

*This fact sheet provides an overview of the role of local councils in making decisions about liquor licenses, making objections and raising complaints. This information will be useful to local councils, and also for community members who want to understand the role of these bodies in liquor licensing processes.*

There are many ways that local councils can get involved in decisions about liquor licensing both through the planning system and the liquor regulation system. When a venue selling alcohol is established, local councils are the first authority made aware of this process. This is because a venue that is being 'fitted out' for the sale of alcohol or is changing its business to sell alcohol needs to firstly go through the Development Application (DA) process which is overseen by local councils. All liquor licences then go through the approval process managed by the [Independent Liquor and Gaming Authority \(ILGA\)](#), which also involves in local councils who have a key role in the Community Impact Statement (CIS) process. These processes and other roles for local councils are described below.

#### **Local council strategic planning processes**

Strategic planning involves local councils in consultation with their local communities and the NSW Department of Planning establishing the broad framework for future land use and the associated rules and guidelines supporting such decisions in accordance with the [Environmental Planning and Assessment Act 1979](#) (Planning Act).

These rules and guidelines are contained in Local Government "Planning Instruments" such as Development Control Plans (DCP) prescribing:

- Land use zones;
- Permitted development within those zones;
- Specific requirements for developments e.g. height, density;
- Developer public notification/consultation requirements;
- Any special intermediary planning advisory bodies that may make recommendations to Council on specific developments; and
- The powers of Council officers to approve Development Applications (DAs) under delegated authority.

Some Councils have specific DCPs relating to alcohol-related venues such as the City of Sydney with their *Late Night Trading Premises Development Control Plan 2007*.

DCPs are regularly updated by local councils. During this process local councils should consider the implications of these plans on the approval of alcohol-related venues and community members should engage with these processes when consultation is occurring on these plans.

### **Local council role in Development Application processes**

If a venue is being fitted out to serve alcoholic drinks or is changing its use to serve alcoholic drinks, it needs to complete a Development Application (DA) with its local council in accordance with the NSW Planning Act and the council's own strategic planning controls. This is the first step for getting a liquor licence approved and happens before the state authorities responsible for alcohol (OLGR and ILGA) get involved in making determinations about liquor licenses. As local councils manage this process, they play a key role in determining whether the venue will benefit the community or contribute to increased levels of alcohol-related harms.

Communities can make comment on DAs as part of the community consultation process. A sign at the premise alerts community members of such an application. Information about these processes is often available on the local council's website. You can find out about development applications that are currently underway in your local community by going to the [planning alerts website](#).

Community members can also go to Councillor's directly and raise any concerns that they may have with them relating to new alcohol venues. Community members may even want to attend council meetings where applications are being discussed to raise such objections.

When making decisions about approving venues for the sale of alcohol, under s79 of the Planning Act, local councils must consider "... (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality".

When assessing the social impact of a proposed licensed premise or a variation to the development consent conditions of an alcohol-related premises, it is very important that local councils carefully consider and give due weight to the best available independent evidence and its implications for the particular proposal. This includes assessing likely risks and the cumulative impact of the additional licensed premise and/or associated trading conditions within a precinct particularly as it relates to preventing or reducing existing levels of harm and social disadvantage.

Councils can then approve or decline an application or approve an application with various conditions. Conditions can include limitations on trading.

### **Local council role in [Community Impact Statements \(CIS\)](#)**

The ILGA is responsible for approving liquor licence applications in NSW. When making these decisions, they first consider whether the applicant has obtained development approval from the relevant council where applicable.

Once it has been determined that the appropriate planning approvals have been received, ILGA then review the CIS. This is the first time that local councils can become involved in liquor licensing

decisions under the NSW Liquor Act. The [Office of Liquor Gaming and Racing \(OLGR\)](#) describe the purpose of a CIS as being to “gain an understanding of the impact that granting an application will have on the local community”.

A CIS is prepared by a licence applicant and is a summary of the consultation between the applicant and the local community about any issues and concerns with a proposed licence application.

