



Notice is hereby given that a Meeting of the Regulatory and Consents Committee will be held on:

**Date:** **Wednesday, 12 February 2020**  
**Time:** **9am**  
**Meeting Room:** **Council Chamber**  
**Venue:** **15 Forth Street, Invercargill**

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## **Regulatory and Consents Committee Agenda OPEN**

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### **MEMBERSHIP**

<b>Chairperson</b>	Paul Duffy Mayor Gary Tong
<b>Councillors</b>	Darren Frazer Julie Keast Christine Menzies Margie Ruddenklau

### **IN ATTENDANCE**

<b>Group Manager-Environmental Services</b>	Fran Mikulicic
<b>Committee Advisor</b>	Alyson Hamilton

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**Note:** The reports contained within this agenda are for consideration and should not be construed as Council policy unless and until adopted. Should Members require further information relating to any reports, please contact the relevant manager, Chairperson or Deputy Chairperson.



## Terms of Reference – Regulatory and Consents Committee

<b>TYPE OF COMMITTEE</b>	Council committee
<b>RESPONSIBLE TO</b>	Council
<b>SUBCOMMITTEES</b>	None
<b>LEGISLATIVE BASIS</b>	Committee constituted by Council as per schedule 7, clause 30 (1)(a), LGA 2002.  Committee delegated powers by Council as per schedule 7, clause 32, LGA 2002.
<b>MEMBERSHIP</b>	The Regulatory and Consents Committee will comprise of six members.
<b>FREQUENCY OF MEETINGS</b>	Six weekly or as required
<b>QUORUM</b>	Three
<b>SCOPE OF ACTIVITIES</b>	<p>The Regulatory and Consents Committee is responsible for overseeing the delivery of regulatory services and statutory functions that fall with the scope of, but limited to, the following legislation:</p> <ul style="list-style-type: none"> <li>• Resource Management Act 1991</li> <li>• Health Act 1956</li> <li>• Food Act 2014</li> <li>• Dog Control Act 1996</li> <li>• Sale and Supply of Alcohol Act 2012</li> <li>• Heritage New Zealand Act Pouhere Taonga Act 2014</li> <li>• Building Act 2004</li> <li>• Freedom Camping Act 2011</li> <li>• Psychoactive Substances Act 2013</li> <li>• Impounding Act 1955</li> <li>• Southland Land Drainage Act 1935</li> <li>• Southland Land Drainage Amendment Act 1938.</li> </ul> <p>The committee is responsible for hearing and determining regulatory matters including but not limited to:</p> <ul style="list-style-type: none"> <li>• resource consents</li> <li>• public work requirements</li> <li>• objections against the construction of public works on private land</li> <li>• objections to decisions made by the committee and/or delegated staff</li> <li>• administration of Council bylaws</li> <li>• proposed variations to the District Plan.</li> </ul>
<b>DELEGATIONS</b>	<p>Council delegates to the Regulatory and Consents Committee the following functions:</p> <p><b>Power to Act</b></p>

	<ul style="list-style-type: none"> <li>a) maintain an oversight of the delivery of regulatory services</li> <li>b) conduct statutory hearings on regulatory matters and undertake and make decisions on those hearings (excluding matters it is legally unable to make decisions on ie - pursuant to the RMA)</li> <li>c) appoint panels for regulatory hearings</li> <li>d) hear appeals on officer's decisions to decline permission for an activity that would breach the Southland District Council Control of Alcohol Bylaw 2015</li> <li>e) approve Council's list of resource management hearing commissioners (from whom a commissioner can be selected) at regular intervals and the chief executive be authorised to appoint individual commissioners for a particular hearing</li> <li>f) make decisions on applications required under Southland District Council's Development and Financial Contribution Policy for remissions, postponements, reconsiderations and objections</li> <li>i) receive and approve Council's Annual Reports on dog control and alcohol licensing</li> <li>j) hear and determine objections to officer decisions under the Dog Control Act 1996</li> <li>k) hear objections and decide on matters under the Southland Land Drainage Act 1935 and Southland Land Drainage Amendment Act 1938.</li> </ul> <p>The Regulatory and Consents Committee shall be accountable to Council for the exercising of these powers (Local Government Act 2002, Schedule 7, Clause 32).</p> <p><b>Power to Recommend</b></p> <p>The Regulatory and Consents Committee is responsible for considering and making recommendations to Council regarding:</p> <ul style="list-style-type: none"> <li>a) regulatory policies and bylaws for consultation</li> <li>b) regulatory delegations</li> <li>c) regulatory fees and charges (in accordance with the Revenue and Financial Policy)</li> <li>d) assisting with the review and monitoring of the District Plan.</li> </ul>
<b>FINANCIAL DELEGATIONS</b>	<p>Council authorises the following delegated authority of financial powers to Council committees in regard to matters within each committee's jurisdiction.</p> <p><b>Contract Acceptance:</b></p> <ul style="list-style-type: none"> <li>• accept or decline any contract for the purchase of goods, services, capital works or other assets where the total value of the lump sum contract does not exceed the sum allocated in the Long Term Plan/Annual Plan and the contract relates to an activity that is within the scope of activities relating to the work of the Finance and Assurance Committee</li> <li>• accept or decline any contract for the disposal of goods, plant or other assets other than property or land as provided for in the Long Term Plan</li> </ul> <p><b>Budget Reallocation.</b></p>

		<p>The committee is authorised to reallocate funds from one existing budget item to another. Reallocation of this kind must not impact on current or future levels of service and must be:</p> <ul style="list-style-type: none"> <li>• funded by way of savings on existing budget items</li> <li>• within the jurisdiction of the committee</li> <li>• consistent with the Revenue and Financing Policy.</li> </ul>
<b>LIMITS DELEGATIONS</b>	<b>TO</b>	<p>Matters that must be processed by way of recommendation to Council include:</p> <ul style="list-style-type: none"> <li>• making operative District Plan changes</li> <li>• decision to notify the reviewed District Plan and make operative amendments to fees and charges relating to all activities.</li> </ul> <p>Powers that cannot be delegated to committees as per the Local Government Act 2002 and sections 2.4 and 2.5 of this manual.</p> <p>Delegated authority is within the financial limits in section 9 of this manual.</p>
<b>STAKEHOLDER RELATIONSHIPS</b>		<p>This committee shall maintain relationships including, but not limited to the following organisations:</p> <ul style="list-style-type: none"> <li>• Each of the nine community boards</li> <li>• Southland Museum and Art Gallery</li> <li>• Southland Heritage Building Preservation Trust</li> <li>• Emergency Management Southland</li> <li>• Southland Regional Heritage Committee</li> <li>• Public Health South</li> <li>• New Zealand Police</li> <li>• Ministry of Business, Innovation and Employment</li> <li>• Alcohol Regulatory and Licensing Authority.</li> </ul> <p>The committee will also hear and receive updates to Council from these organisations, as required.</p>
<b>CONTACT WITH MEDIA</b>		<p>The committee chairperson is the authorised spokesperson for the committee in all matters where the committee has authority or a particular interest.</p> <p>Committee members, including the chairperson, do not have delegated authority to speak to the media and/or outside agencies on behalf of Council on matters outside of the committee's delegations.</p> <p>The group manager, environmental services will manage the formal communications between the committee and its constituents and for the committee in the exercise of its business. Correspondence with central government, other local government agencies or other official agencies will only take place through Council staff and will be undertaken under the name of Southland District Council.</p>

