

# Consideration of social impact under section 48(5) of the *Liquor Act 2007*



**Independent  
Liquor & Gaming  
Authority**

A statutory board established under the Gaming and Liquor Administration Act 2007

This Guideline concerns the process by which the Independent Liquor & Gaming Authority (“Authority”) considers the likely social impact of a licence, authorisation or approval on community wellbeing when determining whether to grant certain applications.

It provides information to relevant stakeholders (including applicants for a licence, authorisation or approval and members of the community) about the type of information that is likely to be of assistance to the Authority when considering that impact.

This Guideline applies to decisions that are made by the Authority itself and Authority delegates. The Guideline is primarily directed to “relevant applications” requiring consideration of the overall social impact test under section 48(5) of the *Liquor Act 2007* (“Act”).

However, the sources of data identified below (particularly socio demographic data from the Australian Bureau of Statistics (“ABS”), crime data from the NSW Bureau of Crime Statistics and Research (“BOCSAR”) and Authority licensing data for the relevant area) will likely inform other types of licence decisions that do not require application of the overall social impact test, but consideration of the public interest in respect of the relevant community that is affected by a decision. An example of this is an application to vary an existing extended

trading authorisation under section 51(9) of the Act.

Applicants are reminded that whether or not the overall social impact test applies to an application, all Authority liquor decisions will be informed by an assessment of the statutory objects and considerations prescribed by section 3 of the Act.

## Background

1. The object of section 48 of the Act is to facilitate the consideration by the Authority of the impact that the granting of certain licences, authorisations or approvals will have on the local community. This is achieved by providing a process through which the Authority is made aware of:
  - a. the views of the local community, and
  - b. the results of any discussions between the applicant and stakeholders regarding concerns that the local community may have in relation to the application.
2. The Authority is required to consider a community impact statement (“CIS”) provided with an application and have regard to the impact of the proposed licence, authorisation or approval on community well-being, before determining whether to grant it.

### Applications that require consultation on community impact

3. Section 48(3) of the Act requires certain applications to be accompanied by a CIS. Those applications are, as set out in section 48(2) ("Relevant Applications"):
  - a. an application for a hotel licence, club licence or packaged liquor licence,
  - b. an application under section 59 for approval to remove a hotel licence, club licence or packaged liquor licence to other premises,
  - c. an application for an extended trading authorisation in relation to a hotel licence, club licence or packaged liquor licence,
  - d. an application for an extended trading authorisation in relation to an on-premises licence (but only if the authorisation will result in trading at any time between midnight and 5 am),
  - e. an application for an extended trading authorisation in relation to a producer/ wholesaler licence (but only if the authorisation will result in retail trading at any time between midnight and 5 am),
  - f. an application for an extended trading authorisation in relation to a small bar licence (but only if the authorisation would result in trading on a regular basis at any time between 2 am and 5 am),
  - g. any particular application (or class of application) that is required by the Authority to be accompanied by a CIS,
  - h. any other application of a kind prescribed by the regulations or made in such circumstances as may be prescribed by the regulations but does not include any application for an extended trading authorisation in relation to a special occasion (as referred to in section 49(5)(b) or section 49(5A)).
4. There are two categories of CIS: category "A" and category "B". Clause 27(1) of the Liquor Regulation 2018 ("Regulation") requires the preparation of a category "A" CIS in respect of an application for a packaged liquor licence for sale of liquor only by telephone, fax, mail order, or through an Internet site or by other electronic means; an application for an extended trading authorisation enabling an onpremises licensee to sell liquor between 5 and 10 am or between 10 pm and midnight on a Sunday; or an application for a primary service authorisation under section 24(3) of the Act.
5. Those applications for which a category "B" CIS is required are set out in clause 27(3) of the Regulation. They include an application for a hotel licence; club licence; packaged liquor licence and an on-premises licence that relates to a public entertainment venue (other than a cinema or theatre). They also include an application for an extended trading authorisation or an application to remove any of the aforementioned licence types.
6. Moreover, a Category B CIS will be required when extended trading is sought to enable:
  - a. a small bar to supply liquor between the hours of 2 am and 5 am,
  - b. an on-premises licensed business to supply liquor between the hours of midnight and 5 am,
  - c. or if a producer/wholesaler licensee to supply liquor between the hours of midnight and 5 am (other than in respect of the licensee's residents or guests).

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

7. Finally, a Category B CIS will be required if the Authority requires it pursuant to section 48(2) (f) of the Act, such as for change of boundaries applications to increase licence boundaries by more than 50%, and where a CISB was provided with the original licence application, or would currently be required for an application of this type.

## Community Impact Statement

8. Requirements in relation to the preparation and content of a CIS are set out in sections 48(3), (4) and (6) of the Act and clauses 27 to 29 of the Regulation. Applicants must also comply with the advertising and notification requirements of clauses 20 to 26 of the Regulation.
9. This Guideline is not intended to outline the CIS procedure for applications made under categories “A” and “B” in detail. Explanatory information regarding the CIS may be published on the Liquor & Gaming NSW (“L&GNSW”) website at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

