licences**

Staff clarified that the issue, in terms of amending the opening time of bars, related to all on-licences and club licences for both suburban and central city areas. It was acknowledged that following the Committee's resolution for Issue 1, the Committee's focus for this matter was on central city establishments.

The Committee agreed to the recommended option – that is, no change to the draft LAP was required – which would be captured in the Committee's final resolution for the Meeting.

- **Issues 3 and 15 – Trading hours of central city on-licence establishments**

Issues 3 and 15 in the Issues Table were discussed together. Staff responded to questions in relation to the introduction of a one-way door policy for central city on-licence premises:

- i. While a one-way door policy was not contemplated in the draft LAP, it was referred to in the consultation documents as a matter Council had considered and submissions were

received on the issue. Accordingly, inclusion of a one-way door policy in the PLAP would not require Council to re-consult on that document.

- ii. A review of the LAP would be triggered should a one-way door policy be included in the LAP and subsequently be removed by Council. Such a review would need to comply with the full legislative process.
- iii. Staff agreed to obtain legal advice to consider whether a one-way door policy for a trial period could be included in the LAP without requiring Council to re-consult on the LAP once a final position was adopted at the end of that trial period. This advice would be provided to the Committee with the draft PLAP at its meeting on 3 November 2015.
- iv. A one-way door policy would not affect the time that a bar was required to cease serving alcohol under the Sale and Supply of Alcohol Act 2012 ('the Act').
- v. The Unit Manager considered that, based on the international research that was reviewed, a one-hour period for a one-way door policy provided sufficient time for people to disperse from premises prior to closing time.
- vi. In relation to gauging which mechanism would provide a reduction in alcohol-related harm in the central city, a one-way door policy would be the most visible change in terms of impact at the relevant time that policy would operate (that is, one hour prior to establishments' closing time).

Definitions of 'one-way door restriction' and 'exempt person' in the Act were provided to Committee members present at the Meeting to assist with their understanding of the Motion and Amendment.

Motion: (Crs King/Tooman)

That Council introduce a one-way door policy for central city on-licences for the last hour before closing time.

Amendment: (Crs Chesterman/Yeung)

That Council introduce, for a 12-month trial period, a one-way door policy for central city on-licences for the last hour before closing time, and that staff report back on the evaluation process.

Those for the Amendment: Councillors King, Chesterman, Yeung,
Tooman and Macpherson

Those against the Amendment: Her Worship the Mayor Hardaker,
Councillors Wilson, Mallett and O'Leary

The Amendment was declared carried and Put as the Substantive Motion.

Resolved: (Crs Chesterman/Yeung)

That Council introduce, for a 12-month trial period, a one-way door policy for central city on-licences for the last hour before closing time, and that staff report back on the evaluation process.

Those for the Motion: Councillors King, Chesterman, Yeung,
Tooman and Macpherson

Those against the Motion: Her Worship the Mayor Hardaker,
Councillors Wilson, Mallett and O'Leary

In relation to Issue 3 in the Issues Table, the Committee agreed to the recommended option – that is, no change to the draft LAP was required – which would be captured in the Committee's final resolution for the Meeting.

Her Worship the Mayor Hardaker retired from the Meeting (2:43pm) at the conclusion of the debate on Issues 3 and 15.

- **Issue 4 – Different treatment for some on-licence premises**

In response to questions, the Unit Manager confirmed that following an appeal decision by ARLA, different trading hours to other on-licence premises was not permitted for an establishment simply on the basis of the nature of its business.

The Committee agreed to the recommended option – that is, no change to the draft LAP was required – which would be captured in the Committee's final resolution for the Meeting.

