

Greetings readers,

As we farewell 2014, it's worth reflecting on progress in a few key alcohol policy areas.

The implementation of the Sale and Supply of Alcohol Act has presented some gains, such as those achieved through reduced trading hours. It has also presented its fair share of challenges such as the establishment and testing of new licensing regimes and criteria, and getting local alcohol policies in place.

Thirty seven Local Alcohol Policies have been developed by councils and 16 of these have been appealed by the alcohol industry thus far, with many put on hold. Read more on this later.

After multiple attempts over the decade the lower adult drink-drive limit is now in force.

Minimum Unit Pricing for alcohol was rejected by former Justice Minister Hon Judith Collins.

Warning Labels- what warning labels you might ask? These remain in voluntary self regulation despite proof this isn't working.

The Ministerial Forum on Alcohol Advertising and Sponsorship released its report. The Forum has made some bold recommendations including banning alcohol advertising and sponsorship of all streamed and broadcast sporting events. Read more on this later.

What's on the cards for 2015? We'll see the new National Drug Policy, the National Action Plan on FASD and more LAP appeal decisions.

Merry Christmas - Meri Kirikimete

Wishing you a safe and joyous holiday

Alcohol Healthwatch Team



Decision on Tasman LAP

Of the 16 LAP that have been appealed by the alcohol industry, two appeals have been heard by the Alcohol Regulatory and Licensing Authority (ARLA), and we have the first decision.

Common sense has prevailed with the dismissal of the appeal against Tasman District's provisional Local Alcohol Policy (PLAP). The appeal hearing was held in July and ARLA released its decision in November.

Tasman's PLAP was originally appealed by a number of alcohol industry players, including supermarket giants Foodstuffs and Progressive Enterprises, but most of these withdrew at the beginning of the hearing process, leaving Hospitality NZ as the sole appellant. The others remained involved in the hearing as Interested Parties.

Due to the appeals by the alcohol industry, many other Territorial Authorities are putting their draft LAP processes on hold until the appeal decisions are released. These tactics are clearly aimed at delaying and deterring local councils from attempting to reduce the supply of alcohol and curb the harm their communities have called for. They act as a chill factor on local councils.

The appeals are also drawing local council, health services, Police and other agencies into costly legal proceedings.

We knew LAPs would be tested, but some of these appeals are vexatious, given the object and intent of the new legislation, and the process that councils are required to go through before they can adopt them.

None of the provisional LAPs produced so far, including Tasman's, could be considered hard-lined. While some draft LAPs do include some

good controls, none go as far as they could under the new legislation to address and reduce alcohol-related harm. Councils have all been fairly restrained, largely due to the intense pressure they have been under from vested interest groups during their policy development processes.

The Authority has sent a clear message that the burden is on the appellant to show the LAP element is unreasonable - which is the only test. Hospitality NZ failed to do this in the Tasman case.

The decision also highlights the Authority's interpretation of 'minimising' alcohol-related harm in relation to the Sale and Supply of Alcohol Act 2012. They refer to the *New Shorter Oxford English Dictionary* meaning of the word which is: 'reduced to the smallest amount, extent or degree'. This along with other statements included in the Tasman decision indicate to local councils and the alcohol industry that a LAP is not about maintaining the status quo, or about enhancing economic interest above all. Rather it is about reducing alcohol-related harm as far as reasonably possible.

This first decision should give Council's greater confidence to progress their LAPs, and to maximise the new law to reduce both trading hours and outlet density.

A copy of the ARLA decision and Alcohol Healthwatch's matrix of key learning's from LAP processes and appeal hearings are available at www.ahw.org.nz

Win some lose some

Two recent decisions demonstrate some inconsistency in liquor licensing decisions across the country.

In Masterton, the District Licensing Committee (DLC) decided against the granting of an off-licence in what is described as a socially deprived community of Masterton East.

The Medical Officer of Health opposed the application arguing that the community was already saturated with off-licences, with 12 off-licenses already within 1.2 km of the proposed store, and that increased harm would result.

The applicant appealed the DLC's decision. However, ARLA dismissed the appeal saying *"Likewise, the DLC accepted Dr Palmer's conclusion to the effect that Masterton is saturated with off-licences. The very significant difference between the number of off-licences in the district (presently one for every 806 persons) compared with the national average (one for every 1,000 persons) is telling. An additional off-licence (resulting in one for every 780 persons) would accentuate the difference. It is not a quantum leap to conclude that with so many off-licences in the district and with another proposed to be located in a socially deprived area where alcohol-related harm exists, that increased alcohol-related harm might occur. This is the antithesis of what the object of the Act is intended to achieve."*

In complete contrast, the Clendon community in South Auckland presented a multitude of objections to a new off-licence application, only to have the DLC grant the licence.

In Clendon's case the reporting agencies varied in their response to the application. The licensing inspector recommended the granting of the licence. The Police opposed the application. The Medical Officer of Health initially opposed the application but then withdrew it at the beginning of the hearing.

Clendon is one of New Zealand's most socially deprived communities (NZ Dep 10). Its local primary schools are rated Decile 1. The population of Clendon North & South combined was 7791 (Population Census 2013), and according to reports there are already 9 outlets within a 2 km radius of the new site.

