

Submission on Draft Liquor Amendment (24-hour Economy) Bill 2020

June 2020

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Opening

Thank you for the opportunity to make a submission in response to the Draft Liquor Amendment (24-hour Economy) Bill 2020.

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general-purpose councils and related entities. LGNSW facilitates the development of an effective community based system of local government in the State.

This is a draft submission awaiting review by the LGNSW Board. Any revisions made by the Board will be forwarded in due course.

Purpose

The NSW Government is inviting stakeholder and community feedback on the draft Liquor Amendment (24-hour Economy) Bill 2020, which includes proposed changes to NSW liquor laws to help create a safe and strong 24-hour economy and support the recovery of the night time economy after COVID-19 restrictions are eased.

The changes form part of a second round of liquor law reforms to implement the Government's 2019 response to the NSW Parliament Joint Select Committee's report on Sydney's night time economy.

LGNSW's responses to each of the proposed reforms (and the discussion questions put forward by the NSW Government as part of this proposal) are set out below.

LGNSW consulted with staff in member councils, and with the LGNSW Board, in developing our response. Comments in this submission have also been influenced by the NSW Night Time Economy Councils' Committee (NTECC), of which LGNSW is a member. NTECC was established in late 2016 and now include 14 councils with interest and expertise in developing the night time economy. Those on the NTECC are staff members with a diverse range of knowledge, including economic development, community safety, urban design, place making, culture and advocacy.

1. Consolidation of sanctions schemes

Q1. We want to introduce a demerit points system which consolidates three sanctions schemes into one (Schedule 1 in the draft Bill). Is the new system a good way to minimise violence and reduce serious liquor law breaches?

The draft Bill proposes to:

- replace three existing sanctions schemes for licensed premises (the Three Strikes Scheme, the Declared Premises/Violent Premises Scheme and the Minors Sanctions Scheme) with a simpler system based on demerit points, which would last for three years.
- Introduce incentives for good behaviour, such as licence fee discounts and earlier removal of demerit points.
- Require a demerit points register to be published online for transparency.

Council feedback strongly supports the proposed consolidation of the sanctions schemes to reduce regulatory complexity. The online publication of the demerit points register would also assist regulatory authorities in prioritising their work towards higher risk venues. It is also appropriate that less well-run venues that require heightened compliance and enforcement action in part cover the cost of this regulatory activity through paying higher fees. However, it is important that Liquor & Gaming NSW adequately educate licensed premises on any new arrangements to avoid confusion – including through direct approaches and local Liquor Accords.

Recommendation 1: LGNSW supports the introduction of a consolidated demerit points system accompanied by a comprehensive education campaign from Liquor & Gaming NSW for licensed premises and other stakeholders.

2. Incentives for well-run venues

Q2. We want to offer incentives in the new demerit points system (Schedule 1 in the draft Bill). Do you think the incentives offered will help encourage well run venues?

Councils particularly support the introduction of incentives for well-run licensed premises. While the Independent Liquor & Gaming Authority (ILGA) is able to amend and revoke liquor licences in response to breaches, councils are generally unable to revisit development consent once granted. As such, a system encouraging and rewarding well-run licensed premises is welcome and should result in a safer night time economy and local environment that is more conducive to a wider range of activities.

Recommendation 2: LGNSW supports the introduction of a liquor licensing incentive system to encourage well run licensed premises.

3. Outdated licence conditions restricting entertainment

Q3. We want to encourage more live music in venues by immediately removing certain outdated liquor licence conditions restricting entertainment, and making it free to apply for a review of other entertainment conditions (Schedule 4 in the draft Bill). Is this a good way to encourage live music in NSW?

The draft Bill proposes that the following liquor licence conditions that limit music and performances be removed immediately, without any action needed from venues:

- conditions that restrict the genre of music that can be played or performed
- conditions that restrict what type of instruments can be played
- conditions that restrict the number of musicians or live entertainment acts that can perform.

If a venue has a condition on its licence which prohibits, limits or restricts amplified or live music, the licensee would be able to lodge an application to vary or revoke that condition and the usual \$110 fee would be waived. These conditions cannot be automatically removed from

the licence because of potential impacts on the surrounding community. The public will still have the opportunity to comment on any applications to remove or vary such conditions.

Councils strongly support the intent of these changes to support and encourage live music offerings as part of a diverse night time economy, noting that in most cases complaints about venues relate to the actions and noise of patrons on leaving the venue, rather than what takes place inside.