- **Issue 5 – Christmas Eve and New Year's Eve trading hours**

It was explained that the issue related to on-licence premises situated outside the central city. In response to questions, the Unit Manager advised that:

- i. Under the draft LAP, should Christmas Eve or New Year's Eve fall during Sunday to Thursday, a club or bar could apply for a special licence to trade for extended hours provided it met the threshold requirements for such a licence (that is, a special licence would not be granted simply to extend an establishment's 'business as usual' activities). This would be subject to the maximum trading hours for those dates under the Act for on-licence premises; and
- ii. Council could not use 'goodwill' or economic benefits as a reason to permit extended hours under the LAP for suburban on-licence premises that traded on Christmas Eve or New Year's Eve.

The Committee agreed to the recommended option – that is, no change to the draft LAP was required – which would be captured in the Committee's final resolution for the Meeting.

The Meeting adjourned from 2:50pm to 3:10pm during discussion on Issue 5

Miscellaneous Decisions

In relation to the following issues, the Committee agreed to the respective recommended options in the Issues Table, which would be captured in the Committee's final resolution for the Meeting:

- Issue 10 – Application of 'new' and renewed licence under the LAP;
- Issue 11 – Sensitive sites;
- Issue 12 – Proximity restrictions and supermarkets;
- Issue 13 – Density of off-licence premises;
- Issue 16 – Notification of applications;

The Unit Manager clarified that applications for an on-licence, off-licence, club licence or renewed licence were displayed on Council's website.

- Issue 17 – Casino exemption;

Staff confirmed the recommended amendment to the draft LAP was necessary to comply with legal requirements.

- Issue 18 – Temporary authorities;
- Issue 20 – Principles in the LAP; and
- Issue 21 – Inclusion of reasons.

- **Issue 19 – Trading hours applying to caterers**

In response to questions, staff advised the following:

- i. The purpose of the recommended amendment was to clarify that caterers that obtained their licence outside of Hamilton were subject to the same trading hours' framework in the LAP as locally-licensed caterers. Staff were not aware of any other territorial authority that included such a provision in their LAP.
- ii. The organisers of the Hamilton Gardens Arts Festival would need to apply for a special licence, and comply with the timeframes involved in that regard, should they wish to sell alcohol at the Festival.
- iii. The on-licence of the Hamilton Gardens café would only apply to the stipulated footprint of the café. If the café wanted to serve alcohol outside that area for an event, it would need to obtain a special licence.

Staff were asked to change the proposed amended wording in the Issue Table's recommended option to read "*Caterers endorsed licences and...*". Subject to this, the Committee agreed to that recommended option, which would be captured in the Committee's final resolution for the Meeting.

- **Issue 8 – Off-licence trading hours**

The Unit Manager stated that staff did not have any evidence that extending off-licence hours to start from 7am instead of 9am increased the level of alcohol-related harm. In response to questions, he also confirmed that on the basis of an ARLA decision, the LAP had to apply the same trading hours for all off-licence premises.

Motion: (Crs Macpherson/Yeung)

That the hours for off-licences be 7am to 9pm.

Amendment: (Crs Chesterman/Wilson)

That the hours for off-licences be 7am to 10pm.

Those for the Amendment: Councillors Wilson, Chesterman and Mallett

Those against the Amendment: Councillors King, Yeung, Tooman, O'Leary and Macpherson

The Amendment was declared lost. The Motion was then Put.

Resolved: (Crs Macpherson/Yeung)

That the hours for off-licences be 7am to 9pm.

Those for the Motion: Councillors Wilson, Chesterman, King, Yeung, Tooman, O'Leary and Macpherson

Those against the Motion: Councillor Mallett

Councillor Macpherson retired from the Meeting (4:06pm) at the conclusion of the debate on Issue 8.

- **Issue 9 – Permitted location of new off-licence premises**

In relation to questions on the development of a supermarket on Peachgrove Road, staff noted that its application to the DLC was to be considered on 4 November 2015.

The Committee agreed to the recommended options in the Issues Table, which would be captured in the Committee's final resolution for the Meeting.

