



RenewalSA



Government of  
South Australia

PEOPLE  
PARTNERSHIPS  
PROGRESS

## Submission on the Liquor Licensing Discussion Paper

January 2016

## Renewal SA's submission on the liquor licensing discussion paper

### STRATEGIC BACKGROUND

Since 2011, the State Government, through its *Creating a Vibrant City* strategic initiative has sought to improve and maximise Adelaide's potential for more people wanting to live, work, invest and spend time in the city.

Adelaide is consistently rated as one of the world's most liveable cities and is recognised internationally for its arts festivals, fine foods and wine, which contribute to the social and economic vibrancy of the city.

The strategic importance of the Vibrant City initiative was further enhanced in 2014 when the State Government released *Adelaide, the heart of the vibrant state (Priority 8) as one of 10* economic priorities for the State.

Priority 8 comprises a series of objectives that covers the following areas:

- Entrepreneurship and business start-up opportunities
- CBD development
- Laneway and building activation
- Increasing availability of arts, cultural and sporting activities throughout the year
- Greater Park Lands activation
- Increasing the CBD population
- Creating an iconic Riverbank Precinct

One of the most significant changes that occurred in the CBD in the past few years, which addresses objectives 1, 2, 3 and 6, was the introduction of the Small Venue Licence (SVL) in 2013, which played a key role in the revitalisation of Adelaide's small streets and laneways.

Renewal SA in partnership with Adelaide City Council (ACC) and Consumer Business and Services (CBS) have assisted more than 30 proponents with applying for an SVL through the SVL case management service.

To date, Renewal SA have case managed a total of 22 of the 57 small licensed venues currently operating in the Adelaide CBD. In addition, Renewal SA case managed a further 6 licensed venues which operate under different licence categories.

In late 2015, Renewal SA conducted a small venues economic impact study which revealed that 50 small venues will contribute approximately \$50 million to the State economy (based on Gross State Product contributions). It was also revealed that the venues directly employed over 600 people with a further 100 or so employed from flow-on effects.

The *Liquor Licensing Discussion Paper* supports and recognises the need to streamline the development and liquor licensing application processes through greater flexibility and simplicity of the regulatory processes. The reduction in red tape, safer drinking culture and vibrancy as identified in the Discussion Paper are fundamental to the success of the liquor licensing reform.

The experiences gained through case management give Renewal SA a unique perspective to offer the following response to the Discussion Paper. The response is aimed at presenting thoughts and ideas for consideration towards any liquor licence reforms.

## RESPONSE TO ISSUES FOR CONSIDERATION

### Reducing red tape

#### 1. Is there too much red tape when applying for a liquor licence?

Yes. Red tape primarily exists around a number of duplications in process (i.e. overlapping with the development assessment process) as well as Renewal SA's observation of high numbers of applicants having minimal understanding of the multiple processes involved in obtaining a licence.

For example, the expectation is that an applicant has a valid development approval in place prior to applying for a liquor licence. The applicant then submits an application to CBS where the requirement is to advertise the application, creating an opportunity for the public to scrutinise the application and object to matters which may have already been addressed through the development assessment stage.

Renewal SA suggests that a more seamless process is implemented whereby local councils as leading decision-making authorities, take on a 'case management' approach to work more hand-in-hand with applicants to assist them with navigating their way through the various regulatory processes.

The benefit of this approach will provide a more seamless process from the outset, clarifying and minimising the documentation required which should result in a reduction of assessment timeframes.

#### Recommendation

Remove assessment criteria relating to the venue from the liquor licensing legislation to avoid duplication with local council policies.

#### 2. Do we need twelve liquor licence categories?

No. We believe that the number of licence categories should be reduced as it would assist in creating a more streamlined approach for lodging applications. Renewal SA believes that there is an opportunity to reduce the number of licence categories by amalgamating some existing licence categories. The proposed new licence categories could include:

	<b>Proposed New Licence Categories</b>	<b>Superseded Licenses</b>
<b>1</b>	Small Venue Licence	Hotel Licence
<b>2</b>	Medium Venue Licence	Small Venue Licence
<b>3</b>	Large Venue Licence	Entertainment Venue Licence Residential Licence Restaurant Licence Special Circumstances Licence
<b>4</b>	Community Licence	Club Licence Limited Club Licence
<b>5</b>	Liquor Industry Licence	Retail Liquor Merchant Licence Wholesale Liquor Merchant's Licence Producer's Licence Direct Sales Licence
<b>6</b>	Limited/Temporary Licence (same as existing)	Limited Licence

By reducing the number of licence categories, Renewal SA considers that applicants will find it easier to determine which licence is most appropriate, which should simplify and reduce the assessment process and timeframes.

It is intended that the development approval process will pre-determine which licence category is applicable.

