

Liquor Licensing Policy

January 2008

Chatham Islands Council

Introduction

Council has determined that an important part of its overall policy framework is the adoption of a Liquor Licensing Policy (the Policy). In reaching this conclusion Council recognises that to achieve a reduction in alcohol abuse there needs to be a multi dimensional and organisational response. This involves all stakeholders which include licensees, their patrons, the agencies recognised as having statutory reporting responsibilities, government and non-government agencies, owners and occupiers in the vicinity of licensed premises, and businesses, residents and visitors to the Islands generally.

Vision for our Islands

The Chatham Islands Council has a range of responsibilities to the community some of which are based in statute while others are of an advocacy nature. The Council has adopted for the Island a vision of:

‘A sustainable and viable future for our people and our Islands’.

Achieving and maintaining this vision requires a positive response from all stakeholders involved in the sale, supply and consumption of alcohol. The purpose of this Policy is to set out the expectations of Council and the community in respect of meeting the object of the Sale of Liquor Act 1989 (the Act) – that object being

“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 can be achieved by legislative means”.

Co-operation Between the Agencies

There are a significant number of stakeholders involved in matters associated with the sale and supply of liquor. The Act determines that three agencies have a statutory responsibility for reporting on applications, the Police, Public Health, and Council Liquor Licensing Inspector. The Fire Service also has responsibilities. Fundamental to the successful achievement of the object of the Act for the Chatham Islands is that these three agencies work together. It is the desire of all agencies, the District Licensing Agency and Council that this Policy support their individual and collective responsibilities.

Legal Framework

The Sale of Liquor Act 1989 is the legislative base for a number of matters related to alcohol and in particular puts in place the regulatory mechanisms for the processing of applications for licences for premises and certification of managers. There are a number of other pieces of legislation that are relevant including the Local Government Act 2002 and the Resource Management Act 1991.

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It is not a requirement of any of these pieces of legislation that a Council or District Licensing Agency have a defined Liquor Licensing Policy. However, the Liquor Licensing Authority has indicated support for policies to be developed at the local level. In **CG and SM Laidlaw** LLA Decision 986/96 the Liquor Licensing Authority set out the use of such policies:

“Where a general policy is to be established we think it is important that all those concerned – including licensees – be given the opportunity for input prior to any general policy decision being reached ... The committee’s ‘policy’ is not binding on this Authority but we welcome and encourage expressions of opinion from Local Authorities in their capacity as District Licensing Agencies. Such opinion shall receive extra weight from us where a decision follows full consultation (including with local licensees and other interests such as that of the Hospitality Association of New Zealand.)”

One of the crucial elements of this and other decisions of the Liquor Licensing Authority has been the importance of a thorough consultation programme in determining the Council’s policy. Whilst the Liquor Licensing Authority is clear it will not be bound by Council policies, it is evident that it will give greater weight to such policies if they have been subject to a consultation process where all stakeholders have had the opportunity to be involved. This Policy has been subject to such consultation which has included distribution of the draft Policy widely within the industry, public notification through the Community Focus Newsletter, Chatham Islands TV and Public Notice Boards, the opportunity for submissions to be lodged, and a hearing for those submitters who wished to be heard in support of their submissions.

In processing applications under the Sale of Liquor Act this Policy will form part of the guidelines used in assessing applications. Where the Policy includes quantified criteria (eg hours of operation), and an application exceeds these, it is likely that an objection will be lodged by the Council licensing inspectors. However each application will be processed on the facts of the application and therefore the Policy should not be looked upon as rules as such but as guidance. Likewise the decision and conditions for an application should not be considered to be a precedent for subsequent applications.

The Chatham Islands Resource Management Document, prepared under the provisions of the Resource Management Act 1991, also includes a number of provisions of relevance to licensed premises including provisions under specific activity areas which require a resource consent application for licensed premises.

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Policy Instruments

As expressed by the Chatham Islands' community, Council is of the view that, for the object of the Act to be realized, three principal instruments must be developed, implemented and maintained.

These instruments must be viewed as an integrated set of measures that work together. All the instruments need to be implemented to ensure that the desired outcomes are achieved. The instruments are host responsibility, education and communication, and hours of operation.

