

# **Kaikoura District Council**

## **LOCAL ALCOHOL POLICY 2020**

**Sale and Supply of Alcohol Act 2012**



## ***Executive Summary of Local Alcohol Policy 2020***

The Sale and Supply of Alcohol Act 2012 provides clear guidance on what provisions a LAP can contain. A LAP may only deal with alcohol licensing issues as set out in section 77. A LAP may include policies on any or all of the following matters:

- (a) 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 licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district:
- (e) maximum trading hours:
- (f) the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions:
- (g) one-way door restrictions.

A LAP may also impose conditions for groups of licences. The Act also gives legal standing to LAPs, once they are in force.

Under the Act, a draft LAP must be developed after consultation with licensing inspector, Police and Medical Officers of Health. There are a number of other matters a Council must have regard to when producing a draft LAP. These are:

- (a) the objectives and policies of its district plan; and
- (b) the number of licences of each kind held for premises in its district, and the location and opening hours of each of the premises; and
- (c) any areas in which bylaws prohibiting alcohol in public places are in force; and
- (d) the demography of the district's residents; and
- (e) the demography of people who visit the district as tourists or holidaymakers; and
- (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.

Furthermore, the community and key stakeholders must thereafter be consulted through the special consultative procedure under the Local Government Act. [Sections 78 and 79].

The draft LAP for Kaikoura does not differ significantly from the draft Policy prepared in 2013, but due to the alcohol reform process, the policies were never reviewed or adopted in the intervening years. Kaikoura District Council's draft LAP provides maximum trading hours for all licensed premises and provides discretionary conditions for special licences.

The intended timeframe is for the Council to have a provisional LAP by February 2020 and publicly notify it in January 2020.

# LOCAL ALCOHOL POLICY

## **1. GENERAL INTRODUCTION**

In December 2012, the new **Sale and Supply of Alcohol Act 2012 (The Act)** was enacted, replacing the Sale of Liquor Act 1989. The purpose of the new Act was to put into place a new system of control over the safe and responsible sale and supply and consumption of alcohol that is reasonable and where the local administration of the Act ensures the object of the Act is achieved. The purpose of the reformed law is for it to be for the benefit of the community as a whole (section 3), not just alcohol sellers and consumers.

**Section 4 (1) of the Sale and Supply of Alcohol Act 2012**, states that the object of the Act is that -

- (a) the sale, supply and consumption of alcohol should be undertaken safely and responsibly, and;
- (b) the harm caused by excessive or inappropriate consumption of alcohol should be minimised.

This is not a balancing exercise. Both objectives are equally important outcomes of alcohol licensing.

**Section 4 (2)** goes on to state that the harm caused by the excessive or inappropriate consumption of alcohol includes;

- (a) 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;
- (b) any harm to society generally or the community, directly or indirectly caused, or indirectly contributed to, by any crime, damage, death, disease disorderly behaviour, illness, or injury of a kind described in paragraph (a)

## **2. POLICY GOALS & CONTEXT**

- To contribute to Kaikoura being a safe place in which to live, work, play, and visit.
- To reflect the changing character of Kaikoura district and its communities.
- To minimise alcohol related harm across all areas within Kaikoura district.
- To ensure the safe and responsible sale and supply of alcohol in Kaikoura, and the safe and responsible consumption of alcohol in Kaikoura.

The Act is designed to give local communities more control over the sale and supply of alcohol and its consumption within each territorial district. One of the tools to assist in achieving this outcome is to develop and implement a robust, workable and consistent Local Alcohol Policy, which contains clear policies relating to how alcohol is to be sold, and supplied, and consumed responsibly within the district.

This policy has been developed by a working group in conjunction with the Police, Licensing Inspector, Medical Officer of Health and local community by way of the special consultative process via the Local Government Act.

### **3. POLICY OBJECTIVES**

- To regulate the operating hours of all on, club and off-licences within Kaikoura District for the benefit of the Kaikoura community.
- To ensure licensed premises take appropriate measures to minimise alcohol harm.
- To provide clear guidance to the District Licensing Committee.
- To have the ability to ensure that the robustness of the policy assists in managing licensed premises at local level, whilst achieving the object of the Act.