- **Issue 6 – Outdoor dining hours**

The Unit Manager explained a change was required to the recommended option in the Issues Table that was circulated as part of the Agenda. The revised option, as displayed to Elected Members present at the Meeting, was as follows:

Amend policy to read: *"The sale and consumption of alcohol in any permitted outdoor dining area will not exceed 1am on any day"*

The noted modification:

- i. was required as the sale and supply of alcohol had to be regulated under the LAP, not the Public Places Bylaw and the Public Places Policy;
- ii. reflected current practice, which was supported by a number of submitters.

The Committee agreed to the revised recommended option as presented at the Meeting, which would be captured in the Committee's final resolution for the Meeting.

- **Issue 7 – Outdoor dining provisions**

Staff summarised the submitter’s request that the LAP expressly recorded restrictions on outdoor dining areas did not apply to such areas situated on privately-owned land. It was clarified that given the Committee’s agreed position on Issue 6 and that a ‘permitted outdoor dining area’ had to be Council-owned or operated land, the submitter’s suggested amendment was not required. Therefore, staff’s recommended option was that there was no change to the draft LAP.

The Committee agreed to the modified recommended option as presented at the Meeting, which would be captured in the Committee’s final resolution for the Meeting.

- **Issue 14 – Special licences**

Staff noted the following in response to questions:

- i. The recommended changes in paragraphs (1), (2) and (3) under the column ‘Possible options for consideration’ in the Issues Table were to avoid duplication with the Act.
- ii. The recommended option detailed in paragraph (5) in the Issues Table was intended to remove the prescriptive provisions in the draft LAP for special licences. Staff suggested such matters were best left for the DLC to determine when considering an application for a special licence.

Resolved: (Crs O’Leary/Chesterman)

That the following changes be made to the draft LAP:

- a) Delete 5.3.1 (i);
- b) Amend 5.3.1 (ii) to include events or series of events “of a similar nature”;
- c) Delete 5.3.1 (iii)); and
- d) Delete the “1am the following day” proposed in 5.3.1 (iv) and the ‘exceptional circumstances’ threshold and allow the DLC to make decisions on a case-by-case basis with regard to the location and nature of the event.

The Meeting adjourned between 4.22pm to 4.25pm during debate on Issue 14.

Concluding Remarks

The Chairperson referred to the Recommendations from Management on page 6 of the Agenda and stated that Recommendation (b) was intended to capture the decisions of the Committee at the Meeting. Such decisions, and the rationale for each decision, were reflected in the version of the Issues Table that was amended by, and displayed in the Chamber to, the Committee during the Meeting.

Resolved: (Crs Chesterman/O'Leary)

That:

- a) the report be received.
- b) Council confirm its decisions and rationales for each item in the 'Issues and Options' report (Attachment 3) and that these decisions be reflected in the development of the Provisional Local Alcohol Policy.
- c) in addition to these changes, the content of the policy be streamlined wherever possible and the language/content be simplified to reflect ARLA advice that a policy should be short and concise.
- d) the Provisional Local Alcohol Policy (PLAP) be brought back to Strategy and Policy Committee for adoption on 3 November 2015.

Minute Note: For completeness, the version of the Issues Table that was discussed, amended by agreement of the Committee to record its decisions and rationales, and displayed to the Committee during the Meeting was appended to these Minutes.

The Meeting was declared closed at 4:32pm.

