

ITEM 8. COMPLIANCE AND REGULATION OF LICENSED PREMISES**FILE NO: S051412****SUMMARY**

The City of Sydney is Australia's premier entertainment destination and the largest capital city. The City accommodates a significant night-time economy, with several major entertainment areas and over 1800 licensed premises, and the greatest density of 24-hour trading premises in Australia.

The past 16 months has seen significant legislative reform affecting the operation and management of licensed premises across NSW, with the introduction of the *NSW Smoke-Free Environment Act 2000* and the *Liquor Act 2007* and *Liquor Regulation 2008*. The impacts and effectiveness of these significant reforms are not yet evident.

During this period, the City also introduced key policies relating to the operation of licensed premises including the *Late Night Trading Premises Development Control Plan* (DCP) and the *Drug and Alcohol Strategy 2007-12*, as well as undertaking research to determine measures for saturation and community perceptions of cumulative impact from licensed premises.

On 30 October 2008, Premier Nathan Rees announced that the 50 licensed premises with the most reported on-premises assaults will be subject to new conditions on their liquor licenses, including a 2am lockout, glass and shot bans, drink purchase limits and other measures. New legislation has also been introduced to put a hold on all new 24 hour trading licenses. This was approved by the NSW Legislative Assembly on 26 November 2008.

On 3 November 2008, Council resolved to support a Lord Mayoral Minute committing Council to work with the NSW Government to incorporate measures of saturation and cumulative impact into NSW legislation, and into the City's development assessment of licensed premises.

Legislative reform and the City's Late Night Trading DCP seeks to respond to all new applications for licensed premises, however with around 1800 existing licensed premises, the City already has considerable challenges in managing the existing impact of our late night economy.

This report responds to a Resolution of Council on 1 September 2008, which noted the City's existing compliance and regulatory processes and requested that the effectiveness of these measures be reviewed.

This report outlines the current configuration of compliance activities and staffing functions and powers.

Key directions proposed in this report include:

- (a) establishment of an internal City of Sydney Licensing Project Control Group to coordinate the City's licensing responses across the organisation;

- (b) establishment of external Licensing Management Groups with NSW Police, Office of Liquor Gaming and Racing (OLGR) and the City to better coordinate licensed premises consent, compliance and regulation. The location of each group will be determined according to planning areas covering the key entertainment areas;
- (c) preparation of a Memorandum of Understanding between the City of Sydney and the NSW Police Metropolitan Regional Command and the OLGR to ensure that the City and Police can exchange information concerning the impact and compliance of licensed premises for the purposes regulatory, compliance and prosecution actions;
- (d) piloting of the NSW Police Escalated Licensing Operational Response Model (ELORM) with the City's Specialist Licensing Compliance Officer at Kings Cross Local Area Command;
- (e) a commitment to a schedule of joint operations with NSW Police and OLGR with a particular focus on the City of Sydney venues that receive numerous reports of alcohol-related crime, infringements, complaints and liquor licence violations;
- (f) completion of the review of the consent conditions for all high impact licensed premises (ie: hotels, nightclubs) in key entertainment areas, including Kings Cross, the CBD and Oxford Street;
- (g) the addition of licensed premises as a required field when collecting data in the City Ranger's incident database (IRIMS);
- (h) the inclusion of the City's Planning Assessment staff in compliance inspections, and joint operations; and
- (i) the employment of two additional Specialist Compliance Officers to work in City Central and Surry Hills Police Commands.

RECOMMENDATION

It is resolved that Council:

- (A) note the proposed directions to improve compliance and regulatory function of the City in respect to licensed premises; and
- (B) endorse the employment of two additional Specialist Compliance Officers to work in City Central and Surry Hills Police Commands.

