

Date: Thursday, 8 November 2018
Time: 9.30am
Meeting Room: Room 1, Level 26
Venue: 135 Albert St
Auckland

Komiti Whakahaere ā-Ture / Regulatory Committee

OPEN ATTACHMENTS

**ADDITIONAL ATTACHMENTS
UNDER SEPARATE COVER**

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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

1. 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

1. The change made to the maximum trading hours for off-licences in October 2017 was appealed by three parties.
2. 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.
3. The council was successful with the Authority agreeing to not allow the 9.00pm maximum closing time for off-licences to be re-litigated.
4. Redwood has now withdrawn its appeal.

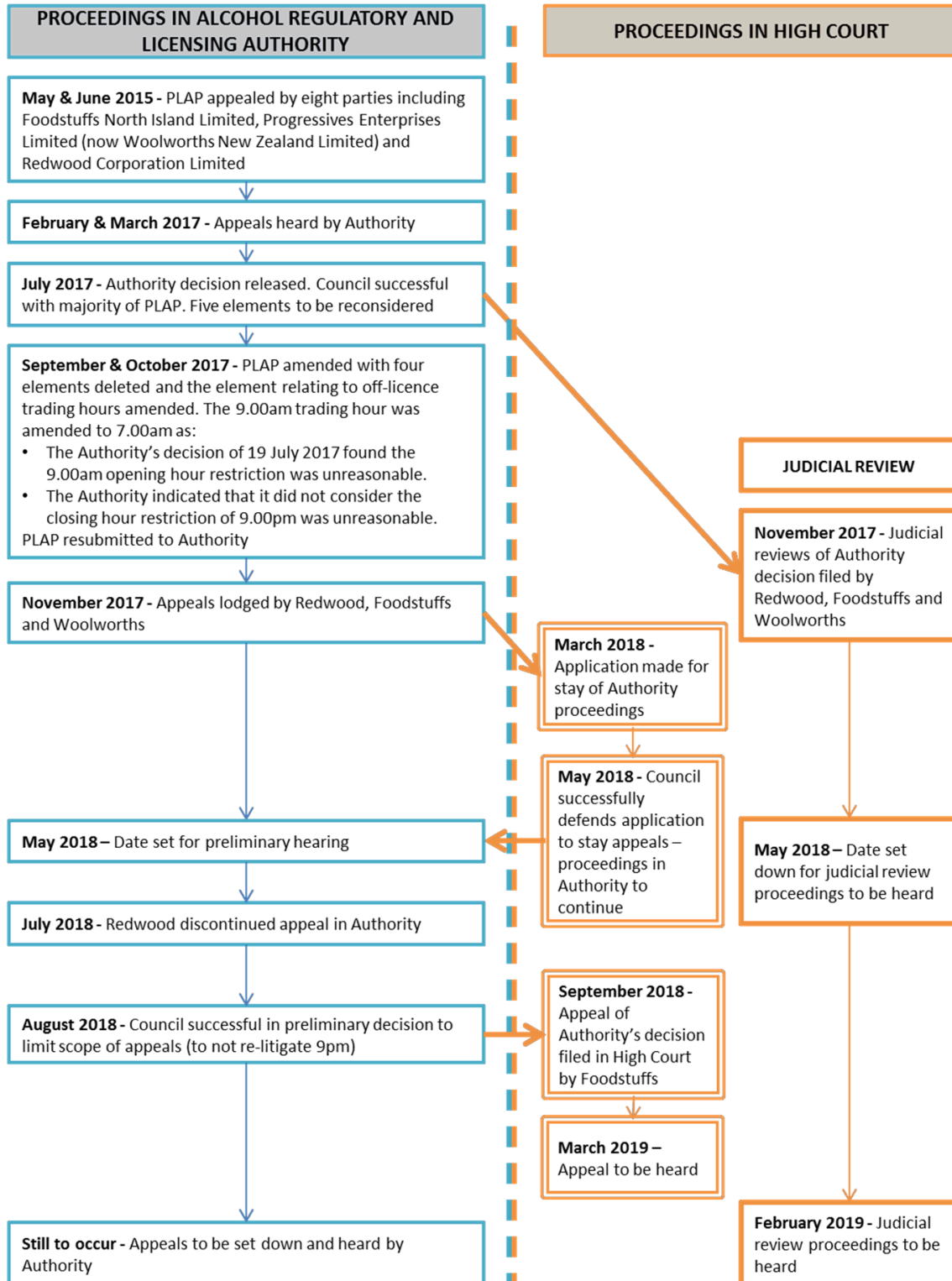
High Court appeal lodged by Foodstuffs North Island Limited against Authority's preliminary decision