This roughly equates to the same ratio of outlets/population as the Masterton site.

Needless to say anger and frustration continues to grow in Clendon. As it does in similar South Auckland communities, including Otara and Mangere, who have all been active in advocating for a stop to the continued proliferation of outlets for many years. The Clendon community has appealed the DLC's decision.

The Burden of Proof – Part I

VIEWPOINT:

By Rebecca Williams

Alcohol research has always presented its fair share of challenges; whether it is the lack of it, the reliability of it, the local relevance of it, the independence of it or the inability to compare results.

However, there are a number of issues that warrant some discussion over the next couple of newsletters, especially in light of the new legal framework we have in place.

Firstly, let's look at the Sale and Supply of Alcohol Act 2012 (SSAA12), the primary objective of which is to minimise alcohol-related harm. The Government's expressed intent of this law is to reduce accessibility and availability of alcohol and to improve community input into liquor licensing decisions.

The SSAA12 includes two key opportunities for local communities to influence liquor licensing decision; firstly through the broader criteria for objecting to liquor licence applications including the impact on amenity and good order, and secondly through a Local Alcohol Policy (LAP).

So let's take Clendon in South Auckland as an example. As highlighted earlier in this newsletter, Clendon, like many of its neighbours, is one of the most socially deprived of communities in New Zealand. This community, again like its neighbours, has actively advocated for limits on the number of

liquor outlets in their area and has done so for many years.

Auckland's draft LAP identifies this community as a "priority area", and had this policy been in place there would be a 24 month freeze on new off-licences, and a presumption against the granting of new off-licences after that period. However, this policy is not yet in place.

When the Clendon community learned of an application for another off-licence, adding to the 9 already in the area, naturally they objected. They presented numerous petitions, and the Local Board formally objected on their behalf. The District Licensing Committee (DLC) however, decided to grant the licence.

It has to be asked – what on earth is going on here? This community is clearly one the legislation was supposed to protect. So either the DLC got it wrong or the DLC weren't provided with the research or "evidence" they needed to say no to this application.

Who is supposed to provide this evidence? Is it the role of the statutory agencies? What happens when communities are ill equipped to bring the evidence to the table?

The availability of local research or "evidence" is scant at best. However, communities are expected to present a case when they don't have the information they need, or when the information they do present is considered "emotive" or they don't know it's not the right kind of evidence.

Do we truly believe that communities come fully equipped with a lawyer, expert witnesses at their beck and call, plenty of money in the bank to allow them to take time off work to collect the evidence and present it to what is essentially a court of law?

Question's need to be asked, where does the burden of proof lie - on the communities the law is meant to be protecting from harm, the service agencies funded to implement the law,

or those who make a profit from selling alcohol.

Just asking!!

Ministerial Forum on Alcohol Advertising and Sponsorship – report released.

The Ministerial Forum established earlier this year has released its report after their inquiry into the appropriateness of introducing new restrictions for regulating alcohol advertising and sponsorship in New Zealand.

In its report, the Forum recognised there is an association between exposure to alcohol advertising and sponsorship, earlier age of initiation to drinking alcohol, and increased consumption. The Forum notes that *“the total cost of alcohol-related harm is enough to justify further restrictions on alcohol advertising and sponsorship”* and believes that *“the risk and cost of alcohol-related harm is too great not to act”*.

The Forum has made 14 recommendations. They are:

- Ban alcohol sponsorship of all streamed and broadcast sports
- Ban alcohol sponsorship of sports [long-term]
- Ban alcohol sponsorship (naming rights) at all venues
- Ban alcohol sponsorship of cultural and music events where 10% or more of participants and audiences are younger than 18
- Introduce a sponsorship replacement funding programme
- Introduce a targeted programme to reduce reliance on alcohol sponsorship funding
- Ban alcohol advertising during streamed and broadcast sporting events
- Ban alcohol advertising where 10 percent or more of the audience is younger than 18

- Further restrict the hours for alcohol advertising on broadcast media
- Continue to offset remaining alcohol advertising by funding positive messaging across all media
- Introduce additional restrictions on external advertising on licensed venues and outlets
- Establish an independent authority to monitor and initiate complaints about alcohol advertising and sponsorship
- Establish a mechanism to identify and act on serious or persistent breaches of advertising standards
- Establish a multi-stakeholder committee to periodically review

While Alcohol Healthwatch believes the Forum could have gone further with their recommendations, we commend their work and the recommendations they have made.

The full report and Alcohol Healthwatch’s press release on the Forum’s report can be viewed at www.ahw.org.nz.

Coming Events

The SSAA '12 – One Year On.

Regional Forums – Auckland, Wellington and Christchurch, March 2015

Details shortly on www.ahw.org.nz

Alcohol and Cancer Conference

17th June 2015, Te Papa, Wellington

Co-hosted by Alcohol Action NZ and the Cancer Society of New Zealand

Registrations: lindsay.atkins@otago.ac.nz



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Disclaimer: The views in this newsletter do not necessarily reflect those of Alcohol Healthwatch Trust.

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