Councils also support the proposal that licensees must apply to remove certain conditions that are more likely to have potential impacts on the surrounding community. The sudden introduction of amplified or live music at a venue without consultation with the council or neighbouring residents would likely result in a significant increase in noise complaints. It is important the council and the community be afforded an opportunity to comment in these circumstances.

However, councils have noted that in many cases liquor licence conditions are replicated in development consents issued under the *Environmental Planning and Assessment Act 1979* (EP&A Act). In these circumstances, for this proposed measure to have effect the provisions would also need to be removed from or modified in the development consent.

This complexity is well illustrated by the recent *Statement of Regulatory Intent in regards to COVID-19 coronavirus* issued by Liquor & Gaming NSW on 18 May 2020. The statement notes that Liquor & Gaming NSW will take a 'take a flexible approach to enforcing certain licence conditions that are aimed at managing public amenity and safety risks', while patron numbers are low, such as the presence of security guards and responsible service of alcohol marshals. However, in instances where these liquor licence conditions are mirrored in a development consent, then the venue would be in breach of its development consent conditions if it does not comply with these conditions.

It is important that the removal of liquor licence conditions does not result in confusion and unintentional breaches of development consent.

Recommendation 3: LGNSW supports the proposal to immediately remove outdated conditions that have no impact on local amenity, to support venues offering live music as part of a diverse and vibrant night time economy.

Recommendation 4: Liquor & Gaming NSW must ensure that councils and the community have an opportunity to comment on applications to remove liquor licence conditions that may have an adverse impact on local amenity.

Recommendation 5: Liquor & Gaming NSW should provide guidance for councils that may wish to replicate the removal of liquor licence conditions by removing conditions from a development consent. The guidance would ideally notify councils of the reforms, outline their intent and highlight benefits to the vibrancy of night time economies should councils choose to replicate the removal of conditions.

Recommendation 6: Liquor & Gaming NSW must make clear in its communications to licensed premises that despite any amendments to liquor licence conditions, licensed premises must still comply with conditions of their development consent.

4. Managing density of licensed premises

Q4. We want to introduce a new approach to help manage the density of licensed premises, and associated risks of alcohol-related violence and anti-social behaviour, in areas of high venue concentration (Schedule 2 in the draft Bill). Is this approach a good way to manage density risk?

The draft Bill proposes empowering the Independent Liquor & Gaming Authority (ILGA) to publish a Cumulative Impact Assessment (CIA) that would include a map showing problem areas where ILGA considers granting new high risk licences or late night trading would likely be detrimental to local or community wellbeing. Each Cumulative Impact Assessment would be data driven and contain the evidence relied upon. ILGA would be required to consult with key stakeholders for their input, including the local council, the NSW Police and the Ministry of Health. Lower risk licensed premises such as small bars and standard restaurants would not be affected by the proposed changes and could continue to apply for new licences and later trading.

After preparing an initial draft, ILGA would be required to consult with key stakeholders for their input including:

- Council
- NSW Police
- Ministry of Health

Once any input and data has been obtained, the first assessment would be published and reviewed after 12 months. The Authority would then be required to review the assessment every 2 years (at least) with key stakeholders to ensure it is updated with the most relevant evidence and data.

Councils strongly support the draft Bill's proposal for published and evidence-based CIAs, a reform that LGNSW has called for previously. There is a strong evidence base for managing the density of licensed premises in areas with high concentration. For example, the concentration of hotel licences in an LGA is strongly predictive of assault rates (BOCSAR, The effect of liquor licence concentrations in local areas on rates of assault in New South Wales, 19 February 2015).

LGNSW also acknowledges the potential benefits of the proposed reform, which include certainty for industry, community and government (by making clear where certain applications are likely to be refused), reducing unnecessary licence application costs (as applicants would be able to make better choices about business plans, licence type and venue location if they know where a venue is unlikely to be approved) and enabling continuous improvement as data collection and geo-spatial tools improve). For local government, a CIA would ensure that each council is aware of ILGA's position at the initial stages of considering a development application, and before a council grants a related development consent and businesses take on associated costs of development.

The proposed reform to introduce CIAs will also encourage a diverse range of night-time activities including retail, entertainment, arts and cultural experiences, while higher risk venues are likely to be denied a licence. It is important that any reforms do not deter diverse late-night offerings in appropriate locations that will contribute to vibrant and safe night time economies.

