

Trim Container	FOL/17/1006
First Issued / Approved:	11/03/2011
Last Reviewed:	27/02/2018
	C270218/1056
Next Review:	30/06/2020

**1. PREAMBLE**

This policy outlines Council’s responsibilities and powers in relation to matters of Liquor Licensing within the City of Holdfast Bay.

**1.1 Background**

The City of Holdfast Bay is one of South Australia’s premier seaside destinations and tourist areas accommodating interstate, regional and overseas travellers. Due to this, a significant number of licensed premises exist within the council boundaries; ranging from small-scale sporting clubs and hairdressing salons through to restaurants, cafes and hotels. As licensed premises desire to adapt to social and economic change (like all businesses), the prescriptive nature of Liquor Licensing and Development Legislation require councils to implement guidelines to ensure that the parameters of any/all new licences and/or existing licence variation are compatible within a legislative and policy context, while consistently meeting the expectations of community.

**1.2 Purpose**

This policy sets out the terms of reference and provides a framework for the exercise of Council’s powers, assessment mechanisms and intervention rights pursuant the *Liquor Licensing Act 1997*. This policy seeks to encourage responsible attitudes and practices towards the consumption and use of liquor within Holdfast Bay, and should be read in conjunction with the City of Holdfast Bay Development Plan, Outdoor Dining Policy and the City of Holdfast Bay By-Laws for a comprehensive interpretation of requirements.

**1.3 Scope**

This policy applies to the operation of all liquor licences and licensed premises (as defined and approved by the *Liquor Licensing Act 1997*) within the City of Holdfast Bay.

**1.4 Definitions**

*Council* means a Council within the meaning of the *Local Government Act 1999*;

*Council Land/Public Place* means all roads, footpaths, buildings, land, reserves, structures, community centres etc. owned and or maintained by a Council pursuant section 4 of the *Local Government Act 1999*;

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*Entertainment* means entertainment and/or live entertainment within the meaning of the *Liquor Licensing Act 1997*;

*Entertainment Consent* means entertainment consent within the meaning of the *Liquor Licensing Act 1997*;

*Extended Trading Authorisation (ETA)* means a conditional authorisation imposed on a licence by the 'Licensing Authority' to extend the standard approved hours of liquor service pursuant section 44 of the *Liquor Licensing Act 1997*;

*Licensed Premises* means a licensed premise(s) within the meaning of the *Liquor Licensing Act 1997*;

*Licensing Authority* means Consumer and Business Services (CBS), the Liquor and Gambling Commissioner ("Commissioner"), the Licensing Court of South Australia; and/or a delegate thereof;

*Liquor* means liquor within the meaning of the *Liquor Licensing Act 1997*;

*Liquor Licence* means a liquor licence within the meaning of the *Liquor Licensing Act 1997*;

*Local Authority* means Council;

*Outdoor Dining Area (ODA)* means the area where outdoor dining is permitted under either section 221 or 222 of the *Local Government Act 1999* (in accordance with section 1.4 of the *City of Holdfast Bay's Outdoor Dining Policy*);

*Section 69 Approved Area* means an authorisation to consume liquor in an Outdoor Dining Area in accordance with section 69 of the *Liquor Licensing Act 1997*;

*Standard Approved Hours (SAH)* means the standard hours legislatively approved for sale and/or supply of liquor for each respective licence category within the *Liquor Licensing Act 1997* without an ETA;

### 1.5 Strategic Reference

Placemaking: Creating lively and safe places

Economy: Supporting and growing local business

Economy: Making it easier to do business

Economy: Boosting our visitor economy

## 2. PRINCIPLES

- 2.1 In accordance with section 52 of the Act, Council requires notification no less than 28 days prior to the scheduled hearing date of *all* liquor licence applications, extended trading authorisations and entertainment consents for licensed premises established within its jurisdiction;

