



Waitaki District Licensing Agency Sale of Liquor Act Implementation Policy

Effective July 2000

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1. Introduction

The object of the Sale of Liquor Act includes the statement *“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, so far as that can be achieved by legislative means...”* The object of the Act further requires that every District Licensing Agency *“... shall exercise its jurisdiction, powers, and discretions under the Act in the manner that is most likely to promote the object of this Act.”*

The District Licensing Agency therefore has a role to play in the reduction of liquor abuse through its responsibilities and obligations under the Sale of Liquor Act. The Council believes that the key to achieving the aims of the Act is the promotion of responsible attitudes and a mature approach to liquor consumption to both licensees and the public.

The District Licensing Agency carries out its role in conjunction with the other regulatory agencies pursuant to the Act, the Police and the Public Health Service of Healthcare Otago. These agencies operate on a partnership basis.

2. Object and Content of the Policy

The purpose of the Sale of Liquor Policy is to clearly define the Council's attitude to and administration of its responsibilities pursuant to the Act. The policy defines the parameters that guide liquor licensing within the Council area and specifies how the District Licensing Agency will carry out its statutory functions. The policy contains guidelines in respect of the hours of operation of licensed premises in or adjacent to residential areas, criteria for the reporting on and approval of licence applications and renewals, enforcement procedures, communication between the various sectors and strategies to reduce liquor abuse.

3. A “Proactive “ Approach to Liquor Licensing

The Waitaki District regulatory agencies carry out a proactive approach to liquor licensing which includes working with the industry and implementing promotional activities and strategies encouraging compliance with the legislation and the creation of safe drinking environments.

The agencies believe this approach reduces the need for enforcement action at a later date and is more cost effective.

The projects and strategies carried out by the agencies target the industry, the general public and identified groups. The agencies specify the goals and objectives of the projects at the commencement of each financial year.

4. The Public Role in the Licensing Process

The District Licensing Agency and its regulatory partners support public input to the licensing process. Efforts have been made over a number of years to make the general public more aware of the role of the District Licensing Agency (ie, the Council) in this process.

The District Licensing Agency will continue with efforts to ensure that the general public is aware of its role and functions.

Policy

The Waitaki District Licensing Agency will encourage public participation and consultation in liquor issues generally, with a particular emphasis on:

- **Awareness of the District Licensing Agency and its role; and**
- **Awareness of the public responsibility in ensuring a responsible approach to liquor consumption.**

5. Promotion of Healthy Attitudes to Alcohol

The District Licensing Agency recognises that, rightly or wrongly, alcohol is part of the New Zealand social fabric and that the general public and the individual have a responsibility in respect of maintaining a healthy attitude to alcohol consumption. The Sale of Liquor Act provides a legislative basis. However, initiatives from statutory agencies, stakeholder groups such as ALAC and the industry (groups such as HANZ, SCANZ, etc.) also encourage a healthy public and industry attitude to alcohol and the reduction of liquor abuse.

The District Licensing Agency in collaboration with its regulatory partners, the Police and the Public Health Service of Healthcare Otago, will continue to employ strategies promoting a responsible attitude towards the use of alcohol with the public and the industry.

Appropriate strategies will target specific groups from time to time, including:

5.1 Youth

Strategies will encourage moderation and responsibility with alcohol as well as affirming the decisions of those who choose not to drink.

5.1A Parents, etc

Strategies will also target the secondary audience of parents, caregivers and other adults by emphasising responsibility in respect of the supply of alcohol (and the impact of adult role models) to minors.

5.2 The General Public

Strategies will also emphasise moderation, responsibility and respect for other people and their rights. The general public needs to be aware of the requirements of the Act.

5.3 Licensees and their staff

Strategies promoting awareness of licensee and staff responsibilities under the Act will continue. These strategies include the dissemination of information and advice in respect of licensees and licensed premises; and compliance with the legislative requirements.

5.4 Staff of District Licensing Agency and other agencies or organisations involved in the licensing process

In order to carry out their functions and responsibilities in accordance with the Act it is essential for staff of the District Licensing Agency and other agencies or organisations to be aware of and to be up-to-date with the requirements of the Sale of Liquor Act, along with other relevant legislation or regulations.

5.5 Communication

Communication is a key tool in the local licensing process. It is therefore essential that all involved parties communicate regularly, and work towards similar common goals within the bounds of the legislation and their own association requirements and purposes. The District Licensing Agency will work with the local police and the public health service as well as working with other relevant bodies and groups including ALAC, National Police Headquarters, HANZ and SCANZ, etc., in a close and co-operative manner

Policy

The Waitaki District Licensing Agency maintain a communication role with relevant organisations and groups, with a view to increasing public awareness of the need for moderation in alcohol consumption and for a high level of compliance with legislative requirements.

6. Host Responsibility

Host Responsibility is a statutory requirement of the Act. The principles of Host Responsibility include ensuring the availability of a range of food, low and non alcohol drink, serving alcohol with care and responsibility, having responsible approaches to dealing with intoxicated and under age people and providing information about safe transport options. The Liquor Licensing Authority or the District Licensing Agency can impose conditions it considers appropriate to promote the responsible consumption of liquor. For all licence and renewal applications the Waitaki District Licensing Agency requires a written Host Responsibility Policy detailing the premises' approaches to the above matters. A summary of this Policy should be displayed in an area accessible to the public.

Policy

- **All licensed premises are required to have a written operative Host Responsibility Policy, which is to be observed at all times.**
- **A copy of the operative Host Responsibility Policy must be submitted to the District Licensing Agency with all on, off and club licence and renewal applications.**
- **A summary of the Host Responsibility Policy should be displayed in an area accessible to the public.**

7. Alcohol Promotions

The Act states:

“ Every person commits an offence and is liable to a fine not exceeding \$5000 who, being a licensee or manager of licensed premises, does anything in the promotion of the business conducted on the premises or in the promotion of any event or activity held or conducted on the premises that is intended or likely to encourage persons on the licensed premises to consume alcohol to an excessive extent.”

