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## **LIQUOR LICENSING Section 40 Requirements**

### **Council's Role**

Liquor licensing is administered by the Department for Racing, Gaming and Liquor. Prior to the issuing of a Liquor Licence, the Department for Racing, Gaming and Liquor requires the applicant to seek approval from the Local Authority via a Section 40 Certificate under the *Liquor Licensing Act*.

A Section 40 Certificate is an approval by Council which states that the selling of liquor is in accordance with the existing planning approval issued by Council.

The most common Liquor Licence Application that Council is involved in, relates to restaurants who wish to sell alcohol with meals. Subject to the applicant having a Restaurant Licence and planning approval for a restaurant, these applications are usually supported by Council. Similarly sporting clubs or associations sometimes seek a licence to sell alcohol from their clubrooms (ie. Lawn Bowls Club).

This information pack deals specifically with the Section 40 Certificate, which is issued by Council's Planning Department. Should you wish to apply for a Section 39 Certificate you would need to contact Council's Environmental Health Section.

### **What Information Is Required By Council?**

In order for Council to decide whether to issue a Section 40 Certificate, the following information is required:

- A copy of a Planning Scheme Consent Approval issued by Council for the subject building/property;
- At least 2 copies of plans detailing where the alcohol is to be sold and consumed; and
- A letter explaining what Licence you are seeking from the Department for Racing, Gaming and Liquor and how you have addressed the issues contained in the following section.

### **What Issues Will Be Considered By Council In Its Decision Making?**

The following issues would need to be taken into account by Council prior to issuing a Section 40 Certificate.

- Is the application consistent with the use approved by Council?
- Is the Licence being applied for consistent with the use approved by Council?
- Does the licensed area correspond with the Planning Scheme Consent plans as approved by Council?

- Will the licence be detrimental to the amenity of the area? (ie. If the Licence proposes liquor sales without meals for up to 20 hours per day).
- Does the proposal require the creation of additional car parking bays?

If the licence is a 'Special Facility Licence' extra care must be taken as there is no set guidelines for local authorities to base their decision on.

### **How Long Will It Take To Receive A Section 40 Certificate From Council?**

Staff are delegated to issue a Section 40 Certificate where the selling of liquor is not the predominant use associated with the building/property. An example of this would be selling alcohol with meals at an existing restaurant. In these cases the selling of alcohol complements the predominant use, which would be the selling of food. Where staff are delegated a decision within 2 weeks is likely to be made, so long as all criteria have been met.

If the licence involves the sale of alcohol without the need to sell a meal, or the selling of alcohol becomes the predominant use, then the application would need to be referred to a full Council meeting. As Council only meets once every month, it may take up to six weeks to process such a request.

In some circumstances, the existing Planning Scheme Consent may not adequately allow for the Liquor Licence requested, therefore, a new Planning Scheme Consent may need to be lodged. An example of this would be a restaurant wanting to apply for a Tavern Licence, which could not be supported unless Council approved a new Planning Scheme Consent for a 'Tavern'.

### **More Information.....**

Should you require any further information it is recommended that you contact the Department for Racing, Gaming and Liquor or the Development Services Team by either phoning on 9841 9383, by email [planning@albany.wa.gov.au](mailto:planning@albany.wa.gov.au) or in person at the City of Albany's North Road Offices.

#### **\*\* DISCLAIMER \*\***

This information sheet is a guide only. Verification with original Local Laws, Acts, Planning Schemes, and other relevant documents is recommended for detailed references. The City of Albany accepts no responsibility for errors or omissions.