



**Submission on the Ashburton District Council
Local Alcohol Policy Review 2023
25 October 2023**

Thank you for this additional opportunity to provide feedback on the Ashburton District Council's Local Alcohol Policy Review 2023. Alcohol Healthwatch would like this submission to be read in conjunction with our earlier submission dated 14 July 2023.

We would like the opportunity to speak (virtually) to our submission.

If you have any questions on the comments we have included in our submission, please contact:

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About Alcohol Healthwatch

Alcohol Healthwatch is an independent national charity working to reduce alcohol-related harm and inequities. We are contracted by Te Whatu Ora-Health New Zealand to provide a range of regional and national health promotion services. These include: providing evidence-based information and advice on policy and planning matters; coordinating networks and projects to address alcohol-related harms, such as alcohol-related injury and fetal alcohol spectrum disorder; and coordinating or otherwise supporting community action projects.

Summary

- Alcohol Healthwatch **does not support** the Council's proposal to extend footpath trading hours for all types of on-licences in all locations to 1am.
- Alcohol Healthwatch **supports** a one-way door restriction to apply to all licensed premises in all areas of the district.

Introduction

1. It is well known that alcohol-related harms are vast, immediate and long term, occur across the levels of consumption, and result in substantial health, social and economic costs.¹ Much of the harm is shouldered by local communities in the form of crime, loss of safety and reduced amenity.
2. Restricting the availability of alcohol through a Local Alcohol Policy (LAP) is a key policy levers available to reduce alcohol use and harm in the Ashburton District as the LAP can include measures that restrict:
 - the physical availability of alcohol (e.g. the density and location of places that sell it);
 - its temporal availability (e.g. days and hours of alcohol sales); and
 - the sale and supply of alcohol at certain places and special events (e.g. festivals, community events).
3. Alcohol Healthwatch is pleased to see that Ashburton District Council is not only committed to reviewing the 2017 LAP, but has also decided to include some changes, rather than just rolling over the current LAP with no revision. However, we were hopeful that the LAP would be revised and strengthened to reflect the object and purpose of the Sale and Supply of Alcohol Act 2012 (the Act) and the needs of the community. It would also be based on current evidence/data and the overall health indicators for the district, particularly where they have changed since the LAP was first adopted six years ago.
4. In addition to the proposal to extend footpath trading hours and imposing a one-way door restriction in all areas, we feel that the Council could have used this opportunity to add further measures to address alcohol-related harm, particularly in light of:
 - The Supreme Court decision on the Auckland Council Proposed LAP²
 - The Sale and Supply of Alcohol (Community Participation) Amendment Act 2023,³ and
 - The desirability of ensuring greater consistency and synergy with LAPs (and proposed LAPs) in Canterbury and Aotearoa New Zealand.
5. Alcohol Healthwatch's submission of 14 July 2023 outlined our recommendations that focused on key elements namely, location and proximity to other licensed premises and sensitive sites, restrictions on further licences (e.g. caps or sinking lids), amending maximum trading hours and discretionary conditions. The suggested changes to the LAP were aimed at giving the community greater protection from alcohol-related harm – not increasing the harm.

Extending footpath trading hours

6. Alcohol Healthwatch **does not support** the Council's proposal to extend footpath trading hours that would apply to all types of on-licences in all locations, not just where there is alfresco dining (refer *Use of Footpaths for Alfresco Dining Policy*⁴). This proposed

extension to a 1am closing time correspondingly extends the risk from alcohol-related harm. Also, rather than making it difficult for licensed premises to manage different trading hours, we understand that it would in practice be easier for duty managers and staff to control the footpath area if it is closed at an earlier time. We further note that Council LAPs generally have policies with differential trading hours, allowing for an earlier closing time for outdoor licensed areas. For example, under the Hurunui District Council draft LAP 2023-2029 (clause 1.3), the maximum trading hours for outdoor licensed areas is midnight – two hours before the maximum closing hour for an on-licence.⁵

7. The consultation documents did not demonstrate that the Council had given consideration to spatial arrangements in locations where this change in trading hours would apply, the volume of pedestrian traffic, the potential impact on amenity and good order,⁶ the relationship with the Council's alcohol control bylaw, the prospect of an increase in nuisance complaints and crime and the known views of the community.
8. We note that both Te Whatu Ora -Health New Zealand (Medical Officer of Health) and the Licensing Inspector do not support this amendment to the LAP. Te Whatu Ora states:

We don't see it supporting the reduction in alcohol related harm.... our objective is around reducing consumption, so increase in hours would not support that. ... we do have concerns that the issues raised about this change in policy, is potentially a lack of control of a licensed area. Currently this is an area designated for outdoor dining rather than outdoor drinking and therefore, midnight seems a reasonable time to be moving people on or inside.

