

Liquor Licence Application Management Policy



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Responsible Manager	Manager City Development
Other key internal stakeholders	Director Community & Cultural Development
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PURPOSE

The purpose of this policy is to highlight Council's commitment to working with all stakeholders to identify and address liquor-related issues and to protect and enhance the City's unique amenity for the benefit of its residents, workers and visitors.

This Policy provides a framework for the exercise of Council's powers pursuant to the *Liquor Licensing Act 1997* including the:

- Consideration of Liquor Licence applications referred to the Council pursuant to the Act
- Assessment of concerns identified by the Council, including complaints made to the Council about particular premises.

POLICY

Overview

Consumer and Business Services and the Licensing Court of South Australia are the authorities responsible for the administration of the Act.

Although the Act does not require the Licensing Authority to obtain Council approval for the granting of, variations to or transfer of a Licence, the Licensing Authority will advise Council of any new or transfer applications under the Act via email and the Liquor and Gambling Online portal. In addition, an applicant may contact Council for advice regarding a current or proposed application.

This policy will be used to guide Council responses to applicants and the Licensing Authority on applications received for Licences, and in assessing a development application relating to a liquor-related land use.

A procedure will be developed and maintained by the CEO in ensuring that this Policy is managed appropriately.

Policy Objectives

Council's overall objective is to have all licensed premises operating in alignment with the requirements of this Liquor Licensing Application Management Policy, and applicable Liquor Licences and Development Authorisations.

Council's role is to, wherever possible, promote safe venues for patrons, and minimise any adverse impacts on local amenity arising from the operation of licenced venues, functions and special events.

Specifically, in adopting this Policy the Council aims to:

- Reduce potential impacts on local amenity caused through the consumption of alcohol by minimising noise, offensive behaviour, disturbance or inconvenience to people who reside, work, play or worship in the vicinity of the licensed premises
- Minimise the prejudice to the safety and welfare of a child dedicated facility, children attending a kindergarten, primary school or secondary school in the vicinity of the licensed premises
- Resolve longstanding issues arising from existing Licence conditions as they relate to hotel precincts within the City of Tea Tree Gully

- Achieve trading hours and Licence conditions that are consistent with the terms of this Policy, while recognising that this may not always be achievable given the provisions of the Act
- Effectively balance the needs of the business operators against the needs of the general community.

To achieve these objectives, Council may pursue one or more the following courses of action:

- Ensure that all forms of Liquor Licence applications are assessed against the framework established by this Policy
- Exercise its right to make a submission under the Act, whenever warranted
- Exercise its right of complaint under the Act, if noise emanating from a licensed premises is unduly offensive, annoying or disturbing or inconvenient to a person who resides, works, plays or worships in the vicinity of the licensed premises
- Provide information to the community, which encourages the responsible service and consumption of alcohol
- Act as an advisory body to persons seeking advice or clarification on licensing and planning related issues as they relate to Council
- Identify issues and problems relating to the operation or scope of this Policy and revise this Policy as appropriate.

Consideration of Licence Applications

The Council will carefully review and consider all applications that are notified by the Licencing Authority or an applicant pursuant to the Act. In doing so, the following procedures will be undertaken:

- Assess the application against the specific criteria contained within the Policy
- Advise Elected Members of Council (via email) of the application.

If:

- There are elements of the application which are inconsistent with this Policy
- The Council considers it can provide information or assistance to the Licensing Authority in relation to the application
- The Council has any cause for concern in relation to the application.

Then the Council will make a submission to the Licensing Authority for the matter to be listed for conciliation in the first instance.

The Act does not permit Council raise matters that should be dealt with under the law relating to planning or the carrying out of building work. Where a licenced premises has a development authorisation, Council is unable to make a submission or object to licencing matters relating to the approval. For example, Council does not have the ability to request a restriction of hours on the licence where a development authorisation does not restrict operating hours at the premises.

Criteria

The following criteria, amongst others not specified that may also be relevant, should be considered:

- Proximity of the premises to residential and other sensitive land uses
- Number and nature of complaints lodged with Council and SAPOL in relation to the licenced premises
- Number of car parking spaces provided on site, and potential impacts to surrounding streets and properties arising from on-street car parking

- Location and operation of outdoor areas, including dining areas
- Hours of operation approved under the *Development Act 1993* or *Planning, Development and Infrastructure Act 2016*.
- The extent to which the premises have been designed to minimise the impacts of its activities on adjacent residential properties; i.e.: noise attenuation measures, buffers, etc.
- Level of security to be adopted by the licensed premises (internal and external)
- Current management practices and conditions in place to minimise external impacts
- Whether the proposal required a development authorisation under the *Development Act 1993*, or alternatively is at variance (and therefore seeks to vary) with an existing development authorisation.

Where a development application is required to effectively implement the Liquor Licence application, officers will recommend a deferral of the Liquor Licence application to enable the development assessment process to be completed prior to a decision being made by the Licencing Authority.

All applications to Council for Outdoor Dining Permits where a Licence is required will be assessed against this Policy and the Road Alteration and Encroachment Policy.

