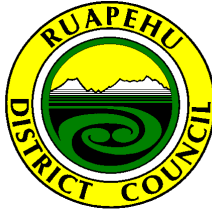


**RUAPEHU DISTRICT COUNCIL**



**POLICY**

**ON**

**LIQUOR LICENSING**



**October 2007**



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## 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 Act goes further to require 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."*

In doing so, the District Licensing Agency must carry out its legislative functions in consultation with the Police and the Ministry of Health (within the Ruapehu District this involves the Medical Officer of Health from either Health Waikato or Mid Central Health depending upon the premises location). Together, it is our intention to promote and facilitate a responsible attitude to liquor supply and consumption

### **Purpose And Intent Of The Policy**

Whilst the Sale of Liquor Act 1989 sets out decision making processes for the District Licensing Agency which remain clear, and can be documented in standard operating procedures, there is some allowance for Agencies to make discretionary judgements, or decisions with respect to individual applications. Therefore to ensure consistency, and allow for certainty, it is the intent of this document to provide these guidelines. It also provides a useful guide for the Liquor Licensing Authority as to local policy, again ensuring some consistency in decision making.

However, it should be noted that the Liquor Licensing Authority (pursuant to Section 96 of the Sale of Liquor Act 1989), may still issue "statements" setting out its views on the general administration of the Act, or the policy to be followed in the administration of the Act or any provisions of it, or any information obtained by the Authority from any inquiry held by it or from any other source. In the exercise of its functions under this Act, every District Licensing Agency must observe any statement issued under this section.

Accordingly, this policy is additional to, and is subject to, any views, or policy issued by the Authority under Section 96 of the Act.

### **Discretionary Matters**

Discretionary matters to be considered in this policy are:

- 1 Criteria for Premises Licences and Special Licences:
  - Suitability of applicant.
  - Host responsibility.



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- Alcohol promotions.
  - Evidence of age documents.
  - Trading hours.
  - Designated areas.
  - Sale of liquor to prohibited persons.
  - The provision of non-alcoholic refreshments and food.
  - The provision of low-alcohol beverages.
  - Alternative forms of transport.
- 2 Conditions for Premises Licences and Special Licences.
- 3 Temporary Authorities.
- 4 Criteria for consideration in determining Special Licence applications:
- Definition of "Occasion or Event, or a series of occasions or events" including social gatherings.
  - Procedure for processing of Special Licence applications.
- 5 Criteria for Managers Certificates:
- Relevant experience.
  - Relevant training and qualifications and suitability.
- 6 Other matters:
- Education.
  - Blanket trespass notices.



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## **1.0 LIQUOR LICENSING FUNCTIONS**

### **1.1 THE ADMINISTRATIVE ROLE**

The Administrative role is the responsibility of the CSO Liquor and Health, and includes receiving all liquor licence and certificate applications, checking for completeness and accuracy, and referring applications to the Police and 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.

### **1.2 THE INSPECTORIAL ROLE**

The Inspectorial role is the responsibility of the Liquor Licence Inspector(s), who has been appointed pursuant to Section 103 of the Sale of Liquor Act 1989 (The Act). The Inspector reports on all new applications and renewal applications for licences and Manager's Certificates. The District Licensing Agency (DLA) is responsible for the monitoring and enforcement requirements of the legislation, in conjunction with the other statutory agencies where required.

### **1.3 THE DLA SECRETARY ROLE**

The Chief Executive is the Secretary of the District Licensing Agency. All complete applications are forwarded to the Secretary after having been checked for compliance with the legislation and Council Policy by the licensing co-ordinator. The Secretary has the overall responsibility of ensuring that the application complies with legislation.

The Secretary has the ability to sub-delegate powers and duties to any Officer under Schedule 7 (32) of the Local Government Act 2002.

- 1.4 All Applications for On, Off or Club licences must be publicly advertised in a paper(s) nominated by the Secretary of the DLA or any delegated officer.

## **2.0 CRITERIA FOR PREMISES LICENCES AND SPECIAL LICENCES**

Sections 13(On-Licences), 35(Off-Licences), 59(Club Licences) and 79(Special Licences) of the Act, specify criteria for the Agency to have regard to when considering any application for these premises Licence. Information to assess against this criteria is obtained in reports on the application from the Agency's Licensing Inspector, the Police, and the Medical Officer of Health. The following specifies minimum criteria that must be satisfied before further consideration is given to any application.