## Requirement to have regard to impact upon community well-being

10. Section 48(5) of the Act provides that the Authority must not grant a licence, authorisation or approval unless it is satisfied, having regard to the CIS and any other matter it is made aware of, that the overall social impact of granting the licence, authorisation or approval will not be detrimental to the well-being of the local or broader community.
11. The Authority will generally assess the “local community” by reference to the state suburb or town in which the licensed premises is to be situated, and the “broader community” by reference to the local government area in which the licensed business is to be situated.
12. The Authority is required to:
- assess the overall social impact of a licence, authorisation or approval being granted, and
  - determine whether it is satisfied that that impact will not be detrimental to the well-being of the community.
13. In a practical sense it is incumbent upon an applicant to provide the Authority with sufficient evidence or other material to satisfy it that the test prescribed by section 48(5) of the Act is satisfied with respect to both the local and broader communities, or the Authority must refuse the Relevant Application.
14. When making an assessment of the overall social impact of a licence, authorisation or approval being granted, the Authority will consider, without limitation, the following aspects of a Relevant Application:
- The **type** of proposed licensed premises applied for – for example, whether it is a hotel, general bar, small bar, registered club, public entertainment venue (nightclub) or packaged liquor licence (takeaway liquor store).
  - The **scale** of the proposed licensed premises – that is, its size, layout and the maximum number of persons that the premises can accommodate (under an approval from the local consent authority or, where such an approval does not exist, under other appropriate building standards). Whether or not entertainment is to be provided, and its nature, may also be relevant in considering the scale of the proposal.
  - The **trading hours** of the proposed licensed premises – whether the venue will trade within the standard hours prescribed by section 12 of the Act, what the proposed six-hour closure period under section 11A of the Act will be (if applicable), any trading hour arrangements approved by the local consent authority, and whether an extended trading authorisation is sought to enable the premises to trade beyond midnight and, if so, until when and for how many days per week.
  - The **location** of the proposed licensed premises – whether the density of licensed premises in the relevant local or broader community is relatively high or low by comparison to the New South

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

Wales average, or the average of other relevant areas. And what cumulative social impact the addition of a further premises of the type, scale and with the trading hours proposed is likely to have upon those communities – by reference to such issues as transport problems, overcrowding of footpaths, increased pedestrian traffic, littering, noise pollution and the prevailing exposure of the local and broader communities to relevant types of anti-social behaviour and crime, including the proximity of any “hot spots” for the occurrence of such incidents.

The Authority may consider whether the populations of the relevant local or broader communities have demographic traits that are linked to relatively higher or lower vulnerability to alcohol-related social problems than the State population as a whole.

The Authority will also consider those matters relevant to location that must be addressed by a CIS – including the proximity of the proposed licensed premises to: hospitals or other health facilities; nursing homes; places of worship; schools, universities, TAFE colleges or other educational facilities; facilities for the homeless; facilities for people with alcohol related problems; public parks and other public facilities; and alcohol free zones or any other areas identified by NSW Police as being a problem area for public drinking.

Also relevant will be the nature of the surrounding buildings or activities – for example whether or not the area is wholly residential or commercial/industrial.

- e. Whether any **specific measures**, over and above those required by legislation, will be implemented at the proposed licensed premises (whether by way of licence conditions or otherwise) that may contribute to reducing the potential social detriment that premises of the relevant type, scale, trading hours and location may otherwise pose to the local and broader communities. For example, some larger developments such as hotels and nightclubs may, as a condition of development consent, have produced a Plan of Management or a Security Management Plan. Similarly, the Authority may consider whether any particular aspects of the proposed licensed premises may enhance its potential to have a positive social impact upon the local and broader communities.
- f. Whether granting the Relevant Application would provide employment or other opportunities in the live music industry, and arts, tourism, community or cultural sectors.

## Matters the Authority must consider

- 15. In determining whether it is satisfied that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community, the Authority is required to have regard to: a. the CIS; and
  - b. any submissions and reports received by the Authority, and any other relevant matters the Authority is made aware of, during the application process.
- 16. Upon receiving a Relevant Application, the Authority may refer the matter to the Secretary of the Department of Customer Service, (“Secretary”) for a report pursuant to section 42 of the Act and will invariably do so. The Secretary’s report may include information and or comment on the potential social impact posed to the local or broader communities should the application be granted. The report may recommend conditions to which the proposed premises may be subject if a licence is granted, and address the compliance history, if any, of the applicant.
- 17. Where such a report is provided, the Authority is required to have regard to it in determining whether it is satisfied that the overall social impact of the licence, authorisation or approval being granted will not be detrimental to the well-being of the local or broader community.

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

### Matters the Authority may consider

18. While the Authority must have regard to the matters referred to above, the Authority need not confine its assessment of the overall social impact of a Relevant Application being granted to that material alone.
19. The Authority may consider domestic and international public health and other relevant research regarding those demographic indicia that are linked to a population's relatively higher or lower vulnerability to alcohol-related harm.
20. The Authority may also consider domestic or international research on the association between high alcohol outlet density or outlet clustering and adverse social outcomes, including but not limited to rates of alcohol-related crime and anti-social behaviour, hospital admissions, child abuse and neglect, alcohol related assaults, motor vehicle accidents, pedestrian injuries, drink driving and reported rates of public drunkenness.
21. Recent and historical crime statistics and analysis, including data pertaining to general and alcohol related crime rates in the relevant communities, is routinely obtained from BOCSAR. This material may be taken into account by the Authority when considering the extent of prevailing social problems and crime trends in the relevant communities. This data may relate to domestic and non-domestic assault, police assault, malicious damage to property, disorderly conduct and liquor offences. The Authority may take account of the time of day that assaults occur, and the severity of assaults, when considering crime conditions and trends in relevant communities.
22. The Authority may refer to the latest ABS "Quickstats" data and Socio Economic Index for Areas ("SEIFA") data for the local and broader communities.
23. The Authority may refer to licence density and clustering data and information about the type, location and diversity of other licensed premises in the local and broader communities. The Authority considers that licensed hotel premises with gaming machine entitlements being located next to one other in a 'cluster', have the propensity to lead to greater risks of behavioural issues (including anti-social behaviour and/or problem gambling behaviour), an oversupply and overconsumption of alcohol, property damage, violence and other noise disturbances due to (but not limited to) the potential flow-on effects of patrons moving from one licensed premises to another. If relevant, the Authority will have regard to any potential clustering issues in relation to an application.
24. The Authority may also refer to NSW Roads and Maritime Services ("RMS") data for information about alcohol related road accidents, and NSW Department of Health "HealthStats" information on alcohol related deaths, hospitalisations and ambulance call outs in a relevant community.