#### **Small Venue, Medium Venue, Large Venues Licenses**

The proposed small, medium and large venue licenses would supersede existing licenses including: hotel, small venue, entertainment, residential, restaurant and special circumstances. All applications will be applicable to these categories unless the proposal fits under the proposed Community Licence, Liquor Industry Licence or Limited/Temporary Licence.

The development assessment authority will assess the activity that is occurring on the land and pre-determine which abovementioned licence category is applicable to the applicant. No further assessment of the land use, including the sale and consumption of liquor is required by the liquor licensing authority.

#### **Community Licence**

Applications which are made by community, social & sporting clubs and organisations (which could include government departments) for community-based functions, social & sporting events and activations in the public realm could be applicable to this licence category.

#### **Liquor Industry Licence**

This proposed licence category would supersede the retail liquor merchant, wholesale liquor merchant's, producer's and direct sales licenses. Renewal SA believes that creating one licence that caters to the whole liquor industry (whether it's retail, production, or wholesale) would simplify to applicants that this license is the most suitable for them to:

- operate a winery or brewery
- produce liquor
- wholesale liquor
- sell liquor directly to the public from their premises; and/or to wholesalers or other licensed premises.

#### **Limited/Temporary Licence**

The limited/temporary licence would still be applicable to licensees seeking a licence for a one-off special event or a series of special occasions.

Renewal SA considers that scope for a government agency to hold some form of liquor licence (i.e. for public realm based activities) is an integral part of liquor licensing reforms.

### **3. 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?**

We have identified some duplication between the current liquor licensing framework and other legislative frameworks:

- **Assessment of the suitability of a venue to be a licensed premises**

The assessment of a 'venue' should be confined to the development assessment process to avoid duplication at the liquor licence assessment stage. If a venue is deemed suitable for the supply and/or consumption of liquor by the development assessment authority, then the venue should not need further assessment by the liquor licensing authority. Liquor licence assessments should primarily be conducted to assess the suitability of an individual to hold a liquor licence.

Renewal SA considers this to be an important change. Once a proposed venue receives development approval (for the suitability of the use of the premises), the *Liquor Licensing Act* allows any person who resides or works in the vicinity of a licensed premises to lodge an objection. The objection can be based on any aspect of the application, commonly resulting in the same matters being considered in both processes.

For example, noise matters are generally considered to have been reviewed and resolved through the development assessment process, however, the liquor licensing process allows for 'new' objections against noise. This can prolong the process, duplicate conditions and change the nature of the venue.

Furthermore, the Commissioner does not have the power to dismiss erroneous objections.

If the noise matter cannot be conciliated (by eventual withdrawal of the objection), the Commissioner must refer the matter to the licensing court for hearing and determination.

Renewal SA considers that the liquor licensing application (and relevant objections) process should primarily focus on whether an applicant seeking a licence is fit and proper to operate a licensed premises. This would then allow relevant development assessment authorities to focus on the assessment (and objections) of land use matters (including noise) under the *Development Act 1993*.

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

Yes. Renewal SA supports streamlining processes where possible and proposes to remove the need for an application to advertise during the liquor licensing process.

Removing the advertising requirement from the *Liquor Licensing Act* means any application made to CBS will purely be to assess whether an applicant is fit and proper to hold a liquor licence.

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

No. Councils should be limited to assess the suitability of licensed venue applications through the relevant development assessment process.

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

Renewal SA is of the view that the public should be able to voice their concerns on a potential new licensed premises during the relevant development assessment process.

SAPOL and CBS should continue to conduct the assessment of a person's suitability to hold a liquor licence, which should continue to be an internal process.

**7. Should standard liquor licence conditions be developed and implemented where disagreements arrive? 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 liquor licence conditions should be developed but limited to matters pertaining to the safe practice of the service and consumption of liquor as reflected in the liquor licensing *General Code of Practice*.

Other conditions relating to the venue are already captured by the land use development assessment, in terms of the suitability of its location; the type of venue, operating hours, size/capacity and activities (such as entertainment).

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

Yes. Renewal SA envisages that applicants should have the opportunity to lodge a planning and liquor licence application at the same time. Appeals against a 'venue' could be dealt with through the relevant development assessment authority at the same time as any appeals by SAPOL or CBS on the suitability of a person to hold a liquor licence.

**9. Should crowd controllers be approved under two Acts?**

No comment.

**10. Would the removal of the requirement for the Commissioner to approve the responsible person reduce administrative burden?**

Renewal SA considers the Commissioner's most important role is to ensure that an applicant is fit and proper to become a responsible person.

**11. Should other mechanisms be introduced to ensure appropriate responsible persons are in the industry?**

No comment.

**12. Should responsible persons be tested for being under the influence of drugs and alcohol while on duty?**

No comment.

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

No comment.

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

No comment.

### **A safer drinking culture**

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

No comment.

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

No comment.

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

Renewal SA considers that the number of venues and their trading hours should be controlled by the relevant land use policies and not the liquor licensing authority.