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## 2.1 SUITABILITY OF APPLICANT

Pursuant to Sections 13, 25, 59, 79 of the Sale of Liquor Act 1989

Whilst the District Licensing Agency reserves the right to state otherwise on a case-by-case basis, the Ruapehu District Licensing Agency considers that minor convictions older than two years should **not** be considered in determining the suitability of the applicant. However, a history of convictions would generally indicate to this Agency a reluctance upon the applicants part to uphold the law.

Repeated complaints pertaining to the current operation of a particular premise by Licensees may also be taken into consideration. The types of complaints may involve excessive noise generation, the sale of liquor to minors, and any breach of existing licence conditions. The level of co-operation from the Licensee would also be taken into consideration.

## 2.2 HOST RESPONSIBILITY

Pursuant to Sections 13, 25, 59, 79 of the Sale of Liquor Act 1989

Host Responsibility is a statutory requirement of the Act. These requirements include the promotion and availability of low and non-alcohol refreshments and food, serving alcohol with care and responsibility, responsible approaches to dealing with intoxicated and underage people, and information about safe transport options. Therefore, applicants will be required to supply a copy of the premises current Host Responsibility Policy or Plan. This must be submitted to the District Licensing Agency with all On, Off, and Club Licence applications and renewal applications.

## 2.3 ALCOHOL PROMOTIONS

Pursuant to Section 154A of the Sale of Liquor Act 1989:

*“..a Licensee or manager of a premises commits an offence if they do 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 likely to encourage persons on the premises to consume alcohol to an excessive extent.”*

The Ruapehu District Licensing Agency understands that a “National Protocol on Alcohol Promotions” is available to Licensees, as developed in consultation with all interested parties within the industry. Accordingly, this agency endorses this protocol, and requires that all Licensees carry out promotions or activities in accordance with the protocol.



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## 2.4 EVIDENCE OF AGE DOCUMENTS

Section 2A of the Sale of Liquor Act 1989 only permits a passport, NZ Photo Driver's Licence, or a Hospitality Association of New Zealand (HANZ) 18+ card as recognised evidence of age documents. Any other form of photo identification may not be a reasonable defence pursuant to the Act. The regulatory agencies within the Ruapehu District, strongly recommend that all premises accept only certified copies of a passport, NZ Photo Driver's Licence, or HANZ 18+ card for age verification.

## 2.5 TRADING HOURS

Pursuant to Section 14 of the Sale of Liquor Act 1989 it is a condition of every On-Licence granted, in respect of a hotel or tavern, that no liquor is to be sold or supplied on Good Friday, Easter Sunday, Christmas Day, or before 1.00pm on Anzac Day, to any person other than:

- persons living on the premises; and
- any person who is present on the premises for the purpose of dining.

Whilst the Ruapehu District Licensing Agency recognises a greater demand to extend operating hours, in some instances to allow for 24 hour trading, the Agency does not generally advocate extending hours throughout the District rather, the Agency believes, where necessary or as required, an application for a Special Licence catering for a "one off" special event is more appropriate. This will allow for each application to be considered on a case-by-case basis, bearing in mind an extension to a premises hours has the potential to result in associated issues such noise and increased street disorder.

It is the policy of this District Licensing Agency to allow for the following operating hours (unless a premise operates under a resource consent, with associated conditions, then hours of operation shall be consistent with any such approval):

The maximum hours of Licences shall not exceed:

- On Licences: 7.00am to 3.00am on the following day.
- Off Licences: 9.00am to 11.00pm for stand alone premises.
- Club Licences: 9.00am to 1.00am on the following day.



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The Ruapehu District Licensing Agency will not impose any general restrictions on the hours of operation with respect to Special Licence applications. Each application will be considered on its merits, taking into consideration any issues raised by the reports submitted by the Licensing Inspector and Police.

## **2.6 DESIGNATED AREAS**

All licensed premises must be designated into areas, which are known as restricted areas, supervised areas, and undesignated areas. In hotels and taverns every bar must be designated as either a restricted or a supervised area.