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**1 Apologies**

At the close of the agenda no apologies had been received.

**2 Leave of absence**

At the close of the agenda no requests for leave of absence had been received.

**3 Conflict of Interest**

Committee Members are reminded of the need to be vigilant to stand aside from decision-making when a conflict arises between their role as a member and any private or other external interest they might have.

**4 Public Forum**

Notification to speak is required by 5pm at least two days before the meeting. Further information is available on [www.southlanddc.govt.nz](http://www.southlanddc.govt.nz) or phoning 0800 732 732.

**5 Extraordinary/Urgent Items**

To consider, and if thought fit, to pass a resolution to permit the committee to consider any further items which do not appear on the Agenda of this meeting and/or the meeting to be held with the public excluded.

Such resolution is required to be made pursuant to Section 46A(7) of the Local Government Official Information and Meetings Act 1987, and the Chairperson must advise:

- (i) the reason why the item was not on the Agenda, and
- (ii) the reason why the discussion of this item cannot be delayed until a subsequent meeting.

Section 46A(7A) of the Local Government Official Information and Meetings Act 1987 (as amended) states:

"Where an item is not on the agenda for a meeting,-

- (a) that item may be discussed at that meeting if-
  - (i) that item is a minor matter relating to the general business of the local authority; and
  - (ii) the presiding member explains at the beginning of the meeting, at a time when it is open to the public, that the item will be discussed at the meeting; but
- (b) no resolution, decision or recommendation may be made in respect of that item except to refer that item to a subsequent meeting of the local authority for further discussion."

**6 Confirmation of Minutes**

6.1 Meeting minutes of Regulatory and Consents Committee, 04 December 2019





## Draft Keeping of Animals, Poultry and Bees Bylaw

**Record No:** R/19/12/30531

**Author:** Robyn Rout, Policy Analyst

**Approved by:** Fran Mikulicic, Group Manager Environmental Services

☐ Decision

☒ Recommendation

☐ Information

### Purpose

- 1 The purpose of this report is for the Regulatory and Consents Committee to consider a draft Keeping of Animals, Poultry and Bees Bylaw (the 'draft bylaw'). Staff are seeking feedback on the draft bylaw.
- 2 It is proposed that the committee recommend to Council that it endorse the draft bylaw for public consultation.

### Executive Summary

- 3 The Animals, Poultry and Bees Bylaw 2010 (the current bylaw) contains rules about keeping animals such as pigs, horses, poultry, cats and cattle, and about animal noise. This bylaw does not have any rules about dogs. Rules about dogs are in Council's Dog Control Bylaw. The bylaw aims to protect the public from nuisance and to ensure public health and safety. The current bylaw is included with this report as Attachment A.
- 4 The current bylaw was adopted by Council on 30 June 2010 and is due to be reviewed by 30 June 2020. In 2012, Council adopted a dispensation to the bylaw for the urban zone Ohai, which allows residents who live in that zone to keep animals not otherwise permitted by the current bylaw. The dispensation is included as Attachment B.
- 5 Council staff have undertaken community engagement to help inform the content of the draft bylaw. Feedback identified that the currently bylaw is working quite well, and that no significant changes to the bylaw are necessary/appropriate.
- 6 The draft bylaw is included with this report as Attachment C. The draft bylaw is reasonably similar to the current bylaw. The style and structure of the bylaw has been updated, and a slightly different permit system is proposed. It is also proposed to revoke the dispensation for Ohai so there are consistent rules across the District that are easy to understand. Other small changes are discussed in the body of this report.
- 7 Staff seek feedback from the committee on the draft bylaw and the dispensation for Ohai. If the committee recommend that Council endorse the draft bylaw for consultation, it will be presented to Council on 4 March 2020 with the recommendation that it is put out for formal consultation.

## **Recommendation**

**That the Regulatory and Consents Committee:**

- a) Receives the report titled “Draft Keeping of Animals, Poultry and Bees Bylaw” dated 29 January 2020.**
- 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 draft Keeping of Animals, Poultry and Bees Bylaw and the formal dispensation for Ohai, and provides feedback.**
- e) Recommends to Council that it determines pursuant to section 155(1) of the Local Government Act 2002 that a bylaw is the most appropriate way of addressing the perceived problems with keeping animals.**
- f) Recommends to Council that it determines pursuant to section 155(2)(a) of the Local Government Act 2002, that the draft Keeping of Animals, Poultry and Bees Bylaw is the most appropriate form of bylaw.**
- g) Recommends to Council that it determines pursuant to section 155(2)(b) of the Local Government Act 2002, that the draft Keeping of Animals, Poultry and Bees Bylaw does not give rise to any implications under the New Zealand Bill of Rights Act 1990.**
- h) Recommends to Council that it release the draft Keeping of Animals, Poultry and Bees Bylaw for public consultation in accordance with section 83 and 86 of the Local Government Act 2002 from 12 March 2020 to 13 April 2020.**

## **Background**

### **The current bylaw**

- 8 The current bylaw contains rules about cats and various animals, such as pigs, horses, cats, poultry and cattle. Provisions in the bylaw include where animals can be kept, how they can be kept, how many are permitted, and provisions relating to animal noise. The bylaw does not have any rules about dogs (these are in Council's Dog Control Bylaw).
- 9 The current bylaw was adopted by Council on 30 June 2010 and is due to be reviewed by 30 June 2020.
- 10 Council's animal control officers are not proactively monitoring for compliance and acting on observed non-compliance. When a complaint is received, animal control officers will discuss the issue with the person keeping the animal, and agree to a course of action. A follow-up letter is sent outlining any agreement. If necessary, further action may be taken including writing a written warning, or charging for time.
- 11 The current bylaw states that people can keep animals not otherwise permitted by the bylaw if they seek a consent from Council under the Resource Management Act 1991 (RMA). The bylaw also states that Council can, in any particular case or cases, by resolution, dispense with rules in the bylaw. In recent years, Council has been granting dispensations to individuals to allow them to keep animals not permitted by the bylaw. People apply for a dispensation, and if the applicant's neighbours give their consent and an animal control officer believes it is appropriate, a dispensation is given under delegated authority held by the chief executive or the group manager of Environmental Services.

