

MACKENZIE, TIMARU AND WAIMATE DISTRICT COUNCILS JOINT LOCAL ALCOHOL POLICY

1. Background

This Local Alcohol Policy (LAP) has been developed jointly by the Mackenzie, Timaru and Waimate District Councils. The Policy sets out a framework for reasonable and consistent decision making in the local administration of the Sale and Supply of Alcohol Act 2012 (the Act). It provides guidance to existing and prospective licensees about their role in reducing alcohol harm which is reflected through the communities' views and expectations.

1.1 Purpose and Objectives of the Sale and Supply of Alcohol Act 2012.

The Act puts in place a new system of control over the sale and supply of alcohol. The key characteristics of this new system are that:

- it is reasonable and
- the administration of the Act will help achieve the Acts objectives.

The object of the Act is to:

- (a) ensure that the sale, supply, and consumption of alcohol is undertaken safely and responsibly; and
- (b) minimise the harm caused by the excessive or inappropriate consumption of alcohol.

1.2 Local Alcohol Policy Development

The government wants to improve community input into local alcohol licensing decision making. Under Section 75 of the Act territorial authorities have the discretion, to establish a Local Alcohol Policy (LAP). All three district Councils decided to work collaboratively on this policy for enhanced efficiency in administration, education and policing.

Section 77 of the Act prescribes what a LAP can cover, these are:

- (a) the location of licensed premises by reference to broad areas:
- (b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:
- (c) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:
- (d) whether further licenses (or licenses of a particular kind or kinds) should be issued for premises in the district concerned, or any part of the district:
- (e) maximum trading hours:
- (f) the issue of licenses, or licenses of a particular kind or kinds, subject to discretionary conditions:
- (g) one-way door restrictions.

These matters (a) to (d) do not apply to special licenses, or premises for which a special license is held or has been applied for.

A local alcohol policy cannot include policies on matters unrelated to licensing. Section 78 of the Act outlines the matters that a Council must have regard to when producing a draft policy.

These are:

- (a) the objectives and policies of its district plan;
- (b) the number of licenses of each kind held for premises in its district, and the location and opening hours of each of these premises;
- (c) any areas where bylaws prohibiting alcohol in public places are in force;
- (d) the demography of the district's residents;
- (e) the demography of people who visit the district as tourists or holidaymakers;
- (f) the overall health indicators of the district's residents; and
- (g) the nature and severity of the alcohol-related problems arising in the district.

When producing a draft policy a Council must consult with the Police, Licensing Inspectors, and Medical Officers of Health, each of whom must make reasonable efforts to give a Council any information they hold relating to any of the matters stated in (a) to (g) above. All three agencies supplied a submission on this policy.

2. Definitions

Alcohol –

A substance that is or contains fermented, distilled, or spirituous liquor, which; in whatever form (such as frozen liquid, or a mixture of a frozen liquid and another substance or substances,) is found on analysis to contain 1.15% or more ethanol by weight, in a form that can be consumed by people.

Alcohol Management Plan is a plan of measures and actions designed to manage the sale and supply of alcohol to achieve the objectives of the *Sale and Supply of Alcohol Act 2012*.

Alcohol-related harm -

- (a) the harm caused by the excessive or inappropriate consumption of alcohol; and
- (b) includes—
 - (i) any crime, damage, death, disease, disorderly behaviour, illness, or injury, directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol; and
 - (ii) any harm to society generally or the community, directly or indirectly caused, or directly or indirectly contributed to, by any crime, damage, death, disease, disorderly behaviour, illness, or injury of a kind described in subparagraph (i).

Amenity and good order of the locality, in relation to a licensing application, means the extent to which, and ways in which, the locality in which the premises concerned are situated (or, in the case of a conveyance, the localities where the conveyance is likely to travel) are pleasant and agreeable.