Restricted areas relate to bars in licensed premises and is the name given to areas where minors cannot be admitted. It is not essential for there to be a restricted area in every licensed premises.

Supervised areas are areas in licensed premises where minors can be admitted, only so long as they are accompanied by his or her parent or guardian as pursuant to Section 163 of the Sale of Liquor Act.

The application of designations appropriate to the premises is to be discussed between the applicant and the reporting bodies, i.e. NZ Police, Medical Officer of Health and the Licensing Inspector.

In general the following minimum guidelines will apply:

- Any premises operating or proposing to operate as either a hotel or a tavern must have either a supervised or a restricted designation for the bar areas.
- Bar areas where it is anticipated that the service of alcohol will be predominant over that of food, or where there is no distinct food service counter, will be supervised.
- Bar areas providing adult entertainment will be restricted. This also extends to Special Licences.
- Areas where full meals are available from either a distinct food service counter, or as a full A La Carte menu may be undesignated, taking into account, but not limited to, the nature and purpose of the premises.
- Club Licence premises may be undesignated, taking into account, but not limited to, the nature and purpose of the Club, and its suitability for persons under the age of 18 years.
- Off Licence premises, where separated spatially from the On Licence area, or where attached to a Club Licence premises, may be undesignated.



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## **2.7 SALE OF LIQUOR TO PROHIBITED PERSONS**

Prohibited persons are:

- persons under the age of 18 years;
- persons to whom liquor may not be sold pursuant to the Licence;
- persons who are intoxicated.

It is the policy of the Ruapehu District Licensing Agency to require all licensed premises to display appropriate signage relating to prohibited persons, being underage and intoxicated persons, at all times.

All Licensees must demonstrate staff training and the mechanisms in place to ensure that prohibited persons are not served, and where necessary, evidence of age documentation is requested.

Clubs are to provide membership cards, and/or a visitors book with entry procedures to the Club being clearly signed, or to put in place such other means as appropriate, in order to ensure that only those persons permitted under the Sale of Liquor Act are sold or supplied with alcohol.

## **2.8 THE PROVISION OF NON-ALCOHOLIC REFRESHMENTS AND FOOD**

All Licensed premises must make available at all times, a range of non-alcoholic refreshments for patrons. In addition to non-alcoholic refreshments, the Ruapehu District Licensing Agency believes that it is essential for Licensed premises to also make a range of substantial food readily accessible. However, this Agency does not believe it is sufficient to only provide a range of confectionery, salted potato chips, or nuts, as they are likely to generate greater thirst and are discouraged.

In normal circumstances, the Agency will expect a food preparation area/kitchen to be provided, unless it can be shown that other arrangements have been made to ensure the continuous availability of food.

## **2.9 THE PROVISION OF LOW-ALCOHOL BEVERAGES**

Because low-alcohol beverages provide an alternative to patrons, the Ruapehu District Licensing Agency considers it appropriate for Licensees to make available a range of low-alcohol beverages at all times. Applicants will be required to confirm the availability of such products when making application at the discretion of the DLA.



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## 2.10 ALTERNATIVE FORMS OF TRANSPORT

Given the prevalence of drink driving throughout the country, in the interests of road safety, the Ruapehu District Licensing Agency believes that Licensees should be encouraged to provide, or make available, a range of options for alternative travel. At a minimum, a telephone should be available, and a list of taxi services within the District should be displayed in prominent positions throughout the premises, in particular, beside telephones and exit points.

## 3.0 CONDITIONS FOR PREMISES LICENCES AND SPECIAL LICENCES

The Sale of Liquor Act 1989 at Sections 14 (“Conditions of On-Licences”), 37 (“conditions of Off-Licences”), 60 (Conditions of Club Licences) and 80 (“conditions of Special Licences”), allows District Licensing Agencies to impose conditions to the issue of any licence where considered appropriate. Depending upon the type of licence before them, the District Licensing Agency has a mandatory requirement to attach conditions to approvals.

