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I am writing this submission as Chairperson, on behalf on an organisation.

Organisation: Wellington Inner City Residents and Business Association (representing 41 members).

Our membership is made up of potentially competing interests on many of the issues raised in the review. Residents are in the inner city for the lifestyle, which includes the entertainment, cafes, restaurants and the buzz of the city. Commercial owners/tenants are involved in a number of different businesses, including providing the entertainment, bars, cafes, restaurants, services and activities that create the buzz of the city. We need to work together to recognise that the two interests must go hand in hand for the inner city to remain the vibrant 24x7 community that it is.

There is general agreement among all members that the level of antisocial behaviour and other harms arising from alcohol abuse is not acceptable. This submission was circulated among our members and their views have been incorporated.

Our key points are:

- there needs to be more emphasis on the personal responsibility of individuals to manage their drinking behaviour and the harms that flow from it.
- timely, pragmatic and resourced enforcement of available legislation is essential to change behaviours (more laws or different laws will not work without enforcement)
- any changes must be targeted to specific problem areas so the effects of those changes can be monitored.

Have you made a submission to the Law Commission before: No, though members provided input into the information gathering phase by the Law Commission.

How did you hear about the review of the liquor laws: from members.

The harm

1. Does the level of alcohol-related harm we are experiencing justify a new approach to the law?

Yes

2. Do you agree that getting drunk is considered acceptable drinking behaviour in New Zealand?

In some segments of NZ society it is considered acceptable. Those segments are predominantly the young drinkers, and heavy and binge drinkers of all ages. But other segments (perhaps the majority) consider getting drunk to be unacceptable.

There is a focus on the personal/social harms of drinking in commercial premises or being drunk in public, and that is the area of concern among our members, but the harms caused by abuse of alcohol are the same wherever the drinking occurs. Some emphasis needs to be put on what happens in the home or at private gatherings, which can result in the same harms. It would be inappropriate to implement policies that move the problems to where it is not as visible but still as damaging.

3-4 Do you think the risks associated with heavy drinking are well known? Do you think the cumulative lifetime risks associated with drinking are well known? If not, what more could be done to make people aware of them?

For those people who want to 'hear' the message in the information and education programmes, the risks are probably well known. Cigarette/tobacco products are required by law to have a health warning on them; perhaps this approach should also be required on alcoholic products packaging and in stores.

Members provided feedback that New Zealand has a tradition of problem drinking; where getting drunk was a rite of passage for our parents' generation, and the six o'clock swill created a binge drinking environment. Given the inter-generational problem, we must accept that changing behaviours and attitudes will be inter-generational as well. This happened for changing attitudes to smoking, which in the end had to be leveraged by some increasingly tough laws.

5. Is the management of intoxicated people an acceptable use of a large part of the New Zealand Police resources? If not, what are the alternatives?

No, it is a misuse of valuable resources.

Alternatives:

- a 'user pays' service by Police through infringement notices; this would be a direct impact on the individual. While there is the potential for fines to go unpaid (such as is happening for driving-related fines, Sun Star Times 30/8/09), it is likely that the majority of people will pay. There is not a lever such as impounding the car to force payment, but there could be a demerit point system, such as with driving licences, where a certain level results in community service.
- Another service provider, eg security firms, social agencies. But this should still be user pays or funded through tagging of alcohol excise duty or licensing fees.
- Some comments on Lawtalk indicate that individuals, who have been detained in the cells overnight when drunk, fully expected to be fined and were surprised when they weren't.

Object of the law

6. Is the balance in the current law between individual responsibility and providing an environment that is conducive to moderate drinking the correct one? If not, what changes could be made?

No.

We agree with the views in the paper that the purpose of the law should be made more specific on reducing harms (minimise crime and disorder, promote public safety, protect families and children from harm, encourage responsible attitudes towards alcohol, ensures the liquor industry operates responsibly).

There needs to be stronger emphasis on the personal responsibility of individuals who undertake behaviour that is causing harms to others and the community, eg using false identity papers, taking alcohol into places where it is banned, vomiting in the street, breaking bottles. Some of these actions need to be addressed at the time or able to be followed up afterwards.

Licensing

7. Do you agree with the current system of four types of liquor licence?

Yes – and agree that the current exemptions should be removed.

Club licences could become problematic, particularly if there are price increases in on- and off-licences, and the prices are lower relative to other sources, as it could encourage membership primarily for the purpose of consumption, rather than the club's purpose.

Clubs such as workingmen's clubs/RSA's aim to increase membership to remain viable, and while the facilities may be used, cheaper alcohol is likely to be a strong drawcard. The size of some clubs' membership is large, with the potential for attendance to reflect that of a small bar or larger restaurant. Similar requirements should be placed on those clubs which are employing staff to run the bar as they are operating similar to on-licences.

