

PART 1 – POLICY OPERATON

Policy Development and Purpose

This Local Planning Policy (Policy) has been prepared under Schedule 2, Part 2 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The purpose of this Policy is to:

1. Clarify the role and responsibility of Council when dealing with applications for licensed premises¹;
2. Provide a framework for the assessment of development applications for licensed premises; and
3. Set out a process for Council to follow when considering intervention in liquor licensing proceedings under the *Liquor Control Act 1988*.

Objective

The objective of this Policy is to minimise the impact of licensed premises on the amenity of surrounding areas.

Relationship to Other Policies, Guidelines and Documents

This Policy should be read in conjunction with the relevant provisions of the City of Wanneroo District Planning Scheme No. 2 (DPS 2) and its associated policies and the *Liquor Control Act 1988*.

Relationship between development approval and liquor licence

Subject to the provisions of the Planning and Development Act 2005 and any exemptions, a development approval for licensed premises is issued by the City under DPS 2 and is a pre-requisite to a liquor licence. A liquor licence is issued by the Department of Racing, Gaming and Liquor under the *Liquor Control Act 1988*.

Relevant planning considerations for the assessment of applications for new licensed premises by the City are those development requirements covered under DPS 2 and this Policy and include those matters listed in Table 1 of this Policy.

Those considerations that will not be dealt with under the planning assessment but that the City may make representations to the licensing authority through the liquor licensing process include but are not limited to those matters listed in Table 1 of this Policy including number and density of licensed premises, perceived anti-social behaviour and liquor harm,

¹ Licensed premises for the purposes of the Policy includes liquor store – large, liquor store – small, tavern and small bar.

The City may issue development approval for licensed premises where a proposal complies with the relevant planning legislation; however may make representations to the licensing authority against a proposal for a liquor licence where the City believes the proposal is not in the interest of its local community.

PART 2 – POLICY PROVISIONS

1. Definitions

For the purposes of this Policy, the terms listed below have the following meanings. For other definitions, the DPS 2 definitions apply.

Amenity: means all those factors which contribute to form the character of an area. Considerations that may negatively affect amenity include but are not limited to the appearance and location of buildings, environment, noise, odour and traffic.

Child care centre: means premises used for the daily or occasional care of children in accordance with the *Community Services (Child Care) Regulations 1988*.

Educational establishment: means kindergartens, primary schools and high schools.

Licensed premises: means premises as defined in the *Liquor Control Act 1988*.

Locality: means the area within a 3 kilometre radius of a proposed licensed premise.

Place of worship: includes buildings used primarily for the religious activities of a church, but does not include an institution for primary, secondary or higher education, or a residential training institution.

Predominant view: means the most visible element to the public realm, having regard to the size, scale and compatibility of neighbouring buildings.

Public interest: means an interest in common to the public at large or a significant portion of the public and which may, or may not involve the personal or propriety rights of individual people.

2. General policy provisions

This policy applies to all development applications made to Council relating to new or existing licensed premises, and when considering intervention or objection to a liquor licence in accordance with the *Liquor Control Act 1988*.

1. Scope of considerations in planning assessments and considerations for liquor licences

1.1 The purpose of the table below is to distinguish between the valid considerations in the determination of a development application and matters of relevance in the consideration of a liquor licence.

Table 1

	APPROVAL BY CITY OF WANNEROO	APPROVAL BY DEPARTMENT OF RACING, GAMING AND LIQUOR
RELEVANT CONSIDERATIONS*	DEVELOPMENT APPLICATIONS	POTENTIAL BASIS FOR OBJECTING/INTERVENING TO LIQUOR LICENCE
Size of premises	✓	✓
Location (proximity to – schools, places of public worship)	✓	✓
Number and density of licensed premises – Economic Competition	X	✓
Number and density of licensed premises – Amenity	✓	✓
Anti-social behaviour – Relating to perceived anti- social behaviour	X	✓
Liquor harm – Relating to the social issues of increased liquor consumption and availability	X	✓
Signage	✓	✓
Building design	✓	✓
Car parking	✓	X
Noise	✓	✓
Traffic	✓	✓
Hours of trade	✓	✓
Number of patrons	✓	✓

* This is not an exhaustive list of considerations for a development application for licensed premises, or for a liquor licence. Refer to clause 67 of the deemed provisions of District Planning Scheme No. 2 for the full list of relevant planning considerations and the relevant sections of the *Liquor Control Act 1988* for the grounds for an intervention or objection.

2. Planning information requirements

2.1 In addition to the accompanying material requirements set out in DPS 2, any application for development approval which involves the issue of a liquor licence for new licensed premises is to include a Management Plan that addresses the following information:

- a) Maximum number of patrons;
 - b) Proposed operating hours;
 - c) Site plan showing all areas likely to be used by patrons, including any proposed outdoor dining areas and areas external to the site (public spaces, footpath, car parking, taxi rank, ride share and public transport services);
 - d) Location of existing or proposed educational establishment, child care centre or public place of worship within 200 metres of proposed premises;
 - e) Location of all existing licensed premises within the locality;
 - f) Operational management plan detailing measures to minimise the impact of the proposal on the amenity of the surrounding area. Depending on the type of use proposed, matters to be addressed may include noise management, rubbish disposal and collection, deliveries, security, complaint management, and patron control;
 - g) Any other plan or information Council may reasonably require including, but not limited to, a Traffic Impact Assessment and Noise Impact Assessment prepared by an appropriately qualified professional.
- 2.2 An application which involves the alteration of existing licensed premises may be required to include a Management Plan, or an appropriate amendment to the existing Management Plan that addresses the following:
- a) For alterations that are considered by Council to be minor in nature or temporary: details as described in clause 2.1 under a), b) and c).
 - b) For all other alterations: details as described in clause 2.1 under a) – g).

