

COUNCIL POLICY

TITLE: SALE OF LIQUOR

MEETING: Council

EFFECTIVE DATE: 28 September 2010

FILE REFERENCE: 308000

MINUTE BOOK PAGE(S): 36986 - 36997

1. POLICY OBJECTIVES

- 1.1 To provide a framework for transparent and consistent decision making about the sale of liquor within the Kawerau District, with the intent of reducing liquor abuse.
- 1.2 To clearly define how the Kawerau District Council (Council) will approach its role and responsibilities as a District Licensing Agency (DLA) under the Sale of Liquor Act 1989.
- 1.3 To facilitate the full involvement of the Kawerau Community in decisions about the sale of liquor in the Kawerau District.

2. PRINCIPLES

- 2.1 All Council actions under the Sale of Liquor Act will be consistent with the object of the Act.
- 2.2 Council will encourage Host Responsibility and responsible management by licensees and managers.
- 2.3 Responsible management of licensed premises and social functions can help create a safer Community.
- 2.4 Restrictions on the hours of operation of licensed premises may minimise adverse effects to the surrounding environment and the Community.
- 2.5 Council has a responsibility to ensure all sectors of the Community know how they can contribute to licensing decisions.

3. DEFINITIONS

Adverse Effects – includes loud noise, the coming and going of patrons, damage to property and offensive behaviour.

Club Licence – authorises the holder to sell liquor to club members and their guests for consumption on the club premises to which the licence applies.

District Licensing Agency (DLA) – is the Kawerau District Council, constituted as the District Licensing Agency by section 99 of the Sale of Liquor Act.

DLA Inspector – the authorised liquor licensing inspector of the District Licensing Agency.

Host Responsibility - aims to reduce the incidence of intoxication and the risk of intoxicated individuals causing harm to themselves, to other people, or to property. It utilises a number of strategies aimed at creating safe drinking environments.

Liquor Licensing Authority (the Authority) – is constituted by section 85 of the Sale of Liquor Act.

Manager's Certificate – allows the holder to be appointed as a duty manager of a licensed premises for the purposes of the Sale of Liquor Act.

Off Licence – authorises the licence holder to sell liquor on or from the premises described in the licence, for consumption off the premises. For example a bottle store, supermarket.

On Licence – authorises the licence holder to sell liquor for consumption on the premises described in the licence, for example a hotel, tavern or restaurant.

Special Licence – authorises the holder to sell or supply liquor for consumption for an event, occasion, or series of events/occasions.

Temporary Authority – an order issued by the DLA authorising a person who has an interest in a business holding a current on-licence or off-licence, to carry on the sale and supply of liquor for a period of up to three months.

The Act – the Sale of Liquor Act 1989.

4. BACKGROUND

The object of the Sale of Liquor Act is to establish a reasonable system of control over the sale and supply of liquor to the public with the aim of contributing to the reduction of liquor abuse.

The Act designates Council as the District Licensing Agency (DLA) for the Kawerau District. As the DLA, Council is required to exercise its jurisdiction, powers and discretion under the Act in a way which will promote the objectives of the Act.

This policy contributes to the primary aim of the Act, which is the reduction of liquor abuse. It attempts to achieve this by:

- Promoting responsible management by licensees and managers.
- Restricting the hours of operation of licenced premises, and
- Facilitating Community involvement in decisions about the sale and supply of liquor in the Kawerau District.

This policy does not duplicate the Act, but rather states Council's role in working toward achieving the objectives of the Act.

The DLA will also be guided by current and relevant case law and statements issued by the Liquor Licensing Authority (the Authority) under section 96 of the Act.

5. POLICY STATEMENT

5.1 Hours of Operation of Licensed Premises

a) On Licences

On licence premises trading within the Kawerau District may be permitted to operate between the hours of 9.00a.m. until no later than 1.00a.m. the following day.

b) Off Licences

Off Licence premises may be permitted to operate between the hours of 8.00a.m. until no later than 10.00p.m.

c) Club Licences

As required by the Act, the hours of operation for club licences must relate to the principal activity of the club. Club licences may be granted between the hours of 9.00a.m. until no later than 1.00a.m. the following day. Each application will be treated on its merits.

d) Special Licences

Applications for Special Licences will be assessed on a case by case basis to ensure that the hours of the event are appropriate and adverse effects are minimised.

5.2 Transitional Provisions Relating to Hours of Operation

Where an existing licence permits premises to operate outside the hours outlined in 5.1 above, and where the licensee is fully compliant with both the Act and the Host Responsibility Policy, the existing hours will be allowed to continue until the licence is renewed.

Licensees with an existing licence to operate a premise outside the hours outlined in 5.1 will be encouraged to adopt a 'one way door' policy.

This means that no new patrons will be allowed onto the premises after 1.00 a.m. but those already on the premises at that time will be allowed to stay until 2.00 a.m.

