



## **AGENDA**

Joint Committee – Combined Local Alcohol Policy

Date Thursday 26 September 2019  
Time 9am  
Venue Committee Room, First Floor, Southland District Council, 15 Forth Street, Invercargill

Membership Invercargill City Councillor Darren Ludlow (Chair)  
Southland District Councillor Gavin Macpherson (Deputy Chair)  
Invercargill City Councillor Karen Arnold  
Invercargill City Councillor Toni Biddle  
Invercargill City Councillor Alex Crackett  
Southland District Councillor John Douglas  
Southland District Councillor Paul Duffy  
Southland District Councillor George Harpur

In Attendance Jane Edwards – Policy Advisor, Southland District Council  
Michael Morris – Legal Advisor, Invercargill City Council  
Bruce Halligan – Group Manager, Environmental Services, Southland District Council  
Robyn Rout – Policy Analyst, Southland District Council

Apologies

Confirmation of Minutes

Minutes of the meeting held on 28 August 2019

Conflicts of interest

Extraordinary items

Public forum

Report

1. Combined Local Alcohol Policy – consideration and adoption of provisional combined local alcohol policy

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## MINUTES

### Joint Committee – Combined Local Alcohol Policy

Date: 28 August 2019  
Time: 9am  
Venue: Southland District Council, Council Chambers, 15 Forth Street, Invercargill

Membership  
Invercargill City Councillor Darren Ludlow (Chair)  
Invercargill City Councillor Karen Arnold  
Invercargill City Councillor Toni Biddle  
Invercargill City Councillor Alex Crackett  
Southland District Councillor John Douglas  
Southland District Councillor George Harpur  
Southland District Councillor Gavin Macpherson  
Southland District Councillor Paul Duffy

In Attendance  
Bruce Halligan, Group Manager, Environmental Services,  
Southland District Council  
Michelle Stevenson, Strategy and Policy Manager, Southland District  
Council  
Jane Edwards, Policy Advisor, Southland District Council  
Robyn Rout, Policy Analyst, Southland District Council  
Kirsten Hicks, Committee Advisor

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## Apologies

There were no apologies.

## Confirmation of Minutes

Moved Councillor Biddle, seconded Councillor Harpur and resolved:

That the Joint Committee - Combined Local Alcohol Policy confirm the minutes of the meeting held on 5 June 2019 as a true and correct record of that meeting.

## Conflicts of Interest

Councillors Ludlow and Arnold declared a conflict of interest in Submission 3 – ICC Child Youth and Family Friendly Subcommittee. They excluded themselves from discussion of this submission.

## Extraordinary Items

There were no Extraordinary/Urgent items.

## Public Forum

There was no public forum.

## Reports

1. Combined Local Alcohol Policy – Hearing and Submissions  
Report of Jane Edwards – Policy Analyst, Southland District Council

The following were heard by the Joint Committee.

1. John McHugh and Graham Hawkes representing Hospitality NZ (submission 5) addressed the Joint Committee in support of the Hospitality NZ submission.
2. Cathy Bruce representing the Health Promotion Agency (submission 8) addressed the Joint Committee in support of the Health Promotion Agency submission via phone/videoconferencing.

3. Nathan Cowie representing Alcohol Healthwatch (submission 7) addressed the meeting in support of the Alcohol Healthwatch submission via phone/videoconferencing.
4. Steve Nally (submission 4) addressed the meeting in support of his submission.

Moved Councillor Ludlow, seconded Councillor Arnold and resolved:

That the Joint Committee - Combined Local Alcohol Policy

- a) **Receives the report titled “Draft Combined Local Alcohol Policy – Hearings and Submissions” dated 20 August 2019.**
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.
- d) Receives all written submissions and hears the submitters who wish to be heard on the draft Combined Local Alcohol Policy.

The meeting closed at 10.35am.

Confirmed: \_\_\_\_\_

Chair

Date: \_\_\_\_\_



## Joint Committee – Combined Local Alcohol Policy Meeting of 26 September 2019

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### Combined Local Alcohol Policy – consideration and adoption of provisional combined local alcohol policy

Report author: Jane Edwards – Policy Analyst

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#### Purpose

The purpose of this report is for the Joint local Alcohol Committee (the committee) to formally consider feedback received on the draft Combined Local Alcohol Policy (the draft policy) and to adopt a provisional Combined Local Alcohol Policy (the provisional LAP).

#### Executive Summary

Invercargill City Council (ICC) and Southland District Council (SDC) are currently reviewing the Combined Local Alcohol Policy (LAP).

A committee has been established, consisting of four representatives from each council, in order to jointly manage and oversee the review process.

The draft policy is a policy prepared by the committee, in consultation with the community, concerning the licensing of premises for the sale and supply of alcohol.

On 5 June, the committee endorsed a statement of proposal, which included the draft policy, for public consultation. Submissions were accepted between 1 July and 5 August 2019.

Nine submissions were received on the draft policy and four of these spoke in support of their submissions at a Hearings held on 28 August 2019.

Submitters commended the committee in undertaking to review the LAP earlier than the six-year time limit. Overall, submitters generally supported the provisions proposed in the draft policy and comment was made in support of keeping the 'status quo' as the current LAP has, for the most part, been viewed as functioning well. However, feedback was also received via written and oral submissions, that the draft policy is not restrictive enough and does not do enough to minimise or prevent further alcohol harm in the community. Recommendations were made by some submitters who wished to limit the harm caused by alcohol in the region by tightening the LAP provisions. Three of the four health/social welfare stakeholders who commented advocated for a more restrictive LAP.

A late submission from the Southern District Health Board was received on 18 September. As this was outside the consultation which closed 5 August, consideration of the submission was not able to be included in this report however the submission spoke in general terms of support for the LAP and a wish that the policy remain as the status quo.

This report sets out the main issues raised during the consultation process and incorporates responses from both ICC and SDC licensing staff.

