

Alcohol Reform Bill

Submission of the
Alcohol Advisory Council of New Zealand

February 2011



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EXECUTIVE SUMMARY

INTRODUCTION

The Alcohol Advisory Council of New Zealand (ALAC) is an autonomous Crown entity. ALAC has statutory responsibility to encourage and promote moderation in the use of alcohol, the reduction and discouragement of the misuse of alcohol, and the minimisation of the personal, social, and economic harm resulting from the misuse of alcohol. It is our statutory function to provide recommendations and advice on alcohol issues to a wide range of authorities and public bodies.

ALAC is pleased to be able to make a submission on the Alcohol Reform Bill. We would like to make an oral submission to the Committee.

ALAC will have an ongoing role assisting the implementation and operation of the new regime. ALAC can assist with the development of regulations and guidelines, and will work with territorial authorities on Local Alcohol Policies and provide advice and input to the work of District Licensing Committees. We will continue to work with Government and Local Government agencies, industry and non-government agencies.

ALAC welcomes the Alcohol Reform Bill and the opportunity to provide advice to the Justice and Electoral Select Committee. ALAC considers the Bill, as drafted, makes significant changes to the way alcohol is sold and supplied in New Zealand that have the potential to make a significant difference to alcohol-related harm in this country.

ALAC makes recommendations concerning:

- local alcohol policies
- Alcohol Regulatory and Licensing Authority
- exemptions
- alcohol and young people
- price
- treatment
- District Licensing Committees
- liquor bans
- special licences
- promoting alcohol
- labelling alcohol products
- alcohol and road safety

LOCAL ALCOHOL POLICIES

ALAC recommends:

- Local Alcohol Policies should be mandatory
- the consultation process for Local Alcohol Policies should more closely follow the special consultative procedure that local authorities are familiar with
- there should be no provision for appeal concerning Local Alcohol Policy content to the Alcohol Regulatory and Licensing Authority or to the High Court

- the Bill should provide for minimum requirements for Local Alcohol Policy content
- the content of Local Alcohol Policies should not be strictly limited, and should apply to all types of licence
- the Bill should allow for the territorial authority to decide to renew a Local Alcohol Policy sooner than the prescribed six year expiry date
- the special Treaty of Waitangi relationship between Māori and the Crown be appropriately reflected in the legislation and that explicit provision be made for iwi to participate in regulatory matters.

The Bill provides that, if there is a local alcohol policy, the policy will be taken into account as one of the criteria for deciding whether a licence can be granted or not. This gives a community a real voice in what happens in their neighbourhood. If there is no plan, the community's ability to influence licensing decisions is diminished. Without a plan, the national maximums for issues like opening hours come into play. But there are few licensing matters which have a specified national framework to default back to. For density issues in particular, without a local alcohol policy, any control over the number of premises in a particular place will be very difficult.

The Bill provides for a strictly limited number of licensing matters which alcohol policies may include. When the intention of local alcohol policies is to give local communities more say and a degree of control over the way alcohol is sold in their area, it does not seem reasonable to limit the way in which they may do so.

A person may object to the grant of a licence only if he or she has a greater interest in the application for it than the public generally. This continues the present situation. The right to be heard in objection to a licence application is limited. While the Police, Medical Officer of Health, and Licensing Inspectors may make objections, the community raising a petition or marching in protest will have no further right to have their views taken into consideration than they do today.

DISTRICT LICENSING COMMITTEES

ALAC recommends:

- a definition or description of acceptable relevant experience for District Licensing Committee members should be provided
- District Licensing Committees should represent both industry and public wellbeing concerns. The legislation should require this
- there should be no delegation of DLC functions
- special consideration should also be given to Māori being represented on the DLC, particularly in localities where high numbers of Māori reside.

The proposed new regime devolves some decisions down to new District Licensing Committees (DLCs) in territorial authorities. ALAC supports this. It is another way of enabling greater local input into licensing decisions, by ensuring local experience and expertise is involved in local decisions for local conditions.

It is important that the DLC fairly represents both industry and public wellbeing concerns. The legislation should require this. Special consideration should also be given to Māori being represented on the DLC, particularly in localities where high numbers of Māori reside.

In ALAC's view it is important that licensing decisions, whether they are appeals or not, should be the result of careful consideration, as required by the new legislation. It is inappropriate for there to be delegation of the powers of the DLC to anyone else, and decisions should always be carried out by a meeting of the DLC with membership as specified in the Bill.

ALCOHOL REGULATORY AND LICENSING AUTHORITY

ALAC recommends:

- There should be a national authority providing guidance and oversight to District Licensing Committees
- The Alcohol Regulatory and Licensing Authority (ARLA) should be able to issue guidelines or practice notes on any matters within its jurisdiction, whether they may be matters for appeal or not
- The Alcohol Regulatory and Licensing Authority should be a resource for District Licensing Committees, to help achieve national consistency, and to generally raise the standard of licensing activity and decision making all over New Zealand
- The Alcohol Regulatory and Licensing Authority should have an expanded role with the legislated responsibility to provide guidance and oversight to District Licensing Committees, and to monitor their performance
- The Alcohol Regulatory and Licensing Authority should have an Executive Officer, with responsibility for providing guidance, oversight, and monitoring of District Licensing Committees.

While the devolved responsibilities will lead to local ownership of decisions, those decisions will sometimes be difficult, hotly contested and high profile. It seems unreasonable to expect territorial authorities to manage this function without formal support structures from ARLA and the Ministry of Justice. In ALAC's view there should be a national authority providing guidance and oversight to District Licensing Committees. Without this, we are likely to see considerable increase in the inconsistencies around the country.

ALAC recommends ARLA should have an expanded role with the legislated responsibility to provide guidance and oversight to DLCs, and to monitor their performance. Such a role will mean that there is a need for an official Executive Officer position, with responsibility for these functions.

ALAC anticipates it will have a significant role in ensuring the new licensing regime works, both in implementation and providing advice to territorial authorities and to DLCs.

LIQUOR BANS

ALAC recommends:

- the criteria for liquor control bylaws should be more closely aligned to the provisions for the creation of bylaws set out in the Local Government Act 2002
- A large number of liquor bans currently in place would not meet the criteria laid out in the Bill, but a community should be able to act to prevent lower levels of ongoing nuisance, or to promote safety and good order, or even to set the tone of a particular place as part of a larger alcohol policy.

The Bill requires 'evidence' that a high level of crime or disorder has been experienced. There should be a balance between empirical evidence and community feeling. There should also be recognition of nuisance activity for which there will be little hard evidence. This provision opens up the possibility that considerable resources would be used to either defend or object to the creation of a liquor ban, in order to come up with evidence that it is or is not justified.

EXEMPTIONS

ALAC welcomes the removal of the exemption from licensing provisions for Parliament, but in its view, there should be no exemptions from the sale and supply of alcohol legislation for the Defence force, Police or Fire Service.

However, in the absence of a full exemption, ALAC recommends specific provisions that exclude Defence, Police and the Fire Service from particular licensing requirements, but ensures that they are required to serve or supply alcohol in a responsible manner. They should be bound, for example, to provide food and supply free drinking water, and to not serve intoxicated people.

SPECIAL LICENCES

ALAC recommends:

- a large event should be defined as any event where more than 1000 people are attending
- all large events should be licensed by a special licence only.

Special licences should be required for public events under a special licence category. The Bill defines an event as including an occasion and a gathering, and any series of events. This definition is too broad. There are no specific provisions for the licensing of large events. ALAC suggests the Act should define a large event, and licence conditions should be applied to all large events, targeting the risk that each particular large event presents.

The Bill should also specify that all large events must be licensed by a special licence only (rather than an on-licence). Currently, some major stadiums (e.g. WestpacTrust Stadium) are licensed by an on-licence and this means licence conditions cannot be put in place for the risk a particular event creates, because the on-licence remains in place for event after event. A soccer match, rock concert, or one day cricket international attract quite different crowds and create quite different scenarios for the management of alcohol.

ALCOHOL AND YOUNG PEOPLE

ALAC recommends:

- the minimum age for buying alcohol from any licensed premises, either on licence or off licence, should be 20 years
- it should not be possible for a party of 200 or more young people under the legal purchase age to be supplied with alcohol, particularly if the organisers are making some commercial gain
- the Bill should prohibit events where alcohol is supplied in the nature of a sale to minors. The selling of tickets to minors where alcohol (such as all-you-can-drink deals) is supplied as part of the ticket price should be expressly prohibited. We suggest provisions which prohibit alcohol being supplied to minors (regardless of parent or guardian consent) where:
 - a ticket has been sold to an event
 - a commercial operator is involved in the operation of the event (rather than simply the provision of the venue for example)
 - more than 100 persons are present or invited to an event
- when alcohol has been supplied to minors and the consumption of alcohol has not been supervised responsibly, the person who purchased the alcohol should be considered liable, even if there is a chain of responsibility involving several people handing on the purchased alcohol.

Purchase Age

In order to help limit the availability of alcohol to young people, ALAC strongly supports the provisions in the Bill to raise the purchase age for off-licences to 20 years.

Consuming large amounts of alcohol on licensed premises is relatively common, particularly among those aged 18 to 24 years. The reality is that not all our young people will be having a quiet drink in a cafe or bar with responsible older people leading the way. They will be attracted to the bars and clubs playing the music they like, usually well into the small hours of the next day. Those bars and clubs will be doing everything they can to attract their preferred clientele in an increasingly competitive market. They will continue to work with the suppliers to provide the right product at the right price. They will still have to battle with the much cheaper off-licence prices, and the practice young people have of pre-loading at home before they go to town. Many licensed premises will therefore continue to push the boundaries of regulation.

There is a continued risk therefore, that the licensing system, with a purchase age of 18 for on-licences continues to fail to help reduce alcohol-related harm for young people. Without further or tougher regulation around hours, one way door systems, alcohol promotions, products, and price, leaving the purchase age for on-licences at 18 will not help.

ALAC believes the age for buying alcohol from any licensed premises, either on licence or off licence, should be 20 years.

Supply to minors

The Bill provides a well articulated new offence for supplying alcohol to minors. The list of what is considered to be 'a responsible manner' is comprehensive and is likely to be referred to frequently in future, and in the wider sphere of the provision of alcohol. ALAC strongly supports these provisions.

However, the provisions in the Bill for supply to minors enable the continuation of large gatherings of under 18-year-olds being provided with alcohol. It would be easy for each student under 18 attending the function to show they had parental consent to drink. Providing alcohol responsibly to a group of 500 young people is a much different thing to a small social gathering at a private home. There is also the risk that most of the large gatherings would take place in venues that are not licensed, do not have appropriately trained bar managers or staff, and are generally not environments where moderate, sensible drinking is encouraged.

The Bill should prohibit events where alcohol is supplied in the nature of a sale to minors. The selling of tickets to minors where alcohol (often all-you-can-drink deals) is supplied as part of the ticket price should be expressly prohibited.

The Bill specifies in clause 224(6) that a person does not commit an offence (of supplying to a minor) by supplying alcohol to a person who then supplies it to a third person who is a minor, unless it is proved that the person knew or had reasonable grounds to believe that the alcohol was intended for a minor.

A long chain involving people who genuinely did not know who was going to drink the alcohol would present an investigative challenge in which intent would be difficult to prove. However, in the event of a tragedy such as a death by alcoholic poisoning or a fatal car crash involving a drunk 16-year-old, the person who purchased the alcohol and made it available to the minor should be held responsible.

PROMOTING ALCOHOL

ALAC recommends:

- the Justice and Electoral Select Committee should recommend to Government that a formal interdepartmental committee should be set up immediately to consider ways in which the exposure of advertising, particularly to young people, can be reduced;
- alcohol brands should not be able to have naming rights sponsorships for events that have appeal to young people.

ALAC welcomes the provisions to strengthen the existing irresponsible promotion offence. ALAC agrees that the offence should continue to apply to promoting 'excessive' consumption, and that it should apply to any promotional activity, in any circumstances.

Measures to remove advertising from places where young people are most likely to see it (for example bus stops and train stations, and youth oriented television) should be broadly acceptable to industry, and would make a considerable difference to young people's drinking.

It continues to be legal and within self regulatory codes of practice to give alcohol brands naming rights to events. A music festival (Jim Beam Homegrown), or awards (the 2010 Steinlager Rugby Awards) have a great deal of influence and special appeal to young people. Such sponsorship messages have no time of day restrictions and have wide reach, even featuring in news broadcasts. In ALAC's view it is inappropriate for alcohol brands to be able to have naming rights sponsorships. This immediate step should be included in the Bill.

Formally assigning responsibility for the monitoring of research, advertising and promotional activity in New Zealand, to enable careful consideration of the way in which self-regulation is working would help provide an evidence base (or otherwise) for future policy decisions about promotion of alcohol. In ALAC's view the Select Committee should recommend to Government that a formal interdepartmental committee should be set up immediately to consider ways in which the exposure of advertising, particularly to young people can be reduced.

PRICE

ALAC recommends:

- there should be provision for a regulation making power to require sales and price data from industry
- excise should be removed from low alcohol products (below 2.5% alcohol by volume)
- minimum price should be further investigated.

It is proposed by Government that voluntary options for obtaining information from retailers should be sought, and if industry was not prepared to provide this information within one year, then Government should consider regulatory options. ALAC notes there is no corresponding power for a regulation to be made, or other means of requiring data from industry in the Bill. A regulation making power should be provided for.

Low alcohol beverages help reduce alcohol-related harm. They are currently a very small part of New Zealand's alcohol market. The Law Commission reports that the removal of the excise on low-alcohol products (up to 2.5% alcohol by volume) is supported by the industry. Such a removal of excise would fit well with current marketing trends to cater for health conscious drinkers, as more low alcohol beers and other beverages would be developed. It is likely the price of low alcohol beverages would come down, making them more popular. ALAC recommends removal of excise on low alcohol products.

LABELLING ALCOHOL PRODUCTS

ALAC recommends:

- alcohol products should no longer be regulated as a 'food' under the Australian New Zealand Food Standards Code and that it is timely to explore the potential of including alcohol labelling within the alcohol law reform proposals
- a committee be established to develop an appropriate process for removing alcohol product labelling from the Australian New Zealand Food Standards Code and to develop a suitable regime for regulating alcohol product labelling under the alcohol law reform proposals.

Labelling for alcohol products is currently regulated by the Australia New Zealand Food Standards Code. The code requires that alcoholic beverages list the alcohol content and number of standard drinks. Alcohol products are however exempt from other labelling requirements such as mandatory nutritional information and the requirement to list ingredients.

A comprehensive review of food labelling law and policy is currently being conducted by the Australia and New Zealand Food Regulation Ministerial Council and other initiatives on product labelling are also underway. Given this, the Law Commission recommended that the labelling of alcohol products should continue to be considered under these multiple processes. Government agreed, noting the Ministry of Justice would be the responsible agency.

ALAC believes that it is timely to consider whether alcohol product labelling should continue to be regulated as a 'food' or whether it best fits under the new alcohol legislative regime. We are of the view that it is more appropriate to regulate alcohol labelling under the new alcohol legislation.

TREATMENT

ALAC recommends:

- priority be placed on establishing a whole-of-government plan to increase access to alcohol screening and brief interventions in a range of settings, particularly primary health and emergency department settings, and that this plan be ready for implementation soon after the new alcohol legislation is passed and enacted.

In ALAC's view, there is a relatively low cost and potentially effective measure that agencies across Government should be working together to consider with some urgency.

Brief interventions can be defined as short, one on one interventions that vary in methods according to the settings in which they are utilised but with the aim of identifying and/or supporting individuals to reduce harm from existing or potential alcohol behaviour.

In general, an alcohol brief intervention approach starts with systematic screening to identify whether an individual has a drinking problem requiring intervention. Alcohol screening tools are largely short and structured questionnaires which take between one and five minutes to administer. Of these tools the AUDIT (Alcohol Use Disorders Identification Test) is the most well known and used. Brief interventions are typically face to face but telephone, mail, and more recently computers have been used.

