

DUNEDIN LOCAL ALCOHOL POLICY (LAP)

1.0 INTRODUCTION

1.1 Purpose

The Dunedin Local Alcohol Policy (LAP) seeks to balance the statutory requirements and object of the Sale and Supply of Alcohol Act (the Act), with meeting the reasonable needs of residents and businesses, and the city's desire to support vibrant, sustainable and resilient communities. The LAP emphasises the role of safe and responsibly-managed drinking environments in achieving this outcome.

This LAP will provide guidance to the District Licensing Committee (DLC) and to the Alcohol Regulatory and Licensing Authority (ARLA), setting expectations about aspects of the sale and supply of alcohol in Dunedin. Both entities must have regard to the content of any relevant LAP when making decisions under the Act.

1.2 The National Context

In New Zealand, alcohol is a legal drug and its production, consumption and availability is widespread. Alcohol is not, however, an ordinary consumer product – it is an addictive psychoactive substance – and excessive or inappropriate consumption results in considerable harm both to individuals and to the wider community.

In 2012, the Government passed the Sale and Supply of Alcohol Act, thereby establishing a new national framework regulating the sale and supply of alcohol. The object of this legislation is twofold:

- 1 – the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and,
- 2 – the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

Harm is defined broadly by the Act, and includes –

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

Establishment of the new framework has empowered the Dunedin City Council, in consultation with the community, to develop a LAP that is responsive to local alcohol-related challenges.

The Act is prescriptive about the aspects of sale and supply of alcohol that a Local Alcohol Policy can influence:

- further restrictions on the default **maximum trading hours** set by the Act
- limits on the **location** of licensed premises in particular areas or near certain types of facilities
- limits on the **density** of licensed premises in particular areas
- imposition of **conditions** on types of licences
- recommendations on **discretionary conditions** for licences.

1.3 The Local Context

Dunedin's alcohol-related challenges result largely from the city's unique geography and its demographics.

Dunedin has a compact urban core with the location of a high proportion of the city's licensed premises clustered around the Octagon in the Central Business District (CBD). The Octagon operates as the main hospitality hub for the late night economy – concentrating both vibrancy

and the problems associated with evening drinking. As the country's second largest city by land area, Dunedin also has smaller suburban and rural centres serving more isolated communities, where licensed premises serve an important social function.

Dunedin Police have stated that the CBD is the primary area for alcohol-related calls for service. Calls to fights, disorder, assaults and breaches of the peace are the most common.

As a tertiary education hub, the city is home to proportionately more 15 – 24 year olds than other New Zealand centres. These young people arrive in Dunedin just as they reach the age that they are legally able to purchase alcohol (18 years), and at a time when they are seeking opportunities to meet and socialise with other young people. Student accommodation is clustered in the North Dunedin area which immediately surrounds the tertiary institutions, with student parties in the area acting as a magnet for non-students. This combination makes the city's young people particularly vulnerable to hazardous drinking and alcohol-related harm.

- Dunedin Hospital reports that the highest numbers of alcohol-related presentations occur between 12 midnight and 4am with the 18 – 24 year age group the most commonly represented¹.
- The Otago region has a higher rate of alcohol-related hospital admissions for young people (15-24 year old age group) than other Southern District Health Board regions.

The city also faces challenges that are a function of nation-wide issues – New Zealand's drinking culture, and a historically loose regulatory regime.

Analysis of police data indicates that:

- as the night becomes later, offences become more serious and the age of offenders increases
- 73% of those arrested for violence offences and 93% arrested for disorderly offences were affected by alcohol
- about 76% of alcohol purchased is consumed in off-licence settings for drinking in situations where there is little or no control.

2.0 LOCATION

While there is no restriction on the location of licensed premises other than defined in the Dunedin District Plan, licences for new hotels, taverns or bottle stores will not generally be granted for a premises that is near to or adjacent to any 'sensitive facility', such as schools and playgrounds (see the glossary for the full definition). Applications for other types of new premises, for example restaurants/cafes, etc, will be considered on a case by case basis.

To avoid any misinterpretation, 'near to or adjacent to' will be defined as being within **100m** of the nearest boundary to the sensitive facility.

In the case of clubs, other than the general restrictions stated above, the licence shall be for a premises that is located on, or is in close proximity to, the ground or facility used by the club.

3.0 OUTLET DENSITY

Research demonstrates that outlet density has a significant influence on alcohol-related harm².

While each licence application is considered on its merits, the DLC must consider the amenity and good order of the area in which the premises is situated, as well as the object of the Act. Outlet density may also be considered so far as the possible impact of the premises at that location on the local environment.