The Alcohol Licencing Inspector adds:

Extending the use of the footpath for one hour, will contribute rather than minimise alcohol related harm. I believe that for premises with a 2am licence, this only moves the problem rather than solves the problem of closing the area and removing patrons. From my experience, monitoring after 12am, I foresee that the ability to move people on will be even more difficult, as they will have consumed more alcohol. This may also have a knock-on effect to the policing of one-way door restrictions in that patrons need to be inside a premises before 1am. The consequence may be that more people will end up locked out and wandering around or creating disturbance at 1am.⁷

9. Extending the trading hours to those of the underlying on-licence must be viewed in light of the object and purpose of the Act and ensure that both the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; *and* the harm caused by the excessive consumption of alcohol should be minimised.⁸ It cannot be shown that extending footpath trading hours meets this standard.

One-way door restrictions

10. Alcohol Healthwatch **supports** the inclusion of a mandatory one-way door restriction for all on-licences in the district. These restrictions would help prevent a large number of people coming out of licensed premises at the same time (as would be the case with a universal maximum closing time) and the potential for intoxicated patrons migrating between venues or interacting with others with an increased likelihood of disorder and crime. One-way door conditions also have the potential to reduce the burden on Police, ambulance and hospital services and can have a positive benefit for not only the patrons of premises but the community generally.
11. A number of Councils have a mandatory one-way door policy as part of their LAP and most of these policies cover the whole district and every night of the week. The Council's rationale for extending the current restrictions by applying a mandatory one-way door policy to on-licences across the whole district is that it treats all licence holders equally. It also recognises that patrons are mobile and can move out of the city centre to other licensed venues.

Conclusion

12. In our earlier submission in July, Alcohol Healthwatch recommended additional protections be put in place that would make alcohol less accessible and reflect the current environment in light of the Supreme Court decision on Auckland Council's Provisional LAP and the Sale and Supply of Alcohol (Community Participation) Amendment Act. Of the two changes to the 2017 LAP, we support the extension of the one-way door restriction to the whole district, but do not support extending trading hours for the sale and consumption of alcohol in outdoor areas as this would make alcohol more accessible and increase the risk of harm. Councils have the ability to create LAPs that reflect local views and the needs of the community, and meet the object of the Act and minimise the harms from alcohol in their district.

References

1. New Zealand Law Commission. Alcohol in Our Lives: Curbing the Harm [Internet], New Zealand Law Commission, 2010. NZLC Report No.: 114. Available from: <https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/NZLC%20R114.pdf>
2. Courts of New Zealand. Foodstuffs North Island Limited v Auckland Council, Woolworths New Zealand Limited and Alcohol Regulatory and Licensing Authority – SC 140/2021 [Internet]. Wellington (NZ): Supreme Court of New Zealand; 2023 [cited 2023, Sep 18]. Available from: <https://www.courtsofnz.govt.nz/cases/foodstuffs-north-island-limited-v-auckland-council-woolworths-new-zealand-limited-and-alcohol-regulatory-and-licensing-authority>
3. Sale and Supply of Alcohol (Community Participation) Amendment Act 2023, No. 60. Available from: [Sale and Supply of Alcohol \(Community Participation\) Amendment Act 2023 No 60, Public Act – New Zealand Legislation](#).
4. Ashburton District Council. Use of Footpaths for Alfresco Dining Policy. 2022. Available from: https://www.ashburtondc.govt.nz/_data/assets/pdf_file/0023/4829/Use-of-Footpath-for-Alfresco-Dining-Policy-2022-.pdf.
5. Hurunui District Council. Draft Local Alcohol Policy 2023-2029. Available from: https://www.hurunui.govt.nz/repository/libraries/id:23wyoavbi17q9ssstcid/hierarchy/Regulatory_Services/Consultation/Local%20Alcohol%20Policy%20%28LAP%29%202023/Appendix%201%20Draft%20Local%20Alcohol%20Policy.pdf
6. This would include existing use such as signs, and accessibility for wheelchairs and mobility scooters.
7. Ashburton District Council. Council Meeting 20 September 2023. Agenda item 8. Available from: https://www.ashburtondc.govt.nz/_data/assets/pdf_file/0021/76620/Council-Agenda-20-September-2023.pdf
8. See above at 2 and the Supreme Court ruling on both parts of the object and the need to actively minimise the harm and take a precautionary approach.