



Wednesday, 3 February 2016

Record Number: 16.8166  
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Attn: Mr T.R. Anderson Q.C.  
C\ - Consumer and Business Services  
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ADELAIDE SA 5001

Sent via e-mail to: [CBSReforms@sa.gov.au](mailto:CBSReforms@sa.gov.au)

Dear Sir,

**Re: Liquor licencing discussion paper.**

Council is in receipt of your letter dated 18 December 2015 in which you were advising Council's CEO (Mr Matthew Pears) that you are reviewing all aspects of the current Liquor Licencing Act 1997. The letter asked for a considered respond to the State Governments discussion paper on liquor licencing. I have been forwarded the information and been asked to respond on his behalf. Due to the time constraints the comments have not been obtained from Council.

At the City of Mitcham Councils Planning section are responsible to provide comments on Liquor Licence requests (if located on private land).

Please find below the excerpt from the back of the discussion paper with Councils responses to the issues for consideration after each question:

*The South Australian Government is committed to progressing reform to create a liquor licensing system that promotes a vibrant entertainment environment, and encourages a competitive market by removing barriers to entry and red tape while seeking to reduce alcohol related harm and anti-social behaviour.*

***Reducing red tape***

*We need to reduce the red tape surrounding our liquor licensing system and enable business owners to easily navigate the liquor licence application process.*

***Is there too much red tape when applying for a liquor licence?***

*From a Council perspective there doesn't appear to be too much red tape, however our role is to review development applications and provide comment. Council involvement in the assessment process is considered highly relevant given the potential issues that could arise with hours, rubbish collection and noise from proposed venues.*

***Do we need twelve liquor licence categories? – Not something that the City of Mitcham is concerned with.***

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***Is there confusion as to the role of the liquor licensing framework and other legislative frameworks imposed by bodies such as planning, noise and health?***

There can be some confusion with the process in particular in relation to the information Councils required to review liquor licence requests (regular or temporary). The City of Mitcham often just receive a short e-mail from an applicant advising of the lodgement of a liquor licence and then need to follow up with the applicant as to the details. It would be good for applicants to be made aware that Councils would like the same information (i.e. plans, hours, capacity, toilet locations, entertainment areas, etc.) to be supplied as is submitted to the Commission.

*The linear liquor licence approval process duplicates steps already taken by a business owner in the separate council development approval process. This means that prior approvals granted and consultation already undertaken in the development process is subject to further scrutiny.*

***Should consultation on planning and liquor licence applications occur at the same time?***

This could prove difficult and confuse planning and liquor licencing matters as there would be potential for representors to raise liquor licencing concerns within the planning application and vice-versa. Therefore it is our opinion that the applications should remain separate. It is also noted that there could be difficulties in timing the application processes as there is often a significant amount of negotiation involved in a planning application.

***Should local councils have the right to intervene in a liquor licence application having already approved the development application?***

Not necessarily, however there should be some provisions for this to occur in situations where significant inconsistencies are identified in the liquor license application from the Development approved by Council.

*An objection to a liquor licence from a member of the public can cause unnecessary delay for the business owner and can provide a second forum for an objector to be heard. Change is needed to improve the reliability and predictability of the planning and liquor licensing systems.*

***At what point in the process should a member of the public be able to voice their concerns? How?***

There could be the implementation of a similar process to that of a development application that undergoes public notification and Development Assessment Panel processing. That being a representor could put in a representation, with the applicant then providing a response to the Commissioner. There could then be an opportunity for the representor to be heard by the Commission at the hearing. Whilst this does give a representor a second opportunity to be heard it is also allowing the applicant to be aware of the concerns and have already addressed them via written correspondence.

Council is unsure if an officer of the Commission writes a report to summarise the application, concerns and responses? It is noted that the other benefit to the Planning system is that competition is not a reason for the Planner/Panel to consider in the assessment of an application.

*Individual liquor licence conditions imposed as a result of conciliation can create inconsistency and are difficult to enforce. We need to consider whether the conditions being imposed as a result of conciliation are the right solution.*

***Should standard liquor licence conditions be developed and implemented where disagreements arise? If so, what should those conditions be based on? For example, should it be based on the licence class, zone or capacity of the venue?***

Yes standard conditions should be developed. It is difficult for Council to comment on the basis for the standard conditions, however it would appear the most relevant basis for conditions would be around Class and location (i.e. near more sensitive land uses.) There would however still appear a need to improve specific venue related conditions to address unique circumstances.

*Business owners who wish to appeal a liquor or planning decision may have more than one appeal process to navigate. We need to consider whether we can streamline the appeal processes for business owners to reduce the time taken and the costs incurred.*

***Should appeals against decisions where there are both elements of liquor and planning be heard together?***

There would appear to be some benefit to this approach to avoid duplication however it needs to be managed in a manner which doesn't confuse the appeals as development applications are only able to be assessed against the provisions of the Development Plan for the area in which the development relates.

*The approval of crowd controllers under two separate Acts creates an administrative burden for the applicant.*

***Should crowd controllers be approved under two Acts?*** – No comment, as not core to Council procedures/assessments. It is not unusual for officers to hold authorisations under multiple acts, it is important to ensure the conditions and requirements of the acts are addressed.