5.3 Applications for Licences or Certificates

All applications for Licences or Certificates must be complete before they will be accepted by the DLA. This means that an application must be accompanied by all relevant information and demonstrate that the activity meets the requirements of the legislation and plans listed in Section 7 of this policy, and any other relevant legislation, bylaws and plans.

5.3.1 All applications for Licences must be accompanied by a Host Responsibility Policy. Licensees are encouraged to develop an individual Host Responsibility Policy rather than adopting a standard format, as this has been found to be more helpful in ensuring a strong sense of ownership of the Policy.

A Host Responsibility Policy must contain provisions to encourage and actively inform patrons about the following:

- The provision of non-alcoholic and low-alcohol beverages,
- The availability of food on the premises at all times the licence is in operation,
- Designated restricted and supervised areas,
- Steps taken to ensure liquor is not supplied to under age, intoxicated, or other prohibited persons,
- Where alcohol may be consumed,
- The availability of alternative transport,
- How Host Responsibility is promoted on the premises (e.g. by signage and staff service practices), and
- Any other matter aimed at encouraging responsible liquor consumption.

When considering an application for a Licence or Certificate, the DLA will have regard to reports from the Licensing Inspector, the Police and Medical Officer of Health. If there are any objections from the public, or an application is opposed by the DLA Inspector or the DLA, it will be referred to the Authority for determination.

5.3.2 Renewal of Licences or Certificates

The DLA Inspector will review the management of the premises, in terms of compliance with the Act and Host Responsibility, when reporting on an application for the renewal of a Licence or Certificate.

5.3.3 Variations

Applications for variations or Licence renewal applications seeking variations to the terms and conditions of the original Licence will be treated as new applications.

5.3.4 Special Licences

Special Licences are used to control the sale and supply of liquor for events or social gatherings where an On, Off or Club Licence is not in operation or where an event or social gathering occurs in licensed premises but outside the conditions of the licence.

Special Licence applications are generally required to be lodged with the DLA at least 20 working days prior to the date of the first event.

A Special Licence will not be issued where the DLA considers the extent or regularity of the activity is such that an On, Off or Club Licence is required by the Act.

5.4 Temporary Authorities

Applications for temporary authorities must be lodged with the DLA at least 20 working days prior to the date on which the applicant wishes to take over operation of the business or the structure of an existing licensee changes. Applications must include documentary evidence confirming the applicant's interest in the business.

The DLA's primary consideration is the suitability of the applicant and reports will be requested from the DLA Inspector and the Police about the application. Temporary authorities may be granted for a maximum of three months.

5.5 Managers' Certificates

Applicants for a Manager's Certificate must be able to demonstrate relevant experience and/or qualifications in the liquor industry. Additionally, applicants should be currently working in the industry.

The DLA Inspector may conduct interviews and tests with applicants, for both new and renewals applications. This is to assist in assessing the suitability of an applicant.

5.6 Education, Liaison and Advocacy

Education, liaison and advocacy are important roles for DLA in terms of contributing to the reduction of liquor abuse. This includes the following:

- Liaison with the Police, the Medical Officer of Health, licensee representative groups and other organisations,
- Support for Host Responsibility principles and initiatives,
- Providing information to applicants and interested parties,
- Encouraging public participation and involvement in the licensing process,
- Lobbying central government where the review of legislation is required to enable administration or enforcement of the Act to be more effective.

5.7 Monitoring and Enforcement

The DLA will address its monitoring and enforcement responsibilities by:

- Inspecting licensed premises while the premises are open for trading,
- Inspecting on licences at night during the busiest hours of operation, as well as near the end of the hours of operation,
- Targeting inspection efforts at premises where non-compliance with licence conditions, with the Act, or with the Host Responsibility Policy is observed or suspected, or has been reported to the DLA,
- Targeting inspection efforts at premises which generate public complaints, Police intervention or intervention under relevant Statutes or Regulations such as food and food hygiene,
- Undertaking joint monitoring operations with the Police and the Medical Officer of Health,

- Inviting the licensee to meet with representatives of the DLA and Police to discuss any enforcement problems or infringements of the Act and solutions or action that should be taken to rectify the situation,
- Advising the licensee in writing of its concerns in relation to any enforcement problems, noting any breaches of the Act that may have taken place and the action required to remedy the situation,
- Placing copies of any meeting notes or correspondence on the DLA records for future reference,
- In cases where breaches of the Act are encountered, appropriate enforcement action will be taken. This may include an application for variation, suspension, or cancellation of a licence, or the suspension or cancellation of a manager's certificate, or prosecution of a licensee or manager or a warning.

6. RELEVANT DELEGATIONS

The Chief Executive Officer or his/her nominee has delegated authority for the implementation of this policy.

7. REFERENCES AND RELEVANT LEGISLATION

Sale of Liquor Act 1989	Food Act 1981
Resource Management Act 1991	Food Hygiene Regulations 1974
Kawerau District Council District Plan	Building Act 2004
NZ Building Code	