



# **Local alcohol policies: What's the opportunity to reduce harm?**

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# Summary

Local Alcohol Policies (LAPs) are developed by councils, in consultation with communities, to guide where and when alcohol is sold. LAPs were intended to give communities more say in alcohol availability, and have the potential to reduce alcohol harm. However, early attempts were undermined by legal appeals from the alcohol industry. Legal developments in 2023 have reduced the risk of litigation, removing a significant barrier to developing and adopting stronger LAPs that better reflect community expectations.

This Briefing outlines the renewed opportunity for LAPs to reduce the availability of alcohol and the harms that this causes, particularly in more socio-economically deprived areas and Māori communities that are exposed to high-density alcohol environments.

Equitable harm reduction through a LAP depends on meaningful involvement of Māori that upholds Te Tiriti o Waitangi responsibilities, comprehensive community involvement, real reductions in availability over broad areas and evaluation of outcomes. Further changes to legislation are needed to uphold LAPs and regulate online alcohol sale and delivery.

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A lack of meaningful regulation of the availability of alcohol contributes to very high levels of harm and perpetuates health inequities in Aotearoa New Zealand (NZ). This Briefing outlines the potential for LAPs to reduce these harms, and considerations for upholding Tiriti o Waitangi responsibilities.

## **Alcohol availability and health in Aotearoa New Zealand**

Alcohol causes significant harms to individuals, whānau and communities, costing NZ an estimated \$9.1 billion each year.<sup>1</sup> The harms are not fairly distributed - Māori are twice as likely to die from alcohol-related causes compared to non-Māori.<sup>2</sup>

Alcohol is readily available with more than 11,000 businesses selling alcohol in 2020.<sup>3</sup> National maximum trading hours are long at 8am-4am for on-premises (eg restaurants and pubs) and 7am-11pm for off-premises (eg supermarkets and alcohol stores). The most socio-economically deprived areas are at greater risk of harm from alcohol, yet are more exposed to off-premises outlets, with three times as many compared to the least deprived areas. Areas with a high Māori population have nearly 50% more outlets.<sup>4</sup> Māori whānau in Auckland report having too many local bottle stores is a major concern which normalises use and provides overly easy access to affordable alcohol.<sup>5</sup>

High quality evidence consistently shows that reducing alcohol availability across broad areas reduces alcohol-related harm. Closing bars and pubs earlier leads to fewer physical harms including assaults,<sup>6</sup> injuries and vehicle crashes.<sup>7,8</sup> European studies indicate limiting off-premises trading hours has similar benefits and also reduces consumption.<sup>9</sup> NZ data shows people buying take-away alcohol after 10pm are more likely to be heavier drinkers.<sup>10</sup> Recent evidence suggests outlet density has a greater impact on high-risk drinking among lower income groups,<sup>11</sup> and in NZ, higher off-premises density has been linked to a greater likelihood of binge drinking.<sup>12</sup>

## **The Local Alcohol Policy experiment: a difficult beginning**

Rather than address alcohol availability nationally, the Sale and Supply of Alcohol Act 2012 (the Act) gave councils the option to develop LAPs for their districts. LAPs may include guidance on the number and location of alcohol outlets and set maximum trading hours.

LAPs are intended to give communities more say on alcohol supply, however, early examples were heavily influenced by alcohol suppliers. Their extensive legal appeals resulted in weaker limits on availability, delays and policy abandonment.<sup>13</sup> Infamously, the alcohol industry took appeals against Auckland's LAP as far as the Supreme Court where they lost, creating a nine year delay.<sup>14</sup> Some five years after the introduction of the Act, only 24% of the population was covered by a LAP.<sup>13</sup>

The quality of councils' engagement with communities was also concerning. Public involvement in alcohol policy processes did not increase between 2014 and 2017,<sup>15</sup> and alcohol-related industries contributed significantly to submissions. Māori who contributed to LAPs found councils failed to engage in a meaningful and responsive way; failing to uphold Te Tiriti o Waitangi and recognise Māori as tangata whenua. Complex and time-consuming consultation processes, poor communication and undue influence of business owners were cited as barriers.<sup>16</sup>

