

1. Draft Local Alcohol Policy

(Cllr Leggett) (Report prepared by M Porter)

E350-005-002-01

Purpose

1. The purpose of this report is to propose that Council adopt, pursuant to the Sale and Supply of Alcohol Act 2012, a draft Local Alcohol Policy (**as attached**) and commence the special consultative procedure.

Background

2. The Sale and Supply of Alcohol Act 2012 (the Act) came into effect on 18 December 2012, to be phased in over a 12 month period.
3. At its meeting on 7 February 2013, the Environment Committee, following a presentation from staff, recommended to Council:
That the Liquor Licensing Sub-Committee be appointed as the Steering Committee to oversee the implementation of changes to the regulation of Council's liquor licensing function
4. At this meeting the Environment Committee heard that staff had commenced on the background preparation of the Local Alcohol Policy (LAP) and that staff were taking the more reserved approach of obtaining reports, surveying and consulting with as many stakeholders as possible before preparing the draft LAP in consultation with the elected members of the District Licensing Committee (DLC).
5. Staff have worked closely with our two neighbours within the Top of the South in carrying out preliminary work. This included the development of a survey which all three Councils have used to gather data about the communities' wishes relating to alcohol.
6. Staff also engaged with stakeholders (such as industry/licensing groups, health providers and community groups).
7. InToto Projects Ltd was commissioned by Council in association with ACC and the Marlborough Alcohol Advisory Committee to undertake an investigation into alcohol-related issues in Marlborough. The information gathered through this review was to be used to support planning to reduce the harm that was identified and to inform the development of the Marlborough District Council's Local Alcohol Policy.
8. A supplementary report from InToto Projects Ltd was also received. This report provided a snapshot of the role that alcohol plays in Marlborough with a view to informing the development of a local alcohol policy should Council decide to pursue developing one.
9. All this data was workshopped with a large number of stakeholders, including members of the District Licensing Committee.
10. All the above actions have helped the District Licensing Committee shape the draft LAP as presented to this meeting.

Survey

11. The random survey was sent to 2002 randomly selected Marlborough residents, representing 6% of the number of residents in Marlborough. The survey was open for two weeks and 642 surveys were returned during this period (a 32% return rate). A further 53 surveys were returned after the closing date from randomly selected participants and 36 surveys from other participants who chose to participate in the survey from Council's Website.
12. Key findings were:
 - 56% of participants feel that alcohol is a problem in Marlborough.
 - Three quarters of respondents believe that there is a problem with youth and drinking in Marlborough.

- The majority (98%) thought there are enough licensed premises in Marlborough with most people (77%) not wanting any more licensed premises.
- One third of participants thought there were too many off-licences.
- The majority of respondents (79%) thought there should be restriction on the proximity of licensed premises to early childhood centres, schools, parks and playgrounds, and drug and rehabilitation services.
- The majority of respondents (87%) want Council to take into consideration the number of licences already issued when considering a new application.
- Views were varied in terms of the times on-licensed premises should stop selling alcohol however there was a pattern of respondents saying that pubs/nightclubs should be able to sell liquor later than restaurants/cafes/clubs etc.
- 91% of respondents in regard to on-licences and 99% of respondents in regard to off-licences felt that licensing hours should be consistent throughout the district.
- In the last 5 years, 19% of respondents indicated that they themselves, or someone close to them, have experienced significant harm from someone else's drinking.

Stakeholders Feedback

13. Individual responses from 13 of the 33 groups contacted were received.

InToto Projects Ltd

14. Findings of the InToto Projects Ltd report *Reducing alcohol-related harm in the Marlborough District* can be summarised as:
 - There is a significant amount of alcohol-related harm occurring in Marlborough District with the data available indicating that Marlborough experiences higher levels of harm than the average for the country. This finding is at odds with the perception of many stakeholders who believed that, in relation to alcohol, Marlborough is similar to other parts of New Zealand.
 - Alcohol-related harm tends to be disproportionately associated with younger people aged 18-30 years. There is also a significant amount of alcohol-related harm associated with drinking by those under 18 years of age.
 - There are currently several initiatives in place but there is more that could and should be done if stakeholders wish to see a change in these high levels of harm. The introduction of the Sale and Supply of Alcohol Act 2012 gives communities significantly more opportunities to influence how alcohol is sold, supplied and consumed than the previous legislation did and we believe that Marlborough should take this once in a generation opportunity and use it to make a difference. Beyond this, but linked to it, we recommend that key stakeholders develop a strategic plan that identifies the priorities for action, the strategies that will be used to reduce the harm and an action plan that identifies who is responsible for what action and by when.
15. It is suggested that the supplementary report from InToto Projects Ltd, in providing a snapshot of alcohol-related statistics relevant to the Marlborough District, satisfied the information requirements set out in s78(2) of the Act.