In reaching a decision on whether to adopt a provisional LAP, the committee must give consideration to ensuring legal compliance under the Act, promoting social wellbeing in the community and also the benefits of the alcohol economy within the district.

This report recommends that the committee adopt a provisional LAP, which is the draft policy that was endorsed for public consultation, with minor amendments.

A draft provisional LAP is included as Attachment A.

## Recommendation

That the Committee:

- a) **Receives the report titled “Draft Combined Local Alcohol Policy – Consideration and adoption”** dated 26 August 2019.
- b) Determines that this matter or decision be recognised as not significant in terms of Section 76 of the Local Government Act 2002.
- c) Determines that it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with Section 79 of the Act determines that it does not require further information, further assessment of options or further analysis of costs and benefits or advantages and disadvantages prior to making a decision on this matter.
- d) Considers the feedback received on the draft Combined Local Alcohol Policy.
- e) Endorses the draft policy that was put out for public consultation, with:
  - the provisions for sensitive premises proposed in the draft policy
  - the trading hours proposed in the draft policy (with amendment to separate trading hours)
  - the discretionary conditions proposed in the draft policy
  - amendments suggested by staff in the Issues section:
    - **change maximum hours to read ‘to provide for the maximum trading hours of On, Off and Club Licences’**
    - **delete ‘means the same as in the Act’ under cellar door definition**
    - **rename ‘Schedule one’ to read ‘Other Matters’**
    - **correct CPTED reference to read ‘Ministry of Justice’**
- f) Adopts a Provisional Combined Local Alcohol Policy (included as Attachment A) for public notification.

## Background

Section 75 of the Sale of Supply of Alcohol Act 2012 (the Act) states that territorial authorities may adopt a local alcohol policy. The Act allows two or more territorial authorities to adopt a single policy for their districts (section 76).

The current LAP was adopted in May 2016. It took three years to produce through a combined effort with ICC, SDC and Gore District Council (GDC). The three councils are regarded as a single territorial authority with a single district for the purposes of producing a LAP under the Act.

The purpose of the current LAP is recorded as follows:

‘The policy reflects the intent of the Act, which is to ensure that alcohol is sold and supplied in a safe and responsible manner and to ensure that the harm arising in individuals and communities as a consequence of the consumption of alcohol is minimised. A LAP allows the Council to fine-tune the application of the Act through its own activities and those of the Alcohol Regulatory and Licensing Authority, to meet the needs of individual communities.

The policy will help to inform the decisions of the District Licensing Committees (DLC) on alcohol licences for the sale of alcohol in the Southland region, providing a direction as to whether they should be granted, and if so, the conditions that could be imposed’

As the current LAP and associated legislation were new and untested, the current LAP states that after two years of implementing the policy and gathering the information relating to alcohol related harm, the policy will be reviewed.

Following GDC’s advice, on 11 December 2018, that it wished to withdraw from the combined LAP, ICC and SDC have undertaken a joint review process which has included preliminary consultation with reporting agencies under the Act, and with the Invercargill Licensing Trust and Hospitality Association NZ.

A joint committee has been established to oversee and manage the review of the current LAP and the adoption of a new LAP. The committee has the power of decision that binds the two councils throughout the remaining life cycle of the LAP until its final adoption.

On 5 June, the committee endorsed a statement of proposal, which included the draft policy, for public consultation in accordance with the special consultative procedure, and submissions were accepted between 1 July and 5 August 2019.

The draft policy included in the statement of proposal is largely the same as the current local alcohol policy with no significant change to policy content proposed. Proposed changes will add in provisions that were not included in current LAP (such as the addition of an ‘Other’ section within On-licences) and will adapt those provisions that have been found to not work well in practice (such as changes proposed to Discretionary conditions: Staffing and Host responsibility). Other minor changes to wording/styling were proposed.

As part of the consultation process, staff notified special interest groups and Te Ao Marama to inform them of the public submission period. Staff also placed newspaper advertisements in the Advocate, Southland Express, Southland Times and Otago Daily Times. Staff placed online notification of the consultation on ICC and SDC websites and Facebook pages and had copies of the Statement of Proposal available at all council offices.

Although the research report that informed the draft policy was presented to the committee on 5 June, along with the statement of proposal and draft policy to be endorsed for consultation, staff acknowledge there was a delay in making the research publicly available on the councils’ websites. In the interim period, submitters who contacted the councils were directed to Ministry of Health and NZ Police for monitoring reports and statistics.

The committee received nine submissions on the draft policy and four submitters requested to be heard. Written submissions were presented to the committee and a hearing took place on 28 August 2019. The written submissions are available for the committee and can be viewed by the public in the councils' meetings schedules.

## Key Issues and options

### Issue 1 – Sensitive premises

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#### Background

Currently, the LAP requires evidence of consultation with owners and occupiers of nearby sensitive premises to accompany any application for any proposed on, off or club licence or renewal or when the application relates to a significant change in the style of the business.

This is to ensure that neighbouring properties are aware of the possibility of licenced premises being established nearby or an existing licenced premise having its licence renewed or altered. It gives the affected parties an opportunity to voice their concerns and the applicant an opportunity to identify and address them.

Evidence of consultation must be given if the boundary of a sensitive premise is within 50 metres of a licenced premise.

#### Summary of Feedback

Submitters generally supported the draft policy provisions regarding sensitive premises. Six submitters who gave feedback on the sensitive premises provisions were in support of them. Submitters commented on their support for maintaining the current LAP provisions, stating they were working effectively.

Two submitters requested that the 50 metre boundary be examined again. There was concern that the boundary proposed had the potential to neglect sensitive premises slightly further away, and it was suggested that the boundary be expanded to at least 100-150 metres. It was also suggested that with increased 'mixed use' buildings being accepted by the building code, the draft should be amended so that the 50 metre boundary is applied to the licenced area of a building rather than the premises itself.

#### Discussion

The issue for the committee to determine is to whether it wishes to endorse the proposed sensitive premises provision or whether it considers it practical and effective to re-examine the 50 metre boundary for sensitive premises.

