



Liquor Licensing Policy

...reducing alcohol abuse

March 2003

Absolutely

POSITIVELY

ME HEKE KI PŌNEKE
WELLINGTON CITY COUNCIL

Wellington

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CONTENTS

	Page
1.0 Aim of the Policy	2
2.0 Background	3
3.0 Definitions	4
4.0 Roles	5
4.1 District Licensing Agency	5
4.2 Liquor Licensing Authority	5
4.3 Police, Fire Service and Public Health Authorities	5
4.4 Community	6
5.0 Policy Principles	7
6.0 Application of Policy	8
6.1 Assessing Applications for Licences	8
6.1.1 Renewal and Variations	10
6.1.2 Use of Information	11
6.2 Limits on Hours of Operation	11
6.2.1 Central Area (On-licence)	12
6.2.2 Suburbs and Rural Areas (On-licence)	13
6.2.3 Central Area (Off-licence)	14
6.2.4 Suburbs and Rural Areas (Off-licence)	15
6.2.5 Club Hours of Operation	15
6.2.6 Extensions to Hours of Operation	15
6.3 Enforcement	18
6.4 Management Performance	19
6.4.1 Managers' Certificates	19
6.4.2 Training	20
6.4.3 Preventing the Promotion of Excessive Drinking	20
6.5 Public Notification	21
6.5.1 Statutory Obligations under the Act for Public Notification	21
6.6 Public Participation	21
6.7 Temporary Authority	22
6.8 Special Licences for Events and Social Gatherings	22
6.9 Promotion and Education of Host Responsibility	25
7.0 Appendix One: Objection Process	27

1. Aim of the Policy



This policy aims to provide a framework for consistent decision-making about the sale of liquor within Wellington City with the intent of reducing alcohol abuse. It is a combination of community expectations about how alcohol is made available to consumers and legislative requirements governing generally accepted norms of behaviour. This policy allows the Council to fine tune the application of the Sale of Liquor Act 1989 through its own activities and those of the Liquor Licensing Authority (LLA).

The objective of the Sale of Liquor Act 1989 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. This policy is designed to assist the Council in meeting its obligations under the Act.

The Sale of Liquor Act 1989 requires the Council to undertake the role of District Licensing Agency. The term "*District Licensing Agency*" (DLA) used in this policy refers to a function of the Council and not a separate body. The term "*Council*" is used to refer to the whole of the Council where other functions (such as noise control or District Plan compliance) may be relevant to the management of the sale and supply of liquor.

The DLA's role is to exercise its jurisdiction, powers, and discretions under the Act in the manner that is most likely to promote the object of this Act. An important part of this is the DLA acting on behalf of the community to represent the particular needs of Wellington City.

2. Background

The DLA's first Liquor Licensing Policy was produced in 1993. It was replaced in 1996 with a policy that remained as an interim document pending public consultation that was deferred until the Sale of Liquor Act 1989 was amended. The Liquor Licensing Policy: reducing alcohol abuse, September 2000 was adopted after the impact of the Sale of Liquor Amendment Act 1999 was considered. Two years later a policy review examined the implications of recent changes to the licensing environment and resulted in the current policy.

While there is no legal requirement for the DLA to have a policy, a specific policy allows for the particular requirements of the City's community to be expressed and assists both the DLA and LLA in making their decisions. In particular the LLA has indicated that clear DLA policies providing direction on local matters will carry more influence within their decision making process.

Finding a balance between the needs of the community and the entertainment and recreation sectors is not always easy. Wellington City is an entertainment destination and the bars, clubs and taverns provide life and vitality to many parts of the City. However, a boundary is crossed when alcohol consumption becomes excessive and alcohol abuse occurs. Where this happens or there is the potential for this to happen the DLA will act to protect the health of the community as required by the Sale of Liquor Act 1989.

The Amendment Act 1999 strengthened the role of DLAs. This policy builds on previous documents to provide a transparent and consistent set of guidelines that will support this increased role for the DLA within Wellington City.

3. Definitions



Central Area

The area defined by the District Plan for Wellington. By default the term “suburbs and rural area” includes all other areas defined by the District Plan (including inner residential, outer residential and suburban centre).

Management

Refers to the day to day running of a venue, location or means of transport. This may involve the licensee, general manager, managers or staff members and may also mean in a collective sense those persons responsible for the day to day running of a venue, location or means of transport.

Secretary of the District Licensing Agency

The title applied to the principal administrative officer of the local authority by the Sale of Liquor Act 1989.

4. Roles

4.1 *District Licensing Agency*

The Sale of Liquor Act 1989 allocates the role of DLA to the Council. This role generally includes administration, monitoring and enforcement, and a degree of decision-making. It includes:

- assessing and determining unopposed applications for liquor licences and Managers' Certificates
- opposing applications where this is warranted
- inspecting and monitoring licences and certificates
- assessing and determining special licences and temporary authorities
- record keeping (including instances of non-compliance and complaints) and maintaining a register of applications.

