

Submission to the Alcohol Law Reform Bill 2010



Submitted by:

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I do not wish to appear before the Select Committee to speak to this submission.

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Brief on Community Waitakere

Community Waitakere is a Charitable Trust which was established in Waitakere City in October 1983. Community Waitakere as an organisation seeks to build a sustainable Waitakere with vibrant, thriving and well connected communities, and we play an important role in advocating, supporting and promoting grassroots initiatives. We do this by linking the many community organisations throughout Waitakere in order to share resources, expand knowledge within the sector and build and foster local initiatives. We have had a long-standing collaborative partnership with Waitakere City Council which dates back over almost thirty years. This relationship has been based on a long history of trust, mutual respect and integrity and through the development of common aims.

Background information:

- The area Community Waitakere Charitable Trust (CWCT) is located in, was formerly known as Waitakere City (prior to the development of the Auckland Council) and will be referred to as Waitakere in this submission.
- According to the Liquor Licensing Inspectors (West), Waitakere is unique in that it was deemed a Licensing Trust area in accordance with part 9 of the Sale of Liquor Act 1989. This gives the two Trusts established in the area (Portage and Waitakere Licensing Trusts) the exclusive right to hold on-licenses in respect of hotels and taverns, and off-licenses in respect of any premises other than certain club premises and premises where wine is sold or any kind of liquor is made within the Waitakere area.
- Due to an historical anomaly and its geographical location Herald Island has a special designation under the district plan.
- Liquor is not sold in supermarkets or grocery stores in Waitakere due to the Licensing Trust area restrictions.
- The Portage and Waitakere Licensing Trusts have a significant role in our community.
 - They have restricted the number of on and off license liquor outlets compared to other areas of Auckland
 - There appears to be minimal loss-leading in the Trusts outlets; the price of alcohol in their off-license premises is generally more expensive than in supermarkets (unlike supermarkets which discount and sell cheap liquor).
 - The Trusts are community controlled with elected members. They return profits to the community (alcohol as well as gambling revenue) unlike supermarkets and bottle shops that return profits only to their owner/operators or share holders.
- With a Licensing Trust environment, Waitakere has a lower number of alcohol outlets per capita compared to other cities of a similar size in New Zealand. There are a total of 169 on and off license premises.

○ On license premises	116 (including 19 Trust premises)
○ Off license	45 (including 22 Trust premises)
○ BYO premises	8
- In addition to the above there are 57 licensed clubs in Waitakere.

- Waitakere has not experienced the issues related to outlet density compared to other areas where alcohol is far more accessible generally via a large variety of outlets. The marked proliferation of license premises as seen in other parts of New Zealand with similar demographics, (in particular Manukau City) is not experienced in Waitakere.
- There are 40 liquor bans in identified locations throughout Waitakere. These have been implemented in areas (CBD's, parks and reserves) where alcohol is known to have caused significant problems; through the evidence supplied by community, police and council.
- It is not clear how Waitakere compares to other cities in the region in terms of unacceptable levels of alcohol related harm and offences due to difficulties obtaining comparative data. It is thought that given its lower number of outlets, Waitakere has less visible problems than other areas in Auckland. However there is still concern that Waitakere experiences unacceptable levels of alcohol related problems.
- Alcohol was one of four major road safety concerns in Waitakere (New Zealand Transport Agency's Road Safety Briefing Notes for Waitakere, June 2009).
- Local data indicates that:
 - The rate of drivers apprehended with excess breath alcohol in Waitakere City in six monthly Police Excess Breath Alcohol (EBA) operations increased by 50% between October 2005 and September 2009.
 - Alcohol was consumed in 46% of all traffic offences in Waitakere City in 2008.
- Other local police data indicated that in approximately 30% of those arrested for violent incidents in Waitakere (July 2007 to June 2008) had consumed alcohol prior to their arrest.
- Four separate control purchase operations were undertaken in 2010 in Waitakere by the Council Liquor Licensing Inspector and the Police Alcohol Harm Reduction Officer. 36 off license venues were visited with no recorded sales to minors at any of these premises. Venues visited included both Licensing Trust and non-Trust venues.
- A Needs Assessment (2008) by the Community Action on Youth and Drugs Project was undertaken to identify key issues for Waitakere youth and the wider community on alcohol and drugs. It found the following areas required action:
 - Access and supply of alcohol
 - Education and awareness training
 - Alcohol Marketing
 - Alcohol and Drug services
 - Parent and family support