### **Requests made by particular communities for dispensation/changes to the bylaw**

- 12 Since the current bylaw has been in force, three communities have formally requested changes for their area.
- 13 In 2012, the Ohai Community Development Area Subcommittee (CDA) requested that a dispensation be made to allow farm animals to be kept in the urban zone in Ohai. On 27 June 2012, Council adopted a formal dispensation for Ohai that allows people in the Ohai urban zone to keep farm animals (such as horses, cattle etc) if:
- the animals are confined to the property
  - the owner/occupier has given approval for the animals to be kept
  - the animals don't damage neighbouring fences or property.
- 14 In 2015, both the Nightcaps and Riversdale CDAs also formally requested that Council make changes to the current bylaw. Nightcaps requested a tightening of the bylaw for its urban zone, limiting the types of animals permitted and placing a restriction on the number of sheep. Riversdale requested to amend the bylaw so it would better reflect the expectation of the community. Council decided not to amend the bylaw in response to these requests due to it being inefficient to review bylaws before their review timeframes, and given the commitments and full work programme already set.

**Engagement**

- 15 Council staff have sought feedback on the current bylaw from a variety of sources. Internal feedback has been sought, and staff have sought feedback from external stakeholders through:
- Facebook posts
  - letters/emails to external stakeholders, including to vets, various animal-related clubs (such as pony clubs, poultry clubs etc) and to agencies such as Te Ao Marama, Federated Farmers, and Public Health South
  - e-mails to community board members
  - face-to-face conversations with people in towns throughout the District.
- 16 A number of people spoken to through these channels throughout the District were not aware that there is a bylaw on the keeping of animals. People did however give their views on a number of topics, and staff recorded over 100 responses about the current bylaw. Most of these responses were generated from Facebook posts and from face-to-face discussion with people in the District. A summary of the feedback received, is outlined below.

TOPIC	SUMMARY OF FEEDBACK RECEIVED
<b>BEES</b>	General support for having/encouraging bees in the District.
<b>CATS</b>	People reported problems with cats in the District, particularly with stray cats. There was support for and against neutering, registering, microchipping, and limiting the number of cats people can keep.
<b>MEAT PROCESSING</b>	The larger proportion of feedback was that meat processing was not a problem in the District, and that provisions were not required. Others thought it should only be allowed in rural areas, on larger properties, and that clean up and having a person with appropriate skill were important.
<b>PERMIT SYSTEM</b>	Generally people supported a permit system allowing people to keep animals not permitted by the bylaw.
<b>PIGS</b>	There was a general consensus that there shouldn't be pigs in urban areas.
<b>POULTRY/BIRDS</b>	There was mixed feedback as to whether poultry should be allowed in urban areas. Some people said they didn't want roosters in towns. Internal feedback was that roosters do cause some problems.
<b>FREEDOM OF CHOICE/DEGREE OF REGULATION</b>	People were keen to apply their own common sense, and to not have overly prescriptive rules unless they are necessary.

## Issues

### The draft bylaw

- 17 Staff are seeking feedback from the committee on the draft bylaw. The draft bylaw contains some general rules that aim to prevent nuisance, health and safety issues, the polluting of water ways, and animal related noise. Specific sections in the bylaw also provide:
- rules outlining animals that aren't permitted in urban zones
  - rules about keeping poultry in urban zones
  - rules about keeping animals in industrial zones
  - rules about pigs
  - provisions about placing limits on the number of cats
  - provisions about placing limits on keeping bees
  - information about buildings for animals
  - how to get a permit
  - dispensing power
  - information about enforcement
  - information about penalties.
- 18 Aside from the changes proposed below, the draft bylaw is reasonably similar to the current bylaw.

CURRENT BYLAW	PROPOSED CHANGE	REASON
In some sections, it is not clear where the rules apply (for example, which zone)	To have sections outlining the general rules that apply to everyone, the rules for urban zones, the rules for industrial zones, and other specific rules	Clarity, readability
There is a section on animal related noise. There is no general rules section	To include a general rules section that states it is an offence to keep animals in a way that causes nuisance, health and safety issues, the polluting of water ways, or animal related noise	To clearly identify the rules that apply to everyone. Clarity, readability
The current bylaw refers to obsolete provisions in an outdated District Plan. It also states that to keep animals outside the bylaw, people have	A permit system is proposed for people who want to keep an animal that is not permitted by the bylaw	The proposed permit system is similar to the dispensation system currently being used, which has been working well. Compared to getting a

to get a consent under the RMA. The current bylaw gives Council the authority to grant dispensations		consent under the RMA, a permit system has a simpler application process, is less expensive for applicants and is not subject to appeals
Refers to urban and industrial areas in the District Plan, but gives no practical guidance on which towns have the zones, or how to view them	To include an appendix that lists the towns that have an urban zone, and to state in the definitions section where industrial zones are. The draft bylaw also includes some guidance on how to find the relevant parts of the District Plan	For ease of use. Staff are not proposing to include all of the relevant maps with the bylaw, as these maps may change before the bylaw is due to be reviewed
Does not include any rules about killing animals or processing meat	Making it an offence to kill animals or process meat in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health	To try and prevent nuisance and health and safety issues
The current bylaw applies to all areas in the District, but a formal dispensation has been granted for the Ohai urban zone.	Not including different rules for Ohai in the draft bylaw.	To create consistency across the District. Staff believe the bylaw would become too complex and confusing if different rules were introduced for different towns. The permit system allows people to keep animals not permitted by the bylaw.