Host Responsibility

Council believes that fundamental to achieving the object of the Act and the intent of this policy is **excellence in host responsibility**. The requirement for host responsibility is contained within the Act and administered through the application process and ongoing monitoring. Applicants for new and the renewal of on, off and club licences together with special licences are required to submit a host responsibility policy.

Generally excellence will be achieved through:

- ◆ Ensuring that the overall environment of the premises and that of the area outside of the premises is conducive to preventing alcohol abuse;
- ◆ Ensuring that the serving of alcohol is carried out in a responsible manner;
- ◆ Ensuring under age drinking does not occur through insisting that recognised evidence of age documents* are requested by the licensee and all staff. (* The Act states these to be a passport, New Zealand Drivers Licence and a HANZ 18+ card.);
- ◆ Ensuring that patrons do not become intoxicated and where intoxicated persons do present themselves, they are not served further alcohol; Providing staff with the authority necessary to immediately respond to situations involving both under aged drinkers and intoxicated drinkers;
- ◆ Ensuring that the area outside of the establishment is clean and safe and reasonable amenity is maintained through the provision of staff trained through recognised industry courses. It is generally anticipated that the area of responsibility will extend up to 50m from the premises but this will depend on circumstances. Staff are expected to promote good neighbourly habits;
- ◆ Ensuring adherence to the National Protocol on Alcohol Promotions; Providing and promoting readily available non-alcoholic drinks some of which should be free together with the provision and promotion of low-alcoholic drinks;
- ◆ Providing and promoting the availability of appropriate snack food at all times and affordable substantial food when premises are licensed for extended hours;
- ◆ Ensuring that reasonable steps are taken to avoid the spiking of drinks;

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- ◆ Providing information, promoting and assisting patrons to access safe forms of transport; and
- ◆ Providing staff training and ongoing monitoring of staff performance to support all host responsibility policies.

Education and Communication

Education in its widest context is considered to be crucial to the overall achievement of the object of the Act, and of the vision and strategic goals of Council. There are a number of organisations with specific responsibilities for addressing the achievement of a reduction in liquor abuse, including Council in a number of its roles, and in particular the District Licensing Agency.

Education of all involved in the sale, supply and consumption of alcohol is an ongoing and long-term sustainable response with the ability to bring about attitudinal and behavioural change.

Communication between all stakeholders is equally fundamental.

Approaches based on education and communication include:

- ◆ Excellence in host responsibility;
- ◆ Interagency Forums;
- ◆ Training Opportunities;
- ◆ Programmes run by the Chatham Islands Council, the Police or Regional Public Health;
- ◆ Programmes of Government and Non-Government Bodies with relevant responsibilities;

Hours of Operation

One of the tools available for managing liquor abuse and the adverse effects of anti-social behaviour on the environment is to manage the hours of operation for both on and off licences. Council believes that managing hours is consistent with achieving the object of the Act.

It is appropriate to differentiate the hours of operation for on and off licences and for licences in different parts of the Island. Through host responsibility it is possible for the behaviour of those at on licences to be managed, however while it is possible to apply host responsibility at the point of sale of the alcohol from off licensed premises, host responsibility does not extend to the place of consumption. Additionally it is not desirable to provide the opportunity for people leaving on licences in the early morning to purchase further alcohol from off licences. For these reasons the hours for off licences are more restrictive than those for on licences.

An important part of the determination of the hours of operation for a premise is the consideration of activity areas identified in the District Plan for both the site and in the vicinity of the site. Residential land use in particular is more sensitive to factors such as noise and other general amenity values. Generally the hours of operation specified in this Policy are considered to be the maximum allowable.

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While applications for new licences with proposed hours of operation exceeding those specified will be considered against the criteria, generally hours beyond those specified are most likely to be favourably considered where it is possible to assess the current operation – that is be considered at the time of an application for renewal. The demonstration of excellence in host responsibility will be a fundamental part of the assessment.