Interventions that could work best in New Zealand primary care and emergency departments are currently in use or being developed and tested. ALAC is also exploring other opportunities for implementing alcohol screening and brief interventions in broader health and social service settings. The outcomes of this further work will be critical in planning to increase access to alcohol screening and brief intervention. ALAC is currently leading this work, in collaboration with the Ministries of Health and Justice and the ACC, as part of the alcohol priority stream of the Government's Drivers of Crime work programme.

ROAD SAFETY

ALAC recommends:

- in ALAC's view a lower general blood alcohol content (BAC) would help to educate and a change behaviour of many New Zealanders, and greatly reduce alcohol-related harm. The blood alcohol limit for drivers over 20 years of age should be 50 milligrams of alcohol per 100 millilitres of blood
- there should not be a period of disqualification from driving before a convicted drink driver is eligible to apply for an alcohol ignition interlock device.

In ALAC's view a lower general BAC would help to educate and change behaviour of many New Zealanders, and greatly reduce alcohol-related harm. The blood alcohol limit for drivers over 20 years of age should be 50 milligrams of alcohol per 100 millilitres of blood. This important steer from a lower BAC could make a contribution far beyond road safety.

The Land Transport (Road Safety and Other Matters) Amendment Bill also included provision for the introduction of alcohol ignition interlock devices to New Zealand for the first time. ALAC strongly supports the introduction of interlocks, but is concerned that the proposed regime including a period of disqualification before the interlock device is fitted will be counter-productive. Experience shows that some drink drivers who are disqualified from driving will continue to drive, and they are likely to continue to drink and drive, particularly when they have already proved they are accustomed to drinking and driving by having more than one conviction, or by being apprehended with a very high alcohol reading that would render most of the population unable to stand, let alone drive.

ALCOHOL REFORM BILL

Submission of the Alcohol Advisory Council of New Zealand

ABOUT ALAC

1. The Alcohol Advisory Council of New Zealand (ALAC) is an autonomous Crown entity. ALAC has statutory responsibility to encourage and promote moderation in the use of alcohol, the reduction and discouragement of the misuse of alcohol, and the minimisation of the personal, social, and economic harm resulting from the misuse of alcohol. It is our statutory function to provide recommendations and advice on alcohol issues to a wide range of authorities and public bodies.
2. ALAC is pleased to be able to make a submission on the Alcohol Reform Bill. We would like to make an oral submission to the Committee.
3. ALAC has a long history of working directly with Government as advisors concerning alcohol in New Zealand, and with non-government organisations. We were pleased to contribute to the Law Commission review. ALAC helped facilitate community consultation with the Law Commission all over New Zealand, and we seconded a senior staff member to the Law Commission review team. We have strong networks with communities nationwide, and with Pacific, Māori and Youth communities. ALAC prides itself on working from a well informed evidence base.
4. ALAC will have an ongoing role assisting the implementation and operation of the new regime. ALAC can assist with the development of regulations and guidelines, and will work with territorial authorities with Local Alcohol Policies and provide advice and input to the work of District Licensing Committees. We will continue to work with central and local Government agencies.
5. ALAC will also continue to work constructively with the hospitality industry, both at an association level (continuing and enhancing productive relationships with the Hospitality Association of New Zealand and the Restaurant Association of New Zealand) and with individual licensees. ALAC recognises that in the hospitality industry there are competent and compliant operators, many of whom support the majority of the law reform package. We strongly believe that being a responsible operator is good for business, and we know that while there are bad operators, many premises apply a good model of business and responsibility.
6. ALAC is also working with the retail sector and producers and manufacturers and will continue to seek improvement in their corporate social responsibility.

PRINCIPLES

7. Our policies have been evaluated using the following criteria. They:
 - are supported with evidence
 - are of high effectiveness in addressing alcohol harm
 - target the areas of greatest harm
 - do not unreasonably restrict the freedoms of New Zealanders
 - are easy to implement.

ALAC's submission endeavours to be both pragmatic and focused on effective change and is written with an eye to the future.

INTRODUCTION

8. ALAC welcomes the Alcohol Reform Bill and the opportunity to provide advice to the Justice and Electoral Select Committee. ALAC considers the Bill, as drafted, includes significant changes to the way alcohol is sold and supplied in New Zealand that have the potential to make a significant difference to alcohol-related harm in this country.
9. ALAC particularly welcomes changes aimed at making sure communities have a say on how alcohol is sold in their neighbourhoods. By allowing for local alcohol policies, and devolving decision making from the national level to territorial authorities, the Bill allows for local policies and decisions that directly address local conditions.
10. Reduced hours, changes to the types of premises that may sell alcohol, and the ability to apply a wider range of licensing conditions will all help to limit the availability of alcohol. ALAC supports these measures.
11. The Bill also includes a number of provisions that will have the effect of addressing alcohol-related harm for young people. ALAC particularly welcomes the clauses introducing new offences for the irresponsible promotion of alcohol, and the supply of alcohol to minors.
12. In three or four years time, a Saturday night scenario for a gathering of 20-year-olds could be considerably different to the way it unfolds today. In the future, under this new legislation, they will have to be more organised if they are drinking at home. They will have fewer opportunities to purchase alcohol. The closest dairy is unlikely to sell alcohol alongside the milk, bread and sweets. Their favourite off-licence will close at 11:00pm, so if they run out of alcohol, they cannot re-stock. 18-year-olds will not be able to purchase at off-licences. Instead, they may choose to go into town, to a bar or club. They will not have been bombarded all week by promotions for a big alcohol fuelled

dress-up night, free drinks on arrival, or huge two for the price of one discounts. Hopefully, their expectations of a big night out will be lowered a little.

13. These changes will build up over time and we should see subsequent changes in what is considered normal about drinking, and the way in which New Zealanders drink.
14. The proposed new licensing regime makes up the majority of the Alcohol Reform Bill, and it is very important that the new regime works well. For this reason, ALAC has taken care to address the issues that are 'on the table', the detail of local alcohol policies and other opportunities for community say, District Licensing Committees, and the Alcohol Regulatory and Licensing Authority.
15. ALAC is also concerned that the provisions concerning promotions, the purchase age, and supply to minors could go further, so we have made suggestions for improving those.
16. Finally, there are a number of measures that are not included in this Bill, which would have a significant impact on alcohol-related harm. ALAC has therefore provided advice on the price of alcohol, labelling of alcohol products, treatment, and road safety.
17. ALAC looks forward to continuing to be involved in the implementation and operation of this significant new legislation.

USE OF TERMS

The harm that results from the use of alcohol is caused by drinking which is described in the literature, the media and in everyday discussion as problem drinking, harmful drinking, or hazardous drinking. Drinkers are referred to across a spectrum of binge, heavy, and moderate. In this document we have most often referred to alcohol-related harm. We use this term to generalise about the wide spectrum of harm that alcohol contributes to, from hangovers and the associated loss of productivity, to serious intoxication and obnoxious behaviour, to dependency and chronic health problems.

COMMUNITY SAY

18. We regularly hear about a community somewhere in New Zealand raising a petition, marching in protest or appearing at a liquor licensing hearing to object to the opening of another liquor outlet in their area.
19. In Rotorua, in July 2010 a petition was signed by more than 250 people, objecting to a new liquor store, close to a primary school. At the Liquor Licensing Authority (LLA) hearing in January 2011, the store was granted a licence on the condition it is closed between 2:30 and 4pm.¹
20. In November 2010 a licensing application for a new Super Liquor Store in Glen Innes was withdrawn by the applicant after 100 individual objections and a petition signed by 1215 people was sent to LLA.

¹ Kinita, D. (2011). Liquor store to close as pupils pass. *Daily Post*, 14 Jan 2011. Retrieved 15/1/11 from <http://www.rotorudailypost.co.nz/local/news/liquor-store-to-close-as-pupils-pass/3936918/>.

A director of the applicant company said the application was withdrawn because the community did not want the store.²

21. A petition signed by 315 people objecting to a licence application for a liquor store to open next to a petrol station in Whakatane was presented to a liquor licensing hearing in November 2010. Community members spoke of the number of outlets already operating, and their concerns about the combination of the service station and the liquor outlet.³ The District Licensing Agency Inspector opposed the application, telling the LLA hearing that the level of opposition from the community “was particularly united and strong – an unprecedented level for the Whakatane Community”. Because of the association with the service station and the provisions of the Sale of Liquor Act 1989 that precludes the grant of an off-licence in respect of a service station, the application was declined.
22. The application for a new off licence in Silverstream, Wellington, attracted more than 130 submissions in opposition. The application was granted, but the LLA noted “clear evidence that public antipathy to the proposal was endemic” and that “given the proximity of the two schools (St Pat’s College and Silverstream Primary) we accept that a bottle store at this site could impact adversely on the neighbouring amenities and way of life”. “It is our view that we have no option other than to grant the application. The company fulfils all the criteria...”⁴
23. In 2009 the Cannons Creek community marched to a LLA hearing and gave passionate and detailed evidence about why the application for a new liquor licence should not be granted. The application was turned down. The LLA decision records the passionate evidence of community leaders, concerned that the community was already burdened with high alcohol consumption that fuelled crime and violence. The LLA said:

“the application has become a major local issue, and the proposed sale of liquor from this site has become a serious matter for the community. In our view, there needs to be some recognition of that factor, given that we appear to be on the cusp of change in relation to the nation’s system of control over the sale and supply of liquor”.

“We believe that the grant of the application would undermine the efforts being made to change the local culture for the better. Put in another way the company was unable to persuade us that it is a responsible applicant that has suitable premises and will have proper controls over the sale of liquor”.

The application was refused.

² McGillivray, A. (2010). Anger over liquor shop. *East & Bays Courier*, 5 Nov 2011. Retrieved 24/11/11 from <http://www.stuff.co.nz/auckland/local-news/east-bays-courier/4307762/Anger-over-liquor-shop>.

³ Melville, K. (2010). Opposition grows to liquor store - booze and fuel a 'recipe for disaster'. *Whakatane Beacon*, 9 Nov 2010. Retrieved 24 /11/10 from <http://www.whakatanebeacon.co.nz/cms/news/2010/11/art10008175.php>.

⁴ Cox v Vishal, No. PH 1261/2009 (NZLLA, 11 Sept 2009).

24. In many other districts around New Zealand, local councils, police and public health experts, local business and community members have worked together to arrive at local alcohol plans or policies which set out how the sale of alcohol and the effects of drinking will be managed in their district.
25. The Franklin District Local Alcohol Policy was approved in November 2009, following an extensive consultation period.⁵ The Policy was developed with input from focus group meetings on alcohol-related issues, submissions from the public and national industry organisations during consultation and the consideration of national and international research.
26. In Queenstown in 2007, local policy was implemented allowing on-licences in the central business district to be open from 7am to 4am (the following day). This was a controversial change from 24hour opening. While industry has continued to challenge the policy, it has wide support from other members of the community. The policy was upheld after an appeal to the Liquor Licensing Authority in October 2007, but the LLA added a sunset clause, and a review provision. Licensees appealed to the High Court, but this was dismissed.
27. In September 2009 a review hearing was heard by the LLA. The Liquor Licensing Authority said in its decision:
- “The reduction of liquor abuse may well be achieved if there is a common closing time for all licensed premises in Queenstown”*
28. Licensees appealed to the court of appeal, but in December 2009 this appeal was also dismissed.
29. The High Court decision said:
- “There does not seem to be any dispute as to the existence of concerns about alcohol abuse in Queenstown, nor any dispute that these concerns are well founded”.*
- “The Authority is entitled to make inferences as a matter of common sense about such issues as common closing times”*
30. The Court of Appeal states:
- “The Authority was entitled to give precedence to the overriding statutory object in section 4...”*
- “If the Authority considered (as it did) that reduced trading hours would help reduce liquor abuse then, logically, any restriction on trading hours must be a blanket provision that applies to all liquor outlets”.*⁶

⁵ Franklin District Council. (2009). *Franklin District local alcohol policy*. From <http://www.hauraki-dc.govt.nz/documents/policies/KaiauaPols/Adopted+Local+Alcohol+Policy+2009.pdf>.

⁶ Surrey, T., & Fowler, A. (2010). *Lessons from Queenstown*. Paper presented at the ALAC Working Together Conference 2010 - Time for Action. From <http://www.alcohol.org.nz/Documents/Presentations/2010/Day%20One%20Stream%20Sessions/Stream>

31. Under current law, and the resulting processes, the community activity has little legal status. While LLA decisions have increasingly recognised community concerns, there is little right for community representatives to be heard. While LLA decisions have noted what community members have had to say, the decisions are made on the criteria available in law, rather than community concerns. Communities want to be heard and the Minister of Justice has repeatedly said one of the aims of legislative reforms is to give communities more say. ALAC welcomes these changes.

Regulating the sale and supply of alcohol

32. Regulating the sale and supply of alcohol is a difficult and complex challenge. History shows that the regulatory environment is unlikely to be the subject of an in depth review for another lengthy period, so it is important to ensure the new regime will continue to work over the coming years, in the rapidly changing and diverse New Zealand society in which it operates.
33. In an important regulatory text Ayres and Braithwaite identified a long history of dispute between proponents of deterrence and compliance models of regulatory enforcement. Some argue that there will be compliance with the law only when confronted with tough sanctions, and others believe that gentle persuasion works in securing business compliance with the law.⁷ The authors argued it was time to strike some balance between the two.
34. Recent regulatory theory identifies the need for regulators to be responsive not only to the compliance performance of the regulatee, but also in five further ways:⁸
- to the regulatee's own operating and cognitive frameworks
 - to the broader institutional environment of the regulatory regime
 - to the different logics of regulatory tools and strategies
 - to the regime's own performance
 - to changes in each of these elements.
35. The Alcohol Reform Bill provides a number of ways in which a balance between deterrence focussed regulation and a more co-operative model can be struck. The opportunities for greater community say enable all members of the community to have a voice, from the concerned family members, to health and enforcement professionals, to alcohol retailers and bar owners. There is provision for local decisions to be made by local people for local conditions. There is also enhanced opportunity to ensure the enforcement agencies work together in a collaborative manner. The provision of enhanced regulatory tools should improve regulatory activity such as compliance monitoring, and

[%20The%20law%20and%20enforcement/Lessons%20From%20Queenstown%20-%20Tanya%20Surrey.PPT.](#)

⁷ Baldwin, R., & Black, J. (2007). *Really responsive regulation*. London: Law Department, London School of Economics and Political Science, quoting Ayres and Braithwaite 1992, p 5.

⁸ Baldwin, R., & Black, J. (2007). *Really responsive regulation*. London: Law Department, London School of Economics and Political Science.

enable sanctions when appropriate. All of this should improve the way in which the sale and supply of alcohol is managed in New Zealand, allowing compliant regulated industry members to thrive.

36. However, there are some regulatory tools provided, such as processes around Local Alcohol Policies, which do not lend themselves to easy operation, and will not be responsive enough to the changing environment in which they operate. With a considerable number of functions devolved from a national body to territorial authorities, there is an even greater need for regulatory activity to be logically and efficiently managed. With a lack of provision for monitoring of the performance of the proposed licensing regime, and some provisions for processes that are over-complicated it must be considered whether the licensing regime can be responsive enough to sufficiently manage the licensing environment over the coming years.
37. There is also a question about the extent to which explicit provision should be made for iwi to participate in alcohol regulatory decision making. The Treaty of Waitangi creates a unique relationship between Māori and the Crown one of partnership, participation and protection. As such the legislation should appropriately reflect this special relationship. The provisions within the Resource Management Act 1991 that require decision-makers to take into account the principles of the Treaty of Waitangi and the consultation provisions are good examples of what could be included within the alcohol legislation.
38. ALAC's submission therefore makes recommendations in the following regulatory areas:
 - Local Alcohol Policies (LAPs)
 - District Licensing Committees (DLCs)
 - Alcohol Regulatory and Licensing Authority (ARLA)
 - Alcohol in public places
 - Licensing and special licences.