A “National Protocol on Alcohol Promotions” has been distributed to all regulatory agencies and licencees to assist in providing some nationally consistent guidelines. These guidelines have been prepared by the national industry and regulatory agencies with input from all relevant groups.

Policy

- **The regulatory agencies in Waitaki District endorse the National Protocol on Alcohol Promotions and request all licensees that promotions or activities be in accordance with the protocol.**
- **Where the agencies consider that an activity or promotion infringes the Act the enforcement procedures as detailed in section 17.2 of the Policy will apply.**

8. Evidence of Age Documents

Recognised documents as evidence of age pursuant to the Act are a passport, NZ photo driver's licence and a HANZ 18+ card. Any other form of photo ID may not be a reasonable defence pursuant to the Act. The regulatory agencies strongly recommend that all premises accept only a passport, NZ photo driver's licence or HANZ 18+ card for age verification.

Policy

That all licensees are encouraged to require evidence of age documents (passport, NZ photo driver's licence or HANZ 18+ card) for age verification purposes. The agencies will take practicable steps to actively encourage the use of evidence of age documents.

9. Liquor in Containers other than Glass after 10.00pm

Because of concerns about the danger caused by discarded glass bottles in public places the DLA believes that a reduction in the sale of liquor in glass containers from off licences after 10.00pm would reduce the amount of this type of litter.

Accordingly, all off licensed premises in the Waitaki District are encouraged, where practicable, to sell liquor after 10.00pm packaged only in non-glass containers.

The purpose of this policy is to reduce the amount of glass discarded at night. Where bottled liquor is being sought after 10.00pm for other reasons, management discretion should apply.

Policy

That all off licensed premises are encouraged, where practicable, to sell liquor after 10.00 pm packaged only in non-glass containers.

10. Wineries

Wineries wishing to sell liquor to members of the public need to obtain either on or off licences in accordance with the Act.

The District Licensing Agency recognises that wineries could also be a partner in any activities or initiatives with the objective of reducing liquor abuse. It is important that wineries maintain a responsible public role, particularly in the promotion of their products.

The regulatory agencies will therefore endeavour to work with wineries as partners in promotions and strategies targeting the responsible use of liquor.

Winery representatives should be aware of and encourage compliance with the guidelines set down in the National Protocol on Alcohol Promotions.

Policy

- **The District Licensing Agency will encourage wineries operating in the Waitaki District to carry out all promotions or sponsorship activities with the aim of contributing to the reduction of liquor abuse.**

11. The Licensing Process

Functions of the District Licensing Agency (DLA) and the Liquor Licensing Authority (LLA)

Pursuant to the Act the functions of the District Licensing Agency (Council) and the Liquor Licensing Authority are as follows:

11.1 District Licensing Agency:

- Determining unopposed applications for on, off and club licences, and managers' certificates and renewals
- Determining temporary authority applications (on /off licences)
- Varying conditions of on, off and club licences (if conditions imposed by DLA)
- Determining caterers & auctioneers' off licence applications
- Determining applications for special licences
- Appointing Licensing Inspectors

11.2 Functions of the Licensing Inspector include:

- Reporting on all applications for licences and manager's certificates and renewals to the DLA or the LLA
- Monitoring licensed premises' compliance within the requirements of the Act and reporting to the DLA or the LLA
- Power of entry to any licensed premises at any reasonable time (the inspector must carry a warrant of appointment)
- Ability to require to see a licence or any records reasonably required to establish compliance with the Act
- Ability to apply to the Liquor Licensing Authority for a variation, suspension or cancellation of a licence

11.3 Liquor Licensing Authority:

- Determining opposed applications for on, off and club licences and renewals, and manager's certificates referred to it by District Licensing Agencies (DLAs)
- Determining appeals arising from decisions of DLAs
- Giving direction on sale of liquor matters to DLAs
- Determining applications for variation, suspension or cancellation of on, off or club licences and manager's certificates from the Police or a Licensing Inspector.

- Considering the suspension or cancellation of licences in respect of certain offences (relating to sale and supply of liquor to minors, unauthorised sale or supply, sale or supply to intoxicated persons or allowing persons to become intoxicated) referred to the Authority by the Police.

11.4 The Licensing Process of the District Licensing Agency

Full details on the application process and information required with licence applications are available from the District Licensing Agency at the District Council. This information includes the specific details to be supplied with a licence application and explains the issues that a licence applicant must address. Applicants should be familiar with the Sale of Liquor Act and the relevant required information.

The District Licensing Agency is responsible for the functions detailed above. This section of the policy details how the District Licensing Agency will carry out those functions in a transparent and accountable manner. Where appropriate some powers and duties of the District Licensing Agency have been delegated to staff in accordance with section 104 of the Act.

11.5 The Political Function

The District Licensing Agency will operate in accordance with this policy as adopted by the Waitaki District Council. The District Licensing Agency Committee (Hearings Committee) will meet on an “as required” basis. This Committee operates within the overall Council policy and is delegated to consider opposed special licence or temporary authority applications or other applications that fall outside the parameters of the policy.

11.6 The District Licensing Agency Function and Structure

The District Licensing Agency activities are carried out within the Regulatory Services Business Unit.

There is a distinct separation of the inspectorial and administrative roles with regular communication between the staff responsible for the particular activities.

11.7 The Administrative Role

The administrative role is the responsibility of the Regulatory Services Administration Officer and includes receiving all liquor licence and certificate applications, checking for completeness and accuracy and referring applications to the Licensing Inspector, the Police and the Medical Officer of Health for consideration. All reports and any objections raised are collated and checked to ensure that all aspects of the reporting and application process have been followed.

11.8 The Inspectorial Role

The Council's Environmental Health Officers are appointed as Licensing Inspectors pursuant to the Act. The inspectors report on all applications for licences, manager's certificates and renewals. The Environmental Health Officers are also responsible for the monitoring and enforcement requirements of the legislation in conjunction with the other regulatory agencies.

