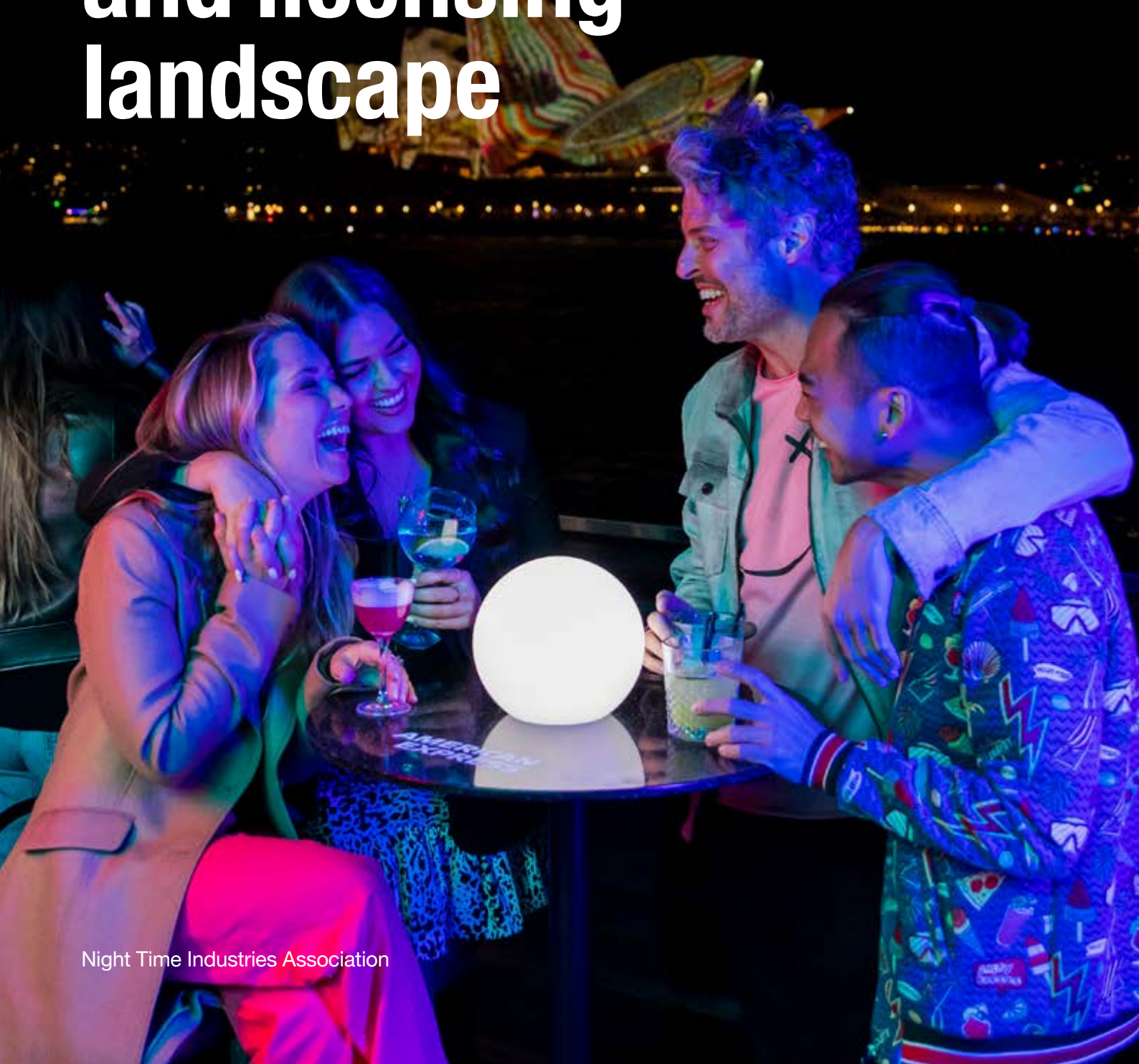




Night Time
Industries
Association

Navigating the planning and licensing landscape



Acknowledgement of Country

The board and staff of the NTIA acknowledge that we are on unceded land of the Gadigal People of the Eora Nation. We pay our respect to Elders past, present and future and are privileged to celebrate a living culture of over 60,000 years.