ATTACHMENTS

Attachment A: Office of Liquor Gaming and Racing Council Fact Sheet

Attachment B: Resolution of Council of 1 September 2008

BACKGROUND

1. In the past 16 months, NSW has seen significant legislative reform relating to liquor licensed premises.
2. On 1 July 2007, the *NSW Smoke-Free Environment Act 2000* was extended to ban smoking from all enclosed areas of licensed premises. As a consequence of this legislation, the City has experienced an increase in the number of complaints relating to outdoor smokers and footway crowding, exacerbated by queues, in entertainment areas late at night.
3. On 1 July 2008, the new *Liquor Act 2007* and *Liquor Regulation 2008* came into effect. The new laws reduce the number of liquor license categories; introduce a Community Impact Statement prior to the lodgment of a development application and moves from a court based system to an administrative one overseen by the new and independent body: the Casino, Liquor and Gaming Control Authority. A fact sheet outlining the key changes and their relevance for local government is at **Attachment A**.
4. In May 2008, as part of the *State Plan: A New Direction for NSW*, the NSW Department of Premier and Cabinet has created the Sydney Crime Prevention Partnership, of which the City, Surry Hills, Kings Cross and City Central Police Commands and key state government agencies seek new strategies to reduce alcohol-related assaults. These strategies include joint scheduling of compliance and regulatory operations targeting the “top 5” problematic premises in each command.
5. On 30 October 2008, the NSW Premier announced a range of measures targeting licensed venues with the most on-premises assaults, and with a commitment to introducing legislation that will freeze future applications for 24-hour trading in NSW.
6. Whilst recent legislative reform announced by the NSW Premier and the City’s Late Night Trading DCP seeks to respond to all new applications for licensed premises, the City already has considerable challenges in managing the existing impact of our late night economy. Around 1800 licensed premises operate across the local government area (LGA), representing 1 in 12 of all licensed venues in NSW. The link between late night licensed premises and alcohol-related crime is well established, with the City experiencing one in eight of all assaults occurring in NSW. Overwhelmingly, assaults in the City are alcohol-related.
7. As requested by resolution of Council on 1 September 2008 (see Attachment B), this report provides detail regarding the City’s actions to address the impacts of licensed premises and recommends strategies to improve the coordination of compliance and regulatory functions of the City.
8. The City’s current management of licensed premises includes the following elements: Licensed Premises Unit and City Rangers Ordinance Inspectors. Other actions relating to the management of licensed premises are undertaken by Planning Assessment, Safe City, Legal Services, City Plan Development and Economic Development.

9. The Licensed Premises Unit was established in 2005 and comprises 6 staff with a focus on approval (through assessment at the development stage), regulation, and enforcement of development consents in all Places of Public Entertainment and high risk or larger licensed premises, including nightclubs, clubs, hotels and karaoke venues. Regular weekend, late night (ie: 5pm to 3am) inspections are undertaken by the Unit, both with and without NSW Police. In the 2007/08 financial year, the Licensed Premises Unit had undertaken the following actions regarding Places of Public Entertainment:
 - (a) 346 regulatory compliance inspections (targeting public health, fire safety and compliance);
 - (b) 200 after hours inspections (targeting same as above);
 - (c) 200 development assessments (targeting same as above);
 - (d) 14 construction certificates (as they are lodged); and
 - (e) 224 assessments of notifications of liquor licence applications.
10. Over four weekend nights in October 2008, the Specialist Licensed Premises Coordinator undertook 37 late night operational compliance inspections of licensed venues in Kings Cross. The Specialist Licensed Premises Coordinator is a proactive role, and works closely with Police Licensing Officers and venue owners to improve compliance. The role is dedicated to working evening weekend shifts in the Kings Cross entertainment area to inspect premises when they are at their most active. The nature of the late night work presents challenges for City recruitment to any new roles of this nature. The role works in a challenging environment, managing complaints from residents and from licensed premises. During the day and during the week, this role consults with venue operators, residents and Police.
11. During compliance inspections, the Specialist Licensed Premises Coordinator checks for compliance with development consent and entertainment approval which includes:
 - (a) controlling noise emission from premises by checking that doors are closed, and reducing amplified noise volume;
 - (b) checking population numbers by counting patrons inside the premises;
 - (c) checking that there is the required number of security and they are performing their required roles as stated in the Plan of Management and in the entertainment / development consent; and
 - (d) checking that the venue is complying with any imposed queuing conditions and not obstructing footways.
12. The City Rangers provide a support role to the Licensed Premises Unit to assist monitoring problem premises by conducting requested surveillance at particular times. City Rangers Ordinance Officers have the capacity to enforce conditions of consent, issue penalty notices and are the “eyes and ears” for the specialist units in Council (ie; Health and Building Compliance and the Licensed Premises Unit).

