

20/06/2014

Safe Night Out Bill 2014  
Submission 002

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000



Submission to the Safe Night Out Legislation Amendment Bill 2014

To whom it may concern,

Thank you for allowing the CBD Townsville Liquor Accord (CTLA) to make a submission in relation to the Safe Night Out Legislation Amendment Bill 2014, with the primary objective of the Bill is to reduce alcohol and drug related violence in Queensland's nightlife.

Summary of this submission for Parliamentary Committee to consider and in no particular order and as follows;

- Extended hours trading
- Where are the extended licenced areas within Townsville?
- Entertainment precincts
- Planning & Development with local councils
- Amending the definition of 'unduly intoxicated' in relation to the Liquor Act 1992
- Retail Bottle Shops

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- **Extended hours trading**

The CTLA did propose that any venue who has an extension of licence past 12am should have the same licencing conditions as those who trade from 3am – 5am, thus improving overall safety and regulatory compliance in any venue trading past midnight. There is a huge number of venues in QLD who trade from 12mignight to 2am/3am then there are those venues whom trade from 3am – 5am. The conditions would include and not limited too;

- a. Security guards vs. patron numbers
- b. Occupancy numbers in the venue
- c. Fire regulations
- d. CCTV cameras
- e. Licence fees
- f. Amplification regulations
- g. Join a liquor accord

- **Where are the extended licenced areas within Townsville?**

The Townsville local government area is one of very few that has by, mistake or good fortune, fashioned a geographically concentrated precinct of extended license premises in Flinders Street East, Townsville City.

The Flinders East precinct offers the local government an unprecedented opportunity to contain and apportion other such precincts throughout the city, or not. Pockets of extended license precincts (or isolated establishments) have already established in:

- a. Palmer Street, South Townsville
- b. The Strand
- c. The Precinct, Idalia
- d. Cannon Park
- e. Thuringowa Drive
- f. The Avenues
- g. and many more

Continued page 2.

It is the CTLA'S belief that the significant increase in numbers of venues that are allowed to trade past 12midnight without the licencing requirements as those from 3am – 5 am, has directly contributed to the increase of alcohol and drug related violence. These extensions have been granted without possibly considering all of the social infrastructure, transportation, licence conditions, pre-loading, safety needs and flow on effects.

- **Entertainment precincts**

Keeping entertainment precincts in the one area or zoned areas, allows for better policing and emergency services access to patrons, and does not spread the services across the town or city, it also is more effective at moving large amounts of people in and out of a central area because of the centralised public transport options.

The close proximity of venues allows for improved CCTV, lighting and improved amenities. One of the biggest advantages is that venues can work together and communicate effectively with police to reduce recidivist offenders from entry to other licenced venues.

- **Planning & Development with local councils**

Attached to this letter is CTLA's Submission – Townsville Draft City Plan.

Townsville City Council through the design of the city's master plan of planning and development had given the public and stakeholders an opportunity to contribute ideas and place submissions to ensure the city benefits moving towards the future. From the DSP trail areas of concern where highlighted for Townsville and those were;

- a. Concerns in extended hours in pockets of suburban areas stretching government authorities mainly QPS resources rather than containing patrons in an "Extended Entertainment Zone" for cost affective policing.
- b. Late Night Transport Options
- c. No Public Toilets
- d. Improvement of amenities to cope with large amount of persons

CTLA's summary of the grounds of our submission are as follows:

- a. The Background – Liquor Act
- b. Geographical Outcomes: where are the Extended Licence Areas
- c. Planning Scheme Outcomes
- d. Requested scheme changes – New Sub Precinct Designation
- e. Requested New Local Law

*(Attached – submission – Townsville Draft City Plan by CBD Townsville Liquor Accord)*

Flinders Street East is the most visited place by tourist and locals alike in Townsville every week, yet the facilities, amenities are left with little support, little funding by local council levitating pressures on the area and services.