*We need to consider whether we can make further improvements to ease the administrative burden in relation to responsible person approvals while ensuring ongoing compliance.*

***Would the removal of the requirement for the Commissioner to approve the responsible person reduce administrative burden?*** – No comment, as not core to Council procedures/assessments however it would seem appropriate that due consideration is given to responsible person approvals.

***Should other mechanisms be introduced to ensure appropriate responsible persons are in the industry?*** – No comment, as not core to Council procedures/assessments.

***Should responsible persons be tested for being under the influence of drugs and alcohol while on duty?*** – No comment, as not core to Council procedures/assessments.

*We also need to consider whether we can improve the application process for dry areas and allow another authority to become responsible for responding to the needs of members of the community. We also need to consider whether the enforcement powers in dry areas should be expanded to include other authorities.*

**Should local councils have the power to declare short-term dry areas?** – In relation to the City of Mitcham this isn't highly relevant; however there would appear some merit in having limited powers for Councils to implement dry areas for family friendly events (i.e. pageants, etc.) Council to date has not had particular views in this area.

**Should other enforcement strategies in dry areas be considered?** – Council is unsure about this; however SAPOL may be positioned to enforce dry areas.

#### **A safer drinking culture**

*Our liquor licensing system must place a high value on health and safety for the community. We must consider whether the current measures in place to reduce alcohol-related harm are effective and what we can do to improve.*

**How can we improve the harm minimisation provisions in our legislation?**

**What role should SAPOL play in the application process?**

**Should the number and hours of trading of licensed venues in an area be a relevant consideration?**

**Should a retail liquor merchant's licence be limited or categorised by size?**

**Should closing times, lock-out times or last drinks be set for particular areas?**

Whilst we are of the opinion the above to be very important we have no comment to provide as they are not something that is core to Council Administration business.

*We need to consider whether the needs test is still the appropriate mechanism to use in order to balance competition and alcohol-related harm.*

**Is there a need to regulate competition? If so, what regulation is appropriate and in what circumstances?**

**Should alcohol be able to be sold in supermarkets?**

Whilst we are of the opinion the above to be very important we have no comment to provide as they are not something that is core to Council Administration business.

*Penalties should act as a deterrent and enable liquor inspectors or SAPOL to respond quickly and effectively to breaches of our liquor licensing laws. Change is needed to increase inspectors' compliance and enforcement powers to ensure that any breaches of liquor laws are dealt with swiftly and public safety remains a priority.*

**Should other mechanisms be introduced to detect breaches?** – No comment, as not core to Council procedures/assessments.

**Should other penalties be introduced to assist with enforcement? (For example, expiation notices)** – Expiations would appear to be a good measure.

*The liquor licensing system regulates the sale of alcohol in public places. The consumption or possession of alcohol at private events including those attended by minors is presently unregulated. To enhance community protection, we need to consider the relationship between minors and alcohol and the role that the South Australian Government should play in the future.*

**Should we regulate the consumption or possession of alcohol by minors at private parties? If so, how?**

*The South Australian Government does not have the power to regulate the price of alcohol. We need to consider how the price of alcohol impacts upon alcohol-related harm and whether the State and Commonwealth Governments can work closely together to address this issue.*

**Should the State Government be working together with the Commonwealth Government to reduce alcohol access and abuse?** – No comment, as not core to Council procedures/assessments. Any measures to aid in the reduction of impacts to health and have associations with alcohol are considered appropriate.

#### **Vibrancy**

*Our liquor licensing framework should be modernised to promote greater flexibility and encourage entrepreneurs to emerge with new business models.*

**Are the objects of the Act outdated?** – No comment, as not core to Council procedures/assessments however timely legislative review is considered appropriate.

**Do annual liquor licence fees need to be reviewed?** – No comment, as not core to Council procedures/assessments.

**Should small venue licences currently restricted to the CBD be available in other locations?**

*It would appear that there would be limited scope for the expansion as a business would need population (patronage) to enable commercial viability. There would be limited locations that meet this criteria, there would be potential for some areas that already are a destination i.e. Glenelg, The Parade, Henley Square, Semaphore, etc. to support small businesses and this could be a positive outcome provided the operational conditions are effectively able to be managed without detrimental impact upon others.*

**Is there a better way to regulate a producer's licence to meet the Government's strategic premium food and wine policy?** – No comment, as not core to Council procedures/assessments.

*We need to assess whether statutory liquor licence conditions and mandatory trading hours still reflect community expectations. Consideration should be given to*

*the risk of reducing the administrative burden of applying for and extending trading hours within each licence category.*

***Are the statutory liquor licence conditions outdated?***

***Is the requirement to apply separately for an extension of trading hours or entertainment consent unnecessary red tape that impacts vibrancy?***

***Should statutory liquor licensing conditions be captured within a code rather than legislated?***

The above are difficult to answer from a City of Mitcham perspective as we do have limited requests for new licences in the area. There does however appear to be a need to have a framework in place to consider, manage and monitor such applications to ensure minimal impact to amenity of the locality occurs.

If you require further information on this matter I can be contacted on \_\_\_\_\_ or via the below e-mail address.

Kind Regards,



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