

## **ITEM 12.1.8 LIQUOR LICENSING DISCUSSION PAPER**

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### **Summary**

The Attorney General's Department has initiated a review of the liquor licencing framework in South Australia to meet the community's current expectations.

The attached discussion paper has been released that focuses on three key themes; red tape reduction, a safer drinking culture and vibrancy.

Council has been granted an opportunity to provide input in response to the discussion paper that raises a number of issues for consideration.

### **Report**

The liquor licensing discussion paper poses a number of issues for consideration and comment. Council's Planning Section has provided the below comments in relation to the areas that were considered relevant from a planning perspective. Prior to any formal response however, Elected Members may have additional comments they wish to provide in relation to other aspects of the licensing reforms.

*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?*

When it comes to operating hours, Councils may set them as a condition of development approval, factoring in not just noise and amenity issues, but pedestrian access and traffic safety considerations that could potentially cause conflict with liquor licensing arrangements. Ideally, operating hours would be set by one authority that has the knowledge to consider all issues of relevance.

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

While the above proposal may improve the timeframes of the licensing process for the applicant, it does raise the following issues:

- If the liquor licensing is determined first, will that be an influence, real or perceived, in relation to the planning determination that may be factoring in additional issues;
- Consultation at the same time could be perceived by members of the public that the development application is a foregone conclusion;
- If the development application gets refused, then the applicant and/or Consumer and Business Services (CBS), may have gone to unnecessary time and expense in relation to the liquor licence application;
- Members of the public may not distinguish between two separate notifications and just submit a representation to only one authority, eg Council or the CBS. Apart from potentially missing out on an opportunity to raise concerns, irrelevant issues may be raised and discussed at any licensing hearing, for example the visual design of a building at a CBS hearing.

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

Yes, if the liquor licensing relates to any of the following:

- outdoor lighting;
- parking and traffic impacts;
- hours of operation;
- noise and amenity issues.

A development application may also require no notification (Category 1) or limited notification (Category 2), thus surrounding residents may not be aware of changes to a liquor licence at the development stage. Even if a resident is notified at the development stage, the details of the licensing change may not be understood by everyone due to the complexity of the overall development application, thus a separate application solely in relation to the licensing of the venue, without the extra development and construction information, is beneficial to some people. Council should therefore have the ability to intervene on behalf of residents at the liquor licensing stage, regardless of past development approvals.

Established venues that are not applying for development changes, nor are restricted by operating hours via past development application conditions, may not require a development application to alter their liquor licence. Therefore the right to intervene at the liquor licence application stage is the only opportunity a Council may have to make comment on the proposed changes. To attempt to create legislation that endeavours to determine when a Council should be notified and have the right to intervene in relation to a liquor licence application, may be unnecessarily complex and open to potential oversights.

There may also be times when residents wish to make complaints about licensed premises, but are more inclined to contact their local Elected Member who they are familiar with, rather than the Commissioner. The Council should therefore have an opportunity to put forward valid concerns on behalf of residents.

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

If the liquor and planning elements are sufficiently interrelated, then determining an appeal in relation to both could reduce the amount of conflict between the two regimes and save time, cost and duplication.

*Should local councils have the power to declare short-term dry areas?*

Councils should have the power to declare short-term dry areas that are for a 24 hour period. Currently most dry area requests are in relation to repeated events, for example Semaphore Road dry area on New Year's Eve and Australia Day, however Council is still required to get a letter of support from the police and a Member of Parliament and apply to the CBS 4 months prior to the event. This process is quite onerous for an ongoing annual event that is only for a 24 hour period.

*Should other enforcement strategies in dry areas be considered?*

Currently the police patrol and enforce dry areas, which is considered appropriate. It is not considered desirable for Council General Inspectors (GI) to act as enforcement officers in relation to enforcing drinking issues in dry areas. This would not only place undue cost and resourcing issues onto the Council, but would also create a high risk scenario for the GI who would lack the training and arresting authority to deal with intoxicated people, who also may not respect the GI's enforcement powers.

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

It is considered that the South Australian planning system is inadequately equipped to cater for cumulative impacts; it would therefore be beneficial for the CBS to consider and address this issue at the liquor licence stage. Cumulative impacts for a given region may also go beyond an individual Council boundary when a venue is situated within close proximity to a boundary between separate Councils. In such cases the CBS should also approach neighbouring Councils for comment if they are within a certain distance of licensed premises. In this way, cumulative impacts could be dealt with more effectively.

### **City Plan**

A healthy and connected community that supports and values people, culture and place. (Goal)

A vibrant and attractive City that is well-planned and accessible, with safe and healthy places to live, work and play. (Goal)

### **Corporate Plan**

Provide a safe and pleasant public environment. (Strategy)

### **RECOMMENDATION**

That Council resolves as follows:

1. That the Acting Director Community Development's report titled "*Liquor Licensing Discussion Paper*" be received and noted.
2. Additional comments to be provided to the Acting Director, Community Development by 22 January 2016 for inclusion in Council's response to Consumer and Business Services.