- **Amending the definition of 'unduly intoxicated' in relation to the Liquor Act 1992**

It is unclear on what is being proposed by the state government in relation to the amendment of the definition 'unduly intoxicated' from the Liquor Act 1992.

Is the state government working with stakeholders for submissions? If so can the submissions and or information be provided or disclosed to the CTLA?

This will enable CTLA to give a more informed response to positively weigh into the debate as to ensure the lines of communications are not bias from either government departments, community groups and or major hospitality stakeholders.

**CTLA would like to provide submission in relation to the possible amendments to 'unduly intoxication' of the Liquor Act 1992.** (CLTA has not reviewed any other submissions)

CTLA fears that discrepancy will rise in the determination of 'what is the signs of intoxication is' if proposed change of legislation to remove 'unduly intoxication' from the Liquor Act 1992.

Where the laws are currently governed, it is that not illegal to have intoxicated persons within the venue and in fact that intoxicated person (if stop service from bar) is safer to be in a licenced premises then out in the surrounding amenities that may cause harm to themselves or other persons.

I can only speculate, but if the QLD Government are looking to follow South Australia laws in relation to signs of intoxication and or the grounds of signs of intoxication that should not be in a licenced premises, this would mean those signs used by South Australia must mean that every person must be 'unduly intoxicated' in QLD? As for a very long time now, QLD licenced venues have used these signs to determine signs of unduly intoxicated persons.

The definition and medical meaning of an 'intoxicated' person is that persons has consumed 1 standard drink.

The removal of 'unduly intoxication' to replace with 'intoxication/intoxicated' will and may possibly be argued (to the cost of government) in the court of law as to the determination of 'what is intoxication', compared to the clear indication of what is 'unduly intoxication'. In no order or limitations, any particular venue could argue;

- Was the authority trained in RSA and RMLV? Compared to the venue staff who are? This maybe argued.
- How many drinks did that intoxicated person have at the venue? This maybe argued.
- OR how many drinks did that intoxicated person consume at home, at other venues before they entered the licence premises? If any venue who had CCTV could prove that that person only consumed 2-3 drinks? This maybe argued.
- The intoxicated person had his ID checked and assessment at front door and the person did not display signs of intoxication when entering, had 3-4 drinks and his/her health declined rapidly and is helped out from venue into awaiting Police and they determine that person was highly intoxicated. This maybe argued.
- The person was asked to leave the venue for showing signs of intoxication but is meant with Police down the street who have reported high levels of intoxication and when ask the person came from X venue and is reported to OLGR. How long was that person on the street for the effects of alcohol to take place? That person was removed from the premises and the premise was maintaining a safe environment? This maybe argued.
- A person has entered the venue, had his/her ID and assessment of intoxication levels and was OK to enter the venue. The person has proceeded to have one drink (or none) and has proceeded to assault someone, is determined by Police as an alcohol related incident and determined the person to be intoxicated? This maybe argued.

A person's determination of intoxication will be different from one person to another, there will be a clear disconnect between government authorities in the determination of registered RSA certified and RLMV certified employees and licensees whom deal with it every day and night.

By having your cabinet (with no experience or have worked in hospitality or are not certified in RSA/RLMV) to determine what the signs of intoxication compared too unduly intoxication is, would be detrimental to the hospitality and tourism industry.

It is recommended by the CTLA to operate the other proposed changes first before changing an already manageable section of the liquor act, those changes as recommended by QLD government are;

e.g. introducing a new power to prohibit licensees from engaging in specific promotional practices that encourage the irresponsible consumption of alcohol.

e.g. implementing strategies to enhance the responsible service of alcohol by licensees, including developing educational and promotional material about licensees' responsibilities and induction material for new licensees and licensees applying for trading after midnight.

The CTLA believes without careful consideration of what the accord has submitted in relation to the possible amendment of 'unduly intoxication' if the content of this letter are not considered may see a measurable law within the Liquor Act become a financial burden to QLD Government and may divided the industry and government authorities such as Police and OLGR.