#### Expanding the 50 metre boundary

While extending the boundary will widen protection to the community, if the committee was to consider expanding the boundary, consideration must be given to the many rural towns in the district. These towns have small populations with a number of services and activities all being provided in one small area. Expanding the boundary, requiring applicants to consult with sensitive premises beyond 50 metres, may not be practical in these instances. Response from licensing inspectors does not support the submission. The intent of the policy is to consult with immediate neighbours and public notification is available to capture the rest of the local community.

#### Having the 50 metre boundary from the 'licenced area' not the 'licenced premise'

The committee could amend the sensitive premises clause in the draft policy from 'if the licensed premises is within 50 metres of the boundary of a sensitive premises' to 'if the licensed area is within 50 metres of the boundary of a sensitive premises'. Feedback from council licensing inspectors does not support this amendment. The inspectors state that the intent of the policy was for neighbouring properties surrounding

a business to be consulted with, and this submission would mean that on a larger property, not all neighbours would fall within this boundary.

## Options

Staff have identified three options on how the committee could proceed. The options and their advantages and disadvantages, are outlined below.

Option 1 – That the committee endorses the sensitive premises clause that was proposed in the draft policy	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• this is in line with some community views obtained through the submission process</li> <li>• as the approach is consistent with current practice, people are familiar with the provisions and may find it easier to comply.</li> </ul>	<ul style="list-style-type: none"> <li>• this would potentially mean that sensitive premises slightly further away than the 50 metres proposed, may not be consulted with and may miss the opportunity to voice their concerns</li> <li>• this does not take into account mixed use buildings</li> <li>• this would not be in line with some community views obtained through the submission process.</li> </ul>

Option 2 – That the committee endorses amending the sensitive premises clause to redefine the 50 metre boundary outlined in the draft policy	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• this clarifies the process whereby the 50 metre boundary is assessed from the licensed <u>area</u> rather than the premise itself within mixed use buildings</li> <li>• this will not change the 50 metre distance itself so smaller towns and rural communities should not be impacted.</li> </ul>	<ul style="list-style-type: none"> <li>• this would potentially reduce the extent of the boundary and sensitive premises slightly further away than the 50 metres proposed, on a larger property, may not be consulted with and may miss the opportunity to voice their concerns</li> <li>• this would not be in line with some community views obtained through the submission process, who supported the proposed approach.</li> </ul>

Option 3 – That the committee endorses increasing the 50 metre boundary for the sensitive premises clause outlined in the draft policy	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• widening the boundary from 50 metres would mean that sensitive sites that are slightly further away from the licensed premises are covered</li> <li>• re-consulting may enable further community views to be captured</li> <li>• this option is in line with some community views obtained through the submission process.</li> </ul>	<ul style="list-style-type: none"> <li>• a review and any significant change to the 50 metre boundary would need to be made via a change to the draft policy, and would require a further consultative process</li> <li>• re-consulting may result in consultation ‘fatigue’ in the district and lengthens the time frame before the draft policy is operational</li> <li>• expanding the distance beyond 50 metres is not practical in smaller towns and rural communities.</li> </ul>

Option 3 – That the committee endorses increasing the 50 metre boundary for the sensitive premises clause outlined in the draft policy	
	<ul style="list-style-type: none"> <li>• this does not clarify how the process can identify and assess mixed use buildings within a proposed boundary</li> <li>• this would not be in line with some community views obtained through the submission process who supported retaining the status quo.</li> </ul>

Recommendation

**Option 1 - That the committee endorses the sensitive premises clause that was proposed in the draft policy**

Issue 2 – Trading hours

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Background

The current LAP sets out the maximum trading hours for the sale, supply and consumption of alcohol (within the context of their license) on licensed premises with the Invercargill City and Southland District Council areas.

The trading hours in the draft policy remain unchanged from the current LAP. However, establishments covered within the on-licence trading hours have been expanded to include premises not listed in the current LAP (e.g. boats and lodges in Milford). These premises are included within a proposed additional section ‘On-licence – Other’.

Summary of Feedback

There was mixed response received from submitters who directly answered this question. Four submissions did not support the trading hours proposed within the draft policy and three submitters wished the hours to remain unchanged from those stated in the current LAP. In general terms, those in the hospitality industry supported no change in hours, while three of the four health/social welfare stakeholders advocated for a reduction in hours.

Those in support of the trading hours commented that they were satisfied with the current LAP and that they would like to continue to work under exactly the same LAP conditions. An oral submission made comment that with the introduction of the late night flight into Invercargill, the extended hours were all the more valuable for arriving visitors. It was also suggested that with a lot of alcohol harm arising from drinking away from licensed premises, the liberal trading hours proposed in the draft policy provided a safe and managed environment for those wishing to consume alcohol. The historic ‘six o’clock swill’ closing practice was given as an example where early on-licence closing hours had not succeeded in minimising alcohol abuse but had instead created a short heavy drinking period followed by patrons then consuming more alcohol at home. Hospitality NZ and the Invercargill Licensing Trust agreed with there being no change in trading hours as did the WellSouth Primary Health Network.

Comment was received from three submitters stating that the draft policy was not restrictive enough and that the trading hours proposed are amongst the most liberal in New Zealand. Request was made that the councils take this opportunity to minimise alcohol harm by reducing the trading hours to be more in line with the rest of the country. Oral submissions stated that evidence, both national and international, suggested that trading hours have a direct impact on alcohol harm. Waimakariri District Council was given

as an example of the positive progress made in reducing alcohol related harm, with police reporting fewer assaults, sexual assaults and fights when the maximum trading hours for on-licensed premises were pulled back from 3am to 1am.

One submitter requested that off-licence trading hours be reduced and two submitters recommended that trading hours for all licence types be reduced. Comment on the proposed closing hours for club licences stated that they were the most liberal in the country with few controls and greater leniency under the Act. Suggestion was made that 1am or earlier might be a more appropriate closing hour given that a special licence was available should a club wish to trade later for an event. Comment was also made by submitters regarding the inconsistency of closing hours in the District.