## **Cats**

- 19 In the engagement undertaken by staff, feedback was received that cats are causing some nuisance and health and safety concerns in the District. The draft bylaw does not propose any new rules about cats as it seems most of the cat problems related to stray cats. The problems would not be resolved by introducing rules about cats into the draft bylaw (as people do not 'keep' stray cats). The draft bylaw does allow Council to act (by requesting the problem be remedied/by imposing a limit on numbers/by imposing fines) if a person is keeping cats and the cats are causing nuisance or health problems.
- 20 If Council view it as a priority, it could request staff to collaborate/coordinate with other agencies/the community to further investigate cat populations in the District. Any information obtained could be used to inform amendments to the bylaw. Council can decide to review a bylaw at any time.

## **Dispensations**

- 21 If Council adopts the draft bylaw, it is proposed that existing individual dispensations will be regarded as permits under the proposed bylaw. Only a small number of individual dispensations have been granted.
- 22 If Council does not want to have a dispensation for the Ohai urban zone, as staff recommend, the formal dispensation will have to be revoked. If this is to take place, prior to the dispensation being revoked, staff would work with Ohai residents to identify the best way to transition to the permit system. Staff believe it may be appropriate to re-issue permits for these residents under the proposed bylaw, for free; provided there is compliance with conditions in the current Ohai dispensation.

## **Factors to Consider**

### **Legal and Statutory Requirements**

#### **Making a bylaw**

- 23 Under section 146 of the Local Government Act 2002 (the LGA), Council has the specific bylaw making power to regulate the keeping of animals, poultry and bees. Under section 145, bylaws can only be made for one of the following purposes:
- to protect the public from nuisance
  - to protect, promote, and maintain public health and safety
  - to minimise the potential for offensive behaviour in public places.
- 24 On this basis, in relation to keeping animals, Council does not have the power to include rules in the bylaw relating to animal welfare or to protect wildlife. The focus of the current and draft bylaws is to protect the public from nuisance and to ensure peoples' health and safety.
- 25 Staff are proposing to consult on the draft bylaw using the Special Consultative Procedure outlined in sections 83 and 86 of the LGA. This will involve staff preparing and Council adopting a formal statement of proposal, having a consultation period of not less than one month, and allowing people to present their views to Council in a manner that enables spoken interaction, such as by having a hearing. Staff believe this consultation method is appropriate (in relation to the LGA and Council's Significance and Engagement Policy) as:
- people are very interested in the animals they can keep
  - there are a lot of people impacted by this bylaw
  - Ohai residents may be interested if the formal dispensation is discontinued, and
  - people have strong views on the specific rules they would like for their community – three CDAs requested changes to the current bylaw.

If Council endorse a statement of proposal for formal consultation, it is intended staff will make the proposal widely available by running newspaper adverts and making the proposal available on Council's website and Facebook page. Staff will also encourage community boards to submit on the draft bylaw by placing a reminder in the community leadership report, which is a formal agenda item at all community board meetings.

## **Determinations**

### **Most appropriate way of addressing the perceived problem**

- 26 Council must, before commencing the process for making a bylaw, determine whether a bylaw is the most appropriate way of addressing the perceived problem or issue. Across New Zealand, bylaws are the most typical method used by territorial authorities to address nuisance and health and safety problems associated with keeping animals. Staff are aware of one Council that does not have a bylaw, and instead relies on its District Plan and the provisions of the Resource Management Act 1991 (RMA) to control the keeping of animals. Staff believe it is appropriate to have the proposed smaller-scale rules on keeping animals in a bylaw, and that the District Plan is the more appropriate tool to manage larger scale, more enduring practices relating to animals, such as intensive farming. If people want to keep animals not permitted in a bylaw, it is also much easier to have a simple permit process under a bylaw than obtaining a resource consent to operate outside of the district plan.

### **Most appropriate form of bylaw**

- 27 Council is also required to determine whether the proposed bylaw is the most appropriate form of bylaw before it makes its decision. The draft bylaw has been drafted so that is easy to read and to use. Staff believe the draft bylaw is only creating necessary rules, and that it is not overly restrictive/prescriptive. The provisions in the bylaw allow Council to take action when nuisance and health and safety issues do arise. The bylaw has been made in recognition that many towns in the District are quite rural in nature.

## **Bill of Rights**

- 28 Council is required to determine whether the draft bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990 (the BoR Act), which grants certain civil and political rights to people in New Zealand. In accordance with section 5 of the BoR Act, 'the rights and freedoms contained in the Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society'.
- 29 In section 146 of the LGA there is a specific provision that allows local authorities to make bylaws on keeping animals, poultry and bees. Such a bylaw can only be made to prevent nuisance and ensure peoples' health and safety (s145). The LGA has been reviewed by the Attorney-General for any inconsistency with the BoR Act. On this basis, the Attorney-General has already assessed that any limits imposed on keeping animals to prevent nuisance and health in safety issues, are reasonable limits. Therefore staff believe the provisions of the draft bylaw do not unreasonably interfere with any of the rights in the BoR Act.

## **Community Views**

- 30 Staff have already engaged with the community about keeping animals and the current bylaw. A summary of the feedback received is given in paragraph 16. Council is aware there has been a preference to have specific rules for specific communities - three CDAs have made formal requests to amend the current bylaw.
- 31 Staff will capture further community views through the formal consultation on the draft bylaw. During the last review process for this bylaw (in 2010), one submission was received.



### **Costs and Funding**

- 32 There will only be minor costs associated with reviewing the bylaw, including the costs associated with staff time and advertising. The draft bylaw does not propose any significant changes to operational practice within the environmental health team. Costs associated with reviewing and applying the draft bylaw will be met within existing budgets.

### **Policy Implications**

- 33 As has been outlined above, the draft bylaw does propose some small changes:
- to how people get approval to keep animals not permitted by the bylaw
  - removing the formal dispensation for people in the Ohai urban zone (people in this area would now have to get a permit to keep horses, goats etc)
  - making it an offence to kill animals or process meat in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health.
- 34 In regards to enforcing the provisions in the draft bylaw, staff are proposing to continue dealing with issues as complaints are received. This means that the current approach of not proactively monitoring for compliance, will continue.
- 35 Council has a vision of ‘one community, offering endless opportunities’. On this basis, staff have been careful not to be too restrictive, and to allow, where appropriate, people to have the opportunity to keep the animals and enjoy the lifestyle they want.
- 36 The draft bylaw is reasonably consistent with, but not the same as, the bylaws adopted by Invercargill City Council (ICC) and Gore District Council (GDC).
- 37 ICC places no limit on the livestock and the number of housed poultry that than can be kept in urban areas, but the bylaw is drafted so limits can be imposed when necessary. ICC has more prescriptive rules around killing animals and processing meat.
- 38 As is proposed in the draft bylaw, Gore District Council’s (GDC) animal control bylaw does not allow people to keep livestock in town without a permit, and it places a cap on the number of poultry that can be kept in urban areas. In contrast, GDC does permit horses and it places restrictions on the number of bee hives permitted on urban properties (maximum of one). GDC’s bylaw also has rules about pet rodents.