8. Should the criteria for licences change and, if so, what should the changes be?

Wider grounds for decision-making are needed than are available at present to enable the social impacts/community views to be taken into consideration. A local alcohol plan would enable each community to consider its particular medium-term needs.

Legislation should provide for local criteria to be agreed as part of the local authorities' district plan and/or local alcohol plan.

Consideration should be given to a ratio of qualified staff to patrons to ensure there are appropriate numbers of staff familiar with the legislation and conditions of the licence, and responsible for compliance, particularly in larger premises. One manager does not seem sufficient. One of our members provided an example that all bartenders in Melbourne require certification. While it may not be necessary for all staff – there needs to be an appropriate ratio.

9. Do you think the Liquor Licensing Authority should be retained as the regulator?

The licensing and monitoring regime needs to be consistently applied (taking into account community views, eg through local alcohol plans), regularly monitored at a local and national level, and able to quickly respond to issues at a local and national level. There would need to be serious issues with the current structure that could not be resolved to warrant establishing a new structure.

The suggestion for the LLA to have the ability to impose fines for licence breaches would lessen the load on Police. DLAs (via local authorities) do need to take responsibility for monitoring the premises (and managers) they have licensed and enforcing the conditions of the licence so the Police can focus on the crime-related issues.

ALAC is funded by the ALAC levy on the alcoholic beverages that are subject to excise tax. This includes the cost of the organisation and the information/education campaigns. This provides a model that licensing fees should fund the licensing authority, or at the very least the cost of sufficient resources to monitor compliance and penalise non-compliance in a timely and meaningful manner. The cost of increased licensing fees and ALAC levy will be passed onto the consumer, which is where it should be – rather than ratepayers/taxpayers in general. And those who consume more, pay a more significant proportion.

Feedback from our members gives examples of premises continuing to operate when they are in breach of legislation/licence conditions. This indicates that the monitoring and enforcement of legislation or licence conditions is not working or is not sufficient to change behaviours. If this continues, there is little chance of this review making a difference.

10. Do you think local views should be taken into account in respect of licences in that area?

Yes. In business/residential areas such as inner cities, there will invariably need to be compromise. Local views and compromises should be developed in local alcohol plans, rather than on an ad-hoc basis for each application.

The suggestion that the Licensing Authority could take an agreed local alcohol plan into account rather than it being the overarching policy could significantly impact on the level of community input in the final licensing decision. If this option was in legislation, there would need to be constraints that would prevent the licensing authority from over-riding the local alcohol plan

without clear evidence, and due weight would need to be attributed to individual views expressed at a licensing hearing to ensure community views were fairly considered.

Without some assurance that community views will have a real voice, there would be little improvement over the current arrangement.

Hours

11. Do you think the hours that restaurants, bars, and clubs can be open should be restricted? If so, what should the hours be?

12. Do you think the hours that off-licence premises (including supermarkets and liquor stores) can sell alcohol should be restricted? If so, what should the hours be?

We support the proposed approach of restricting off-licence hours including in supermarkets (open between 8am-10pm). It would reduce the impulse purchasing of more alcohol and the temptation to drink it in public places. Individuals wanting to continue drinking would have to be more organised.

There are mixed views among members on having a standard time nationwide for restricting on-licence hours. Some members support a compulsory closing time, while others (residents and hospitality industry) do not support it. The arguments against a standard closing time is that it would create a 'six o'clock swill/binge drinking' approach and would result in large groups of customers leaving all premises at the same time. Security staff, taxis, public transport, food outlets and other services become over-loaded creating other tensions and problems.

There are also concerns that the one-way door policy is seen as an easy fix. One hospitality sector member provided feedback that it hasn't worked in Sydney or Melbourne in changing attitudes. The policy is also difficult to pragmatically manage in conjunction with the smoke-free legislation where people need to go outside to smoke. It also creates a challenge for some individuals to see how they can access a bar after the cut-off time.

It is a concern if a patron is removed from a premise after becoming intoxicated and asked to move on. Responsible premises are endeavouring to look after people once they become drunk. However, this is probably an unrealistic expectation on bar owners; they cannot force the person to stay there and should not be responsible for that individual's pre-loading drinking. There is no standard test for intoxication prior to entry (other than breath-testing) - and barring the individual from entry still leaves them on the street.

If there was a service to remove the individual and take them home or to a detox centre, this would help manage the individual and remove them from the environment. The service needs to be user pays (or partially funded through tagged excise duty or licensing fees).

One member also made a case for providing services for staff that support the night-time economy, and other shift workers. Proposals to close all premises at the same time removes all choices for these staff.

13. Should we continue to have specific days on which alcohol cannot be sold?

Yes for Xmas Day and Anzac Day morning for all licensed premises. The requirements at Easter (two days) need to be made consistent for all licensed premises as it is an arbitrary rule to be able to drink if you buy a certain amount of food per person.

