



Foundation for Alcohol Research & Education

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Dear Mr Neve

DRAFT COMMUNITY IMPACT ASSESSMENT GUIDELINES

The Foundation for Alcohol Research and Education (FARE) welcomes the opportunity to provide comments on the draft Community impact assessment guidelines (the guidelines). Governments have a duty of care to protect the health and wellbeing of the community and the liquor licensing process should not be excluded from this responsibility. Determining the impact of a liquor licence on the community is critical and should sit within a frame that puts the onus of proof on the applicant that they will not contribute further to levels of harm.

These guidelines provide a good foundation for the assessment of the impact of liquor licence applications in the Northern Territory. They should be strengthened and adopt a principles based approach to ensure the guidelines are consistently applied and provide confidence in the integrity of the assessment process. Importantly, these guidelines should reflect and support the Northern Territory Government's alcohol policy and legislation reform agenda to prevent and reduce alcohol harm.

FARE has identified the following principles to underpin the assessment of the impact on the community and the development of these guidelines:

1. Assessments of the impact of liquor licences on the community apply to all licence types and include new applications and variations to existing licences.
2. The assessment of the impact of licences on the community prioritises harm minimisation over liquor sales and requires applicants to clearly demonstrate that their proposed venues will not contribute to further harm in the community.
3. Assessments of the impact of liquor licences on the community are supported by evidence to demonstrate the validity of claims made by applicants.
4. The community has a legitimate role in the development of impact statements and are consulted as part of this process.
5. Consideration of the impact of a licence application on the community is guided by a risk model to support decision-making and provide fairness and consistency.

6. The assessment process is transparent and fosters accountability by making information publicly available.
7. The guidelines are reviewed on a regular basis to ensure that they continue to meet the objective of preventing and reducing harm.

Further detail on these principles follows.

1. Assessments of the impact of liquor licences on the community apply to all licence types and include new applications and variations to existing licences.

FARE supports the application of the community impact assessment on applications for licence types and for new licence applications and variations to existing licences. Venues vary in their risk profile however all pose a risk to the community.

2. The assessment of the impact of licences on the community prioritises harm minimisation over liquor sales and requires applicants to clearly demonstrate that their proposed venues will not contribute to further harm in the community.

The aim of the Alcohol policies and legislation review is to develop an alcohol harm reduction framework which will prevent and reduce harms associated with alcohol misuse.¹ In order to achieve this aim, it is imperative that the assessment of the impact of a licence on the community prioritises examination of the risk of harm associated with the licence.

The guidelines should not attempt to balance the competing interests of measuring the health and social impacts of the licence against perceived benefits of consuming alcohol, since this is inconsistent with the aim of reducing alcohol harm. The United Kingdom Chief Medical Officer has recently warned that there is no safe level of alcohol consumption,² therefore the guidelines should refrain from suggesting that access to alcohol and convenience are per se, social benefits. In fact, the guidelines should not include consideration of the economic value of contributions by licence applicants to the local community,ⁱ since the aim of this test is to consider the potential social and health consequences so that this harm can be prevented, not to make sure that the liquor industry pays for services to address the harms that it creates.

3. Assessments of the impact of liquor licences on the community are supported by evidence to demonstrate the validity of claims made by applicants.

FARE supports the requirement for applicants to provide objective evidence to validate claims made about the potential health and social harms associated with their application. Western Australia also places the burden of proof on the applicant [under S.38 (2)-(4) of the *Liquor Control Act 1988*],³ requiring applicants to provide evidence to substantiate their claims, rather than merely expressing opinions.⁴ The evidence provided by the applicant should be evaluated on the basis of the quality and strength of the evidence and the relevance of the data in demonstrating the health and social impact of the licence.

ⁱ For example, through activities such as sponsorships, donations and grants to prevention, early intervention and treatment services

Reporting of conversations with key informants and the community should include statements to confirm that they are a true and accurate record of the conversation.

4. The community has a legitimate role in the development of community impact statements and will be consulted as part of this process.

Community consultation to determine the social impact of the liquor licence should form part of the assessment process. Communities are adversely affected by alcohol in a variety of ways. It is therefore important for applicants to hear how licensed venues affect the community in which they are located. Apart from being affected by alcohol-related violence and crime, communities are affected by issues such as anti-social behaviour, noise and disruption from licensed venues. They are also impacted by reduced amenity associated with the consequences of consumption such as loitering in public places, public urination and vomiting in streets and parks, and litter.

