

27 June 2013

Dr Roscoe Taylor
Chair, Interagency Working Group on Drugs
GPO Box 125
Hobart 7001

Dear Mr Taylor

Response to Tasmanian Alcohol Action Framework Legislative Scoping Study

Thank you for giving the Local Government Association of Tasmania (LGAT) the opportunity to provide feedback on the Tasmanian Alcohol Action Framework Legislative Scoping Study undertaken by Stenning and Associates. As a member of the Interagency Working Group on Drugs (IAWGD), LGAT has been involved in providing input into the report and has participated in briefings and consultation with councils and the consultants.

However, given LGATs membership of the IAWGD, and as the representative body for councils it is concerning that LGAT was not able to provide the draft report to member councils for comment prior to the formal public release of the report. This is concerning as it limits Local Government's opportunity to influence and clarify issues within the report and ensure that Local Government's issues in relation to the legislation are clearly articulated. I trust that the IAWGD will identify opportunities for the feedback provided through this submission to be addressed.

In developing this submission LGAT has consulted with member councils.

This submission provides comment on the key recommendations for Local Government in the report and also highlights key legislative issues for Local Government that were not addressed. The recommendations of particular interest to Local Government were those that relate directly to Councils own statutory responsibilities as a planning authority.

These included:

1. That Local Government authorities consider, for inclusion in relevant zones in their planning schemes, standards including local area objectives and/or desired future character statements about the location and nature of licensed premises. The report then goes on to suggest that this could be achieved as part of the Local Government planning scheme standardisation process and that this matter could also be progressed through the regional planning processes under the State Government's Regional Planning Initiative to encourage consistency in the planning approaches taken by local councils in relation to licensed premises within a region.
2. That Local Government authorities consider introducing a Liquor Licensing Policy that expresses the authority's expectations for licenses premises in specific zones and which can form the basis of council submissions to the Licensing Board regarding liquor licence applications.

3. That the Liquor and Gaming Branch, in consultation with the LGAT, strengthen the current guidelines for applicants and other relevant publications with clear information on how the liquor licensing approval process interacts with Local Government planning approval processes.

In response to these recommendations the following comments are made:

In regard to the first recommendation it would be very difficult to draft appropriate local area objectives or desired future character statements (within the planning scheme) for each settlement within the municipality that are quite specific about “the location and nature of licensed premises”. The way in which these existing provisions have been drafted is not conducive to this type of description and it would also be difficult to know on what to base any such statements (in the absence of a detailed policy – see next recommendation). It is suggested that, what is really needed are practical tests in the relevant Acceptable Solutions/Performance Criteria and in the Tables of Use. For example, these may require measurable distances from main roads, schools or other sensitive uses, other hotels and residential zones. It would be appropriate that these tests be developed through the regional planning project, to ensure a consistent approach is taken in the new planning schemes being developed.

In regard to the second recommendation around developing Council Liquor Licensing Policy, Adelaide City Council’s Liquor Licensing Policy is quoted as being a good example as it forms the basis for Council’s responses to liquor licence applications and as a basis for planning scheme provisions as appropriate. A comment on this is that such a policy (similar to the Adelaide City example) could be developed but such broad policies often do not provide the detailed site or neighbourhood information required when commenting on individual applications. The Adelaide policy is also supported by legislation which requires planning approval prior to the granting of a liquor licence. Therefore relevant conditions imposed by Council on a Development Approval are adopted by the Licensing Authority as licence conditions and repeated on the liquor licence issued. This approach is strongly supported by Tasmanian Councils and is expanded upon below.

The last recommendation appears appropriate in that improved information should be provided to applicants. This would also be consistent with a subsequent recommendation that states “that the Licensing Board and the Commissioner for Licensing produce improved guidance material for liquor licence and permit applicants and those seeking to make representations regarding applications”. This particularly relates to an assessment as to whether the granting of a licence or permit is “in the best interests of the community”. This new information needs to describe the differences between the assessment of such licence applications and the assessment of new development/business proposals by the planning authority. The main issue from a council’s perspective in this regard is however not addressed within the report.

The key issue from a Local Government perspective is the view that a liquor licence should not be granted until after the appropriate planning and building approvals are in place. That is, a liquor licence should not be issued to a proposed development or use that legally does not yet exist. Under Tasmanian legislation there is no statutory connection between being granted a liquor licence and the requirement to have planning or development approval to operate a premises as a licensed establishment.

As such applications for a liquor licence and a development approval can run in parallel with no necessity or opportunity for one to inform the other in relation to community sentiments, operating conditions, location issues or amenity or community matters.

In other State jurisdictions, most notably Victoria, New South Wales, Western Australia, South Australia and Queensland it is a prerequisite that there is an approved planning or development approval in place prior to the granting of a liquor licence.

Such a process ensures that Councils have an opportunity prior to the consideration of a liquor licence by the licensing authority to:

- Consider and issue development approvals for licensed premises;
- Stipulate appropriate trading hours;
- Object to licence applications on amenity grounds; and
- Effectively reflect and represent the community's views.

The legislation in Tasmania should be amended to ensure that planning approval is granted prior to the granting of a liquor license. This would then show how the two processes are linked and consistent (albeit assessing different factors).

The Local Government Association of Tasmania has raised this issue with the Treasurer, the Chair of the Liquor Licensing Board and the Director of Liquor and Gaming at the Department of Treasury and Finance. It was also raised with Stenning and Associates during the consultation. LGAT has recently written to the new Director of Liquor and Gaming requesting a meeting so as to raise the concerns again with the hope that the issues may be addressed through a review of the *Liquor Licensing Act 1990*.

Concluding Comments

As outlined above, it is important that the responses by government and stakeholders to the recommendations in the Legislative Scoping Study are focused on meeting the desired outcomes. This may not necessarily be through the mechanisms proposed by the consultant.

A key issue with the study is the omission of commentary around the need for legislative alignment between the *Land Use Planning and Approvals Act 1993* and the *Liquor Licensing Act 1990*, which should require planning approval prior to the issuing of a liquor license.

LGAT appreciates the opportunity to provide feedback on the Scoping Study, albeit after public release, and hopes that the issues raised in this submission are taken on board by the Interagency Working Group on Drugs so as to ensure good outcomes for the community.

If you have any further questions please contact Georgia Palmer, Senior Policy Officer, Local Government Association on 6233 5961 or georgia.palmer@lgat.tas.gov.au

Yours sincerely



Allan Garcia
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