Each role is delegated to the most appropriate level of competence within the Council structure. Reflected in the above roles is the fact that the DLA is representing the community and is managing the interface between the community and activities involved in the sale and supply of liquor.

4.2 *Liquor Licensing Authority*

The LLA is a decision-making and appeal body. It is a tribunal administered by the Department of Courts consisting of a district judge and one or two appointed members. The LLA's functions include determining:

- opposed applications for on, off and club licences and renewals, and Managers' Certificates
- appeals against DLA decisions
- applications for variation, suspension or cancellation for on, off and club licences and Managers' Certificates from the Police or DLA.

Decisions of the LLA often involve the setting of precedents i.e. provide an example to be followed. The LLA also provides direction on sale and supply of liquor matters, including interpretation of the Sale of Liquor Act 1989.

4.3 *Police, Fire Service and Public Health Authorities*

The DLA administers liquor licensing in partnership with a number of other organisations. Each of these organisations has a particular focus for their input into the licensing process.

Police – concerned about the suitability of applicants, particularly those with criminal records, and premises with histories of anti-social behaviour.

Medical Officer of Health – concerned with the wider impacts on public health associated with alcohol abuse.

Fire Service – assesses renewal applications for the presence of fire evacuation procedures.



4.4 *Community*

The community has specific needs that may relate to location, amenity, community structure or age groups. Public participation in licensing decisions is important as the DLA relies on the community to provide information and local community views on applications. This can be added to the specific information the DLA has about applications and the general information that it has on the liquor industry, infrastructure, historical patterns and precedents to allow it to make robust decisions.

5. Policy Principles

The following principles will be followed in the DLA's administration of liquor licensing:

(i) Meeting the purpose of the Act

The object of the Sale of Liquor Act 1989 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.

Principle: All Council actions will be consistent with the Sale of Liquor Act 1989.

(ii) Transparency

It is considered important that the DLA's position on liquor licensing is clearly outlined in the policy. This will allow the public and applicants to clearly see how applications are evaluated and how (using the assessment criteria) decisions are made.

Principle: All decisions will be made in line with the Sale of Liquor Act 1989 and amendments, this policy and any related procedures.

(iii) Community involvement

The policy describes what opportunities are available for public participation in the DLA's decision-making process. This is partly through consultation on the policy itself but mainly through the public notification and objection process.

Principle: The DLA will endeavour to address community concerns and issues where this is consistent with the purpose of the legislation.

(iv) Fairness

Principle: The DLA will promote a balance between the expectations of the wider community, owners, management and users of licensed premises.

Principle: The application of this policy is not intended to restrict or reduce existing licence conditions, except where explicitly stated.

Note: While the policy will not be applied retrospectively it should be noted that a change in licensee details or monitoring and enforcement action may result in reductions in licence conditions.

(v) Conflict resolution

The sale of liquor is clearly an issue for potential conflict. Parties to this potential conflict include commercial operators, local residents, customers/patrons and social services. All parties have both rights and obligations.

Principle: The DLA will make all reasonable attempts to resolve issues or points of conflict before recourse to legal measures.

6. Application of Policy



6.1 Assessing Applications for Licences

New and renewal applications for liquor licences are processed by the DLA. The DLA undertakes an assessment and seeks comments from the community (through public submissions) and from the Police, Medical Officer of Health and Fire Service.

The assessment is presented in the form of an inspector's report. It looks at the overall suitability of all elements of the proposed activity in relation to its impacts on the community through the sale and supply of liquor. The assessment considers any public comment received as a result of the public notification. If, as a result of the assessment, issues are identified that need to be addressed the DLA will attempt to resolve them through discussions with the applicant. If issues cannot be resolved the application will be opposed.

If the application is unopposed the DLA will approve it with the appropriate conditions or refer it to the DLA committee for further consideration in cases where the conditions sought fall outside the policy guidelines. Where an application is opposed the Council's assessment in the form of an inspector's report (and any attendant files) is forwarded to the LLA who consider the application and make a decision.

Criteria for assessing applications (on, off and club licences)

In considering any new application for a liquor licence, the DLA shall have regard to the:

- nature and location of the proposed activity in terms of its relationship to other activities
- hours of operation of the proposed activity in terms of its relationship to other activities
- the suitability of the applicant
- compliance of the premises and activity with all other relevant legislation (such as the Building Act and Resource Management Act 1991) and bylaws
- matters raised in opposition to the application (by the community, Police, Medical Officer of Health or Fire Service)
- applicant's host responsibility programme
- proposed management regime to deal with on and off-site problems
- persons or types of persons to whom it is intended that liquor be sold
- other matters in respect of the application promoting the responsible consumption of liquor.

Complete applications

All applications must be "complete" before they will be accepted. That is, applications must be accompanied by all relevant information, including showing that the activity meets the requirements of the Resource Management Act 1991, and Wellington City Council District Plan (including having all necessary resource consents) and the Building Code.

Off-licences

The Sale of Liquor Act 1989 allows for supermarkets and grocery stores to sell wine and beer. Host responsibility is still relevant to off-licence premises but will focus more on the sale of alcohol (such as to minors or intoxicated persons). Where on and off-licence type activities are combined two separate licence applications are required.