Stakeholder Workshop

16. This was held in September 2013 and included representatives from Council (both staff and DLC members), Medical Officer of Health, Police, Public Health, Hospitality NZ, alcohol industry, schools, emergency services, ACC, Drug Arm and St John.

Discussion on LAPs

17. The Act has given Councils the opportunity to have a LAP that sets conditions for licensing premises for the sale and supply of alcohol in its District. Having a LAP is optional, but there are obvious advantages for Council to have one. Once the LAP is in place, basic issues such as operating hours, density or other discretionary issues do not have to be argued or negotiated for each licence application. The LAP will provide guidelines and certainty for applicants, reporting agencies and for the DLC involved in assessing applications and renewals of licences. The Alcohol Regulatory and Licensing Authority (ARLA) and Courts will also be obliged to recognise the conditions imposed by the LAP if any decision of the DLC is appealed.

18. Once a draft LAP has been through the formal consultation process, Council may produce a provisional LAP. An appeal can only be lodged against the provisional LAP by any person or agency that submits as part of the special consultative process on the draft LAP. However, the only ground on which an element of the provisional LAP can be appealed against is that it is unreasonable in the light of the object of the Act.
19. A LAP is limited in that it may only deal with matters that relate to licensing of premises. These are:
 - Permitted locations for licensed premises:
 - i) Generally in terms of broad areas;
 - ii) In relation to other premises of particular kinds;
 - iii) In relation to facilities of particular kinds.
 - Density issues, i.e. whether more licensed premises of a particular type are acceptable in any specific area, or, is a strategy like a cap or sinking lid appropriate.
 - Maximum trading hours for various types of licensed premises in various locations or communities;
 - Discretionary conditions that may be imposed on licences of a particular kind such as one way door restrictions..
20. The draft LAP should balance the needs of the community against economic opportunity and potential effects on businesses that sell alcohol, whilst keeping the objective of the Act as a primary consideration. The opportunity to revise or review the LAP can occur at any time, but must be undertaken at least every six years.

Comments

21. s78(2) of the Act states that Council must have regard to the following when producing a draft LAP:
 - (a) the objectives and policies of its district plan; and
 - (b) the number of licences of each kind held for premises in its district, and the location and opening hours of each of the premises; and
 - (c) any areas in which bylaws prohibiting alcohol in public places are in force; and
 - (d) the demography of the district's residents; and
 - (e) the demography of people who visit the district as tourists or holidaymakers; and
 - (f) the overall health indicators of the district's residents; and
 - (g) the nature and severity of the alcohol-related problems arising in the district.
22. It is considered that all of the matters above have been adequately covered in preparing the draft LAP (see paragraph 15).
23. s78(4) of the Act states that Council must not produce a draft policy without having consulted the Police, inspectors, and Medical Officers of Health, each of whom must, if asked by the authority to do so, make reasonable efforts to give the authority any information they hold relating to any of the matters stated in subsection (2)(c) to (g).
24. Again it is considered that this requirement has been met.
25. The special consultative process defined in the Local Government Act 2002 must be used to consult on the draft LAP, after which Council may produce a provisional LAP. Again the provisional LAP has a special consultative process that must be followed.

Timetable and Hearing

26. The proposed timeline for consultation on the proposal is:
 - Advertise the Statement of Proposal from 6 March 2014
 - Submission period from 6 March to 2 May 2014
 - Hearings in the week of 19 May 2014
 - Report on the consultation process (and possible production of a provisional LAP) to the Council meeting on 26 June 2014
 - If considered appropriate a provisional LAP then to undergo a special consultative process.

27. It is considered that the District Licensing Committee should hear and make decisions on the draft LAP, keeping in mind that Council will need to adopt any provisional LAP following this current process.

Significance

28. It is considered that whilst the administration of alcohol licensing is a significant activity of Council, the implementation of this legislation does not trigger Council's Significance Policy.