## Discussion

### Reducing trading hours for On- and Off-licences

A number of submitters requested the committee consider reducing the trading hours for all licence types in the draft policy. Comment made stated that as research had demonstrated that reducing hours can reduce alcohol-related harm, the committee should re-consider whether the benefits of later trading hours outweighs the harm and costs to the community. Submissions proposed reducing the trading hours for on-licenses and proposed maximum off-licence trading hours of 10am to 9pm.

Staff note that while health and social welfare stakeholder submissions argue for tightening and reductions, preliminary consultation with the Police and the Southern District Health Board indicated their comfort level around the effectiveness of the trading hours in the current LAP. They accepted that while their preference was to reduce trading hours, they did not have evidence locally in support at this time, and felt that the current LAP, which was adopted in 2016, has been working in way it was intended. It is also noted by licensing staff that while the current LAP offers the maximum default hours specified by the Act, in practice, many of the off-licences in the district have chosen to operate fewer hours than their licence permits.

Given the small number of submissions received in consultation, staff recommend that there may not be a compelling case for reducing the trading hours in the draft policy and the committee must be aware that there could be some process risk if they choose to do so. It is worth noting though that preliminary consultation, the online consultation and subsequent hearings has indicated a growing appetite for a reduction in hours and this option may need to be explored further when the LAP is reviewed again.

### Reducing hours for club and special licences

Staff do not support the submission request to reduce maximum trading hours for club licences and to specify maximum hours for special licences, stating that the hours are justified by the event. The majority of clubs are licensed to 1am with most closing at 10pm or 11pm in the week. Each special licence is considered on its merits with some event requiring earlier or later trading hours.

### Consistent closing hours

One submission raised concerns regarding the differentiated hours for on-licences between Invercargill non-CBD and Southland District and strongly recommended that the committee consider a consistent closing hour across the district. Council licencing inspectors do not support this approach as the hour differential in Invercargill was to encourage patrons to move to the CBD after 1am, where they were managed, thus reducing adverse effects in residential areas. Such an arrangement is not necessary outside Invercargill as towns in the wider district tend to have alcohol businesses in the town centre, rather than in residential areas. If the committee chooses to review the trading hours proposed in the LAP then this issue may be addressed if on-licence closing hours across the district are reduced to 1am.

### Proposed additional section 'On-licence – Other'

A submission was received that, while supporting the hours listed within the trading hours section, did not support the addition of a section to include establishments not covered under the current LAP. Council

licensing inspectors state that the proposed addition of the section ‘On-license – Other’ will ensure that all on-licences are under a system of control that matches hours to operation.

### Separation of trading hours

Suggestion was made to separate the hours of operation into separate elements for each type of premises and for the onset of trading and the end of trading hours. It was proposed that this might mitigate the issue of the whole element (ie start of trading and end of trading) being deemed unreasonable if it is appealed to the Alcohol Regulatory and Licensing Authority (ARLA) and ARLA finds only a part of it unreasonable. This amendment is supported by staff. If supported by the committee, this section will be reformatted with no change to policy content. An example follows:

- ~~On-licences – bars, taverns, hotels, entertainment venues and Class 1 restaurants:~~
  - ~~Invercargill Central Business District Areas: the hours between 8.00 am on any day to 3.00 am the following day.~~
  - ~~Invercargill (other than Invercargill Central Business District Areas): the hours between 8.00 am on any day to 1.00 am the following day.~~
  - ~~Southland District: the hours between 8.00 am on any day to 3.00 am the following day.~~
  
- *On-licences – bars, taverns, hotels, entertainment venues and Class 1 restaurants:*
  - **Invercargill Central Business District Areas:**
    - earliest opening time            8.00am on any day
    - latest closing time                3.00am the following day.
  - **Invercargill (other than Invercargill Central Business District Areas):**
    - earliest opening time            8.00am on any day
    - latest closing time                1.00am the following day.
  - **Southland District:**
    - earliest opening time            8.00am on any day
    - latest closing time                3.00am the following day.

### Options

Staff have identified three options on how the committee could proceed. The options and their advantages and disadvantages, are outlined below.

Option 1 – That the committee endorses retaining the status quo (no change from current LAP with no additional section for on-licences)	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• this is in line with some community views obtained through the submission process who feel that the trading hours in the current LAP are working well</li> <li>• as the approach is consistent with current practice, people are familiar with the provisions and may find it easier to comply</li> </ul>	<ul style="list-style-type: none"> <li>• this would mean licensed establishments not covered in the current LAP are not under a system of control that matches hours to operation</li> <li>• the grouping of opening and closing hours in the draft policy may lead to problems if ARLA chooses to find only one part of them unreasonable</li> <li>• this would not be in line with some community views obtained through the submission process, that have requested a reduction in trading hours</li> </ul>

Option 1 – That the committee endorses retaining the status quo (no change from current LAP with no additional section for on-licences)	
	<ul style="list-style-type: none"> <li>there is a perception that economic benefit outweighs harm to the community.</li> </ul>

Option 2 – That the committee endorses the trading hours proposed in the draft policy (which includes additional section for On-licences)	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>this will ensure that all on-licences are under a system of control which matches hours to operation</li> <li>this is in line with some community views obtained through the submission process which supported retaining the trading hours listed in the current LAP</li> </ul>	<ul style="list-style-type: none"> <li>this would not be in line with some community views obtained through the submission process, that have requested a reduction in trading hours</li> <li>there is a perception that economic benefit outweighs harm to the community</li> <li>the grouping of opening and closing hours in the draft policy may lead to problems if ARLA chooses to find only one part of them unreasonable</li> </ul>