Club licences

There is a great diversity of club activities and locations. Each application is assessed on its merits with an emphasis on how the sale and consumption of alcohol relates to the club's activities. The sale of liquor must remain secondary to the club's main activities. Where this is not the case the DLA may recommend an on-licence application be made. Experience has shown that some clubs are applying for longer hours than needed for their club activities to cater for other activities such as functions and weddings. These activities should be covered by applications for special licences.

All applications have to comply with the rules of the District Plan. Outdoor functions have the potential to produce a noise nuisance and conditions may be imposed to mitigate this. Conditions will also be imposed (for safety reasons) to control the sale or use of glass containers at outdoor functions, particularly sports events. Applicants may also need to obtain a resource consent or a variation to an existing resource consent which may have conditions that restrict the hours of operation, the nature of the activity or the frequency of events.

Specific criteria for assessing applications for a club licence

For club licences the criteria section on page 8 apply except for the second bullet point. This criteria is replaced with: hours of operation of the proposed activity in terms of its relationship to other activities and their relevance to the club's primary activity. Two additional criteria also apply to club licences:

- size and membership and degree of social activities of the club
- any other conditions (such as lease conditions) relating to land tenure (if located on Council owned or administered land).

Objections to applications (on, off and club licences)

The DLA is unable to determine contested applications under the Sale of Liquor Act 1989. In these cases the LLA will determine whether or not the matter needs to go to a public hearing. When reporting organisations, officers or the public raise objections the DLA sends all the documents 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. Objections to an application for a liquor licence may also be received from the Police, Medical Officer of Health, DLA inspector or Council officers. Refer to Appendix One page 27 for further details.



6.1.1 Renewal and Variations

New licences must be renewed after one year and every three years thereafter. The licence holder may seek variations to licence conditions at any time. When processing renewals and variations the DLA looks at how the operation deals with on and off-site problems, whether the licence conditions have been met and the general approach to achieving the purpose of the Sale of Liquor Act 1989. The past performance of the management of a premises will be a critical part of the assessment. The renewal applications are publicly notified and the DLA can take any public comment (against the criteria set out in the Sale of Liquor Act 1989) into account. It is the responsibility of the licensee to ensure that renewal applications are lodged within the required timeframe.

Criteria for assessing renewal applications and any variations sought (for on, off or club licences)

In considering the above applications the DLA shall have regard to the:

- adequacy and implementation of the premises' host responsibility programme
- evidence of on-site and off-site problems or incidents (including but not limited to sale or supply of liquor to minors and community complaints)
- matters raised in objection to the renewal application (by the community, Police, Medical Officer of Health or Fire Service)
- extent to which current conditions have been met
- suitability of the licensee
- manner in which the licensee has conducted the sale and supply of liquor pursuant to the licence
- matters dealt with in any report made under section 20 of the Sale of Liquor Act 1989
- ongoing scale and nature of the operation
- suitability of the premises for and the effects of any variation to the licence conditions
- general approach of the management of the premises to the control of alcohol abuse and to meeting the requirements of the Sale of Liquor Act 1989
- evidence that the applicant continues to meet the criteria set out in section 6.2.6 of this policy document when the licence being considered for renewal contains extended hours.

Variations to licence conditions

Variations to licence conditions, particularly in relation to hours of operation, will be examined closely by the DLA. Much will depend on the past performance of the management of a premises. Variations are not "as of right".

Where a new owner takes over an established operation they must satisfy the DLA that it is appropriate for any variations to standard conditions (including hours of operation) to remain in place. New owners will generally have to apply for a temporary authority and subsequently make a substantive application.

6.1.2 Use of Information

The DLA will use any information that it has available where this has the potential to assist it to make robust decisions. In assessing applications the DLA will use all appropriate information sources including:

- substantiated public complaints relating to the premises (either directly or indirectly)
- information obtained from the Police, Medical Officer of Health, Fire Service or other organisations deemed appropriate
- independent studies or monitoring commissioned by the Council
- any other information that is deemed relevant to the application.

6.2 Limits on Hours of Operation

It can be argued that problems of alcohol abuse relate more to the management of the premises where consumption is taking place than to the hours of operation. However, the adverse impacts on people's quality of life from activities such as unruly behaviour and noise, that are accepted as being part of the entertainment activities within the City, become comparatively much greater into the late evenings and early mornings. Not only this, but enforcement becomes more difficult and problematic.

Exceptions to standard limits

For these reasons the DLA views the limits specified in the following sections as **maximums** unless exceptional circumstances exist where it can be shown that:

- there are specific, justifiable reasons for extensions to the hours of operation
- an exemplary management regime is operating
- any impacts on community amenity and city safety are prevented from occurring or are satisfactorily managed
- the applicant meets the criteria set out in section 6.2.6 of this policy document, where it is practical to do so.