Authorised customer in relation to premises a club license is held for, means a person who -

- (a) is a member of the club concerned; or
- (b) is on the premises at the invitation of, and is accompanied by, a member of the club concerned; or
- (c) is an authorised visitor.

Authorised visitor in relation to premises a club license is held for, means a member of some other club with which the club concerned has an arrangement for reciprocal visiting rights for members.

Bar, in relation to a hotel or tavern, means a part of the hotel or tavern used principally or exclusively for the sale or consumption of alcohol

Bottle store means retail premises where at least 85% of the annual sales revenue is expected to be earned from the sale of alcohol for consumption somewhere else.

Business zone or commercial zone means land zoned as type of business or commercial zoning in the relevant district plan at the time when the relevant OFF-Licence application is determined. For the avoidance of doubt, the term includes land zoned for business activities (in contrast to industrial or residential activities) in any subsequent district plan, irrespective of the specific name of the zone.

Club means a body that—

- (a) is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or
- (b) is a body corporate whose object is not (or none of whose objects is) gain; or

- (c) holds permanent club charter.

Discretionary Condition

The licensing authority or licensing committee concerned may issue a license subject to particular conditions if –

- (a) there is any relevant local alcohol policy and
- (b) in its opinion, the issuing of the license or the consequences of the issuing of the license, without those conditions would be inconsistent with the policy.

The holder of a license must comply with every condition subject to which it has been issued or renewed.

District, in relation to a territorial authority, has the meaning given by section 5(1) of the Local Government Act 2002.

Early Childhood Education A centre licensed under the Education (Early Childhood Centres) Regulations 1998 and meets Section 310 of the Education Act 1989.

Food product -

- (a) does not include -
 - (i) alcohol, confectionery, ready-to-eat prepared food, or snack food; or
 - (ii) a drink (other than milk) sold in a container with a capacity of 1 litre or less; but
- (b) includes delicatessen items that are not ready-to-eat prepared food or snack food

Grocery Store means a shop that -

- (a) has the characteristics normally associated with shops of the kind commonly thought of as grocery shops; and
- (b) comprises premises where—
 - (i) a range of food products and other household items is sold; but
 - (ii) the principal business carried on is or will be the sale of food products

Inspector means an inspector appointed under section 197(1); and, -

- (a) in relation to premises that are not a conveyance, means an inspector appointed by the chief executive of the territorial authority in whose district the premises are situated; and
- (b) in relation to a conveyance, means an inspector appointed by the chief executive of the territorial authority in whose district the principal place of business in New Zealand of the applicant or licensee (as the case may be) is situated

Large Event means an event that the territorial authority believes on reasonable grounds will have patronage of more than 400 people.

Local alcohol policy -

- (a) means a policy, in force under section 90, relating to the sale, supply, or consumption of alcohol (or to 2 or all of those matters) within the district of a territorial authority or the districts of 2 or more territorial authorities; and
- (b) in relation to a territorial authority, means a policy, in force under section 90, relating to the sale, supply, or consumption of alcohol (or to 2 or all of those matters) within its district or the districts of 2 or more territorial authorities that include it.

Medium event means an event that the territorial authority believes on reasonable grounds will have patronage of between 100 and 400 people.

OFF-License is a license for premises where the licensee can sell alcohol for consumption somewhere else.

ON-License is a license for premises where the licensee can sell and supply alcohol for consumption on the premises and can let people consume alcohol. This includes 'Bring Your Own' restaurants and caterers.

One-way door restriction, in relation to a license, is a requirement that, during the hours stated in the restriction, -

- (a) no person is to be admitted (or re-admitted) into the premises unless he or she is an exempt person; and
- (b) no person who has been admitted (or re-admitted) into the premises while the restriction applies to the license is to be sold or supplied with alcohol.

Primary School -Schools offering education to children from Year 1 up to Year 8 or a variation of the Years.

Ready to Drink Product (RTD), is a pre-packaged, pre-measured, and pre-mixed alcoholic beverage combining a spirit, wine, malt or fruit base with a carbonated soft drink or juice.