### **Analysis**

#### **Options Considered**

- 39 Staff have identified two practical options for how the committee could proceed:
- Option 1 – recommend Council endorse the draft bylaw (with any desired amendments) for consultation in accordance with the Special Consultative Procedure
  - Option 2 – recommend Council retain the status quo (the current bylaw). This option would also require a consultation process to be undertaken.

## **Analysis of Options**

### **Option 1 – recommend Council endorse the draft bylaw (with any desired amendments) for consultation in accordance with the Special Consultative Procedure**

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• easy to read and to use</li> <li>• does not refer to the outdated District Plan, so brings the bylaw up-to-date</li> <li>• gives more clarity on where urban and industrial zones are</li> <li>• helps ensure people do not keep animals in a way that causes nuisance and health and safety issues</li> <li>• is in line with some community views as the draft bylaw sets rules to prevent nuisance and health and safety issues, without being overly prescriptive.</li> <li>• allows Council to take action when necessary</li> <li>• reasonably similar to the bylaws adopted by ICC and GDC, which makes it easier for people to know and apply the rules.</li> </ul>	<ul style="list-style-type: none"> <li>• people may know the current dispensation system and take time to adjust to the new permit system</li> <li>• a more prescriptive bylaw may better prevent nuisance and health and safety issues</li> <li>• may not be supported by some people in the District.</li> </ul>

### **Option 2 – recommend Council retain the status quo (the current bylaw)**

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• people may be familiar with the current bylaw, and know how the dispensation system works</li> <li>• helps ensure people do not keep animals in a way that causes nuisance and health and safety issues</li> <li>• is in line with some community views as the draft bylaw sets rules to prevent nuisance and health and safety issues, without being overly prescriptive.</li> <li>• allows Council to take action when necessary</li> <li>• reasonably similar to the bylaws adopted by ICC and GDC, which makes it easier for people to know and apply the rules.</li> </ul>	<ul style="list-style-type: none"> <li>• not very easy to read or use</li> <li>• refers to the outdated District Plan</li> <li>• does not help clarify where there are urban and industrial zones</li> <li>• a more prescriptive bylaw may better prevent nuisance and health and safety issues</li> <li>• may not be supported by some people in the District.</li> </ul>

### Assessment of Significance

- 40 It has been identified that the recommendations made in this report are not significant in relation to the LGA and Council's Significance and Engagement Policy. Council has to assess the significance of all the issues it considers. This includes assessing the extent people are likely to be affected or interested in the matter. During the later stages of reviewing this bylaw, such as when the decision is made to adopt the final bylaw, the degree of importance of this matter is likely to reach the threshold of being a significant decision.

### Recommended Option

It is recommend that the committee proceed with Option 1 and recommend that Council endorse the draft bylaw (with any desired amendments) for consultation in accordance with the Special Consultative Procedure.

### Next Steps

Staff propose the following steps to complete the review of this bylaw.

DATE	ACTIVITY
4 March 2020	Report to Council seeking endorsement of a statement of proposal (including the draft bylaw) for formal consultation in accordance with the special consultative procedure
12 March to 13 April 2020	Formal consultation period
7 May 2020	Report to Council presenting submissions and undertaking hearings
20 May 2020	Report to Council to present the bylaw for deliberation and adoption.

### Attachments

- A The keeping of animals, poultry and bees bylaw 2010 [↓](#)
- B The keeping of animals, poultry and bees bylaw - dispensation for Ohai [↓](#)
- C The draft keeping of animals, poultry and bees bylaw [↓](#)



## The Keeping of Animals, Poultry and Bees Bylaw 2010

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Document Revision

Date	Amendment	Amended by	Approved by	Approval date

Pursuant to the provisions of the Local Government Act 2002 and the Bylaws Act 1910, the Southland District Council resolves to make the following Bylaw:

### Short Title and Commencement

This Bylaw shall be known as the “Keeping of Animals, Poultry and Bees Bylaw 2010” and shall come into force on 5 July 2010.

### Repeals

The Southland District Council Keeping of Animals, Poultry and Bees Bylaw 2005 is hereby repealed.

### Definition

NUISANCE shall have the meaning assigned to it by the Health Act 1956.

## 1.0 Pig Keeping

1.1 No person shall keep or allow to be kept any pigs in a Southland District Urban Resource Area or Industrial Resource Area as identified in the Operative Southland District Plan.

1.2 No person shall keep any pigs so as to be or be likely to become or create a nuisance or any conditions injurious to health or offensive or in such a manner as to pollute or be likely to pollute any fresh or coastal water as defined in the Resource Management Act 1991.

1.3 No person shall construct or allow any pigsty to remain, or any pigs to be at large or to range, at a less distance than 50 m from any dwelling, or any wholly or partly occupied building, or any street or public place or any place used for the preparation, storage, or sale of food for human consumption, or from any boundary of any adjoining property.

## 2.0 Animal Keeping

2.1 No horse or other beast of burden, cattle, goats, deer or ostriches shall be kept or permitted to remain in a Southland District Urban Resource Area as identified in the Operative Southland District Plan unless the owner has first sought and obtained a resource consent from Council under the Resource Management Act 1991.

2.2 Where any such horse or other beast of burden, cattle, goats, deer or ostriches are kept in a building, the building shall be properly constructed in accordance with the New Zealand Building Code, and appropriate consent obtained where the proposed building is not exempt from the need of a building consent under Schedule 1 of the Building Act 2004

2.3 An Environmental Health Officer may impose a limit on the number of cats which may be kept on a private land (such limit being not more than five) where:

- (a) the Council has received a complaint about the number of cats kept on the private land; and
- (b) the officer considers that the number of cats is creating a nuisance or is likely to create nuisance; and

- (c) the person keeping those cats fails to comply with any reasonable request of the officer to abate or prevent the nuisance.