As every situation is different (e.g. location, management regime, marketing and clientele) there is unlikely to be any relevant precedent on the hours of operation. That one operator has extended hours will have no bearing on whether another operator gains similar conditions. Extensions to the stated hours of operation will only be considered where exceptional circumstances have been established, or on renewal, or as a variation. This is so that the DLA



can be sure that responsible management is occurring (see section 6.1.1), or the risk to responsible management not occurring is assessed as minor.

In cases where the DLA receives a request for a new application to be considered in accordance with this section, the DLA will look for comprehensive documentation and evidence in support of the proposed operation. This is sought because the DLA, in granting a request for extended hours on a new application, is waiving the required probationary period in which management of the premises may be monitored.

6.2.1 Central Area (On-licence)

	<i>Taverns/Bars/Pubs/Restaurants/Cafes</i>
Sunday to Thursday	7am until 3am
Friday and Saturday	7am until 3am
Good Friday, Easter Sunday and Christmas Day	7am until 3am*
Anzac Day	No sale or supply before 1pm. Relevant limits above also apply. *

** For hotels and taverns Good Friday, Easter Sunday and Christmas Day are limited to diners and lodgers only. No casual drinking can occur at anytime on these days (that is, it must finish at midnight of the day before). Prior to 1pm on Anzac Day diners and lodgers only may be served alcohol.*

The central area has a mixed-use approach to the control of activities. Entertainment, office, light industrial and inner city residential uses are all present. In the central area 7am to 3am have become the standard hours of operation for venues and activities selling and supplying alcohol. Changes in the entertainment and alcohol supply markets mean that there is some demand for later hours or 24-hour opening. The DLA will consider applications for increased hours of operation very carefully in the context of the diverse activities within the central area to ensure a responsible management regime is maintained.

Subject to exceptional circumstances being established no *new* licences will be recommended for premises to operate past 3.00am the following day.

Mini bars in hotel rooms and tourist houses in central city areas will be exempt from the above limits where it can be established that accommodation is a principal activity. This recognises that where mini bars are situated in rooms it is unrealistic to prevent consumption outside set hours.

6.2.2 Suburbs and Rural Areas (On-licence)

	<i>Taverns/Bars/Pubs</i>	<i>Restaurant/Cafés</i>
<i>Sunday to Thursday</i>	7am until 11pm	7am until midnight
<i>Friday and Saturday</i>	7am until midnight	7am until 1am
<i>Good Friday, Easter Sunday and Christmas Day</i>	Hours as above*	
<i>Anzac Day</i>	No sale or supply before 1pm. Relevant limits above also apply. **	

* For hotels and taverns Good Friday, Easter Sunday and Christmas Day are limited to diners and lodgers only. No casual drinking can occur at anytime on these days.

** Prior to 1pm on Anzac Day diners and lodgers only may be served alcohol.

In suburban areas the amenity values of the community have a higher priority than in the central area. The presumption is that the predominantly residential areas are where most people sleep and enjoy their leisure time, and more peaceful, quieter surroundings are expected by the community. Therefore a reasonable degree of protection for this amenity should be in place. Adverse impacts include disruption from loud patrons leaving licensed premises, starting cars and noise from venue activities (such as bands). The activities within suburban centres (such as shopping areas) can affect surrounding residential properties. While there are situations where the impacts will be minor this will need to be tested for any new licence or variation to licence conditions.

- Subject to exceptional circumstances being established no new licences will be recommended for premises to operate past the above limits.
- Licensed premises close to residential dwellings (such as on the boundary of suburban centres) may need to have more limited hours of operation.
- Licensed premises within rural areas may need to have more limited hours of operation to reflect the quieter noise environment.

Mini bars in hotel rooms and tourist houses in suburban areas will be exempt from the above limits where it can be established that accommodation is a principal activity. This recognises that where mini bars are situated in rooms it is unrealistic to prevent consumption outside set hours.

Applications for restaurant and café hours of operation

For a venue to operate during the hours listed for restaurants and cafés the primary purpose of the business must be the sale of food. Restaurants and cafés often exist in suburbs (which will usually mean within suburban



centres) and are seen as appropriate for longer hours of operation. In this type of operation the serving of alcohol is secondary to the principle activity. Such operations are generally less likely to adversely effect residential amenities or to support alcohol abuse.

For practical purposes an applicant will need to show that the design and layout of the premises support dining rather than casual drinking.

It should be noted that if monitoring indicates that the nature of the business has shifted away from being a restaurant or café, to focus more heavily on the sale of alcohol rather than food, the DLA will seek to realign the hours of operation of the licence to the general on-licence conditions.

6.2.3 Central Area (Off-licence)

	Bottle Stores	Supermarkets, Grocery Stores
Sunday - Thursday	7am until 11pm	7am until midnight
Friday and Saturday	7am until 11pm	7am until midnight
Good Friday, Easter Sunday and Christmas Day	No sale or supply (including deliveries)	
Anzac Day	No sale or supply (including deliveries) before 1pm.	

