

7. Appendix One: Process of Objection

Introduction

The following provides a basic overview of what objectors need to know prior to filing objections against liquor licences. It contains information to assist potential objectors to succeed in filing various objections and having it heard by the Liquor Licensing Authority (LLA).

The Role of District Licensing Agency

All liquor licence applications are filed with the local authority nearest to the site of a proposed licensed premises. In this case Wellington City Council administers all licensed premises within its boundaries. The Sale of Liquor Act 1989 gives the Council the power to act as the District Licensing Agency (DLA).

The DLA accepts and processes all liquor licence applications. Where there are no objections the DLA approves licence and Certificate applications. Where there are objections to applications for new, or renewals of, on, off and club licences, and Managers' Certificates these are forwarded to the LLA (part of the Department for Courts) for determination. The DLA determines applications for special licences and temporary authorities. Both the LLA and DLA hold public hearings should objections be filed against particular applications.

The Application Process

Once a liquor licence application is filed with the DLA a copy is sent to the Police, Public Health Service, DLA inspector, copies may also be forwarded to a Building Inspector, Health Inspector, Noise Control Officer and a Resource Consent Planner. As required, all parties investigate it and report back to the DLA.

Within 20 working days after filing the application, the applicant is required to give public notice of the application in a form set out in the Sale of Liquor Regulations 1989. The notice must be published twice in a newspaper or newspapers circulating in the district (of the proposed licensed premises) and nominated by the Secretary of the DLA. There must not be less than five days and not more than 10 days between the two dates of publication.

The Objection Process

The DLA is unable to determine contested applications under the Sale of Liquor Act. In such cases the LLA will determine whether or not the matter will be determined by a public hearing. Where objections are raised by the public, reporting organisations or officers the DLA sends all the documents and any public objections to the LLA.

Public objections to the granting of a liquor licence must be filed within 10 working days after the date of the first public notice. The LLA may give more weight to objections from persons with a *greater interest* in the application than the general public. Greater interest could be likened to a resident living in the same street as the proposed premises. A member of the public residing



10 kilometres away and who is concerned about the effects of alcohol on the community could be considered as not having a greater interest in the application.

Objections to an application for a liquor licence may also be received from the Police, Medical Officer of Health, DLA inspector or Council officers.

Public Notices – what to look for

The Sale of Liquor Regulations prescribes a form to be used for public notices. Here is an example.

Reg 4 Form 1	Public Notice
	Section 9(4), Sale of Liquor Act 1989
	Bill Smith has made application to the District Licensing Agency at Wellington City Council for the grant / renewal of an on-licence in respect of the premises situated at 101 Main Street, Te Aro, Wellington and known as the Hill Crest Restaurant.
	The general nature of the business conducted (or to be conducted) under the licence is a restaurant.
	The days on which and the hours during which liquor is (or is intended to be) sold under the licence are: Monday to Sunday inclusive 2.00pm to 1.00am the following day.
	The application may be inspected during ordinary office hours at the offices of the Wellington District Licensing Agency at Ground Level, Wellington City Council Buildings, 101 Wakefield St. Wellington.
	Any person who is entitled to object and who wishes to object to the grant of the application may, not later than 10 working days after the date of the first publication of this notice, file a notice in writing of the objection with the Secretary of the District Licensing Agency, PO Box 2199, Wellington.
	This is the first / second publication of this notice.

Grounds for objection

The grounds for objection are set out in the Sale of Liquor Act 1989 and are listed below.

For on and off-licences

- Suitability of the applicant
- Days and hours liquor will be sold
- Designation of the whole or part of proposed premises as a restricted or supervised area
- Steps taken to ensure prohibited persons are not served
- Supply of food and non-alcoholic refreshments (does not apply to off-licences)
- Whether the applicant intends the sale or supply of any other goods besides liquor and food, or any services other than those directly related to the sale or supply of liquor and food.

For club licences

- Suitability of the applicant
- Days and hours liquor will be sold
- Days and hours club premises will be used for club activities
- Designation of the whole or part of proposed premises as a restricted or supervised area
- Proportion of club membership who are prohibited persons
- Steps taken to ensure prohibited persons are not served
- Supply of food and non-alcoholic refreshments.

Glossary of Terms

Prohibited Persons	Persons who are under the age of 18 years or who are intoxicated.
Restricted Area	Designated part of licensed premises to which persons under 18 may not be admitted.
Supervised Area	Designated part of licensed premises to which persons under 18 may not be admitted unless accompanied by a parent or legal guardian of, or over, the age of 18 years.