### Gambling activities in hotels during extended trading periods

25. Clause 28 of the Regulation sets out that in the case of an application for an extended trading authorisation (ETA) in relation to a hotel licence, the CIS must address matters relating to gambling activities on the licensed premises during the proposed extended trading hours.
26. Applicants seeking to vary an existing ETA may also make submissions on these matters with a view to establishing whether any expansion of gambling activities is in the public interest.
27. The Authority may consider the nature, scope and social impact of any gambling (gaming machines, TAB and KENO) and how any risks associated with these aspects of the hotel's operations (planned or current) will be managed.
28. To assist with this, the applicant should provide information or evidence specifying the gambling services to be provided during the ETA period for the foreseeable future (around the next two years), the profile and numbers of patrons expected to make use of these services during extended hours,



## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

any counselling and self-exclusion services available to those patrons (including their uptake), the expected social benefits and detriments of these activities and the measures to be implemented at the venue to minimise the risk of gambling related harms.

29. The Authority will from time to time inform itself on relevant domestic and international research on problem gambling, and that information may inform the Authority's assessment of an application.
30. The Authority may also refer to the following information as it relates to the relevant community under consideration:
  - a. Productivity Commission Inquiry Report on Gambling (2010), Report no. 50, Canberra
  - b. Ogilvy Illumination (2012), The Prevalence of Gambling and Problem Gambling in New South Wales. Commissioned by NSW Office of Liquor, Gaming and Racing.
  - c. NSW Responsible Gambling Fund Client Data Set Reports (2013/2014 onwards)
  - d. The designation of the relevant Statistical Area Level 2 (SA2) as a Band 1 (low risk), 2 (medium risk), or 3 (high risk) area for gaming machine impact
  - e. LGNSW gaming machine net profit report and ranking data (by LGA) for hotels and clubs
  - f. The latest published ABS "Quickstats" sociodemographic data for the relevant community.
31. Refer to Authority Guideline 16 for additional factors that the Authority may take into consideration when determining whether to grant applications involving late-night gaming.

## Submissions from relevant stakeholders

32. As noted above, the Authority must consider all submissions received by it. These will include:
  - a. submissions from those stakeholders with whom a Relevant Applicant must consult pursuant to clause 29 of the Regulation. These include, in the case of a category "A" CIS, the local consent authority (Council), the local police and such other stakeholders as are determined by the Authority. In the case of a category "B" CIS, the relevant stakeholders include all those agencies who must be consulted in respect of a category A CIS, plus the Ministry of Health, the Department of Family and Community Services, RMS, any recognised leaders or representatives of the local Aboriginal community, and the occupiers of "neighbouring premises" (as defined by the Regulation). In addition, in the case of an application for an ETA in relation to a hotel licence, the relevant stakeholders include any organisation located in the LGA in which the hotel is situated that receives funding from the Responsible Gambling Fund under the Casino Control Act 1992 for the specific purpose of providing gambling-related counselling or treatment services (to find service providers in the LGA that the venue is in, please visit <https://www.responsiblegambling.nsw.gov.au/home/gambling-help/find-support-near-you>;
  - b. if the Authority has advised a Relevant Applicant to consult with a specified person or body, any submissions from that person or body; and
  - c. submissions received from other persons or groups, whether or not the Act or Regulation requires a Relevant Applicant to consult with those parties.
33. When framing submissions, stakeholders should consider the statutory objects and considerations to which the Authority must have regard under section 3 of the Act:

### 3 Objects of Act

1. The objects of this Act are as follows

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

- a. to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,
  - b. to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,
  - c. to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.
2. In order to ensure the objects of this Act, each person who exercises functions under this Act (including a licensee) is required to have due regard to the following:
- a. the need to minimise harm associated with misuse and abuse of liquor (including harm arising from violence and other anti-social behaviour),
  - b. the need to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of liquor,
  - c. the need to ensure that the sale, supply and consumption of liquor, and the operation of licensed premises, contributes to, and does not detract from, the amenity of community life,
  - d. the need to support employment and other opportunities in the -
    - (i) live music industry, and
    - (ii) arts, tourism, community and cultural sectors.
34. Without limitation, members of the local or broader community may have concerns in relation to such matters as:
- a. undue disturbance to the neighbourhood of the proposed licensed premises caused by the operation of the premises and/or the conduct of patrons;
  - b. alcohol-related anti-social behaviour or crime;
  - c. alcohol-related hospitalisations and health problems;
  - d. increases in pedestrian and motor traffic numbers;
  - e. road safety (including but not limited to incidents involving motorists, cyclists and pedestrians affected by alcohol);
  - f. contribution to domestic violence associated with alcohol consumption; or
  - g. litter and other pollution associated with the operation of the premises.
35. Other stakeholders may wish to identify the benefits of a Relevant Application, which may include, without limitation:
- a. increased social and recreational opportunities;
  - b. addressing a shortage of entertainment venues in the relevant local or broader community;
  - c. increased opportunities for live music and other artistic pursuits;
  - d. increased employment and economic activity in the hospitality or tourism industries;
  - e. employment in, or other opportunities for, the arts, community or cultural sectors; and
  - f. other benefits to consumers.
36. The key facts and contentions asserted in a Relevant Application or submission regarding social impact should be supported by appropriate evidence or other material. To the extent that contentions are based upon underlying material (for example, a Police or Council submission based upon data on alcohol linked crime rates or disturbance complaints in a community), then the underlying

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

material upon which those contentions are based should be either provided to the Authority or identified in a manner that would enable an opposing party to make an informed response.