5. Foodstuffs has lodged an appeal in the High Court against the Authority's preliminary decision.
6. Foodstuffs' appeal is to be heard on 5 March 2019.
7. 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.



25th October 2018

Memorandum

To: Regulatory Committee members

Subject: Outdoor dining and smoke free enforcement.

From: Craig Hobbs, General Manager Licensing and Compliance

Summary

- This memo serves to provide an update on the management of the smokefree policy and enforcement as requested by the regulatory committee, following a query from Member Taipari.
- Member Taipari has heard that café/restaurant owners have been told their 'licence' would not be renewed if they failed to meet a clause in their outdoor eating (on public land) approval regarding no smoking. It wasn't clear whether the 'licence' he was referring to is the actual outdoor eating licence or another licence required for food premises e.g. alcohol or food safety
- Auckland Council street trading staff encourage voluntary compliance via education with regards to enforcing the Smokefree policy.

Background

Auckland Council's Smokefree Policy 2017 – 2025 became live in November 2017.

www.aucklandcouncil.govt.nz/plans-projects-policies-reports-bylaws/our-policies/Documents/implementation-plan-smokefree-policy2017-2025.pdf

Achieving the goal to be smokefree by 2025 is a responsibility that is shared between central government, the health services sector, tobacco control agencies, communities and local government. The council's role in contribution to the overall sector goal is to help de-normalise smoking and leverage its ability to engage and inform the public of Auckland.

This Implementation Plan focuses on identifying activities the council will undertake to make the following public spaces smokefree:

- plazas, civic squares, shared spaces, urban centres
- the areas around sports clubs on council land
- al fresco dining areas
- common areas of council housing
- beaches.

Summary of current approach

Auckland Council activated the implementation plan November 2017

Media notification was the only medium used to notify licence holders at the time the implementation plan came into force.

Most outdoor dining licences come up for renewal in July each year.

Notification of the policy is currently advised by way of letter and a condition on the licence.

“No person is permitted to smoke, hold or otherwise have control over an ignited tobacco product in the licensed area”.

The condition only relates to outdoor dining licences.

A brochure is enclosed with the renewal letter.

Enforcement of the policy

- It is our practice to educate the licence holder in regards to the smoke free policy and encourage voluntary compliance.
- It would be a very last resort in exceptional circumstances to revoke the licence for non-compliance.

Attachments

Copy of information brochure

Copy of a letter and licence

23 October 2018

Attn: Transport & Infrastructure Committee

To the members of the committee,

Officer-only Submission – Building Amendment Bill (94-1)

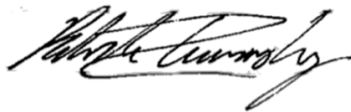
With regard to the Building Amendment Bill concerning the management of buildings after an emergency, I would like the select committee to record my submission of the following points:

- I broadly support the content of the Bill and the operational changes it will authorise for the post-disaster management of buildings, with the exception of;
- The definition of a heritage building as defined in the Bill, which appears to be limited to those listed as heritage buildings by Heritage NZ Pouhere Taonga. If this is intended to be the case, then there are many buildings considered as heritage structures by territorial authorities that could be summarily demolished without input by the listing Territorial Authority or HNZPT. Consideration should be given to ensuring TA listed heritage buildings are afforded the same requirements as HNZPT listed heritage buildings.

My feedback is based on my own substantial experience being involved in the development and implementation of post-disaster response plans over the last decade, during which I have encountered limitations of the present legislation that the Amendment Bill goes a long way to addressing, especially in Auckland's context.

Please note that my submission is based on my own personal views and should not be taken to automatically reflect the collective stance of Auckland Council as an organisation.

Yours sincerely



Patrick Cummuskey
Technical Advisor
Building Control Department