## 4.0 TEMPORARY AUTHORITIES

When considering any application for a Temporary Authority, the Ruapehu District Licensing Agency must consider such a request under Section 24 and 47 of the Sale of Liquor Act which state:

### Section 24

*“the District Licensing Agency may from time to time, on the application of any person who appears to the District Licensing Agency to have any right, title, estate, or interest in any premises or conveyance, or any business conducted in any premises or conveyance, in respect of which an On-Licence is in force, make an order authorising the applicant, or some suitable person nominated by the applicant, to carry on the sale and supply of liquor for such period, not exceeding 3 months, as the District Licensing Agency may specify in the order.”*

### Section 47

*Temporary authority—*

*(1) The District Licensing Agency may from time to time, on the application of any person who appears to the District Licensing Agency to have any right, title, estate, or interest in any premises[, or any business conducted in any premises,] in respect of which an off-licence is in force, make an order authorising the applicant, or some suitable person nominated by the applicant, to carry on the sale and delivery of liquor for such period, not exceeding 3 months, as the District Licensing Agency may specify in the order.*

- (2) *The District Licensing Agency may hear and determine an application for an order under this section ex parte, or direct that notice of the application and of the time and place fixed for any hearing shall be served on such persons and in such manner as the District Licensing Agency may specify.*
- (3) *On granting any application for an order under this section, the District Licensing Agency may impose such reasonable conditions as it thinks fit.*
- (4) *The holder of a temporary authority shall for the purposes of this Act have the same duties, obligations, and liabilities as the holder of the off-licence to which the temporary authority relates.*  
*The issue of the Temporary Authority, whether to have a hearing to determine the application, and the conditions to impose on the authority, are completely discretionary in nature. This policy provides clear guidelines in these matters for the Agency.*

It shall be the policy of the Ruapehu District Licensing Agency to grant applications only where an existing On-Licence is in place, and for a period not exceeding three months, (or until the expiry of the current licence date whichever date is sooner). All applications will be subject to Police and Inspector reports. No further Temporary Authority will be considered, unless an On or Off Licence application has been lodged prior to the expiry date of the initial Temporary Authority.

## **5.0 CRITERIA FOR CONSIDERATION IN DETERMINING SPECIAL LICENCE APPLICATIONS**

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, event, or series of occasions or events described in the licence.

A Special Licence issued under Section 74 authorises the holder of an On Licence 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.

The Ruapehu District Licensing Agency is of the opinion that each application should be considered on its merits, whilst taking into account the criteria set down in Section 79 of the Sale of Liquor Act 1989 which states:

*“In considering any application for a Special Licence, the District Licensing Agency shall have regard to the following matters:*

- (a) The nature of the particular occasion or event or series of occasions or events in respect of which the Licence is sought:*
- (b) The suitability of the applicant:*
- (c) The days on which and the hours during which the applicant proposes to sell liquor:*



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- (d) *The areas of the premises or conveyance, if any, that the applicant proposes should be designated as restricted areas or supervised areas:*
  - (e) *The steps proposed to be taken by the applicant to ensure that the requirements of this Act in relation to the sale of liquor to prohibited persons are observed:*
  - (f) *The applicant's proposals relating to—*
    - (i) *The sale and supply of non-alcoholic refreshments and food; and*
    - (ii) *The sale and supply of non-alcoholic beverages; and*
    - (iii) *The provision of assistance with or information about alternative forms of transport from the Licensed premises:*
  - (g) *Any reports made under Section 78 of this Act.*
- (2) *The District Licensing Agency shall not take into account any prejudicial effect that the grant of the Special Licence may have on the business conducted pursuant to any other Licence.”*

## **5.1 DEFINITION OF “OCCASION OR EVENT OR A SERIES OF OCCASIONS OR EVENTS”**

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.

It shall be the policy of the Ruapehu District Licensing Agency that:

- (a) 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.
- (b) A series of occasions or events is defined as a series of related events or activities that have specified beginning and end points.

Furthermore, a social gathering must have the following characteristics:

- (a) There must be a purpose for the function or gathering, other than mere enjoyment of bar facilities;
- (b) Liquor consumption must be ancillary to the true purpose;



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- (c) The attendees must be only the promoters, the participants, and the specially invited guests who are participators in, or spectators to, the principle activity;
  - (d) The gathering must come close to being “special”; and
  - (e) Regularity is not necessarily a disqualifying feature.
  - (f) If a private social gathering, e.g. a wedding or birthday party, is being held on a 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.

In all circumstances a Special Licence will not be issued as a substitute for a permanent Licence.