Option 3 – That the committee endorses the trading hours proposed in the draft policy (which includes additional section for On-licences) with amendment to separate trading hours	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>this will ensure that all on-licences are under a system of control which matches hours to operation</li> <li>this is in line with some community views obtained through the submission process which supported retaining the trading hours listed in the current LAP</li> <li>the separation of trading hours may pre-empt any issues that result from appeals to ARLA in which ARLA finds only one part of them unreasonable</li> </ul>	<ul style="list-style-type: none"> <li>this would not be in line with some community views obtained through the submission process, that have requested a reduction in trading hours</li> <li>there is a perception that economic benefit outweighs harm to the community.</li> </ul>

Option 4 – That the committee endorses re-consulting on a revised draft policy and statement of proposal proposing amendments to the trading hours	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>re-consulting may enable a clearer community view to be captured</li> <li>this is in line with some community views obtained through the submission process who have requested that the trading hours within the LAP are tightened</li> </ul>	<ul style="list-style-type: none"> <li>re-consulting may result in consultation ‘fatigue’ in the district and lengthens the time frame before draft policy is operational</li> <li>there is a perception that a more restrictive draft policy will discourage economic growth in the region</li> <li>not in line with community views obtained through the submission process which support the status quo.</li> </ul>

## Recommendation

**Option 3** That the committee endorses the trading hours proposed in the draft policy (which includes additional section for on-licences) with amendment to separate trading hours

## Issue 3 – Discretionary conditions

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### Background

Alcohol licences of any sort may be issued subject to discretionary conditions that are consistent with the Act. Currently, the LAP encourages applicants to consider the discretionary conditions, and their relevance as part of their licence application. The District Licencing Committees (the DLC) can impose such conditions they deem to be appropriate, from those listed in the LAP.

The discretionary conditions proposed in the draft policy are largely the same as those outlined in the current LAP. One change proposed to the current LAP related to staffing requirements at Club premises (excluding chartered clubs). The change proposed that a duty manager would be required on site for alcohol sales during higher risk periods. This condition is designed to give the DLC the flexibility to require a manager on duty when there is a perceived high risk taking into consideration, for example, the hours of an event, number of patrons, and proportion of club members to visitors.

Other changes proposed were to require the display of safe drinking messages and educational material under the 'Host Responsibility' section, and the addition of a further sub clause to reflect other matters that encourage responsible sales, supply and consumption of alcohol.

### Summary of Feedback

Submitters generally supported the discretionary conditions outlined in the draft policy. Five of the seven submitters who answered a question about discretionary conditions supported their continued use by the DLC, however, several submissions recommended re-categorising by licence type.

Comment was made that the proposed change to staffing requirements for club premises was not supported, with the submitter stating that clubs should fall under the same staffing requirements as hotels, taverns and restaurants. Concern was raised about the potential for harmful drinking occurring in club environments if there is a lack of suitably trained and qualified supervision. Other submitters suggested further conditions e.g. a one-way door provision, controlling alcohol advertising, restrictions of single sales, and removing the paywave option.

### Discussion

#### Re-categorising by licence type

A number of submitters requested the committee considered re-categorising the discretionary conditions into specific categories relating to each licence type. While staff acknowledge that this may simplify the list of conditions for ease of use by license applicants, it is also worth noting that the discretionary conditions are options for consideration by the DLC and as such there are no set conditions for each type of licence. The discretionary conditions in the draft LAP are structured in a way to provide maximum flexibility with respect to conditions and are designed to help the DLC make sound licensing decisions that reflect the needs of the communities.

#### Consistent staffing requirements for clubs, hotels, taverns and restaurants

It was suggested that as hotels, taverns and restaurants require a certified manager to be present whenever alcohol is sold and supplied, the same requirement should apply for clubs. Oral submission from

Hospitality NZ requested a ‘level playing field’ for licensing duty managers and also queried at whose discretion would the requirement for a manager be made. Submitters acknowledged that while it is difficult for clubs to have a manager present or to recruit enough qualified managers, consideration should be given to how best the harm arising from a club drinking culture could be mitigated.

Comment from licensing inspectors’ states that the request for a certified manager to be present at all times when alcohol is sold and supplied would go against the intent of the Act, which does not require a manager to be on duty for clubs. Staff acknowledge the need for more suitably trained and qualified supervision in club environments, however, staff also point to the potential difficulties of implementing this in the district with the lack of qualified staff.

The issue for the committee to determine is to whether it wishes to endorse the proposed staffing requirement in the draft policy which enables the DLC to require a manager on duty in instances where there is a perceived high risk, or whether the committee considers this an opportunity to implement a more stringent managerial requirement for club staffing which requires a managerial presence at all times consistent with other categories. While the requirement for a certified duty manager at clubs may not be practically enforceable at this stage, it could be viewed as the first step towards minimising the alcohol harm arising in club environments.

### Additional discretionary conditions

Additional discretionary conditions were requested by some submitters. These conditions and the responses given by licencing inspectors, are outlined below.

- **one way door provision** - the inspectors gave feedback that the addition of a one way door provision is largely police–driven and more work would be needed to justify its inclusion as its benefit is debatable.
- **controlling alcohol advertising** - the inspectors did not support this request. It was stated that while controls on advertising could be explored, imposing a boundary could have significant implications for licensees in smaller towns. There are also controls in place via district plans and other agencies.
- **restricting single sales** – This was not supported by licensing staff. Police have not advised that this is a problem and it may in fact cause problems if it is implemented.
- **not allowing paywave** - a submitter raised that not having paywave and requiring patrons to use a keypad may help staff establish levels of intoxication. Inspectors advise this issue can be addressed through a subclause to ‘Host Responsibility’ - ‘any other matter that can encourage responsible alcohol sales, supply and consumption’.

### Options

Staff have identified three options on how the committee could proceed. The options and their advantages and disadvantages, are outlined below.