11.9 The DLA Secretarial Role

Under section 102 of the Act the principal administration officer of the local authority shall be the Secretary of the District Licensing Agency. The duties of the Secretary are carried out under delegated authority by the Regulatory Services Business Unit Manager. All complete applications are forwarded to the Regulatory Services Administration Officer. The applications are checked for compliance with the legislation and Council policy. If there are no objections or matters in opposition and the application complies with the legislation and Council policy, a licence is issued. If the application does not comply with the policy, it is referred to the DLA Committee for consideration. The Regulatory Services Business Unit Manager is responsible for the co-ordination of the licensing activities and for ensuring that relevant applications are submitted to the DLA Committee, or the Liquor Licensing Authority, as appropriate.

All opposed applications (ie, where an objection has been lodged by a member of the public) and applications to which the Licensing Inspector, the Police or the Medical Officer of Health has raised a matter in opposition are referred to the Liquor Licensing Authority for processing.

11.10 District Licensing Agency Roles in the Licensing Process

Council

- Formulate the DLA policy and structure to process and determine licences and certificates

DLA Committee

Meetings as required to deal with opposed special licence or temporary authority applications, and unopposed applications that are outside Council's policy

DLA Secretary

- Role delegated to the Regulatory Services Business Unit Manager
- Responsible for administration of and compliance with the Sale of Liquor Policy
- Check all applications for compliance with legislation/LLA guidelines and Council policy
- Delegated authority to issue licences that comply with legislation, LLA guidelines and the DLA policy
- Applications referred to the DLA Committee or to the Liquor Licensing Authority
- Objections/Matters in opposition referred to the Liquor Licensing Authority
- Provide a monthly status report to the Chief Executive of all applications considered under delegated authority and their outcomes

Licensing Inspector

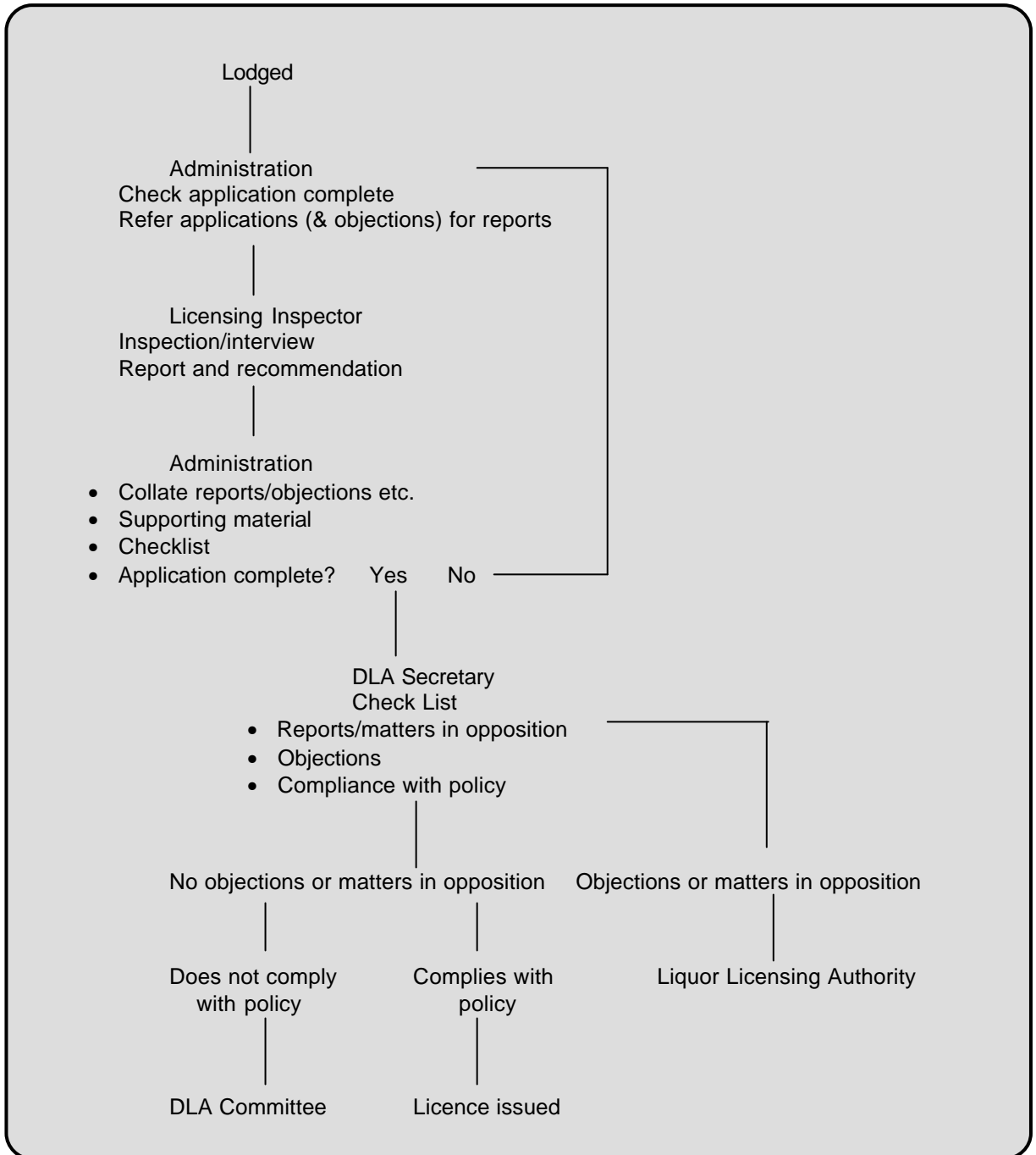
- Responsibility of Environmental Health Officers
- Environmental Health Officers warranted as Licensing Inspectors
- Inspect and interview sites/applicants in respect of all licence applications
- Report on all applications
- Appear before the DLA Committee and the LLA as required
- Enforcement issues, monitoring and compliance

Regulatory Services Administration Officer

- Receive applications
- Check for completeness and supporting documentation
- Obtains reports from Inspector and regulatory agencies

11.11 Flow Chart - The DLA Role in the Licence Application Process

This flow chart illustrates the various stages of a liquor licence application.



