



Executive Summary of Draft Local Alcohol Policy 2019

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 Kaikōura 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. Kaikōura 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 _____ and publicly notify it in _____.

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

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 Kaikōura District for the benefit of the Kaikōura 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 Kaikōura 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 m² 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 Kaikōura district for all on-licenced businesses [except hotels and taverns covered by (b)] shall be:
 - **Monday to Sunday from 8.00am to 1.00am (the following day).**
- (b) The maximum permitted trading hours in the Kaikōura district for all on-licenced taverns and hotels shall be:
 - **Monday to Sunday from 8.00am to 1.00am (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 Kaikōura district for-all off-licensed premises shall be:
- **Monday to Sunday from 7.00am to 10.00pm**

POLICY 1.3 Club Licences

- (a) The maximum permitted trading hours in the Kaikōura 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 15 on-site and off-site special licences or on-site and off-site special licences covering 15 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.

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

POLICY 3.2 “Public Bars” and places of entertainment be supervised areas.

POLICY 3.3 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 3.4 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 3.5 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 4: ADOPTION OF THE POLICY

POLICY 4.1 The Kaikōura District Local Alcohol Policy (LAP) was formally adopted by the Kaikōura District Council on **[date]**, and that the said Council shall resolve that the Policy will come into force, with legal standing on **[date]**.

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 Kaikōura the Council proposes to review this LAP after _____ years.



Control of Alcohol in Public Places Bylaw 2015

1. Title and Commencement

This Bylaw is the Kaikōura District Council **Control of Alcohol in Public Places Bylaw** and comes into force on the **1 December 2015**.

2. Repeal

- a) From the date this Bylaw comes into force, any previous Bylaws and their amendments, purporting to alcohol in public places within the Kaikōura District shall be repealed.
- b) All approvals, permits and other acts of authority which originated under the Control of Liquor and Liquor Ban Bylaw 2006 or any previous Bylaw, and all applications, shall for the purpose of this Bylaw continue as if they had originated under this Bylaw.
- c) The revocation of the Control of Liquor and Liquor Ban Bylaw 2006 shall not prevent any legal proceedings, criminal or civil, being taken to enforce those bylaws and such proceedings shall continue to be dealt with and completed as if the Bylaws has not been revoked.

3. Object

The purpose of this Bylaw is to reduce alcohol-related harm, damage, disorder and crime and to improve community safety by putting alcohol restrictions in some public places.

This Bylaw prohibits or otherwise regulates or controls, the possession and consumption of alcohol in specified public places and the bringing of alcohol into specified public places.

4. Interpretation

ACT	means the Local Government Act 2002
ALCOHOL	has the same meaning as in the Sale and Supply of Alcohol Act 2012 and generally means alcoholic beverages such as beer, wine and spirits.
COUNCIL	means the Kaikōura District Council

PERMANENT ALCOHOL BAN AREA	means an area described in the Schedule to this Bylaw in which alcohol restrictions are permanently in place in the public places within the area.
PUBLIC PLACE	has the meaning given by section 147 of the Local Government Act 2002.

5. Permanent Alcohol Ban Areas

Permanent Alcohol Ban Areas are listed in the Schedule to this Bylaw. The Schedule describes the specified public places that are Permanent Alcohol Ban Areas. The ban in the Scheduled areas is always in place there is no time or day when this is not the case.

6. Resolution to Specify Public Places

1. Addition/Removal Specified Public Places

Council may from time to time by resolution adopt following the use of special consultative procedures in accordance with the Local Government Act, add to the Schedule of Permanent Alcohol Ban areas other public places to which this Bylaw shall then apply, or in like manner delete from the Schedule those places in respect of which it considers this Bylaw should no longer apply.

2. Temporary Addition of Specified Public Places

Council may from time to time be resolution specify additional periods and public places during which the bringing of alcohol into, the possession and/or consumption of alcohol in that public place may be prohibited. Council may make such a resolution in relation to any planned public event, function or social gathering to be held in that public place.

Before a Temporary Alcohol Ban is declared Council will consider whether the benefits to local residents and the Town would outweigh the restrictions the resolution would impose on local residents and other people, including those who may be attending any events in the area covered by resolution.

7. Restrictions in Alcohol Ban Areas

No person shall:

- bring alcohol into a public place whether in a vehicle or not; or
- possess alcohol in a public place whether in a vehicle or not; or
- consume alcohol in a vehicle in a public place; or
- consume alcohol in any Permanent Alcohol Ban Area or Temporary Specified Public Place during the specified period.

8. Exemptions to Restrictions in Alcohol Ban Areas

1. The alcohol restrictions do not apply to areas or activities covered by a licence issued under the Sale and Supply of Alcohol Act 2012 including;

- a) any public place which is part of a licensed premises' outdoor area where permission to occupy that area has been granted by the Council; or
- b) the carrying of alcohol directly between one part of a licensed premises and another part of the same licensed premises across a public place that separates the parts of the licensed premises; or
- c) any public place that is subject to a special licence, for the term of that licence.

Explanatory Note: A number of exemptions for the transportation of unopened bottles or containers of alcohol through Alcohol Ban Areas are listed in section 147(4) of the Sale and Supply of Alcohol Act and are not restricted by this bylaw.

9. Powers of Arrest, Search and Seizure

1. Powers of the Police

Where a prohibition on the possession and /or consumption of alcohol is in effect in any public place pursuant to the provisions of section 169 of the Act, a member of the Police may, without warning.

- a) For the purpose of ascertaining whether alcohol is present, search;
 - i) any container (for example, a parcel, package, bag or case) in the possession of any person who is in, or entering, the public place;
 - ii) any vehicle that is in, or entering, the public place.
- b) Seize or remove alcohol and its container if the alcohol is in the public place in breach of that prohibition;
- c) Arrest any person whom the member of Police finds committing an offence against that prohibition;
- d) Arrest any person who has refused to comply with a request by a member of the police
 - i) to leave the specified public place; or ii) to surrender to a member of the Police the alcohol that, in breach of that prohibition, is in that person's possession.

2. Warning by the Police

Before exercising the power of search under Clause 9.1(a) in relation to a container or a vehicle, a member of the Police must –

- a) Inform the person in possession of the container or vehicle, as the case may be, that he or she has the opportunity of removing the container or the vehicle from the specified public place; and
- b) Provide the person with a reasonable opportunity to remove the alcohol or the vehicle as the case may be, from the public place.

10. Offences

Every person who breaches this Bylaw, commits an offence under section 239 of the Local Government Act 2002, and is liable on conviction to a fine under section 242 of the Local Government Act 2002.

Schedule – Permanent Alcohol Ban Areas

- Beach Road from Gillings Lane to West End
- Churchill Street from West End to Scarborough Street
- Deal Street including Churchill Park
- Esplanade from West End to Ramsgate Street
- West End
- Whaleway Station Road to West End
- Torquay Street from Killarney Street to Ramsgate Street
- Upper Killarney Street to Scarborough Street to Churchill Street corner

- Ludstone Road from Department of Conservation building to Beach Road/Churchill Street □
Davidson Terrace
- Takahanga Terrace
- Killarney Street
- Yarmouth Street
- Brighton Street
- Ramsgate Street
- Adelphi Terrace
- Including the beach, foreshore, reserves, walkways, car parks, sports ground and camp areas within the above specified areas.