13. Since 7 September 2008, City Rangers have an increased and more consistent night time patrol schedule with four Ordinance Rangers on a permanent night shift between 10pm and 6am on busy nights (i.e. Friday). Additionally, from the end of the business day until 10pm, there are between five and twelve Ordinance Rangers working, depending on the day of the week in areas of high need, such as entertainment precincts. This is in addition to the normal ranger patrols.
14. To better respond to poorly managed premises, and to make more consistent use of the new *Liquor Act* and provisions in the Late Night Trading Premises DCP, the following key directions are proposed:
 - (a) establishment of an internal City of Sydney Licensing Project Control Group to coordinate the City's licensing responses across the organisation. This group will include staff from Licensed Premises Unit, City Rangers, Planning Assessment, Safe City, Legal Services, City Plan Development and Economic Development;
 - (b) establishment of external Licensing Management Groups with NSW Police, OLGR and the City to better coordinate licensed premises consent, compliance and regulation. The location of each group will be determined according to planning areas covering the key entertainment areas. This will ensure clear and consistent communication between all parties. An example of this already occurring in the City is in relation to small bars, where the City and OLGR are jointly developing an application process;
 - (c) preparation of a Memorandum of Understanding between the City of Sydney and the NSW Police Metropolitan Regional Command and the OLGR to ensure that the City and Police can exchange information concerning the impact and compliance of licensed premises for the purposes regulatory, compliance and prosecution actions;
 - (d) pilot of the NSW Police Escalated Licensing Operational Response Model (ELORM) with the City's Specialist Licensing Compliance Officer at Kings Cross Local Area Command. The ELORM uses recorded crime and alcohol-linking data to identify premises requiring Police intervention. The type of intervention increases according to the severity of issues within the premises. Interventions may include regular meetings, training, premises audits, covert operations, or conditions being placed on the venue liquor licence. This model has been successfully implemented in The Rocks Local Area Command;
 - (e) a commitment to a schedule of joint operations with NSW Police and OLGR with a particular focus on the City of Sydney venues that receive numerous reports of alcohol-related crime, infringements, complaints and liquor licence violations;
 - (f) completion of the review of the consent conditions for all high impact licensed premises (i.e. hotels, nightclubs) in key entertainment areas, including Kings Cross, the CBD and Oxford Street. City staff have begun a review to ensure improved access to consent conditions to enable more efficient and faster compliance responses;

- (g) the addition of licensed premises as a required field when collecting data in the City Ranger's incident database (IRIMS). At present incidents such as a breach of consent trading hours are not recorded as being linked to licensed premises;
- (h) the inclusion of the City's Planning Assessment staff in compliance inspections, and joint operations, to improve understanding of the land use by Planning Assessment staff and to bolster staffing levels from the Licensed Premises Unit to improve risk management; and
- (i) The employment of two additional Specialist Compliance Officers to work in City Central and Surry Hills Police Commands. Challenges in recruiting to these roles will be addressed by targeting former staff from the NSW Police and the OLGR.

KEY IMPLICATIONS

15. **Strategic Alignment** – The proposed directions for compliance and regulatory activities seek to more rigorously enforce development consent and provisions of the Late Night Trading Premises DCP, and are consistent with directions in the Sydney Crime Prevention Partnership Action Plan and the City's Drug and Alcohol Strategy.
16. **Organisational Impact** – Two new Specialist Licensing Compliance Officers are proposed to implement the NSW Police Escalated Licensing Operational Response model and undertake a schedule of joint operations. Overtime penalties for Planning Consent staff to accompany Compliance staff on inspections will not require an increase to FTE, but will have budget implications due to overtime penalties.
17. **Social / Cultural / Community** – An improved and well-coordinated regulatory and compliance schedule by the City and key partners will ensure that poorly managed licensed premises are held to account. This has the potential to considerably reduce impacts on residential amenity, by reducing the amount of intoxication and related anti-social and criminal behaviour in neighbourhoods adjacent to entertainment precincts.

BUDGET IMPLICATIONS

18. This report proposes the establishment of two new Specialist Licensing Compliance positions to be appointed to the Licensed Premises Unit in Health and Building. The estimated cost of the two positions, including salary on-costs is \$218,000. It is proposed to find these new positions by re-profiling existing establishment positions in light of Sustainable Sydney 2030 priorities and objectives.
19. The recommendation for Planning Assessment staff to attend inspections with Licensed Premises Unit compliance officers also has financial implications, requiring the payment of overtime for one planner, once per week for a period of eight hours. This has an estimated annual cost of \$22,500, which has not been included within the approved 2008/09 budget.

RELEVANT LEGISLATION

20. *NSW Liquor Act 2007, NSW Liquor Regulations 2008, Environmental Planning and Assessment Act 1979.*

PUBLIC CONSULTATION

21. Consultation regarding models of regulatory and compliance responses has been undertaken with the NSW Police Alcohol Licensing Enforcement Command and members of the Sydney Crime Prevention Partnership.

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