

Council Policy

Liquor Licensing



COUNCIL POLICY

 <p>Adelaide Hills COUNCIL</p>	LIQUOR LICENSING
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Policy Number:	COM-18
Responsible Department(s):	Strategy and Development
Other Relevant Policies:	Outdoor Dining Policy Event Policy Recreational Use of Council Reserves and Public Space Policy
Relevant Procedure(s):	None
Relevant Legislation:	Liquor Licensing Act 1997 Development Act 1993 Local Government Act 1999
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LIQUOR LICENSING POLICY

1. INTRODUCTION

This Liquor Licensing Policy provides guidance for managing the requirements of the Liquor Licensing Act 1997, and establishes a framework to guide Council in managing liquor licence applications (including limited licence applications).

This policy's intent is to ensure that liquor licensing approvals are consistent with related Development Approvals, and that Council responses to applicants are managed in an effective, timely and consistent manner.

The Liquor and Gambling Commissioner (LGC) is the relevant authority for determining liquor licence applications and issuing relevant licences. The allocated Commissioner will base a decision on the case presented by the applicant and that of any objectors. Council only provides comments to the LGC with regard to Liquor Licence applications and licence applications are managed by Consumer and Business Services.

This Liquor Licensing Policy acknowledges the desired character of townships and urban areas within the Adelaide Hills Council District, as set out in the Adelaide Hills Council (AHC) Development Plan. The Development Plan provides the basis for assessing Development Applications under the Development Act, 1993.

This policy also acknowledges that Council may request the LGC to include conditions on liquor licences where development approvals have conditions imposed in relation to such matters as (but not limited to):

- noise, and other potential disturbances;
- types and impacts of entertainment provided;
- outdoor activities;
- hours of operation;
- the location of areas where alcohol may be served;

Such development approval conditions are intended to protect and enhance the amenity and character of the locality and minimise nuisance, while considering the interests of the different stakeholder groups involved, including the applicant, residents and neighbouring businesses. In making its decisions, Council is aware that:

1. there are significant differences in the operational and functional needs of cellar doors, wineries, hotels, restaurants, and other types of licensed premises or event(s); and,
2. tourist areas and residential areas have notable differences in expectations relating to noise, traffic and operating hours as compared with Centre Zones and major arterial roads (including scenic drives) which cater for a level of economic activity that would be inappropriate in a residential area.

2. OBJECTIVES

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

Council will fulfil its statutory obligations in relation to liquor licence applications by advising the licensing authority whether all necessary Council permits and approvals have been issued. Council will also advise the licensing authority of any impacts an application may have on Council's corporate responsibilities.

Council will advise objectors to liquor licence applications of the right and necessity to lodge the objection with the LGC at Consumer and Business Services, and explain the respective roles of Council and the licensing authority.

Council's role is to, wherever possible, promote and support the responsible service of alcohol, promote safe venues for patrons including the requirement to obtain a certificate of occupancy prior to the opening of the licensed premises, and minimise adverse impacts on local amenity arising from the operation of licenced venues, functions and special events. To ensure this, Council may:

- ensure that all forms of liquor licence applications are assessed against the framework established by this Policy;
- ensure that, where a limited licence is sought, an '*Application for a limited licence*' or an '*Event Application for Council approval*' containing all relevant details of the proposed function is lodged with Council for assessment;
- exercise its rights of objection, intervention and complaint under the Liquor Licensing Act 1997, when warranted;
- provide information to the public when required to do so in relation to licence conditions
- provide advice to members of the public seeking clarification on licensing and related planning issues, as they relate to Adelaide Hills Council;
- investigate the creation of Liquor Accords¹ as warranted; and,
- identify issues and problems relating to the operation or scope of this Policy and revise this Policy as appropriate.

In addition to development approval conditions Council may, at its discretion, take into account the history of the site which is the subject of an application, and the history of the operation at the existing premises when recommending conditions to the licensing authority (i.e. the LGC) for inclusion in the licensing decision.