Foreword

Underpinning a diverse and vibrant night-time economy is a regulatory framework that governs how venues operate. Liquor licences and development approvals determine the conditions on venues. Land-use zoning determines what type of activities and development are allowed on a site.

The liquor licensing rules and regulations are intended to ensure certain minimum standards are met so that everyone can enjoy a night out. Regulations can change over time, with a recent example being the 2020 amendment to the Liquor Act 2007 which now includes “the need to support employment... in the live music industry” as an object.¹

This guidebook draws on industry leaders’ expertise to explore the key considerations for navigating the planning and licensing landscape. It includes an overview of the process of applying for a liquor licence from Liquor and Gaming NSW, as well as applying for Development Approval from the local council.

Venues need to demonstrate how they comply with the constraints of the regulatory framework, in order to have the freedom to play within the bounds of the framework.

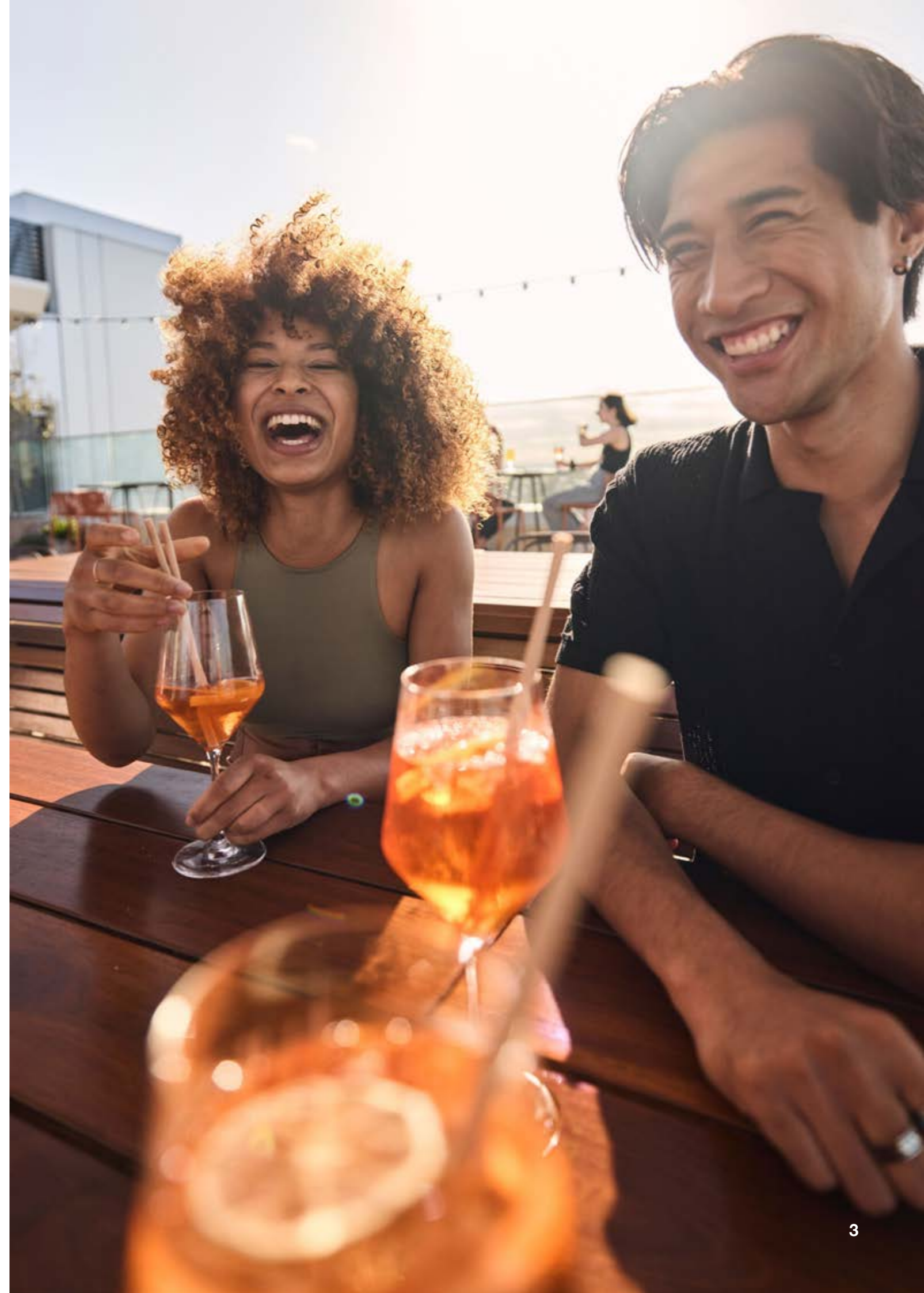
The guidebook highlights the importance of getting expert help to interpret the relevant legislation and draft technical documents required to obtain your licence or approval. It provides examples of when you might want to take a staged approach to achieve your ultimate goal and confirms the importance of allocating additional time to get there.