12. On Licence Criteria

12.1 Hours of Operation in or adjacent to a Residential Area

The hours of operation are set by the Liquor Licensing Authority or the District Licensing Agency after consideration of the reports from the Licensing Inspector, the Police and the Medical Officer of Health and any objections. An application for an on licence must comply with the Resource Management Act before it is lodged, however sometimes additional restrictions in respect of hours of operation are required. This usually relates to the proximity of licensed premises to a residential area and the nuisance potential which may arise from activities related to the premises. In such instances restrictions may be imposed. Factors in this may be public concern (ie, objections) or concern from officers (Police, Licensing Inspector, etc).

Two examples of such premises are :

Northside Seven and Stanleys Hotel (Macraes).

These premises comply with the Resource Management Act, but because of their proximity to a residential area have constraints on the hours of operation.

Policy

That in general there be a restriction on the operation of on licence premises in or adjacent to residential areas, as follows:

Sunday to Friday 9.00 am - 11.00 pm.

Saturday 9.00 am - 12.00 midnight

These hours are intended as a guideline only and may be modified by the District Licensing Agency, taking each individual situation into consideration.

12.2 Non Residential Areas

Waitaki District currently does not have any 24 hour licensed premises, however there are a number of premises that have a closing time of 3.00am in non residential areas of the District. While problems may be encountered with all types of licensed premises from time to time, generally problems experienced relate more to the management of the premises rather than to the hours they are licensed to operate.

Managers of premises operating on a late basis need to ensure that they can adequately provide supervision so that problems often associated with a late night licensed premises do not occur or are kept to an absolute minimum. Where problems are encountered with the operation of late licensed premises, or indeed any premises, the Licensing Inspector, Police or Medical Officer of

Health may request the District Licensing Agency or Liquor Licensing Authority to reduce the licensed hours or take other enforcement action.

Policy

The Waitaki District Licensing Agency will not impose any general restrictions on the hours of operation in non residential areas but will consider each application on its merits taking into consideration any issues raised in the reports submitted by the Licensing Inspector, the Police or the Medical Officer of Health.

Note:

“Residential” and “non residential” referred to above are not definitions from the District Plan. For the purpose of this Policy a residential area can be “an area where in the opinion of the Licensing Inspector, the Police or the Medical Officer of Health the establishment or operation of licensed premises may have an adverse impact on residential habitat”.

For example: licensed premises may be located in a non residential area, however the effect of traffic travelling to and from the premises through an adjacent residential area could have a detrimental effect on that adjacent residential area.

12.3 Reporting Criteria for Licensing Inspector

The Licensing Inspector’s report in respect of an on licence application will take into account the following:

- The nature of the operation
- The suitability of the applicant
- The hours of operation and the proposed activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- The applicant’s Host Responsibility Policy (includes food, non/low alcohol drink & transport)
- The persons or types of person to whom liquor may be sold pursuant to the licence
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the licence should be granted and any special conditions/circumstances

Note:

The Licensing Inspector should have copies of any public objections or matters raised in opposition by the Police or the Medical Officer of Health before making a recommendation to the District Licensing Agency or the Liquor Licensing Authority.

12.4 On Licence Renewals

All on licences are required to be renewed after an initial 12 month period and then every three years thereafter. The District Licensing Agency will send a reminder notice that their licence is due for renewal to all licensees. It is however the responsibility of the licensee to ensure that the renewal application is lodged on time.

12.5 On Licence Renewal Criteria

The criteria for which the District Licensing Agency will consider an application for renewal of an on licence includes all relevant matters raised by the Police, the Medical Officer of Health or in the Licensing Inspector's report.

Matters considered will include, but not be restricted to, the following:

- Outcomes review of the premises
- Evidence of the sale or supply of liquor to minors, intoxication, behavioural problems, motor vehicle accidents, violence or any other anti-social acts or consequences in which the management of the premises is a factor
- The adequacy and implementation of the premises' Host Responsibility Policy
- Any adverse environmental impact
- Any objections/concerns lodged through the public process or raised by any affected parties
- The approach of the management of the premises to the Act and its requirements
- Promotion of the premises and control of liquor abuse. Is the management philosophy in keeping with the spirit of the Act?

In undertaking the outcomes review of each premises, the District Licensing Agency and / or its inspector may take into account the following:

- Information obtained from any public complaint relating to the premises directly or indirectly
- Information obtained from the Police, the Medical Officer of Health, the Fire Service or any other body considered appropriate by the Inspector or the District Licensing Agency
- Information obtained from any independent study or monitoring commissioned by or undertaken on behalf of the District Licensing Agency
- Any other information/source that the District Licensing Agency deems appropriate
- The suitability of the premises and effects of any variation to the conditions sought by the applicant

- In addition to the above criteria the Licensing Inspector may also take into account the required reporting criteria for on licence applications

13 Off Licence Criteria

13.1 Hours of Operation in or Adjacent to a Residential Area

The hours of operation are set by the Liquor Licensing Authority or the District Licensing Agency after consideration of the reports from the Licensing Inspector and Police and any objections. An application for an off licence must comply with the Resource Management Act before it is lodged, however sometimes additional restrictions in respect of hours of operation are required. This usually relates to the proximity of licensed premises to a residential area and the nuisance potential which may arise from activities related to the premises. In such instances restrictions may be imposed. Factors in this may be public concern (ie objections) or concern from the Police, Licensing Inspector etc.

The District Licensing Agency notes that there is a difference between “*stand alone*” off licences (i.e. a retail liquor shop) and those associated with a hotel or tavern or a chartered club. While the Resource Management Act will ultimately determine whether an application for a stand alone off licence in or adjacent to a residential area may be lodged, it is possible that the District Licensing Agency may require more restricted hours than those contained in this policy.