The fundamental difference between off-licence premises and on or club licence premises is that there is no ability to control the consumption of alcohol that is purchased. While it is recognised that there is a large element of personal choice in how this consumption should occur, limits on the hours of operation for off-licence premises assist with constraining access to alcohol where that access will lead to alcohol abuse and unsafe public environments. For example, a tavern might close and patrons continue to drink alcohol purchased from off-licence premises. This may be a particular problem where this involves the sale of alcohol in glass containers, which may be consumed in public areas.

- Subject to exceptional circumstances being established, no new licenses will be recommended for premises to operate past the above limits.
- Catering businesses are exempt from the limits set out in this section. This is because they are licensed to allow for the delivery of liquor from the premises for consumption on other premises for the purpose of persons attending any reception, function or other social gathering.

- The trading hours for across the bar sales of alcohol for off-site consumption will be aligned with the on-site trading hours when a premises has both on and off-licences.

6.2.4 Suburbs and Rural Areas (Off-licence)

	Bottle Stores	Supermarkets, Grocery Stores
Sunday - Thursday	7am until 11pm	7am until midnight
Friday and Saturday	7am until 11pm	7am until midnight
Good Friday, Easter Sunday and Christmas Day	No sale or supply (including deliveries)	
Anzac Day	No sale or supply (including deliveries) before 1pm.	

Refer to the comments for Section 6.2.3 Central Area (Off-licence)

6.2.5 Club Hours of Operation

The hours of operation of a club premises must be in relation to the nature of the club's activities and the sale of liquor must remain secondary to the club's activities.

The hours that can generally be expected for clubs may reflect statements like "x number of hours after the end of the club's main activity". The DLA will require the club to substantiate the number of hours requested.

Hours of operation for clubs in residential areas will be more limited than those in non-residential areas. Only in special circumstances will the hours of operation be allowed to exceed the limits identified in this policy (refer to section 6.2.1 - 6.2.4).

6.2.6 Extensions to Hours of Operation

To protect the desirability of residential areas and to promote city safety the DLA must look carefully at applications that wish to extend the hours of operation for venues or activities.



On-licence

Extensions to hours of operation past those described in sections 6.2.1, 6.2.2, and 6.2.5 will only be considered where the:

- operation has been, and continues to be, conducted in full compliance with the licence conditions and the Sale of Liquor Act 1989 and relevant aspects of this policy
- problems associated with any occurrence of substantiated noise complaints received by Council have been resolved
- possible adverse impacts on other activities (including residential uses) are mitigated because of location or technical solutions
- DLA receives no substantiated objections, at the time of application, to the licence or to any variation
- management has proven to be exemplary, including responding to any DLA requests and concerns promptly
- management of the premises has, as far as is practical, proved to be fully responsible for the behaviour of patrons arriving and leaving the premises
- premises has operated the hours sought under special licence for a period not less than six months
- applicant provides the DLA with justification for the extended hours of operation that are sought, for example, to target a particular market segment, reinforce the “speciality” nature of the venue or support a particular marketing approach
- policies, procedures and implementation strategies that apply to the premises are high quality, dealing with matters such as, but not restricted to, vetting procedures, intoxicated persons and minors, security, storage, electronic prompts and monitoring, training, signage, host responsibility, staff accountability
- applicant provides details on the additional door/security staff and/or surveillance equipment that will be provided outside standard hours
- safety audit of the premises internal and external environment has been completed to identify and mitigate risks. The audit covers matters such as, but not restricted to, internal and external lighting, host responsibility policy, the proximity to alternative forms of transport, slips, trips, falls, excessive noise and overcrowding. For a safety audit template, contact the Wellington DLA on 499 4444.

Off-licence

Extensions past the standard hours of operation described in 6.2.3 and 6.2.4 will only be considered where the:

- operation has been, and continues to be, conducted in full compliance with the licence conditions and the Sale of Liquor Act 1989 and relevant aspects of this policy
- problems associated with any occurrence of substantiated noise complaints received by Council have been resolved
- possible adverse impacts on other activities (including residential uses) are mitigated because of location or technical solutions

- DLA receives no substantiated objections, at the time of application, to the licence or to any variation
- management has proven to be exemplary, including responding to any DLA requests and concerns promptly
- management of the premises has, as far as is practical, proved to be fully responsible for the behaviour of patrons arriving and leaving the premises
- premises has operated for a period of not less than six months
- applicant provides the DLA with justification for the extended hours of operation that are sought, for example, to target a particular market segment, reinforce the "speciality" nature of the venue, or support a particular marketing approach
- policies, procedures and implementation strategies that apply to the premises are of a high quality, dealing with matters such as, but not restricted to, vetting procedures, intoxicated persons and minors, security, storage, electronic prompts/monitoring, training, signage, host responsibility, staff accountability
- applicant provides details on the additional door/security staff and/or surveillance equipment that will be provided outside standard hours
- safety audit of the premises internal and external environment has been completed to identify and mitigate risks and covers matters such as, but not restricted to, internal and external lighting, host responsibility policy, the proximity to alternative forms of transport, slips, trips, falls and excessive noise. (For a safety audit template contact the Wellington DLA on 499 4444).
- applicant demonstrates that liquor sales after midnight will be undertaken by managers or experienced trained staff.