LGNSW also welcomes the draft Bill requiring councils to be consulted by ILGA in the development of a draft CIA, and strongly supports the requirement for a solid evidence base for each CIA. Councils have suggested that useful data sources and considerations may include:

- BOCSAR data, including on alcohol related violence and property damage
- Community and stakeholder feedback from police, council and local businesses including through local Liquor Accords
- All licensed venues in an area, and not just those deemed high risk
- Saturation of particular types of licensed premises within an area, or a mix of licence types, rather than just considering density of licences generally (as a diversified licence environment may encourage lower impact businesses)
- Risk rating of licensed venues
- Variety of other types of business in the surrounding area
- Noise complaints
- Open space for patrons leaving venues to gather or disperse
- Feedback from council on street cleaning on weekend mornings, littering, vandalism
- Planning policy context, including on proximity to residential precincts – to provide guidance on preferred development and land use outcomes for an area.
- Surrounding land use mix
- Transport and dispersal options
- Operation of the local Liquor Accord (if in place).
- Considering the benefits of density, for example access to transport, economic linkages and vibrancy, social connectedness and police or security presence, and recognising that density may not be problematic in and of itself.

Councils would also welcome CIA framework maps being made interactive (showing hours of operation, licence types, etc) and with visualisation tools that provide granular data at the local government area and various ABS statistical areas.

While the draft Bill proposes CIAs would be introduced for areas in which there are already significant alcohol related concerns, councils have suggested that there would be benefit in broadening the scope of the CIA process (or similar) to address areas experiencing rapid growth in the night time economy and facing concerning trends in alcohol related violence or anti-social behaviour. Under this model, councils could potentially be invited to nominate precincts for a CIA to address adverse trends before they become pervasive.

Recommendation 7: LGNSW supports the proposal for published and evidence-based CIAs, and requests that the NSW Government consider broadening the CIA process to provide an assessment of nominated 'at risk' areas with a demonstrated upward trend in alcohol related violence or anti-social behaviour.

Under the proposal, small bars and restaurants are considered to be lower risk licensed premises and would not be affected by the CIA. However, in some locations or zonings council Development Control Plans (DCPs) consider small bars to be high risk, and likewise for larger capacity restaurants. Councils also note that a clustering of small bars may present higher risk factors. For this reason, small bars and restaurants should not automatically be considered outside of an assessment against the CIA framework.

Recommendation 8: All venues that seek to apply for a liquor licence in a Cumulative Impact Assessment designated area should be subject to consideration under the CIA framework.

5. Reforms to support small bars

Q5. The changes will continue to align liquor and planning processes, including letting eligible small bars trade as soon as their liquor licence is lodged (Schedule 4 in the draft Bill). Is this a good way to support small businesses to trade using this lower risk licence?

Fast tracked licence applications

The draft Bill proposes to fast track licence applications for small bars. Small bars would be able to serve alcohol as soon as they have lodged an eligible application. One of the criteria is that the small bar already has planning approval, which was granted after a public consultation process where the community was advised that the applicant would sell alcohol.

Councils recognise that the current system of approvals for licensed venues can be confusing, slow and duplicative, with venues requiring both development consent from council and liquor licence approval from ILGA. Generally, councils support aligning liquor and planning processes, particularly for lower risk venues such as small bars and where there is limited risk of adverse impact. However, it is critical that opportunities for genuine community consultation remain.

This proposal mirrors an existing (since 2017) initiative of Liquor & Gaming NSW, the 'Interim Restaurant Authorisation' whereby restaurants can immediately serve liquor on lodging a liquor licence application if the public consultation had earlier taken place as part of planning approval. LGNSW understands that in the initial years of this initiative, a significant proportion of interim restaurant authorisations were invalidly issued as a result of incorrect information being provided by applicants to Liquor & Gaming NSW (claiming that the requisite public consultation had taken place when it had not). LGNSW lodged a submission to Liquor & Gaming NSW's evaluation of the interim restaurant authorisation scheme in November 2017 raising concerns with how Liquor & Gaming NSW was verifying the information put forward by licence applicants, and sought to ensure that the administrative burden to resolve inappropriately issued authorisations did not fall to councils.

It is often the case that conditions (such as hours of operation) in a development consent contradict those in a liquor licence, leading to confusion and potential breaches of either instrument.