Local Alcohol Policies

39. The World Health Organization Expert Committee on Problems Related to Alcohol Consumption says:⁹

“Alcohol problems are personal experiences for community members, and efforts to prevent or reduce further problems are also a personal matter. However, a common experience has been that local alcohol policy making is hampered by restrictions on local action imposed by national or regional authorities. It is important that local authorities have the means and power to act to reduce alcohol-related harm in their community to the lowest possible level.”

40. Babor and colleagues state in ‘Alcohol No Ordinary Commodity’ that:¹⁰

⁹ WHO Expert Committee on Problems Related to Alcohol Consumption. (2007). *WHO Expert Committee on Problems Related to Alcohol Consumption: second report*. Geneva: World Health Organization.

“Research on local prevention efforts suggests that alcohol problems are best considered in terms of the community systems that produce them. Local strategies have great potential to be effective when prior scientific evidence is used and multiple policies are implemented in a systematic way. Thus, a complementary system of strategies that seek to restructure the total drinking environment is more likely to be effective than single strategies.”

41. A number of District Councils in New Zealand have adopted LAPs after extensive community consultation. Local alcohol policies enable local authorities and their communities to plan the local alcohol environment and economy to the best effect for their community, taking into account both their social and economic needs.¹¹ For example, the purpose of Franklin District Council Local Alcohol Policy is to:
- clearly define Council’s approach to, and administration of, its responsibilities under the Act
 - define the parameters which guide liquor licensing within the Franklin District and outline how the District Licensing Agency (DLA) will carry out its functions
 - provide licensees and prospective licensees with guidelines regarding Council, DLA and community expectations regarding the sale of liquor within the District
 - establish responsible drinking practices within the District, this then contributes to positive social well-being
 - promote the principles of Host Responsibility to licensees and the community, through education, communication and promoting the effective implementation of Host Responsibility Policies
 - develop and cultivate partnerships with relevant organisations including (but not limited to) the Police, Ministry of Health, Alcohol Advisory Council, Alcohol Healthwatch and the New Zealand Fire Service
 - ensure a sustainable approach to reducing alcohol-related harm.

Mandatory or voluntary?

42. ALAC recommends local alcohol policies should be mandatory.
43. The Bill provides that if communities have been able to contribute to the development of a local alcohol policy, the policy will be taken into account as one of the criteria for deciding whether a licence can be granted or not.¹² If there is no plan, the community ability to influence licensing

¹⁰ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K. M., et al. (2010). *Alcohol: no ordinary commodity: research and public policy* (2nd ed.). Oxford : New York: Oxford University Press.

¹¹ Alcohol Advisory Council of New Zealand. (2009). *Submission to the New Zealand Law Commission on the Alcohol in Our Lives issues paper*. Wellington: ALAC.

¹² Alcohol Reform Bill (2010). Clause 100(c)

decisions is limited. “Local alcohol policies provide an important avenue for communities to have a real say on licensing decisions in their areas, and in some cases provide the only opportunity”.¹³

44. ALAC’s experience of local alcohol policies is that the areas where there is higher deprivation or where there is evidence of greater alcohol-related harm are also more likely to be areas where there is no local alcohol policy. In 2009, ALAC found that of the 31 Councils that did not have an alcohol policy in place:
- over half of them have a high proportion of at least one of ALAC’s priority populations (Māori, Pacific peoples, Youth)
 - about one third are in the top 20 of local councils with the highest on or off-licences per head of population.¹⁴
45. The Cabinet paper notes that a requirement for LAPs is consistent with the mandatory requirement for territorial authorities to adopt a class 4 gambling (“pokie machine”) venue policy. However the Minister of Justice recommends that “LAPs be voluntary, recognising that some communities may not desire further restrictions or extensions over and above the national legislation. LAPs adopted under the proposed provisions would enable communities to vary certain national provisions. Communities that do not want to tighten or extend restrictions should not have to incur the cost of consulting on such a proposal. Where an LAP is not adopted, the national framework would apply”.¹⁵
46. The Alcohol Reform Bill prescribes the things that may be included in a local alcohol policy:¹⁶
- location of licensed premises by reference to broad areas
 - location of licensed premises by reference to proximity to premises or facilities of particular kinds
 - whether further licences (or licences of particular kinds) should be issued for premises
 - maximum trading hours
 - one-way door restrictions.

The intention is that if the district does not develop its own policy, these licensing matters will be the subject of default maximums.

47. The Bill does set some national limits. There are national maximum trading hours:¹⁷
- 7am to 11pm for off licences
 - 8am to 4am for on licences.

¹³ Alcohol Advisory Council of New Zealand. (2009). *Submission to the New Zealand Law Commission on the Alcohol in Our Lives issues paper*. Wellington: ALAC, p 42.

¹⁴ *ibid*, p 43.

¹⁵ *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, p 15.

¹⁶ Alcohol Reform Bill (2010). Clause 77.

¹⁷ Alcohol Reform Bill (2010). Clauses 47 – 50.

The Bill also defines and sets out the requirements of a one way door. However applying a condition for a one way door is discretionary; it **could** be applied by the licensing decision makers. The Bill does not specify a time after which a one way door should operate.

While new licence criteria define the conditions which must be considered before a licence is granted and the Bill describes the kinds of outlets that may hold an off licence (grocery shops and supermarkets) nothing in the Bill provides for the numbers of premises or for the siting of premises, except for LAP content.

48. If a district does not make a local alcohol policy, there are few licensing matters which have a specified national framework to default back to. For density issues in particular, without a local alcohol policy, any control over the number of premises in a particular place will be very difficult. The national framework would grant conditions wider than currently in place in some areas where there is not infrastructure to support such facilities and ambulances.

Costs

49. There is concern that the resources required to develop and consult on local alcohol policies are expensive. The Bill, however, allows for fee setting to recover costs of local authorities. While it would be unrealistic to expect that licence fees can cover all the costs of issuing licences and enforcement as well as the development of a local policy, local authorities should be able to recover some of the expense and rely less on rates revenue to cover the costs of managing alcohol in their communities.
50. The cost of developing a policy must be considered, but should not be considered a determining factor in deciding whether policies should be mandatory or voluntary. There is great potential for a LAP to reduce alcohol-related harm, in a manner that is particularly effective for the community that adopts it. A well considered LAP should contribute to longer term savings, and fewer costs to the community by reducing, for example alcohol related litter and vandalism.

Consultation on policies

51. ALAC recommended to the Law Commission that territorial authorities should be required to consult using the Special Consultation Procedure specified in section 83 of the Local Government Act 2002.¹⁸ Given the importance of alcohol issues to the community and because the LAPs will have some bearing on licence decision-making, the Commission recommends that public consultation be undertaken on the proposed policy pursuant to the special consultative procedure.¹⁹
52. The Minister of Justice recommended largely accepting the Commission's proposed consultation requirements for LAPs,²⁰ but the process for the development and adoption of local alcohol policies outlined in the Bill does not strictly follow the Special Consultative Procedure.

¹⁸ Alcohol Advisory Council of New Zealand. (2009). *Submission to the New Zealand Law Commission on the Alcohol in Our Lives issues paper*. Wellington: ALAC, p 42.

¹⁹ *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, p 15.

²⁰ *ibid*

53. ALAC recommends the consultation process should more closely follow the special consultative process that local authorities are familiar with.
54. ALAC acknowledges that the Treaty of Waitangi creates a unique relationship between Māori and the Crown, one of partnership, participation and protection that gives rise to a number of specific obligations and responsibilities. We believe that the legislation should reflect this appropriately. The provisions within the Resource Management Act 1991 that require local government to consult tangata whenua in the development of their policies and plans and on any resource consent decision that may impact on iwi are examples of what could be included within the alcohol legislation.
55. In addition, Māori, Pacific and young people experience a disproportionate amount of alcohol-related harm. Special consideration should also be given to how to ensure Pacific communities and young people are appropriately consulted on local alcohol policies.

Appeal provisions

56. The process outlined in the Bill includes the right of any submitter on the draft LAP to make an appeal against any matter within it relating to licensing.²¹ Appeals are to be heard by the Alcohol Regulatory and Licensing Authority (ARLA).²²
57. ARLA's fairly narrow new role will be to mediate on licensing decisions local alcohol policies, and will have few other responsibilities, for example the role of providing guidelines or templates for local alcohol policies. This is discussed later. It is hard to see how the national body with limited responsibilities will have the expertise to consider the development and content of a local alcohol policy sufficiently to decide an appeal. Local Government New Zealand's Alcohol Reference Group suggests that this is the only local government process to have such an appeal right, and advises it is unnecessary. Appeals are generally heard by the local authority; this is part of the special consultative process.
58. ARLA must ask the territorial authority to reconsider an element of a LAP if ARLA is satisfied the element of the policy relates to licensing, and is unreasonable in the light of the object of the new Act.²³
59. The territorial authority is required to reconsider the element. Having carefully consulted on the LAP and arrived at a policy, it is difficult to see how a territorial authority has the mandate, without further consultation, to change the element. This could lead to further consultation costs, when the territorial authority will consider that it has consulted, considered the evidence, and arrived at a policy for example, for earlier closing hours than allowed by the new Act.
60. The territorial authority may appeal to the High Court against an ARLA decision that the element is unreasonable. Smaller areas are unlikely to have the funds to pursue such an appeal. The potential for a long drawn out court process to establish whether a territorial authority policy is adopted or

²¹ Alcohol Reform Bill (2010). Clause 81(1).

²² *ibid*

²³ *Ibid*, clause 82,83.

otherwise seems unnecessary, given that a specific decision of the licensing decision makers may also be appealed to the High Court. A LAP would have sufficient scrutiny by the High Court if a particular decision was to be appealed. If the policy can be appealed, and then a specific decision can be appealed, then there is great potential for long running, unproductive and expensive difficulties in establishing elements of LAPs such as opening hours.

61. The consultation and appeal processes outlined in the Bill makes a voluntary local alcohol policy unattractive due to the cumbersome process required.
62. ALAC recommends there should be no provision for appeal concerning LAP content to ARLA or to the High Court.

Content of LAPs

63. The Minister of Justice recommended largely accepting the Commission's proposals for LAP content. Specifically proposing that LAPs may include the following:²⁴

- Permitted locations for licensed premises (through broad area restrictions or restrictions on proximity to types of community premises specified by the LAP).
- A rebuttable presumption that further licences will not be granted in areas that have been identified as being close to, or as having reached, saturation levels in terms of the number of licensed premises.
- Local restrictions on or extensions to the national maximum trading hours, including by specifying one-way door policies.
- Any other non-licensing matter relating to the management of alcohol in the district. This may include, for example, a local collaborative process for managing intoxicated people in public places or proposed liquor ban areas or a strategy for reducing alcohol-related harm.

*"Restricting the content of LAPs to that specified above will provide some certainty for licensees and a degree of consistency in licensing settings across the country."*²⁵

The Bill therefore provides for a strictly limited number of licensing matters which alcohol policies may include.

64. When the intention of the local alcohol policies is to give local communities more say and a degree of control over the way alcohol is sold in their area, it does not seem reasonable to limit the way in which they may do so. For example, a community might want to have a say on the conditions (beyond hours and one way door provisions) that can be required. It should be possible for other licensing content such as notification of licence applications, alcohol management for large events, or the definition of specific precincts for entertainment areas.

²⁴ *Alcohol law reform: cabinet paper.* (2010). Wellington: Office of the Minister of Justice, p 15,16.

²⁵ *ibid*, p 16.

65. As the provisions are drafted, any local policy concerning locations will not currently apply to special licences.²⁶ If it is true ‘community say’, then all licences should be covered by the LAP. Special licences, in particular for large events, should be the subject of community debate and they should be given the opportunity to reach a view that is reflected in the policy.
66. ALAC recommends that a list of minimum requirements for LAP content should be prescribed, rather than the very limited licensing content currently allowed for. The opportunity for local input into a local alcohol policy should not be limited, because the effect of such limitation is to limit community say.
67. The content of local alcohol policies should not be strictly limited by the Bill, and should apply to all licences.

Expiry of policies

68. Local alcohol policies are to ‘expire’ after six years after being brought into force. There may be grounds for renewal of policies sooner than that, particularly if there were significant changes in circumstances such as public health or changes to the alcohol sales environment. Any monitoring or reporting undertaken in the area the policy applies to may point to some need for change. So, while the Bill allows for the amendment or revocation of local alcohol policies, it would be useful to also specifically allow for the territorial authority to decide to renew a policy sooner than the prescribed six year expiry.

Community ability to object to licences

69. The Bill sets out new criteria for the issue of licences, which include the requirement for the licensing decision makers to have regard to any relevant local alcohol policy.²⁷ The Bill also sets out provisions for objections to licence applications.²⁸ A person may object to the grant of a licence only if he or she has a greater interest in the application for it than the public generally.
70. This continues the present situation. The right to be heard in objection to a licence application is limited. If there is no local alcohol policy, there is little opportunity for community objections to a licence to be heard. While the Police, Medical Officer of Health, and Licensing Inspectors may make objections, the community raising a petition or marching in protest will have no further right to have their views taken into consideration than they do today.
71. As previously mentioned ALAC believes that the legislation should appropriately reflect the unique Treaty relationship between Māori and the Crown. We also note that there are relevant provisions within the Resource Management Act 1991 that offer good examples of what could be included within the alcohol legislation.

²⁶ Alcohol Reform Bill (2010). Clause 77(2).

²⁷ *ibid*, clause 100.

²⁸ *ibid*, clause 97.

72. In addition, Māori, Pacific and young people experience a disproportionate amount of alcohol-related harm. Special consideration should also be given to how to ensure Māori and Pacific communities are appropriately involved in regulatory matters and how young people could also participate.

ALAC recommends:

- Local Alcohol Policies should be mandatory
- the consultation process for Local Alcohol Policies should more closely follow the special consultative procedure that local authorities are familiar with
- there should be no provision for appeal concerning Local Alcohol Policy content to the Alcohol Regulatory Authority or to the High Court
- a list of minimum requirements for Local Alcohol Policy content should be prescribed, rather than the very limited licensing content currently allowed for. The opportunity for local input into a local alcohol policy should not be limited, because the effect of such limitation is to limit community say
- the content of Local Alcohol Policies should not be strictly limited, and should apply to all types of licence
- the Bill should allow for the territorial authority to decide to renew a Local Alcohol Policy sooner than the prescribed six year expiry
- the special Treaty of Waitangi relationship between Māori and the Crown be appropriately reflected in the legislation and that explicit provision be made for iwi to participate in regulatory matters.

THE NEW LICENSING REGIME

District Licensing Committees

73. The proposed new regime devolves some decision making that is currently made by the Liquor Licensing Authority down to new District Licensing Committees (DLCs) in territorial authorities. ALAC supports this. It is another way of enabling greater local input into licensing decisions, by ensuring local experience and expertise is involved in local decisions for local conditions. The new District Licensing Committees could be expected to understand and be responsive to the needs of their communities, both in terms of community well-being and economic climate, and act accordingly.

74. The Alcohol Reform Bill requires:²⁹

- territorial authorities to appoint one or more district licensing committees to:
 - consider applications for licences and managers' certificates
 - consider applications for variation, suspension or cancellation of licences, unless the application is an enforcement action (ie. a complaint from Police or licensing inspector)
 - refer applications to the licensing authority (if they choose to)
 - conduct inquiries and make reports if required by the national licensing authority
- District Licensing Committees will consist of 3 members appointed by the territorial authority, namely:
 - 1 chairperson who is an elected member of the authority
 - 2 others from a list maintained by the authority
- there will be a quorum of 2
- that DLC's must report at the end of every financial year to the national authority³⁰

75. ALAC agrees that the Chair of the DLC should be an elected member. The Bill also provides a list of who cannot be a member, which may cause difficulties in small districts. It may be difficult to find someone with 'experience relevant to alcohol licensing matters'³¹ who does not also have some conflict of interest and is willing to be a member of the DLC. It would be useful to describe what acceptable relevant experience might include. It is important that the DLC fairly represents both industry and public wellbeing concerns. The legislation should require this.