Age

14. At what age should a person be able to purchase alcohol in New Zealand?

15. At what age should a person be able to drink at a pub, club, bar or restaurant?

Agree with proposal that the age should be 18 years in an on-licence (pub, club, bar, restaurant) and 20 years at an off-licence. The lower age for on-licences is on the basis that staff are proactive in not admitting or selling to intoxicated people – or allowing individuals to buy drinks for intoxicated people. This assumes that on-licence premises will be responsible.

The emphasis seems to be about not selling to ‘intoxicated’ people; while this will help address alcohol abuse, it will require staff to be alert to patrons who are not purchasing alcohol, but are still consuming while intoxicated.

If it was found, on the basis of evidence, that on-licences were not acting responsibly, there should be a quick means of getting the age increased. An across the board approach would encourage industry associations and local businesses to be more proactive in ensuring that rogue on-licence premises do not spoil it for all.

Other licence types are not exempt from the need to act responsibly and not sell to people nearing intoxication. It will be more difficult to monitor the state of other members of a group in an off-licence situation, as the most sober person (of a legal age) will be purchasing while the others remain out of sight.

Individual and parental responsibility

16. Should it be an offence for anyone other than a parent or guardian to supply alcohol to someone under the purchase age?

Yes, though qualified as described below.

There is the option to allow a parent/guardian to provide their approval for their under 20 year old, eg if there is a party at someone’s home, or private function. The overall responsibility in legislation for the drinking that takes place must be with the parent/guardian who has authorised or is hosting the party or function and/or the owner/licensee of the location of the party, eg when a private venue is hired. There should be some onus (and liability) on the supplying/hosting adult to ensure individuals do not indulge in binge drinking or other behaviours that lead to dangerous levels of intoxication.

As information and education campaigns do not appear to be reducing the level of alcohol abuse, adults providing the alcohol have to carry some liability – whether by fines, demerit points, loss of licence, reduction in opening hours.

This issue is much broader than just about supply of alcohol to people under the purchase age. It is as much, perhaps more, about personal responsibility for our own behaviours, particularly for older adults.

Types of products

17. Do you think there are any alcohol products that should be banned?

No. Banning a particular drink, such as RTDs/alcopops, is likely to result in substitution of other products.

18. Do you think the rules about supermarkets and grocery stores selling liquor should continue as now?

The rules should continue for supermarkets as they are now. Supermarkets should not be able to open liquor stores that are ‘stores within a store’ or ‘attached to the supermarket’ as the supermarkets would be able to use their larger purchasing budgets (and profits from the

supermarket) to drive down wholesale prices and offer lower prices to the consumer to attract them to their store.

The rules for grocery stores (or convenience stores) need to be tightened. It increases the density of liquor outlets, is likely to lead to impulse purchases because of the convenience, and raises questions about how well staff comply with the age limit for purchase, as many are staffed by young people. It would also reduce the numbers of off-licences that would need to be monitored.

Tax/price

19. Do you think the availability of cheap alcohol is contributing to alcohol-related harm?

Yes.

20. Does the difference in price between alcohol bought from retailers such as supermarkets and liquor stores and alcohol bought in a bar or restaurant influence where you drink?

Many of our members would purchase in both supermarkets, liquor stores and at a bar or restaurant depending on the occasion – ie, price is not the deciding factor on where we drink. However, the price difference at supermarkets and liquor stores does affect our members due to the preloading by individuals and resulting anti-social behaviour as they come into the city intoxicated.

The availability of large quantities of cheap alcohol could still be an issue even if the access to on-licences was tightened. Some individuals may just be coming into town to walk the streets and be part of the buzz. Removing the ability to purchase more alcohol from off-licences after 10pm, would remove the temptation to drink more alcohol while in town, and would require some pre-planning to continue drinking at a private venue.

21. Do you think there is a case for increasing tax or setting a minimum price for alcohol in order to help reduce the amount of alcohol consumed by young people and heavy drinkers?

There is a case for increasing tax, providing that the increase went towards resources for more monitoring of licensed premises on a regular basis. Moderate drinkers will most likely resent a price increase, particularly in on-licence premises, where there is already a large mark-up, but may be willing to accept it if the desired outcome of reducing harms is achieved.

Heavy drinkers would pay more tax but may not care if they are able to stop purchasing other goods to continue to drink. Higher prices may reduce the quantities consumed by younger drinkers, but could also lead to other anti-social behaviours to find the money.

The tax-free level (currently <1.5% alcohol) could be increased, and hopefully reduce the retail price, to encourage more consumers to shift to low-alcohol products. It could encourage manufacturers to make a greater range of low-alcohol products to appeal to wider range of consumers.

