

16 October 2018

Memorandum

To:	Regulatory Committee Members and Local Board Members
Subject:	Update on legal proceedings involving Auckland Council's Provisional Local Alcohol Policy and Auckland Council's submission on the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill No.2
From:	Kataraina Maki, General Manager, Community & Social Policy

Purpose

- To provide an update on:
 - legal proceedings involving Auckland Council's Provisional Local Alcohol Policy (Alcohol Policy). This follows the email update of 22 August 2018
 - Auckland Council's submission on the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill No. 2 (Bill).

Key Messages

Provisional Local Alcohol Policy – legal proceedings

- The council was successful in the preliminary hearing. The Alcohol Regulatory and Licensing Authority agreed to not allow the 9.00pm maximum closing time for off-licences to be re-litigated.
- Foodstuffs North Island Limited has appealed the Authority's decision to the High Court. Foodstuffs' appeal is to be heard on 5 March 2019.
- Progress of the appeals in the Authority requires Foodstuffs' appeal to be heard first.
- The judicial review proceedings are set down for the week starting 11 February 2019.

Submission on the Sale and Supply of Alcohol (Renewal of Licences) Amendment Bill No. 2

- Council submitted on the bill and highlighted the legal challenges faced in bringing a local alcohol policy into force. For the bill to have any effect, a local alcohol policy is required.
- The select committee report provided that the committee was unable to agree on whether the bill should proceed. Further progress has been postponed until 1 April 2019.
- A briefing on the Sale and Supply of Alcohol Act 2012 has been added to the business for the committee. No further information has been made available about this briefing.

Auckland Council's Provisional Local Alcohol Policy

Progress of proceedings in the Alcohol Regulatory and Licensing Authority – council successful in preliminary hearing

- The change made to the maximum trading hours for off-licences in October 2017 was appealed by three parties.
- In December 2017, the council sought an order from the Authority to narrow the scope of the appeal and exclude re-litigating the evening closing time of 9.00pm.
- The council was successful with the Authority agreeing to not allow the 9.00pm maximum closing time for off-licences to be re-litigated.
- Redwood has now withdrawn its appeal.