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

No comment.

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

Renewal SA considers that trading hours (including closing times) should be controlled by the relevant land use policies and not the liquor licensing authority. If the State continues to deem that 'lock-out times' are appropriate, this should be introduced under the relevant development legislation.

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

No comment.

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

No comment.

**8. Should other mechanisms be introduced to detect breaches?**

No comment.

**9. Should other penalties be introduced to assist with enforcement (for example, expiation notices)?**

No comment.

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

No comment.

**11. Should the State Government be working together with the Commonwealth Government to reduce alcohol access and abuse?**

No comment.

## Vibrancy

**1. Are the objects of the Act outdated?**

Adelaide's cultural lifestyle is rapidly shifting and with this, so should the legislation to ensure we are keeping up with the social changes of the population. The current *Liquor Licensing Act 1997* can be difficult to interpret and Renewal SA sees the need for greater flexibility to accommodate an evolving city which is significantly different now to what it was 20 years ago.

Activation of the public realm is a key strategic and economic priority of the Government and the current Act makes it difficult to activate the space medium-long term (example, the Blue Hive and Festival Plaza).

Activity in the precinct is envisaged to increase, in particular within the Festival Plaza redevelopment and the surrounding entertainment precinct.

- **Case Study 1, The Blue Hive (Riverbank Promenade)**

**Issues: public realm activation, scope of government body holding a licence and licensed area crossovers**

The Blue Hive, established by DPTI (and subsequently taken over by Renewal SA) was a demonstration project to activate the Riverbank Promenade and to test ideas for activation of the public realm.

Initially, the Blue Hive was issued a series of limited licences for various activation events until it was decided by the liquor licensing authority that limited licenses were no longer suitable (despite the Act not setting a maximum number of limited licences).

Renewal SA were advised by CBS to lodge a permanent liquor licence application and subsequently applied for a Special Circumstances Licence (SCL). However, the function of the Blue Hive and the nature of Renewal SA as a government body did not satisfy requirements under the Act – both in terms of holding a liquor licence and using a liquor licence in the way intended.

Specifically, there was no scope for a government organisation (as the licensee) to hold a licence as it was not intended to directly supply or provide the liquor to the public or take the proceeds from the events.

Another significant issue was in relation to the crossover of liquor between licence boundaries (i.e. the Festival Centre and Convention Centre).

**Solution:**

For activation projects or events, there should be a simpler mechanism for organisations to share responsibility of a licensed area and that regulation changes should be implemented to allow government appointed agencies to obtain licences (i.e. the Riverbank Authority).

- **Case Study 2, Noodle Night Market (Festival Plaza/Adelaide Casino’s Beer Garden & Backyard Bar)**

**Issues: public realm activation and licensed area crossovers**

In cooperation with the OzAsia festival in 2015, the Noodle Night Market was held on the Festival Plaza. Adelaide Casino’s Beer Garden and Backyard Bar was also hosting a number of events during the Noodle Night Markets. Both events operated under separate licences and although located next door to one another, consumers were banned from ‘carry-on’ of liquor from one licensed area to the other.

As above, the issue of banning ‘carry-on’ creates great difficulty when trying to activate areas with more than one licensee. It is recommended that this policy is revised to create more flexibility for joint activations with more than one licence holder. This will be most applicable to the development of the Entertainment Precinct within the Riverbank which is a state-significant development and more of these types of activities are envisaged for the space.

**Solution:**

For activation projects or events, there should be a simpler mechanism for organisations to share responsibility of a licensed area.

**2. Do annual liquor licence fees need to be reviewed?**

Yes. All fees should be reviewed as part of the licensing reforms.

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

Yes. To ensure a consistent approach, all licence categories should be applicable to all areas of the State.

**4. Is there a better way to regulate a producer's licence to meet the government's strategic premium food and wine policy?**

Renewal SA supports the premium food and wine economic priority and believes there would be benefits in simplifying and modernising the producer's licence to better align with Government's economic and strategic policies.

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

Yes. Liquor licence conditions should be limited to matters pertaining to the safe practice of the service and consumption of liquor as reflected in the liquor licensing *General Code of Practice*.

Other conditions relating to the venue are already captured by the land use development assessment, in terms of the suitability of its location; the type of venue, operating hours, size/capacity and activities (such as entertainment).

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

Yes. Renewal SA believes that the requirement to apply for any consent separately is quite onerous. It is considered that venues, their trading hours and any entertainment should be controlled by the relevant land use policies and not the liquor licensing authority.

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

Yes. Liquor licence conditions should be captured within a code and be limited to matters pertaining to the safe practice of the service and consumption of liquor as reflected in the *General Code of Practice*.

Other conditions relating to the venue are already captured by the land use development assessment, in terms of the suitability of its location, the type of venue, operating hours, size/capacity and activities (such as entertainment).



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