Option 1 – That the committee endorses retaining the discretionary conditions outlined in the current LAP	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• consistent with current practice</li> </ul>	<ul style="list-style-type: none"> <li>• this would not be in line with some community views obtained through the submission process</li> <li>• the staffing provisions proposed in the draft policy, are more practical for Club premises</li> <li>• the host responsibility sub clause proposed in the draft policy, may help reduce alcohol related harm.</li> </ul>

Option 2 – That the committee endorses the discretionary conditions that were proposed in the draft policy	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• this is in line with some community views obtained through the submission process who supported retaining the status quo</li> <li>• the staffing provisions proposed in the draft policy, are more practical for Club premises</li> <li>• the host responsibility ‘any other matter’ subsection proposed in the draft policy, may help reduce alcohol related harm</li> </ul>	<ul style="list-style-type: none"> <li>• this would not be in line with some community views obtained through the submission process</li> </ul>

Option 3 – That the committee endorses re-consulting on a revised draft policy and statement of proposal, proposing amendments to the discretionary conditions.	
<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• re-consulting would enable a clearer community view to be obtained</li> <li>• this option is in line with some community views obtained through the submission process who have requested that the discretionary conditions be reconsidered by the committee</li> </ul>	<ul style="list-style-type: none"> <li>• this would not be in line with some community views obtained through the submission process who supported retaining the status quo</li> </ul>

## Recommendation

**Option 2 – That the committee endorses the discretionary conditions that were proposed in the draft policy.**

## Issue 4 – Staff requested amendments

Minor amendments, are recommended by staff in order to correct the draft policy.

- Incorrect hours in ‘Scope’ of draft policy – maximum trading hours 8.00am – 4.00am
  - This sentence is proposed to be corrected to :
    - provide for the maximum trading hours of On, Off and Club Licences, ~~which are:~~
    - ~~8.00am – 4.00am the following day for on licences and club licences.~~
    - ~~7.00am – 11.00pm for off licences.~~
- Incorrect definition for cellar door
  - Proposed amendment will delete ‘means the same as in the Act’
- Rename ‘Schedule one’ to ‘Other Matters’
- Amend CPTED within definitions section – written by Ministry of Justice not the Ministry for the Environment

## Recommendation

**That the committee endorses the minor amendments proposed by staff.**

Issue 3 – Other issues raised by submitters (for information purposes only)

No.	Submitter	Change sought	Staff recommendation
1	Murray Milne-Maresca	Make it mandatory to have an evacuation scheme (signed off by Fire & Emergency NZ) with every liquor licence application	<p>The Act requires the applicant to make a statement concerning fire evacuation; and all premises applications are forwarded to FENZ for comment.</p> <p>Support working in partnership with FENZ to ensure compliance with fire evacuation requirements, for both new and renewal applications for premises.</p> <p>Recommend that FENZ and the Councils continue to work collaboratively to improve compliance with fire evacuation requirements.</p>
2	Invercargill City Youth Council	Inclusion of requirement for social impact statement to accompany applications for new off-licences	While the District Plan places controls on the location of new premises, if the committee support this requirement, it could be refined so that it is clearer what the applicant is required to provide
4	Steven Nally	Implement review after three years from adoption.	Not supported. No need to amend the period in the Act.
		Seeks inclusion of licensees and duty managers for consultation purposes	The Act is specific concerning the reporting agencies who must be informed for LAP consultation purposes. Anyone else can submit on the LAP during the consultation process which was advertised in the Southland Times, Southland Express, Advocate and Otago Daily News and via council websites and Facebook pages.
5	Hospitality NZ	Implement review date of 2025	This in line with the review period stated in the Act
6	Invercargill Licensing Trust	Widen preliminary consultation to include industry stakeholders, including hotel proprietors and managers	The Act is specific concerning the reporting agencies who must be informed for LAP consultation purposes. Anyone else can submit on the LAP during the consultation process however staff support widening the pre-consultation with the industry stakeholders the next time the LAP is reviewed.
7	Alcohol Healthwatch	Implement a cap on the number of off-licenses within a given area	<p>Not supported. As above we support the social impact study. The cap number would need to be justified, and not considered necessary as density has not been raised as a concern by the agencies.</p> <p>Section 350 of the Act – Invercargill</p>

			Licensing Trust monopoly provisions apply in Invercargill city.
		Recommend the councils develop other local alcohol harm reduction plans and strategies	Supported
8	Health Promotion Agency	Update of Key Issues section of draft policy	Support in principle for this to be updated with next LAP review.
		Make research more widely available to submitters.	Staff acknowledge there was a delay in making the research report publicly available on the councils' websites. In the interim period, submitters who contacted the councils were directed to Ministry of Health and NZ Police for monitoring reports and statistics.
		Recommend councils include a policy around the number of licensed premises (density)	No concerns raised by agencies and number of licensed premises remain relatively static.
9	WellSouth Primary Health Network	Recommend councils include a policy around the number of licensed premises (density)	As above. No concerns raised by agencies.

## Factors to Consider

### Legal and Statutory Requirements

Key legislative points concerning LAPs are:

- LAPs are restricted in their content (section 77 of the Act)
- councils must not produce a draft policy without having consulted the police, inspectors and medical officers of health (section 78(4) of the Act).
- if a council decides to produce a LAP it must first produce a draft policy, that has regard to a number of matters (section 78(2) of the Act)
- after producing a draft policy, councils must produce a provisional policy, using the special consultative procedure to consult on the draft policy (section 79 of the Act)
- section 90 of the Act has been retained by each council and gives them power to bring the combined Local Alcohol Policy into force once any appeals are resolved.

### Community Views

A summary of the community views captured through the formal consultation process on the draft policy has been outlined in the key issues and options section of this report. The full submission booklet has also been made available to the committee with the Hearings report 28 August 2019.

Under Section 78 of the Local Government Act 2002 (the LGA), the committee must, when making a decision on how to proceed, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter.

There is not a requirement to agree with the submitters, but the committee must take into account the views that have been expressed.

#### Costs and Funding

If the draft policy is endorsed, costs associated with this work, such as staff time, legal costs and advertising, are proposed to be met within current budgets. There are no proposed changes to current operational practice.

#### Policy Implications

If the draft policy is adopted, there would not be any change to the licensing of premises for the sale and supply of alcohol.

If the committee choose to make significant change to the draft policy, a further consultation process will be required in order to capture community views.