### 3.0 Poultry Keeping

---

3.1 No poultry, caged or otherwise, (which shall include geese, ducks, pigeons, turkeys and domestic fowls of all descriptions) shall be kept or permitted to remain in a Southland District Urban Resource Area or Industrial Resource Area as identified in the Operative Southland District Plan, except in a properly constructed poultry house covered in with a rainproof roof and provided with a floor of concrete or other approved material with a surrounding nib wall, to which a confined poultry run shall be attached. Every poultry house and poultry run shall be maintained in good repair, in a clean condition free from any offensive smell, vermin, or overflow. The maximum number of birds is limited to 10 on any individual property unless the owner has first sought the resource consent of Council under the Resource Management Act 1991.

3.2 No poultry house or poultry run shall be erected or maintained any part of which is within 10 m from any dwelling, factory, or any other building, whether wholly or partially occupied, or within its own height of the boundary of adjoining premises.

### 4.0 Noise from Animal, Bird or Fowl

---

4.1 No person shall keep within any premises, any noisy animal, bird, or poultry which shall be, or cause, a nuisance to residents in the neighbourhood.

### 5.0 Bee Keeping

---

5.1 No person shall keep bees in a manner that:

- (a) is, or is likely to become, a nuisance, or
- (b) is, or is likely to become, offensive, injurious to health, or dangerous.

5.2 The Council may prescribe conditions limiting the number of hives kept and the fixing of the location of such hives on the premises or place.

5.3 Where complaints are received in respect of the location of hives in any part of Southland District and the Chief Executive or Group Manager Environment and Community of the Southland District Council is satisfied, following consultation with the complainant(s) and owners of the hives, and with any other experts in the keeping of bees, that the location of the hives has resulted in bees causing a nuisance on any property located in the vicinity of the hives, then the owner of the hives may be directed to relocate or remove the hives completely.

### 6.0 Dispensing Power

---

6.1 It shall be lawful for the Council in any particular case or cases, by resolution, to dispense with any of the foregoing requirements of this Part of this bylaw.

## 7.0 Penalties

---

7.1 Every person who commits a breach of this Bylaw is liable to a fine not exceeding \$20,000 in any case.

This Bylaw has been made and confirmed by resolution passed at a meeting of the Southland District Council held 30 June 2010.

THE COMMON SEAL of the        }  
SOUTHLAND DISTRICT COUNCIL       }  
was hereunto affixed in the presence of:       }



MAYOR



CHIEF EXECUTIVE





## Keeping of Animals, Poultry and Bees Bylaw 2010

### Dispensation for Ohai

---

Ohai Urban Zone:

(Approved by Council on 27 June 2012)

Clause 2.1 of the Keeping of Animals, Poultry and Bees Bylaw 2010 within the Ohai Urban Zone does not apply, in any case where the keeping of the animal meets all of the following conditions:

- a) the animals are confined to the property; and
- b) the owner or occupier of the property upon which the animals are being kept has given approval; and
- c) the animals do not cause any damage to a neighbouring fence or property; and
- d) the animals do not create a nuisance, as defined in the Health Act 1956.



## Southland District Council

The Keeping of Animals, Poultry and Bees Bylaw

DRAFT

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## Document Revision

Date	Amendment	Amended by	Approved by	Approval date

## 1. Commencement

This bylaw shall come into force in the district on XX June 2020. This bylaw has been reviewed and adopted by a resolution passed at a meeting of Council held on XX.

## 2. Purpose

This bylaw is to:

- help protect people in the district from nuisance, and
- help protect, promote, and maintain the health and safety of people in the District.

## 3. Definitions

<b>Council</b>	means Southland District Council
<b>District</b>	means the area within the territorial boundary of Council
<b>Industrial zone</b>	means specific areas classified as 'industrial' under Council's operative District Plan. These areas can be located by selecting the 'District Plan' on Council's website ( <a href="https://www.southlanddc.govt.nz/">https://www.southlanddc.govt.nz/</a> ), and by viewing the 'District Plan maps'. There are industrial zones in Oban, Te Anau, Winton and in Riverton/Aparima
<b>Nuisance</b>	shall have the meaning assigned to it by the Health Act 1956
<b>Poultry</b>	includes chickens, geese, pheasants, pigeons, peafowl, ducks, quails and domestic fowl of all descriptions
<b>Urban zone</b>	means specific areas classified as 'urban' under Council's operative District Plan. These areas can be located by selecting 'District Plan' on Council's website, and by viewing the 'District Plan maps'. A list of the townships that have an urban zone, is included with this bylaw as Appendix A

## 4. General rules

It is an offence to keep animals, kill animals, or process meat in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health.

It is an offence to keep animals in a way that is, or is likely to pollute any fresh or coastal water as defined in the Resource Management Act 1991.

It is an offence to keep any noisy animal, bird, poultry or fowl, which is, or is likely to become, a nuisance to residents in the neighbourhood.

## 5. Rules for urban zone

### Animals not allowed in an urban zone unless a permit is obtained

It is an offence to keep the following animals (including their young) on private land in an urban zone without obtaining a permit from Council:

- alpacas
- cattle/bison/buffalo
- deer
- donkeys/mules
- goats/chamois/thar
- horses/ponies
- llamas
- ostriches/emus
- pigs
- swans.

### Restrictions on poultry

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It is an offence to keep more than 10 poultry (that are over six months of age) on private land in an urban zone, without obtaining a permit from Council.

It is also an offence to keep poultry on private land in an urban zone, without obtaining a permit from Council, unless they are housed and contained appropriately. Poultry are housed and contained appropriately when:

- they are in a properly constructed house covered in with a rainproof roof
- the poultry house has a floor made of solid wood, concrete, or another appropriate material, with a surrounding nib wall where a poultry run shall be attached
- the poultry house/poultry run keep the poultry contained
- both the poultry house and any poultry run are least 10 metres from any dwelling, factory, or wholly/partially occupied building
- the poultry house and poultry run are at least two meters from any boundary not separated by a solid fence
- the poultry house and poultry run are clean and in good condition, and free from any offensive smell, overflow or vermin.

### Additional information on keeping animals in an urban zone

---

There are no restrictions on keeping cats or bee hives on private land in an urban zone, unless specific restrictions have been imposed by Council.

There are no restrictions on the number of sheep that may be kept on private land in an urban zone.

People keeping animals on private land in an urban zone must also abide by the general rules outlined in section 4.