The following policies are intended to promote reasonableness, fairness, consistency and transparency. The LAP will give applicants for licences and the community, some clear certainty with respect to the administration of the Act within Kaikoura District.

### **4. DEFINITIONS**

The following definitions are defined in Section 5 of the Act, and apply to this policy;

- **alcohol** means a substance –
  - (a) that –
    - (i) contains a fermented, distilled or spirituous liquor; and
    - (ii) at 20°C is found on analysis to 1.15% or more ethanol by volume; or
  - (b) that –
    - (i) is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and
    - (ii) is alcohol (within the meaning of paragraph (a) when completely thawed to 20°C; or
  - (c) that, whatever its form, is found on analysis to contain 1.15% or more ethanol by weight in a form that can be assimilated by people.
- **alcohol related harm** –
  - (a) means the harm caused by the excessive or inappropriate consumption of alcohol
  - (b) and 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 indirectly contributed to, by any crime, damage, death, disease disorderly behaviour, illness, or injury of a kind described in paragraph (a).
- **amenity and good order of the locality**, in relation to an application for a new licence or renewal, means to the extent to which, and ways in which, the locality in which the premises concerned are situated is (or, in the case of a conveyance, the localities where the conveyance is likely to travel are) pleasant or agreeable.
- **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 (see section 32) (1).
- **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.
- **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 (see section 33) (1).
- **hotel** means premises used or intended to be used in the course of business principally for providing to the public—
  - (a) lodging; and
  - (b) alcohol, meals, and refreshments for consumption on the premises.
- **intoxicated** means observably affected by alcohol, other drugs or other substances (or a combination of 2 or all of those things) to such a degree that 2 or more of the following are evident;
  - (a) appearance is affected;
  - (b) behaviour is impaired;
  - (c) co-ordination is impaired;
  - (d) speech is impaired.

- **one way door restriction**, in relation to a licence, 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 licence is to be sold or supplied with alcohol.
- **premises**—
  - (a) includes a conveyance; and
  - (b) includes part of any premises; and
  - (c) in relation to a licence, means the premises it was issued for
- **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.
- **restricted area**—
  - (a) means an area that is designated (under [section 119](#) or a corresponding provision of a former licensing Act) as an area to which minors must not be admitted; and
  - (b) in relation to any licensed premises or the licensee or a manager of any licensed premises, means an area of those premises that is designated (under this Act or a former licensing Act) as an area to which minors must not be admitted
- **sell**, in relation to alcohol, includes—
  - (a) charge a fee (however described, and whether an entry fee, a ticket price, or a payment of any other kind) for an alcohol-inclusive matter; and
  - (b) require, ask for, or (expressly or by implication) suggest the making of a koha or other donation (whether to be made before, after, or during the entry event, activity, or function concerned) in relation to an alcohol-inclusive matter.
- **supervised area**—
  - (a) means an area that is designated (under [section 119](#) or a corresponding provision of a former licensing Act) as an area to which minors must not be admitted unless accompanied by a parent or guardian; and
  - (b) in relation to any licensed premises or the licensee or a manager of any licensed premises, means an area of those premises that is designated (under this Act or a former licensing Act) as an area to which minors must not be admitted unless accompanied by a parent or guardian.
- **supermarket** – means premises with a floor area of at least 1 000 m<sup>2</sup> including any separate departments set aside for such foodstuffs as fresh meat, fresh fruit and vegetables, and delicatessen items (see section 32)(1).
- **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.

## **5.0 POLICY PRINCIPLES**

### **POLICY 1: MAXIMUM PERMITTED TRADING HOURS**

**Note:**

Applicants may apply for trading times within or up to the maximum permitted trading hours. Granting of trading hours shall be at the discretion of the licensing committee or Authority and may not necessarily be the full or maximum trading hours outlined in this section.

#### **POLICY 1.1 On-Licences**

On-licenced premises are where alcohol is sold and consumed on site (e.g. a restaurant, a tavern, a hotel).