#### Analysis

##### Assessment of Significance

This matter has been assessed as being of lower significance in relation to the LGA. No changes to operational practice would arise if the draft policy is adopted.

#### Recommendation

Staff recommend the committee proceed to endorse the changes proposed in the draft policy and adopt a Provisional Combined Local Alcohol Policy for public notification.

#### Next Steps

- once the provisional LAP is publicly notified, it is able to be appealed by the parties that submitted on it.
- the LAP comes into effect 30 days after it is publicly notified provided there are no appeals. If any appeals are lodged, it comes into effect 30 days after all appeals are resolved.
- it will then come back to the councils to bring the LAP into force. This is anticipated to take place when the Councils reconvene early 2020.

#### Attachments

A Draft Provisional Combined Local Alcohol Policy

## Draft Provisional COMBINED LOCAL ALCOHOL POLICY

### Purpose

A Local Alcohol Policy (LAP) enables local authorities to make a meaningful contribution towards addressing issues associated with the sale, supply or consumption of alcohol.

This combined local alcohol policy (the policy) has been developed in recognition of the significant harm that the excessive consumption of alcohol has in our communities.

The policy is in line with the Sale and Supply of Alcohol Act 2012 (the Act), to ensure that alcohol is sold and supplied in a safe and responsible manner and to ensure that the harm arising in individuals and communities, as a consequence of alcohol consumption, is minimised.

The policy aims to inform the decisions of the District Licensing Committees (the Committees) on alcohol licences for the sale of alcohol within the Invercargill City and Southland District boundaries (the LAP District), not including Gore District.

The policy will provide direction as to whether alcohol licences shall be granted and what licence conditions could be imposed.

### Scope

Through the LAP, the Committees are able to:

- limit the **location** of licensed premises in particular areas or near certain types of facilities, such as specific neighbourhoods or near schools or churches.
- limit the **density** of licensed premises by specifying whether new licenses or types of licenses should be issued in a particular area.
- impose **conditions** on groups of licenses, such as 'one way door' condition that would allow patrons to leave premises but not to enter or re-enter after a certain time.
- recommendation **discretionary conditions** for licences.
- provide for the maximum trading hours of On, Off and Club Licences.

### Definitions

<b>ALCOHOL</b>	means a substance that is or contains a fermented, distilled or spirituous liquor; and at 20°C is found on analysis to contain 1.15% or more ethanol by volume; or that is a frozen liquid, or a mixture of a frozen liquid and another substance or substances; and is alcohol when completely thawed to 20°C; or 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
<b>CELLAR DOOR</b>	includes tasting rooms at a Brewery or distillery. It excludes the sale of alcohol not brewed, distilled or made by that licence holder.
<b>CLUB</b>	means a body that is a body corporate having as its objective (or as one of its objects) participating in or promoting a sport or other

## ATTACHMENT A

	recreational activity, otherwise than for gain; or is a body corporate whose object is not (or none of whose objects is) gain; or holds permanent club charter
<b>CPTED PRINCIPLES</b>	means <i>Crime Prevention through Environmental Design</i> and are set out in the Ministry of Justice November 2005 publications <i>Safer bars and restaurants – A guide to Crime prevention through Environmental Design (CPTED)</i> and <i>Safer bottle stores - A guide to Crime prevention through Environmental Design (CPTED)</i>
<b>ENTERTAINMENT VENUE (includes centre)</b>	means a venue that is used to provide entertainment. The entertainment may be arranged and organised by the owner/operator of the venue and features some or all of the following: <ul style="list-style-type: none"> <li>• a reasonable cover charge would apply – to be included in all advertising of any entertainment event</li> <li>• live entertainment would be provided on a regular, frequent and ongoing basis (live entertainment is entertainment by way of live performers, including bands, solo artists, live DJs, comedians)</li> <li>• a stage, dance floor or similar area would be available for entertainers and/or patrons to use</li> <li>• the design of the premises including the size of the bar will be required to be consistent with the nature of the principal form of entertainment</li> </ul>
<b>FUNCTION CENTRE</b>	means a centre that is used to host events/gatherings or occasions regardless of whether or not the Centre has its own licence or is linked to another licenced venue
<b>HIGHER RISK PERIODS</b>	means a period of time where either the number of patrons is likely to exceed a specified number or the type of event is assessed to be of greater risk. These higher risk periods will be determined by the Committees on a case-by-case basis.
<b>HOST RESPONSIBILITY</b>	means a policy and/or a plan designed to reduce the abuse of alcohol by creating and promoting a safe drinking environment
<b>INTOXICATED</b>	means observably affected by alcohol, other drugs, or other substances (or a combination of two or all of those things) to such a degree that two or more of the following are evident: <ul style="list-style-type: none"> <li>• appearance is affected</li> <li>• behaviour is impaired</li> <li>• coordination is impaired</li> <li>• speech is impaired</li> </ul>
<b>INVERCARGILL CENTRAL BUSINESS DISTRICT</b>	has the same meaning as the Proposed Invercargill City District Plan (or any other plan in substitution) and is shown in the map attached to this policy
<b>LAP DISTRICT</b>	means the territorial districts of Invercargill City Council and Southland District Council
<b>LICENCE</b>	means a licence issued under the Sale and Supply of Alcohol Act 2012 that is in force; and in relation to any licensed premises means the licence issued for them (or, in the case of premises that two or more licences have been issued for, any of those licences)
<b>SENSITIVE PREMISES</b>	means any school, child care facility, preschool or other facility providing for the education or care of children, or any place of religious gathering or assembly, or any residential activity including a dwelling or apartment and any community facility within 50 metres of the address with or applying for the licence.

<b>SIGNIFICANT CHANGE IN STYLE</b>	includes any increase in the risk level to a premise (for example going from a restaurant to a night club/bar) and/or where the nature of the operation is likely to change
<b>TRADING HOURS</b>	means the hours a business may be licensed to be open to sell or supply alcohol

## Key Issues

### *Identifying the problem*

Alcohol misuse is a social problem and public health problem with significant implications for the social and economic well-being of people in the LAP District.