76. Special consideration should also be given to Māori being represented on the DLC, particularly in localities where high numbers of Māori reside.

77. Many existing District Licensing Agencies currently delegate licence decision making to an official of the territorial authority. In some cases, the Auditor General reports, some licences and certificates are being issued without the delegated individual personally reviewing the documentation.

"In our view this arrangement does not meet with the expectation of the Act that the decision-making process will involve some degree of careful deliberation by a committee or officer with delegated decision-making authority".

78. The Bill allows for some delegation of DLC functions.³² However, the clause is complicated and appears to refer more to the appointment of a commissioner than a delegation of decision making powers. A commissioner may be appointed to carry out the "functions, powers and duties of the chairperson", yet the functions, powers and duties of the chairperson are not specifically laid out in

²⁹ Alcohol Reform Bill (2010). Subpart 6 – Licensing bodies, and fees, Clause 158 to 194.

³⁰ Alcohol Reform Bill (2010). Clauses 174 – 179.

³¹ Alcohol Reform Bill (2010). Clause 179(2).

³² Alcohol Reform Bill (2010). Clause 180.

the Bill. This clause is likely to be interpreted differently in different parts of New Zealand. It is possible that it would lead to an appointed Commissioner making licensing decisions on behalf of a territorial authority, without input from a DLC.

79. In ALAC's view it is important that licensing decisions, whether they are appeals or not, should be the result of careful consideration, as required by the new legislation. It is inappropriate for there to be delegation of the powers of the DLC to anyone else, and decisions should always be carried out by a meeting of the DLC with membership as specified in the Bill. While the appointment of a commissioner may be necessary from time to time, and particularly in the smallest of territorial authorities, there should still be the oversight of the elected members and the community members of the DLC.

ALAC recommends:

- a definition or description of acceptable relevant experience for District Licensing Committee members should be provided
- District Licensing Committees should represent both industry and public wellbeing concerns. The legislation should require this
- there should be no delegation of DLC functions
- special consideration should also be given to Māori being represented on the DLC, particularly in localities where high numbers of Māori reside.

Alcohol Regulatory and Licensing Authority

80. In a performance audit report concerning '*Liquor licensing by territorial authorities*' in 2007, the Auditor General found that:³³

"there were some differences in how the legislation was applied and interpreted, and different arrangements for reaching and documenting decisions about applications. DLAs were not always using documentation or following procedures that, in our view, clearly complied with the Act and the Regulations."

81. While the Bill devolves further licensing decisions to the local level, there is little provision for any national oversight. While the devolved responsibilities will lead to local ownership of decisions, those decisions will sometimes be difficult, hotly contested and high profile. It seems unreasonable to expect territorial authorities to manage this function without formal support structures from ARLA and the Ministry of Justice. In ALAC's view there should be a national authority providing guidance and

³³ Controller and Auditor General. (2007). *Liquor licensing by territorial authorities*. Wellington, N.Z.: Office for the Auditor-General, p 7.

oversight to District Licensing Committees. Without this, we are likely to see considerable increase in the inconsistencies around the country as observed by the Auditor General.

82. Operational support is likely to be available from Local Government New Zealand and also from ALAC, but ensuring there is more formal support from the licensing system itself would contribute to sensible decisions and national consistency.
83. The Bill specifies the Alcohol Regulatory and Licensing Authority (ARLA) functions will be to:³⁴
- consider applications for licences, renewals and variations, and managers' certificates when referred by DLCs
 - consider appeals against decisions of DLCs
 - consider appeals against elements of draft local alcohol policies
 - consider enforcement applications for variation suspension or cancellation of licences and managers' certificates.
84. ARLA may also give statements to licensing committees.³⁵ The statements are to set out ARLA's views on the general administration of the legislation, policies to be followed in the administration of the new Act or any information obtained by ARLA from any other source. A statement must not relate to a matter that may be a ground for an appeal against a decision of a DLC. Grounds for appeal are not specified, the decision in general may be appealed.
85. However, any party to any proceedings before a licensing committee who is dissatisfied with the decision may appeal to the licensing authority against the decision.³⁶ So if someone is dissatisfied with any aspect of the decision may appeal, then the effect is that there is a great limitation on what ARLA might provide advice on.
86. ALAC recommends that ARLA should be able to issue guidelines or practice notes on any matters within its jurisdiction, whether they may be matters for appeal or not. ARLA should be a resource for DLCs, to help achieve national consistency, and to generally raise the standard of licensing activity and decision making all over New Zealand.
87. While ARLA is to receive reports from DLCs³⁷ and report to Parliament³⁸, there is no specific monitoring role attached to this reporting. There is no oversight or structure for the monitoring of the performance of DLCs. In ALAC's view, the greatly increased responsibilities of DLCs would be enhanced by both advice and monitoring from the national body.

³⁴ Alcohol Reform Bill (2010). Clause 159.

³⁵ *ibid*, clause 164.

³⁶ *ibid*, clause 140.

³⁷ *ibid*, clause 186.

³⁸ *ibid*

88. ALAC recommends ARLA should have an expanded role with the legislated responsibility to provide guidance and oversight to DLCs, and to monitor their performance. Such a role will mean that there is a need for an official Executive Officer position, with responsibility for these functions.
89. ALAC supports the appointment of lay members to ARLA, as lay members can bring a wider perspective, and expanding the pool of ARLA members is likely to contribute to the timeliness of hearings. We also encourage that special consideration be given to a Māori member being one of the lay members appointed on the ARLA.
90. ALAC anticipates it will have a significant role in ensuring the new licensing regime works, both in implementation and in continuing to providing advice to territorial authorities and to DLCs.

ALAC recommends:

- there should be a national authority providing guidance and oversight to District Licensing Committees
- the Alcohol Regulatory and Licensing Authority should be able to issue guidelines or practice notes on any matters within its jurisdiction, whether they may be matters for appeal or not
- the Alcohol Regulatory and Licensing Authority should be a resource for District Licensing Committees, to help achieve national consistency, and to generally raise the standard of licensing activity and decision making all over New Zealand
- the Alcohol Regulatory and Licensing Authority should have an expanded role with the legislated responsibility to provide guidance and oversight to District Licensing Committees, and to monitor their performance
- the Alcohol Regulatory and Licensing Authority should have an Executive Officer, with responsibility for providing guidance, oversight, and monitoring of District Licensing Committees.

ALCOHOL IN PUBLIC PLACES

91. In June 2010 Wellington City Council debated a city-wide liquor ban. The liquor ban would have seen possession and consumption of alcohol made illegal in all the city's public spaces. Instead, the current ban which includes the city centre and nearby Oriental Bay will be extended to the

adjoining suburbs of Newtown and Mount Cook. The situation was summed up by one Councillor:³⁹

“People made it clear that they didn't want a city-wide liquor ban. The public told us they didn't want to stop being able to have a social drink at a picnic on the beach or at the park and we've listened to them. However people in Newtown and Mount Cook are having problems with anti-social drinking in their parks and streets. They've asked us to do something about it and so we've agreed to extend the liquor ban to these areas in response to their pleas.”

Speaking in support of liquor bans, one Courtenay Place licensee said:⁴⁰

“without the liquor ban, drunk young people would leave a trail of shattered glass across the CBD and there would be more violence, ruining the atmosphere for locals and tourists”.

92. Temporary liquor bans have been put in place in response to community concerns nationwide for occasions such as Orientation week at Canterbury University⁴¹, for the streets surrounding the Blues, Brews & BBQ's event in Mt Maunganui⁴², for a special event organised for the closure of a long standing student bar in Dunedin⁴³ and on New Year's Eve all over the country. The community calls for these liquor bans in order to help bring order to the surrounding streets during, and in the hours surrounding, these events.
93. Liquor bans exist all around New Zealand because of perceptions of safety, perceptions that the pleasant amenity is disturbed or ruined, concerns about litter, of drinkers vomiting and urinating and other aspects of public health, as well as crime and general disorder that comes with drinking in public.

Liquor Bans

94. Liquor bans are widely accepted by the public and by industry. A large number of liquor bans currently in place would not meet the criteria laid out in the Bill. Communities nationwide have called for liquor bans in their communities: “Every week somewhere or other in New Zealand there is a call

³⁹ Councillors vote for Newtown and Mount Cook liquor ban. (2010). *News / Public Notices*, 24 Jun 2010. From <http://www.wellington.govt.nz/news/display-item.php?id=4024>.

⁴⁰ Broun, B. (2010). Council fears loss of liquor ban areas. *Dominion Post*, 24 Jun 2010. From <http://www.stuff.co.nz/dominion-post/news/4648865/Council-fears-loss-of-liquor-ban-areas>.

⁴¹ Liquor ban around university for orientation week. (2011). *New Zealand Herald*, 18 Jan 2011. From http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10700412.

⁴² Liquor ban for Blues, Brew & BBQs. (2011). *Marlborough Express*, 13 Jan 2011. From <http://www.stuff.co.nz/marlborough-express/news/4537953/Liquor-ban-for-Blues-Brew-BBQs>.

⁴³ Temporary ban urged in Dunedin. (2010). *TVNZ News*, 31 May 2010. From <http://tvnz.co.nz/national-news/temporary-liquor-ban-urged-in-dunedin-3573284>.

for a new liquor ban” according to the Law Commission.⁴⁴ This must be seen as evidence of community concern, and excessively limiting the extent and nature of liquor bans effectively further limits the ability of the community to manage the presence of alcohol in its area.

95. The Alcohol Reform Bill⁴⁵ requires an amendment to s 147 of the Local Government Act requiring that before making a liquor ban bylaw: a territorial authority must be satisfied that:
- (a) taken together, the area to which it is proposed to apply and the time for which it is proposed to apply can be justified as a reasonable limitation on people’s rights and freedoms; and
 - (b) there is evidence that the area to which it is proposed to apply has experienced a high level of crime or disorder that can be shown to be caused or made worse by alcohol consumption in the area; and
 - (c) the area to which it is proposed to apply and the time for which it is proposed to apply are appropriate and proportionate in the light of the evidence referred to in (b).
96. It is reasonable to require that the proposed liquor ban is justifiable. However, the requirement for “a high level of offending or disorder” is a very high threshold for the introduction of a liquor ban.
97. To control and bring some national consistency to liquor ban bylaws is reasonable, but to impose the test of “a high level of offending or disorder” without defining a high level places considerable limits on the ability to create liquor ban bylaws.
98. The use of the term “crime and disorder” also places too great a limitation on the ability to create a liquor ban. It is not simply crime and disorder that liquor bans attempt to control. A community should be able to act to prevent lower levels of ongoing nuisance, or to promote safety and good order, or even to set the tone of a particular place as part of a larger alcohol policy.
99. ALAC is also concerned that the proposed high threshold for liquor bans will target particular communities, (i.e. those that have high social deprivation and are also likely to have high numbers of Māori, Pacific and young people residing in the area). These communities are also the very ones that are less likely to be able to afford to pay for fines should they be caught in breach of a liquor ban bylaw.
100. The Bill requires “evidence” that a high level of crime or disorder has been experienced. The level of evidence required is not defined. While there should be justification for the introduction of a liquor ban, there should be a balance between empirical evidence and community feeling. There should also be recognition of nuisance activity for which there will be little hard evidence. This provision opens up the possibility that considerable resources would be used to either defend or object to the creation of a liquor ban, in order to come up with evidence that it is or is not justified.

⁴⁴ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 397.

⁴⁵ Alcohol Reform Bill (2010). Clause 402

101. The next hurdle is to prove that the liquor ban is justified because the issues in the area can be shown to be caused or made worse by alcohol consumption in the area. This will be extremely difficult, even in districts where there is data available and even more difficult in the many parts of New Zealand where alcohol-related incident, accident or crime data is difficult to obtain and, at best, is incomplete.
102. General provisions in the Local Government Act 2002 allow for:
- the creation of bylaws to protect the public from nuisance
 - protecting, promoting and maintaining public health and safety
 - minimising the potential for offensive behaviour in public places.
103. There is a considerable difference in both the threshold and the intent of the Local Government Act provisions, and the provisions included in the Alcohol Reform Bill. In ALAC's view, the proposed criteria for liquor bans are too restrictive, and should be more closely aligned to the provisions for the creation of bylaws. A liquor ban bylaw should be able to address more than just serious crime and disorder, and should be able to be used as a preventative tool as well.
104. The proposed high threshold for liquor bans is also inconsistent with the legislative intent to give communities more say in alcohol regulatory matters within their locality. Those communities asking for a liquor ban in their area primarily for hygiene and nuisance purposes are unlikely to get one under the proposed legislative requirements for making liquor ban bylaws.
105. ALAC agrees that the breach of a liquor ban should be an infringement offence.

ALAC recommends:

- the criteria for liquor control bylaws should be more closely aligned to the provisions for the creation of bylaws set out in the Local Government Act 2002

Licensing

106. ALAC welcomes the removal of any exemption from licensing provisions for Parliament, but in its view, there should be no exemptions from the sale and supply of alcohol legislation for the Defence force, Police or Fire Service.
107. The strength of the licensing system is in regulating the way in which alcohol is sold or supplied, to ensure that this takes place in a responsible manner. While an exemption from the licensing system may free up these services from matters such as restricted hours which may be considered to be incompatible with the way they operate, there is no reason to exempt them from the requirements to

provide alcohol in a responsible manner. ALAC therefore recommends provisions that exclude Defence, Police and the Fire Service from particular licensing provisions, but ensures that they are required to serve or supply alcohol in a responsible manner. They should be bound, for example, to provide food and supply free drinking water, and to not serve intoxicated people.

Special licences

108. A significant number of special licence applications are received each year. In the year to 30 June 2009, nearly 11,000 special licences were awarded. Auckland City Council received more than 1,200 special licence applications in the 2008/09 year. Christchurch City Council received 800, and smaller councils such as Waimate, South Wairarapa and Hauraki received less than 50.
109. The proportion of 16 and 17-year-olds who drank alcohol at special events in the 2007/08 year (20.6%) was more than at bars or nightclubs (13.5%). The potential for young people to suffer alcohol-related harm at special events is significant because 49.5% of 16 and 17-year-olds who drank at special events consumed large amounts of alcohol.
110. It is important that the special licence category is improved to manage the range of risks that special events present. The Minister of Justice recommended largely accepting Law Commission recommendations for special licences, providing for four types of special licence: public events, private events at licensed premises, trade fairs and extended hours.⁴⁶
111. The Bill does not use the Law Commission categories. It provides for two kinds of special licences, on-site and off-site.⁴⁷ The special licence provisions in the Bill are difficult to understand and very confusing. The two special licence categories are given no definition in the Bill but are described as:
 - on-site: selling alcohol on the premises for consumption there⁴⁸
 - off-site: selling alcohol for consumption somewhere else, to people attending an event described in the licence.⁴⁹
112. The Law Commission's proposals for special licences would provide certainty about which situations would require special licences for the supply of alcohol. Those involving a fee for entry (therefore fulfilling the 'nature of a sale') would need to be licensed under those categories. This would ensure after-ball parties would need to be licensed and the opportunities for people under the purchase age to drink would be restricted.
113. Special licences should be required for public or large events under a new special licence category. The Bill defines an event as including an occasion and a gathering, and any series of events.⁵⁰ This definition is too broad. There are no specific provisions for the licensing of large events. ALAC

⁴⁶ *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, p 96.

⁴⁷ Alcohol Reform Bill (2010). Clause 25.

⁴⁸ *ibid*, clause 25(2).

⁴⁹ *ibid*, clause 25(5).

⁵⁰ *ibid*, clause 5

suggests the Act should define a large event, and specific licence conditions should be applied to all large events, targeting the risk that each particular large event presents.