Restaurant means premises that—

- (a) are not a conveyance; and
- (b) are used or intended to be used in the course of business principally for supplying meals to the public for eating on the premises.

Secondary School - Schools offering education for students from Year 9 up to Year 15, and sometimes Year 7 and 8 as well.

Small event means an event that the territorial authority believes on reasonable grounds will have patronage of fewer than 100 people.

Supermarket – means premises with a floor area of at least 1 000 m² including any separate departments set aside for such foodstuffs as fresh meat, fresh fruit and vegetables and delicatessen items.

Tavern -

- (a) means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but
- (b) does not include an airport bar.

3. License Conditions

The following conditions will be applicable to licensed premises in all three districts unless otherwise stated.

3.1 ON-License

The premises where an ON-license (other than an on-license endorsed under section 37 of the Act) is held, the licensee:

- (a) can sell and supply alcohol for consumption there; and
- (b) can let people consume alcohol.

Policies related to ON-licenses also apply to:

- Bring Your Own (BYO) restaurants (endorsed under section 37 of the Act)
- Caterers (endorsed under section 38 of the Act)

3.1.1 Hours of Operation

The hours of operation for ON- Licenses apply to premises in the Mackenzie, Waimate and Timaru Districts after consideration of the reports from the Licensing Inspectors, Police and Medical Officer of Health.

Note: An application for an ON-license must comply with the Resource Management Act 1991 and Building Act 2004 before it is lodged.

The operation of ON-License, (Function centres, Restaurants and Cafes) premises are as follows:

Monday to Sunday: 7.00am to 1.00am (the following day)

The operation of ON-License, (Taverns, Hotels, Bars and Nightclubs) premises are as follows:

Monday to Sunday: 7.00am to 3.00am (the following day)

In the case of Hotels, alcohol may be sold or supplied at anytime to any guest residing on the premises.

3.1.2 Discretionary conditions of ON-licenses (Function centres, Restaurants and Cafes) may include:

- Restriction on the consumption of alcohol in outdoor areas after midnight (0000 hours)

3.1.3 Discretionary conditions for ON- Licenses (Taverns, Hotels, Bars and Nightclubs) may include:

- Dedicated door security staff must be provided on Thursday, Friday, Saturday nights and for any event occurring at any Tavern, Hotel, Bar and Nightclub with 100 or more people attending.
- Restriction on the consumption of alcohol in outdoor areas after midnight (0000 hours)
- No new licensed premise to be within 100 meters of any Early Childhood Centre, Primary school or Secondary school
- No shots or double spirit mixes should be sold from 30 minutes prior to closing.

3.1.4 Location of ON – License Premises

From the date this LAP comes into force, no further ON-licenses are to be issued for any premises unless that premises is located on the applicable zoned land described in the District Plan or a Resource Consent has been granted by Council for its operation.

3.2 OFF-Licenses

The premises where an OFF-License is held, the licensee can sell alcohol for consumption off the premises. While these premises are open the licensee can supply alcohol free for consumption on the premises as a sample up to 40ml. This excludes samples of undiluted spirits which are to be supplied as a sample of up to 25ml.

The holder of an OFF-License may sell alcohol on or from the premises for it to be delivered elsewhere endorsed under section 40 of the Act.

3.2.1 Hours of Operation

The hours of operation for OFF- Licenses apply to premises in the Mackenzie, Timaru and Waimate Districts after consideration of the reports from the Licensing Inspectors, Police and Medical Officer of Health.

Note: An application for an OFF-license must comply with the Resource Management Act 1991 and Building Act 2004 before it is lodged.