Policy

That in general there be a restriction on the operation of off licence premises in or adjacent to residential areas as follows:

Sunday to Friday: 9.00 am - 11.00 pm.

Saturday: 9.00 am 12.00 midnight

These hours are intended as a guide only and may be modified by the District Licensing Agency, taking each individual situation into consideration.

13.2 Non Residential Areas

The Waitaki District currently does not have any 24 hour licensed premises. However, there are a number of premises that have a closing time of 3.00am in non residential areas of the district. A number of these premises also have off licences which allow for the sale of takeaway liquor from a bottle store between certain hours (often 9.00am and 11.00pm) and over the bar at other times. There is no restriction in the Act to a stand alone off licence operating similar hours (i.e. up to 24 hours a day). However, as with an on licence, the applicant would need to be able to justify and adequately manage such an undertaking.

Management of premises operating on a late basis need to ensure that they can adequately provide supervision so that problems often associated with late night licensed premises do not occur or are kept to an absolute minimum. Where problems are encountered with the operation of late licensed premises

or indeed any premises, the Licensing Inspector or Police may request the District Licensing Agency or the Liquor Licensing Authority to reduce the licensed hours or to take other enforcement action.

Policy

The Waitaki District Licensing Agency will not impose any general restrictions on the hours of operation in non residential areas but will consider each application on its merits, taking into consideration any issues raised by the reports submitted by the Licensing Inspector or the Police.

Note:

“Residential” and “non residential” referred to above are not definitions from the District Plan. For the purpose of this policy a residential area can be “an area where in the opinion of the Licensing Inspector, the Police or the Medical Officer of Health the establishment or operation of licensed premises may have an adverse impact on residential habitat”.

For example, licensed premises may be located in a non residential area. However, the effect of traffic travelling to and from the premises through an adjacent residential area could have a detrimental effect on that adjacent residential area.

13.3 Reporting Criteria for Licensing Inspector

The Licensing Inspector’s report in respect of an off licence application will take into account the following:

- The nature of the operation
- The suitability of the applicant
- The hours of operation and the proposed activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the licence should be granted and any special conditions/circumstances

Note:

The Licensing Inspector should have copies of any public objections or matters raised in opposition by the Police before making a recommendation to the District Licensing Agency or the Liquor Licensing Authority.

13.4 Off Licence Renewals

All off licences are required to be renewed after an initial 12-month period and then every three years thereafter. The District Licensing Agency will send to all licensees a reminder notice that their licence is due for renewal. It is, however, the responsibility of the licensee to ensure that the renewal application is lodged on time.

13.5 Off Licence Renewal Criteria

The criteria for which the District Licensing Agency will consider an application for renewal of an off licence include all relevant matters raised by the Police or in the Licensing Inspector's Report.

Matters considered will include, but not be restricted to, the following:

- Outcomes review of the premises
- Evidence of the sale or supply of liquor to minors or intoxicated persons, or any other consequences in which the management of the premises is a factor
- The adequacy and implementation of the premises' Host Responsibility Policy
- Any adverse environmental impact
- Any objections/concerns lodged through the public process or raised by any affected parties
- The approach of the management of the premises to the Act and its requirements
- Promotion of the premises and control of liquor abuse. Is the management philosophy in keeping with the spirit of the Sale of Liquor Act?

In undertaking the outcomes review of premises, the District Licensing Agency and / or its inspector may take into account the following:

- Information obtained from any public complaint relating to the premises directly or indirectly
- Information obtained from the Police, the Medical Officer of Health, the Fire Service or any other body considered appropriate by the Inspector or District Licensing Agency
- Information obtained from any independent study or monitoring commissioned by or undertaken on behalf of the District Licensing Agency
- Any other information/source that the District Licensing Agency deems appropriate
- The suitability of the premises and effects of any variation to the conditions sought by the applicant
- In addition to the above criteria the Licensing Inspector may also take into account the required reporting criteria for off licence applications

13.6 Supermarkets and Grocery Stores - Off Licences

The Act provides for supermarkets or grocery stores which meet certain criteria to hold an off licence to sell wine and beer. The District Licensing Agency when considering an application from such premises will take into account all criteria listed in the Policy relating to other off licence applications.

13.7 Host Responsibility - Off Licences

Off licensed premises should also have their own Host Responsibility Policy. While it is obvious that the requirements for an off licence are considerably different from that of an on or club licence, the District Licensing Agency believes that an off licence premise should have its own Host Responsibility Policy appropriate to its particular operation. The Host Responsibility Policy for off licence premises should include requirements such as measures to ensure that sales to minors or intoxicated persons do not take place, as well as other measures aimed at reducing alcohol abuse, like the availability and promotion of low alcohol beers, non-alcoholic drinks, and the display of appropriate cautionary measures.

14 Club Licence Criteria

14.1 Hours of Operation

The hours of operation are set by the Liquor Licensing Authority or the District Licensing Agency after consideration of the reports from the Licensing Inspector, the Police, the Medical Officer of Health and any objections. An application for an on licence must comply with the Resource Management Act before it is lodged. Sometimes additional restrictions in respect of the hours of operation are required. This usually relates the nuisance potential which may arise from activities related to the premises in proximity to a residential area. In such instances restrictions may be imposed because of public concern (via objections) or concern from the Police, Licensing Inspector, etc.

This is of particular relevance to club licences, as a significant number of clubs are in or adjacent to residential areas. The sale of liquor must be ancillary to the club's activities, and the licensed hours must also be relevant. Because of the diversity of activities and locations of clubs it is not practical to impose specific restrictions in respect of types of clubs in residential or non-residential areas. Generally though, there are recommended hours, which are the parameters within which most club licences should fall.

Policy

That in general the hours of operation for club licence premises must fall within the following parameters:

Sunday to Friday :	8.00am - 12 midnight
Saturday & Public Holidays:	8.00am - 1.00am the following day

These are not standard hours and the Licensing Inspector or the District Licensing Agency will consider each particular application on its merits. For example a club situated in or adjacent to a residential area may be required to close earlier than the times indicated above.

