

Draft Policy # 3118 - Local Alcohol Policy 2014

1 Background

The Sale and Supply of Alcohol Act was enacted by Parliament in December 2012.

The object of the Sale and Supply of Alcohol Act (“the Act”) is that:

‘The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.’

Alcohol related harm is defined very widely and includes any crime, damage, death, disease, disorderly behaviour, illness or injury, and harm to individuals or the community, either directly or indirectly caused by excessive or inappropriate alcohol consumption

Through a LAP, the community is able to:

- Limit the location of licensed premises in particular areas or near certain types of facilities, such as in specific neighbourhoods or near schools or churches;
- Limit the density of licensed premises by specifying whether new licences or types of licences should be issued in a particular area;
- Impose conditions on groups of licences, such as a “one-way door” condition that would allow patrons to leave premises but not enter or re-enter after a certain time;
- Recommend discretionary conditions for licences;
- Restrict or extend the default maximum trading hours set in the Act, which are:
 - 8am - 4am for on-licences (such as pubs and restaurants)
 - 7am - 11pm for off-licences (such as bottle stores and supermarkets).

This Local Alcohol Policy (LAP) has been developed pursuant to section 75 of the Act, which empowers territorial authorities to develop Local Alcohol Policies for their District.

The Act outlines what content a territorial authority may include in their LAP.

- Section 77 of the Act outlines what policies may be included in a LAP. No other policies except those listed under that section can be included in a LAP.
- Section 78 of the Act lists the matters a local authority must have regard to when producing a draft policy.
- In addition a territorial authority must not produce a draft policy without having consulted the Police, licensing inspectors, and Medical Officers of Health.
- Section 93 of the Act allows a LAP to contain a policy more restrictive than the relevant district plan, but a LAP policy cannot authorise anything forbidden by the relevant district plan.

This LAP is intended to set a clear framework which will be applied to all applications for on, off, club and special licences, temporary authorities and managers certificates within the Far North District. Once the LAP comes into force, Council's District Licensing Committee (DLC) and the Alcohol Regulatory Licensing Authority (ARLA) must have regard to the policy when they make decisions on licence applications

Authority Statements and Case Law

The Far North District Licensing Committee shall give all due regard to any statement issued by the Alcohol Regulatory and Licensing Authority pursuant to section 176 of the Act when interpreting this policy and determining licence applications, and to any relevant decisions issued by the Authority.

2 POLICY OBJECTIVES

The objective of this policy is to balance the reasonable needs of the residents of the Far North District regarding the sale, supply and consumption of alcohol, while addressing the statutory requirements of the Sale and Supply of Alcohol Act 2012, including the object of the Act to minimise the harm caused by excessive or inappropriate consumption of alcohol.

3 POLICY STATEMENTS

On-licences

Introduction

An on-licence premise is one where consumption of alcohol is authorised on the premises from which it is sold. Common examples include hotels, taverns and restaurants. Section 14 of the Act states:

On any premises an on-licence (other than an on-licence endorsed under section 37 of the Act) is held for, the licensee—

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

Polices relating to On-licences also apply to:

- (a) BYO restaurants (endorsed under section 37 of the Act)
- (b) Caterers (endorsed under section 38 of the Act)

Location of premises holding on-licences by reference to broad areas

New on licence premises shall not be limited to any specific areas except by resource consent, or subject to the following policies in this section.

3.1 Location of premises holding on-licences by reference to proximity to premises of a particular kind or kinds

When considering a new licence application in respect to a new premise, the Far North District Licensing Committee will have regard to the proximity of that proposed premise to other licensed premise(s) where it considers this relevant.

3.2 Location of premises holding on-licences by reference to proximity to facilities of a particular kind or kinds

In addition to (3.1) above, an on-licence will not be issued in respect to any new premises on any site where it directly borders within 100 metres (where it is both sensible and practicable to do so) to any school, early childcare facility, place of worship, or community facilities especially those catering to children, existing at the time the premises is established, unless it can be demonstrated that the hours, signage or operation of the premises will have no impact on those facilities. "Directly borders" includes across any road from such facility, within the 100 metre range.

If it is not sensible or practicable to apply a 100 metre proximity policy then the distance becomes a discretionary condition. The DLC will determine the maximum distance to be applied – up to 100 metres. If the DLC determines that the effect of a less than 100 metre distance is minimal then the decision will be made on the papers. However, if the DLC considers that the effect will not be minimal, then the application will go to a full DLC hearing.