To ensure these issues are not repeated with any streamlining of the small bar licence, it is essential that Liquor & Gaming NSW verifies claims put forward by small bar applicants with respect to their development consent process under the EP&A Act.

Recommendation 9: Prior to fast tracking liquor licence applications for small bars, Liquor & Gaming NSW must verify that planning approval to use the premises for the purposes of a small bar is in force, and that such planning approval was both recent and subject to a public consultation process under the *Environmental Planning and Assessment Act 1979* which indicated that the premises intended to operate as a small bar serving alcohol.

Councils welcome streamlining of application processes to reduce regulatory burden on small businesses. Opportunities to make liquor and planning applications concurrent rather than consecutive should be further explored.

Recommendation 10: The NSW Government should consider how liquor and planning applications for small bars can be undertaken concurrently or integrated to reduce regulatory burden, while maintaining adequate opportunities for community consultation.

Remove the need for a Community Impact Statement

The draft Bill proposes to remove the need for a Community Impact Statement (CIS) to be submitted with any small bar liquor licence application, to reflect the lower risk profile of small bars.

Councils recognise that in most instances, small bars have a lower risk of adverse social or amenity impacts and make an important contribution to the economic and cultural vibrancy of their neighbourhoods. However, council feedback does not support the wholesale removal of CIS requirements for all small bar liquor licence applications.

The CIS requirement of liquor licence applications is recognised as an important mechanism to provide the community an opportunity to comment, to gauge the level of support for an application and to provide clear evidence that the local community has been advised of the intention to operate a small bar.

Mandatory stakeholders that must be notified as part of a small bar CIS and invited to provide comment include:

- Council or consent authority
- Local police
- Neighbouring properties within at least 100m of the boundary of the proposed premises
- Recognised leaders of the Aboriginal community
- Neighbouring councils (if the proposed premises is situated within 500m of another local government area)
- NSW Health
- Department of Communities and Justice
- Transport for NSW

As the CIS is required before lodging a liquor licence application, the CIS also allows an applicant to review stakeholder feedback on the potential impacts of the small bar and consider whether changes to the proposed application would lessen any adverse impacts. Demonstrating that adverse impacts identified through a CIS have been addressed can save time and money for a small bar applicant, as their application for a liquor licence may be less likely to be denied.

While councils acknowledge that in most instances small bars will be considered low risk development, this is not always the case. Indeed, some councils in their Development Control Plans (DCPs) list small bars in certain locations and zonings as high risk development in terms of potential impact on the amenity of residential or other sensitive land uses. Councils also recognise that while development consent may be in place for some time before a bar

commences operation, the Community Impact Statement process ensures that public consultation is current as at the time of the liquor licence application.

In some circumstances then, it is appropriate for higher risk small bar liquor licence applications to retain the requirement for a CIS, which could potentially be a scaled down or less onerous version of a CIS that is better suited to small bar applications. These circumstances would include a council DCP establishing a high risk rating for the bar, if the small bar seeks to operate in an area with high density of licensed premises, and certain features of the location which pose a higher risk for social or amenity impacts. The draft Bill also proposes that ILGA be empowered to publicly issue a Cumulative Impact Assessment that would include maps of problem areas where ILGA considers the granting of new high risk licences is likely to be detrimental to the wellbeing of the local or broader community (as outlined in part 4 of this submission). It would be highly appropriate for a small bar liquor licence application to retain the requirement for a CIS if located in one of these designated problem areas.

Recommendation 11: The Community Impact Statement requirement should not be removed for higher risk small bar liquor licence applications that seek to operate:

- in an area with a high density of licensed premises
- in a problem area identified by the proposed Cumulative Impact Assessment Framework
- where a council's Development Control Plan establishes a high risk rating for a small bar for that location
- in a location which poses a higher risk for social or amenity impacts.

Recommendation 12: Where a Community Impact Statement is required for a small bar liquor licence, it should be a scaled down and less onerous CIS that better reflects the risk profile of small bars.

6. Allowing minors to access non-liquor services in small bars

Q6. The changes would let families with under 18-year-olds dine in small bars together, and enable small bars to be approved for under 18s to access non-liquor services unaccompanied at certain times, e.g. meals during the day, bookstores, other retail (Schedule 4 in the draft Bill). Is this a good way to allow small bars to offer more services to customers?