DECISIONS AND RATIONALES OF THE STRATEGY AND POLICY COMMITTEE ON DRAFT LOCAL ALCOHOL POLICY

Key issue	Decision	Rationale
1. Bars located outside of the central city advocated for longer trading hours (<u>closing hour</u>).	That the maximum hours of operation for on-licences and club licences located outside the central city be: <ol style="list-style-type: none"> i. Sunday to Thursday, 7am to 11pm; and ii. Friday to Saturday, 7am to 1am the following day. 	<u>Rationale</u> 11pm Sunday to Thursday is felt appropriate to reduce alcohol-related harm occurring in suburban locations.
2. Request that on-licence (Central City Area) maximum trading hours should be shorter (<u>commence later</u>).	No change to LAP.	<u>Rationale</u> A 7am opening time has been provided for on-licences for many years and reported issues with alcohol-related harm at this time of day are minimal. 7am is considered appropriate as typical practice is that alcohol is served as part of a meal and more likely to be associated with a special occasion e.g. champagne breakfast, rather than a harmful activity.
3. Request that on-licence maximum trading hours should be shorter in the central city (<u>close earlier</u>). <i>Note the issue of maximum trading hours for on licenses in the suburbs is already addressed in issue 1</i>	No change to LAP.	<u>Rationale</u> A 3am closing time has been provided for central city on-licences for a number of years. While there is evidence of higher levels of alcohol-related harm between 12midnight and 3am, the higher density of outlets makes this easier to manage or mitigate.
4. Request that some on-licence premises e.g. strip bars, be treated differently	No change to LAP.	<u>Rationale</u> Supported by ARLA decision
5. Request for an exemption to hours for trading on New Year's and Christmas Eve when these do not fall on a weekend.	No change to LAP. When New Year's Eve and Christmas Eve fall during the Sunday to Thursday period, on-licences will be required to apply for a special licence to trade longer.	<u>Rationale</u> Exemptions for New Year's Eve and Christmas Eve are based on business decisions and providing customer experience not on minimising alcohol-related harm. Trading beyond the maximum hours in the LAP can still be achieved through the application of a special licence.
6. Outdoor dining hours	Amend policy to read <i>"The sale and consumption of alcohol in any permitted outdoor dining area will not exceed 1am on any day"</i>	<u>Rationale</u> To appropriately capture the alcohol consumption component of outdoor dining and the use of an extended footprint for on-licences.
7. Outdoor dining provisions	No change in the Policy (other than wording change captured in Issue 6).	<u>Rationale</u> The Policy does not apply to privately-owned property, therefore no change is required.

DECISIONS AND RATIONALES OF THE STRATEGY AND POLICY COMMITTEE ON DRAFT LOCAL ALCOHOL POLICY

Key issue	Decision	Rationale
8. Off licence hours should be longer	That the hours for off-licences be 7am to 9pm.	<p><u>Rationale</u> There is a lack of evidence to support alcohol-related harm from sales of alcohol during the hours of 7am to 9am.</p> <p>The intent of the Act is to minimise harm; therefore any reduction in availability of alcohol during night hours would contribute to reducing harm.</p>
9. Concern that the approach taken in schedule 1 (where new off licence premises can locate) is too restrictive.	<p>No change to LAP.</p> <p><u>AND</u></p> <p>Remove map attached as part of the consultation material would not appear as part of a provisional LAP. Instead the areas of schedule 1 would be defined in line with the PDP.</p>	<p><u>Rationale</u> The approach taken aligns with the centre's based approach promoted in the Proposed District Plan (PDP) and responds to community desires to better protect neighbourhoods.</p> <p><u>Rationale</u> This allows for flexibility e.g. if the zoning in the PDP changes then LAP changes with it.</p>
10. Application of policy with regard to 'new' and impact in terms of location	<p>Amend the purpose and scope of document to reflect the following wording:</p> <p><i>The policy applies to the issue of new licences and on renewal of existing licences. An off and/or on-licence that changes ownership but continues to be licensed on the existing premises consistent with the licence type issued under the previous ownership, is not subject to the location provisions of the policy.</i></p>	<p><u>Rationale</u> New wording responds to submitter requests and provides better clarity.</p>
11. Request to recognise additional 'sensitive sites' and the provision of a 100m buffer.	No change to LAP.	<p><u>Rationale</u> The approach taken to prevent new off-licence premises locating in the direct vicinity of a school or early childcare centre as these facilities are youth focused, highly susceptible to alcohol advertising and marketing and most at risk of alcohol-related harm. The restriction is considered appropriate.</p>
12. Exemption requested for supermarkets from proximity restrictions	The wording around proximity to schools be further clarified to the principal entrance e.g. From the date this LAP comes into force, no further off-licences shall be issued for any premises that directly borders any school or early childcare facility existing at the time the licence application is made. <u>"Directly borders" includes across any road from such facility as shown in the graphic below</u>	<p><u>Rationale</u> The approach taken to prevent new off-licence premises locating in the direct vicinity of a school or early childcare centre as these facilities are youth focused and at high risk of alcohol-related harm. The restriction is not limited to just the principal entrance as this does not address alcohol advertising typically associated with these premises nor the issue of greater availability.</p>
13. Density provisions should be considered	No change to LAP.	<p><u>Rationale</u> Density options were considered and analyzed but dismissed by the Councillor-led working group.</p>