Other applications to Council for the hire or use of a Council facility, including a dry area, reserve or a road closure where a Licence is required will also be assessed by reference to this Policy.

The Council's assessment will not be based on the competitive advantage / disadvantage to be gained or suffered by a licensed premises should the application be granted / refused.

Hours of Trading

The Council will not support extended trading hours which the Council considers are likely to cause unreasonable disturbance and inconvenience to residents and other businesses in the vicinity of a licensed premises.

Council's assessment of any proposed extension to trading hours will be based on the location of the premises, the nature of the venue, previous history of complaints, current management practices and treatments put into place to minimise external impacts.

Unless good cause is demonstrated, Council will not support applications under this Act where the Council considers unreasonable noise or disturbance may be caused, or where there is a recent or ongoing history of complaints or breaches of licensing conditions.

The Council's assessment will not be based on the competitive advantage / disadvantage to be gained or suffered by a licensed premises should the application be granted / refused.

The Council will not support variations to closing times of a licensed premise that may in the Council's view result in the potential movement of large numbers of patrons from one venue to another, resulting in potential for greater instances of anti-social behaviour, noise, disturbance, vandalism and criminal activity impacting on the nearby residential and business community, except where contrary to an existing development authorisation.

The Council will not support hours of trading for the sale and supply of liquor beyond the following:

For licensed premises located within 200 metres of the boundary of any property used for residential purposes:

To the general public for consumption on the licensed premises:

- Monday to Thursday inclusive between 8am and midnight the same day
- Friday and Saturday, between 8am and 1am the following day
- Sunday between 8am and midnight the same day.

For licensed premises located beyond 200 metres of the boundary of any property used for residential purposes:

To the general public for consumption on the licensed premises:

- Monday to Thursday inclusive between 7am and 1am the same day
- Friday and Saturday, between 7am and 2am the following day
- Sunday between 11am and midnight the same day.

Public Notification

Where a Liquor Licence application required development approval, consultation may or may not be conducted in accordance with the requirements of the *Development Act 1993*.

Where the *Development Act 1993* does not apply or the development application does not require public notification, the Licensee may be required to undertake advertising of the license in accordance with the requirements under this Act.

Submissions

If an application has been advertised under Part 4 Section 77 of the Act, any person may, by notice in the prescribed form (by contacting Consumer and Business Services) lodged with the Licensing Authority at least seven (7) days before the day appointed for the hearing of the application, make a written submission in respect of the application on one of the following grounds:

- (a) that the grant of the application would not be consistent with the objects of this Act or would be contrary to this Act in some other way;
- (b) in the case of a designated application—that the granting of the designated application is not in the community interest
- (c) in the case of an application by a natural person for the grant or transfer of a licence, or for the conversion of a temporary licence into an ordinary licence—that the applicant is of bad reputation or character or is in other respects not a fit and proper person to be licensed;
- (d) in the case of an application by a trust or corporate entity for the grant or transfer of a licence, or for the conversion of a temporary licence into an ordinary licence—that the applicant is not a fit and proper person to be licensed or that a person who occupies a position of authority in the entity is of bad reputation or character or is in other respects not a fit and proper person to hold such a position in an entity that holds a licence;

- (e) in the case of an application for the grant or removal of a licence—that the position, nature or quality of the premises renders them unsuitable to be licensed, or to be licensed under a licence of the kind to which the application relates;
- (f) that if the application were granted—
 - (i) undue offence, annoyance, disturbance or inconvenience to people who reside, work or worship in the vicinity of the premises or proposed premises to which the application relates would be likely to result; or
 - (ii) the safety or welfare of children attending kindergarten, primary school or secondary school in the vicinity of the premises or proposed premises to which the application relates would be likely to be prejudiced; or
 - (iii) the amenity of the locality in which the premises or proposed premises to which the application relates are situated would be adversely affected in some other way.

Managing Complaints / Advocacy

All complaints received by Council arising from Licence issues will be coordinated by a CEO nominated employee.

The complaint will firstly be investigated to determine if there has been a breach of a condition imposed under the *Development Act 1993* or the *Planning, Development and Infrastructure Act 2016*. If such breach exists, Council's compliance employees will undertake enforcement action in accordance with Council's Enforcement Policy.

Notwithstanding any action that can be taken under the Development Act, all Licence issues received by Council will be forwarded onto Consumer and Business Services as the relevant authority for the *Liquor Licensing Act 1997*, as well as to the SAPOL Licensing Enforcement Branch. The Licencing Authority has inspectorial and compliance sections that can monitor and address breaches of the Act, and any conditions attached to an existing Licence.

Depending on the nature and gravity of the complaint(s), Council may also make a complaint to the Licencing Authority where the licencing related activity causes undue noise, or the behaviour of persons making their way to or from a licenced premises is unduly offensive, annoying, disturbing or inconvenient to nearby residents, workers or worshippers.

LEGISLATIVE FRAMEWORK

There is no legislative requirement for Council to have a policy relating to the management of licensed premises.