The draft Bill would:

- Allow minors into small bars until midnight if they are in the company of a responsible adult
- Allow small bars to apply for authorisation to permit minors to be in the small bar without being in the company of an adult during certain hours (e.g. where the small bar is also a book or record store).

Councils are generally supportive of moves to offer more family-orientated and diverse services for customers of small bars, but urge careful design and regulation. Permitting minors and families into premises may assist in creating a more inclusive and welcoming night time

economy with a reduced focus on consumption of alcohol, provided adequate controls are in place to ensure offerings are appropriate.

In many cases there may be little practical difference between lower risk small bars, and restaurants and cafes with liquor licences that already permit minors to enter the premises. However, unlike some other types of licensed premises, given their size small bars would likely have limited opportunity to establish designated areas for minors that are set apart from general use areas of the small bar. In these circumstances, it is critical that appropriate regulation and close oversight by Liquor & Gaming NSW minimises the risk of harm to minors.

Councils also note that small bars that seek to diversify their offerings to include retail or other services may need to apply to modify their development consent.

Recommendation 13: LGNSW supports proposals to allow minors to enter small bars in certain circumstances to access non-liquor services, provided that regulation minimises any risks to their welfare.

7. Regulation of noise complaints

Q7. We want to align government compliance and enforcement activities by refining Liquor & Gaming NSW's role in noise complaints (Schedule 4 in the draft Bill). Is this a good way to help simplify noise complaints for people involved in the process?

At present up to seven agencies are responsible for managing noise, which can cause confusion and regulatory complexity for venues. The draft Bill aims to reduce this regulatory overlap by removing the role of Liquor & Gaming NSW in dealing with disturbance complaints about noise coming from within a venue, including noise caused by live music. Liquor & Gaming NSW would still consider disturbance complaints which relate to the behaviour of customers as they leave a venue (including their noise).

LGNSW appreciates that a licensed venue may have a noise condition on its development consent issued under the *Environmental Planning and Assessment Act 1979* (EP&A Act), another noise condition on its liquor licence (issued under the *Liquor Act 2007*) and also be subject to noise complaints under the *Protection of the Environment Operations Act 1997* (POEO Act). LGNSW in general supports efforts to streamline the regulation of noise from licensed premises and for example has also previously called for the NSW Government to consider application of the agent of change principle in reforms, which places the onus for sound-proofing on any new development in an area, rather than any existing businesses.

However, LGNSW does not support removing the role of Liquor & Gaming NSW in dealing with disturbance complaints about noise coming from within a venue for the following reasons:

1. **Longstanding development consents may not include noise conditions** – Many existing licensed premises do not have conditions relating to noise (particularly for longstanding development consents) which would mean that if Liquor & Gaming NSW no longer had a role in responding to noise complaints then the only avenue for complaint would be through mechanisms of the POEO Act.

2. **Regulatory uncertainty of subjective noise provisions of POEO Act** – The POEO Act is not well equipped to respond to noise complaints from licensed premises. Noise conditions imposed on specific liquor licences and in development consent can specify the maximum decibel limit and Octave Band Centre Frequency – an objective test that is simple to measure and thus enforce. However, the POEO Act contains no such thresholds for scientific noise measurement and instead relies on a subjective assessment of what is considered harmful or unreasonable. This creates regulatory uncertainty for licensed venues and imposes regulatory burden on the authority empowered by the POEO Act to investigate and issue noise abatement directions and orders (whether the authority is a council or the NSW Police).
3. **Cost shifting onto local government** – Many councils do not have an after hours response capacity for noise complaints (which is when complaints about noise from licensed premises are most likely) and instead refer noise complaints associated with licensed venues to Liquor & Gaming NSW or the NSW Police. While NSW Police officers are authorised officers under the Liquor Act, it is not the role of the NSW Police to investigate potential breaches of development consent under the EP&A Act. If Liquor & Gaming NSW no longer dealt with noise complaints, the only remaining option for placing objective noise conditions on licensed premises would be in a development consent, to be enforced by councils. This would create an unfunded financial burden on local government by cost shifting the responsibility of responding to noise complaints from the NSW Government to councils.
4. **Flexibility of liquor licensing** – Where noise breaches are persistent, there are provisions in the Liquor Act to impose further conditions or requirements on a venue. This flexibility does not exist under the EP&A Act with respect to development consents.
5. **Fragmentation of disturbance complaint provisions** – The proposal will fragment the existing disturbance complaint provisions by separating noise disturbances from all other kinds of disturbances that may be dealt with under the Liquor Act.