37. Similarly, if a public agency (for example, the Ministry of Health) or an industry consultant makes a contention about the likely positive or negative social impact of a proposed licensed premises that is based upon research or statistics, the underlying research or statistics should be identified.
38. Notwithstanding the above, members of the local and broader communities may express their observations or opinions regarding the social impact of a proposed licensed premises without providing expert or statistical evidence in support of those submissions. The Authority encourages members of the local or broader communities to address the particular application before the Authority, in light of the statutory objects and considerations provided by section 3 of the Act.
39. When submissions are made directly to the Authority they should, wherever practicable, be made in writing, addressed to the Authority and sent to L&GNSW using the process and forms provided on the Liquor & Gaming Application Noticeboard.
40. Persons making submissions to the Authority should be aware that their submissions will be provided to the applicant. If the submission is made as part of the CIS process, before the application is filed with the Authority, a copy of the submission will be attached to the applicant's CIS that is published to the Liquor Application Noticeboard on the L&GNSW website at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).
41. To protect the privacy of persons making submissions in a personal capacity, the Relevant Applicant is required to provide the Authority with two versions of the CIS. Version one, without redactions, will be used by the Authority in determining the Relevant Application. All submissions and supporting documents in their original form must be attached. Version two will be published on the Liquor & Gaming Application Noticeboard. All submissions and supporting documents must be attached but the names, emails, phone numbers and residential apartment or street numbers of those who have made submissions in a personal capacity must be redacted from this version.
42. Residential street names however should not be removed so as to identify the proximity of the submitter to the relevant premises.
43. If for good reasons, persons making submissions do not wish their identities to be disclosed or the submissions published, they should advise the Authority at the time of making submissions and explain why.
44. A Relevant Application will not be progressed unless both versions of the CIS are received by the Authority.

## Submissions that a local or broader community “does not need” another liquor business

45. The fact that a locality may already be well served by liquor businesses is not, of itself, a basis for refusing a new licence application.
46. The former *Liquor Act 1982* enabled parties to object to an application on the basis that there was no “need” for a new liquor business in a neighbourhood. This provision enabled incumbent businesses to restrict the access of potential competitors to local markets.
47. Following a recommendation by the National Competition Council, the State Parliament enacted the *National Competition Policy Liquor Amendments (Commonwealth Financial Penalties) Act 2004* which replaced the “needs” test with provisions that focused upon community impact. Those amendments have largely been carried through to the current Act.
48. As noted earlier in this Guideline, section 48(5) of the current Act requires the Authority to be satisfied, as a prerequisite to the grant of certain licences, authorisations and approvals, that the



## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

overall social impact of the relevant licence, authorisation or approval being granted will not be detrimental to the local or broader community.

49. While the statutory focus has shifted away from the question of whether there is a need for a new liquor business, the number of existing liquor businesses in a locality and the addition of a further liquor outlet continue to be relevant to the issue of overall social impact and will be considered by the Authority in determining the Relevant Application. For example, stakeholders may have concerns that a net increase in the availability of liquor services in an area that already has a high density of liquor outlets might exacerbate or contribute to prevailing levels (whether or not these are high compared to the NSW average) of alcohol-related harm and disturbance. The issue of licence density should be addressed in submissions to the Authority.

### Informal process

50. The Authority is an independent administrative body, not a court. Section 36B of the *Gaming and Liquor Administration Act 2007* ("GALA Act") provides that a formal hearing involving the legal representation of parties is not required to be held in relation to any application or other matter that may be dealt with or decided by the Authority under the Act.
51. However, the Authority must observe the requirements of administrative law, including principles of natural justice or procedural fairness, when undertaking administrative action.
52. The Authority administers its power to determine Relevant Applications in a manner that is as efficient and informal as possible, with a view to minimising time and costs to all stakeholders. While the Authority may, at its discretion, decide to conduct an interview, convene a conference or otherwise receive submissions orally, the Authority expects to determine most Relevant Applications "on the papers" (that is, on the basis of written material).
53. Each Relevant Application will be determined on its merits. Issues relevant to the overall social impact of an application being granted will vary according to the circumstances of each case and will be influenced by the extent of stakeholder participation. Submissions identifying both positive and negative aspects of the proposed licensed premises will be taken into account by the Authority when considering whether the overall impact of a liquor application will be detrimental to the local or broader community.
54. Relevant Applicants may engage legal representatives or expert consultants to address questions of social impact – although this is not essential.
55. The matters discussed in this Guideline are not intended to comprise an exhaustive list of factors or material that may be taken into account by the Authority when determining whether a Relevant Application meets the requirements of section 48(5) of the Act.
56. Subject to the Authority's duty to afford natural justice and the practical constraints of time and resources in a high volume jurisdiction, the Authority may further explore, of its own volition, with applicants or other stakeholders, matters pertaining to social impact that have been touched upon in submissions, or identify further issues or material that have not been raised in submissions.

### Determination

57. The overall social impact of an application being granted comprises only one part, albeit a significant part, of the matters to be considered by the Authority when determining a Relevant Application. The time taken to determine a Relevant Application will vary from case to case and will be affected by such matters as whether an application meets the formal requirements of the legislation, the complexity of issues, the number of submissions received, whether submissions are made in a timely manner and, particularly, the time taken by the Relevant Applicant to respond to any questions or requests from the Authority for further information.

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

### Notification of the Authority's decision

58. When the Authority has determined an application, it will notify the Applicant and any other party that it is required to notify under the GALA Act. The Authority may, in its discretion, advise the Applicant of the outcome of a Relevant Application informally before the formal decision letter is notified.
59. Due to the volume of submissions it receives, the Authority does not routinely advise persons who have made submissions to it of its determination of a Relevant Application. Nor does the Authority always publish primary liquor and gaming decisions on its website. However, the Authority will generally inform persons who make enquiries to it of the outcome of Relevant Applications.
60. Section 36C of the GALA Act requires that the Authority publish, as soon as practicable, notice of certain decisions prescribed by the Gaming and Liquor Administration Regulation 2016.
61. Persons wishing to obtain further information held by the Authority concerning Relevant Applications are advised to apply for that information under the *Government Information (Public Access) Act 2009*. This allows the Authority to ensure that any sensitive personal, business or commercial information is not released where there is an overriding public interest against its disclosure.
62. Information about the process for seeking information held by the Authority is available on the L&GNSW website at [liquorandgaming.nsw.gov.au](http://liquorandgaming.nsw.gov.au).