The community impact assessment for gaming machine applications in pubs and clubs provides a model for how community consultation could be incorporated into the liquor impact assessment process. It provides information on consultation requirements, who to contact, verifying the information provided in the application and responding to community concerns.⁵

5. Consideration of the impact of a licence application on the community is guided by a risk model to support decision-making and provide fairness and consistency.

Decision-making must be supported by a risk-based model which is underpinned by harm minimisation principles, and the findings must be supported by evidence to substantiate their claims. The sophistication of the risk-based model should increase as risk increases. Low risk venues such as licensed cafes and restaurants may not need to investigate the criteria to the same extent as high risk venues catering to large numbers of patrons and trading to 5am. However, decisions on the level of detail to be provided should be guided by a framework that clearly outlines thresholds for evidence. A framework for decision making will provide more consistent and fair decision making than the subjective process referred to in the draft guidelines where applicants discuss their application with the Commission to determine what level of detail is expected and the definition of 'community area' that applies to their particular application. This framework should be publicly available.

6. The assessment review process is transparent and fosters accountability by making information publicly available.

Making information publicly available is essential to provide transparency and confidence in the assessment process. Government decisions should be open to scrutiny which requires making information available on why decisions were made and what information was used to inform those decisions. Transparency is fundamental to good governance, enabling decision makers to be held accountable for the decisions they make and supporting the integrity of the process. This will be critical for the NT Government as the NT Licensing Commission commences operation.

7. The effectiveness of the assessment process will be reviewed on a regular basis to ensure that it continues to meet the objective of preventing and reducing harm.

No policy intervention operates within a vacuum. The assessment of the community impact of liquor licences should be regularly reviewed as part of good practice in corporate governance. The first review should happen after six months of the guidelines being in place. Regular reviews are designed to determine whether the process remains effective in achieving its objective and to identify potential risks to the assessment and opportunities for improvement. As part of this review, the guidelines will also need to be reviewed to reflect changing environments and needs.

Comments on the detail of the guidelines

In addition to identifying principles for the assessment of the impact of a liquor licence on the community, I would also like to provide some comments on the matters for consideration under each of the criteria identified in the guidelines.

The Northern Territory is fortunate that it can draw from work undertaken in other jurisdictions on this issue. In its submission to the Alcohol policies and legislation review, FARE provided details of the *Kordister* case in Victoria. The court in the *Kordister* case confirmed that assessing the harm from a particular licence is not just dependent on the conduct of a licensee, but a range of other ‘social and cultural’ factors connected with the licence. These include, but are not limited to:

- *the character of the licensed venue*, such as whether it sells packaged alcohol for off-premises consumption; whether it is a café or restaurant; the patron capacity of the venue; the trading hours of the venue; any conditions on the venue’s liquor licence
- *the geographic location of the venue*, such as its proximity to other licensed venues or its position on a pedestrian thoroughfare or on a busy road
- *the occurrence of alcohol-related violence and incidents close to the venue*
- *the vulnerability to alcohol-related harm of persons in the vicinity of the venue*, such as where the proposed venue is close to an Indigenous campsite or to community services for homeless people, people with drug and alcohol problems, or people with mental health problems.

The factors identified in the *Kordister* case should be considered for inclusion in the guidelines. As recommended in or submission to the Review, decision making responsibility should reflect the risk of harm associated with a venue with delegation to licensing staff or public sector employees made for only very low risk, routine matters.

Measures of harm

The guidelines propose examining a number of matters to determine the potential for the venue to cause harm. These include identifying whether there are any at risk groups and community buildings and facilities in the locality of the proposed venue, and actions to be taken to ameliorate the risk of alcohol harm.

This section should include older people in the list of 'at risk groups' in light of the evidence of increased consumption by those aged 50 and over⁶, and aged care facilities in the list of community facilities. References to 'disadvantaged people' should be rephrased to more accurately refer to 'those at risk of harm' in light of the high levels of alcohol consumption and related harm that occurs across all socio economic groups, not just those who are disadvantaged.

This criterion also refers to the locality in which the licensed premise is, or will be, located. This term is undefined in the draft guidelines. For liquor license assessments, locality should be defined as the anticipated customer catchment area for the licence. This recognises that the impact of alcohol is felt much further than just the vicinity in which a venue is located and that the catchment area may vary for according to the kind of premises and type of licence. The customer catchment area for a licensed restaurant, for example, is quite different to the customer catchment of a packaged liquor store. Notions of locality and catchment areas are not relevant to online retail sales of alcohol.