LGNSW supports addressing regulatory overlap and promoting ease of doing business, but not where this will result in fragmented and inefficient regulation, and unfunded cost shifting to local government. At the same time, councils tend to have a good relationship with their NSW Police Local Area Command and where councils have the capacity and resourcing to do so they work together with police to investigate and address noise complaints. However, many councils do not have this resourcing available.

To reduce confusion and improve consistency of regulation for licensed premises, the NSW Government could instead ensure that any noise conditions in a development consent are mirrored in a liquor licence. The NSW Government could also work with councils to standardise development consent and liquor licence application requirements with respect to noise.

Recommendation 14: Liquor & Gaming NSW should retain its responsibility to manage and respond to noise disturbance complaints under the Liquor Act to avoid fragmenting responsibility for managing licensed venue disturbance complaints and to avoid shifting this unfunded responsibility onto local government.

Recommendation 15: Liquor & Gaming NSW should consider how noise conditions in development consents and liquor licences can be standardised to improve consistency of regulation.

8. Same day alcohol delivery

Q8. We want to enhance regulation of same day alcohol delivery. This includes strengthening controls with age verification, to reduce the risk of supply to under 18-year-olds (Schedule 3 in the draft Bill). What do you think of the proposed changes?

The proposed reforms for same day alcohol delivery would:

- Require interstate same day delivery providers to hold a NSW liquor licence to ensure these providers comply with NSW liquor laws
- Introduces cut off times after which same day alcohol deliveries cannot be made (11pm on a Sunday and midnight on any other day)
- Introduce new proof of age requirements for same day delivery
- No longer permit same day alcohol deliveries to be left unattended
- Require *Responsible Supply of Alcohol* training for delivery people to ensure alcohol is not delivered to an intoxicated person. Businesses will be able to develop their own training to meet this need.
- Require licensees to keep a record of non-delivery due to the person being a minor, intoxicated or unable to provide proof of age.
- Ensure delivery people are not penalised for refusing to complete a delivery.
- Ensure customers can exclude themselves from receiving same day alcohol.
- Prohibit same day delivery alcohol from being delivered into Alcohol Free Zones or Alcohol Prohibited Areas.

Feedback indicates that councils are supportive of the proposals to enhance regulation of same day alcohol delivery, noting that enforcement is a matter for Liquor & Gaming NSW and the NSW Police. Councils welcome the consideration of appropriate regulation while the industry is still emerging and before levels of harm rise.

Councils also support the introduction of cut off times for making same day deliveries, noting the increasing number of online alcohol sale and delivery services being established as home-based businesses, which are exempt development under the State Environmental Planning Policy (Exempt & Complying Development Codes) 2008. A large proportion of alcohol delivery business takes place later into the night, which for home-based businesses will have increasing amenity impacts on neighbouring residents if left unregulated.

Multiple councils have highlighted the need for an evaluation of the social impacts of the home delivery industry, including the potential for alcoholism, antisocial behaviour, social isolation, and in particular domestic and family violence. The NSW Bureau of Crime Statistics and Research (BOCSAR) in 2015 released a report showing a sharp increase in domestic violence associated with the concentration of packaged liquor licences (BOCSAR, *Liquor Outlet Density and Violence*, 19 February 2015) and councils would welcome further research focusing on same day alcohol delivery (particularly during the COVID-19 pandemic where the use of delivery services has substantially risen) in order to guide future regulation.

While the draft Bill proposes that businesses will be able to develop their own Responsible Service of Alcohol training for their staff, councils suggest that Liquor & Gaming NSW develop standardised resources and a model training package to promote consistency and assist businesses to comply with this requirement.

Recommendation 16: LGNSW supports proposals to enhance regulation of same day alcohol delivery but recommends that:

- a) Liquor & Gaming NSW develop standardised resources and a model training package to promote consistency and assist businesses to comply with this requirement, and
- b) BOCSAR undertake research on social impacts of increasing prevalence of same day alcohol delivery, including its impact on domestic and family violence.

The draft Bill also proposes to prohibit same day alcohol deliveries to an Alcohol Free Zone (AFZ) or Alcohol Prohibited Area (APA). Councils are generally not aware of issues with alcohol delivery to AFZ/APAs, but note that these matters would typically be reported to police if they do arise. Although beyond the scope of this review, LGNSW would welcome the NSW Government consulting with councils on the potential to amend the *Local Government Act 1993* provisions relating to the creation of Alcohol Free Zones and Alcohol Prohibited Areas by councils, with a view to streamlining the two very similar provisions to reduce community confusion.