All applications for Special Licences must be applied for at least ten working days prior to the event, except in cases where bar attendance is likely to be over 1000 people attending. Applications received later than ten 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.

Any event where the estimated bar attendance is likely to be over 1000 people, is required to publicly advertise the application twice in the newspaper which is distributed door to door within the area where the event is to be held. It is the responsibility of the applicant to allow sufficient time in which to process the application and public notices, noting that should an objection be received, you would need to allow ten working days to convene a hearing and allow time for a decision to be made.

Any application pertaining to an outdoor venue will have a condition placed regarding the prohibition of glass containers for drinking, except for those instances in which the NZ Police agree that this condition is not required.

## **5.2 PROCEDURE FOR PROCESSING OF SPECIAL LICENCE APPLICATIONS**

Confirmation of a “No Objection” status will be sought when no report is received from the NZ Police within ten working days of being sent the application.

Objections shall be made and filed with the Ruapehu District Licensing Agency within ten working days of the date of the public notice relating to an event.

Placing of a public notice of the application at the site to which the application relates, shall be required in every instance where public notification is required.



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## 6.0 CRITERIA FOR MANAGERS CERTIFICATES

Section 121 of the Act specifies criteria for the Agency to have regard to when considering any application for Manager's Certificates. Information to assess against the criteria is obtained from reports on the application from the Agency's Licensing Inspector and the NZ Police. The following specifies minimum criteria that must be satisfied before further consideration is given to any application.

Section 121 of the Sale of Liquor Act 1989 states:

*“(1) In considering any application for a General Manager's Certificate, the Liquor Licensing Authority or District Licensing Agency, as the case may be, must have regard to the following matters:*

- (a) The character and reputation of the applicant;*
- (b) Any convictions recorded against the applicant;*
- (c) Any experience, in particular recent experience, that the applicant has had in managing any premises or conveyance in respect of which a Licence was in force;*
- (d) Any relevant training, in particular recent training, that the applicant has undertaken and any relevant qualifications that the applicant holds;*
- (e) Any matters dealt with in any report made under Section 119.*

*(2) In considering any application for a Club Manager's Certificate, the Liquor Licensing Authority or District Licensing Agency, as the case may be, must have regard to the following matters:*

- (a) The character and reputation of the applicant;*
- (b) Any convictions recorded against the applicant;*
- (c) Any experience, in particular recent experience, that the applicant has had in managing any premises in respect of which a Licence was in force;*
- (d) Any relevant training, in particular recent training, that the applicant has undertaken and any relevant qualifications that the applicant holds;*
- (e) Any matters dealt with in any report made under Section 119;*



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- (f) *Where the applicant intends to be the manager of a particular Club, the extent of the applicant's involvement in the management and activities of the Club.”*

## **6.1 RELEVANT EXPERIENCE**

This will be determined based on the applicant's relevant experience in the hospitality industry, their management ability as determined from their personal history, and their personal integrity as determined by character references submitted in their application. It is recommended applicants for Manager Certificates should have two years experience within the Hospitality industry, but relevant experience will be assessed on a case by-case basis.

## **6.2 RELEVANT TRAINING AND QUALIFICATIONS**

The Ruapehu District Licensing Agency will accept any approved New Zealand Qualification Authority qualification.

For a Club Manager's Certificate application, or General Manager's Certificate application, the prescribed qualification shall be a qualification or requirement listed at a particular time in the Sale of Liquor Regulations, or advised by the Liquor Licensing Authority.

Applicant suitability will be assessed in the same manner as any other licensing application.

## **7.0 OTHER MATTERS**

### **7.1 EDUCATION**

The Ruapehu District Licensing Agency, in partnership with the other regulatory and advisory agencies, will implement strategies to promote a responsible attitude towards the sale, supply, and consumption of alcohol, with both the public and industry where considered appropriate.



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## **7.2 REVIEW**

The Liquor Licensing Policy will be reviewed at least triennially or as required.

**For any further information with respect to this policy or alternatively to make an application, please contact Council on:**

<b>Taumarunui</b>	<b>(07) 895 8188</b>
<b>Ohakune</b>	<b>(06) 385 8364</b>
<b>Raetihi</b>	<b>(06) 385 4447</b>