I hope this guidebook serves as a useful resource.

Regards,
Mick Gibb



Mick Gibb
CEO - Night Time Industries Association





Rules & Regulations

Liquor Licence

Venues that serve alcohol are required to obtain a licence from Liquor & Gaming NSW. Obtaining a licence involves submitting an application and paying the required fee. Application fees vary depending on the type of venue and can range from a few hundred dollars for a small bar up to a few thousand dollars for a hotel.

Every liquor licence in NSW is subject to licence conditions. Examples of conditions that may apply include trading hours and sound levels to manage sound emanating from the venue. Which conditions apply depend on the type of venue you operate. Small bars, pubs, and dedicated live music venues each have unique characteristics that result in different conditions as part of their liquor licence.

For your application to be successful you will need to provide specific information demonstrating how you meet the legislative requirements. You will need to name the individual or entity that will hold the liquor licence, identify what type of venue you plan to operate, and demonstrate your compliance with the Liquor Act 2007. By law, standard trading hours Monday to Sunday fall within 5 am to 12 am, with a 6 hour daily closure period. Trading hours set on an individual licence is determined on a case-by-case basis by Liquor & Gaming NSW.

Please note that venues can apply to Liquor & Gaming NSW to operate extended trading hours; this also needs to be aligned with your DA.

Under the Vibrancy Reforms, businesses are no longer required to conduct community consultation prior to lodging an application with L&GNSW. However, community consultation is encouraged.

The reforms now require certain applications to be accompanied by a Statement of Risks and Potential Effects (SoRPE). The SoRPE captures similar content to the previous Community Impact Statement (CIS). A SoRPE allows an applicant to identify to the Independent Liquor and Gaming Authority the individual risks and potential effects associated with their application and the strategies that are being undertaken to mitigate any impact on the local community. Generally, if you previously had to prepare a Category A or Category B CIS for an application, you will be required to prepare a SoRPE for your application.



If you follow each stage of the application process one step at a time, then Liquor and Gaming NSW indicate that the timeline to getting a licence application approved is around 12 weeks. For many venues, the process of obtaining a liquor licence includes the following steps:

- **Development Approval / Development Consent (30 – 100 days)**
- **Noticeboard consultation (30 days)**
- **Determination of application (up to 12 weeks).**

The NSW Government established the Hospitality Concierge within Liquor & Gaming NSW². The Hospitality Concierge is a free ‘one stop shop’ for hospitality businesses to find out more about liquor licence reforms and to help businesses benefit from new initiatives that reduce red tape and support the 24-hour economy. To make the most of this useful service it may be worthwhile engaging the Hospitality Concierge during the initial stages to get their insights and advice.

For many applicants, the longest stage of the process can be the Development Application from your local council. Let’s look at that stage in more detail.