The following legislation applies to this policy:

Liquor Licensing Act 1997

All liquor licensing matters within South Australia are regulated by the provisions of this Act. One of the primary objectives of this Act is to regulate and control the sale, supply and consumption of liquor for the benefit of the community as a whole.

Written notice to the Council may be required under the Act in relation to the granting of a licence (excluding temporary licence), or for the transfer, removal, or conversion of temporary to permanent for the following classes of liquor licencing application:

- General and hotel licence;
- On premises licence;
- Residential licence;
- Restaurant and catering licence;
- Club licence;
- Packaged liquor sales licence;
- Liquor production and sales licence;
- Small venue licence.
- Short term licence

Variations to existing licence arrangements, such as trading hours, may also be referred to Council for comment.

This Act provides Council with the opportunity to make a submission on matters not addressed under the law relating to planning or the carrying out of building work. This is intended to reduce overlap between development-related issues and liquor licencing matters.

Development Act 1993 and Planning, Development and Infrastructure Act 2016

Certain Liquor Licence applications also require development authorisation under the Development Act 1993 or Planning, Development and Infrastructure Act 2016 (i.e change in land use, or construction of a new building to facilitate the proposed use). A Liquor Licence application may also trigger the need to vary an existing development authorisation.

Where a development application is required, this policy seeks to defer consideration of the Liquor Licence application until such time appropriate development authorisations are in place.

Environment Protection (Noise) Policy 2007

Section 25 of the *Environment Protection Act 1993* provides a general environmental duty requiring a person not to undertake an activity which pollutes (includes noise) the environment unless that person takes all reasonable and practicable measures to prevent or minimise environmental harm. Compliance with the noise goals stipulated within the Noise Policy satisfies the general environmental duty.

Section 17 of the *Local Nuisance and Litter Control Act 2016* defines local nuisance as including any adverse effect on an amenity value of an area that is caused by noise, and which unreasonably interferes with, or likely to unreasonably interfere with, the enjoyment if persons occupying a place within the area.

Other references

Council's document including:

- Council's Fees and Charges Register
- Council's Road Alteration or Encroachment Policy
- Council's Enforcement Policy
- Council's Liquor Licence Application Management Procedure

STRATEGIC PLAN/POLICY

Strategic Plan

The following strategic objectives in Council's Strategic Plan 2025 are the most relevant to this report:

Objective	Comments
Community	
<i>People feel a sense of belonging, inclusion and connection with the City and the community</i>	Our community is healthy and safe
Economy	
<i>A local economy that is resilient and thrives, where businesses are supported to grow and prosper, provide local jobs and sustain our community and visitors and utilize technology to improve the livability of our city</i>	Our City is a desirable and sustainable place to live and work.
<i>People are supported to develop their leadership and employment capabilities</i>	

Organisation Plan

Our Strategic Plan is supported by an Organisation Plan which focuses on five key themes of organisational excellence. The themes most relevant to this report are: People and Leadership; Customers and community relations; Governance; Finance and systems, Continuous improvement

DEFINITIONS

For the purposes of this policy the following definitions apply:

Act

Liquor Licensing Act 1997

CEO

Refers to the Chief Executive Officer (including their delegate) of the City of Tea Tree Gully or an Acting Chief Executive Officer.

dB(A)

A measure of recording sound exposure to humans.

Entertainment

As defined by the Act is a dance, performance, exhibition or event (including a sporting contest) calculated to attract and entertain members of the public; a visual display but not if provided by means

of a television screen the dimensions of which do not exceed two (2) metres by two (2) metres (specified by the Regulations).

EPA

Environment Protection Authority

Intervention

A council in whose area licensed premises or premises proposed to be licensed are situated may intervene in proceedings before a Licensing Authority for the purpose of introducing evidence, or making representations on any question before the Authority.

Licence

A Liquor Licence under the Liquor Licensing Act 1997. Definitions for the various forms of licences referred to within this policy can be found within section 4 of the Act.

Licensing Authority

In relation to a matter that is to be decided by the Court under the Act - it is the Court. In relation to any other matter - it is the Consumer and Business Services.

Liquor

For the purposes of the definition of liquor in section 4 of the Act, alcohol based food essence and alcoholic ice confection are declared to be liquor for the purposes of the Act.

Live Entertainment

- A dance or other similar event at which a person is employed or engaged to play music (live or pre-recorded)
- A performance at which the performers, or at least some of them, are present in person
- A performance of a kind declared by regulation to be Live Entertainment

Submission

If an application has been advertised under Part 4 Section 77 of the Act, any person may, by notice in the prescribed form (by contacting Consumer and Business Services) lodged with the Licensing Authority at least seven (7) days before the day appointed for the hearing of the application, make a written submission in respect of the application..

SAPOL

South Australia Police.

POLICY IMPLEMENTATION

This Policy will be implemented by the Chief Executive Officer or relevant portfolio director and managed in accordance with Council's scheme of delegations.

ACCESSIBILITY

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: www.cttg.sa.gov.au

Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.