114. There is currently no legal definition of a large event, and ALAC recommends the definition of a large event should include any event where more than 1000 people are attending.
115. Any large event should plan for alcohol management and have considered measures to control alcohol. These measures would be different to or greater than those applied to on-licence events of less than 1000 people. Even events with just 1000 people can have national or international significance.
116. The Bill should also specify that all large events must be licensed by a special licence only (rather than an on-licence). Currently, some major stadiums (e.g. WestpacTrust Stadium) are licensed by an on-licence and this creates risks where the agencies can not specify licence conditions specific to the risk the event creates. Too many large events in New Zealand have become large drinking occasions where there is some sport or some music also available. A soccer match, rock concert, or one day cricket international attract quite different crowds and create quite different scenarios for the management of alcohol. Regular media reports of arrests during and after events at stadiums nationwide, and reports of ambulance stations treating intoxicated people at events show that the association between alcohol and large events in New Zealand is well established and must be better managed.
117. Events over 1000 people should naturally attract more attention from licensing and enforcement agencies and be subject to more careful consideration with the involvement of more than just the licensing body.
118. Where a stadium or a large event centre has an event of less than 1000 people (venues regularly host conferences, meetings and dinners) these can be covered by an on-licence with appropriate conditions.

ALAC recommends:

- a large event should be defined as any event where more than 1000 people are attending
- all large events should be licensed by a special licence only.

ALCOHOL AND YOUNG PEOPLE

The Evidence

119. It is well established that young people suffer a disproportionate level of alcohol-related harm. Alcohol poses greater risks to those under 25 years. Early initiation to drinking has adverse

effects on physical and cognitive development and increases the risk of later alcohol-use disorders and other mental health problems.⁵¹

120. Young people experience more harm per standard drink than older drinkers. The highest risk is for those under 15 years, but there is still an elevated risk of harm per drink for young people up to the age of 25 years.⁵² This is one of the factors that had led Australian and UK experts to recommend no drinking before the age of 15, and to delay and limit drinking among 15 to 17-year-olds.⁵³
121. ALAC research indicates that young people aged 14-18 years of age have increased consumption since the purchase age was lowered in 1999.⁵⁴
122. Early initiation of drinking in adolescence is associated with immediate and later alcohol-related health and social problems.⁵⁵ New Zealand research has found that regardless of any prior conduct disorder, early exposure to alcohol (defined as multiple occasions before the age of 15) is associated with a range of poor adult outcomes including substance dependence, criminal convictions, herpes infection and failure to achieve educational qualifications.⁵⁶
123. A significant proportion of young drinkers aged 15-17 acquire alcohol from friends 18 years or over.⁵⁷ This trickledown effect of young people as suppliers to those even younger contributes to 12 -17-year-old drinkers being more likely to have had unprotected sex, had sex and later regretted it, got into a physical fight, been arrested or detained in a police station and been sexually assaulted.⁵⁸
124. Wellington Hospital Emergency Medicine specialist Dr Paul Quigley estimates that between 60 and 70 percent of his department's injury based work on the weekend is alcohol related. In a retrospective assessment of patient records between 2004 and 2007 he found that of the 410

⁵¹ Jernigan, D. H. (2001). *Global status report: alcohol and young people*. Geneva: World Health Organization.

⁵² National Health and Medical Research Council. (2009). *Australian guidelines to reduce health risks from drinking alcohol*. Canberra, ACT: National Health and Medical Research Council, p 66.

⁵³ Law Commission. (2009). *Alcohol in our lives: an issues paper on the reform of New Zealand's liquor laws*. Wellington: Law Commission.

⁵⁴ Alcohol Advisory Council of New Zealand. (2009). *Submission to the New Zealand Law Commission on the Alcohol in Our Lives issues paper*. Wellington: ALAC, p 62.

⁵⁵ Jernigan, D. H. (2001). *Global status report: alcohol and young people*. Geneva: World Health Organization, p 3.

⁵⁶ Odgers, C. L., Caspi, A., Nagin, D. S., Piquero, A. R., Slutske, W. S., Milne, B. J., et al. (2008). Is it important to prevent early exposure to drugs and alcohol among adolescents? *Psychological Science*, 19(10), 1037-1044.

⁵⁷ Alcohol Advisory Council of New Zealand. (2009). *Submission to the New Zealand Law Commission on the Alcohol in Our Lives issues paper*. Wellington: ALAC, p 62.

⁵⁸ *ibid.*

presentations at Wellington Hospital where intoxication was the sole diagnosis, 30 percent involved patients under 20 years of age.⁵⁹

125. Youth who drink who are aged 12 -24 are most likely to drink at a friend or relative's house (39%) or at home (35%). Those aged 12-14 are more likely to report drinking at home (46%), 15-17-year-olds are most likely to drink at a friend or relative's house (53%) and 18-24 year-olds drink at home (39%) or at a friend or relative's house (35%).⁶⁰
126. Alcohol Use in New Zealand reports that 29.9% of 16-17 year-old drinkers say they had consumed alcohol at pubs, hotels, restaurants or cafes, 23.9% had consumed alcohol at outdoor public places, 20.6% had consumed alcohol at special events, and 13.5% at nightclubs or bars.⁶¹
127. The evidence is very clear. New Zealand's young people consider drinking a normal part of their lives, from a very young age, and alcohol is causing young people a range of harms.

Faces behind the data

128. In May 2010 when 16-year-old James Webster died of alcohol poisoning after an 18-year-old's birthday party, New Zealand sat up and paid attention. In October through reports from the Coroner's Court we heard how James and his friends drank vodka and Jaegermeister straight from the bottles. We heard the deep regret of the responsible adults supervising the party who believed no-one under 18 had access to alcohol.⁶²
129. Margaret Abercrombie, the mother of a fellow student of James, wrote an open letter to Prime Minister John Key, also the parent of a son at the school James attended.⁶³

"Today my son (and yours) dresses in formal uniform to go to school and remember another student who has died this year! This time it is even more tragic, this is a preventable death, and right now you and your colleagues can act to reduce the chances of this and other alcohol related tragedies happening". "This is a huge issue for our country, we need to be the best we can, not hampered by a cultural hangup, that does not help our young of today. Our future for New Zealand relies on our people particularly the young being the best they can be, not performing under the cloud of hangover, alcohol

⁵⁹ Law Commission. (2009). *Alcohol in our lives: an issues paper on the reform of New Zealand's liquor laws*. Wellington: Law Commission, p 77.

⁶⁰ Alcohol Advisory Council of New Zealand. (2009). *Submission to the New Zealand Law Commission on the Alcohol in Our Lives issues paper*. Wellington: ALAC, p 64.

⁶¹ Ministry of Health. (2009). *Alcohol use in New Zealand: key results of the 2007/08 New Zealand Alcohol and Drug Use Survey*. Wellington: Ministry of Health.

⁶² I Knew he was dead. NZPA. 6 October 2010. From: <http://www.stuff.co.nz/national/4202428/i-knew-he-was-dead-mother-tells-Webster-inquest>

⁶³ Chong, D. (2010). Alcohol death: King's mother plea's to John Key. *New Zealand Herald*, 11 May 2010. From http://www.nzherald.co.nz/politics/news/article.cfm?c_id=280&objectid=10644158. [Margaret Abercrombie letter quoted].

crimes, or dependence. You can reduce the rate of this and encourage us to see a responsible way to manage this going forward”.

130. “How did this happen?” the nation asked. But chief coroner Neil McLean soon told us this wasn’t uncommon. He said 12 teenagers had died from binge drinking since July 2007.⁶⁴ There are some sad stories behind this data. For example in 2008 a 14-year-old boy was found in the grounds of the Taupo Hockey Club. He died as a result of consuming large quantities of pre-mixed bourbon and colas with a 12% alcohol content at home with friends.⁶⁵
131. In 2009, three young men lost their lives when their modified car slammed into a wall in Invercargill. They were speeding, and they had been drinking. In a letter to his grieving community, Southern District road policing manager Inspector Andrew Burns said “it’s not a tragedy, it’s a travesty. Young people need guidance. They need good role models. They need direction”.⁶⁶ Yet the casket of one of the young men, aged just 16, was festooned in beer labels. In his formal findings into the deaths, the coroner said “The real circumstances of the death were the decisions of (the driver) to drive, while drunk, at a very high speed, in a vehicle which he knew was unsafe, and the decision of his passengers to accompany him. The more relevant question is why were (the two 16-year-olds) drinking and where did they get the alcohol?”⁶⁷
132. In May 2010 in Tauranga a 13-year-old boy with a breath alcohol reading of 658 micrograms of alcohol per litre of breath, more than four times the legal youth limit and well over the adult limit, crashed his parents’ car. Neither he or his 14-year-old passenger were injured. A local drug and alcohol practitioner commented that “we commonly encounter people as young as 13, sometimes younger, intoxicated on the streets. Usually these young people are in the CBD, Memorial Park or at various parties across the city”.⁶⁸
133. These are extreme cases, and there are many more that do not make headlines. Experts agree: the access young people have to alcohol, and the amounts they drink, is something that must be addressed.

Expert advice

⁶⁴ Shock and frustration at teen drink deaths. Source NZPA. <http://tvnz.co.nz/national-news/shock-and-frustration-teen-drink-deaths-3571801>

⁶⁵ Law Commission. (2009). *Alcohol in our lives: an issues paper on the reform of New Zealand's liquor laws*. Wellington: Law Commission, p 72.

⁶⁶ It’s not a tragedy – it’s a travesty. *The Southland Times* 7 September 2009. From <http://www.stuff.co.nz/national/2577209/its-not-a-tragedy-its-a-travesty/>

⁶⁷ Porteous, D. (2010) *Coroner critical of drink driving culture*. *Southland Times* 26 June 2010. From <http://www.odt.co.nz/regions/all/112521/coroner-critical-drink-driving-culture>

⁶⁸ McPherson, M. (2010). 13-year-old's drink-drive crash. *New Zealand Herald*, 2 May 2010. From http://www.nzherald.co.nz/tauranga/news/article.cfm?l_id=304&objectid=10642204.

134. Professor Sir Peter Gluckman, Chief Science Advisor, in an interim report to the Prime Minister in June 2010 says:⁶⁹

“We recommend that consideration should be given to population-based and individual-based measures aimed at reducing the harm caused by alcohol in this (adolescent) age group. We note that both the Law Commission in New Zealand and the National Institute for Health and Clinical Excellence in the UK have also recently proposed evidence-based measures to restrict access to alcohol and exposure to alcohol advertising, particularly for adolescents.”

135. There is good evidence a range of policy interventions is effective in reducing alcohol-related harm to young people:⁷⁰

- Young people are sensitive to changes in price, meaning they increase or decrease their consumption in response to a decrease or increase in price.
- Young people’s current and future drinking is influenced by exposure to marketing, including advertising, sponsorship and promotions, suggesting restrictions on marketing may reduce alcohol-related harm to young people.
- Interventions targeting particular products may also be effective given the evidence that particular products aimed at youth markets are associated with heavy drinking.
- Brief interventions are effective and cost-effective at reducing harmful consumption among young people.
- Availability, including secondary supply and outlet density as well as purchase age restrictions, also influence young people’s drinking.

136. However, these interventions need to work together as a package. Sir Geoffrey Palmer warned:⁷¹

“There is little point in raising the minimum purchase age but doing nothing to stop selling alcohol to young people as the key to social and sexual success”.

The Purchase Age

137. The World Health Organization Expert Committee on Problems Related to Alcohol Consumption identifies restricting the sale of alcohol as one of the effective levers for preventing alcohol-related harm. It reports that there is very substantial evidence of the effects of laws which set minimum ages

⁶⁹ Gluckman, P. (2010). *Improving the transition: reducing social and psychological morbidity during adolescence*. Office of the Prime Minister's Science Advisory Committee.

⁷⁰ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 252.

⁷¹ Gay, E. (2010). Increase in alcohol excise tax 'extremely unlikely' - Power. *New Zealand Herald*, 27 Apr 2010. From http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10641138.

for the purchase of alcohol. “Minimum ages of purchase affect both the frequency and the circumstances of drinking”.⁷²

138. In *Alcohol No Ordinary Commodity* Babor and colleagues also conclude that for young people, laws that raise the minimum legal drinking (or purchase) age reduce alcohol sales and problems. Dozens of studies find substantial impacts on traffic and other casualties from changes to the minimum age.⁷³
139. Raising the purchase age has been found to reduce harmful consumption and a range of harms including drink driving, car crashes, injuries and deaths and other health and social harms. The reduction in harm benefits older and younger cohorts as well as the group directly affected by the law change.⁷⁴

Off-licence purchase age

140. In order to help limit the availability of alcohol to young people, ALAC strongly supports the provisions in the Bill to raise the purchase age for off-licences to 20 years. There should be a significant impact on the availability of alcohol to even younger drinkers, because they will no longer be readily supplied by their 18-year-old friends and family.

On-licence purchase age

141. In providing advice to Cabinet, the Minister of Justice said “I consider that a split purchase age provides a sensible, graduated approach to obtaining the right to purchase alcohol. A split purchase age would reduce alcohol-related harm associated with off-premise consumption, particularly the practice of “pre-loading”, though this age group may continue to access off- licence alcohol through a legal intermediary. The opportunity for supply by 18 and 19-year-olds to younger peers would be reduced”.⁷⁵
142. The idea of the implementation of a ‘sensible graduated approach’ to the right to purchase alcohol is not supported by current experience of on-licence premises. The on-licences that particularly target young drinkers, such as ‘student’ bars and night clubs, include some of the outlets with the most irresponsible practices. They are also the premises most likely to seek 24 hour licences.
143. A number of decisions from the Liquor Licensing Authority show the dubious practices of some bars and clubs that strongly market to young people.
144. In 2008 the Liquor Licensing Authority found that a Dunedin bar, popular with students “by offering to sell everything for \$3 between 8pm and midnight for six nights was in breach of s 154A of the Sale of

⁷² WHO Expert Committee on Problems Related to Alcohol Consumption. (2007). *WHO Expert Committee on Problems Related to Alcohol Consumption: second report*. Geneva: World Health Organization, p 28.

⁷³ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K. M., et al. (2010). *Alcohol: no ordinary commodity: research and public policy* (2nd ed.). Oxford : New York: Oxford University Press, p 146.

⁷⁴ *ibid*, p 253.

⁷⁵ *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, para 190, p 32.

Liquor Act (irresponsible promotions). Furthermore, by offering to give away free non-standard drinks with descriptive titles, by misleading advertising about the nature of the promotion, by encouraging irresponsible drinking habits, and by failing to refer to food and non-alcoholic alternatives, the company's conduct may well have been such as to show a lack of suitability to hold the licence."⁷⁶

145. In 2007 a Papakura bar popular with young people for dance parties, had its licence suspended after police reported six separate instances where patrons were found to be intoxicated on the premises during 2006.
146. In July 2010 a Hamilton bar had its licence cancelled after it was found to have sold alcohol to intoxicated people. The bar specialised in 'shots' of high alcohol content, considered to encourage speed drinking. This was upheld in the High Court.⁷⁷
147. These are cases that have warranted enforcement action, but there are many more examples of bars that have 18 to 20-year-olds as a major part of their clientele who have been sanctioned for not meeting the requirements of holding a licence.
148. Consuming large amounts of alcohol on licensed premises is relatively common, particularly among those aged 18 to 24 years, suggesting an increased risk of acute harm. In 2004, 22% of people in this age group reported having consumed large amounts of alcohol in a pub, hotel or tavern and 17% in a nightclub in the last 12 months.⁷⁸ There is also evidence that drinking larger amounts of alcohol at licensed premises is associated with increased experiences of alcohol-related harms, including those that impact on employment, finances, health and appearance.⁷⁹
149. The Law Commission concluded that while police data indicate that a lower proportion of apprehensions follow drinking on licensed premises than drinking elsewhere, that is in keeping with the fact more alcohol is drunk elsewhere. The fact that this still represents over 15,000 apprehensions per year where a licensed premise was the place of last drink, does not support the assumption that less harm results from drinking on licensed premises.⁸⁰
150. The reality is that not all our young people will be having a quiet drink in a cafe or bar with responsible older people leading the way. They will be attracted to the bars and clubs playing the music they like, usually well into the small hours of the next day.