3. Advertising of development applications for licensed premises

- 3.1 In addition to the advertising requirements set out in DPS 2, for the duration of the advertising period of a development application for licensed premises, the City will make available to the community a copy of the Management Plan that is provided to the City under clause 2.1 or 2.2 of this Policy.

4. Assessment criteria for development applications for licensed premises

Location

- 4.1 In addition to the planning matters to be considered by Council listed under clause 67 of the deemed provisions of DPS 2, Council will not support a planning application for licensed premises within a 200m radius of an existing or proposed² educational establishment, child care centre or place of worship where the following circumstances exist:
- a) The frontage and/or primary access point of the proposed licensed premises forms the predominant view from the existing or proposed educational establishment, child care centre or place of worship; and
 - b) Signage and advertising materials for the proposed licenced premises forms the predominant view from the existing or proposed educational establishment, child care centre or place of worship.

Number of Patrons

- 4.2 To assess the proposed number of patrons at the development application stage, the following matters will be considered:
- a) The maximum patrons permitted under the Health (Public Building) Regulations 1992; and
 - b) Car parking requirements can be met in accordance with Table 2 (Clause 4.14) of DPS 2.

5. Conditions of Approval

- 5.1 Council may impose conditions on any development approval pursuant to Clause 68 of the deemed provisions of DPS 2 to address any aspect of the Management Plan.
- 5.2 A Section 40 Certificate issued by Council will include conditions of the relevant development approval relating to operating hours or number of patrons. Council will request the Licensing Authority to condition the liquor licence in the same manner.

6. Councils Role in the Liquor Licensing Process

Intervention

- 6.1 Council will only intervene in liquor licensing proceedings where:
- a) A written request has been received from residents/ratepayers to complain in a liquor licence application or permit; or
 - b) Council considers that reasonable grounds³ exist to require an intervention by Council.

² Includes proposals for educational establishments, child care centres or public places of worship where location has been adopted under structure plan or where a current development approval for the use has been issued by Council.

³ This may include, but is not limited to reports of anti-social behaviour or liquor harm, or evidence of increased social issues relating to liquor.

- 6.2 Subject to clause 6.1 above, the City will conduct an investigation into the subject of the complaint and consider the following:
- a) The type of licence/permit; property zoning; effects on the locality; the number of people objecting and the grounds;
 - b) Any historical complaint made relating to the licence or proposed licence;
 - c) The legitimacy of the complaint; and
 - d) If the complaint falls within the appropriate grounds for intervention outlined in section 69(7) of the *Liquor Control Act 1988*:
 - i. As to whether the premises are not suitable to be, or to continue to be, licensed or the subject of a permit; or
 - ii. As to whether a proposed alteration to, or redefinition of, licensed premises should be approved; or
 - iii. That if a particular application were granted, persons who reside, work or worship in the vicinity would be likely to suffer undue offence, annoyance, disturbance or inconvenience.
- 6.3 If the City considers, as a result of its investigation that intervention in licensing proceedings is not appropriate, the City will contact the complainant in writing to inform them of the City's decision.
- 6.4 If Council considers, as a result of its investigation that intervention in licensing proceedings is appropriate, the City may:
- a) Conduct discussions with the licensee to resolve issues; or
 - b) Lodge an intervention with the Licensing Authority, in the form of a written report detailing the complaint, and providing evidence pertaining to clause 6.2(d) above.

Objection

- 6.5 Council will only lodge an objection to the issuing of a liquor licence where a written request from residents/ratepayers has been received by Council that requests Council to object to a liquor licence application or permit, and that request contains supporting evidence consistent with the appropriate grounds for an objection as outlined in clause 6.6d.
- 6.6 Council will consider a potential objection in accordance with the following:
- a) Council shall consider the type of proposed licence/permit; property zoning; effects on the locality; the number of people objecting and the grounds; and
 - b) Council shall consider any historical complaint made relating to the licence or proposed licence; and

- c) Council shall investigate the legitimacy of the grounds for objecting; and
 - d) Council shall consider if the reason for objecting falls within the appropriate grounds for an objection as outlined in section 73(1) of the *Liquor Control Act 1988*:
 - i. That the grant of the application would not be in the public interest; or
 - ii. That the grant of the application would cause undue harm or ill-health to people, or any group of people, due to the use of liquor; or
 - iii. That if the application were granted —
 - a. undue offence, annoyance, disturbance or inconvenience to persons who reside or work in the vicinity, or to persons in or travelling to or from an existing or proposed place of public worship, hospital or school, would be likely to occur; or
 - b. the amenity, quiet or good order of the locality in which the premises or proposed premises are, or are to be, situated would in some other manner be lessened; or
 - c. That the grant of the application would otherwise be contrary to the Liquor Control Act 1988.
- 6.7 If Council considers, as a result of its investigation in accordance with clause 6.6 that lodging a formal objection is not appropriate, the City will contact the requestor in writing to inform them of the Council's decision.
- 6.8 If Council considers, as a result of its investigation that an objection to a liquor licence application is appropriate, Council will lodge an objection in the form required by the Licensing Authority and the City will inform the requestor in writing of the Council's decision.