Making an Objection

To make an objection simply write a letter stating your wish to object and why. You must address the criteria set out above and the objection must be filed with the DLA within 10 working days of the first public notice appearing in the newspaper.

Upon receipt of an objection, the DLA will send an acknowledgement letter. The complete application will then be sent to the LLA who will check the validity of the objection. A time will be set for a hearing and objectors will be asked whether they wish to speak at the hearing.

Objection Formats

Some residents circulate petitions to inform other neighbours of an application and to gain support opposing a new licensed premises. These petitions are then filed with the DLA. Although this is an effective way to boost numbers of objectors, duplicate signatures are frequent. It is extremely difficult for the DLA to acknowledge petitioners because names and addresses are often unreadable. Therefore it is always helpful if a spokesperson can be appointed.



Liquor Licensing Authority Hearing Procedure

The Liquor Licensing Authority is a Tribunal administered by the Department for Courts. A District Court Judge and one or two appointed member(s) make up the LLA.

On the day of the hearing all parties wishing to be heard, including objectors, must complete a registration form and give it to the court registrar before the hearing commences.

The LLA chair (Judge) will explain the order of proceedings on the day of the hearing. In most cases the applicant will speak first, giving evidence and calling witnesses in support of the application. Objectors then have a chance to speak to their objections. The Police and DLA inspector will follow either presenting evidence or making submissions. The LLA will give all parties a chance to ask witnesses questions.

All witnesses are sworn in before giving evidence. This is done either with or without the Bible, at the choice of each witness.

The LLA is less formal than a District Court but normal court procedures are observed.

The Resource Management Act and District Plan

The District Plan was introduced in 1994 and was prepared under the Resource Management Act 1991 (RMA). The philosophy of the RMA differs considerably from the former Town and Country Planning Act and new approaches were required. One major difference was the requirement for Councils to control the **effects** of activities or development rather than controlling the **type** of activity.

Most of the public objections the DLA receives relate to taverns being built in residential areas or suburban centres. Most existing retail centres are zoned "suburban centre" under the District Plan. The suburban centre provisions permit uses such as bars and taverns provided that their effects do not exceed the limits stated in the District Plan (for such things as noise and lighting).

The District Plan does not contain parking rules for developments in suburban centres. This was done because it was considered that parking rules could not be applied effectively and effects could be better addressed by the Council taking action outside the District Plan through traffic management and enforcement measures.

Before a liquor licence application can be made each applicant must satisfy the requirements of the District Plan to ensure the type of licensed premises proposed can be established on a site. Sometimes a resource consent application will be needed.

Objections filed against liquor licensing applications nearly always stray off the required criteria and comment on District Plan issues. For example: parking, noise, and comments about the inappropriate location of a tavern.

In *Paihia Lighthouse Tavern LLA Decision 1352/91*, the Authority said, "Objections that do not relate to the grounds specified [above] are not valid objections and in accordance and will not be considered by the Authority". [Abridged].

In other words your objection can only refer to those aspects noted in the section "grounds for objection".

Keeping you informed

Some liquor licence applications attract hundreds of objections and the DLA receives literally thousands of pages of objections. The DLA will acknowledge all objections providing the name and address of the objector is readable.

Objectors naturally want to be kept up-to-date with the progress of an application as they have a personal interest. Occasionally applications take many months to process. Sometimes applicants have to repeat the public notice process to correct application errors. It is rare that objectors who have already filed objections would need to re-file their objections. If you see another public notice in a newspaper please telephone the DLA for advice before sending in another objection.

The DLA regrets it is unable to keep objectors informed of the progress of the application. However, objectors can telephone for an update.

Summary

It is easy to make an objection to a liquor licence application. Write a letter to the Secretary of the Wellington DLA and include the grounds for the objection (see above). Give full details. Ensure the objection is filed within 10 working days of the first public notice appearing in the newspaper.

The LLA will eventually notify you of a date of hearing and will discuss with you whether you wish to appear and speak to your objection.

Most importantly, remember District Plan issues such as parking, noise, and the proposed site of the premises are not grounds for objection.

Further Information

For more information on the objections process or the Sale of Liquor Act 1989 and how it affects you please telephone the Wellington District Licensing Agency, part of the Wellington City Council on 499 4444.