Dunedin does not have many new premises being opened although premises do change ownership. Those that are opening tend to be restaurant/café style premises and are considered a low risk of harm.

North Dunedin has a significantly higher density of young people (18 – 24 year olds) than other parts of the city³. This age group has demonstrated a higher rate of alcohol misuse and abuse when compared to other groups⁴. This will be taken into account when applications from this area are considered by the DLC.

4.0 MAXIMUM OCCUPANCY

On-licence and club-licensed premises allow the consumption of alcohol on site. Some of these premises, for example taverns and larger sports clubs, can be prone to overcrowding.

There are two methods of determining maximum occupancy. One is based on the size of the exits from the building and the other on the number of toilet facilities available in the premises. Assistance in determining the maximum number allowed in a building can be obtained from the DCC's Building Services Department, NZ Fire Service or a registered fire engineer. Details can be found in the current New Zealand Building Code and Fire Safety and Evacuation of Buildings Regulations 2006.

The maximum occupancy will be the lesser total as determined by the two methods of calculation.

The maximum number for the premises **must** be clearly displayed beside the alcohol licence.

5.0 PREMISES

5.1 On-licence Premises

A premises holding an on-licence can sell and supply alcohol to patrons for consumption on those premises. Examples include hotels, taverns/pubs, restaurants and cafés.

On-licences can also be endorsed under section 37 of the Act, which gives restaurants the ability to allow 'bring your own' (BYO); that is, patrons bring their own alcohol to consume with their meals.

While it is a characteristic of on-licensed premises that they provide a controlled environment in which people drink alcohol, some premises have more potential to cause harm than others. Hotels and taverns/pubs attract people for the purpose of consuming alcohol and are therefore more likely to be the source of alcohol-related harm than restaurants and cafes where food and dining is their mainstay.

The DLC must consider the style of premises when trading hours and other conditions are considered.

Some licensees may have separate permission from the DCC to use the footpath space in front of their premises to allow patrons to sit and consume alcohol. This activity is predominantly in the central city but there are other areas where licensees allow patrons to make use of outdoor public space.

5.1.1 Maximum Trading Hours

The holder of an on-licence must ensure no alcohol is sold or supplied on the premises on the sacrosanct days unless the person is on the premises to dine.

Subject to sections 46 (no sales outside permitted trading hours) and 47 (sacrosanct days) of the Act, the following maximum trading hours will apply:

On-licence Premises: Maximum Trading Hours

On-licence in or adjacent to metropolitan residential areas (listed in Schedule 1)	Sunday to Thursday 9am to 11pm Fridays and Saturdays 9am to 12 midnight
On-licence in non-residential areas – hotels and taverns/pubs	Monday to Sunday 8am to 3am the following day • 2.30 am one-way door
On-licence in non-residential areas – restaurants/cafes	Monday to Sunday 8am to 1am the following day
On-licence in non-residential areas – entertainment premises	Monday to Sunday 5pm to 4am the following day Premises will be required to have: • Live entertainment • Door charge • 2.30am one-way door.
On-licence in remote areas (listed in Schedule 2)	Monday to Sunday 8am to 2am the following day

5.1.2 Discretionary Conditions – Section 110

The DLC may impose further conditions on any on-licence in accordance with section 110(1) of the Act relating to the following:

- the restrictions relating to the sacrosanct days (see the glossary for the full definition)
- any one-way door that shall apply
- any designation that shall apply
- the people, or kinds of people, to be served
- provision and promotion of food and low and non-alcoholic beverages
- promotion of alternative transport options.

5.1.3 Discretionary Conditions – Section 117

Under section 117 of the Act the DLC may include any other condition that is reasonable and not inconsistent with the Act, including, but not limited to -

- the management of any outside area – including the use of public space where applicable
- the management of queues when/if they form outside the premises
- security arrangements for the premises (*e.g. door staff, CCTV, lighting*)
- the management of BYO alcohol to a premises. The DLC may consider it appropriate to ask for a 'Premises Management Plan' to address the following: steps proposed to promote/ensure the safe and responsible sale, supply and consumption of alcohol on the premises, specifically
 - prevention of intoxication – the identification of and management of intoxicated people (*including the location of any 'safe area' on the premises*)
 - management of multiple drinks purchased and consumed on the premises (including shots)
 - management of violent or aggressive people and/or volatile situations
- steps proposed to prevent the sale and supply of alcohol to prohibited people. E.g., people under 18 years of age, intoxicated people
- the types of promotions likely to be used to attract patrons to the premises
- how it is proposed to limit the exposure of children to 'alcohol-related' advertising and promotions.