Community Workshop Feedback;

Two community workshops were held in November 2010 in Waitakere. The purpose was to provide community feedback on the key provisions of the Alcohol Law Reform Bill to the Local Boards (West). The community views informed the Local Boards (West) supplementary appendix to the Auckland Council submission on the Bill.

The following key areas were highlighted:

- Licensing Trusts:

- Local surveys have indicated a high level of support for the Portage and Waitakere Licensing Trusts.
- The Trusts environment (in the West) has a profound impact on limiting license density (particularly off license); therefore restricting the availability of alcohol in the Portage and Waitakere Licensing Trusts areas.
- The Trusts are a key stakeholder to be consulted with when developing local alcohol plans.
- Supermarkets:
 - Ideally, alcohol should not be permitted to be sold in supermarkets.
 - However, if it is allowed the following restrictions should apply:
 - A mandatory requirement for supermarkets not to be allowed to use alcohol as a loss leader.
 - Tighter restriction on the placement of alcohol in supermarkets (i.e. placement should only be permitted in the last aisle and not visible from the street).
 - Alcohol should be separated from general food/household goods.
 - Greater restrictions should be imposed on the permitted advertising/promotions allowed by supermarkets
- Hours:
 - Limiting the national default hours; - suggested times for operation were:
 - On-license; 10.00am – 3.00am the following morning with a one way door policy operating
 - Off license; 10.00am – 10.00pm maximum
 - Hours of trade to be set within the local alcohol policy; these are not to exceed the national default hours.
- Age:
 - Raising the purchase age to 20 for both on and off license premises
- Supply To Minors:
 - Alcohol only allowed to be supplied to a minor if it is supplied by a parent/guardian and that it occurs in a supervised situation where a parent/guardian is present.
- Exemptions:
 - Removing all exemptions; Police, Fire Services, Defence Force and Chartered Clubs.
- Advertising:
 - Banning and removing all advertising and promotions. If not banned, national regulations determining where alcohol advertising is permitted (i.e. point of sale only, not on the back of school buses). Local alcohol policies could include consideration of promotion.
- Pricing:
 - An increase in alcohol prices, this could be through an increase in excise tax or a minimum pricing scheme. Price is a driver and influences accessibility.
- Ready To Drinks (RTD):
 - All RTD's to be removed from sales.
- BAC:
 - Lowering the BAC level from .08 to .05.
- Social Marketing:
 - Sensible drinking - support the social marketing campaign recently run by the New Zealand Herald (2 max drinks).

CWCT support many of the provisions as detailed in the Bill. We also offer further recommendations that need to be considered for this Bill to be effective and to support the intended object of the Bill.

s.4: Object of the Act

CWCT supports the broadening and renaming of the Act, however recommends that this be widened further to include consumption. This will assist in protecting and promoting the health and wellbeing of individuals and communities.

s.5: Interpretation

The term “**amenity and good order of the locality**” – CWCT recommends that the term locality is more clearly defined, and be required to take into consideration the surrounding environment and what is in the immediate vicinity of the premise (i.e. school etc).

The term “**main order household stuff**” – CWCT recommends that the term stuff be replaced with items and there be a clear definition of what constitutes main order household goods, such as “Main order household items which the majority of New Zealanders purchase and are taken home to be eaten in the home or to assist with the preparation of food in the home. Impulse foods such as confectionary, ice cream, ready to eat and takeaways do not constitute main order household items”.

