
Tony Brown Submission Review of Regulations & Liquor Promotion guidelines

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To: policy.legislation@liquorandgaming.nsw.gov.au

24 July 2018 at 19:55

Please find attached my submission relating to the review of the Liquor Promotion guidelines.

Unfortunately insufficient time and detail was provided to make a detailed substantive submission of the proposed changes to the NSW Regulations.

I share the same concerns relating to the way this review was announced and conducted as those raised in the NAAPA submission.

I trust all responses received including Ministerial representations made by the alcohol industry relating to the Regulations are made fully available in the near future.

I make the following abbreviated summary points regarding the Regulations and would welcome the opportunity to expand upon the same before any decision is promulgated.

1. Current CIS process is fundamentally flawed and overdue for substantive revision. Seek a full disclosure of information and industry submissions the government has relied upon to produce its recommendations. These recommendations do not appear to address any of the key concerns expressed in community and Health submissions made to the earlier review of the CIS process. In these circumstances I am concerned the government's latest belated request for public input into the likely changes to the Regulations is yet another 'white washing' process designed to create the false impression there was actual **genuine** community and independent scientific input
2. I have been asking government for the last 10 years to provide a community friendly on-line notification and free subscription process where users can set their own parameters on notifications, locations, types of applications etc. The persistent failure by governments to implement this simple request is indicative of no genuine support for communities to prevent and reduce the levels of alcohol harms in their local communities.
3. Need to include that any agency's failure to provide a submission relating to a license application should not be construed as implicit support for the application. Public should be advised of any agency (especially police and councils) submissions well before opportunity for their objections close. or that all submissions should be public when lodged (subject to usual moderation) All govt agency submissions to include details of discussions they have conducted with local community and resident reps re any problematic or continuous applications eg PLLS, hotels, ETA, PSA etc. There is also an overwhelming requirement to urgently address the failure of the law to ensure the public interest arising from the NCAT decision in *Independent Liquor*

and Gaming Authority v Auld [2018] NSWCATAP 68 <https://www.caselaw.nsw.gov.au/decision/5ab457efe4b087b8baa87d36>

4. Current serious failure with procedural fairness. Applicants who are provided the opportunity to scrutinise community objections have last word of same. Some of these applicant assertions are simply false and misleading but ILGA and LGNSW rely on same falsehoods to approve applications. The community effectively has little if any right of redress.
5. What are the proposed changes to PSA?
6. Need to emphasise onus on applicant to establish no negative social impact on the balance of probabilities.
7. ILGA has the existing power to act on its own initiative in objectively determining merits of each individual application consistent with primary consideration of harm prevention. In too many decisions it appears to have become an unfortunate 'popularity contest' on who can get the most petition numbers etc.
8. No objectivity about "consumer convenience" - inconsistent with the objects of the Act and ILGA's own earlier commissioned research.
9. Failure to provide any reasonable substantiation and comply with strict notification requirements should void the application and time starts again.
10. Applicants fined for misleading applications - demonstrates not fit proper person. Requires stat declaration
11. Need to set a minimum set of information applicant must inform community including where applicable, plan of management
12. PoM must become enforceable with sufficient deterrence for non-compliance. Restate failure to comply with license condition a strikeable offence
13. Emphasise **cumulative** impact assessment and incorporate other requirements of ILGA (social impact assessment Guideline 6).
14. Applicant to provide information on their compliance record including any strikes, prosecutions, warnings or association with premises on any of the most violent premise schedules.

15. LGNSW and ILGA can direct mediation between objectors and applicant

16. The 200m notification zone is totally inadequate as far as limit on who can object and appeal- be interesting to see if the extension to just 200m also applies to NCAT appeals. Independent research including BOCSAR establishes negative impact zones of licensed premises extend far beyond a 100 -200m radius

17. Still need a mechanism to record volumes of alcohol sales etc

18. I note some exemptions to provision of take away alcohol after 10pm

19. Why are there no ID scanning requirements for Newcastle operations? It appears independent researchers' still have not been able to access this important data

20. 10pm exemptions to allow minors in venues (p28) ?? including live music

21. Redefine live music to be precisely that - not recorded music as it currently is

22. Concern that AHA may have a monopoly re some aspects of RSA related training - anti competitive

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