Renewal of a licence shall be unaffected on the grounds that such a facility later moves to a site which borders an existing licensed premise.

Renewal of a licence shall be unaffected should a school, early childcare facility, or place of worship later move to a site which borders an existing licensed premise.

The District Licensing Committee shall have regard to the proximity of any proposed new off licence premise to a public park, car park or reserve particularly where that park, car park or reserve is within a liquor ban area prescribed by a bylaw.

3.3 Further issuing of on-licences in the District

This policy does not limit the number of on licence premises in the Far North District or restrict the issue of new licences, provided the other policy criteria are met.

3.4 Maximum trading hours for premises holding on-licences

No on-licence shall be issued or renewed for any hotel, tavern, restaurant or café premises with trading hours that exceed the following (subject to sections 46 and 47 of the Act):

Monday to Sunday 8:00am to 1am the following day

On-licence premises requiring extensions to Monday to Sunday 8:00am to 1am the following day can apply for a special licence (see section 6: Special licences). Special licences allow the sale and consumption of alcohol at events or occasions on premises outside their normal licence conditions and hours, and are in force for the date and time of the event only. "Event includes an occasion or gathering; and any of a series of events"

Any outdoor dining area will not have trading hours that exceed 8:00am to 1am on any day or am on the next day.

Any function centre or other premises not defined above will be subject to trading hours at the District Licensing Committees discretion but shall not exceed: (a) Monday to Sunday 8:00am to 1am the following day

3.5 Discretionary conditions of on-licences

In accordance with section 110(1) and 117 the District Licensing Committee may impose discretionary conditions (in addition to those required by section 110(2)) on any licence or renewed licence. These may include conditions related to the following, or any other reasonable condition:

- (a) Prohibited persons
- (b) Management of premises
- (c) People or kinds of people to be served
- (d) Low and non-alcoholic beverages
- (e) Transport options
- (f) Exclusion of the public
- (g) Proximity; when a 100 metre distance cannot sensibly be applied to achieve the aims of the policy

3.6 One-way door restrictions

An optional one-way door restriction of one-hour prior to maximum closing time shall apply on Sunday to Saturday nights to any hotel or tavern premises with a midnight or later closing time.

This condition may be added to licences as they are issued or renewed.

4 OFF-LICENCE

Introduction

An off licence premise is one where consumption of the alcohol occurs away from the premises from which it is sold. Common examples include supermarkets and bottle stores.

Section 17 of the Act states:

- (i) *“On the premises an off-licence is held for, the licensee can sell alcohol for consumption somewhere else.*
- (ii) *While the premises an off-licence is held for are open for the sale of alcohol for consumption somewhere else, the licensee can also supply alcohol free, as a sample, for consumption on the premises.”*

4.1 Density of premises holding off-licences

The density of off-licence premises is a major concern for the community and Council in consideration of achieving the purpose and principle of the act. Council wants to ensure that affected persons views are considered at a local level; therefore:

All new off licence applications will be determined by the DLC to address compliance with the act

Subject to the policy statement above, new off licence premises shall not be limited to specific areas, unless excluded by resource consent.

Endorsed remote sellers are excluded pursuant to section 40 of the Act

4.2 Location of premises holding off-licences by reference to proximity to premises of a particular kind or kinds

When considering a new licence application for a new premise, the District Licensing Committee will have regard to the proximity of that proposed premise to other licensed premise(s) where it considers this relevant.

Licensees of premises holding both an on and off licence shall ensure there is a separate point of sale and supply for the off licence if a totally separate area or premise is not practical.

4.3 Location of premises holding off-licences by reference to proximity to facilities of a particular kind or kinds

An off-licence 100 metres (where it is both sensible and practicable to do so) to any school, early childcare facility, place of worship, or community facilities especially those catering to children, existing at the time the premises is established, unless it can be demonstrated that the hours, signage or operation of the premises will have no impact on those facilities. "Directly borders" includes across any road from such facility, within the 100 metre range.

If it is not sensible or practicable to apply a 100 metre proximity policy then the distance becomes a discretionary condition. The DLC will determine the maximum distance to be applied – up to 100 metres. If the DLC Chair determines that the effect of a less than 100 metre distance is minimal then the decision will be made on the papers. However, if the DLC Chair considers that the effect will not be minimal, then the application will go to a full DLC hearing.