Location considerations

While the above criterion points to the potential groups who may be affected by alcohol harm, this criterion looks at the data on health and social harms and seeks information on the operating environment of the venue. Considering health and social data in the same criteria as venue specific and environmental data could be perceived to diminish the importance of this information (particularly since there are two criterion that don't look at harms but at the benefits to the community). More work is needed on this criterion to clearly articulate the specific data that should be included in the assessment and to add other data sources. Again, the Guidelines for preparing a community impact analysis for applications for gaming machines in pubs and clubs provides a good model for how this information can be presented and the level of detail that should be specified.

Additional data that should be incorporated in this section includes:

- Health data – Emergency Department presentations, hospitalisations, alcohol attributed deaths, levels of chronic disease
- Crime – anti social behaviour, damage to property, Family and domestic violence, non domestic assault
- Complaints to police relating to licence venues including for noise from live music, patrons, litter
- Character of location of proposed venue – does the venue fit in with the character of the neighbourhood?
- Venue details - proposed trading hours, proximity of other licensed premises, size and patron capacity, type of alcohol sold, and whether this will change (e.g. no shots after midnight).
- Profile of venues in area – pubs, nightclubs, clubs, take-away liquor outlets restaurants.
- Proximity of venue to other venues and to high risk venues
- Outlet density – the number of existing licenced venues in an area by type and profile
- Social indicators - the community impact statement for gaming machine applications in pubs and clubs in the Northern Territory provides a guide for the types of social indicators that should be

included in this section to understand the potential impact on the community. These include the prevalence of indicators of financial or emotional stress in the community such as low discretionary income and high levels of welfare benefits.

Volume

FARE supports the inclusion of information about the projected volume of sales by licenced premises as part of the application process for new or existing licence. The projected volume of sales has significant ramifications for the level of consumption and associated harm in the community. Hence, details of the projected volumes of sales and information about current alcohol consumption rates will provide an important part of the picture of the potential impact of a licence on communities. This information is useful from both on and off licences premises.

The community impact statement for gaming machine applications in pubs and clubs in the Northern Territory again provides a useful model for developing a demographic profile of the community. It includes considerations such as:

- total population of the community
- population aged 18 years and over
- population growth
- individual and household income levels
- unemployment levels, and
- socioeconomic status.

Potential benefit to community

The draft guidelines provide an opportunity for applicants to make a business case for the sale of alcohol and should be removed from this process. Their inclusion undermines the examination of the health and social impact on the community and could potentially allow for a case to be made to ignore the health and social harms arising from these sales, which is inconsistent with the policy reform process currently underway directed at effecting a substantial reduction in the harms from alcohol.

The question on whether the venue will provide alcohol in a safe manner is irrelevant since this is a legal requirement for having a licence.

Other considerations

Consideration should be given to reviewing the naming of the guidelines. The term 'community impact' could be misinterpreted to suggest that the community owns the statement whereas in reality, the statement provides the applicant's assessment of the potential impact of the licence on the community. Since the community can feel betrayed by assessments that appear to be presented in their name, renaming the assessment would clearly indicate who had responsibility for developing the document and make it clear that the final assessment is made by the Commission.

Finally, the process for assessing the impact of liquor licences on the community should be reviewed within 12 to 24 months of their introduction to review the effectiveness of the process and identify improvements.

Thank you again for the opportunity to provide comments on the development of the guidelines for assessing the impact of liquor licences on communities. Getting this process right will be important in establishing the integrity of the process and ensuring that harm minimisation is prioritised over business interests.

I would welcome the opportunity to discuss these issues with you in further detail.

Yours sincerely



MICHAEL THORN
CHIEF EXECUTIVE

¹ Riley T (2017) *Alcohol policies and legislation review* Final report Northern territory Government

² Department of Health (2016). UK Chief Medical Officers' Alcohol Guidelines Review Summary of the proposed new guidelines. UK Government.

³ Trifonoff, A., Andrew, R., Steenson, T., Nicholas, R. & Roche, A. (2011). *Liquor licensing legislation in Australia: an overview*. Adelaide: Flinders University, National Centre for Education and Training on Addiction (NCETA).

⁴ Department of Racing, Gaming and Liquor (WA). (n.d.) *A note from the Director General on applying for a liquor licence*. Retrieved from: http://www.rgl.wa.gov.au/docs/default-source/rgl/dg_note_liquor_licence.pdf?sfvrsn=0

⁵ Northern Territory Government *Guidelines for preparing a community impact analysis* NT.gov.au viewed on 20 February 2018 at <https://nt.gov.au/industry/gambling/gaming-machines-in-clubs-pubs/prepare-community-impact-analysis/guidelines-to-prepare-a-community-impact-analysis-for-gaming-machine-applications>

⁶ Rao R & Roche A (2017) Baby boomers are the population at highest risk *the bmj* 2017;358:j3885