- **Retail Bottle Shops**

The CTLA would also recommend an inquiry to retail bottle shops and the social harm outside licenced premises that are relative to the state of QLD problems in alcohol fuelled violence and domestic violence. The inquiry should look into the availability and locations of retail bottle shops, the full page ads of advertising bulk and discounted alcohol (where licenced venues cannot) and of course the contribution to preloading prior to persons entering any Safe Night Precinct. All though it is the responsibility of the consumer to choose whether to purchase the alcohol and consume (without a controlled environment), is it not the same responsibility as consuming alcohol and being responsible for individual behaviour when in licenced premises? There is disparity between the two industries 1. Retail Bottle Shop Industry and 2. Hospitality Industry.

We trust this submission are considered by the Parliamentary Committee. If you require any more clarification on any item in this letter, please do not hesitate to contact me any time.

Regards



Mark Napier  
On behalf of CBD Townsville Liquor Accord



Our Ref> 13-013(S)/ (Liq)/ AE:NV  
Date> 25 November 2013

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Dear Sir/ Madam

RE: SUBMISSION - TOWNSVILLE DRAFT CITY PLAN  
CBD TOWNSVILLE LIQUOR ACCORD

We write on behalf of our client, *CBD Townsville Liquor Accord*. This is a submission about the draft Townsville City Plan released by the Townsville City Council on 2 September 2013. We understand the last day of the public consultation period is 25 November 2013.

The subject of this submission is for the planning scheme to consider and control the impact on amenity flowing from liquor licences trading past 12am in various parts of the city. The planning scheme needs to guide where such uses are appropriate and consistent with zoning outcomes for licenced food, beverage and entertainment establishments to be granted a licence or an extension of a licence under the *Liquor Act 1992* (Qld). This submission advocates for Council to introduce an extended entertainment precinct within the planning scheme to facilitate a special liquor licensing regime.

## SUMMARY OF SUBMISSION

A summary of the grounds of our submission are as follows:

- A. The Background – Liquor Act
- B. Geographical Outcomes: where are the Extended Licence Areas
- C. Planning Scheme Outcomes
- D. Requested scheme changes – New Sub Precinct Designation
- E. Requested New Local Law

Further to the above summary of submission issues, the grounds of this submission have been further detailed for your consideration and assessment.

## GROUND OF SUBMISSION

### A. THE BACKGROUND – LIQUOR ACT

Currently, any licenced food, beverage and entertainment establishment can apply for an extended license under the *Liquor Act 1992* (Qld) ("the Act"). Extended licences typically facilitate trading hours past 12am and prior to 10am.

Licensing is not governed by a local governments' planning scheme as this is an operational and management issue; not development. Only development orientated matters should be dealt with under a planning instrument pursuant to the *Sustainable Planning Act 2009* (Qld) (**SPA**). Notwithstanding this submission will establish avenues in which the local government can positively contribute to the safety and health of its constituents through planning scheme provisions.

The submitter highlights the current social harm and adverse effect to the local amenity of allowing extended licenses in any part of the Townsville local government area.

Any new licence application is required by the Act to gain approval from Council in regards to zoning and town planning matters prior to any application being granted. This is the only opportunity for a Council to reject a licence if the premise does not comply with its planning scheme. Other than zoning the Council can only object to a licence on the basis of amenity being effected; eg noise, transport, patron safety or effecting the amenity in a negative way. For a new application the police can also comment but only object on the basis of amenity.

Pursuant to section 117 of the Act, only the local government and assistant police commissioner for the locality is asked to comment or object to a licensing extension application. Council is therefore allowed to comment on the reasonable requirements of the public in the locality or object to the application on grounds that the amenity, quiet or good order of the locality would be lessened. Council and police have the opportunity to have licence extensions granted on the basis of imposing extra conditions on the licence; eg extra security, CCTV.