A premises which wishes to operate on a late night basis needs to satisfy the DLA that it has the appropriate management measures in place to avoid problems with intoxication and unruly behaviour. This includes the responsibility for behaviour of patrons arriving and leaving the premises where experience has shown that the management of premises can have a significant influence over these situations. Monitoring and enforcement experience since 1989 has shown that some premises which remain open beyond 3am encounter problems with a troublesome element in the clientele which seems to be attracted to these premises when others are closed. Other venues do not encounter significant problems and while this may reflect the specific clientele it is also a reflection on the management regimes. Specific licence conditions may be imposed on operators that gain extended hours of operation.

It is the DLA's position that the extension of hours past standard limits is not an automatic right but is a privilege reserved for responsible operators. In this sense extensions to hours of operation are earned by implementing and maintaining responsible management practices. See also section 6.1.1 "Renewals and Variations".



Where a venue that has extended hours of operation fails to meet the above criteria on an ongoing basis, the extended hours of operation may be opposed at the time of licence renewal and reduced to the limits described in sections 6.2.1 – 6.2.5. If the non-compliance is significant, enforcement action may be taken prior to any renewal date.

With the exception of the central city area where 24-hour licences are possible, all unopposed applications for a substantive licence for extended hours of operation past the times below will be referred to the DLA committee rather than being determined by DLA officers on delegated authority.

On-licence

	<i>Central Area</i>	<i>Suburbs and Rural</i>
<i>Sunday to Thursday</i>	24-hours	Midnight
<i>Friday and Saturday</i>	24-hours	3am
<i>Good Friday, Easter Sunday and Christmas Day</i>	As per section 6.2.1, 6.2.2, and 6.25	
<i>Anzac Day</i>	As per section 6.2.1, 6.2.2, and 6.25.	

Off-licence

	<i>Central Area</i>	<i>Suburbs and Rural</i>
<i>Sunday to Thursday</i>	24-hours	Midnight
<i>Friday and Saturday</i>	24-hours	3am
<i>Good Friday, Easter Sunday and Christmas Day</i>	As per section 6.2.3, 6.2.4	
<i>Anzac Day</i>	As per section 6.2.3, 6.2.4.	

6.3 Enforcement

Enforcement responsibility to ensure compliance with the Sale of Liquor Act 1989 will be undertaken by the DLA inspectors, Police and Public Health officials. These organisations will generally work together.

Where licence conditions are breached or on-going non-compliance with liquor legislation is identified and not addressed DLA inspectors will seek licence variation, suspension or cancellation. Where problems with premises' hours of operation are identified action will be taken by the DLA inspectors to reduce the hours of operation.

All instances of non-compliance will be recorded for reference purposes and will be used in the assessment of renewal applications for certificate and licences, and any variations. Instances of non-compliance and substantiated irresponsible management will not assist applications for changes to conditions and may result in reductions to concessions (such as hours of operation). Likewise where they are associated with operations that are now closed or certificates that have expired the historical information may be taken into account for new applications.

The DLA will address its enforcement responsibilities by:

- inspecting licensed premises while the premises are open for trading
- inspecting taverns and nightclubs 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 or with the Sale of Liquor Act 1989 is observed
- targeting inspection efforts at premises which generate public complaints or police intervention
- randomly inspecting special licences
- routinely monitoring temporary authorities
- undertaking joint monitoring operations with the Police and the Medical Officer of Health.

6.4 Management Performance

The DLA believes that the people with the greatest influence in preventing alcohol abuse are those directly involved with the sale and supply of alcohol. Management training and host responsibility are therefore crucial elements for the control of alcohol abuse. In particular, managers with good understanding of the Sale of Liquor Act 1989 are more likely to be responsible and to operate in accordance with the Act. Police advice is an important aspect of assessing applications.

6.4.1 Managers' Certificates

New and renewal applications for Managers' Certificates are processed and approved by the DLA unless they are opposed. Either the DLA or the Police may oppose applications. The LLA determines opposed applications. There are two types of Managers' Certificates: *general* which allows a person to manage any type of licensed premises and *club* which only allows the holder to manage a club premises.



Criteria for assessing new applications for general Managers' Certificates

Criteria will consider:

- the applicant's character and reputation
- any criminal convictions
- relevant experience, in particular recent experience
- training, in particular recent training.

For the club Manager's Certificate consideration will also be given to the extent of the applicant's involvement in the club's activities. For larger clubs a general Managers' Certificate may be more appropriate.

For renewal applications consideration will be given to the persons performance during the term of the certificate against the above criteria.

Interviews and tests for Managers' Certificates

The DLA may conduct interviews and tests with applicants for Managers' Certificates. This is to assist the DLA in establishing the suitability of the applicant. If an application is opposed, it is sent to the LLA (refer Appendix 1 for outline of the hearing process).

An applicant will be given the opportunity to sit the Manager's Certificate test three times before an inspector considers opposing the application and forwards it to the LLA.