## **Harnessing the opportunity that LAPs now provide**

In 2023, the Act was amended to remove the ability to appeal any element of a provisional LAP. In addition, Auckland's successful defence of its LAP at the Supreme Court resulted in both the adoption of the policy and narrower grounds for appealing any LAP by judicial review; the court confirmed that LAPs can be based on community preference and a likelihood (rather than proof) of reducing harm.<sup>17</sup> As the risk of litigation has been substantially reduced, councils should now be able to adopt stronger LAPs that support equitable harm reduction and better reflect community expectations. Public support for restrictions on alcohol availability is high.<sup>18</sup> In Auckland in 2013, over 90% of the public supported capping or lowering off-licence outlet numbers, and the majority supported shorter trading hours.<sup>19</sup>

While national restrictions on alcohol availability would benefit more people and provide consistency, LAPs are the only current mechanism to introduce the broad availability restrictions that reduce alcohol-related harm, in consultation with local communities. Modelling has suggested that limiting trading hours and outlet density in NZ will reduce inequities in alcohol related harm for the most socio-economically deprived communities and for Māori.<sup>4</sup> In communities that are more exposed to alcohol outlets, this will require a long-term sinking lid in the LAP which can gradually reduce density.

In the current policy environment, we recognise several opportunities for councils to develop pro-equity, evidence-based LAPs that reduce alcohol availability and related harms. We outline these in Box 1 below.

## **Box 1: Considerations for a pro-equity and effective LAP**

In the current policy environment, we recognise several opportunities for councils to develop pro-equity, evidence-based LAPs that reduce alcohol availability and related harms:

- Meaningful involvement of Māori is necessary to uphold Te Tiriti o Waitangi responsibilities within the LAP process.<sup>20</sup>
- Comprehensive and responsive community engagement, particularly in the most socio-economically deprived areas, is required to ensure that communities most impacted by alcohol availability are heard and their expectations are not overruled by those with commercial interests in alcohol.
- Restrictions on alcohol availability must be broad and appropriately deep to reduce harm. Applying restrictions to broad areas prevents a potential shifting of alcohol-related harm (or density) to neighbouring locations with fewer restrictions.<sup>21</sup> Limits on trading hours must reduce actual hours of trade. Where outlet density is high, long-term sinking lid policies will be needed to meaningfully reduce availability.
- Evaluate impacts and outcomes. When LAPs are developed or revised, methods to evaluate outcomes should be established. This can inform other councils and identify where national changes are needed.

We further recommend closing all loopholes in the Act regarding online sales that may undermine the effect of LAPs<sup>22</sup>, as detailed in Box 2 below.

## **Box 2: Online alcohol sales and delivery: legislative loopholes**

- LAP trading hours may be bypassed by online alcohol sales and delivery
- Currently liability for checking age and intoxication on delivery is unclear
- New rapid alcohol delivery companies may undermine the effect of LAP restrictions on off-premises outlet density<sup>22</sup>

## What this briefing adds

- Legal developments have limited the scope for the alcohol industry to appeal LAPs. This improves the opportunity to develop stronger policies that reflect community preferences and address alcohol harm inequities.
- Councils wishing to develop a LAP can be confident that setting broad limits on trading hours and density is an effective way to reduce alcohol harm with strong community support.

## Implications for policy

- Achieving equitable harm reduction through LAPs depends on the extent to which councils limit availability, prioritise engagement with communities most impacted by alcohol supply and uphold the Crown's responsibilities under Te Tiriti o Waitangi.
- The public health impact of new LAP settings should be evaluated to inform future policy locally, in other districts and nationally.
- Loopholes in the Sale and Supply of Alcohol Act must be closed: LAP trading hours must apply to online sales and deliveries, and a 2-hour delay before delivery is needed to improve safety. Checks to prevent supply or delivery to minors and intoxicated people should meet the requirements placed on physical outlets.

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