Summary

29. A draft Local Alcohol Policy has been prepared following the legislative requirements of s78 of the Sale and Supply Act 2012.
30. It is considered that the draft Local Alcohol Policy balances the needs of the community against economic opportunity and potential effects on businesses that sell alcohol, whilst keeping the objective of the Act as a primary consideration.
31. The proposed timeline for consultation on the proposal is explained above.
32. It is considered that the District Licensing Committee should hear and make decisions on the draft Local Alcohol Policy.

RECOMMENDED

1. **That the report on the draft Local Alcohol Policy be received.**
2. **That the draft Local Alcohol Policy and consultation documents be approved.**
3. **That the special consultative procedure commence and proceed in accordance with the following timelines:**
 - **Advertise the Statement of Proposal from 6 March 2014**
 - **Submission period from 6 March to 2 May 2014**
 - **Hearings in the week of 19 May 2014**
 - **Report on the consultation process (and possible production of a provisional LAP) to the Council meeting on 26 June 2014**
 - **If considered appropriate a provisional LAP then to undergo a special consultative process.**
4. **That the District Licensing Committee be delegated the power to hear and make decisions on the draft Local Alcohol Policy.**

Summary of Information and Statement of Proposal

Draft Marlborough District Council Local Alcohol Policy

Contents

This Summary of Information and Statement of Proposal is made for the purposes of Sections 83 and 87 of the Local Government Act 2002, and Sections 78 and 79 of the Sale and Supply of Alcohol Act 2012. It is divided into five parts as follows:

Part 1: Summary of Information.

Part 2: Statutory Processes that Council is obliged to consider.

Part 3: Background of the Proposal and what happens next.

Part 4: The Draft Marlborough District Council Local Alcohol Policy

Part 5: Other policy options considered by the Council.

Part 1: Summary of Information

This summary is made to fulfil the purpose of sections 83(1)(a) and 89 of the Local Government Act 2002.

The Marlborough District Council has prepared a draft Local Alcohol Policy (LAP) for consultation with the community. The Sale and Supply of Alcohol Act 2012 (the ACT) allows councils to develop Local Alcohol Policies (LAPs) for their territorial areas. A LAP is a set of policies made by a council in consultation with its community concerning matters relating to the licensing of premises for the sale and supply of alcohol.

In preparing this draft, Council has consulted with the Police, Medical Officer of Health and District Licensing Inspectors as required under the Act. It also sought the views of the community through a community survey and letter to key stakeholders inviting their early input to the development of the draft.

The LAP is able to establish policy on some or all of the following matters:

- The location of licensed premises near certain types of facilities, such as specific neighbourhoods or near schools or churches;
- The density of licensed premises by specifying whether further licenses or types of licenses should be issued for premises in the district or in a particular area;
- “one-way-door” conditions for licensed premises that would allow patrons to leave premises but not enter or re-enter after a certain time;
- Discretionary conditions on a licence;
- Restrictions or extensions to the maximum trading hours set in the new Act which are: 8am-4am for on-licences (such as taverns and restaurants) and 7am-11pm for off-licences (such as bottle stores and supermarkets).

In addition, a LAP may apply differently to different kinds of licensed premises. The LAP must not include policies on any matter not relating to licensing.

Once an LAP is in place, the Council’s District Licensing Committee and the Alcohol Regulatory and Licensing Authority must have regard to the LAP when making decisions on licence applications or renewals.

The Draft LAP

Council has decided to produce a draft LAP in order to provide locally relevant policies for licensing premises within the Marlborough District and to assist in achieving the object of the Act.

The draft LAP for Marlborough District contains the following types of licensing policies:

- Variations on the maximum trading hours set in the act for on-licences and for off-licences;
- Various discretionary conditions for on-licences, off-licences, club licences and special licenses, including a discretionary one-way-door policy for pubs, nightclubs and taverns;

In preparing the draft LAP the Council considered a range of policy options, some of which have been rejected/not included in the draft LAP. For your information, these are listed after the Statement of Proposal.

Council is interested in receiving submissions on all matters relating to the draft LAP.

The full Statement of Proposal may be inspected during ordinary office hours at the following places:

Marlborough District Council 15 Seymour Street Blenheim 7201	Marlborough District Council and Library 67 High Street Picton
Marlborough District Library 33 Arthur Street Blenheim 7201	

A copy may also be viewed or copies from the Marlborough District Council web site at:

www.marlborough.govt.nz.

