

**Answers to questions on notice**

**Liquor & Gaming NSW**

Ms Natasha Mann and Ms Rose Webb

## RESPONSE TO QUESTION ON NOTICE FROM JOINT SELECT COMMITTEE

### HEARING ON 12 AUGUST 2019

1) **The Hon. BEN FRANKLIN:** If you have any ideas about how such a scheme might operate you are welcome to take that on notice and some views of it be terrific.

**The CHAIR:** Perhaps what regulatory change might need to be considered in order to facilitate such a concept?

**Ms MANN:** Yes, happy to do that.

**Question:** What regulatory changes might be required to permit licensed premises to provide chill-out room for intoxicated persons on premises?

**Answer:** Section 73(1) of the NSW *Liquor Act* currently provides that a licensee must not permit intoxication on the licensed premises.

Section 73 (4) states that if an intoxicated person is on licensed premises, the licensee is taken to have permitted intoxication on the licensed premises unless the licensee proves:

(a) that the licensee, and the licensee's employees or agents, took the steps set out in subsection (5), or

(a1) that the licensee, and the licensee's employees or agents, took the steps set out in the guidelines under subsection (5A) to prevent intoxication on the licensed premises, or

(b) that the intoxicated person did not consume alcohol on the licensed premises.

(5) For the purposes of subsection (4) (a), the following are the relevant steps:

(a) asked the intoxicated person to leave the premises,

(b) contacted, or attempted to contact, a police officer for assistance in removing the person from the premises,

(c) refused to serve the person any alcohol after becoming aware that the person was intoxicated.

Clearly then, legislative amendment would be required to section 73 of the Act in order to facilitate a dry-out / chill-out room for intoxicated persons on licensed premises.

Dry-out rooms on licensed premises raise some legal issues and practical challenges that require consideration – for example, there may be potential for:

- liability issues for venues – relating to who has legal supervision and control of intoxicated persons in the designated dry-out room
- risk of alcohol-related violence on the premises – particularly if multiple intoxicated persons are permitted to remain in the same room together
- dry-out room arrangements to contradict responsible service of alcohol principles – for example, if established in such a way where patrons are permitted to become intoxicated on a licensed premise, be directed to a chill-out room once intoxicated, then re-enter the licensed area upon 'sobering up'

It is understood that "Sobering-Up Centres" (not on licensed premises however) were trialled in Wollongong and in Coojee in 2013.

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**Question:** Why were certain liquor licensing conditions imposed on licensees seeking to sell liquor at the Immersive Cinema and the Spiegeltent of the Sydney Festival as referred to in the Night Time Industries Association's submission?

**Answer:**

#### ***Immersive Cinema***

Gojo International Pty Ltd managed the sale of alcohol at Dirty Dancing, The Immersive Cinema Experience, under an existing on-premises liquor licence. The conditions on that liquor licence relate to trading hours and trading on restricted days only.

The RSA Marshal high visibility vest requirement and drink restriction referred to in the Night Time Industries Association's submission were agreed by the licensee and Sydney City Police as part of a Local Licensing Agreement.

A Local Licensing Agreement is a voluntary undertaking that does not create a condition on the liquor licence.

L&GNSW was not involved in the discussions which resulted in the Local Licensing Agreement for this Immersive Cinema event.

#### ***Spiegeltent of the Sydney Festival***

A single function limited licence was granted to Sydney Festival Limited on 8 December 2018, to sell liquor at the Spiegeltent in Hyde Park from 8 to 27 January 2019.

The applicant advised L&GNSW of its proposed security arrangements in its application, including its proposed responsible service of alcohol and security management procedures.

No changes to the plans proposed by the applicant were sought by L&GNSW, council, police or members of the public as part of the liquor licensing process. No conditions were put on the licence on these issues.

The trading hours sought by the Festival of 4pm to 2am were granted and the following standard conditions were imposed on the liquor licence:

- Food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be available during liquor trading hours.
- The conduct of a function held under this licence, including the sale and supply of liquor at the function, must be in accordance with the information provided in, or in connection with, the application made for the licence.

L&GNSW notes that the security requirements could have been required by a separate Local Licensing Agreement between the licensee and Police.

**Question:** How have the number of liquor licences with a permanent premises changed in the Newcastle LGA over time?

Data as at:	31/12/2008	31/12/2009	31/12/2010	31/12/2011	31/12/2012	31/12/2013	31/12/2014	31/12/2015 *	31/12/2016	31/12/2017	31/12/2018	13/08/2019
Liquor - club licence	50	48	48	47	46	46	46	37	36	35	35	35
Liquor - hotel licence	75	75	76	76	77	77	77	75	75	75	75	75
Liquor - limited licence	42	43	41	44	47	48	49	43	45	46	42	40
Liquor - on-premises licence	153	167	179	187	196	211	222	208	207	211	221	222
Liquor - packaged liquor licence	36	40	40	41	46	48	50	53	55	56	60	60
Liquor - producer wholesaler licence	14	14	13	13	15	17	17	11	11	11	14	14
Liquor - small bar	0	0	0	0	0	0	3	4	5	6	6	6
<b>Grand Total</b>	<b>370</b>	<b>387</b>	<b>397</b>	<b>408</b>	<b>427</b>	<b>447</b>	<b>464</b>	<b>431</b>	<b>434</b>	<b>440</b>	<b>453</b>	<b>452</b>

\*The introduction of the Annual Liquor Licence Fee in mid-2015 led to a significant number of unused licences being surrendered and, as such, is a contributing factor to licence number reductions from 2014 to 2015. The ALLF scheme ensures all licensees make a fair and reasonable contribution to the cost of regulating their industry. More information: <https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-fees/annual-liquor-licence-fees>