5.2 Off-licence premises

A premises holding an off-licence is one where people can purchase alcohol for consumption away from those premises. The licensee can also supply alcohol free, as a sample, for

consumption on the premises. Examples of off-licence premises include bottle stores, supermarkets and grocery stores.

Off-licences can also be granted to remote sellers, that is, companies that take orders via the internet, facsimile or telephone, and the alcohol is delivered to the buyer.

5.2.1 Maximum Trading Hours

All off-licence premises are prohibited from making sales or supplying alcohol on the sacrosanct days.

An exception to Easter Sunday applies to grape, fruit or vegetable wine made on the premises or where the produce is grown on the land on which the premises is situated. An example of this would be a vineyard.

The maximum trading hours for all off-licence premises in the Dunedin district shall not exceed the following:

- Monday to Sunday 7 am to 10 pm

5.2.2 Discretionary Conditions – Section 116

Further to the conditions that must be imposed under section 116(2) of the Act the DLC may impose further conditions on any off-licences in accordance with section 116(1)(a), (b) or (c) of the Act relating to the following:

- steps to promote/ensure supply of alcohol to prohibited people does not occur e.g. people under the age of 18 years and intoxicated people.
- the types of alcohol to be sold from premises issued an off-licence pursuant to section 34. In the case of supermarkets and/or grocery stores reference should be had to section 58 of the Act.

5.2.3 Discretionary Conditions – Section 117

The DLC may include any other condition that is reasonable and not inconsistent with the Act and including, but are not limited to:

- security arrangements for the premises (e.g. CCTV, lighting) appropriate to the type of premises.
- the restrictions relating to the sacrosanct days in accordance with section 48
- any designation that shall apply.

5.3 Club licence premises

A club is a 'body corporate' that has as its object the participation in, or promotion of, any sport or other recreational activity for anything other than gain. A club can also be a 'body corporate' whose object is something other than gain.

There are some clubs that hold permanent club charters from previous Acts. These have been carried over to the new regime.

Holders of club licences may sell or supply alcohol only to 'authorised customers'. An 'authorised customer' is defined in the Act as:

- a) A member of the club concerned; or,
- b) On the premises at the invitation of, and is accompanied by, a member of the club concerned; or,
- c) An 'authorised visitor', which means a member of some other club with which the club concerned has an arrangement for reciprocal visiting rights for members.

5.3.1 Maximum Trading Hours

The maximum trading hours for club licence premises in the Dunedin district shall not exceed the following:

- Sunday to Thursday 10am to 11pm
- Fridays and Saturdays 10am to 12 midnight.

5.3.2 Discretionary Conditions – Section 110 and Section 116

- The DLC may apply conditions in accordance with section 110(1) of the Act on any club licence, including but not limited to the following: provision and promotion of food and low and non-alcoholic beverages
- the steps proposed by the licensee in the application for the licence aimed at promoting the responsible consumption of alcohol
- the promotion of alternative transport options.

Pursuant to section 117 the DLC may include any other condition that is reasonable and not inconsistent with the Act, including but not limited to:

- security arrangements for the premises (*e.g. door staff, CCTV, lighting*)
- steps to promote/ensure the safe and responsible sale, supply and consumption of alcohol on the premises:
 - prevention of intoxication – the identification of and management of intoxicated people (*including the location of 'safe' areas in the premises*)
 - management of multiple drinks purchased and consumed on the premises (*including shots*)
 - management of violent or aggressive people and/or volatile situations
- steps to prevent the sale and supply of alcohol to prohibited people, e.g. people under 18 years of age, intoxicated people
- the limitation of the exposure of children to 'alcohol' messages.

5.3.3 Returned and Services' Association (RSA)

RSA Clubs are established for the enjoyment of returned servicemen and Anzac Day is set aside to honour the memory of those who served their country.

The DLC will include early trading hours on Anzac Day as part of the licence to allow RSA Clubs to open early for members after the commemoration services.

6.0 SPECIAL LICENCES

Special licences may be obtained to allow the sale and/or consumption of alcohol at events or occasions on premises that are either unlicensed, or are licensed but they wish to operate outside the normal conditions of the licence, for example extending their trading hours or the licensed area.

A special licence **may not** be used to allow a premises to carry on trading when they should otherwise be closed, for example, on the sacrosanct days of Good Friday, Easter Sunday, Christmas Day and before 1pm on Anzac Day.

On-site special licences are granted when the alcohol is bought and consumed at the event or occasion. Common examples include wedding receptions held at unlicensed locations, clubs that allow their premises to be used for activities unrelated to the club or an on-licence premises using a space not covered by the licence.

Special licences can also be granted for **off-site** sales where the alcohol bought under the special licence is consumed at some other place, for example markets and fairs.

