

The decision made by the Independent Liquor and Gaming Authority (ILGA) not to approve the application for extended trading hours (post-midnight) by the Mojo Record Bar (“Mojo”) in central Sydney, provides a very informative illustration of the NSW alcohol administration and regulation system. The case study examines the development approval phase, liquor licensing approval phase and considerations of factors in determining social impact.

Local council development approval phase

On 17 October 2011 Mojo lodged a Development Application (DA) with City of Sydney for a change of use for its premise at 73 York St Sydney to a small bar and music retail business. This involved an internal fit out with no external works. Maximum capacity 120 people. The requested hours for the bar were Monday to Saturday 12.00 noon to 12 midnight and Sunday from 12.00 noon to 10.00pm.

The DA was approved on 10 February 2012 with trading hours for the bar set from noon to midnight on Mondays to Saturdays and noon to 10.00pm on Sundays (Standard trading hours). Alcohol-related controls applied to the premises included:

- a. No spruiking outside of premises;
- b. A Plan of Management and an Incident Register;
- c. Preventing the removal of glass from premises;
- d. Signage requesting patrons when leaving do so quickly and quietly;
- e. Security and queuing;
- f. Maximum capacity 120 patrons; and
- g. Closed Circuit Television (CCTV).

On 16 November 2012 Mojo lodged a s96(2) minor variation application with the Council to extend the trading hours to provide an extra two hours of trade on Thursdays, Fridays and Saturdays only for the existing basement level bar area of the Mojo Record Bar tenancy. The proposed hours on Thursdays, Fridays and Saturdays are 12.00noon to 2.00am (the following day), with no change to the hours on Mondays to Wednesdays and Sundays.

The above variation application was approved on 26 February 2013 by the City of Sydney under delegated authority with no new conditions pertaining to the supply and service of alcohol. Delegated authority allows Council officers not elected officials to approve certain applications.

Liquor licensing approval phase

On 4 March 2013, Mojo applied to ILGA to reflect the 2 hour increase in trading hours approved by Council in their existing liquor license.

The Police provided their submission to the application on 26 March 2013 and recommended a 1am closing time. They also recommended conditions preventing the bar resembling a nightclub and

preventing the removal of glass and other containers of alcohol.

The Director General of the Department of Trade and Investment via OLGR on 6 April 2013 did not oppose the licence variation. OLGR's recommendation to ILGA was on the basis that although the EVAT system rated the external risk factors as "high to extreme risk" and the market factors as "low to extreme", and "it would appear that the application would have a significant impact to the community." OLGR nevertheless supported the application because the venue's compliance history was "considered low".

At its meeting on 30 May 2013, ILGA rejected the requested change to the liquor licence for an increase in trading hours past midnight for certain nights as it was "not satisfied for the purposes of section 48(5) of the (Liquor) Act, that the overall social impact of granting the authorisation would not be detrimental to the well-being of the local and broader communities".

Consideration of factors determining social impact

External environmental factors

ILGA relied heavily upon readily available [Bureau of Crime Statistics and Research \(BOCSAR\)](#) statistical evidence including the *Report on crime by Local Government Area and alcohol-related status (2012)* and related crime maps in reaching its decision.

The following table summarises the difference between various alcohol-related crime indicators for Sydney LGA with the NSW average rates

Crime indicator of reported alcohol related incidents*	NSW Average*	Sydney LGA*	Factor difference
Non domestic night time assaults	161	992.7	6.2
Offensive behaviour	148.1	1082.2	7.3
Non domestic assaults	209.5	1211.7	5.8
Assault events	22.6	118	5.2
Domestic assault	144.6	226.6	1.6

*Rate per 100,000 of population

ILGA also noted that the premise was located in an OLGR "hotspot" for high levels of various alcohol related indicators.

In consideration of "outlet density" a recognised risk factor, it was noted that there were 845 permanent liquor licenses in the postcode area 2000 comprising of 32 clubs, 141 hotels, 599 on premises licenses, 38 packaged liquor licenses and 35 other licence types.

Lesson learnt from this case study

The case study provides an insight into how the NSW Local Government planning and distinct liquor licensing systems currently interact and shows:

- The NSW Local Government Development Approval (DA) process under the *Environmental Planning and Assessment Act 1979* (Planning Act);
- The interaction with the NSW liquor licensing approval process under the NSW *Liquor Act 1997* particularly as it relates to “negative social impact”;
- The role and interaction of council officers, elected councils, police, OLGR and ILGA in forming a view on the licence extension application;
- The proper interpretation and application of the “harm minimisation” and social impact principles and the cumulative impact of liquor outlets; and
- Provides the first public insights into the application of the OLGR administered liquor licence [Environmental Evaluation Assessment Tool \(EVAT\)](#) and its capacity to address and reduce alcohol-related harms.