The operation of OFF-License premises (Stand alone premises, Grocery Stores, Hotel style, Supermarkets and Bottle stores) are as follows:

Monday to Sunday: 7.00am to 9.00pm

The following hours apply to hotel in-bedroom (mini-bar) sales:

Monday to Sunday: 24 hours per day

3.2.2 Discretionary conditions of OFF-Licenses (Hotel style, supermarkets and bottle stores) may include:

- The main façade of the premises, being the principal front of a building that faces onto a street or open space of any new licensed premise must not be within 100 meters of any Early Childhood Centre, Primary school or Secondary school, except that this policy shall not apply to premises that are located:
 - In a business zone of the Waimate District Plan;
 - In a business zone of the Mackenzie District Plan;
 - In a commercial zone of the Timaru District Plan.
- Supervised designation for bottle stores (excluding supermarkets and grocery stores) to ensure unaccompanied minors do not enter bottle store premises.

3.2.3 Location of OFF-License Premises

From the date this LAP comes into force, applications for new OFF-licenses for any premises will only be granted if that premise is located on the applicable zoned land described in the District Plan or once a Resource Consent has been granted by Council for its operation.

3.3 CLUB Licenses

On premises for which a club license is held, the licensee can sell and supply alcohol to authorised customers (within the meaning of section 60(3)), for consumption there.

A significant number of clubs are in or adjacent to residential areas. The sale of liquor must be ancillary to the Club's activities, and the licensed hours must reflect the hours of the operation of the principle club activity.

3.3.1 Hours of operation

The operation of CLUB License premises are as follows:

Monday to Sunday: 9.00am to 1.00am (the following day)

3.4 Special Licenses

3.4.1 Hours of operation

Restrictions on hours will be imposed if the District Licensing Committee considers it appropriate in respect of any environmental or other considerations which may require constraints on the hours of operation. Such issues may be raised by the Licensing Inspector, Police, Medical Officer of Health or other relevant affected parties.

Special licenses can cover an event or series of related events to a maximum of 20 events per premise per year (1 July to 30 June). A maximum of 15 events will be issued per 6 month period.

3.4.2 Discretionary conditions of special licenses may include:

- Sale of Ready to Drink (RTD) alcoholic beverages to be under 5% alcohol
- Provide an Alcohol Management Plan.
- No alcohol is to be sold in glass containers for events exceeding 100 people
- License area to be clearly defined where liquor is to be consumed eg Beer tent.
- Wine not to be sold by the bottle.
- Maximum number of alcoholic drinks per purchase may be specified.

3.4.3 Licensed hours

No Special License will be granted to extend later than 2am

4. One Way Door

All premises licensed to open to 3.00am shall apply a one way door restriction at 2.00am on Friday, Saturday and Sunday morning and for any event exceeding 100 people occurring at the premises.

5. Policy Statement

5.1 Application and Scope

This policy applies to any licensing application made to a District Licensing Committee in the Mackenzie, Timaru and Waimate Districts.

5.1.1 Transitional provisions

The provision of this policy come into effect XXX (Council determination usually 30 days) after the Provisional policy is adopted.

5.1.2 Exemptions

Any application for a new license or license renewal for any premises which had a current license at the date this policy came into effect is exempt from the provisions of this policy relating to the location of licensed premises. The exemption remains in force for as long as the premises remains continuously licensed and will cease to exist when the current license or any subsequent license for the premises is surrendered or not renewed.

5.1.3 Relationship to the Act

This policy does not include all the provisions that may apply to license applications and should therefore be read in conjunction with the Act, which contains a number of additional provisions.

6. Policy Review

The three territorial authorities will monitor the policy to ensure it is operating to full effect.

An evaluation will be conducted 18 months after the policy comes into effect. If this evaluation results in an assessment that changes may be needed, the policy will be reviewed.

If the evaluation does not indicate the need for any changes, a review will be initiated in 2017 and thereafter no later than 6 years after it came into force.

7. Adopted by and Date

This policy was approved by the Joint Timaru, Mackenzie and Waimate District Councils Hearing Committee on the 29 November 2013 and adopted by Timaru, Mackenzie and Waimate District Councils on 21 December 2015.