Recommendation 17: The NSW Government should consult with councils on options to consolidate Alcohol Free Zone and Alcohol Prohibited Area provisions in the Local Government Act to reduce regulatory complexity and community confusion.

LGNSW would welcome the opportunity to assist with further information during this consultation to ensure the views of local government are considered.

To discuss this submission further, please contact LGNSW Strategy Manager Damian Thomas at damian.thomas@lgnsw.org.au or on 02 9242 4063.

Recommendation summary

Recommendation 1: LGNSW supports the introduction of a consolidated demerit points system accompanied by a comprehensive education campaign from Liquor & Gaming NSW for licensed premises and other stakeholders.

Recommendation 2: LGNSW supports the introduction of a liquor licensing incentive system to encourage well run licensed premises.

Recommendation 3: LGNSW supports the proposal to immediately remove outdated conditions that have no impact on local amenity, to support venues offering live music as part of a diverse and vibrant night time economy.

Recommendation 4: Liquor & Gaming NSW must ensure that councils and the community have an opportunity to comment on applications to remove liquor licence conditions that may have an adverse impact on local amenity.

Recommendation 5: Liquor & Gaming NSW should provide guidance for councils that may wish to replicate the removal of liquor licence conditions by removing conditions from a development consent. The guidance would ideally notify councils of the reforms, outline their intent and highlight benefits to the vibrancy of night time economies should councils choose to replicate the removal of conditions.

Recommendation 6: Liquor & Gaming NSW must make clear in its communications to licensed premises that despite any amendments to liquor licence conditions, licensed premises must still comply with conditions of their development consent.

Recommendation 7: LGNSW supports the proposal for published and evidence-based CIAs, and requests that the NSW Government consider broadening the CIA process to provide an assessment of nominated 'at risk' areas with a demonstrated upward trend in alcohol related violence or anti-social behaviour.

Recommendation 8: All venues that seek to apply for a liquor licence in a Cumulative Impact Assessment designated area should be subject to consideration under the CIA framework.

Recommendation 9: Prior to fast tracking liquor licence applications for small bars, Liquor & Gaming NSW must verify that planning approval to use the premises for the purposes of a small bar is in force, and that such planning approval was both recent and subject to a public consultation process under the *Environmental Planning and Assessment Act 1979* which indicated that the premises intended to operate as a small bar serving alcohol.

Recommendation 10: The NSW Government should consider how liquor and planning applications for small bars can be undertaken concurrently or integrated to reduce regulatory burden, while maintaining adequate opportunities for community consultation.

Recommendation 11: The Community Impact Statement requirement should not be removed for higher risk small bar liquor licence applications that seek to operate:

- in an area with a high density of licensed premises

- in a problem area identified by the proposed Cumulative Impact Assessment Framework
- where a council's Development Control Plan establishes a high risk rating for a small bar for that location
- in a location which poses a higher risk for social or amenity impacts.

Recommendation 12: Where a Community Impact Statement is required for a small bar liquor licence, it should be a scaled down and less onerous CIS that better reflects the risk profile of small bars.

Recommendation 13: LGNSW supports proposals to allow minors to enter small bars in certain circumstances to access non-liquor services, provided that regulation minimises any risks to their welfare.

Recommendation 14: Liquor & Gaming NSW should retain its responsibility to manage and respond to noise disturbance complaints under the Liquor Act to avoid fragmenting responsibility for managing licensed venue disturbance complaints and to avoid shifting this unfunded responsibility onto local government.

Recommendation 15: Liquor & Gaming NSW should consider how noise conditions in development consents and liquor licences can be standardised to improve consistency of regulation.

Recommendation 16: LGNSW supports proposals to enhance regulation of same day alcohol delivery but recommends that:

- a) Liquor & Gaming NSW develop standardised resources and a model training package to promote consistency and assist businesses to comply with this requirement, and
- b) BOCSAR undertake research on social impacts of increasing prevalence of same day alcohol delivery, including its impact on domestic and family violence.

Recommendation 17: The NSW Government should consult with councils on options to consolidate Alcohol Free Zone and Alcohol Prohibited Area provisions in the Local Government Act to reduce regulatory complexity and community confusion.

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