### Appeal rights

63. Amendments to the GALA Act during 2016 conferred a right of merits review by the New South Wales Civil and Administrative Tribunal ("NCAT") for some, but not all, licensing decisions made by the Authority.
64. Prospective review applicants are recommended to obtain legal advice as to whether a right of NCAT review is available and contact the NCAT Registry for advice about the process of seeking review.
65. Applications for review of Authority licensing decisions will usually be required to be made within 28 days of the day that the Authority publishes its reasons. However, certain Authority decisions have only a 21 day period in which to seek NCAT review.
66. In New South Wales the judicial review of administrative action is available only at common law, which is accessed via section 69 of the *Supreme Court Act 1970*.
67. Judicial review proceedings are required to be commenced within three months of the date that a decision was made by the Authority and only on the basis that a decision maker has committed an error of law.
68. Prospective appellants are strongly recommended to obtain legal advice as an unsuccessful litigant may be exposed to an adverse costs order.

### Review of this Guideline

69. The Authority may review the operation of this Guideline from time to time and may update the Guideline as and when considered appropriate.

APPROVED by the Independent Liquor & Gaming Authority

**13 October 2021**

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

A handwritten signature in blue ink, appearing to read 'Philip Crawford', with a stylized, cursive script.

**PHILIP CRAWFORD**  
**Chairperson**

### Annexure A

From time to time, the Authority will inform itself of relevant domestic and international public health, criminological analysis, and research pertaining to the social impact of alcohol. This research assists the Authority to identify risk factors and understand the features of communities that should receive particular attention. The Authority takes such risk factors into account along with any particular features of the local community to which an application relates.

The following list of research is provided for the information of applicants and stakeholders. The research is categorised according to demographic indicators, alcohol-related crime, health and road accident data and publications on adverse social outcomes associated with alcohol outlet density. The list is not intended to be exhaustive.

### Propositions

The Authority may apply the following general propositions from the available literature:

- High levels of outlet-density have been shown to be positively associated with higher levels of alcohol-related harm (Livingston et al., 2016).<sup>1</sup>
- High levels of packaged liquor outlet-density have been shown to be positively associated with higher rates of alcohol-attributable morbidity and mortality (Morrison et al., 2016).<sup>2</sup>
- Socio-economically disadvantaged communities are at greater risk of alcohol-attributable death (NSW Health, 2021).<sup>3</sup>
- High levels of packaged liquor outlet-density have been shown to be positively associated with higher rates of domestic violence (DV) (Donnelly et al., 2014; Scott et al., 2021).<sup>4, 5</sup>
- High levels of hotel outlet-density, and highly concentrated clusters of hotels in an area, have been shown to be positively associated with higher rates of alcohol-related non-DV assault (Livingston, 2008a, 2008b).<sup>6, 7</sup>
- The positive relationship between liquor outlet density and serious assaults was greater in areas where outlets stayed open later at night (Taylor et al., 2021).<sup>8</sup>
- Extension of packaged liquor outlet trading hours later at night has been shown to be associated with higher rates of domestic violence (Wang, Fung & Poynton, 2022).<sup>9</sup>

<sup>1</sup> Livingston, M., Wilkinson, C., & Room, R. (2016). *Community impact of liquor licences: An Evidence Check rapid review brokered by the Sax Institute for the NSW Ministry of Health*. <https://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>

<sup>2</sup> Morrison, C., Smith, K., Gruenewald, P. J., Ponicki, W. R., Lee, J. P., & Cameron, P. (2016). Relating off-premises alcohol outlet density to intentional and unintentional injuries. *Addiction*, 111(1), 56-64.

<sup>3</sup> NSW Health (2021). *Alcohol Use and Related Harms in NSW: Surveillance Report 2021*. <https://www.health.nsw.gov.au/aod/resources/Publications/alcohol-surveillance-report-2021.pdf>

<sup>4</sup> Donnelly D., Menendez P., & Mahoney N. (2014). The effect of liquor licence concentrations in local areas on rates of assault in New South Wales. *Crime and Justice Bulletin*, no. 181.

<sup>5</sup> Scott, D., Ogeil, R. P., Maoyeri, F., Heilbronn, C., Coomber, K., Smith, K., Miller, P.G., & Lubman, D. I. (2021). Alcohol accessibility and family violence-related ambulance attendances. *Journal of Interpersonal Violence*, 37(13-14).

<sup>6</sup> Livingston, M. (2008a). Alcohol outlet density and assault: A spatial analysis. *Addiction*, 103(4), 619-628.

<sup>7</sup> Livingston, M. (2008b). A longitudinal analysis of alcohol outlet density and assault. *Alcoholism: Clinical and Experimental Research*, 32(6), 1074-1079.

<sup>8</sup> Taylor, N., Livingston, M., Coomber, K., Mayshak, R., Zahnow, R., Ferris, J., Chikritzhs, T., & Miller, P. (2021). The combined impact of higher-risk on-license venue outlet density and trading hours on serious assaults in night-time entertainment precincts. *Drug and Alcohol Dependence*, 223, 108720.

<sup>9</sup> Wang, J. J., Fung, T., & Poynton, S. (2022). Takeaway alcohol sales and violent crime: The implications of extended trading hours. *Crime and Justice Bulletin*, no. 247. <https://www.bocsar.nsw.gov.au/Publications/CJB/2022-Report-Takeaway-alcohol-sales-and-violent-crime-CJB247.pdf>

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

### Data

BOCSAR, SEIFA, outlet-density and health data will be considered together. The Authority will pay particular attention to communities with high levels of liquor availability, outlet-density, and/or that are experiencing high levels of alcohol-related crime, compared to the NSW average, or the average of other relevant areas. The Authority will pay attention to socio-economically disadvantaged communities, and/or communities with high levels of alcohol-attributable mortality and/or morbidity, when there is evidence these communities may be at particular risk of alcohol-related harms arising from outlet-density.