- (a) The maximum permitted trading hours in the Kaikoura district for all on-licenced businesses [except hotels and taverns covered by (b)] shall be:
  - **Monday to Sunday from 8.00am to 2.00am(the following day).**
- (b) The maximum permitted trading hours in the Kaikoura district for all on-licenced taverns and hotels shall be:
  - **Monday to Sunday from 8.00am to 2.00am (the following day)**
- (c) The following hours apply to hotel in bedroom mini bars sales:
  - **Monday to Sunday 24 hours a day**

#### **POLICY 1.2 Off-Licences**

Off-licensed premises are where alcohol is purchased to be consumed off site, and include bottle stores & supermarkets & grocery stores and remote sellers.

- (a) The maximum permitted trading hours in the Kaikoura district for-all off-licensed premises shall be:
  - **Monday to Sunday from 8.00am to 10.00pm**



### **POLICY 1.3 Club Licences**

- (a) The maximum permitted trading hours in the Kaikoura district for all clubs, reflecting the principle nature or activity of the club, shall be:
- **Sunday to Thursday from 8.00am to 10.00pm**
  - **Friday and Saturday from 8.00am to 12.00 midnight**

## **POLICY 2: SPECIAL LICENCES**

On-site Special licences authorise and control the sale and supply of alcohol for events (such as a wine and food festival) where a premise is not licensed and alcohol is sold and supplied to those attending for consumption on the premises. An application for an on-site Special License may be made for events (such as a wedding reception or school reunion) where a permanent on, off or club license is not appropriate.

Off-site special licences authorise and control the sale of alcohol for events (such as wine and food and beer festivals) where a premise is unlicensed and the licensee's alcohol is sold for consumption somewhere else off the premises.

*(refer to section 22 of the Act)*

**POLICY 2.1** On-site and off-site Special licences can cover an event or series of related events for a maximum of six events. A **maximum of 26 on-site and off-site special licenses or on-site and off-site special licences covering 26 events** (whichever is the lesser) will be issued per year (1 July to 30 June) per premises.

**POLICY 2.2** Where the premise already holds an on-license, the conditions of an on-site special license will specify a closing time no more than two hours later than permitted by the current on-license.

**POLICY 2.3** Where the time, setting and numbers attending creates a risk of alcohol related harm, the District Licensing Committee may request an alcohol management plan be completed for consideration by the Committee as part of the application for an on-site or off-site special licence (refer to section 143 of the Act).

## **POLICY 3: DISCRETIONARY CONDITIONS**

The Sale and Supply of Alcohol Act 2012, allows District Licensing Committees to apply discretionary conditions on all licences issued such as:

**POLICY 3.1** Supervised designation of bottle stores to ensure unaccompanied minors do not enter bottle stores.

**POLICY 3.2** Display of safe drinking messages, material and signage to be clearly displayed at all points of sale, including food availability, transport options and identification options.

**POLICY 3.3** A one-way door restriction may be imposed as a condition of any new or renewal on-licence for any hotel or tavern from 12.00 midnight.

**POLICY 3.4** Conditions may be applied to licences in a graduated manner that would promote the object of the Act and could include (but not limited to) restrictions on type or quantity of alcohol sold as well as mechanisms that support harm minimisation, e.g. CCTV.

**POLICY 3.5** A requirement for two Duty Managers to be on-site may be imposed as a condition of any new or renewal on licence for any hotel or Tavern

**POLICY 3.6** For any new or renewal of a club license, a condition may be imposed to have a manager on-site where the District Licensing Committee consider it to be appropriate.

## **POLICY 4:            ADOPTION OF THE POLICY**

**POLICY 4.1** The Kaikoura District Local Alcohol Policy (LAP) was formally adopted by the Kaikoura District Council on **29 February 2020**, and that the said Council shall resolve that the Policy will come into force, with legal standing on **5 April 2020**

**POLICY 4.2** The Sale and Supply of Alcohol Act 2012 requires the LAP must be reviewed every 6 years via the special consultative process, although Council may choose to review it sooner. As per section 97 of the Act which is below;

### **Local alcohol policies to be reviewed every 6 years**

A territorial authority that has a local alcohol policy must review it, using the special consultative procedure,—

- (a) no later than 6 years after it came into force; and
- (b) no later than 6 years after the most recent review of it was completed.

In Kaikoura the Council proposes to review this LAP after 6 years.

Signed:



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**Chief Executive Officer**  
**Kaikoura District Council**