⁷⁶ Mole v Bar Bar Black Sheep Limited, PH 1438/2008. (NZLLA, 22 Sep 2008).

⁷⁷ Feek, B. (2010). Bar to stand up to closure. *Waikato Times*, 30 Jul 2010. From <http://www.stuff.co.nz/waikato-times/news/3974757/Bar-to-stand-up-to-closure>.

⁷⁸ Ministry of Health. (2007). *Alcohol use in New Zealand: analysis of the 2004 New Zealand Health Behaviours Survey - alcohol use*. Wellington: Ministry of Health, p 31.

⁷⁹ Casswell, S., Zhang, J., & Wyllie, A. (1993). The importance of amount and location of drinking for the experience of alcohol-related problems. *Addiction*, 88(11), 1527-1534, cited *Alcohol in our lives: curbing the harm*. (2010). Wellington: Law Commission, p. 258.

⁸⁰ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 259.

151. Those bars and clubs will be doing everything they can to attract their preferred clientele in an increasingly competitive market. They will continue to work with the suppliers to provide the right product at the right price. They will still have to battle with the much cheaper off-licence prices, and the practice young people have of pre-loading at home before they go to town. Many licensed premises will therefore continue to push the boundaries of regulation.
152. There is a continued risk therefore, that the licensing system, with a purchase age of 18 for on-licences continues to fail to help reduce alcohol-related harm for young people. Without further or tougher regulation around hours, one way door systems, alcohol promotions, products, and price, leaving the purchase age for on-licences at 18 will not help.
153. ALAC welcomes measures to limit the availability of alcohol by addressing the purchase age. ALAC believes the age for buying alcohol from any licensed premises, either on licence or off licence, should be 20 years.

Supply to Minors

154. Three-quarters (75%) of parents of young drinkers reported that at least one parent supplies their teen with alcohol. In addition, one quarter (24%) of parents reported that, as far as they knew, their teen also accessed alcohol from his or her friends. 21% of parents of teen drinkers reported that they had supplied alcohol when they were not present to supervise. In these circumstances, 30% provided four to five drinks, 30% provided six to ten drinks and 4% provided more than 10 drinks.⁸¹
155. A number of youth do purchase alcohol for themselves. This has been estimated by various surveys at between 6% and 15%. The most common place for youth to buy alcohol is the bottle store⁸² and the incidence of youth drinkers being asked for identification is extremely variable.⁸³
156. The research is clear: the onset of drinking should be delayed as long as possible. Many parents however, will argue for the right to introduce young people to alcohol, and have many different ways in which to do that. The provisions for supply to minors enable this, with strong emphasis on parental consent.
157. The Bill provides a well articulated new offence for supplying alcohol to minors.⁸⁴ The list of what is considered to be 'a responsible manner' is comprehensive and is likely to be referred to frequently in future, and in the wider sphere of the provision of alcohol.

Large gatherings of minors

⁸¹ ALAC (2008) *Parental Attitudes and Behaviours Towards Teen Drinking, Survey of Parents of 12 – 17 Year Olds: Final Report*, Wellington: ALAC, p.8 and 9.

⁸² The Ministry of Health *Alcohol Use in New Zealand* (p.37).

⁸³ 67% according to the Adolescent Health Research Group. (2004). *Alcohol and New Zealand youth: a snapshot of young people's experiences with alcohol: findings of Youth2000: a national secondary school youth health survey*. Auckland, N.Z.: University of Auckland, p. 14.

⁸⁴ Alcohol Reform Bill (2010). Clause 224.

158. The provisions in the Bill for supply to minors enable the continuation of large gatherings of under 18-year-olds being provided with alcohol. But large parties have been occurring more and more regularly, becoming considered a rite of passage for senior school students, even though they are under age.
159. In May 2010 alcohol was confiscated from a large after ball party in Auckland. The 500 students had paid \$55 for tickets to the party in a large Auckland warehouse.⁸⁵ There were reports of many other mid year after ball functions being organised by parents, at which alcohol would be available. At one Remuera college, the parents were planning an after-ball function for which tickets would be \$75, including alcohol.⁸⁶
160. The parties are sometimes run by a small business for commercial gain. In May 2010 the Otago Daily Times reported that Dunedin nightspot Sammy's had been preparing to host three after-ball events in the following months, each attracting up to 400 senior high school pupils and their partners,. Alcohol was to be provided to those under the legal drinking age – up to six beers or four pre-mixed Ready To Drinks a pupil, but only to those whose parents had provided written consent.⁸⁷
161. The provisions in the Bill do not help control such activities. It would be easy for each student under 18 attending the function to show they had parental consent to drink. Some of the party goers would be aged 18 in their final year of school, but providing alcohol responsibly to a group of 500 young people is a much different thing to a small social gathering at a private home. There is also the risk that most of the large gatherings would take place in venues that are not licensed, do not have appropriately trained bar managers or staff, and are generally not environments where moderate, sensible drinking is encouraged.
162. The Bill should prohibit events where alcohol is supplied in the nature of a sale. The selling of tickets where alcohol (often all-you-can-drink deals) is supplied as part of the ticket price should be expressly prohibited. This could be included as a clause which prohibits alcohol being supplied to minors (regardless of consent) where:
- a ticket has been sold to an event
 - a commercial operator is involved in the operation of the event (rather than simply the provision of the venue for example)
 - more than 100 persons are present or invited to an event (managing an event of more than 100 persons currently usually attracts a condition stating a certified duty manager be employed under the current Sale of Liquor Act 1989)

⁸⁵ Farrier, D. (2010). After-ball party busted, alcohol confiscated. *3News*, 16 May 2010. From <http://www.3news.co.nz/After-ball-party-busted-alcohol-confiscated/tabid/423/articleID/156048/Default.aspx>.

⁸⁶ Eriksen, A. M. (2010). Parents organise girls' after-ball alcohol. *New Zealand Herald*, 18 May 2010. From http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=10645706.

⁸⁷ Morris, C. (2010). Sammy's ruled out as ball after-party venue. *Otago Daily Times*, 15 May 2010. From <http://www.odt.co.nz/news/dunedin/106173/sammy039s-ruled-out-ball-after-party-venue?page=0%2C1>.

163. The Bill does not help to prevent the organised large parties of school age young people which may be insufficiently managed or supervised. It should not be possible for a party of 200 or more young people under the legal purchase age to be supplied with alcohol, particularly if the organisers are making some commercial gain. ALAC therefore recommends that the Bill be amended to prevent the sale and supply of alcohol to minors at such gatherings.

Chain of responsibility

164. In October 2009, a 19-year-old and a 17-year-old died when they were thrown from a van that crossed the centreline and ploughed into an oncoming car on a bridge on State Highway 50 near Taradale, Napier. The van's seven occupants, all aged between 16 and 19 had been to a party. The 16-year-old female driver of the van had been drinking.⁸⁸ In such a case, the supplier of the alcohol should face some penalty for failing to supply it in a responsible manner.

165. The Bill specifies in clause 224(6) that a person does not commit an offence (of supplying to a minor) by supplying alcohol to a person who then supplies it to a third person who is a minor, unless it is proved that the person knew or had reasonable grounds to believe that the alcohol was intended for a minor.⁸⁹

166. The policy intent of 224(6) is not shown in either the Cabinet paper or the explanatory note to the Bill. Effectively it appears to mean that any chain of responsibility is shut down, so that only the immediate person supplying alcohol to a minor is responsible. If a 20-year-old supplies alcohol (legally bought from an off licence) to an 18-year-old (who cannot legally buy it from an off licence but is not a minor), who then gives it to a 16-year-old, the 20-year-old is not liable. The 18-year-old could be held liable.

167. A long chain involving people who genuinely did not know who was going to drink the alcohol would present an investigative challenge in which intent would be difficult to prove. However, in the event of a tragedy such as a death by alcoholic poisoning or a fatal car crash involving a drunk 16-year-old, the person who purchased the alcohol and made it available to the minor should be held responsible.

168. The purchaser has failed to supply in a responsible manner. ALAC recommends the Bill should allow for a chain of responsibility to be investigated and liability be brought to bear to the person who purchased the alcohol.

ALAC recommends:

- the minimum age for buying alcohol from any licensed premises, either on licence or off licence,

⁸⁸ Police name teens killed in double-fatal Hawke's Bay crash. (2009). *Stuff*, 31 Oct 2009. From

<http://www.stuff.co.nz/national/3018184/Police-name-teens-killed-in-double-fatal-Hawkes-Bay-crash>.

⁸⁹ Alcohol Reform Bill (2010). Clause 224 (6).

should be 20 years

- it should not be possible for a party of 200 or more young people under the legal purchase age to be supplied with alcohol, particularly if the organisers are making some commercial gain
- the Bill should prohibit events where alcohol is supplied in the nature of a sale to minors. The selling of tickets to minors where alcohol (such as all-you-can-drink deals) is supplied as part of the ticket price should be expressly prohibited. We suggest provisions which prohibit alcohol being supplied to minors (regardless of parent or guardian consent) where:
 - a ticket has been sold to an event
 - a commercial operator is involved in the operation of the event (rather than simply the provision of the venue for example)
 - more than 100 persons are present or invited to an event
- when alcohol has been supplied to minors and the consumption of alcohol has not been supervised responsibly, the person who purchased the alcohol should be considered liable, even if there is a chain of responsibility.

PROMOTING ALCOHOL

169. ALAC welcomes the provisions to strengthen the existing irresponsible promotion offence. ALAC agrees that the offence should continue to apply to promoting 'excessive' consumption, and that it should apply to any promotional activity, in any circumstances.
170. ALAC particularly welcomes the provisions that create an offence for advertising or promoting alcohol in a manner aimed at, or having special appeal to minors.⁹⁰ However, we note that the Law Commission recommended that further legislative measures should be considered, aimed at those which would limit the exposure to advertising, particularly for young people.⁹¹ This recommendation has been expressly rejected.⁹²
171. It is difficult to show any conclusive link between alcohol advertising and alcohol consumption in general, but for young people recent research clearly shows an association between exposure to advertising. Exposure to advertising also leads to the early onset of drinking and heavier drinking by young people who already drink.
172. Babor and others conclude:

⁹⁰ Ibid, clause 220(c).

⁹¹ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 362.

⁹² *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, p 39.

“the promotion of alcohol is an enormously well funded, ingenious and pervasive aspect of modern life. Alcohol advertising predisposes minors to drinking well before the legal age of purchase. Marketing strategies such as alcohol sports sponsorships embed images and messages about alcohol into young people’s everyday lives. The climate created by sophisticated alcohol marketing has facilitated the recruitment of new cohorts of young people to the ranks of heavier drinkers and has worked against health promotion messages.”⁹³

173. After reviewing 13 longitudinal studies that reported on 38,000 young people, Anderson and others (2009) found consistent evidence to link alcohol advertising with the uptake of drinking among non-drinking youth and increased consumption among their drinking peers. Because the evidence focuses on mass media advertising, it almost certainly underestimates the impact of wider alcohol promotion and marketing. Anderson notes these results are not surprising: exactly the same conclusions have emerged from reviews of the impact of tobacco and food marketing on young people.⁹⁴
174. The evidence, as suggested by the Minister of Justice in the Cabinet Paper, is recent, and is increasing.⁹⁵ A number of research studies have already established that link in the case of young people, and to contribute to the reduction of alcohol-related harm for young people, their exposure to advertising should be reduced through regulatory means.
175. Alcohol advertisers continually tell us they advertise to promote brands rather than to promote consumption of alcohol and they do not target under 18-year-olds. If this is the case, measures to remove advertising from places where young people are most likely to see it (for example bus stops and train stations, youth oriented television) should be broadly acceptable to industry, and would make a considerable difference to young people’s drinking.
176. The Law Commission recommended that an interdepartmental committee should consider ways in which exposure to advertising could be limited, especially for young people.⁹⁶ The Government response is that officials should continue to monitor the research on the impacts on consumption of exposure to advertising.

⁹³ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K. M., et al. (2010). *Alcohol: no ordinary commodity: research and public policy* (2nd ed.). Oxford : New York: Oxford University Press, p 187.

⁹⁴ Anderson, P., Bruijn, A. d., Angus, K., Gordon, R., & Hastings, G. (2009). Impact of alcohol advertising and media exposure on adolescent alcohol use: a systematic review of longitudinal studies. *Alcohol & Alcoholism*, 44(3), 229-243.

⁹⁵ *Alcohol law reform: cabinet paper.* (2010). Wellington: Office of the Minister of Justice, p 39.

⁹⁶ *ibid*

177. The Law Commission also recommended that an interdepartmental committee should be set up to further consider measures with the aim of restricting the promotion of alcohol, including sponsorship, in all media.⁹⁷ This recommendation was also rejected.⁹⁸
178. New Zealand's alcohol advertising regulation has been regularly reviewed. As well as regular reviews of the Advertising Standards Authority Code for Liquor Advertising⁹⁹ there have been proposed legislative changes in two different Member's Bills debated in 2009, a Government led review of alcohol advertising begun in 2006, and the Sale and Supply of Liquor and Liquor Enforcement Bill 2009 which was reported back from Select Committee in 2010 with the recommendation that it not be passed, because of the Alcohol Reform Bill process. The Law Commission Review, and now the Alcohol Reform Bill have also reconsidered our regime of regulating alcohol promotion. The contents of the Bill do not provide sufficient answer to the critics of self regulation, or the concerns of many New Zealanders about alcohol advertising and sponsorship and there will continue to be calls for further reviews.
179. Formally assigning responsibility for the monitoring of research, advertising and promotional activity in New Zealand, to enable careful consideration of the way in which self-regulation is working would help provide an evidence base (or otherwise) for future policy decisions about promotion of alcohol. In ALAC's view Select Committee should recommend to Government that a formal interdepartmental committee should be set up immediately to consider ways in which the exposure of advertising, particularly to young people can be reduced.

Sponsorship

180. The regulatory system is currently even more liberal when it comes to sponsorship and there are no provisions concerning sponsorship in the Bill. It continues to be easy to give alcohol brands naming rights to events. A music festival (Jim Beam Homegrown), or awards (the 2010 Steinlager Rugby Awards), and our rugby grounds (Tui) have a great deal of influence and special appeal to young people. Such sponsorship messages have no time of day restrictions, unlike television commercials, and have wide reach, even featuring in news broadcasts. In ALAC's view it is inappropriate for alcohol brands to be able to have naming rights sponsorships. This immediate step should be included in the Bill.
181. Consideration of further limitations on sponsorship messages should be an ongoing part of the responsibilities of an interdepartmental committee.

ALAC recommends:

- the Justice and Electoral Select Committee should recommend to Government that a formal interdepartmental committee should be set up immediately to consider ways in which the exposure of advertising, particularly to young people can be reduced

⁹⁷ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 362.

⁹⁸ *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, p 39.

⁹⁹ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 344.

- alcohol brands should not be able to have naming rights sponsorships for events that have appeal to young people.

PRICE

182. The use of increases in price to reduce alcohol-related harm is one of the most evidence based and internationally well accepted strategies¹⁰⁰.
183. The Law Commission clearly established that increases in price would reduce the level of alcohol-related harm¹⁰¹. ‘*Curbing the Harm*’ considered two pricing policies: increasing retail prices of all alcohol, focusing on cheap products via an increase in excise tax rates, and increasing the retail price of cheap alcohol products via minimum price¹⁰².
184. There is good evidence from many countries that supports the use of excise tax to address alcohol-related problems. The World Health Organization Expert Committee on Problems Related to Alcohol Consumption notes that “taxation is likely to be a more cost-effective means of reducing alcohol-related problems than other alcohol policies”. Increased tax is the mechanism the Expert Committee discusses in order to increase the price of alcoholic beverages.
185. The Law Commission recommended a 50% increase in excise. Such an increase would have the greatest price impact on cheap alcohol products which are favoured by heavy and young drinkers.
186. Recent modelling studies from England and Scotland showing the effectiveness of minimum price schemes to address the proliferation of cheap alcohol. However, the lack of detailed local pricing and sales distribution data prevents the accurate assessment of a minimum price scheme in New Zealand. The Law Commission therefore recommended that the government further investigate the value of establishing a minimum price regime as well as the excise increase.
187. Government responded that “now is not a suitable time to raise alcohol excise rates” due to “other Government tax priorities and potential inflationary pressures over the next few years”. Government accepted however, that a minimum price regime would directly target cheap alcohol which is preferred by heavy and young drinkers, without having a big effect on moderate drinkers. The Minister recommended that voluntary options for obtaining information from retailers should be sought, and if industry was not prepared to provide this information within one year, then Government should consider regulatory options.