CIS requirements depend on the type of licence being applied for. ‘Category A’ CIS apply to applicants for on-premise licenses deemed to be ‘low’ risk (e.g. restaurants). ‘Category B’ CIS apply to licence applications for venues deemed to be of a higher ‘risk’ (e.g. hotel and club licences).

Both Category A and B CIS require consultation with local consent authorities, local police, the occupier(s) of any neighbouring premises, and special interest groups or individuals identified or referred to the applicant by ILGA. Category B CIS require further consultation with the NSW Department of Health, NSW Department of Community Services, NSW Roads and Traffic Authority, and recognised leaders or representatives of the local Aboriginal community in the area.

CIS require applicants to inform ILGA of any nearby community buildings, facilities and places (e.g. hospitals, places of worship, educational institutions, facilities for vulnerable persons, alcohol-free zones, public parks and sporting grounds) that may be sensitive to the introduction of a new licensed premises in the area.

The applicant is required to list community objections in the subsequent actual licence application. The purpose of this is to flag the existence of concern within the community. This is a prescribed key step for informing ILGA of the views of the community.

As part of this process, community members can raise any concerns they may have with the proposed licence with the licence applicant. Community members who may be concerned with a new licence application or variation to licences can also work independently to raise concerns or can contact the local police, the local council and any other relevant agencies to discuss their concerns.

When raising concerns it is important to follow up with ILGA to ensure that the CIS submitted by the licence applicant highlights to concerns raised by the community.

### **Local council role in making a disturbance complaint to the Director General**

Under s79 of the [Liquor Act](#), the Police Commissioner, a person authorised by the Local Council, three or more local residents or a person who may be adversely affected financially by a licensed premises have the right to lodge a disturbance complaint with the Director General of the Department of Trade and Investment.

Complaints can be made about “undue disturbance to the quiet and good order of a neighbourhood”. This extends beyond the narrow confine of just “noise” and includes the “operation” of the premises and the “conduct” of their patrons once they leave the premises.

The form for lodging a disturbance complaint is available on the OLGR website. The complaint form requires information on the complainant. If the complainant is a community member, information is also needed on two other residents supporting the complaint. Information is also required on the

licensed premise or premises in question, the disturbance, the frequency and patterns of these disturbances, the action taken to date to engage with the venue or other parties (such as police), the residence at which the complainant resides and their length of residence and any changes to the licensed premises. Finally the application form requires information on the outcomes being sought from the resolution of the complaint.

The disturbance complaint must be supported by a statutory declaration, which is included in the form available on the [OLGR website](#).

### **Local council role in advocacy**

A key role of local councils under the NSW [Local Government Act 1993](#) is civic leadership and “representing the interests of the residents and ratepayers”. Local councils can play a very important role in actively supporting and lobbying for their local communities on matters directly relating to alcohol harm prevention.

Communities can actively encourage their local council and council representatives to adopt, on their behalf, a more active role in the way that alcohol is made available and regulated in their communities.

At the local community level, local councils are often represented in a number of alcohol-related groups and forums, such as [Liquor Accords](#) established under the NSW [Liquor Act 2007](#). Liquor Accords are voluntary agreements often between local councils, police, community organisations, licensees and the business sector. Local council representatives often play a coordinating role for accords and there are currently more than 140 liquor accords across NSW.

At the local community level, local councils can also form or be part of [Community Drug Action Teams](#) (CDATs). These are groups of people and community organisations who work together to respond to the negative effects of alcohol in the community. CDATs are often made up of community members, community organisations and local businesses.

At the state, territory and national level, most if not all NSW local councils, are members of [Local Government NSW](#) and the [Australian Local Government Association](#). These peak bodies provide local governments with the opportunity to raise concerns about state, territory and national policies that may influence the sale and promotion of alcohol and result in reductions in harms.

**Where do I go for more information?**

[A Guide to Liquor Laws for Local Councils](#)

[Environmental Planning and Assessment Act](#)

[Independent Liquor and Gaming Authority \(ILGA\)](#)

[NSW Liquor Act 2007](#)

[Liquor Accords](#)

[Local Government Act 1993](#)

[Office of Liquor Gaming and Racing \(OLGR\)](#)

[Open Australia Planning Alerts website](#)