### Demographic indicators

- ABS 'Quickstats' 2021 data  
*Provides high level census data available for most areas, from small areas to state, territory and Australia level and grouped by persons, families and dwellings.*
- ABS SEIFA 2016 data  
*SEIFA data ranks areas in Australia according to relative socio-economic advantage and disadvantage. The indexes are based on information from the five-yearly census including education, occupation, employment, income and housing.*

### Crime

The Authority routinely refers to NSW BOCSAR annual crime data and crime maps pertaining to a relevant suburb or Local Government Area when considering an application. The data the Authority will consider includes recent and historical crime statistics and analysis, including data pertaining to rates of alcohol-related crime (including domestic and non-domestic assault, police assault, malicious damage to property and liquor offences) in the relevant communities and benchmark areas.

<http://crimetool.bocsar.nsw.gov.au/bocsar/>

### Health

- NSW Department of Health 'HealthStats' data [www.healthstats.nsw.gov.au](http://www.healthstats.nsw.gov.au)  
*Recent and historical HealthStats data reported by local government area on the topic of alcohol, which includes data relating to alcohol-attributable hospitalisations and alcohol-attributable deaths.*

### Motor vehicle accidents

- Centre for Road Safety, Transport for NSW 2020 data  
*Annual statistical reports for road traffic crashes in NSW (includes alcohol involvement and blood alcohol concentration by time period, urbanisation, degree of crash, degree of casualty, road user).*

### Research and academic publications

- Australian Institute of Health and Welfare (2016). *National Drug Strategy Household Survey 2016*. <https://www.aihw.gov.au/getmedia/15db8c15-7062-4cde-bfa4-3c2079f30af3/aihw-phe-214.pdf.aspx?inline=true>
- Australian Institute of Health and Welfare (2019). *National Drug Strategy Household Survey 2019*. <https://www.aihw.gov.au/getmedia/77dbea6e-f071-495c-b71e-3a632237269d/aihw-phe-270.pdf.aspx?inline=true>



## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

*Reports on tobacco, alcohol and illicit drug use, attitudes and opinions in the Australian population. In 2019, 1 in 4 (25%) people drank at a risky level on a single occasion at least monthly, while about 1 in 6 (16.8%) exceeded the lifetime risk guideline.*

- Badland, H., Mavoa, S., Livingston, M., David, S., & Giles-Corti, B. (2016). Testing spatial measures of alcohol outlet density with self-rated health in the Australian context: Implications for policy and practice. *Drug and Alcohol Review*, 35(3), 298-306.

*Outlet density may have a greater detrimental effect on a person's self-rated health for those living in more socially disadvantaged neighbourhoods.*

- Berry, J. G., Pidd, K., Roche, A. M., & Harrison, J. E. (2007). Prevalence and patterns of alcohol use in the Australian workforce: Findings from the 2001 National Drug Strategy Household Survey. *Addiction*, 102(9), 1399-1410.

*Describes Australian workers' prevalence and patterns of alcohol use. Identifies that patterns of consumption differ between occupational and industry groups, and advocate for the development of policies, prevention and intervention strategies to reduce harmful alcohol use in Australia, particularly among young adults.*

- BOCSAR (1996 - ): see all publications under the subject category "alcohol" that are published at [www.bocsar.nsw.gov.au](http://www.bocsar.nsw.gov.au).

- BOCSAR – Donnelly, N. (2018). Alcohol-related emergency department (ED) presentations and persons of interest proceeded against by police for assault. *Crime and Justice Bulletin*, no. 218.

*Found alcohol-related violence places a substantial burden on police and court systems in NSW.*

- BOCSAR - Donnelly, N., Menéndez, P., & Mahoney, N. (2014). The effect of liquor licence concentrations in local areas on rates of assault in New South Wales. *Crime and Justice Bulletin*, no. 181.

*Results suggest regulatory authorities should be concerned about increases in liquor outlet-density. In particular, increases in the density of hotels above two per 1,000 residents are of greater concern than increases in the density of premises with other types of liquor licences.*

- Centers for Disease Control and Prevention (2017). *Guide for Measuring Alcohol Outlet Density*. U.S. Department of Health and Human Services.  
<https://www.cdc.gov/alcohol/pdfs/cdc-guide-for-measuring-alcohol-outlet-density.pdf>

- Chikritzhs, T., Catalano, P., Pascal, R., & Henrickson, N. (2007). *Predicting alcohol-related harms from licensed outlet density: A feasibility study*. NDLERF monograph no.28. Australian Institute of Criminology.  
<https://www.aic.gov.au/publications/ndlerfmonograph/ndlerfmonograph28>

*The study explored how best to apply the international and Australian research evidence, and systematically collected information on alcohol consumption and related harms to objectively evaluate (and ultimately predict) the impact of outlet-density changes to the public health, safety and amenity of communities.*

- Coomber, K, Droste, N., Pennay, A., Mayshak, R., Martino, F., & Miller, P.G. (2017). Trends across the night in patronage, intoxication, and licensed venue characteristics in five Australian cities. *Substance Use & Misuse*, 52(9), 1185-1195.