Very few objections are received from Council and police for applications for an extension of a licence (ie for extended licensed hours usually past 12am) as it is very hard for the objector to gain favourable consideration by the licensing body based on amenity. In practice, what this means is any licenced food, beverage and entertainment establishment can apply for an extension of a licence under the Act without consideration by the Council against zoning matters.

Accordingly, there needs to be a two-pronged approach to deal with the social harm and amenity issues. The planning scheme needs to guide where it is appropriate and consistent with zoning outcomes for licenced food, beverage and entertainment establishment to be granted an extension of a licence under the Act.

## **B. GEOGRAPHICAL OUTCOMES: WHERE ARE THE EXTENDED LICENCE AREAS**

The Townsville local government area is one of very few that has by, mistake or good fortune, fashioned a geographically concentrated precinct of extended license premises in Flinders Street East, Townsville City.

The Flinders East precinct offers the local government an unprecedented opportunity to contain and apportion other such precincts throughout the city, or not. Pockets of extended license precincts (or isolated establishments) have already established in:

- Palmer Street, South Townsville
- The Strand
- The Precinct, Idalia
- Cannon Park
- Thuringowa Drive
- The Avenues
- and many more

Whilst Council through its varied policies that influence general urban gentrification and a desire for self-sufficient new suburbs, may seek to promote a dispersion of such facilities away from the Flinders East precinct, such policy or practice has the ability to create social harm in many and varied residential and isolated pockets causing detriment. The status quo combined with the practice of apparent unopposed granting of extensions to licenced hours subsequent to the original licence being granted, perpetuates and distributes the harm and amenity issues across the city. This practice disperses inefficiently social and emergency services.

The planning scheme is considered an option to assist control such social harm and effect on amenity.

### C. PLANNING SCHEME OUTCOMES

As stated above only development orientated matters should be dealt with under a planning instrument pursuant to SPA. Planning schemes' should deal with land uses and built form outcomes. Therefore to correlate this matter of extended license precincts into a planning scheme context, the submitter seeks the following amendments to the draft planning scheme 2013.

At this point we highlight the submitter does not refer to a declared *special entertainment precinct* pursuant to the Local Government Act.

Establishments that commonly apply for extended licenses (new or subsequent extension) under the *Liquor Act 1992* (Qld) are generally one of the following uses defined by the draft planning scheme:

- **Food and drink outlet** (café, restaurant)
- **Hotel** (premises used primarily to sell liquor for consumption. The use may include short-term accommodation, dining and entertainment activities and facilities)
- **Nightclub entertainment facility** (premises used to provide entertainment, which may include cabaret, dancing and music. The use generally includes the sale of liquor and food for consumption on site)

Under the draft planning scheme in the centre (commercial) zones, these uses vary in compliance with the relevant land use intent of any given area.

In the **Principle Centre Zone**, ie Townsville CBD, these uses are self assessable if within an existing building and not involving more than minor building work; otherwise code assessable. The overall outcomes in the *Flinders Street East Precinct* states active uses such as restaurants and pubs are located to the Flinders Street frontage, with new development to Melton Terrace to predominantly consist of residential uses. Performance outcome PO47 states 'development contributes to a mix of day and **night-time** activity on Flinders Street East which enhances the safety of the precinct, including some retail uses and **nightclubs** with extended operating hours for daytime dining.'

In the **Major Centre Zone**, ie Cannon Park and Thuringowa Drive:

- a **Hotel** use is self assessable if within an existing building and not involving more than minor building work; otherwise code assessable
- a **Food and drink outlet** is self assessable if within an existing building and not involving more than minor building work. This use is code assessable if otherwise or gross floor area does not exceed 6,000m<sup>2</sup>
- a **Nightclub entertainment facility** is impact assessable
- The overall outcomes in the major centres zones seeks to evolve the zone as vibrant mixed use places where people live, work and play in a high density environment which is active both during the day and **night-time** and includes residential uses

Without further prescriptive language in the planning scheme to control the impact on amenity flowing from liquor licences trading past 12am, such establishments could operate in various parts of the city where inconsistent with the intent of the zone and amenity.