¹⁰⁰ Babor, T. F., Caetano, R., Casswell, S., Edwards, G., Giesbrecht, N., Graham, K. M., et al. (2010). *Alcohol: no ordinary commodity: research and public policy* (2nd ed.). Oxford : New York: Oxford University Press, p 242.

¹⁰¹ Law Commission. (2010). Reducing demand: the role of price. In *Alcohol in our lives: curbing the harm* (pp. 269-287). Wellington: Law Commission.

¹⁰² Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 320.

188. ALAC notes there is no corresponding power for a regulation to be made, or other means of requiring data from industry in the Bill. A regulation making power should be provided for.
189. Low alcohol beverages help reduce alcohol-related harm. They are currently a very small part of New Zealand's alcohol market. The Law Commission reports that the removal of the excise on low-alcohol products (up to 2.5% alcohol by volume) is supported by the industry.¹⁰³ Such a removal of excise would fit well with current trends such as low carbohydrate beers, as more low alcohol beers and other beverages would be developed. It is likely the price of low alcohol beverages would come down, making them more popular. ALAC recommends removal of excise on low alcohol products.
190. ALAC is aware that consideration of how industry data might be gathered is underway, and it is pleasing that the policy option of minimum price remains under consideration. It is a complex issue. ALAC recommends that minimum price should be further investigated. ALAC will continue to gather information and increase our expertise concerning the price of alcohol.

ALAC recommends:

- there should be provision for a regulation making power to require sales and price data from industry
- excise should be removed from low alcohol products (below 2.5% alcohol by volume)
- minimum price should be further investigated.

LABELLING ALCOHOL PRODUCTS

Current situation for labelling alcohol products and the food labelling review

191. Labelling for alcohol products is currently regulated by the Australia New Zealand Food Standards Code. The code requires that alcoholic beverages list the alcohol content and number of standard drinks. Alcohol products are however exempt from other labelling requirements such as mandatory nutritional information and the requirement to list ingredients.
192. A comprehensive review of food labelling law and policy is currently being conducted by the Australia and New Zealand Food Regulation Ministerial Council and other initiatives on product labelling are also underway. Given this, the Law Commission recommended that the labelling of alcohol products

¹⁰³ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 310.

should continue to be considered under these multiple processes.¹⁰⁴ Government agreed, noting the Ministry of Justice would be the responsible agency.¹⁰⁵

193. On 28 January 2011 the food labelling law and policy review panel released their report. The panel has made 61 recommendations to the Ministerial Council. Four of the 61 recommendations have implications for alcohol product labelling.¹⁰⁶ The report also noted that there were a number of submissions that argued that alcohol should not be treated as a food but should be dealt with through other regulatory arrangements.¹⁰⁷ The report did not go on to analyse the bigger question about the appropriate regulatory regime for alcohol labelling.

194. In light of the alcohol law reform currently underway, ALAC believes that it is timely to consider whether alcohol product labelling should continue to be regulated as a 'food' or whether it best fits under the new alcohol legislative regime. We are of the view that it is more appropriate to regulate alcohol labelling under the new alcohol legislation.

Alcohol product labelling should no longer be regulated as a food

195. There are four main reasons why ALAC believes that alcohol products should be regulated under the new alcohol legislation:

- Alcohol is more a 'drug' than a 'food' and should be regulated accordingly.
- As part of a longer term strategy for transforming the drinking norm there is a need for consistent messaging about alcohol being "no ordinary commodity". Including alcohol products in the same regulations as food reinforces the perception that alcohol is just an ordinary commodity.
- It is timely to consider an alternative regime for regulating the labelling of alcohol products. The alcohol law reform provides an excellent opportunity to explore the potential for including the regulation of alcohol labelling within the mix of proposed changes.
- The *Smoke-free Environments Act 1990*, which regulates tobacco labelling, provides a good example of how alcohol labelling could work within the new alcohol legislation.

Alcohol is more a 'drug' than a 'food'

196. We consider that a key factor in determining whether alcohol should continue to be regulated as a food is whether this is appropriate given that alcohol is arguably more a psychoactive potentially

¹⁰⁴ Law Commission. (2010). *Alcohol in our lives: curbing the harm, a report on the review of the regulatory framework for the sale and supply of liquor*. Wellington: Law Commission.

¹⁰⁵ *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, p 138.

¹⁰⁶ The panel recommended that: generic alcohol warning messages be placed on alcohol labels but only as an element of a comprehensive multifaceted approach; all alcohol products contain a message warning of the risks of consuming alcohol while pregnant; the energy content be displayed on alcohol products; and drinks that mix alcohol and other beverages include a nutrition information panel.

¹⁰⁷ Australia and New Zealand Food Regulation Ministerial Council. (2011). *Labelling logic: review of food labelling law and policy (2011)*. Canberra: Commonwealth of Australia.

dangerous drug than a food. The evidence that alcohol is more a drug than a food appears to be clear in light of literature on the toxic effects of alcohol on the body, harm caused by excessive consumption, and the exemptions from requirements such as listing ingredients and nutritional information that are mandatory for most other food.

197. Alcohol is a ubiquitous toxin that can harm almost any system or organ of the body. It also has a very high acute toxicity level relative to other psychoactive substances (e.g. 1:10 for ethyl alcohol compared to 1:1000 for LSD or cannabis).¹⁰⁸
198. Alcohol consumption is associated with many neuropsychiatric disorders and may cause or exacerbate disorders such as depression, anxiety disorders, or other substance use disorders.¹⁰⁹ It has both immediate and long-term effects on the brain and neuropsychological functioning. Young people are particularly vulnerable to the adverse effects of alcohol. During adolescence, alcohol can lead to structural changes in the hippocampus (a part of the brain involved in the learning process) and at high levels can permanently impair brain development.¹¹⁰ There is also a relationship between lifetime alcohol use and the volume of brain grey matter (regions of the brain involved in muscle control, sensory perceptions, such as seeing and hearing, memory, emotions and speech), with increasing alcohol consumption related to decreasing volume of grey matter in a dose dependent manner.¹¹¹
199. Alcohol is carcinogenic. It is linked to cancer of the breast, liver, pancreas, mouth, oesophagus, bowel and prostate cancer.¹¹²
200. Alcohol is the most prominent behavioural teratogen in the world because of its common availability and usage.¹¹³ It has a direct toxic effect on fetal development, altering the course of normal cell growth and migration.¹¹⁴

¹⁰⁸Gable, R. S. (2004). Comparison of acute lethal toxicity of commonly abused psychoactive substances. *Addiction*, 99(6), 686-696.

¹⁰⁹ Rehm, J., Room, R., Monteiro, M., Gmel, G., Graham, K., Rehn, N., et al. (2004). Alcohol use. In M. Ezzati, A. D. Lopez, A. Rodgers & C. J. Murray (Eds.), *Comparative quantification of health risks: global and regional burden of disease due to selected major risk factors* (Vol. 1, pp. 959-1108). Geneva: World Health Organization.

¹¹⁰ Faden, V.B., & Goldman, M. (2005). The effects of alcohol on physiological processes and biological development. *Alcohol Research and Health*, 28(3), 125-132.

¹¹¹ Taki, Y., Kinomura, S., Sato, K., Goto, R., Inoue, K., Okada, K., et al. (2006). Both global gray matter volume and regional gray matter volume negatively correlate with lifetime alcohol intake in non-alcohol-dependent Japanese men: a volumetric analysis and a voxel-based morphometry. *Alcoholism, Clinical and Experimental Research*, 30(6), 1045-1050.

¹¹² Middleton, F. K., Chikritzhs, T., Stockwell, T., Bostrom, A., & Pascal, R. (2009) Alcohol use and prostate cancer: a meta-analysis. *Molecular Nutrition & Food Research*. 53(2), 240-255.

¹¹³ Warren, K.R., & Hewitt, B.G. (2009). Fetal alcohol spectrum disorders: when science, medicine, public policy and laws collide. *Developmental Disabilities Research Reviews*, 15(3), 170-175.

201. Further, most alcohol products are exempt from some of the mandatory labelling requirements of other food such as nutritional panels and listing ingredients. This is not surprising given that alcohol is more a drug than a food and is therefore the antithesis of nutrition. Alcohol inhibits the breakdown of nutrients, impairs nutrient absorption and leads to nutrient deficiencies such as folate. It also causes the brain and other body tissue to be deprived of glucose needed for energy, even when food intake is adequate.¹¹⁵
202. Clearly, the evidence (outlined above) points to the fact that alcohol is more of a potentially harmful drug than an ordinary commodity like food. On the strength of this alone it would seem more appropriate that alcohol be regulated as a drug rather than a food.

The need for consistent messages to transform the drinking norm over time

203. ALAC is of the view that there is a need for consistent messaging about alcohol being “no ordinary commodity”, as part of a longer term strategy for transforming the drinking norm. We believe that including alcohol products in the same regulations as food reinforces the perception that alcohol is just an ordinary commodity. This is aptly summarised by the following comment made by the Law Commission in its report:

“The trend towards regarding alcohol as a normal food or beverage product needs to be reversed. In truth, alcohol is no ordinary commodity. Alcohol is a psychoactive drug that easily becomes addictive and that can produce dangerous behaviours in those who drink too much.”¹¹⁶

204. This trend of regarding alcohol as a normal food has also found its way into some specific cultural contexts. For example, generosity and reciprocity is commonly practiced across Pacific communities. The ability to give generously of food (including alcohol) and money is typically viewed as a way of proving one’s status and being a good host.¹¹⁷ In this context, supplying an over-generous amount of alcohol and encouraging guests to consume it may be seen as being a good host, while promoting drinking in moderation may be seen as being a stingy host.¹¹⁸ These types of practices are also evident within Māori communities, as illustrated by the following statement:

¹¹⁴ British Medical Association Board of Science. (2007). *Fetal alcohol spectrum disorder: a guide for healthcare professionals*. London: BMA.

¹¹⁵ National Institute on Alcohol Abuse and Alcoholism. (1993). Alcohol & nutrition. *Alcohol Alert* (22), [1-4]

¹¹⁶ Law Commission. (2010). *Alcohol in our lives: curbing the harm, a report on the review of the regulatory framework for the sale and supply of liquor*. Wellington: Law Commission.

¹¹⁷ Ministry of Health. (1997). *The place of alcohol in the lives of people from Tokelau, Fiji, Niue, Tonga, Cook Islands and Samoa living in New Zealand: an overview*. Wellington: Alcohol Advisory Council of New Zealand.

¹¹⁸ Cagney, P., & Alliston, L. (2008). *Pearls Unlimited: the ALAC Pacific peoples resource project (Confidential Draft)*. Alcohol Advisory Council of New Zealand.

“Alcohol serves as an integral and inseparable part of hospitality where providing the best is the essence of warmth and sharing on the marae.”¹¹⁹

205. It is concerning that, within this cultural context, alcohol is treated in the same way as ordinary food, particularly given that Māori and Pacific people experience proportionately more alcohol harm than other New Zealanders. Regulating alcohol as a drug rather than a food would help to more strongly differentiate it from being seen and used in the same way as kai and would also highlight that “as a drug” it would need to be treated with some caution.

The time is right to consider an alternative regime

206. The current regime for regulating alcohol labelling appears to be insufficient and inappropriate as evidenced by the:

- length of time it takes to process and progress applications to make the provisions of the Code more appropriate for alcohol (e.g. ALAC is still waiting for a decision to be made on an application that was submitted to Food Standards Australia New Zealand (FSANZ) in February 2006)¹²⁰
- exemptions to mandatory requirements typically applied to other food (such as nutritional panels and a list of ingredients).

207. We have a rare opportunity at this time to explore the potential of including alcohol labelling within the alcohol law reform proposals. Alcohol labelling is more likely to be effective as part of a more comprehensive and effective package of legislative reforms aimed at reducing alcohol harm as opposed to an isolated product that appears to fit uncomfortably within a framework that regulates food.

Tobacco labelling provides a good example for change

208. Tobacco labelling is regulated under the *Smoke-free Environments Act 1990*. The Act regulates the size, placement and wording of labels and health warning messages on tobacco products. We believe that it provides a useful framework for considering how alcohol labelling could work under the new alcohol legislation.

209. Part 2 of the *Smoke-free Act* provides for the regulation of tobacco products. The purpose of Part 2 is outlined in section 21 of the Act which is:

¹¹⁹ Mataira, P. J. (1989). *An ethnographic study of Māori drinking patterns and drinking practices on traditional maraes around Ruatoria: a presentation*. Paper presented at the 1989 World Congress for Mental Health.

¹²⁰ The purpose of the application was to require a health advisory label on alcoholic beverage containers advising of the risk of consuming alcohol when planning to become pregnant and during pregnancy. The decision on our application has been delayed, most recently, to await the outcomes of the food labelling law and policy review being undertaken by the Australia and New Zealand Food Regulation Ministerial Council. The Council is due to respond to the review panels recent recommendations to include a mandatory label advising of the risk of consuming alcohol when pregnant by December 2011.

- (a) to reduce the social approval of tobacco use, particularly among young people, by—
- (i) imposing controls on the marketing, advertising, or promotion of tobacco products and their association through sponsorship with other products and events; and
 - (ii) requiring health messages and other information to be displayed on, or included with, packages containing tobacco products, and on automatic vending machines; and
 - (iii) prohibiting the sale of toy tobacco products to people younger than 18 years; and
- (b) to reduce some of the harmful effects of tobacco products on the health of users by monitoring and regulating the presence of harmful substances in the products and in tobacco smoke; and
- (c) to facilitate the harmonisation of the laws of New Zealand and Australia relating to the labelling of tobacco products (including, without limitation, requirements relating to the display of health messages).

210. Similar objectives could also be easily included in the alcohol regulations, particularly given that some of the matters being addressed by Part 2 of the Smoke-free Act are akin to issues associated with alcohol advertising, promotion and product labelling, some of which are touched on as part of the “irresponsible promotion” clauses contained in the Bill. We appreciate that more work will need to be done on the mechanics of any change of regulatory regime for alcohol labelling but what we are signalling is that there is a good framework and starting point for understanding how it ‘could’ work in New Zealand.

ALAC recommends that:

- alcohol products should no longer be regulated as a ‘food’ under the Australian New Zealand Food Standards Code and that it is timely to explore the potential of including alcohol labelling within the alcohol law reform proposals
- a committee be established to develop an appropriate process for removing alcohol product labelling from the Australian New Zealand Food Standards Code and to develop a suitable regime for regulating alcohol product labelling under the alcohol law reform proposals.

TREATMENT

211. The Law Commission made a number of recommendations concerning treatment¹²¹, and they were endorsed by the Minister of Justice who proposed “my intended legislative supply control and

¹²¹ Law Commission. (2010). *Alcohol in our lives: curbing the harm*. Wellington: Law Commission, p 430.

demand reduction strategies are supported by education and improvements to treatment services (problem limitation strategies) as recommended by the Commission¹²².

