

Liquor & Gaming NSW Evaluation of the Community Impact Statement (CIS)

Feedback from Northern Beaches Council as follow up to telephone consultation.

Via email to Luke Ryan <Luke.Ryan@justice.nsw.gov.au>

Council generally has two roles in the Liquor Licensing application assessment process

- a. To ensure the application aligns and complies with relevant planning rules and existing development consents.
- b. To reflect and advocate community concerns regarding local impacts and public safety.

Northern Beaches Council has involvement in both roles. Public safety concerns have arisen as a direct result of managing a late night entertainment precinct in Manly, which has had a long history of late night alcohol related assault and anti-social behavior. There has been a heavy social, environmental and economic cost from this. The current CIS is not considered adequate and is often completed by client solicitors and liquor licensing consultants where identical 'cut and paste' type answers are often observed on the CIS and which rarely appear to address the real concerns of the community. This is also due to poor form design that allows for true community concern to be overlooked by the applicant. Whilst acknowledging the importance of the economic benefits that licensed venues bring to an area it must not outweigh the notion that a liquor license should be considered a privilege due to the severe negative impacts that it can have on both the immediate and the wider community.

Cumulative Impact

There are more than 100 licensed venues within approx. a 400M radius in Manly CBD. Both research and experience has shown that a concentration of bars and clubs within a short walking distance leads to alcohol related violence and damage. This concentration means more pressure on public space and the potential for less individual licensee accountability for patrons and incidents that occur in the public spaces in between venues. The current CIS process does not have to acknowledge impacts of a concentration of venues. Clustering of venues also puts a huge impost on local government and Police due to the need to maintain ongoing and vigilant compliance and enforcement of all the venues. More thorough scrutiny and acknowledgement of their impacts and responsibilities at the outset would perhaps relieve the burden of enforcement later on.

A potential licensee should show good cause why they deserve a license within a community already well serviced with alcohol options and how they will contribute to minimizing the impacts of alcohol related problems in the area.

Cumulative Impact Assessments are currently utilized in Victoria and would be considered more effective in place of the existing CIS in NSW.

https://www.planning.vic.gov.au/_data/assets/pdf_file/0015/13461/PPN61-Licensed-premises_Assessing-cumulative-impact_June-2015.pdf

Notification radius

The notification radius of 100 metres is not considered adequate in a high risk location considering the trail of damage and the other negative impacts that are proven to occur beyond this in areas with clustering of venues. In the case of Manly CBD the walking distance from most venues to transport stops is closer to 400M. Most violence, damage and anti-social behavior is proven to occur beyond the immediate 100M of the venue. It is appropriate that venues in a concentrated,

high risk location such as this are required to consider a “bigger picture” in their CIS. Community within this larger area should be given the opportunity to comment accordingly. It is however acknowledged that existing use rights of licensed venues be considered in areas that are being filled in with more residential.

A variety of alternate notification methods should also be considered that effectively advise the community of liquor license applications eg. community newsletters, local newspapers etc.

High risk locations

There would be value in having designated higher risk areas or area with existing high densities and/or late night entertainment precincts. All applications within these areas would have to complete a CIS that acknowledges this and what they will do to ensure they will not cause a negative impact on the area.

Identified high risk locations could be based on rates of alcohol related crime, later trading hours and density of licensing venues. Licenses issued in these designated higher risk areas should be subject to much greater scrutiny with a more rigorous community impact statement required due to the higher levels of social impact.

A plan of management should also be prepared and submitted as part of the CIS that addresses issues such as CPTED design approaches to minimize harm, trading hours, noise management, patron dispersal, security, transport accessibility, responsible service policies, contribution to public space security schemes etc. If and when approved this should be made available to Council.

Further attention could also be considered about ‘saturation’ or ‘tipping points’ in higher risk areas where an identified threshold of liquor licenses exists before negative impacts become entrenched.

Transparency and Accountability of process

Due to the lack of information publicly provided there is a perception that liquor licenses may be determined in isolation with little regard for the context and environment in which they will exist. The more information that can be made available online would help dispel this. There is a current lack of information provided to Council and the community about liquor license applications and the CIS. When Council is notified, there is a paucity of detail, sometimes just name and addresses. This makes it difficult to assess and onerous to verify and provide objection to. When this does occur there is no acknowledgment or feedback loop on the progress of the application. The onus is on the Council to follow up and resources do not allow for this to occur. This leads to many application not being dealt with properly.