Renewal of an off-licence shall be unaffected on the grounds that such a facility later moves to a site which borders an existing licensed premise.

Renewal of a licence shall be unaffected should a school, early childcare facility, or place of worship later move to a site which borders an existing licensed premise.

The District Licensing Committee shall have regard to the proximity of any proposed new off-licence premise to a public park, car park or reserve particularly where that park, car park or reserve is within a liquor ban area prescribed by a bylaw.

4.4 Further issuing of off-licences in the District

This policy does not limit the number of off licence premises or restrict the issue of new licences, provided the other policy criteria are met.

4.5 Maximum trading hours for premises holding off-licences

No off licence shall be issued or renewed in respect to any premise, including supermarkets and grocery stores, with trading hours that exceed the following (subject to section 48):

- (a) Monday to Sunday 9 am to 10 pm

4.6 Discretionary conditions of off-licences

In accordance with sections 116(1) and 117 the District Licensing Committee may impose discretionary conditions in relation to the following matters (in addition to those required by section 116(2)) or any other reasonable condition:

- (a) Prohibited persons
- (b) People or kinds of people to be served
- (c) Kinds of alcohol to be sold
- (d) Proximity; when a 100 metre distance cannot sensibly be applied to achieve the aims of the policy

5 CLUB LICENCE

Introduction

A club is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or is a body corporate whose object is not for gain; or holds permanent club charter.

Section 21 of the Act states:

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

“Authorised customer, in relation to premises a club licence is held for, means a person who —

- (i) is a member of the club concerned; or*
- (ii) is on the premises at the invitation of, and is accompanied by, a member of the club concerned; or*
- (iii) is an authorised visitor”*

5.1 Location of premises holding Club licences by reference to broad areas

New licensed club premises should be located at, or in close proximity to, the sports grounds or other facilities used by the club, if relevant.

5.2 Location of premises holding Club licences by reference to proximity to premises of a particular kind or kinds

The District Licensing Committee shall have regard to the proximity of any proposed new club premises to any other existing premise(s) when considering a new licence application.

5.3 Location of premises holding Club licences by reference to proximity to facilities of a particular kind or kinds

The District Licensing Committee shall have regard to the proximity of any proposed new club premises to any school, early childcare facility, place of worship or residential area.

This policy does not limit the number of club licence premises or restrict the issue of new licences, provided the other policy criteria are met.

5.4 Maximum trading hours for premises holding Club licences

The District Licensing Committee will have regard to the days and hours of operation, and the type of activities undertaken by the club, in setting club hours.

No club licence shall be issued or renewed with trading hours that exceed the following:

- (a) Monday to Sunday 8 am to 1 am (Subject to section 46 of the Act)

5.5 Discretionary conditions of Club licences

In accordance with sections 110(1) and 117 of the Act the District Licensing Committee may impose discretionary conditions regarding the following matters, in addition to those conditions required by section 110(2):

- (a) Prohibited persons
- (b) Management of premises
- (c) People or kinds of people to be served
- (d) Low and non-alcoholic beverages
- (e) Transport options
- (f) Exclusion of the public
- (g) Proximity
- (h) Provision of food

5.6 One-way door restrictions relating to Club licences

The District Licensing Committee may impose a one-way door condition on any Club licence where it believes this is warranted. The one-way door restriction shall not apply any earlier than two hours before the normal closing time of the premises.

This condition may be added to a licence at the time of issue or renewal.

6 SPECIAL LICENCES

Introduction

Special licences allow the sale and consumption of alcohol at events or occasions on premises that are unlicensed, or licensed premises that would be outside their normal licence conditions. They can permit on-site or off-site sales, and are in force for the date and time of the event only.

“Event includes an occasion and a gathering, and any of a series of events”.

6.1 Issuing of special-licences in the District

The District Licensing Committee, subject to section 41 of the Act, may refuse a special licence or licences where it would be more appropriate for the applicant to apply for an on, off or club licence, or for the variation of an existing licence.

There are no restrictions on the number of application to the DLC, made by any applicant, per year.

6.2 Maximum trading hours for premises holding special licences

Special licences for premises that are not otherwise licensed will not be issued with trading hours beyond 1am the day following the event, except in exceptional circumstances as determined by the District Licensing Committee.