An 'event' is described as an occasion and a gathering, and may include a series of events. It has been held that while an event is not necessarily special, the licence grants the licensee the privilege of being able to sell and supply alcohol.

The Dunedin DLC will consider the following criteria when determining whether or not an 'event' qualifies for a special licence:

- the nature of the event or occasion
- that the true purpose for the function is other than the mere enjoyment of bar facilities. For example, guests at a wedding or people with a special interest in a sports game
- that attendance is by invitation, pre-purchased ticket or payment on entry
- that the alcohol is ancillary to the purpose of the event
- that people attending will see a difference between the event ambiance and a normal trading day (applies mainly to premises extending their normal licence)
- the extent of the planning – the less organised the greater the likelihood the planning was an after-thought to the application for the special licence therefore the 'special nature' of the proposed event may be doubtful
- regularity is not necessarily a disqualifying feature.

There are occasions in Dunedin when an event is of a scale that it is deemed to be 'special' for the city as a whole. Examples of these are test matches held at the Forsyth Barr Stadium, New Year's Eve celebrations and the ID Fashion week. The DLC will generally, on those occasions, grant special licences to those wishing to make the most of these occasions. However, each application will be treated on its merits.

Occasionally there are events happening in other parts of the country, or world that are televised and may hold appeal for local people. The DLC will consider these applications according to the above-mentioned criteria.

When the applicant is from a licensed premises, there will generally need to be a separation between normal bar activities and the event for which the special licence is granted. For example, there may be an expectation that the premises is closed for a period prior to the event starting.

6.1 Considering an application

The impact on the community is a prime consideration when assessing any application.

It is expected that the applicant will have considered the impact on the neighbouring area and will include a plan of how any negative effects will be mitigated.

When considering an application for a special licence, the Committee is conscious of the fact that the licence is of a short duration but it must still consider the impact of the event on the amenity and good order of the location.

If the application is for a large-scale event, an **Event Management Plan** may be required. The Plan will detail how the organisers will manage security, monitor the sale and consumption of alcohol, and how they will address any concerns of the local residents and public health concerns, for example, noise and traffic movements.

6.2 Maximum Trading Hours

Special licences for unlicensed premises will usually be restricted to 1am on the day following the start of the event. If there are multiple days covered by the special licence the restriction will apply on each of the days. In exceptional circumstances the DLC may grant greater hours.

For premises already holding an on or club licence, special licences will be granted only for the maximum hours for that kind of premises as stipulated in this LAP. If the current hours are already at the maximum, greater hours will be granted only in exceptional circumstances as determined by the DLC.

6.3 Conditions

The DLC will apply conditions to special licences issued by the DLC relating to:

- the days on which and the hours during which alcohol may be sold and supplied
- any designation that shall apply
- the people, or kinds of people, able to be served
- provision and promotion of food and low and non-alcoholic beverages
- the place or places on the premises at which water is to be freely available
- restricting the types of containers used for the sale or supply of alcohol
- promotion of alternative transport options
- exclusion of the public
- any reasonable condition consistent with the object of the Act.

6.4 Management of Special Licensed Events

A special licence requires a certified manager to be present.

However, if the DLC is satisfied the event is low risk and the named person has some experience, they may waive the requirement to have a certified manager present.

6.5 Multiple Events on One Special Licence

The Act allows the DLC to grant a special licence for a series of events or occasions. The DLC will require the multiple events named in a special licence application to be related in some way. Examples include a theatre group performing several performances over several days or an organisation holding a series of quiz nights.

7.0 REVIEW OF LOCAL ALCOHOL POLICY

Section 97 of the Act requires this policy to be reviewed no later than six (6) years after it comes in to force.

The LAP will not cease to have effect when it is undergoing the review process.

GLOSSARY

Act – the Sale and Supply of Alcohol Act 2012.

Alcohol-related harm – harm caused by the excessive or inappropriate consumption of alcohol, including any crime, damage, death, disease, disorderly behaviour, illness or injury directly or indirectly caused, or directly or indirectly contributed to, by the excessive or inappropriate consumption of alcohol. This applies to the individual, the community or **society generally**.

ARLA – Alcohol Regulatory and Licensing Authority.

Bar – in relation to a hotel or tavern means any part used principally or exclusively for the sale or consumption of alcohol.

Bottle store – a retail premises where at least 85% of the annual sales revenue comes from the sale of alcohol for consumption somewhere else.

BYO-endorsed on-licence – licensed to allow patrons to bring their own alcohol to a restaurant for consumption with their meal.