Community Impact statements rely upon the applicant licensee to complete with little apparent checking of the information provided. This is an extremely subjective approach with only apparent random verification of the information supplied. The documentation currently supplied on line via the Noticeboard is invariably inadequate and gives minimal amount of information and not enough to make comment without a lot of time and effort to follow up to get more. Council does not have time or resources to follow up requests for additional information and invariably the application will not be addressed at all.

Questions on the CIS form are designed such that ambiguous responses mean that police or council may not have actually been consulted at all. This can easily be reframed to ensure that this has in fact occurred. It would be more effective if there was a requirement on the CIS for the applicant to have to call or attend Council and speak with a nominated staff person about the application. The

name, time/date and issues discussed should then be included on the CIS. The onus should be on the applicant to ensure this occurs with details that are readily verifiable.

A database should be made freely available from Liquor and Gaming NSW that includes all licensed venues, capacities, trading hours, plans of management and license conditions. This would ensure that more informed objections can occur, improve enforcement operations between Council and Police and improve transparency and accountability.

CIS and Development Applications

In general, standardisation of liquor licensing assessment as part of the DA process would be near impossible to achieve currently as each Council has its own set of Local Environmental Plans - LEPs (NBC currently has 4) and various Development Control Plans – DCPs. LEP sets down the high level requirements on permissibility for a development and if a DA is necessary. DCPs contain the detailed controls that are applied to the assessment of any DA.

DA notification is not standardised and is set by each Council via a Council policy. Most notification takes place on proximity to the proposed development and doesn't generally extend to various stakeholders as desired by the CIS process.

Further, the service of liquor is not of its own accord development which would require a prior DA. For example, packaged liquor licence which is able to be carried out as Exempt development under State Environmental Planning Policy (exempt and complying development) Codes 2008. Another eg. the sale of packaged liquor in an existing retail/supermarket would not necessarily require a separate DA as it would be considered generally consistent with the current DA for the retail/supermarket. This issue was exemplified in Manly whereby an approved retail store opposite a primary school planned to re-open as a bottle shop. Council had no power to resist this as it was a complying development. It was only stopped once the liquor license application was lodged and the community were able to comment and protest accordingly.

Another example is where a PSA is proposed in an existing restaurant, no further DA is required as the PSA would be considered consistent with the current DA for the restaurant.

One aspect of the Council DA process that could be emulated is the online access to all documents relating to the application including notification letters, objections, all plans and reports, staff recommendations and final decision.

Emerging concerns

There is currently some concern regarding the number of approvals for home delivery alcohol businesses. There seems to be very little scrutiny or accountability of these business and their potential impacts. With the increasing popularity of home delivery technologies it would be sensible that these licenses are considered more rigorously at the application stage with perhaps limitations of delivery areas and social impact assessments.

Research and local experience indicates that bottle shops/takeaway liquor is the most damaging of all alcohol outlets in terms of social cost in the form of violence in the home and public space and contributing to chronic health problems. There is little if any responsibility by those who sell it at a packaged liquor outlet for the ramifications of its consumption compared to other types of licensed venues. This is exacerbated by the extremely cheap prices charged for the product.

(Livingstone,M.11Oct12, Local Government reducing alcohol related harms in the community,

<http://vimeo.com/52137906>)

All packaged liquor license outlets including home delivery, should therefore be subject of some kind of CIS process that addresses and acknowledges their role in limiting these negative impacts.

Recommendations

1. The onus should be on the applicant to show good cause why they deserve a license within a community already well serviced with alcohol options and how they will contribute to minimizing the impacts of alcohol related problems in the area. An improved CIS should be the tool where this is demonstrated.
2. Notification areas should be larger in higher risk locations due to the fact that the negative impacts are proven to extend beyond 100M.
3. The current CIS form/template is ambiguous and not adequate and the applicant should be accountable for all the information provided in their CIS by being able to verify discussions with Council and Police including names, date and issues discussed.
4. There should be identified Higher Risk Locations based on levels of alcohol related crime and density of licensed venues. Applications within these locations should be required to undertake a Cumulative Impact Assessment such as that used in Victoria.
5. That a database be made freely available from Liquor and Gaming NSW that includes all licensed venues, capacities, trading hours, plans of management and license conditions. This would ensure that more informed objections can occur, improve enforcement operations between Council and Police and improve transparency and accountability of L&G NSW.
6. A thorough social/community impact assessment should be required for every off-premises/package liquor license application.
7. To streamline the CIS process with the DA process would be difficult due to the many legislative requirements, variations and anomalies that exist. Alignment of these two processes is would be challenging to allow for generic arrangements.

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