

Best interests of the community

The *Liquor Licensing Act 1990* requires that decisions under the Act are made by considering what is in the “best interests of the community”, with the term included under section 2A Object of Act.

2A Object of Act

- (1) The object of this Act is to regulate the sale, supply, promotion and consumption of liquor so as to –
 - (a) minimise harm arising from the misuse of liquor by –
 - (i) ensuring that the supply of liquor is carried out in a way that is in the **best interests of the community** and does not, as far as practicable, detract from public amenity; and
 - (ii) restricting undesirable liquor promotion and advertising and the supply of certain liquor products; and
 - (iii) encouraging a culture of responsible consumption of liquor; and
 - (b) facilitate the responsible development of the liquor and hospitality industries in a way that is consistent with the **best interests of the community**.
- (2) It is the obligation of any person on whom a function is imposed or a power is conferred under this Act to perform the function or exercise the power in such a manner as to further the object set out in subsection (1).

Liquor Licensing Act 1990

The following sections of the Act also include a reference to best interests of the community:

- 24A Requirements for licence (granting or refusing to grant a liquor licence);
- 34 Requirements for permits (granting or refusing to grant a liquor permit); and
- 47 Licensee not to alter area of licensed premises without approval (approving or refusing to approve alterations to the area of a licensed premises).

How is best interests of the community determined?

Best interests of the community is determined on a case by case basis by either the Commissioner for Licensing or the Tasmanian Liquor and Gaming Commission (both independent bodies established under legislation), after considering the object and scope of the Act, and the interests prescribed in the *Liquor Licensing Regulations 2016* (shown over the page). The Commissioner or the Commission take the unique circumstances of each case into account when making a decision. The Regulations make clear that they must take the interests of the whole community into account, not just private interests.

These bodies will inform themselves on what ‘is in the best interests of the community’ through the liquor licence application process which requires applicants to address the best interests of the community as part of their submission. Community input in relation to the best interests of the community can be made to a liquor licence application by representation provided for under section 23A of the Act.

This is a public process where members of the community are provided with the opportunity to make a written representation to the Commissioner in respect of an application for a liquor licence. A written representation is to be made within 14 days after a public notice has been placed.

4 Best interests of the community

For the purposes of the definition of **best interests of the community** in section 3 of the Act, the following interests are prescribed:

- (a) the general costs and benefits to the community of the supply, or proposed supply, of liquor;
- (b) whether the supply or proposed supply of liquor might cause undue offence, annoyance, disturbance or inconvenience to people who, in the area of the supply or proposed supply -
 - (i) reside or work; or
 - (ii) attend schools or other facilities frequented by children; or
 - (iii) attend hospitals or facilities where people receive treatment for alcohol dependence or other addictions; or
 - (iv) attend places of worship;
- (c) possible adverse effects on the health and safety of members of the public due to the supply of, or proposed supply of, liquor.

Liquor Licensing Regulations 2016

What does each of the prescribed interests mean?

- (a) The **general costs and benefits to the community of the supply, or proposed supply, of liquor** considers the nature and type of facilities proposed. Costs of a proposal may include the potential for alcohol-related anti-social behaviour or alcohol-related crime. Benefits may include employment, tourism or recreational benefits that may arise from the proposed activities, such as the responsible development of the hospitality industry.
- (b) **Whether the supply or proposed supply of liquor might cause undue offence, annoyance, disturbance or inconvenience to people who, in the area of the supply or proposed supply -**
 - **reside or work; or**
 - **attend schools or other facilities frequented by children; or**
 - **attend hospitals or facilities where people receive treatment for alcohol dependence or other addictions; or**
 - **attend places of worship.**

Consideration may be given to whether there are hospitals, hospices, aged care facilities, places of worship, child care centres, schools, alcohol free areas, public parks/children's playgrounds or facilities, and support services for people receiving treatment for alcoholism or other addictions located within a specific distance of the proposed premises, and the potential impact that the proposal may have on these.

- (c) The **possible adverse effects on the health and safety of members of the public due to the supply of, or proposed supply of, liquor** is quite broad, but may include:
 - issues relating to outlet density and whether the proposed premises is located in an area more prone to alcohol-related issues, for example, its proximity to businesses with vulnerable customers (such as an opportunity store that is frequented by a significant number of alcohol dependent customers);

- the availability of safe transport options where the premises is likely to result in late night departures of patrons;
- the incidence of alcohol-related crime in the area; and
- whether the location of the premises is one that Tasmania Police, the Department of Health and Human Services and/or Local Councils have concerns about with regard to increased access to alcohol.

Potential adverse effects on public amenity are among the objects of the Act and would be considered in licence and permit applications. Public amenity includes the nature and character of the local community and how the proposed licence or permit would fit that location. Impacts that may be considered include litter and other pollution associated with the operation of a premises, increases in pedestrian and vehicle traffic, types of local businesses, public services and residences in the vicinity.

For further information contact the Liquor and Gaming Branch.

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