DECISIONS AND RATIONALES OF THE STRATEGY AND POLICY COMMITTEE ON DRAFT LOCAL ALCOHOL POLICY

Key issue	Decision	Rationale
Other		
14. Special licences considered too restrictive	<p>Delete 5.3.1 (i);</p> <p>Amend 5.3.1 (ii) to include events or series of events “of a similar nature”;</p> <p>Delete 5.3.1 (iii);</p> <p>AND</p> <p>Delete the “1am the following day” proposed in 5.3.1 (iv) and the ‘exceptional circumstances’ threshold and allow the DLC to make decisions on a case-by-case basis with regard to the location and nature of the event.</p>	<p>Rationale Unnecessary repetition of legislation</p> <p>Rationale To provide the DLC with greater clarity</p> <p>Rationale Already a legal requirement. The inclusion was only for informational purposes.</p> <p>Rationale Special licences for premises that aren’t already licensed (5.3.1.(v)) be changed to align with the maximum trading hours proposed for on-licences and allow DLC to make decisions on a case by case basis with regard to the location and nature of the event. This streamlining of requirements around special licences better recognizes that appropriate maximum trading hours will vary depending on the event and the location of the event.</p>
15. One way door restrictions should be reconsidered or trialed	That Council introduce, for a 12-month trial period, a one-way door policy for central city on-licences for the last hour before closing time, and that staff report back on the evaluation process.	<p>Rationale Staggering the departure of patrons from central city on-licences helps manage undesirable behaviours and increase safety. There is enough evidence to suggest there are benefits in relation to alcohol-related harm minimisation in having this provision.</p>
16. Additional notification of individual applications for licences to assist public involvement in the process	No change to LAP.	<p>Rationale This is not a policy issue. Council has changed its process to upload all applications onto its website.</p>
17. Clarifying the wording around the casino exemption	<p>Amend the wording of section 5.1.1 (iv) to provide greater clarity as follows:</p> <p style="text-align: center;"><i><u>The gaming floor in the Hamilton Casino (currently at 340 to 348 Victoria Street), is exempted from this provision the above trading hour restrictions pursuant to section 173 of the Gambling Act 2003.</u></i></p>	<p>Rationale Accurately reflects the legislative nature of the exemption and the location of the casino.</p>
18. Temporary Authorities	Remove section on ‘Temporary Authorities’	<p>Rationale Supported by ARLA decision in the Wellington City Council Appeal and also the need to be succinct.</p>
19. Trading hours applicable to caterers	<p>Amend the draft policy to include the following statement:</p> <p style="text-align: center;"><i><u>Caterers endorsed licences and conveyance on-licences will be subject to the maximum trading hours for the Hamilton area they are operating in at the time of the event.</u></i></p>	<p>Rationale To provide greater clarity as to maximum trading hours for operators that are mobile or provide services outside of their premises.</p>

DECISIONS AND RATIONALES OF THE STRATEGY AND POLICY COMMITTEE ON DRAFT LOCAL ALCOHOL POLICY

Key issue	Decision	Rationale
20. Concern over the principles	Remove the principle section in its entirety.	<u>Rationale</u> Acknowledges the ARLA decision in the Wellington City Council Appeal, and also the need to be succinct and only address legislative issues.
21. Inclusion of reasons	Amend the policy to include an explanatory section (as an appendix) outlining the reasons for each policy clause and direction.	<u>Rationale</u> Supported by ARLA decision.