In the **District Centre Zone**, ie Annandale Central:

- a *Hotel* use is self assessable if within an existing building and not involving more than minor building work; otherwise code assessable
- a *Food and drink outlet* is self assessable if within an existing building and not involving more than minor building work. This use is code assessable if otherwise or gross floor area does not exceed 3,500m<sup>2</sup>
- a *nightclub entertainment facility* is impact assessable
- The overall outcomes in the district centres zone states a mix of uses promotes a vibrant centre which includes medium density residential development and active day and *night-time* uses.

Again we highlight an existing food and drink outlet could successfully be granted an extension to operate past 12am in Annandale for example, without opposition from Council or the police. The draft planning scheme does not provide guidance as to whether uses past 12am are intended.

In the **Local Centre Zone**, ie Idalia, Rising Sun

- a *Food and drink outlet* is self assessable if within an existing building and not involving more than minor building work. This use is code assessable if otherwise or gross floor area does not exceed 1,000m<sup>2</sup>
- a *Hotel* is code assessable if within the North Ward local centre precinct; otherwise impact assessable
- a *nightclub entertainment facility* is impact assessable
- The overall outcomes in the district centres zone includes local shopping, local employment nodes, commercial, cafes and dining, entertainment, community services and residential development where it can integrate and enhance the fabric of the activity centre, but it is not the predominant use.

Again we highlight an existing *hotel* could successfully be granted an extension to operate past 12am in Idalia or Mundingburra for example, without opposition from Council or the police.

In the **Mixed Use Zone**, ie the Lakes, CBD frame, Magnetic Island, Wotton Street Aitkenvale:

- A *Food and drink outlet* is self assessable if within an existing building and not involving more than minor building work; otherwise code assessable
- a *Hotel* is code assessable
- a *nightclub entertainment facility* is impact assessable
- The overall outcomes for this zone is to provide for a mixture of development that may include service industry, business, retail, residential, tourist accommodation and associated services and low impact industrial uses

Again we highlight an existing food and drink outlet could successfully be granted an extension to operate past 12am at the Lakes, Magnetic Island or Aitkenvale for example, without opposition from Council or the police.

#### D. PLANNING SCHEME OUTCOMES - COMPLIANCE WITH PLANNING ZONE

Accordingly it is not out of the question under the provisions of the draft planning scheme 2013 to develop a (i) *Food and drink outlet* (ii) *Hotel* (iii) *nightclub entertainment facility* in the **Major Centre Zone**, ie Cannon Park and Thuringowa Drive, the **District Centre Zone**, ie Annandale Central, as these uses are consistent with the zone intent, ie for active night-time uses subject to impact assessable. Whilst impact assessment includes public notification where the public can make submissions and objections to the development, the provisions of the zone intent suggests these uses are consistent.

Further and of most concern to the submitter, is an example where an existing establishment in the suburbs in an area where late night licensed trading is not currently anticipated, applies to extend their existing license to trade past 12am. Council and the police have limited options to oppose the application; the draft planning scheme in its current form does not provide guidance as to whether such uses past 12am are intended. Extra conditions imposed by Council and police would not guarantee or safeguard impacts on amenity flowing from liquor licences trading past 12am. Crucially the draft planning scheme does not indicate that more robust licensing conditions are required to achieve the intended land use outcomes based on public amenity.

The submitter contends these land uses need to be restricted by provisions in the draft planning scheme 2013. The level of assessment is not under dispute, nor is the prevalence of where they can be located. The submitter says it's the unrestricted nature of the associated liquor licensing that poses the greatest threat to social harm.

#### E. REQUESTED SCHEME CHANGES – NEW SUB PRECINCT DESIGNATION

The submitter seeks the following outcomes from this submission.