¹ **Liquor accords** promote a co-operative approach to developing safe and well managed environments in and around licensed premises. They support harm minimisation and responsible serving principles and operate as a component of an overall strategy to ensure safety in the local community and promote effective communication and problem solving between licensees and key stakeholders. Each liquor accord is formulated by its members to resolve local issues within a local area. Although individual accords may have similar elements, there are no two the same. Strategies are shared and adapted to address similar issues within different communities. Liquor accords include representatives from licensed premises, businesses, councils, police, government departments and other community organisations. The geographical area covered by an accord is usually determined by its members, taking into consideration police divisional and district boundaries, local government areas and any unique environmental factors, such as stadiums and entertainment precincts. – Queensland Office of Liquor and Gambling Regulation 2011

3. POLICY STATEMENT

3.1 General Matters

- 3.1.1 Existing licence conditions will apply to all existing licensed premises in the Council District.
- 3.1.2 Licence conditions may be determined under delegated powers from Council to assess development applications, and to intervene in proceedings before the Liquor and Gambling Commissioner under s76(2) of the Liquor Licensing Act 1997 for the purpose of introducing evidence, or making representations on matters before the LGC.
- 3.1.3 Any proposed liquor licence conditions considered by Council as necessary to be imposed on a specific application will be forwarded to the applicant, and to the LGC along with Council's comments and relevant Development Approvals. The LGC is then responsible for making a decision on each application.
- 3.1.4 Adelaide Hills Council will fulfil its statutory duties under the Liquor Licensing Act without bias or favour to either the applicants or objectors.
- 3.1.5 Council officers will have regard to their corporate responsibilities under the Council's Strategic Management Plan and other relevant documents when exercising discretionary functions in relation to Liquor Licences. 4.1.6 Council will neither encourage nor discourage the lodgement of objections to the licensing authority by members of the public, and will provide impartial (non-legal) advice about the licensing system within its level of jurisdiction, to all parties if requested.
- 3.1.6 Prior to making a submission to the licensing authority on an application for a licence, the officer responsible for preparing the submission shall:
- a) check that the notice of the liquor licensing application is complete and includes all the relevant details;
 - b) check that any required Council approvals have been issued, and that the proposal is compatible with any relevant conditions of such approvals/consent;
 - c) assess the effects, if any, of the proposal on any Council operations or areas of corporate responsibility; and
 - d) make an objective assessment of the liquor licence application.
- 3.1.7 Ensure that a submission to the licensing authority includes the following information:
- a) advice on the level of compatibility between the proposal and existing approvals and conditions of approval, and whether any additional approvals or consents are required from Council;
 - b) copies of objections received by Council, for regard by the licensing authority; and
- Where necessary, Council may request to intervene in the process and seek a deferral of the hearing by the licensing authority to allow Council more time to consider and fully investigate a particular application or to allow time for the applicant to seek Development Approval from Council.
- 3.1.8 Council will forward a submission relating to a licensing application to the licensing authority at least 7 days prior to the hearing date, with a copy provided to the applicant.
- 3.1.9 Council will generally not support applications that seek to carry on liquor licensing activities on Council land beyond 12 am, unless the applicant demonstrates that the proposal will not have an adverse impact on adjoining residents or there are existing conditions of Development Approval which permit this.
- 3.1.10 Where more than one limited licence application is sought for events that are not approved as ancillary activities (e.g. corporate functions, birthday functions, weddings) at the same venue in a calendar year, then Council may require a development application for a *change of use* to be lodged. Where assessing staff have determined that a change of use application is required, then both the Liquor and Gambling Commissioner and the applicant shall be advised that Council will not support any

further applications until a Development Approval for the change of use is granted, and the conditions of that approval have been met or implemented.

3.2 Noise attenuation

3.2.1 Where noise is an issue, or is likely to become an issue, Council may require one or more of the following noise attenuation techniques to be applied as a condition of a liquor licence where it is a condition of an existing Development Approval:

- a) limiting entertainment to be within buildings only;
- b) not placing loud speakers on the fascia of the premises, on balconies or on any adjacent outdoor area or footpath;
- c) limiting use of outdoor areas;
- d) limiting live entertainment in outdoor areas;
- e) installation of controls on the volume of in-house music systems (which limit and monitor the volume of the system to ensure that a maximum noise level certified by the acoustic engineer or the EPA Noise Policy is not exceeded);
- f) treatment of openings (such as doors and windows) by using:
 - i. airlocks;
 - ii. seals and door closers for doors;
 - iii. sealing of wall and roof vents;
 - iv. treatment of ventilation and air-conditioning paths;
 - v. sealing or double glazing of windows;
- g) upgrading roof construction to insulate sound emissions;

3.3 Car parking

Note: The use of on-street car parking by patrons of licenced premises can cause disturbances to nearby residential properties due to loud voices, car doors slamming, use of car horns, reckless driving and drunken and disorderly behaviour. Council may request conditions to be included in approvals to minimise such impacts on the locality of the licensed premises. Such conditions may include the following:

- 3.3.1 The behaviour of patrons of a licenced premises entering from, or leaving towards, on-street parking areas close to residential uses should be managed by the licensee to ensure minimal disturbance for residential uses nearby.
- 3.3.2 Development applications for licenced premises should provide adequate off-street car parking in accordance with the car parking and related provisions of the Adelaide Hills Council's Development Plan.