14.2 Reporting Criteria for Licensing Inspector

The Licensing Inspector's report in respect of a club licence application will take into account the following:

- The nature and activities of the club
- The size, membership and degree of social activities
- The hours of operation and their relevance to the club's prime activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- The club's Host Responsibility Policy (includes food, non/low alcohol drink & transport)

- The persons or types of person to whom liquor may be sold pursuant to the licence
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the licence should be granted and any special conditions/circumstances
- Are the club premises on Council or Reserve property with any special conditions applying?

Note:

The Licensing Inspector should have copies of any public objections or matters raised in opposition by the Police or the Medical Officer of Health in their reports before making a recommendation to the District Licensing Agency or the Liquor Licensing Authority.

14.3 Club Licence Renewal

All club licences are required to be renewed after an initial 12-month period and then every three years thereafter. The District Licensing Agency will send a reminder notice to all licensees that their licence is due for renewal. It is, however, the responsibility of the club to ensure that the renewal application is lodged on time.

14.4 Club Licence Renewal Criteria

The criteria under which the District Licensing Agency will consider an application for renewal of a club licence will include all relevant matters raised by the Police, Medical Officer of Health or in the Licensing Inspectors Report. Matters considered will include, but not be restricted to, the following:

- Outcomes review of the premises
- Evidence of the sale or supply of liquor to minors, intoxication, behavioural problems, motor vehicle accidents, violence or any other anti-social acts or consequences in which the management of the premises is a factor
- The adequacy and implementation of the premises Host Responsibility Policy
- Any adverse environmental impact
- Any objections/concerns lodged through the public process or raised by any affected parties
- The approach of the management of the premises to the Act and its requirements
- Promotion of the premises and control of liquor abuse. Is the management philosophy in keeping with the spirit of the Act?

In undertaking the outcome review of premises, the District Licensing Agency and/or its Inspector may take into account the following:

- Information obtained from any public complaint relating to the premises directly or indirectly
- Information obtained from the Police, the Medical Officer of Health, the Fire Service or any other body considered appropriate by the Inspector or District Licensing Agency
- Information obtained from any independent study or monitoring commissioned by or undertaken on behalf of the District Licensing Agency
- Any other information/source that the District Licensing Agency deems appropriate
- The suitability of the premises and effects of any variation to the conditions sought by the applicant
- In addition to the above criteria the Licensing Inspector may also take into account the required reporting criteria for club licence applications

15. Special Licence Criteria

15.1 What is a Special Licence?

A special licence can be issued pursuant to either Section 73 or 74 of the Act. A special licence issued under Section 73 authorises the holder of the licence to sell and supply liquor on the premises or conveyance described in the licence to anyone attending any occasion or event or series of occasions or events described in the licence.

A special licence issued under Section 74 authorises the holder of an on or club licence to sell and supply liquor for consumption on the premises, at any time when the premises are required to be closed for the sale of liquor, to persons attending social gatherings of any kind specified in the licence.

15.2 “Occasion or Event or a Series of Occasions or Events” and “Social Gatherings”

An occasion or event or series of occasions or events can be for any lawful purpose. A social gathering must involve people sharing a common interest with the principal activity of the function being something other than the consumption of liquor. There is a need to separate an “*occasion or event or series of occasions or events*” and “*social gatherings*” from a regular activity that would be covered by an on, off or club licence.

This Policy endeavours to define the legitimate use of a special licence and the point at which the activity is one for which an on, off or club licence should be sought. This is a general policy only and should be applied in respect of the merits of each particular special licence application.

Policy

- **An occasion or an event can be any identifiable event and should be outside the usual or regular activities of an on, off or club licensed premises.**
- **A series of occasions or events is defined as a series of related events or activities which has specified beginning and end points.**
- **A special licence can be used for any lawful activity that does not fall into the regular activity of any other category of licence specified in the Act.**
- **A special licence will not be issued where, in the opinion of the District Licensing Agency, the extent or regularity of the activity is such that an on, off or club licence is required by the Act.**
- **In all cases the supplier of alcohol to be sold under the special licence must be the applicant.**

15.3 Private Social Gatherings on Licensed Premises

If a private social gathering (e.g. a wedding or birthday party) is being held on licensed premises outside the hours or conditions of the licence and the host of the function is giving the liquor to their guests and paying the licensee for the cost afterwards, the person selling the liquor (i.e. the licence holder) requires a special licence.

Note:

If the host has purchased the liquor from another source, i.e. not the licensed premises where the function is being held, there is no sale of liquor on the premises and therefore no need for a special licence.

15.4 Special Licence Procedure

- All applications for special licences should be submitted at least 10 working days prior to the event. Applications received later than 10 days prior to the event will be accepted and processed only where, in the opinion of the District Licensing Agency Secretary or a delegated officer, it is practicable to do so.
- All applications for special licences will be referred to the Police and Licensing Inspector for reports as required by the Act.
- Where the District Licensing Agency (Secretary or delegated officer) considers it appropriate the Medical Officer of Health may also be consulted and requested to comment on a particular special licence application.
- The Secretary of the District Licensing Agency (or delegated officer) may require public notice of a special licence application.
- Where there are no objections or matters raised in opposition by the Licensing Inspector or Police, the special licence will be granted subject to any conditions imposed by the District Licensing Agency.
- Where there are any objections or the Licensing Inspector or the Police raise any matters in opposition to a special licence application, the applicant will be advised and given a copy of the relevant report.
- The applicant will also have the opportunity to meet with the Licensing Inspector and the Police to resolve any matters in opposition before the application proceeds to a public hearing.

