

Local Alcohol Policy

Options Analysis Report

October 2024

1 Purpose

This report identifies and assesses options for developing a Local Alcohol Policy (LAP) for the Far North District and recommends a preferred option.

2 Context and Situation

Under the Sale and Supply of Alcohol Act 2012 (the Act), Council may make a LAP for the district, or parts of the district, stating Council's policy positions regarding licensing the responsible sale and supply of alcohol while minimising alcohol-related harm.

Council previously developed a Provisional LAP in 2013 to 2015, but in 2018, due to appeals against this Policy and the large legal costs of defending its position, Council decided to cease developing this LAP. Under the Act, Council cannot recommence developing the previous LAP, as consultation on the Provisional LAP occurred more than six years ago, in 2014.

Changes to the Act made in 2023, make it easier for the Council to develop a LAP, with the appeals process against a Provisional LAP removed. Accordingly, three key stakeholders (the Police, the District Officer of Health and Licensing Inspectors) have expressed their support for the Council to again develop a LAP.

This Options Analysis Report discusses the pros and cons of making a LAP. This Report should be read in conjunction with the Research Report that covers the alcohol-related issues and problems that a LAP could address.

3 Problem and Opportunity Statement

If the Council decides to develop a LAP, the Act requires the Council to have regard to the nature and severity of alcohol-related problems arising in the district. These problems are associated with the inappropriate and excessive consumption of alcohol, such as:

- physical health problems
- mental health issues
- social problems such as family/whanau dysfunction and domestic violence
- abusive behaviour, violence, and public disorder
- criminal offences including drink-driving incidents
- road crashes
- domestic accidents
- financial impacts on households
- economic impacts, including costs related to healthcare, accident compensation, and law enforcement
- problems and issues specific to licensed premises.

An opportunity exists to develop a LAP to address how licensing conditions can address these problems.

4 Objective

A LAP must reflect the purpose of the Act stated in section 4(1):

“to ensure:

- a) the sale, supply, and consumption of alcohol is undertaken safely and responsibly; and
- b) the harm caused by the excessive or inappropriate consumption of alcohol is minimised”.

5 Options to make a LAP or not

There are two options:

1. to develop a LAP for the district
2. not to develop a LAP.

Advantages and disadvantages of these options are summarised below:

Options	Advantages	Disadvantages
<p>1) Develop a LAP for the district (recommended)</p>	<p>Public health, wellbeing, and safety benefits The research findings indicate a reasonable likelihood that policies made under a LAP will reduce the effects of alcohol-related harm in the district which are at a high level compared with other districts</p> <p>Community input A LAP can enable alcohol licensing decisions to take account of community preferences. The changed legislative context should strengthen Council's ability to develop a LAP based on, or influenced by, the preferences of the community.</p> <p>Protection of vulnerable groups Possible LAP provisions regarding the location of licensed premises in relation to sensitive sites such as schools, playgrounds, medical facilities, and marae could help protect vulnerable groups from alcohol-related harms.</p> <p>Protection of existing licensed businesses Possible LAP provisions regarding the number and location of new licensed premises could protect existing businesses from competition.</p> <p>Initial support from key stakeholders The Police, the Medical Officer of Health, the DLC, and the majority of Alcohol Licensing Inspectors support making a LAP.</p> <p>Clarity of policy direction A LAP would give the DLC and alcohol outlets clear direction regarding Council's intentions for alcohol licensing.</p> <p>Greater consistency in licensing decisions The District Licensing Committee will have a point of reference for all licensing decisions which it must consider in its decisions.</p> <p>Potential cost savings Having a LAP may lead to a decrease in the number of objections made against individual licence applications and consequently fewer costly hearings.</p>	<p>Adverse impact of LAP provisions on alcohol outlets Licensed businesses may be adversely affected by possible LAP provisions such as reduced trading hours.</p> <p>Managing conflicting views Council should be prepared to manage opposing viewpoints from stakeholders with a high interest in having a LAP, and to accept that its decisions in this area may not satisfy all parties equally.</p> <p>Potential for judicial review Judicial review is still possible despite the amendments to the Act. Defending a judicial review is costly and time consuming.</p> <p>Resource commitment Developing a LAP is resource intensive, with extensive engagement required with the community and significant staff time involved in drafting the LAP and analysing submissions. Reviewing a LAP at least every six years will involve one-off costs and require significant staff resources from Council teams.</p>