CWCT additionally recommends that

- “alcohol” be clearly defined in the interpretation section as a drug as noted with the Law Commissions Issues paper “Alcohol in our Lives”.
- “large scale event” be clearly defined, to include size of the event or number of expected attendees as possible criteria: Clear differentiation between small scale, large scale and a Major event as defined by the Major Events Management Act.

s.7 Considering effects of issue or renewal of license on amenity and good order of locality

CWCT recommends that s.7 be amended to allow for a greater community voice throughout the issuing and renewal process of licenses.

s.9: Age at which people may lawfully buy alcohol for consumption off license premises

CWCT supports the proposed age of 20 for purchasing alcohol at off license premises.

s.10 Age at which people may lawfully buy alcohol for consumption on license premises

CWCT recommends that the purchase age for on license premises be reinstated and increased to 20 years of age (as per off license premises).

According to a Law Commission report, evidence has proven that lowering the age of purchase in New Zealand has had a corresponding negative impact on crime, disorderly behaviour and health.

s.14 Certain messes and canteens exempted from having liquor licenses

CWCT supports Government taking a lead on removing the exemptions for parliament. In addition, CWCT recommends the removal of ALL exemptions on all canteens and messes; this includes Police, Fire and Defence Force and chartered clubs.

People employed in these professions are often role models for young people in communities and if the government wishes to change the drinking culture in New Zealand it is essential to apply the law to all of these drinking environments.

s.25 Special Licenses

CWCT recommends that the granting of all Special Licenses is extended and includes the supply of BYO alcohol at events.

CWCT also recommends that greater provisions be included to allow communities an opportunity to object to special licenses being granted, especially if the event is over a certain size (number attending) or extended time period. At the very minimum the requirement should be the applicant having to publically notify in the case where a special license application has been lodged if event is of medium-large scale (as defined in the definition section); and that there is a time frame for public notifications to allow community input.

s.44 Default national maximum trading hours

CWCT recommends that further restrictions be placed on the opening hours for both on and off-license premises.

CWCT recommends:

- National default hours for on-license premises be set as a parameter for trading hours
- National default hours for off-license premises to be 10.00am -10.00pm.
- That the Local Alcohol Plans can stipulate the maximum hours of trade; this may not be in excess of the national default hours.

Due to the nature of the business emanating from off-license premises, greater restrictions on the hours of trade should be placed on them. This would help control the purchase and consumption of alcohol in relation to preloading and drinking in public places.

There are clear research links showing that greater accessibility to alcohol has greater impacts on the health, safety and wellbeing of individuals and society.

s.75 Local alcohol plans

CWCT supports the premise that local alcohol plans many contain conditions that are more restrictive that the relevant district plan.

CWCT recommends that local alcohol policies be a mandatory requirement for all territorial authorities and that a local alcohol policy should not allow for the extension of hours for license premises beyond the maximum national default hours.

In the Auckland context, one single local alcohol policy is not entirely feasible given the different contexts across the region although a common framework is necessary. There should be provision for Local Boards to develop local alcohol plans specific to their areas.

CWCT supports in principle that the territorial authority must have a common framework and review alcohol policies. However we recommend that this should be on a regular fixed term basis to ensure that communities have consistent input.

A local alcohol policy is the community's opportunity to have a say on and commitment to alcohol management within their community and assists in identifying and mitigating alcohol harms; therefore supporting the object of the bill.

s.96 Notification requirement

CWCT recommends that the guidelines and requirements for notification (i.e. number of times to be advertised etc) required for licensee applications be strengthened.

CWCT recommends that written notification be a mandatory requirement by the applicant to all businesses and the resident community within a 100 metre radius of a proposed license premise.

We recommend that these two points are an additional requirement for all license renewals.

s.100 Criteria for issue of a license

In addition to the criteria (a) – (j) CWCT recommends that the Licensing Committees be required to take into consideration the density of other license premises within the community.