15.5 Reporting Criteria for Licensing Inspector

The Licensing Inspector's report in respect of a special licence application will take into account the following:

- The nature of the event for which the licence is being sought
- The suitability of the applicant

- The hours of operation and the proposed activity
- Compliance of the premises with other relevant legislation
- Matters raised in objection to the application
- Any other matters in respect of the application promoting the responsible consumption of liquor
- The need to recommend whether or not the licence should be granted and any special conditions/circumstances

15.6 Hours for Special Licences

The Waitaki District Licensing Agency does not have a policy imposing general restrictions on the hours of operation for special licence events. However restrictions on hours will be imposed if the District Licensing Agency considers it appropriate in respect of any environmental or other considerations which may require constraints on the hours of operation. Such issues may be raised by the Licensing Inspector, the Police or other relevant affected parties.

15.7 Designation of Areas for Special Licences

The District Licensing Agency may require that a particular area in respect of a special licence be designated either a restricted or supervised area in accordance with the Act. The District Licensing Agency may impose such a designation after consultation or upon recommendation from the Licensing Inspector or the Police.

15.8 Certified Manager in Attendance

The Waitaki District Licensing Agency may require, as a condition of a special licence, that the holder of a general or club manager's certificate be responsible for the sale of liquor under that licence.

15.9 Host Responsibility - Special Licences

While it is obvious that the requirements for a special licence are considerably different from that of an on or club licence, the District Licensing Agency believes that a special licence holder should demonstrate an awareness of Host Responsibility, appropriate to its particular operation. The Host Responsibility requirements for a special licence should include measures to ensure that sales to minors or intoxicated persons do not take place, as well as other measures aimed at reducing alcohol abuse, like the availability and promotion of low alcohol beers, non-alcoholic drinks and the provision of food.

16. Manager's Certificate Criteria

16.1 New Applications

The Act defines the process for considering applications for manager's certificates. Unopposed applications are considered by the District Licensing Agency while applications that are opposed by the Licensing Inspector or the Police are referred to the Liquor Licensing Authority.

The DLA or LLA must have regard to the following matters when considering an application for a manager's certificate:

- The applicant's character and reputation
- Any criminal convictions
- Experience, in particular recent experience, in the control of licensed premises
- Training, in particular recent training that the applicant has undertaken
- Issues raised by the reports from the Inspector and the Police
- For a club manager's certificate the DLA will also consider the applicant's involvement in the club's activities

Applications for manager's certificates are referred to the Licensing Inspector and Police for reports. The Licensing Inspector and the Police will report to the District Licensing Agency on the suitability of the applicant in respect of the above criteria.

Policy

The District Licensing Agency will grant manager's certificates in circumstances where:

- **The Licensing Inspector and Police have reported on the application in accordance with the specified criteria and have raised no matters in opposition.**
- **The applicant has submitted proof of having obtained any prescribed qualifications.**

16.2 Manager's Certificate Renewals

Applications for renewal of manager's certificates are also referred to the Licensing Inspector and the Police for reports. The Licensing Inspector and the Police will consider any matters brought to their attention in respect of the applicant's performance during the term of the certificate in regard to the above criteria. Where there are no matters raised in opposition by the Licensing Inspector or the Police the application will be approved by the

District Licensing Agency. Where any matters are raised in opposition the application will be referred to the Liquor Licensing Authority.

Policy

The District Licensing Agency will renew manager's certificates in circumstances where:

- **The Licensing Inspector and Police have reported on the application in accordance with the specified criteria and have raised no matters in opposition.**
- **The applicant has submitted proof of having obtained any prescribed qualifications.**

16.3 Prescribed Qualifications

- For an individual to hold a general manager's certificate after 1 December 2002 the individual must submit evidence of holding a prescribed qualification.
- All applications for a general manager's certificate lodged after 1 December 2002 must be accompanied by evidence of the applicant holding a prescribed qualification.
- All applications for three yearly renewals of general manager's certificates extending beyond 1 December 2002 must also submit evidence of the applicant holding the prescribed qualification.
- If such evidence is not provided the District Licensing Agency will only renew the general manager's certificate to 30 November 2002.
- A prescribed qualification is a qualification or requirement listed at a particular time in the Sale of Liquor Regulations or advised by the Liquor Licensing Authority.
- For club manager's certificate applications or general manager's certificate applications in the period up to 30 November 2002, the District Licensing Agency will issue certificates only where the applicant is suitably qualified. (*"Suitably qualified" is defined as recent (not older than 3 years) proof of assessment by a training provider approved by the Waitaki District Licensing Agency and who includes within the content of his/her training programme an understanding of the legal responsibilities of duty managers under the Sale of Liquor Act 1989 and its amendments, and a reasonable understanding of the principles and practice of Host Responsibility.*)

17. Enforcement Procedures

The District Licensing Agency is involved in the enforcement of the Act and works closely with its partners (the Police, the Public Health Service and other agencies) as appropriate. The agencies generally pursue a consultative approach to enforcement issues with licensees having an opportunity to address issues of concern before the agencies will refer a matter to the District Court or the Liquor Licensing Authority.

The Sale of Liquor Amendment Act 1999 has lowered the minimum drinking age to 18, introduced an “evidence of age” document and significantly increased penalties for particular infringements which are referred to in section 132A of the Act. These are :

- Sale or supply of liquor to minors
- Sale or supply of liquor to intoxicated persons
- Allowing a person to become intoxicated
- Unauthorised sale or supply

This places a significant responsibility on licensees to comply with the legislation and the regulatory agencies to monitor and enforce it. To be effective the approach of the agencies, which is reflected in this policy, needs to be clear and consistent. The regulatory agencies and the industry should have a clear understanding of their responsibilities and the expectations upon them.

17.1 Enforcement Procedure for “Section 132A “ Category Offences

- Where the regulatory agencies are satisfied that one of the following offences has been committed, they will charge the licensee or manager or other person (not being a licensee or manager) accordingly:
 - Sale or supply of liquor to minors
 - Sale or supply of liquor to intoxicated persons
 - Allowing a person to become intoxicated
 - Unauthorised sale or supply
- If the licensee or manager or other person is prosecuted in the District Court then the Police are obliged to advise the Liquor Licensing Authority under section 132A. The Liquor Licensing Authority must then immediately consider whether to hold a hearing or to adjourn the hearing to allow the licensee to remedy the situation.