Those matters that will be taken into account when assessing applications for hours beyond that specified, recognising that some matters may not be relevant in certain circumstances, will include but not be limited to:

- ◆ The demonstration of excellence in host responsibility;
- ◆ Compliance with the Act and this Policy;
- ◆ Compliance with any other relevant legislation including the gaining of any resource consent required under the Resource Management Act;
- ◆ Compliance with any conditions of the licence issued;
- ◆ Assessment of any complaints that have been received;
- ◆ Overall responsibility of management;
- ◆ Existing land uses and those provided for through the Resource Management Document in the immediate vicinity and wider neighbourhood of the applicant's site;
- ◆ Assessment of the grounds and explanations given for the need for hours beyond that specified; and
- ◆ Means by which the applicant proposes to address any matters that may arise from the granting of the application.

Licensed Premises

Licensed Premises means any premise, or any part of any premise, on which liquor may be sold pursuant to a licence; and includes any conveyance, or any part of any conveyance, in which liquor may be sold pursuant to a licence.

Defined Area in relation to a licensed premise is the area inside and outside of the premise in which alcohol is being sold or consumed and the licensee is responsible for. Changes in a defined area that may have been due to the implementation of the Smoke-Free Environments Amendments Act 2003 will be reviewed by the District Licensing Agency upon renewal of the licence or as the District Licensing Agency may consider appropriate.

On Licences

Hotels

11.00am – 2.00am the following day, Monday to Sunday

Restaurants

7.00am – 1.00am the following day, Monday to Sunday

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Off Licences

1. The Act contains specific provisions in respect of Good Friday, Easter Sunday, Christmas Day and ANZAC Day.
2. Where a premise has both an on licence and an off licence, trading hours for the sale of alcohol for off site consumption will be as per the on licence.

Club Licences

In the case of Club Licences, it is inappropriate to specify a general maximum for their hours of operation due to the varying nature of their activities and that they are located in a variety of locations. However, hours of operation are generally expected to be within those detailed for on licences, and the hours should take into account the nature of the principal activity of the club. Applicants will be required to demonstrate the relationship between the clubs' activities and hours of operation, and the hours of operation sought for the liquor licence.

Special Licences

The Act provides for the issuing of Special Licences for occasions or events, be they one-off or in a series. Special Licences should not be viewed as an alternative to other forms of licence provided for by the Act or as a means of extending normal hours beyond those allowed for under a premise licence.

Nor should Special Licences be seen as a means of circumventing the requirements of the Act in respect of Good Friday, Easter Sunday, Christmas Day and ANZAC Day. Generally the hours of operation for Special Licences, where the venue does not have an existing licence should not be beyond those stated above for on licences. Applicants for Special Licences need to provide with their application details on the nature of the occasions or events with supporting documents as appropriate, and where the application involves premises that already have a licence reasons must be provided as to why an extension beyond the hours of that licence are sought.

Achieving excellence in host responsibility and the provision of a host responsibility policy are integral parts of applications for special licences.

Temporary Authorities

A Temporary Authority for the continued use of a premise can be granted in a situation where a premise changes ownership. The Temporary Authority allows the premises to continue to operate on the basis of the current licence and is issued for a period of three months. During this time it will be expected that a new application will be lodged and processed. Generally no more than one Temporary Authority will be granted as the three month period provides

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sufficient time for the new application to be processed providing no unusual circumstances occur.

Liquor Bylaws and Bans

Council will continue to consider alternative means of supporting and achieving the object of the Act and this Policy. One such alternative is the use of the procedures available in the Local Government Act for liquor bylaws and bans.

Gaining and Retaining Licences

The Act provides the processes required for achieving a liquor licence for a premises and for a manager's certificate. These processes are detailed in information available from Council.

An important part of the consideration of applications for the renewal of licences is an assessment of past performance. The relevant agencies who report on applications are monitoring all aspects of performance, and information from this monitoring will be crucial to the assessment of applications for renewal. Licence holders need to be aware that where identified breaches of conditions or situations occur that are contrary to this Policy, these will be taken into account when considering an application for renewal of a licence.

It is likely that where more than one breach occurs without adequate explanation, some form of variation to the licence may be sought. Where an existing licence is for hours of operation which exceed those stated in this Policy, there is no presumption to cut back those hours when the application is made to renew the licence.

The matters detailed above will be considered when evaluating the application and applied to the consideration of the appropriateness of the hours of operation.

Reviewing this Policy

This Policy will be reviewed in a maximum of three years from the formal adoption of the Policy by Council or at such earlier time as the Council determines appropriate.