6.4.2 Training

- Applicants for Managers' Certificates should have successfully completed a training course within the last 24 months.
- Applicants for liquor licences should have successfully completed a training course within the last 24 months if they intend to participate in the day to day operation of the business.

The training courses and training providers recognised are those deemed suitable by the DLA.

Transition to prescribed qualifications

At some time after March 2003 general managers will be required to hold qualifications and this requirement will replace the above criteria listed in this section. At the time of writing, no date had been set for the introduction of this qualification.

6.4.3 Preventing the Promotion of Excessive Drinking

The DLA will work with the management of venues to implement the national protocols on prevention of excessive drinking. This will be with the assistance of the organisations who were party to the development of the protocols. For a copy of the protocols contact the DLA on 499 4444.

6.5 Public Notification

6.5.1 Statutory obligations under the Act for public notification

“Public notice means a notice published twice in a newspaper or newspapers nominated for the purpose of any application or other matter under this Act (whether generally or in any particular case) by the Secretary of the District Licensing Agency, being a newspaper or newspapers circulating in the locality to which the act, matter, or thing required to be publicly notified relates or refers, or in which it arises, with an interval of not less than five or more than 10 days between each notification” (Section 2, Sale of Liquor Act 1989).

The Wellington DLA has nominated *The Dominion Post* and the *Contact* as papers suitable for notification.

There is also provision in the Act for on-site notification:

“Within 10 working days after filing the application, the applicant must ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site to which the application relates” (Section 9/5, Sale of Liquor Act 1989).

The DLA requires each applicant to file a signed declaration form confirming this requirement has been fulfilled.

6.6 Public Participation

All new and renewal applications for on, off and club licences, and any application for variations to licence conditions, are publicly notified and the community has the ability to comment or object. The community also has the ability to comment or object in the case of any special licence application where the DLA has required a notice of the application be posted in a conspicuous place on or adjacent to the site to which the application relates.

The criteria for assessing applications (new, renewals and variations) guides the DLA in making its decisions about approving or opposing applications. Any submissions received will be included in this decision-making process (refer Appendix 1 page 27 for an outline of the objection process).

Where community complaints about a venue or activity involving alcohol have been received by the Council these will also be considered in the assessment of applications.



6.7 Temporary Authority

A temporary authority is granted to allow a person to use a licence that is attached to a premises. These are generally needed when an establishment changes hands. They are issued for three months and can only be issued if there is a current licence for the premises. Under section 78(4) of the Sale of Liquor Act 1989 the Police have 20 working days to report on temporary authority applications. The DLA in Wellington have negotiated a reduced turnaround time on these reports, however, this agreement is subject to resource constraints. Therefore applicants are advised to provide the DLA with as much notice as possible of their scheduled opening date.

A temporary authority will be granted where the applicant:

- agrees to operate in accordance with the conditions of the temporary authority
- indicates an appropriate licence application will be made within 15 working days of having the temporary authority granted
- is a suitable person to hold a licence.

Before a second temporary authority can be applied for, a completed licence application must be at the stage of awaiting a decision from the DLA or, if opposed, from the LLA. The time limit of 15 days is designed to encourage operators to make the application for the substantive licence to provide sufficient time for the applicant's own licence to be issued. The experience of the DLA is that without such an incentive being in place applications are not made in time. The options are then to continue to issue temporary authorities (which is unsatisfactory where substantive licences should be in place) or to refuse to issue a licence at which point the venue would not be able to trade.

Where an established operation has extended hours (refer section 6.2) and the person applying for the temporary authority has no history of exemplary management then the extended hours of operation are likely to be removed (as provided for in section 24(3) of the Sale of Liquor Act 1989). The onus will be on the applicant to prove that the retention of the extended hours of operation is appropriate (that is, that they have proven experience in meeting the criteria in section 6.2.6).

6.8 Special Licences for Events and Social Gatherings

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 appropriate. Where an event or social gathering occurs in licensed premises but outside the hours of operation a special licence will be required.

The activity for which a special licence is being sought must be outside the regular activities of an on, off or club licensed premises. Where a series of events or social gatherings is being considered there must be a specific start and end point.

In approving a special licence the DLA will avoid granting arbitrary commercial advantage to the holder of a special licence over the holder of an on-licence. The hours for any special licence will have to be justified in terms of the activities and the times at which they occur.

All applications have to comply with the rules of the District Plan. Outdoor functions have the potential to produce a noise nuisance and conditions may be imposed to mitigate this. Conditions will also be imposed (for safety reasons) to control the sale or use of glass containers at outdoor functions, particularly sports events. Applicants may also need to obtain a resource consent or a variation to an existing resource consent which may have conditions that restrict the hours of operation, the nature of the activity or the frequency of events.

A special licence will not be issued where the extent or regularity of the activity is such that the Sale of Liquor Act 1989 intends an on, off or club licence to be applied for. In relation to extensions for hours of operation, special licences may be issued for trial purposes but not past the point where a variation to licence conditions or licence renewal application should be made.