Club – a body corporate having as its objective the participation in or promoting a sport or other recreational activity, otherwise than for gain; or, is a body corporate whose object is not gain; or, holds permanent club charter.

Club licence – a club licensed to sell and supply alcohol on their premises.

Dine – to consume a substantial meal, that is something other than a snack. For the purposes of the Act, one may only consume alcohol in the period of one hour before and after a substantial meal on any Sacrosanct Day.

DLC – District Licensing Committee comprising a chairperson and two community members.

Education facility – any early childhood facility, school or tertiary institution.

Entertainment – an activity involving a live performance intended to entertain patrons.

Environment – the social, economic, aesthetic and cultural conditions that affect the amenity values of the people and their communities.

Event – an occasion and a gathering, and may include a series of events.

Grocery store – a premises where a range of food products and other household items is sold but the principal business carried on is or will be the sale of food products.

Health facility – a premises from which medical and psychological services are provided.

Hotel – a premises providing lodging as well as alcohol, meals and refreshments for consumption on the premises.

Large-scale event – an event with an anticipated patronage of more than 150 people. However, a common sense approach will be taken by the Committee which will consider the purpose of the event, the likely patronage, duration and location.

Licensing Inspector/Inspector – an inspector appointed pursuant to section 197(1) of the Sale and Supply of Alcohol Act 2012.

Metropolitan area – the area associated with and surrounding Dunedin's main urban area (see Schedule 1).

Off-licence – licensed to sell, supply and deliver alcohol for consumption away from the premises.

On-licence – licensed to sell and supply alcohol for consumption on the premises.

Playground – any outdoor area provided for children to play in and will usually contain various activity apparatuses.

Prohibited people – people who are under 18 years of age or who are intoxicated.

Recreational facility – any sporting complex, including swimming pools.

Remote area – an area associated with and surrounding small communities (see Schedule 2)

Restaurant/café – a premises that is used, or intended to be used, principally for the supply of meals or snacks for consumption on the premises.

Restricted area – people under the age of 18 years may **not** enter.

Sacrosanct days – Good Friday, Easter Sunday, Christmas Day and before 1.00 pm on Anzac Day.

Safe area – an area within a premises where an intoxicated person can be taken and observed until such time as alternative care and/or transport can be arranged.

Secretary of the DLC - the title applied to the principal administrative officer of the Dunedin City Council by the Act.

Sensitive facility – any educational or recreational facility or playground likely to attract predominantly young people under the legal purchase age and any health facility.

Series of events or special occasions – a series of related events or occasions.

Special licence – a ‘temporary’ licence allowing the holder to sell and supply alcohol at an event or special occasion. An on-site special licence applies to sale for consumption at the event or special occasion. An off-site special licence allows sales of alcohol for consumption away from the event or special occasion.

Supermarket – a premises with a floor area of at least 1000m² which includes any separate departments set aside for fresh meat, fresh fruit and vegetables, and delicatessen items.

Supervised area – people under the age of 18 years may only be present if accompanied by their parent(s) or legal guardian.

Tavern/pub – a premises used or intended to be used in the course of their business principally for providing alcohol and other refreshments to the public.

Temporary authority – an order granted by the DLC authorising a person or company to trade ‘on the back’ of an existing licence when a business changes ownership. The holder of a temporary authority is subject to the conditions on the underlying licence and or any other the DLC may impose.

Young person – under 18 years old.

Schedule 1 – Metropolitan Residential Areas

Dunedin City
Green Island
Mosgiel
Port Chalmers

Schedule 2 – Remote Areas

Brighton
Hyde
Karitane
Macandrew Bay
Middlemarch
Outram
Portobello
Warrington
Waitati
Waikouaiti

INFORMATION REFERENCES

The references cited in the Local Alcohol Policy do not form part of the policy. They contain information to help users understand the rationale for the policy. The references may be updated at any time.

1. "The Impact of Alcohol on the Health of Southern Communities", Public Health South, July 2013
2. Kypri, K., Bell, M L., Hay, G C., Baxter, J., "Alcohol outlet density and university student drinking: a national study" [2008] 103 *Addiction* 1131 at 1138; Livingston, M., "A Longitudinal Analysis of Alcohol Outlet Density and Assault" [2008] 32 *Alcoholism: Clinical and Experimental research* 1074
3. Statistics New Zealand, Age Distribution, 2013 Census
4. Kypri, K., Langley, J., Whigham, P A., and Wiggers, J., (2005) *Geospatial aspects of alcohol-related harm in New Zealand*. In: 17th Annual Colloquium of the Spatial Information Research Centre (SIRC 2005: A Spatio-temporal Workshop), 24-25 November 2005, Dunedin, New Zealand, p. 149