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- 2.2 In accordance with section 2.1 of this policy, Council will assess the individual merits of each application against relevant legislation, development requirements, Building Code of Australia, Council policy guidelines, and the intentions and objects of the *Act* to ensure:
- 2.2.1 that the existing 'use rights' of the subject land/property are deemed suitable for the establishment of a licensed premises;
  - 2.2.2 that the sought standard approved hours are deemed suitable for both the licensed premises and its location;
  - 2.2.3 that any sought extended trading authorisation is deemed appropriate for both the licensed premises and its location;
  - 2.2.4 that the operational hours of any sought section 69 approved Outdoor Dining Area are deemed suitable for a both the licensed premises and its location;
  - 2.2.5 that any sought entertainment consent is deemed appropriate for both the licensed premises and its location;
- 2.3 As the City of Holdfast Bay is a highly residential area, in accordance with sections 2.1, 2.2.2 and 2.2.3 of this policy, with the exception of extenuating circumstances, council will generally only support *Standard Approved Hours* prescribed by the *Act* for each individual licence category.
- 2.3.1 Should an applicant seek licensed hours exceeding the *SAH* prescribed by the *Act*, further development approval and/or Council resolution *may* be required;
- 2.4 In accordance with section 77(3) of the *Act* council may exercise its right of intervention into licence proceedings held before the Licensing Authority for applications requiring Development Approval. To exercise this right council must provide *sufficient* evidence to the Licensing Authority that the application will contravene development and/or planning requirements.
- 2.5 In accordance with sections 77 and 78 of the *Act*, council reserves the right to provide the Licensing Authority with a written submission when a proposed licence, operation of a licence, or conduct of a licensee is deemed to be of detriment to the amenity of the local area. To exercise this right council must provide *sufficient* evidence to the Licensing Authority that a licensed premises will have significant detrimental impact on the community.
- 2.6 In accordance with section 69 of the *Act* and sections 2.1 - 2.5 of Council's Outdoor Dining Policy, an application may be lodged with the Local Authority by a Licensee to authorise the provision of liquor within an allocated area of council land adjacent to a licensed premise;
- 2.7 For the purpose of section 2.6 of this policy:

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- 2.7.1 In accordance with section 2.10.2 of Council's Outdoor Dining Policy, no liquor is to be served, supplied and/or consumed within a section 69 approved area between the hours of 12:00 am and 8:00 am on any day;
- 2.7.2 In accordance with sections 2.6 and 2.7 of Council's Outdoor Dining Policy, should an outdoor dining permit lapses or becomes cancelled, revoked or suspended, the Local Authority will notify the Licensing Authority thus revoking any section 69 authorisation to consume liquor in the area adjacent to the licensed premises;
- 2.7.3 When liquor is to be consumed in an approved outdoor area Council reserves the right to impose a maximum capacity for each individual area based on:
- a. 1 person per 1m<sup>2</sup> for seated areas;
  - b. 1 person per 0.75m<sup>2</sup> where approval for standing consumption is sought;
- 2.8 Pursuant to section 105 of the *Act*, entertainment in licensed premises should contribute positively to and not detract from the amenity of the area. As such, in accordance with sections 2.1 and 2.2.5 unless good cause is demonstrated, in all cases where entertainment is sought to be provided, Council will seek the imposition of the following conditions:
- a. All doors and windows within the premises are to be closed (but not locked) during the trading hours when entertainment is provided;
  - b. No [live] entertainment is to be provided on or in any balcony or outdoor/external area;
  - c. No loudspeakers are to be placed on the fascia of the premises, balcony or any other adjacent outdoor area or footpath;
- 2.9 In accordance with section 106 of the *Act* and for the purpose of section 2.5 of this policy, council may exercise its power to submit a complaint to the Licensing Authority on the grounds that entertainment, live entertainment and/or general noise emanating from a licensed premise excessive and is deemed to be *unduly* offensive, annoying, disturbing, or inconvenient to at least ten (10) persons who reside, work or worship in the immediate vicinity of a licensed premises;
- 2.10 In accordance with section 40 of the *Act*, council (both as landlord and local authority) requires that *all* Limited Liquor Licence applications are to be submitted to council for assessment;
- 2.11 For the purpose of section 2.10 of this policy, and in accordance with the City of Holdfast Bay's public land alcohol management (through the enforcement of By-Laws), council reserves the right to approve, refuse and/or restrict licence hours, conditions, and/or entertainment consent of any limited liquor licence application to assist in the management of public land/places, and to ensure the reasonable peace of residents;

- 2.12 In accordance with the provisions set out in section 131 of the Act council reserves the right to implement a temporary dry area for the purpose of prohibiting the consumption and/or possession of liquor in any public place for a period of up to and including 48 hours.

### 3. REFERENCES

#### 3.1 Legislation

- *Liquor Licensing Act 1997 ("Act").*
- *Planning, Development and Infrastructure Act 2016.*
- *Local Government Act 1999.*

#### 3.2 Other References

- *City of Holdfast Bay Outdoor Dining Policy*
- *City of Holdfast Bay City Wide Outdoor Urban Design Guidelines*