The hours of operation for a special licence should reflect those described in sections 6.2.1 – 6.2.6.

Criteria for assessing special licence applications

In considering any application for a special licence, the DLA shall have regard to the:

- nature of the particular occasion or event or series of events or social gatherings
- suitability of the applicant
- days on which, and the hours during which, the applicant proposes to sell liquor
- areas of the premises or conveyance, if any, that the applicant proposes should be designated as restricted areas or supervised areas
- steps proposed to be taken by the applicant to ensure that the requirements of this Act in relation to the sale of liquor to prohibited persons are observed
- applicant's proposals relating to host responsibility.



Number of events that can be applied for

Up to twelve events or social gatherings may be applied for on any one special licence application form. Special licences will only be granted for up to twenty-four events or social gatherings per year, unless an increase in number can be justified to the DLA.

Time needed for processing a special licence

Under section 78(4) of the Sale of Liquor Act 1989 the Police have 20 working days to report on a special licence application. The DLA in Wellington has negotiated a reduced turnaround time on these reports, however, this agreement is subject to resource constraints. Applicants are therefore advised to provide the DLA with as much notice as possible of up coming events.

The DLA will refer all applications to the Police and licensing inspectors for reports as required by the Sale of Liquor Act 1989. In normal circumstances at least 10 working days are needed for reporting and approval of the application.

Where an applicant does not allow for the 10 working days the DLA will not generally be able to issue a special licence. Urgent processing of applications that do not allow adequate processing time may be possible if the applicant can justify in writing to the Secretary of the DLA that there are mitigating circumstances why the application should be considered. The Police and the Liquor Licensing inspector must also be able to properly investigate and report on the application.

If there is opposition from the Police or the Liquor Licensing inspector to an application, a pre-hearing meeting (with all interested parties) will be held to try to resolve differences. If no satisfactory agreement has been reached, a hearing of the DLA will take place and will require additional time. Should the application be declined by the DLA, the applicant can appeal this decision to the LLA in accordance with section 37(1) of the Sale of Liquor Act 1989.

The Sale of Liquor Act 1989 has set requirements for public notification. If applicants do not allow enough time for notification and possibly a hearing the application will not be able to be processed in time (Section 76(4), 77(2), Sale of Liquor Act 1989).

Notification of special licences

The DLA has the ability to require site notification of a special licence application if there is a significant public issue that needs to be considered as provided for in section 76(4) of the Sale of Liquor Act 1989 which states:

“Within 10 working days after filing the application, the applicant must, if required to do so by the Secretary, ensure that notice of the application in the prescribed form is attached in a conspicuous place on or adjacent to the site to which the application relates, unless the Secretary agrees that it is impracticable or unreasonable to do so.”

In general, special licences are not publicly notified. This is because they usually relate to one-off events of short duration or are community or social gatherings (such as weddings or fairs). The DLA is mindful of the impacts that such events can have and conditions are imposed to control them.

Public notification may be required where the:

- DLA has received a substantiated complaint against the applicant, or the applicant's operations under previous liquor licences
- opinion of the Secretary of the DLA is that notification is required.

If there is not enough time to undertake the public notification and to hold a hearing if necessary then the application will not be able to be processed in time.

6.9 Promotion and Education of Host Responsibility

The DLA works in partnership with other organisations, such as the LLA, Hospitality Association of New Zealand (HANZ), Medical Officer of Health, Police and Alcohol Advisory Council of New Zealand (ALAC), to educate the community about alcohol abuse and its consequences. A major part of this is encouraging venue owners and managers to promote responsible behaviour to patrons and consumers.

In particular the DLA, as part of the licensing and inspection of premises, will promote the principles of host responsibility and will require a host responsibility programme to be in place before granting licences.

Host responsibility is an integral part of the sale and supply of liquor. Section 14(5)(e) of the Sale of Liquor Act 1989 allows DLAs to impose conditions aimed at promoting the responsible consumption of liquor. All on-licence and club licence Certificates have as a condition that *“the licensee shall have in place and make available to all staff a host responsibility plan detailing the steps to be taken by the licensee to ensure a safe drinking environment”*. Host responsibility therefore, forms an important part of the DLA's assessment of a licence application and of the inspection of licensed premises. The DLA requires licensees to show that a host responsibility programme is in place and is being actively promoted.



The basic elements of a host responsibility programme are:

- serving alcohol responsibly
- providing and actively promoting low and non-alcoholic alternatives
- providing and actively promoting appropriate food
- identifying and responsibly dealing with underage and intoxicated people
- arranging safe transport options
- ensuring that management and staff are trained in host responsibility practices and continue to update their skills
- having an in-house policy on host responsibility and adhering to it.

Further information

To speak to someone directly about the Wellington City Council Liquor Licensing Policy call the Council on 499 4444 and ask for the liquor licensing team.

To find out about the licensing process visit our website and check out the Wellington City Council's Guide to Liquor Licensing www.wcc.govt.nz/consents/liquor_licensing

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.