## 6. Rules for industrial zone

### Animals not allowed in industrial zone unless a permit is obtained

---

It is an offence to keep any pigs on land in an industrial zone without obtaining a permit from Council.

---

## Restrictions on poultry

---

The same restrictions apply to keeping poultry in an industrial zone, as apply in an urban zone. These restrictions are outlined in section 5 of this bylaw.

## 7. Other specific rules

---

### Pigs

---

It is an offence to build or allow any pigsty to remain, or any pigs to be at large or to range, at a less distance than 50 meters from a:

- dwelling
- wholly or partly occupied building
- street or public place
- place used for the preparation, storage, or sale of food for human consumption
- boundary of any adjoining property.

---

### Cats

---

Council may impose a limit on the number of cats that may be kept on a private land (a limit being not more than five) where:

- Council has received a complaint about the number of cats kept on private land, and
- Council considers cats are being kept in a way that is, or is likely to become, a nuisance, offensive or injurious to health, and
- the person keeping the cats fails to comply with any reasonable request of the officer to abate or prevent the nuisance or health concern.

It is an offence to not comply with any limit imposed by Council, on the number of cats that may be kept.

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### Bees

---

Council may impose conditions limiting the number and location of hives on private land where:

- Council observes or receives a complaint that bees are being kept in a way that is, or is likely to become, a nuisance, dangerous, offensive or injurious to health, and
- Council has consulted with the complainant(s) (where possible), and
- Council has consulted with the person keeping the bees (where possible), and
- Council has requested the person keeping the bees to keep them in way that is not, or is not likely to become, a nuisance, dangerous, offensive or injurious to health (this may include specific requests such as moving a hive), and
- the person keeping the bees has failed to comply with Council's request.

Council may seek advice from experts in the keeping of bees through this process.

It is an offence not to comply with conditions imposed by Council, limiting the number and location of hives on private land.

## Buildings for animals

Where animals are kept in a building, any required resource consent must be obtained. The building must also be properly constructed in accordance with the New Zealand Building Code, and appropriate building consent obtained where the proposed building is not exempt from the need of a building consent under Schedule 1 of the Building Act 2004.

### 8. Permits

To obtain a permit, please complete the 'Permit to Keep an Animal form' that is available on Council's website under 'Apply For It' and then under 'Environmental Health'.

To determine whether a permit should be granted, a Council staff member may choose to:

- seek further information from the applicant
- visit the premises to assess whether keeping the animal/s is appropriate
- require the applicant to seek approval from their neighbours.

If an application is successful, a written permit will be issued to the applicant by post or e-mail. The permit may include conditions about how the animal is kept. It is an offence to not comply with any conditions imposed by a permit.

### 9. Dispensing Power

It shall be lawful for Council in any particular case or cases, by resolution, to dispense with any of the foregoing requirements of this bylaw.

### 10. Enforcement

In addition to enforcing the provisions in this bylaw, Council may elect to take action relating to animals, poultry and bees under the Health Act 1956 or the Resource Management Act 1991.

### 11. Penalties

Every person who commits a breach of this bylaw is liable to a fine not exceeding \$20,000.

**Appendix A - List of the townships that have an urban zone**

- Balfour
- Browns
- Colac Bay/Oraka
- Edendale
- Lumsden
- Manapouri
- Mossburn
- Nightcaps
- Oban/Rakiura
- Ohai
- Otautau
- Riversdale
- Riverton/Aparima
- Te Anau
- Tokanui
- Tuatapere
- Waikaia
- Wallacetown
- Winton
- Wyndham



## Combined Local Alcohol Policy

**Record No:** R/20/1/1139

**Author:** Jane Edwards, Policy Analyst

**Approved by:** Fran Mikulicic, Group Manager Environmental Services

☐ Decision

☒ Recommendation

☐ Information

### Purpose

- 1 The purpose of this report is to seek recommendation from the Regulatory and Consents committee (the committee) that Council brings the combined Local Alcohol Policy (the LAP) into force with an operative date of 31 March 2020 in conjunction with Invercargill City Council (ICC).
- 2 The LAP is included as attachment A.

### Executive Summary

- 3 In collaboration with ICC, Council has reviewed the LAP to confirm that the policy is still relevant for licensing in the territorial boundaries of the two councils.
- 4 The Joint Local Alcohol Policy committee (the joint committee), with representatives from both councils, was established in order to manage and oversee the review and adoption of the policy. Delegated authority was given to the joint committee to act on Council's behalf during this process.
- 5 Nine submissions were received during the consultation period for the draft LAP, with the joint committee holding hearings in August 2019.
- 6 After deliberating, the joint committee endorsed a Provisional LAP which was publically notified for appeal from 4 November to 6 December 2019.
- 7 No appeals were lodged with the Alcohol Regulatory and Licensing Authority and subsequently the LAP was adopted automatically by both councils on 6 December 2019.
- 8 The next step is for the LAP to come back to the two councils to make operative in accordance with section 90 of the Sale and Supply of Alcohol Act 2012 (the act). The operative date proposed for both councils is 31 March 2020.
- 9 If the committee endorse the recommendation in this report, Council will be asked at its meeting 4 March to invoke section 90 of the act which gives Council the power to bring the combined LAP into force.

## **Recommendation**

**That the Regulatory and Consents Committee:**

- a) Receives the report titled “Combined Local Alcohol Policy” dated 22 January 2020.**
- 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) Recommends that Council brings the combined Local Alcohol Policy into force on 31 March 2020 in conjunction with Invercargill City Council.**

## **Background**

- 10 Section 75 of 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).
- 11 Council adopted the previous combined LAP with ICC and Gore District Council (GDC) in May 2016. The three councils were regarded as a single territorial authority with a single district for the purposes of producing a LAP under the act.
- 12 Subsequent to GDC's decision to remove itself from the joint review process, Council, at its meeting on 18 December 2018, chose to continue, resolving to join with ICC to re-establish a joint committee in order to review the LAP and confirm that the policy was still relevant for licensing in the territorial boundaries of the councils.
- 13 In delegating its functions and powers to the joint committee at its meeting 10 April 2019, Council gave the joint committee the power of decision throughout the remaining life cycle of the LAP until its final adoption.
- 14 On 5 June 2019, the joint committee endorsed a statement of proposal, which included the draft policy, for public consultation.
- 15 From 1 July to 5 August 2019 the joint committee consulted on the draft policy in accordance with the special consultative procedure outlined in the Local Government Act 2002.
- 16 Nine submissions were received on the draft policy with four wishing to be heard in support of their submission at hearings held on 28 August 2019.
- 17 The joint committee reconvened to deliberate on 26 September 2019 and endorsed a Provisional LAP which was publically notified for appeal from 4 November to 6 December 2019.
- 18 No appeals were lodged and the combined Local Alcohol Policy was adopted automatically on 6 December 2019.