*Observational study in five Australian cities which found that later trading hours were associated with increased patron intoxication for all venue types.*

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

- Descallar, J., Muscatello, D.J., Weatherburn, D., Chu, M., & Moffatt, S. (2012). The association between the incidence of emergency department attendances for alcohol problems and assault incidents attended by police in New South Wales, Australia, 2003-2008: A time-series analysis. *Addiction*, 107(3), 549-556.  
*Identifies a clear, short-term temporal association between independent population-level markers of excessive alcohol use and violence.*
- Hobday, M., Chikritzhs, T., Liang, W., & Meuleners, L. (2015). The effect of alcohol outlets, sales and trading hours on alcohol-related injuries presenting at emergency departments in Perth, Australia, from 2002 to 2010. *Addiction*, 110(12), 1901-1909.  
*Regions of Perth, Australia with greater off-premises alcohol sales and counts of on-premises alcohol outlets, particularly those with extended trading hours, appear to have higher levels of alcohol-related injuries.*
- Hoffman, G. R., Palazzi, K., Boateng, B. O., & Oldmeadow, C. (2017). Liquor legislation, last drinks, and lockouts: the Newcastle (Australia) solution. *International Journal of Oral and Maxillofacial Surgery*, 46(6), 740-745.  
*'Last drinks' and 'lock out' legislation leads to a significant and sustained reduction in assaultive alcohol-related facial injury.*
- Jiang, H., Livingston, M., Room, R., Callinan, S., Marzan, M., Brennan, A., & Doran, C. (2020). Modelling the effects of alcohol pricing policies on alcohol consumption in subpopulations in Australia. *Addiction*, 115(6), 1038-1049.  
*Minimum unit price policies are predicted to have a greater impact on drinking among harmful drinkers than moderate drinkers. Uniform excise tax and minimum unit price policies are predicted to reduce alcohol consumption.*
- Laslett, A-M., Jiang, H., & Room, R. (2017). *Alcohol consumption of Australian parents: Continuity and change in the new millennium*. Foundation for Alcohol Research and Education. <https://fare.org.au/wp-content/uploads/Alcohol-consumption-of-Australian-parents-FINAL-30-JUNE-2017.pdf>  
*The report analyses drinking patterns of Australian parents, examining trends in drinking (and not drinking) using National Drug Strategy Household Surveys (NDSHS) undertaken between 2001 and 2013. It discusses factors, including age and socioeconomic status, that contribute to these changes and questions whether changes in parental drinking are connected to broader social changes.*
- Liang, W., & Chikritzhs, T. (2011). Revealing the link between licensed outlets and violence: Counting venues versus measuring alcohol availability. *Drug and Alcohol Review*, 30(5), 524-535.  
*The link between on-site alcohol outlets and violence may be primarily underpinned by negative amenity effects while off-site alcohol outlet effects occur via increased availability. Alcohol sales volumes from off-site outlets influence levels of violence, which occur at both licensed and residential settings.*
- Livingston, M. (2008a). A longitudinal analysis of alcohol outlet density and assault. *Alcoholism: Clinical and Experimental Research*, 32(6), 1074-1079.  
*Changes in the number of alcohol outlets in a community are linked to changes in the amount of violence the community experiences.*
- Livingston, M. (2008b). Alcohol outlet density and assault: A spatial analysis. *Addiction*, 103(4), 619-628.  
*Greater outlet density is associated with greater rates of assault.*

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

- Livingston, M (2011a). *A longitudinal analysis of alcohol outlet density and domestic violence*. *Addiction*, 106(5), pp. 919-25.  
*Longitudinal examination of positive relationship between alcohol outlet-density and domestic violence. The effects were particularly large for packaged liquor outlets, suggesting a need for licensing policies that pay more attention to off-premises alcohol availability.*
- Livingston, M. (2011b). Alcohol outlet density and harm: *Comparing the impacts on violence and chronic harms*. *Drug and Alcohol Review*, 30(5), 515-523.  
*The density of alcohol outlets where the main activity is alcohol consumption (i.e., pubs) is positively related to rates of assault-related hospital admissions, while the density of off-premises alcohol outlets is related to the rate of alcohol use disorders.*
- Livingston, M., Wilkinson, C., & Room, R. (2016). *Community impact of liquor licences: An Evidence Check rapid review brokered by the Sax Institute for the NSW Ministry of Health*. <https://www.saxinstitute.org.au/wp-content/uploads/Community-impact-of-liquor-licences-1.pdf>  
*Higher outlet-density is associated with greater alcohol-related harms.*
- Loxley, W. Toumbourou, J.W., Stockwell, T., Haines, B., Scott, K., Godfrey, C., Waters, E., Patton, G., Fordham, R., Gray, D., Marshall, J., Ryder, D., Siggers, S., Sand, L., & Williams, J. (2004). *The prevention of substance use, risk and harm in Australia: A review of the evidence*. The National Drug Research Institute and the Centre for Adolescent Health. <https://espace.curtin.edu.au/handle/20.500.11937/30403>  
*Outlines patterns of substance use and harm in the Australian community, considers risk and protective factors predictive of harmful drug use and extensively reviews the evidence available on national and international prevention strategies and approaches. Identifies a clear relationship between alcohol and other drug use and social factors, such as unemployment, low income and insecure housing.*
- Miller, P., Cox, E., Costa, B., Mayshak, R., Walker, A., Hyder, S., Tonner, L., & Day, A. (2016). *Alcohol/Drug-Involved Family Violence in Australia (ADIVA)*. NDLERF monograph no. 68. Australian Institute of Criminology.  
<https://www.aic.gov.au/publications/ndlerfmonograph/ndlerfmonograph68>  
*Analyses the role key demographic, social and environmental factors play in the occurrence and severity of different types of family and domestic violence, including how frequently alcohol is involved. Findings are that alcohol consumed at domestic violence incidents tended to be purchased from a supermarket liquor store and consumed at home.*
- Morgan, A., & McAtamney, A. (2009). *Key issues in alcohol-related violence*. Research in practice no. 4. Australian Institute of Criminology.  
<https://www.aic.gov.au/publications/rip/rip4>  
*Identified a link between liquor consumption and violence, including non-domestic and domestic assaults. The relationship between alcohol and violence is influenced by the interaction effects of alcohol along with personal, environmental and cultural factors.*
- Morrison, C. (2015). Exposure to alcohol outlets in rural towns. *Alcoholism: Clinical and Experimental Research*, 39(1), 73-78.  
*The economic geographic processes that lead to greater concentrations of alcohol outlets in lower-income areas are common to all retail markets. Lower-income populations are exposed to increased risk associated with the presence of additional outlets that service demand from non-residents. In rural areas, these processes appear to operate between discrete towns.*
- Morrison, C., Ponicki, W. R., & Smith, K. (2015). Social disadvantage and exposure to lower priced alcohol in off-premise outlets. *Drug and Alcohol Review*, 34(4), 375-378.