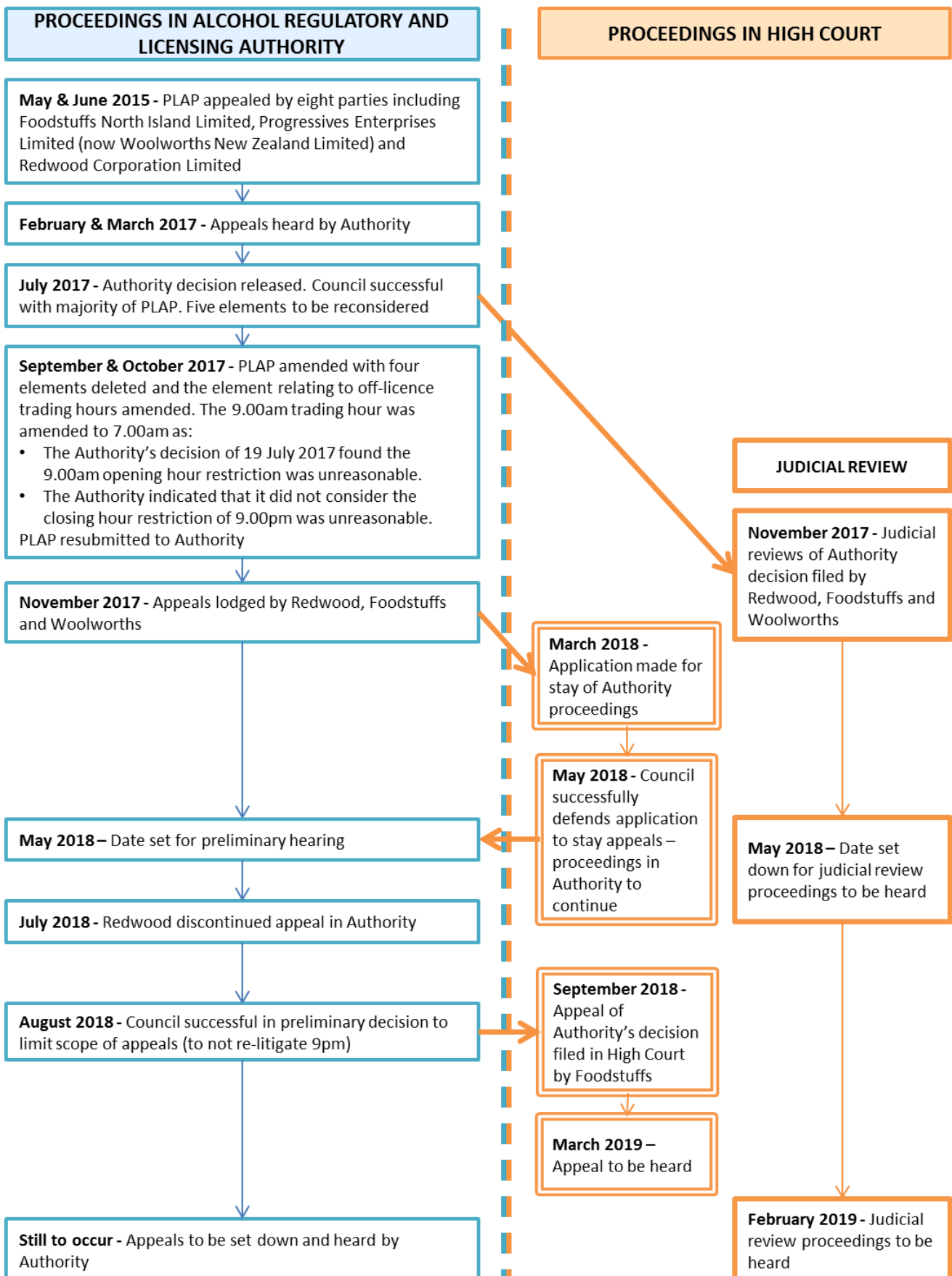
High Court appeal lodged by Foodstuffs North Island Limited against Authority's preliminary decision

- Foodstuffs has lodged an appeal in the High Court against the Authority's preliminary decision.
- Foodstuffs' appeal is to be heard on 5 March 2019.
- Foodstuffs' appeal will delay progress of the proceedings in the Authority.

Summary of legal proceedings involving the Alcohol Policy

8. A summary of the legal proceedings involving the Alcohol Policy and further information is included in Figure 1.

Figure 1 - summary of legal proceedings involving the Alcohol Policy



**Auckland Council's submission on the Sale and Supply of Alcohol (Renewal of Licences)
Amendment Bill No.2**

Bill introduced into Parliament by Louisa Wall to enable the refusal of a renewal of an alcohol licence in certain circumstances

9. In May 2018, the council made a submission on the Bill which had been introduced into Parliament by Louisa Wall as a private member's bill.
10. The Bill allowed a district licensing committee or the Authority to refuse to renew an alcohol licence if it would be inconsistent with a local alcohol policy. A supplementary order paper was also tabled which provided for the Bill to only apply to off-licences.
11. For the Bill to have any effect, a local alcohol policy must be in force.
12. Council's submission on the Bill provided that:
 - it was in favour of the principle behind the Bill
 - it wanted to ensure minimisation of unintended consequences
 - questioned the practical application of the Bill
 - highlighted the legal challenges it has faced throughout development of its Alcohol Policy
 - sought for a review of the Sale and Supply of Alcohol Act 2012.

Select committee has been unable to agree on whether the Bill should proceed

13. The report of the Governance and Administration Committee was presented to Parliament in August 2018. The committee was unable to agree on whether the Bill should proceed.
14. Further progress of the Bill has been postponed until 1 April 2019.
15. A briefing on the Sale and Supply of Alcohol Act 2012 has been added to the business for the committee. No further information has been made available about this briefing.

Next Steps

16. An update on both matters will be provided when further information is available.