Development Approval

In order to open a venue, you must confirm if a Development Approval (DA) is required for the proposed premises.³ Contact your local council’s Planning Unit or Department to discuss any approvals that you may need. If your local council confirms that a development consent is required for the activities that you are proposing at the premises, then one must be submitted.

Councils generally offer informal pre-DA meetings to provide guidance; these are sometimes (though not always) free of charge. The information from these meetings are non-binding and the actual outcome of your DA will depend on details that can only be confirmed through applying. At a pre-DA meeting a council officer will confirm the requirements of the DA including any documents and reports that need to be provided.

It’s common for venue operators to engage a planning consultant to assist with the DA process. This is due to the expert knowledge required to interpret technical documents and legislation. For example, an expert can help you manage any heritage constraints on the premises and may have experience with the processes of that particular local council. Experienced consultants can also help avoid issues before they arise, or manage them if they do.

Whether you choose to work with a planning consultant or do it yourself, when you are ready to get started, you will need to submit an application form. The name of the form varies across LGAs. Be sure to consult with your local council to confirm which form is right for you.

The information required for your DA will vary depending on whether your premises includes outdoor dining, if you intend to serve alcohol, if you need a food safety supervisor certificate, and your waste management plan. For example, venues with a kitchen will need to ensure they have appropriate ventilation to discharge exhaust and not adversely

affect another business or residence. They will need a grease trap, and demonstrate compliance with the rules that govern food preparation and food storage areas.

In some cases, venues may be heritage listed, or in an area classified as a heritage conservation area. This has implications for the types of renovations that are permissible, and restrictions on signage or design of the exterior of the venue. Operating in a heritage building or area means you may have to undertake a heritage report or assessment as part of the DA process. A heritage assessment can only be conducted by a qualified expert that you will need to engage; ‘do it yourself’ approaches will not be accepted.

The approval time for a DA can vary from between 30 – 100 days depending on your council and the complexity of the development you’re proposing. Your DA can be in process at the same time you lodge your liquor licence application, however your liquor licence will not be determined until you have provided an approved DA.

Not all premises will require a DA. For example, the venue may already have development consent to operate as a food business or bar. If you are taking over a venue with an existing DA in place, then it’s important to check that no changes are required to the conditions of consent. This can happen if you are proposing to offer different goods or services to what the existing DA allows (i.e. extended trading hours, opening an outdoor space, etc.). If no DA is required then you can apply directly for a liquor licence.

This section has provided an overview of the process of applying for a liquor licence from Liquor and Gaming NSW and a development approval from local council. Next we’ll look at what experienced night-time economy operators say are the key considerations to navigate the planning and licensing landscape successfully.

³ The terms “Development Application” “Development Approval” and “Development Consent” are often used interchangeably. Technically, the development application is the actual application you submit (i.e. the process of applying for consent). The development approval or development consent is the actual approval you receive when your application is successful.



Key Considerations

1 Learn from Experts

When Night Time Industries Association members were asked for recommendations for new business owners looking to open a venue, there was one piece of advice everyone agreed on: engaging a planning consultant will save you time and money. Experts are familiar with the Liquor Act, the Local Government Act, and the documentation required to demonstrate compliance with planning regulations.

Planning consultants can save you time by working from templates they have developed based on their experience of submitting successful liquor licence applications and DAs in the past. For example, it's possible to create a new waste management plan that meets your development consent requirements, but it's much more convenient to work from a template that was successful for

venues similar to yours. This is especially true for plans that are 20 – 30 pages in length. Templates can be adjusted to suit your venue and can give you confidence in the documentation you are preparing. Get it done once correctly, rather than going back and forth to make corrections and amendments.

Perhaps the most important help a consultant can provide is when things don't go to plan. This might be a delay in the processing time, a request for additional information, or an error by you or the regulatory authority. Consultants can help deal with issues as they arise based on previous experience. They often have relationships with the regulatory authorities and can find out who to contact or what steps need to be taken more efficiently than someone doing it for the first time.