Law Commission recommendations

212. The Law Commission recommendations were extensive concerning treatment. It recommended key principles that should underpin any changes to the alcohol addiction treatment system.
213. The Law Commission recommended the Ministry of Health and Mental Health Commission be supported to develop a blueprint for addiction service delivery for the next five years.
214. The Law Commission also recommended a National Mental Health and Addictions Helpline and said district health boards should be required to develop care pathways.
215. The Law Commission noted that it had also found that intoxicated people are placing an unacceptable burden on police, ambulance services and acute health services but we cannot see a single national solution for this. We recommend relevant sectors work together to develop local strategies for managing intoxicated people.

Progress

216. ALAC recognises that most of these recommendations do not necessarily result in legislative change. However, we also note that it is difficult to track or monitor whether or not the recommendations, apparently accepted, have been acted upon.
217. While a five year blue print for service delivery would be an excellent development, there is a pressing need to act now, to intervene with as many heavy drinkers as early as possible. In ALAC's view, there is a relatively low cost and potentially effective measure that agencies across Government should be working together to consider with some urgency.
218. Brief interventions can be defined as short, one on one interventions that vary in methods according to the settings in which they are utilised but with the aim of identifying and/or supporting individuals to reduce harm from existing or potential alcohol behaviour.¹²³
219. In general, an alcohol brief intervention approach starts with systematic screening to identify whether an individual has a drinking problem requiring intervention. Alcohol screening tools are largely short and structured questionnaires which take between one to five minutes to administer. Of these tools the AUDIT (Alcohol Use Disorders Identification Test) is the most well known and used.¹²⁴

¹²² *Alcohol law reform: cabinet paper*. (2010). Wellington: Office of the Minister of Justice, para 61, p13.

¹²³ Docherty 2001 – Include full reference.

¹²⁴ The AUDIT was developed by the World Health Organisation and consists of 10 questions focused on hazardous drinking and alcohol use disorders. The AUDIT has been well validated across different cultural groups in a variety of countries and takes about five minutes to complete. There is also a shorter version of the AUDIT (i.e. AUDIT-C) which takes about one to two minutes to administer three questions and focuses mainly on the quantity, frequency and pattern of drinking. There is evidence to

220. Once assessed as requiring an intervention, high risk drinkers either receive some brief advice (which is typically a short structured session to facilitate change in an individual's drinking behaviour) or are referred, as required, to a more specialised and targeted alcohol intervention.
221. The implementation of brief intervention can, however, vary considerably. Core features of these interventions are that they target a population of high risk drinkers that tend not to seek help for alcohol problems and they aim to moderate individuals' drinking patterns to less risky levels and motivate individuals requiring further treatment to engage with an appropriate programme.¹²⁵ A brief intervention typically incorporates some or all of the following elements:
- feedback on the person's alcohol use and any alcohol-related harms
 - clarification as to what constitutes low risk alcohol consumption
 - information on the harms associated with risky alcohol use
 - benefits of reducing intake
 - analysis of high risk situations for drinking and coping strategies
 - the development of a personal plan to reduce consumption.¹²⁶
222. Brief interventions are typically face to face but telephone, mail, and more recently computers have been used.¹²⁷

The effectiveness of alcohol screening and brief intervention for reducing binge drinking

223. New Zealand has a very high level of acute alcohol-related harm (e.g. offending, injuries, road trauma) relative to chronic harm (e.g. disease) and compared to other countries.¹²⁸ Acute harm is typically caused by drinking large amounts of alcohol on one occasion or 'binge drinking'.
224. According to the most recent Ministry of Health alcohol use survey, about 61.6 percent of New Zealand drinkers aged 16-64 years report binge drinking at least once in a 12 month period and 12.6

suggest that AUDIT-C has the same specificity as the full AUDIT. There are also other screening tools that take about one minute to administer and are specifically developed for use in emergency department settings (e.g. PAT – the Paddington Alcohol Test and FAST).

¹²⁵ Kaner, EF et al (2007) 'Effectiveness of brief alcohol interventions in primary care populations', *Cochrane Database of Systematic Reviews*, Issue 2; Andrews, M (2010) *Case for change – Commissioning identification and brief advice to improve health and justice outcomes in offender populations*. London: Department of Health. Retrieved 22/11/2010 from: <http://www.alcohollearningcentre.org.uk/Topics/Browse/OffenderHealth/index.cfm?child=6287&parent=5033&fontSize=default>.

¹²⁶ Kaner, EF et al (2007) 'Effectiveness of brief alcohol interventions in primary care populations', *Cochrane Database of Systematic Reviews*, Issue 2.

¹²⁷ Kypri, K (2002) *Tertiary student hazardous drinking: Epidemiology and development of a brief intervention trial*, A thesis submitted for the degree of Doctor of Philosophy at the University of Otago Dunedin, NZ.

¹²⁸ Connor, J et al (2004) *The burden of death, disease and disability due to alcohol in New Zealand: research summary*. Retrieved 9/3/2010 from: <http://www.alac.org.nz/DBTextworks/PDF/BurdenExec.pdf>.

percent report binge drinking weekly.¹²⁹ Binge drinking is most common among young adults aged 18 to 24 years.¹³⁰

225. One of the most efficient ways to reach high risk drinkers is through primary care¹³¹ and emergency departments. This is because most of the high risk drinkers will have contact with these services at some time, either as a direct result of their drinking or in connection with other concerns.¹³² There is also substantial evidence to show that early detection of drinking problems and brief intervention¹³³ in primary care and emergency settings has the potential to be effective in reducing alcohol harm.¹³⁴ The consistent message from meta-analyses and systematic reviews is that brief intervention has a statistically significant effect upon risky drinking behaviour, by both male and female drinkers of all ages, who are not dependent.¹³⁵
226. Research also suggests that about 'one in five to one in eight' high risk drinkers that receive a brief intervention will reduce their drinking to low risk levels. This compares favourably with smoking cessation where a change of behaviour occurs for approximately one in 20 (and one in 10 if nicotine replacement therapy is included) who receive treatment.¹³⁶ There is also evidence to suggest that the briefest of alcohol interventions can be just as effective for reducing risky drinking and alcohol-related harm, as more intensive brief interventions.¹³⁷

¹²⁹ Ministry of Health (2009) *Alcohol use in New Zealand: key results of the 2007/08 New Zealand alcohol and drug use survey*. Wellington: Ministry of Health.

¹³⁰ For example, one in three (33.8 percent) male and one in five (18.8 percent) female past-year drinkers aged 18 to 24 years report binge-drinking weekly.

¹³¹ For the purposes of this paper, primary care is used interchangeably with primary health care and "relates to the professional health care received in the community, usually from GPs or practice nurses. Primary health care covers a broad range of health and preventative services, including education, counseling, disease prevention and screening." (Definition sourced from the Ministry of Health website).

¹³² For example, the New Zealand Health Survey 2006/07 found that 81.3 percent of New Zealanders 14 years of age and over had seen a GP in the previous 12 months. This compares with approximately nine percent of the population visiting an emergency department each year.

¹³³ An alcohol brief intervention approach starts with systematic screening to identify whether an individual has a drinking problem requiring intervention. Once assessed as requiring an intervention, high risk drinkers either receive some brief advice (which is typically a short structured session to facilitate change in an individual's drinking behaviour) or are referred, as required, to a more specialised and targeted alcohol intervention.

¹³⁴ Kaner, EF et al (2007) 'Effectiveness of brief alcohol interventions in primary care populations', *Cochrane Database of Systematic Reviews*, Issue 2.

¹³⁵ Although there is some uncertainty of the actual effect size and how it can be interpreted in terms of changed risk behaviour of individuals.

¹³⁶ Department of Health (2005) *Alcohol Misuse Interventions Guidance on developing a local programme of improvement*, Department of Health: London; Babor T & Grant M (eds) (1992) *Project on Identification and Management of Alcohol Related Problems. Report on Phase II: a randomised clinical trial of BIs in primary health care*, WHO: Geneva; and Babor, T and Grant, M (1994) 'A randomised clinical trial of brief interventions in primary health care: summary of a WHO project', *Addiction*, vol.89.

¹³⁷ Anderson, P et al (2009) 'Effectiveness and cost effectiveness of policies and programmes to reduce the harm caused by alcohol' *Lancet*, vol.373; Secretariat, World Health Assembly (2010) *Strategies to reduce the harmful use of*

New Zealand-based research on effectiveness

227. A study of young people aged 17 to 29 years attending the University of Otago student health service found that computerised alcohol screening and brief intervention within a primary care setting was effective in both uptake of screening and in reducing alcohol harm. For example, most of the students participating in the study (87 percent) completed the screening and those receiving a brief intervention reported a 20 to 30 percent reduction in episodic risky drinking and alcohol-related problems compared to the control group when followed up and reassessed six months later.¹³⁸
228. ALAC is supporting an ABC¹³⁹ alcohol pilot being undertaken by the Whanganui Regional Primary Health Organisation (PHO). Within the first six months of this pilot 35 percent of the total population (15 years and over enrolled in the PHO) have been asked about their alcohol consumption. Twenty-four percent of those asked have been recorded as drinking above the ALAC drinking guidelines, 33 percent of whom have received brief advice. While, the percentage of the Māori population being asked about their alcohol consumption is lower than the general population (28 percent compared to 36 percent), there are more Māori assessed as drinking above the guidelines and more Māori receiving brief advice (40 and 36 percent respectively compared to 22 and 32 percent of the general population).¹⁴⁰
229. These preliminary results on the uptake of brief advice within a primary health care setting are very encouraging. The pilot is showing, even at this early stage, that people who are drinking in harmful ways and that wouldn't normally seek help or be identified as risky drinkers are being identified and receive advice, or are referred to a specialist if needed.
230. The return on investment is proportionately greater in the emergency department setting, but the absolute gains are potentially greater from implementation in general practices, reflecting the higher level of alcohol-related care provided in emergency departments but the much greater level of contact across the population with general practices. Further, early anecdotal evidence from the ACC alcohol-related harm data collection project suggests that alcohol-related injuries are, like for like, 30 percent more costly than other injuries. If this finding holds true across emergency departments, it would increase the level at which short term cost gains can be realised.¹⁴¹

alcohol: draft global strategy, WHO: Geneva; Kaner, EF et al (2007) 'Effectiveness of brief alcohol interventions in primary care populations', *Cochrane Database of Systematic Reviews*, Issue 2; Richmond, R et al (1995) 'Controlled evaluation of a general practice-based brief intervention for excessive drinking', *Addiction*, vol.90; Wutzke, S E et al (2002) 'The long-term effectiveness of brief interventions for unsafe alcohol consumption: a 10-year follow-up', *Addiction*, vol. 97.

¹³⁸ Kypri, K et al (2005) 'Computerised screening for hazardous drinking in primary care', *New Zealand Medical Journal*, vol 118, no.,1224.

¹³⁹ The ABC process involves: "A" asking all people about their alcohol consumption; "B" those identified as risky drinkers are assessed and offered brief advice; "C" if appropriate, patients are referred for nurse or specialist alcohol counselling.

¹⁴⁰ Whanganui Regional PHO ABC alcohol pilot statistics to the end of September 2010.

¹⁴¹ Love, T et al (2010) *Cost savings of brief alcohol interventions in primary health care: Report for ALAC*, LECG: Wellington. (Draft Unpublished report).

231. The findings of the draft report reflect the relatively low cost nature of implementing brief interventions in these settings and are consistent with other international studies into the cost-effectiveness of brief intervention.

A case for increasing access to alcohol screening and brief intervention

232. The research evidence provides a strong case for increasing access to alcohol screening and brief intervention in a range of settings, particularly primary care and emergency departments, and for implementing it nationally. This is because if brief interventions can be implemented in primary care and emergency department settings in a way that reflects the effectiveness observed in studies, it is likely to produce reductions in acute alcohol-related harm. It is also likely to reduce health care and other social and justice sector costs.¹⁴²

233. Despite the evidence on efficacy, alcohol screening and brief interventions in health care settings are a significantly under-utilised strategy to reduce alcohol-related harm.¹⁴³ Further, while alcohol screening and brief intervention is increasingly being implemented in primary health care and emergency department settings internationally, there is no similar strategy in New Zealand. Rather, there are a number of projects, relevant to this kaupapa, which are being undertaken across the sector in a relatively ad hoc manner.

234. Historical attempts to improve access to brief interventions specific to alcohol in health settings have focused on the use of lifestyle screening tools that are generally not time-efficient and models of practice that require reasonable chunks of time and a set of specific skills that primary health care practitioners don't typically have. Consequently, time constraints, lack of incentives and/or confidence affecting health workers has meant that not all patients who drink in ways that are problematic or alcohol-related problems have often not been detected or given the appropriate advice and/or referrals.

235. The evidence, early pilot results, and conversations with some GPs, emergency department clinicians and other health professionals, suggests that user-friendly systems can be put in place to prompt practitioners to ask about alcohol and to provide the briefest of advice or refer to a specialist. As well as this, existing services such as the Alcohol Drug Helpline (funded by ALAC and the Ministry of Health) can have a role in providing support and specialist referrals.

236. Interventions that could work best in New Zealand primary care and emergency departments are approaches currently in use, or those that are being developed and tested. ALAC is also exploring other opportunities for implementing alcohol screening and brief intervention in broader health and social service settings. The outcomes of this further work will be critical for informing a plan for increasing access to alcohol screening and brief intervention. ALAC is currently leading this work, in collaboration with the Ministries of Health and Justice and the ACC, as part of the alcohol priority stream of the Government's Drivers of Crime work programme.

¹⁴² Love, T et al (2010) *Cost savings of brief alcohol interventions in primary health care: Report for ALAC*, LECC: Wellington. (Draft Unpublished report).

¹⁴³ Babor et al (2010) *Alcohol: No ordinary commodity – research and public policy*. Oxford University Press, UK.

ALAC recommends:

priority be placed on establishing a robust whole-of-government plan to increase access to alcohol screening and brief interventions in a range of settings, particularly primary health and emergency department settings, and that this plan be ready for implementation soon after the new alcohol legislation is passed and enacted.

ROAD SAFETY

237. The Land Transport (Road Safety and Other matters) Amendment Bill (the Road Safety Bill) was reported back to Parliament by the Transport and Industrial Relations Committee in December 2010. Included in that Bill is a new zero blood alcohol limit for under 20-year-olds. ALAC welcomes this change.
238. While the road safety measures are not part of the Alcohol Reform Bill, a valuable opportunity to make a considerable difference to New Zealand's drinking culture has been missed in the Road Safety Bill.
239. Often when someone comes to the attention of Police because they're a risk to road safety due their alcohol use, alcohol will be causing them problems in other areas of their life (For example relationships, health, money, violence or other crime, and work productivity). The first time a drink driver comes to the attention of police it is unlikely to be the first occasion they have driven while drunk, it is just the first time they have been caught.
240. In ALAC's view a lower general BAC would help to educate and change behaviour of many New Zealanders, and greatly reduce alcohol-related harm. The blood alcohol limit for drivers over 20 years of age should be 50 milligrams of alcohol per 100 millilitres of blood. This important steer from a lower BAC could make a contribution far beyond road safety.
241. The Road Safety Bill also included provision for the introduction of alcohol ignition interlock devices to New Zealand for the first time. ALAC strongly supports the introduction of interlocks, but is concerned that the proposed regime including a period of disqualification before the interlock device is fitted will be counter-productive. Experience shows that some drink drivers who are disqualified from driving will continue to drive, and they are likely to continue to drink and drive, particularly when they have already proved they are accustomed to drinking and driving by having more than one conviction, or by being apprehended with a very high alcohol reading that would render most of the population unable to stand, let alone drive.
242. Following the disqualification period the convicted driver is required to apply for an interlock licence. The device would then have to be installed, and the new interlock driver licence physically provided to the driver. Further months may pass. The benefits of the interlock programme are undermined by the proposed disqualification period.

243.

ALAC recommends:

- In ALAC's view a lower general BAC would help to educate and change behaviour of many New Zealanders, and greatly reduce alcohol-related harm. The blood alcohol limit for drivers over 20 years of age should be 50 milligrams of alcohol per 100 millilitres of blood;
- there should not be a period of disqualification from driving before a convicted drink driver is eligible to apply for an alcohol ignition interlock device.