A minimum price, based on alcohol content, would target the cheaper and discounted products. It could result in reducing the price ratio between higher content alcohol drinks, and move problem drinkers to those products, as these will achieve the result they are looking for more quickly - providing more 'alcohol for their dollar'.

While a minimum price could be monitored through the licensing process, as suggested in the paper, it will be resource intensive – especially if there is a move to in-store promotions to avoid detection. Penalties would need to be severe to remove the temptation to sell below the minimum price.

Advertising

22. Should the way alcohol is marketed (including advertising, promotions, and sponsorship) have greater restrictions? If so, what restrictions are appropriate?

Yes – promotions should not encourage drinking (2 for 1 for a limited time) or target certain groups (eg ladies' night).

Treatment

23. Do you think there is a need for greater emphasis on treatment for people using alcohol in a risky manner?

Appropriate treatment services should be available for those that seriously want to stop drinking or change their consumption patterns. Treatment courses in lieu of a penalty could be a waste of resources as some offenders will see it as an easy out and not be committed to making any change. It could be part of a penalty or linked to a deferred penalty if treatment is not completed or is participated in as a token gesture. Treatment may not be successful if the individual's family, friends and social network maintain the risky behaviours.

In the initial stages of addressing the current problem, the emphasis needs to be on managing the supply issues through the licensing and monitoring regimes to lessen the availability and ease of access for early onset, heavy and binge drinkers. This would, hopefully, lessen the numbers requiring treatment services.

Penalties

24. Should there be increased penalties for serious breaches of the liquor laws?

Yes – particularly for repeat offenders – both consumers and sellers.

25. Should there be greater use of infringement offences for minor breaches of the liquor law?

Yes. For consumers, non-payment of fines could present a problem. While the ability to stop people leaving the country would encourage some to pay their fines, it will not impact on others. The legislation should address repeat offenders who do not pay fines to allow for some other penalty that cannot be avoided, eg community service, demerit points. If there is a graduated approach of penalties for repeat offenders in other situations, eg driving or possession of drugs, a similar approach should be used for alcohol related offences.

It may be useful to have infringement offences for licensed premises as a cost-effective and streamlined way of penalties, provided that this was not seen as a small price to pay for the ability to non-comply; it would need an escalation process to more severe penalties.

26. Should the Police have greater powers to close down bars where there are breaches of law occurring?

Yes.

Liquor in public places

27. Should liquor bans be retained?

Qualified yes. The current bans are an answer to a problem few, while penalising the generally compliant majority. It should be a local authority decision rather than nationally imposed in legislation.

There should be the ability to enable people to drink responsibly in particular areas, eg parks, beaches, local concert, within timeframes such as 8am – 8pm. This does not mean that the alcohol can be consumed while walking along Oriental Parade or sitting on seats in Courtenay Place, but would enable a group of people to have a beer or wine with their picnic tea or watching a concert at Frank Kitts Park. Perhaps the answer is for a wide liquor ban with the ability to exempt certain places.

While some people would argue that the expectation of drinking at concerts, picnic at the beach, is part of the drinking culture that is causing the problem. Drinking alcohol in itself is not the problem for the majority of adult drinkers – it is the excess that is the problem, and if this occurred the same penalties would apply.

28. If so, can the liquor ban provisions on notification be improved?

The current approach to liquor bans (specific, but ever-expanding, areas) require many notices displayed in all areas. In Wellington, some notices are placed well above head height on poles – where people are not looking.

If a more selective approach was taken to where one could drink in public places, these fewer areas could be clearly marked and a wider information campaign used for general liquor ban in public places. As a comparison, the restrictions on dogs in the inner city is not widely publicised by notices but dog owners are expected to make themselves aware and comply; dog exercise areas are clearly labelled.

29. Do you think an offence of drinking in a public place, rather than the liquor ban system, is preferable?

Drinking in a public place is not necessarily the problem as many incidents of anti-social behaviour arise after the drinking has occurred to excess, ie the people may not be drinking at the time of the behaviour. The problem our members want to address is the anti-social behaviour that arises from the misuse of alcohol – indecent language, violence, vomiting/soiling, drug dealing.

The Summary Offences Act should be sufficient to take action against people committing these anti-social acts, but there are insufficient Police resources to respond to calls of such behaviour in a timely fashion. Hopefully, other actions arising from this review, will lessen the number of incidents over time, to enable the Police to respond and apprehend offenders.

30. Do you think it should be an infringement offence to be drunk in a public place?

How will 'drunk' be defined? The focus should be on ensuring anti-social behaviour is at least an infringement offence and responding to these incidents quickly and effectively.

31. Do you have any further comments or suggestions?

A few (4) members provided views on preferred policy options and these are provided in a separate document. Members could select multiple options.