Working with a planning consultant can also help give council staff confidence that your application includes the necessary information. It demonstrates you are familiar with best practice and investing in expert knowledge to help your business succeed. If the consultant is dealing directly with council staff, they will be able to pick up on the key pieces of information that are being communicated and talk about your venue in terms that the planning department will understand.

Planning consultants can also help with the complexities of the regulatory environment. For example, under the Liquor Act 2007 there isn't a patron limit on a general bar licence. However, your local council can impose a limit. Similarly, you might apply to extend the boundaries of your premises without realising that the conditions of your existing development consent will not automatically apply

to the new area. Drawing on the experience of an expert will help you to avoid mistakes, and provide guidance how other venues have addressed similar issues in the past.

What about a small operator that doesn't have the budget for an external consultant? If hiring an external consultant is not within your budget, then make use of the available resources from Liquor and Gaming NSW and your local council such as a pre-lodgement consultation. You can also seek out venue operators willing to provide feedback and guidance on your proposed approach.

It's important to note that some costs are unavoidable. If your venue is in a heritage zone then you'll need a heritage report. If you host live music, you'll need an acoustic report. Also, remember that consultants' fees can vary widely, so shop around and work within your budget.



2 Consider a “staged approach” to achieve your goals

At times it may be worthwhile to apply for approval for 70-80% of what you want in order to get started, rather than 100%. For example, the approval process for a small bar is less onerous than for a large bar. If you want to open a large bar, but are under time pressure to begin operating, it may be worthwhile to apply for a small bar licence, with the intention to amend the licence in the future.

This can allow you to get started and generate revenue, while using that time to prepare a more detailed application down the track. In fact, your application for an amendment to an existing licence may be more likely to succeed if you can demonstrate a history of compliance, up to date documentation, and good relations with your neighbours.

The same logic applies regarding your trading hours. Perhaps you want to trade until 4am, but you'd be willing to start off by trading until only midnight. Getting approval to trade until midnight is much more straightforward. Using the staged approach, you could plan to modify your DA after

one year of operating. Rather than starting from scratch you'd be doing so from the basis of a successful track record of trading until midnight, and being able to demonstrate good relationships with police and other stakeholders.

You'll also benefit from having an existing relationship with the relevant council staff. As a current licensee, you can enquire about the process of applying for an amendment. Along the way you may even find some allies within the council such as the Economic Development team or Placemaking staff members who have an interest in seeing your business succeed.

At the same time, don't shy away from applying for what you want. There is little point in taking the staged approach of starting with a small bar if your intended destination is a large entertainment centre. The approval processes are in place for a reason, and you'll have to comply in order to operate. However, depending on your goal, the staged approach may be worth considering.

3 Give yourself more time

It's important to give your project the required lead-in time. This is generally more than most businesses would expect. Giving yourself more time includes consideration for things like a sunset clause in your lease so that the lease does not commence until the necessary regulatory approvals have been signed off.

One reason the process can take time is due to the organisational structure of regulatory authorities. Depending on what you propose, the local council will have a range of committees that may need to be convened and consulted. This can include committees that may not be obvious such as: a traffic committee, a pedestrian committee, an access and inclusion committee, or Aboriginal Advisory committee.

Timing is critical to get on a committee's agenda. Some committees meet monthly. Others meet quarterly, and some can meet more quickly on an as-required basis. Missing the chance to get on the upcoming agenda can push back your dates a month or more.

Plan your ideal timeline and then build in some contingency to absorb delays along the way.

Relationships

1 Enforcement Authorities

The above sections provided information about Liquor and Gaming NSW and local government. This section will focus on NSW Police. Whether starting a new venue or taking over an existing business, venue operators will engage with NSW Police. Consequently, it's important to spend time building that relationship.

How do you build relationships?

It sounds simple, but you want to go to the police station and introduce yourself. Let them know about your business. Provide your contact details. Ask what kind of information they would like from you, and how often it would be useful to be in touch. Making the time to build a personal relationship demonstrates your interest in working together.

If you are taking over an existing venue, then ask police what issues they have had in the past with that venue. If you are establishing a new venue, ask about the issues they are dealing with in the area. Repeat these steps any time there is a licensee change. Be sure to notify police and introduce the new contact person for your venue.