Options	Advantages	Disadvantages
<p>2) Do not develop a LAP for the district</p>	<p>Licensed premises would not be adversely affected by LAP provisions For example, licensing provisions in a LAP that may apply to trading hours and the location of licensed premises would not apply</p> <p>Council will avoid an issue that is likely to have conflicting views</p> <p>A judicial review will not occur Council will avoid the time and cost of responding to a potential judicial review</p> <p>Resources will not be committed to LAP development and review Developing a LAP is resource intensive, with extensive engagement required with the community and significant staff time involved in drafting the LAP and analysing submissions.</p> <p>Reviewing a LAP at least every six years will involve one-off costs and require significant staff resources from Council teams.</p>	<p>Failure to address public health, wellbeing, and safety issues in the community The opportunity will be lost to reduce the level of alcohol-related harm in the district.</p> <p>Community input The Council will not benefit from the community's feedback into addressing alcohol-related harm.</p> <p>Missed opportunity to protect vulnerable groups LAP provisions regarding the location of licensed premises in relation to sensitive sites would not be in place.</p> <p>Missed opportunity to protect existing licensed businesses LAP provisions regarding the number and location of new licensed premises that could protect existing businesses from competition would not be in place.</p> <p>Lack of a LAP would disappoint key stakeholders The Police, the Medical Officer of Health, and the majority of Alcohol Licensing Inspectors would be disappointed if a LAP is not developed.</p> <p>Lack of policy direction The DLC will not benefit from policy advice from the Council regarding its decisions.</p> <p>Potential inconsistency in licensing decisions The DLC will lack a point of reference for its licensing decisions.</p> <p>Potential cost savings will not occur Cost savings through fewer licensing objections and hearings will not occur</p>

Recommendation

On balance, Option 1 (develop a LAP for the district) is recommended because:

- there are extensive problems and harms associated with the inappropriate consumption of alcohol in the district, and there is a reasonable likelihood that a LAP could address these issues
- developing a LAP will enable alcohol licensing decisions to reflect community preferences
- a LAP may protect existing licensed businesses
- a LAP will lead to clarity of policy direction from the Council and greater consistency in licensing decisions by the DLC
- a LAP can potentially lead to cost savings through a decrease in the number of objections made against individual licence applications and fewer costly hearings.

6 Detailed Options

Specific matters that may be covered in a LAP

Section 77 of the Act states a LAP and may include provisions relating to:

- a) the location of licensed premises with reference to broad areas
- b) proximity to other licensed premises or proximity to facilities of particular kind/s
- c) whether further licenses of particular kind/s should be issued in the district or parts of the district
- d) maximum trading hours, which may be more or less restrictive than the national maximum default trading hours. Under the Act, the national default maximum trading hours without a LAP are:
 - 8am to 4am on the next day for on-licenses and club-licenses

- 7am to 11pm on the same day for off-licenses
- e) issuing of licenses subject to discretionary conditions
- f) one-way door restrictions.

Conditions attached to special licenses (that apply to temporary events) cannot include a) and b) above.

Discussion of these specific matters

Section 11 of the Research Report discusses:

- how including these matters in a LAP could address alcohol-related problems and harms in the district
- the pros and cons of covering these matters in a LAP
- how other Councils have addressed these matters in their LAPs
- the local situation regarding these matters in the Far North

Need to assess community preferences before recommendations can be made on these specific matters

In the Supreme Court case *Woolworths and Foodstuffs North Island v. Auckland Council 2023*, the Court stated that a LAP must be based on community preferences.

If the Council resolves that a LAP should be developed for the district, in the Design Stage of the LAP extensive community engagement will take place to assess community preferences before recommendations on the content of the draft LAP can be made.