17.2 Enforcement Procedure for Other Offences Under the Sale of Liquor Act

Where the regulatory agencies are aware of an enforcement issue with licensed premises the following actions will be taken:

- The licensee will be requested by the District Licensing Agency to meet with representatives of the District Licensing Agency, Police and Public Health Service to discuss any enforcement issues or infringements of the Act. This meeting will identify solutions or action that should be taken in order to rectify the situation.
- The District Licensing Agency will document the meeting, noting any infringements of the Act that may have taken place, noting the issues raised with the licensee and the action that the agencies require in order to remedy the situation.
- Copies of documentation of the meeting and any related correspondence are placed on the licensee's records for future reference.
- Ongoing monitoring of the premises will continue.
- In cases where continual enforcement problems are encountered without satisfactory remedial measures being undertaken by the licensee the District Licensing Agency will take further action under the enforcement provisions of the Act. These include application for a variation, suspension, or cancellation of a licence under Section 132, or the suspension, or cancellation of a manager's certificate under Section 135. In addition the Fire Service and the Medical Officer of Health may request the suspension of a licence for non compliance with fire safety or public health requirements respectively.

17.3 Infringement Notices

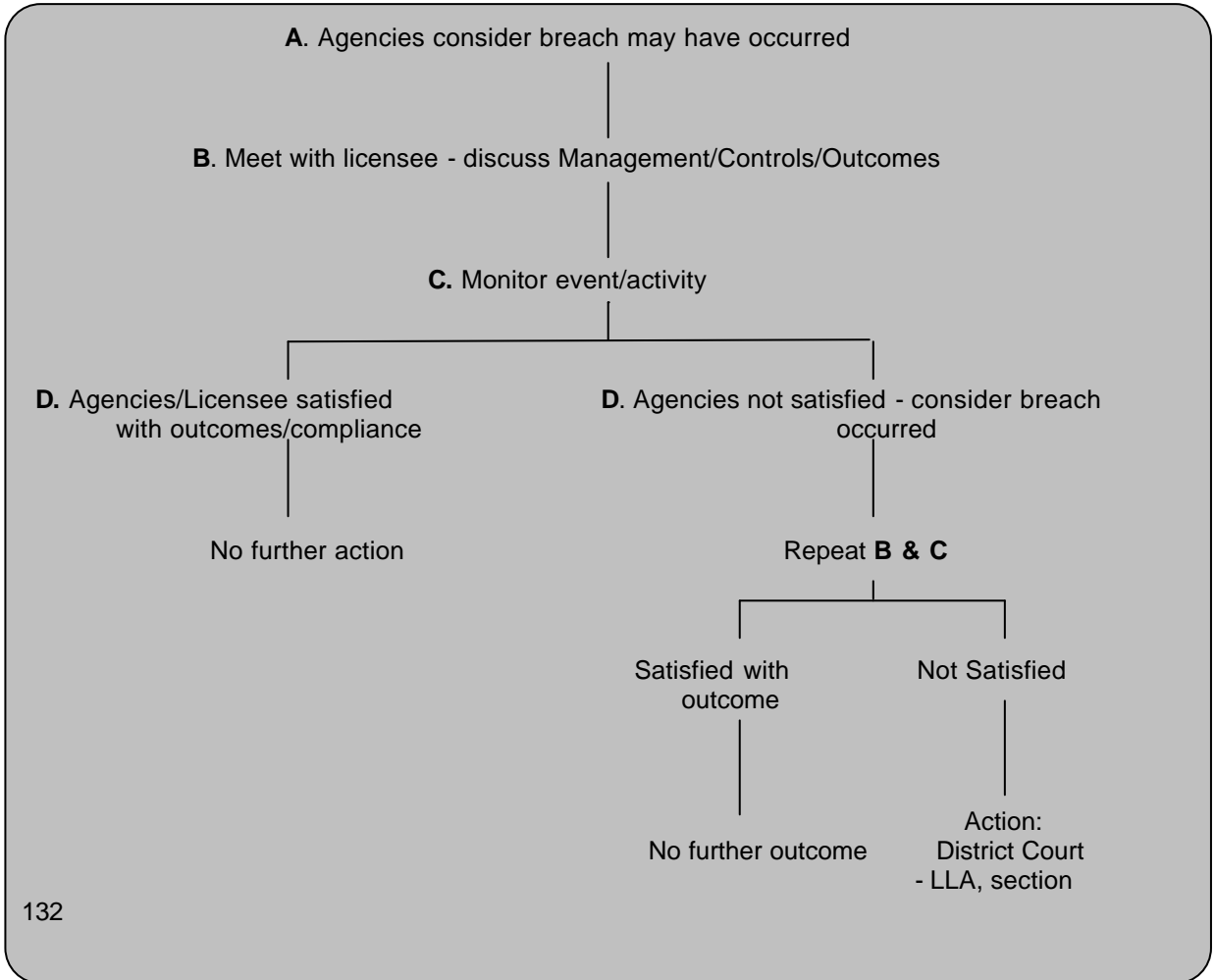
Where the Police have issued infringement notices in respect of minors being on licensed premises illegally or having purchased liquor from licensed premises, the regulatory agencies will give serious consideration to taking enforcement action in accordance with section 17.1 or 17.2 of the policy.

17.4 Anomalies Arising from Interpretation

It is inevitable that from time to time anomalies will become apparent, particularly in respect of the new legislative environment. Where this occurs, the agencies and the industry need to co-operate towards practical common sense solutions, bearing in mind the object of the Act. Where legitimate anomalies arise, the regulatory agencies will endeavour to work towards achieving a satisfactory solution expeditiously.

17.5 Example of the Enforcement Process.

The following is an example of how the enforcement procedures work for infringements or issues other than those specifically mentioned in section 132A.



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18. Further Information

Further information in respect of Liquor Licensing can be obtained from the Waitaki District Council, Oamaru Police or the Public Health Service.