Occasionally, venue operators can obtain a letter of support from police regarding their business; however, that is not common. Ideally, you should strive for the Police to refrain from objecting to your proposal. It will be valuable when it comes to getting your DA and licence approved.

Consider creating a pitch deck to communicate your vision in simple terms. This might include drafting pictures of what your venue will look like, and the events you plan to hold. The key is to communicate your vision to regulators in a way that is easy for them to grasp.

Over time as the relationship matures, you will have years of compliance history and a track record of working with police to address shared goals. It's an ongoing relationship, so make sure you continue to invest the time required to maintain good communication.



2 Residents

Building good relationships with the residents and community groups in your neighbourhood can help make your venue a success. A supportive local clientele can help your business financially by becoming regular patrons. In addition to the business case, there is a need to connect with nearby residents due to their potential involvement in planning and licensing processes.

As noted above, certain venue types require a SoPRE as part of the liquor licence approval process. A SoPRE is generally required for hotels, clubs, bars, entertainment venues, or any venue with extended trading that allows liquor sales between midnight and 5 am. Consult with L&GNSW for additional information.

It's common for residents to have concerns about noise, anti-social behaviour, litter, and increased pedestrian and motor traffic, which may be reflected in your DA. These concerns require an appropriate level of consideration. Strategies to address them must be put in place for your application to be approved. It's common for residents to acknowledge the benefit of new amenities in the area, increased opportunity for social activity, the economic benefit for musicians, and your venue's role in providing jobs.

Your relationship with neighbours will be ongoing. See the Managing Sound and Noise playbook for more information on steps to build good relations with your neighbours, as well as tips on how to manage the relationship when issues arise. Some of the key take-aways include:

- **Keeping residents informed of what you have planned**
- **Providing a contact number for residents to express their concerns**
- **Providing 'drop in' sessions for residents to meet with you one on one, or host a community forum to speak with residents as a group**
- **Keeping accurate records of your communications with residents.**

Another way to help get some residents onboard is by getting involved in the community. Perhaps you can become a sponsor for the local sports club, or organise your staff to volunteer at an annual community event. Not every transaction needs to be financial.

Top 10 Tips

1 Be informed

Review the resources available from Liquor and Gaming NSW and your local council. Make use of the free consultations services at council.

2 Engage a planning consultant

Draw on expert knowledge to help with your application. Consultants often have established relationships with council staff and have presented to the relevant committees on previous projects.

3 Consider a staged approach

Look at breaking your project down into smaller more manageable steps. This is not appropriate for all venue types, but in some cases it can help you get started and generate revenue while preparing the next phase of your business.

4 Budget more time than you expect

Include some additional time into your planning. Approvals, consultations, and reporting will often take longer than you expect.

5 Pay attention to detail

Review your application for completeness and ensure you've ticked all the required boxes.

6 Build relationships

Communicate with local neighbours about your plans and provide a channel for them to express concerns. Consider holding a stakeholders forum, and provide a contact number for them to get in touch.

7 Keep the police informed

Introduce yourself at the local police station. Give them your contact details and ask what level of information they'd like you to share. You should build a working relationship with the Local Area Command and give the police confidence in how you operate. A good working relationship can reduce the potential for objections from the police to your application for a liquor licence.

8 Consider creating a pitch deck for your venue and events

Communicate your vision to regulators and residents in a way that is easy for them to grasp.

9 Negotiate the lease with flexibility in mind

If you are leasing the venue, then negotiate a sunset clause in your lease agreement. Don't let the lease start until the DA has been approved.

10 Get involved in the local community

Explore opportunities to connect with nearby residents or community groups.

Participants

This guidebook was developed by the Office of the 24 Hour Economy Commissioner and the Night Time Industries Association through consultation with industry leaders. Thank you to participants for sharing their expertise.

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**Looking for more resources?
Check out the NTIA PLAY website for more
guidebooks or get in touch with the NTIA.**

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