Where the applicant for a special licence already holds an on, off or club licence with the maximum hours permitted for that type of licence under this policy, a special licence with greater hours will be determined by the District Licensing Committee.

6.3 Discretionary conditions of special licences

In accordance with sections 146 and 147(1) the District Licensing Committee may impose discretionary conditions regarding the following matters, in addition to those required by section 147(3):

- (a) Sale and supply to prohibited persons
- (b) People or kinds of people to be served
- (c) The kind or kinds of alcohol that may be sold or delivered
- (d) The provision of food for consumption on the premises
- (e) The provision of low and non-alcoholic beverages
- (f) The provision of information relating to transport options
- (g) Exclusion of the public
- (h) Restricting the types of containers used for sale or supply

- (i) The provision of an acceptable event management plan
- (j) The filing of returns
- (k) Conditions of a kind subject to which a licence may be issued under section 110 (on or club licence) or 116 (off licence)
- (l) Any reasonable condition not inconsistent with the Act.

6.4 One-way door restrictions

The District Licensing Committee may impose a one-way door condition on any licence where it believes this is warranted. The one-way door restriction shall not apply any earlier than two hours before the normal closing time of the premises, or in the case of a special licence no earlier than two hours prior to the conclusion of the event.

7 TEMPORARY AUTHORITIES

All temporary authority applications will be passed to the Police to give them an opportunity to inquire into the application.

Pursuant to section 136(4)(c) every temporary authority will be subject to a condition that no second or subsequent temporary authorities will be issued in respect to the same premises and licensee unless a full licence application has already been filed.

Definitions

“Authorised customer” in relation to premises a club licence is held for, means a person who—

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

“Airport bar” means premises that are within or attached to an airport; and used or intended to be used in the course of business principally for selling or supplying alcohol to air travelers arriving at or departing from the airport – this definition is included because increased travelers through Bay of Islands Airport may mean a bar licence is applied for.

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

“Café” shall have the same meaning as “restaurant”

“Club” means a body that—

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

“District Licensing Committee” means the Far North District Licensing Committee appointed pursuant to section 186 of the Act

“Early childcare facility” includes any crèche, childcare centre, kindergarten, kohanga reo play centre or Plunket rooms or any other place (excluding a school) where five or more children receive care or education.

“Facility” includes a place of worship, school or early childcare facility

“Grocery store” has the meaning given by section 33(1) of the Act.

“Hotel” means premises used or intended to be used in the course of business principally for providing to the public—

- (a) lodging; and
- (b) alcohol, meals, and refreshments for consumption on the premises

“Large scale event” means an event to which section 143 of the Act applies.

“Mini bars” Hotel in-room minibars are exempt from these restrictions and are accessible 24 hours per day

“Night-club” a place of entertainment - open at night which normally provides music and space for dancing and may provide a show

“Off-licence” on the premises an off-licence is held for, the licensee can sell alcohol for consumption somewhere else

“One-way door restriction” in relation to a licence, is a requirement that, during the hours stated in the restriction,—

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

“On-licence” on any premises an on-licence (other than an on-licence endorsed under section 37) is held for, the licensee—

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

“Outdoor dining area” means an area of a premise holding an on-licence or club licence that is outside of the building which includes any part of a public footpath, pavement or other public place.

“Place of worship” includes any church, mosque or other facility designed primarily for worship and related religious activities.

“Premises” includes

- (a) a conveyance; and
- (b) includes part of any premises; and
- (c) in relation to a licence, means the premises it was issued for

“Prohibited persons” are persons to whom alcohol cannot be served including minors and intoxicated persons and in the case of clubs any person who is not an authorised customer

“Public park” means any park, reserve, playground, garden or similar public place maintained by the Local Authority for recreation purposes.

“Remote Seller” means a business that sells by telephone or internet. Delivery is usually by courier service. Remote sellers can require purchasers to declare at least twice that they (or the intended recipient) are over the purchase age either through tick boxes, or entering their birth date, (for internet and catalogue sales) or verbally (for telephone orders).

“Restaurant” means premises that—

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

“School” includes any primary, intermediate or secondary school and any kura kaupapa

“Special Licence” means the type of licence detailed in section 22 of the Act.

“Supermarket” has the meaning given by section 32(1)(e) of the Act.

“Tavern” (a) means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public

“Temporary Authority” means a temporary authority order issued and in force under section 136 of the Act

“The Act” means the Sale and Supply of Alcohol Act 2012