Not only are disadvantaged populations exposed to more outlets, the outlets to which they are exposed

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

*sell cheaper alcohol. This finding appears to be consistent with the spatial dynamics of typical retail markets.*

- Morrison, C., Smith, K., Gruenewald, P. J., Ponicki, W. R., Lee, J. P., & Cameron, P. (2016). Relating off-premises alcohol outlet density to intentional and unintentional injuries. *Addiction*, 111(1), 56-64.  
*Greater off-premises outlet-density is related to greater incidence of traumatic injury, and chain outlets appear to contribute most substantially to traumatic injury risk.*
- Northern Territory Government (2017). *Alcohol Policies and Legislation review: Final Report*. [https://industry.nt.gov.au/\\_\\_data/assets/pdf\\_file/0005/453497/alcohol-policies-and-legislation-review-final-report.pdf](https://industry.nt.gov.au/__data/assets/pdf_file/0005/453497/alcohol-policies-and-legislation-review-final-report.pdf)  
*Delivers an analysis of alcohol use and alcohol-related harm in the Northern Territory and recommends key areas of focus for the proposed Northern Territory Alcohol Harm Reduction Framework.*
- NSW Domestic Violence Death Review Team (2020). Report 2017-19. <https://www.coroners.nsw.gov.au/coroners-court/resources/domestic-violence-death-review.html>  
*Examines domestic violence related deaths to reduce the incidence of such deaths and to facilitate improvements in systems and services.*
- NSW Health (2014). *The Health of Children and Young People in NSW: Report of the Chief Health Officer 2014*. Centre for Epidemiology and Evidence. <https://www.health.nsw.gov.au/epidemiology/Publications/2014-cho-report.pdf>  
*Describes key health issues and health risk factors for children and young people aged 0-24 years in NSW. It also provides information on available interventions for improving the health and wellbeing of NSW children and young people. The report adopts an equity lens to review health disparities across demographic groups such as age, sex, Aboriginality, socioeconomic status and remoteness.*
- NSW Health (2016) - Trends in Alcohol Use and Health-related Harms in NSW: *Report of the Chief Health Officer 2016*. Centre for Epidemiology and Evidence. <https://www.health.nsw.gov.au/hsnsw/Publications/chief-health-officers-report-2016.pdf>  
*Highlights trends in alcohol use and health-related harms. It applies a data-driven, population health approach to describe key health issues, health risk factors, and available interventions for improving the health and wellbeing of NSW residents who consume alcohol.*
- NSW Health (2021). *Alcohol Use and Related Harms in NSW Surveillance Report*. <https://www.health.nsw.gov.au/aod/resources/Publications/alcohol-surveillance-report-2021.pdf>  
*A surveillance report on alcohol use and related harms in NSW up to June 2021.*
- Sanchez-Ramirez, D. C., & Voaklander, D. (2018). The impact of policies regulating alcohol trading hours and days on specific alcohol-related harms: A systematic review. *Injury Prevention*, 24(1), 94-100.  
*Policies regulating times of alcohol trading and consumption can reduce injuries, alcohol-related hospitalisations, homicides and crime.*
- Scott, D., Ogeil, R. P., Maoyeri, F., Heilbronn, C., Coomber, K., Smith, K., Miller, P.G., & Lubman, D. I. (2021). Alcohol accessibility and family violence-related ambulance attendances. *Journal of Interpersonal Violence*, 37(13-14).  
*Easier access to a liquor outlet is associated with greater domestic violence-related ambulance attendances for on-premises (late-night), restaurant and packaged outlets.*

## Consideration of social impact under section 48(5) of the *Liquor Act 2007*

- Smith, C., Wolstenholme, A., & Duffy, C. (2019). *Shutdown periods for electronic gaming machines*. Report by Snapcracker Research + Strategy for the New South Wales Responsible Gambling Fund.  
[https://www.responsiblegambling.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0011/881453/shutdown-periods-egm-snapcracker-report-2020.pdf](https://www.responsiblegambling.nsw.gov.au/__data/assets/pdf_file/0011/881453/shutdown-periods-egm-snapcracker-report-2020.pdf)

*A late-night shutdown is most likely to impact problem gamblers than any other group. This is because problem gamblers are significantly more likely to play EGMs after midnight and to play for longer periods of time overall. Hypothetically, problem gamblers are significantly more likely to continue playing EGMs in a venue without alcohol than recreational gamblers and are more likely to attend a venue to play EGMs if alcohol were not available than recreational gamblers.*

- Taylor, N., Livingston, M., Coomber, K., Mayshak, R., Zahnow, R., Ferris, J., Chikritzhs, T., & Miller, P. (2021). The combined impact of higher-risk on-license venue outlet density and trading hours on serious assaults in night-time entertainment precincts. *Drug and Alcohol Dependence*, 223, 108720.

*Found that late night service of alcohol in areas of high outlet density results in more assaults, whereas early closing venues in areas where outlet density is low is associated with fewer assaults.*

- Wang, J. J., Fung, T., & Poynton, S. (2022). Takeaway alcohol sales and violent crime: The implications of extended trading hours. *Crime and Justice Bulletin*, no. 247.  
<https://www.bocsar.nsw.gov.au/Publications/CJB/2022-Report-Takeaway-alcohol-sales-and-violent-crime-CJB247.pdf>

*The reversal in the ban on packaged liquor outlets trading after 10pm in NSW was associated with a small but statistically significant increase in domestic violence assaults.*