A recent research report (Manukau Outlet Density) in the Auckland region indicates that there is a strong correlation between density outlets and alcohol related harms within the community.

s.105 One-way door policy

CWCT supports the one-way door policy; but consideration needs to be given as to how this is implemented in relation to the hours of trade.

CWCT recommends that a one-way door policy needs to operate at least 1 hour prior to the closure of a premise.

s.131 Additional requirements for large scale events

CWCT recommends that the term “large scale event” be clearly defined.

All applicants should be required to supply a comprehensive management plan on application for a special license for large scale events. We recommend that management plans be required for all events over 100 people.

s.199 Circumstances where section 198 does not apply

CWCT recommend that all clubs be required to have a manager on site at all times when alcohol is being sold or supplied to the public.

s.220 Irresponsible promotion of alcohol

CWCT recommends that 1 (b) be amended to read
“A person commits an offence ... promotes or advertises discounts on alcohol (~~except all~~ license premises) ... leading public to believe that the price is 25% or more below the price ...

s.222 Sale and supply of alcohol to people under buying age on or from license premises.

CWCT recommends that there be stronger penalties for the supply of alcohol to a minor at on-license premises.

CWCT also recommends that there needs to be greater clarity around the type of consent and a clear definition of “responsible” if alcohol is to be supplied to a minor.

S 224 3 (c) ... if the person supplying the alcohol believes on reasonable grounds that he/she has consent of the parent or guardian of the minor, and supplies alcohol in a responsible manner”.

s.224 Supplying alcohol to minors

CWCT supports the statement in 224 (1) that “a person who supplies alcohol to a minor commits an offence” (with no exceptions to this statement other than parents in a supervisory capacity).

Community Waitakere strongly recommends that:

- it be an offence for anyone other than a legal parent/guardian to supply alcohol to a minor who is under the legal purchase age
- it be a legal requirement for the supervision of the consumption of alcohol supplied to those under the legal purchase age by either a parent or legal guardian.
- supervision of minors should not be delegated to any other individual.

s.248 Closure of premises by order

In addition to s.248 (1-6) CWCT recommends that there be an increase in penalties including immediate closure for license premises in breach of licensing conditions (especially repeat infringements).

s.273 Holdings giving rise to cancellation of licence and manager’s certificate

To support s.273 CWCT recommends that there be immediate cancellation of a manager’s license where there are serious breaches (as defined in s.273) of licensing conditions.

s. 290 Functions of Licensing Trusts

CWCT supports the functions of licensing trusts and also supports that the option to establish licensing trusts is extended to other regions. This was raised and supported at a national Community Board conference in 2010.

s.385 Content of fees regulation

CWCT supports fees being based on full recovery cost and a differential scale according to the types of premises and potential risks of alcohol-related harm.

s. 402 New sections 147 to 147C substituted

CWCT supports the broadening of the term “public place” to include car parks, school grounds and other private spaces to which the public has legitimate access.

In addition to the areas of support and recommendations as outlined above, there are further effective provisions related to price and promotion that this Bill needs to address. This includes:

- Increasing the price of alcohol through excise tax given that alcohol (which is a drug) is now cheaper than water and milk in many instances.
- Introducing mandatory price controls that specify lower limits so loss leading can not occur. Price is a known driver which influences accessibility.
- Remove all Ready To Drink products from sales. If this is not viable, restricting RTD’s to 5% per alcohol content and limiting the size of containers to 1.5 standard drinks.
- Prohibit all alcohol advertising and sponsorship, as has been done with tobacco products OR at the very least make it an offence to promote alcohol in a way that has special appeal to people under the purchase age. This will require changes to promotions including TV, advertising and billboards.

- Develop national regulations determining where alcohol is permitted to be advertised (i.e. not on back of school buses etc).
- Lower the blood alcohol level from .08 to .05
- Regulate promotions that encourage increased consumption or purchase of alcohol.
- Make warning labels mandatory on all alcohol containers and in both on and off-license premises. This would cover nutritional information and information about alcohol consumption, the effects of alcohol including drink driving, drinking when pregnant, and youth drinking