Timeline for Consultation and Decision Making

If lodging a submission, please keep in mind that a LAP can only include policies on matter relating to licensing.

The submission period opens on 6 March 2014 and closes on 2 May 2014 (Hearing of submissions proposed to be held in the week of 19 May 2014). Submissions are to be made in writing and either posted to:

Draft Local Alcohol Policy
Marlborough District Council
PO Box 443
Blenheim 7240

or delivered to:

Draft Local Alcohol Policy
Marlborough District Council
15 Seymour Street
Blenheim 7201

or emailed to: lap@marlborough.govt.nz

or by fax to: 03 520 7496.

Council will not accept anonymous submissions.

Part 2: Statutory Processes

The following are the various statutes that have received consideration:

- Sections 83 and 87 of the Local Government Act 2002;
- The New Zealand Bill of Rights Act 1990. The proposed policy is not considered to be inconsistent with that Act;

- Sections 75 and 78 of the Sale and Supply of Alcohol Act 2012.

Obligations imposed by the Sale and Supply of Alcohol Act 2012

Council has decided to produce a draft LAP in order to provide locally relevant policies for licensing premises for the sale of alcohol within Marlborough District, and to assist in achieving the object of the Act. 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.

Under the Act, the alcohol related harm caused by the excessive or inappropriate consumption of alcohol includes –

- a) Any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
- b) Any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in paragraph (a).

The Act requires Council to have regard to the following matters when preparing a draft LAP:

- The objectives and policies of its district plans (Wairau Awatere Resource Management Plan and the Marlborough Sounds Resource Management Plan).
- The number of licenses of each kind held for premises in its district, and the location and opening hours of each of the premises; and
- Any areas in which bylaws prohibiting alcohol in public places are in force; and
- The demography of the district's residents; and
- The demography of people who visit the district as tourists or holidaymakers; and
- The overall health indicators of the district's residents; and
- The nature and severity of the alcohol-relating problems arising in the district.

The LAP can only include policies on matters relating to licensing.

Part 3: Background to the Proposal and What Happens Next

Currently a Marlborough District Council Liquor Licensing Policy exists. It assist staff and the Marlborough District Licensing Agency with deliberation in granting licenses under the Sale of Liquor Act 1989. That system of control is to be entirely superseded by the Sale and Supply of Alcohol Act 2012. Salient matters that are of relevance that are currently the criteria of granting of liquor licenses are:

Current Hours of Operation

On Licence	Monday to Sunday	7:00am to 3:00am the following day
Off Licence	From the Bottle Store: Monday to Sunday	7:00am to 11:00pm
	Across the Bar: Monday to Sunday	7:00am to 3:00am the following day
	Supermarket/Grocery: Monday to Sunday	7:00am to 12:00 midnight
Club Licence	Monday to Sunday	8:00am to 12:00 midnight

Note 1: The Marlborough Sounds Resource Management Plan restricts hours in the central business zone area covered by that Plan to 1:00am.

Note 2: There is a further restriction on hours from 8:00am to 1:00am the following day where the premises is adjacent to any residential zone or activity unless the applicant has obtained the written consent of all affected parties.

As at 18 December 2013, the default national maximum trading hours are set by the Act. A LAP may alter the default hours, but as the first date that a LAP can be effective is sometime after 18 December 2013, those default national maximum trading hours will affect a number of existing licenses. The effect in Marlborough District will be to reduce the trading hours of all those off licences that currently operate after 11pm and alter the start time for a number of on-licensed premises that are currently licensed to open prior to 8am.

What happens next?

Once Council has prepared a draft LAP, the act says that the Council must consult on the draft. The process and time during which a submission may be lodged is detailed in the summary of Information.

Council will hear and consider all submissions at a date yet to be determined.

If after consulting widely on the draft LAP the Council decides to proceed to a provisional LAP, it must follow the process prescribed in the Act. A provisional LAP may be advertised only after following the required procedure.

Once Council has notified a provisional LAP, there is an appeal process to the Alcohol Regulatory and Licensing Authority. Only a person or agency that has made a submission as part of the special consultative procedure on a draft LAP will be able to appeal against any element of the resulting provisional LAP.

Once any appeals are resolved by the Alcohol Regulatory and Licensing Authority, the Council has to determine whether/when to adopt the LAP.