3.4 Availability of food

Note: The Adelaide Hills Council encourages licensees to make food available to patrons wherever alcohol is served and consumed.

3.5 Other relevant policies

Note: This Policy should be read in conjunction with the Adelaide Hills Council's Development Plan, and Outdoor Dining, Event and Recreational Use of Council Reserves and Public Space Policies.

4. PROCEDURAL MATTERS

4.1 Notes:

The following types of Liquor Licences can be applied for under the Liquor Licensing Act 1997:

- 1) Hotel licence;
- 2) Residential licence
- 3) Wholesale Liquor Merchant's licence
- 4) Retail Liquor Merchant's licence
- 5) Entertainment Venue licence
- 6) Restaurant licence
- 7) Producer's licence
- 8) Club licence
- 9) Special Circumstances licence
- 10) Limited licence
- 11) Direct Sales licence.

To assess or monitor applications for the above licence types, Council has rights of intervention, objection and complaints under the Liquor Licensing Act 1997.

New or existing licences may constitute a '*change of use*' in which case a development application under the Development Act 1993 may need to be lodged with Council. Such an application will require details such as proposed hours of operation, noise levels and controls, on site storage of refuse, etc. Please contact the Development Services Assistant on 8408 0558 if you have any queries regarding a Development Application or existing use rights.

If liquor licence conditions are to be altered, changes may also be required to existing development approval conditions and a development application must be submitted to, and approved by Council in this regard prior to the liquor licence conditions being altered.

4.2 Transfer of Licence:

- 4.2.1 Where a Liquor Licence is to be transferred and no changes to existing Licence conditions are proposed, and no physical changes are required to be made to the premises, including renovations or extensions, then Council will generally not seek to intervene in application proceedings before the Licensing Authority unless the appropriate development approvals are not in place.
- 4.2.2 Where a Liquor Licence is to be transferred and physical changes are required, a Development Application must be lodged with and approved by Council. Any proposed changes to existing conditions of an existing Development Approval will also require a development application to be lodged with Council in order to amend these.

4.3 Change of Licence Type

- 4.3.1 Where a change in the type of a premise's Liquor Licence is proposed, a Development Approval from Council may be required before the licence is changed.

4.4 Application for an 'Entertainment on Licensed Premises' Consent (s105)

- 4.4.1 An application for an '*Entertainment on Licensed Premises*' Consent may also require a Development Plan Consent and/or Building Rules Consent where a change of land use, variation of a condition of approval or building classification is involved.

4.5 Limited Licences:

4.5.1 An application for a Limited Licence to the LGC must be accompanied by a Council approval. Approval will consider such issues as:

- the date, time, and duration of the event;
- the type of event;
- likely noise levels;
- likely patron behavior;
- disposal of refuse;
- security arrangements; and,
- general impact on the amenity of the locality.

Note: It is always wise to check with Council or Consumer Business Services on how long your application will take to process, to ensure that it is issued prior to the event being held. Applicants are advised to submit their applications at to the LGC and Council at least 60 days before the proposed event.

4.6 Outdoor Cafes:

Note: Under the Local Government Act, 1999 Council may grant a permit to operate an outdoor café on a portion of a public street, road verge or place for the supply of food and drink. Such a permit does **not** constitute Council approval for a Liquor Licensee to serve liquor in an outdoor café area. A separate approval for a liquor licence **must** be obtained from the LGC for such sales.

5. COMPLAINTS

Council may make a complaint to the Licensing Authority where a liquor licensing related activity causes undue noise, or the behaviour of persons making their way to or from licenced premises, is unduly offensive, annoying, disturbing or inconvenient to nearby residents, workers or worshippers. The Licensing Authority's Commissioner will then attempt to conciliate between the parties in order to reach a settlement. If a settlement is not possible, the application will then proceed to a contested hearing, either before the Commissioner or the Court.

If a complaint is received by Council on behalf of a member of the public, then the complaint will be investigated to determine if there has been a breach of Development Approval conditions or if noise issues may need to be addressed. Where a further compliance investigation is required (e.g. to address noise issues), consultation with the LGC will occur. Where no Development Approval breach has occurred, Council will notify the complainant that their complaint should be directed to the LGC as the relevant authority, and not Council.

6. DELEGATIONS

The Chief Executive Officer has the delegation to approve, amend and review any procedures that shall be consistent with this Policy.

7. AVAILABILITY OF THE POLICY

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website www.ahc.sa.gov.au. Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.