## **Issues**

- 19 Overall, the provisions proposed in the draft policy were supported by submitters and comment was made in support of keeping the 'status quo' as the previous LAP, adopted in 2016, has for the most part, been viewed as functioning well.
- 20 However, feedback was also received via written and oral submissions, that the draft LAP put out for consultation was not restrictive enough and did not do enough to minimise or prevent further alcohol harm in the community.
- 21 The joint committee considered all submissions when deliberating and resolved to maintain the proposals put forward in the draft LAP. The committee endorsed:
  - the provisions for sensitive premises proposed in the draft policy
  - the trading hours proposed in the draft policy (with an amendment to separate trading hours)
  - the discretionary conditions proposed in the draft policy

## **Factors to Consider**

### **Legal and Statutory Requirements**

- 22 Council has complied with all legal and statutory requirements when reviewing, consulting and adopting the combined LAP.
- 23 In forming the joint committee, Council delegated all of its functions under part 2, sub part 2 of the act to the joint committee, with the exception of the discretion afforded under section 88 and section 90. Section 88 gives the ability to discontinue with the LAP at any time and section 90 gives the power to bring the combined LAP into force.

### **Community Views**

- 24 Community views have been obtained using the special consultative procedure required in section 79 of the Local Government Act 2012.

### **Costs and Funding**

- 25 Costs associated with notifying the adoption of the LAP will be met within current budgets.

### **Policy Implications**

- 26 There are no changes to the licensing of premises for the sale and supply of alcohol.

## **Analysis**

### **Options Considered**

- 27 The committee has two options on how it could proceed:
- option 1 – the committee recommends Council bring the LAP into force on 30 March 2020
  - option 2 – the committee recommends that Council utilises the discretion afforded under section 88 of the act and does not bring the LAP into force.

## **Analysis of Options**

### **Option 1 – the committee recommends Council bring the LAP into force on 30 March 2020**

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"><li>• the consistent approach between councils, facilitated by the combined LAP, is beneficial for all alcohol licence applicants and is promoted by the Southland Regional Development Strategy</li><li>• facilitates inter-council co-operation and support which is beneficial for growth, experience and understanding of the issues for both councils, the District Licensing Committee members and staff</li></ul>	<ul style="list-style-type: none"><li>• the LAP results in more monitoring and reporting. As it is not compulsory, it could be considered as a further administrative process to be undertaken (there is a cost associated with the time staff spend on this)</li></ul>

<ul style="list-style-type: none"> <li>• is consistent with the previous approach taken by Council</li> </ul>	
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**Option 2 – the committee recommends that Council utilises the discretion afforded under section 88 of the act and does not bring the LAP into force.**

<i>Advantages</i>	<i>Disadvantages</i>
<ul style="list-style-type: none"> <li>• may give greater clarity on whether Council assesses a LAP as the best way of minimising alcohol related harm in the district</li> <li>• if Council chooses to discontinue the joint process and apply a LAP to the district alone, having only one council involved may enable greater focus, without compromise, on issues in the Southland district</li> </ul>	<ul style="list-style-type: none"> <li>• this will contribute to greater inconsistency in approach across Southland, which may make it harder for alcohol licence applicants and agencies and is less consistent with the Southland Regional Development Strategy</li> <li>• this would mean Council was changing its approach (from when the previous LAP was developed and adopted, and from its resolution on 18 Dec 2018)</li> <li>• a change in approach may be confusing to the public</li> <li>• this may hinder inter-Council cooperation and support</li> <li>• Council would incur all costs involved if it chose to undertake a further review</li> </ul>

**Assessment of Significance**

- 28 The recommendation the committee is being asked to make in this report has been assessed as not significant in relation to Council's significance and engagement policy.

**Recommended Option**

- 29 Staff recommend option 1 – that the committee recommends Council brings the LAP into force on 31 March 2020 in conjunction with Invercargill City Council.

**Next Steps**

- 30 If the committee endorses the recommendation, it is intended that Council will be asked to resolve to bring the LAP into force at its meeting on 4 March 2020.
- 31 ICC will similarly be asked to resolve the same operative date at its full council meeting on 3 March 2020.
- 32 Once both councils have resolved to make the LAP operational, it would take effect and become enforceable on 31 March 2020
- 33 Regulation 19 of the act requires that Council give notice of the adoption of LAP, and staff will be advertising in the following manner: **The Advocate** - 19 March 2020 and 26 March 2020; **The Otago Daily Times** - 21 March 2020 and 28 March 2020.

- 34 If the committee endorse option 2, staff will include this recommendation in the report to be considered by Council at its 4 March 2020 meeting.

## **Attachments**

- A Operative Combined Local Alcohol Policy 2019 [↓](#)



# **Combined Local Alcohol Policy 2019**

**Adopted 6 December 2019**

**Operative 31 March 2020**

## 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 a 'one way door' condition that would allow patrons to leave premises but not to enter or re-enter after a certain time
- recommend **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 its objective (or as one of its objects) participating in or promoting a sport or other 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 Health Promotion Agency publications <i>Safer Bars and Restaurants – A guide to Crime Prevention Through Environmental Design (CPTED)</i> and <i>Safer Bottle Stores - A</i>



	<i>Guide to Crime Prevention Through Environmental Design (CPTED)</i>
<b>Entertainment venue (includes centre)</b>	<p>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:</p> <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>	<p>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:</p> <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 8am on any day
    - latest closing time 3am the following day.
  - Invercargill (other than Invercargill central business district areas):
    - earliest opening time 8am on any day
    - latest closing time 1am the following day.
  - Southland District:
    - earliest opening time 8am on any day
    - latest closing time 3am the following day.
- on-licences – class 2 and class 3 restaurants, including BYO restaurants:
  - earliest opening time 8am on any day
  - latest closing time 1am 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      7am on any day
  - latest closing time      11pm the same day.
- club licences
  - earliest opening time      8am on any day
  - latest closing time      3am 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 (eg number of staff, duty managers)
  - prescribed ratio of security staff to patrons
  - uniform requirements (eg 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.