A minority of the alcohol sold is consumed in licensed premises or at licensed events, where there is supervision, control and host responsibility. A majority of alcohol is consumed in situations where there may be little control or supervision.

### *It is a priority to reduce the harm caused by alcohol misuse*

As alcohol misuse is a serious social problem and public health problem, the Invercargill City and Southland District Councils (the Councils) will recognise and address alcohol misuse through their policies and through the way they deliver services to the people in the LAP District.

The Councils also have the ability to address alcohol misuse through their responsibilities under the Act.

The policy is a way people in the region can address alcohol misuse.

### *Providing a safe drinking environment*

It is important that there are safe environments for the responsible sale, supply and consumption of alcohol.

Through this policy, the Councils will:

- place significant emphasis on host responsibility, particularly in assessing applications and imposing conditions of approval;
- encourage organisers of an event or special occasion to properly plan for it, if alcohol is to be available.

## Policy Review

The policy will be reviewed six yearly to ensure it is up to date, relevant and meets legal requirements. At the review stage, information relating to alcohol related harm for the area will be gathered.

The following information will be sought:

- monitoring reports of premises and events, and the conditions imposed on licences (from the Councils' licensing inspectors)
- statistics of hospital admissions of alcohol-related harm incidents and associated costs that relate to the LAP District (from the Southland District Health Board);
- monitoring statistics of education outcomes and an outline of community issues (from Primary Health South)
- statistics on alcohol related crime in the region's communities, as well as controlled purchase operations (from the New Zealand Police)

## THE POLICIES

### Sensitive premises

When the Councils receive an application for a proposed On, Off or Club Licence or a renewal where the application pertains to a significant change in the style or operation of the business (not including special licence applications), evidence of consultation with all applicable sensitive premises shall be provided with the application, if the licenced premises is within 50 metres of the boundary of a sensitive premise.

Sensitive premises are:

- any school, childcare facility, pre-school, or other facility, providing for the education or care of children
- any place of religious gathering or assembly
- any residential activity – dwelling or apartment
- any community facility

In relation to providing evidence of consultation with a tenanted property, the applicant will have to provide evidence that they consulted with both landowners and tenants.

Evidence of consultation will not be required where resource consent has been granted under the Resource Management Act 1991.

This requirement is to ensure that neighbouring properties are aware of the possibility that a licensed premise may be established nearby or that an existing licenced premise may have its licence renewed or altered. This requirement also ensures the occupants, owners or other parties related to a sensitive premise have an opportunity to voice any concerns, and for the applicants to respond to these.

## Trading Hours

The following shall be the maximum trading hours for the sale, supply and consumption of alcohol (within the context of alcohol licences) on licensed premises within the LAP District:

- *On-licences – bars, taverns, hotels, entertainment venues and Class 1 restaurants:*
  - **Invercargill Central Business District Areas:**
    - earliest opening time 8.00am on any day
    - latest closing time 3.00am the following day.
  - **Invercargill** (other than Invercargill Central Business District Areas):
    - earliest opening time 8.00am on any day
    - latest closing time 1.00am the following day.
  - **Southland District:**
    - earliest opening time 8.00am on any day
    - latest closing time 3.00am the following day.
- *On-licences – Class 2 and Class 3 restaurants, including BYO restaurants:*
  - earliest opening time 8.00am on any day
  - latest closing time 1.00am the following day.
- *On-licences – Other.* No restriction, however applications for licences will need to justify the hours requested in terms of the purpose of the function or event. Including but not limited to:
  - function centres
  - theatres
  - boats and lodges in Milford Sound
  - caterers
  - cellar doors
- *Off-licences – this includes dedicated ‘bottle store’ outlets and ‘across the bar’ sales:*
  - earliest opening time 7.00am on any day
  - latest closing time 11.00pm the same day.
- *Club licences*
  - earliest opening time 8.00am on any day
  - latest closing time 3.00am the following day.
  - applications for club licences will need to justify the hours requested on the basis of the activity of the club.
- *Special licences:*
  - no restriction, however applications for special licences will need to justify the hours requested in terms of the purpose of the function or event.

All above provisions are subject to sections 47, 47A and 48 of the Act, which relate to the sale and supply of alcohol on ANZAC Day morning, Good Friday, Easter Sunday and Christmas Day.

## Discretionary Conditions

The Act enables the Committees to issue a license subject to discretionary conditions that are consistent with the Act. In terms of promoting responsible sale and supply, conditions that might be imposed include, but are not limited to:

- *Premises layout and design*
  - design and layout requirements
  - minimum seating requirements
- *Staffing*
  - training requirements for staff
  - management requirements in relation to staff (e.g. number of staff, duty managers)
  - prescribed ratio of security staff to patrons
  - uniform requirements (e.g. high visibility vests for security staff)
  - certified manager to be on duty at club-licensed premises, excluding chartered clubs, when alcohol is being sold or supplied during higher risk periods that are determined by the Committees.
- *Host responsibility*
  - queue management
  - provision of food
  - management of an event in such a way as to reduce abuse of alcohol
  - availability of transport home for patrons
  - display of safe drinking messages/material
  - any other matter that can encourage responsible alcohol sales, supply and consumption
- *Amenity and good order*
  - cleaning the outside of the premises and immediate environs
  - use of CCTV
  - signage and advertising
- *Management of incidents*
  - licensee to keep a register of incidents
  - mandatory notification to police of violent incidents
- *Utilising CPTED principles*

The Committees can impose such conditions they deem to be appropriate, from the list.

The process for setting discretionary conditions aims to encourage a good working relationship between the Councils and industry providers. The discretionary conditions also help promote the purposes of the Act.

**OTHER MATTERS**

Invercargill City and Southland District Councils intend to maintain and enforce existing Alcohol and Alcohol Ban Areas established under a Bylaw or Bylaws promulgated under the Local Government Act 2002.

DRAFT