The draft planning scheme divides the city into land use zones of which some include precincts and sub precincts that further define and provide outcomes for a specific geographical area. The submitter requests the allocation of a sub precinct is appropriate to facilitate the desired outcome.

The submitter requests a sub precinct called the 'Extended Entertainment' or the like be applied to lands in identified location where it is deemed appropriate for any licensed food, beverage and entertainment establishment to be granted a license under the *Liquor Act 1992* (Qld). The sub precinct intent should include provisions to restrict a new licence, extension to an existing licenses or renewal.

To complete the required control, the submitter strongly advocates for a local law to be adopted to further govern the desired outcome (refer discussion below).

We provide below an example of overall outcomes for the requested sub precinct:

##### ***Extended Entertainment Sub Precinct - Overall Outcomes***

- a) *Development in this sub precinct including any food, beverage and entertainment establishments, are restricted if they involve active night-time uses. [insert footnote that refers to a new Local Law]*
- b) *Extended licensed operating hours will be a feature of uses in this sub precinct.*
- c) *Social impacts of extended licensed premises operating past midnight are controlled and restricted to protect the amenity of the area.*
- d) *Development in this sub precinct provides for a safe street environment by adequate provision of and design for street lighting, footpath and road configurations, public seating/ furniture and pedestrian crossings to ensure the safety and protection of patrons of active night-time uses.*

- e) *Indoor and outdoor entertainment areas are utilised where appropriate noise attenuation measures can be provided.*
- f) *The sub precinct will continue to promote passive and active surveillance onsite, in the street and adjacent carparking areas. Sufficient security is provided to protect the safety and amenity of the area.*
- g) *The sub precinct will continue to promote public transport nodes, interchanges and interconnection to other similar sub precincts throughout the city.*

### **Strategic Framework**

The draft planning scheme incorporates a strategic framework which sets the policy direction for the planning scheme and forms the basis for ensuring appropriate development occurs within the planning scheme area for the life of the planning scheme.

To ensure such the new sub precinct provisions are robust and transparent, the submitter recommends the following statement is included in the strategic framework of the draft planning scheme 2013:

*'Development involving active night-time uses involving the sale of liquor past 12am outside the extended entertainment sub precinct will not be supported'.*

The inclusion of this statement into the strategic framework will build resilience to the intent of the sub precinct, and dissuade premises establishing in areas outside the designated sub precinct.

### **Restricted Areas**

The submitter recommends the following locations are allocated this sub precinct:

- ✓ CBD
- ✓ Flinders East precinct
- ✓ Palmer Street, South Townsville

The submitter recommends locations outside of those abovementioned, are **not** allocated in this sub precinct, ie:

- X The Strand
- X The Precinct, Idalia
- X Thuringowa Drive
- X The Avenues
- X Cannon Park

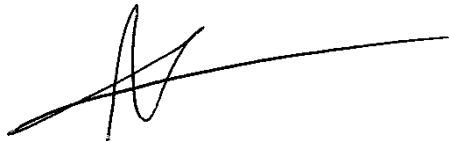
### **F. REQUESTED NEW LOCAL LAW**

The licensing body relies on Council to consider amenity in the context of zoning and town planning matters. A new local law needs to be adopted to facilitate assessment criteria that Council can utilise to comment on licensing applications. Reasonable and relevant conditions need to be applied consistently to the full range of licensing applications Council is given the opportunity to consider.

The submitter advocates for a two-pronged approach which incorporates robust planning scheme provisions and a local law to control the impact on amenity flowing from liquor licences trading past 12am in all areas of the city. The local law needs to incorporate more stringent provisions for such uses outside the new sub-precinct, to impose sufficient deterrence, if not prohibition.

We trust this information is sufficient for your purposes, however should you require any further details or clarification, please do not hesitate to contact the writer by telephone or email.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'A' followed by a long horizontal stroke.

**ALICIN EVERSON**  
**Director/ Principal**  
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cc      **Mark Adams**  
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