

# Chapter F3 Licensed Premises

Part F ▶ Land Use Specific Controls

CHAPTER F3 APPROVED ON 27 APRIL 2015

AND COMMENCED ON 23 MAY 2015

Repealed by WDCP 2015 Amendment No. 8 on 20 January 2020

## Chapter F3 ▶ Licensed Premises

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## F3.1 Introduction

Licensed premises continue to be a fundamental part of the social fabric of the community. These provide venues for social interaction and for entertainment for a large cross section of the community.

Licensed premises contribute to the night economy and the business community derives a broad range of benefits from the operation of venues, employment in hospitality, entertainment and tourist industries, the supply of food, drink and other related services. Licensed premises are venues for artistic expression for up-and-coming, as well as established, musicians and other artists.

While licensed premises can make positive contributions to society they can also be the source of neighbourhood disturbance and anti-social behaviour. This can take the form of noise and other nuisances but at its worst can lead to property damage, crime and violence (including violence towards emergency service workers). There are also significant associated health costs related to physical injuries and mental illness resulting from alcohol abuse.

The external impact of licensed premises on the community is essentially related to three risk factors:

- ▶ the type of licensed premises;
- ▶ the sensitivity of the locality within which it is, or is proposed to be, located; and
- ▶ the trading hours and number of patrons.

The measures which need to be applied to avoid unacceptable external impacts will be different depending on these factors. For instance, a pub in or adjacent to a residential area has the potential for greater external impacts than a small restaurant in a business area.

Therefore, based on the above three factors, this DCP adopts a risk rating approach, i.e. high risk or low risk, as a guide for establishing the appropriate response to proposals involving licensed premises.

There are controls in this chapter which relate directly and indirectly to the density of licensed premises in the consideration of development applications (DAs) and other related applications. This is because studies have demonstrated that there is a connection between areas with higher densities of licensed premises and increases in the incidence of alcohol-related anti-social behaviour.

The assessment of DAs and other related applications for licensed premises will include consideration of the density of existing licensed premises in the vicinity and any incidences of alcohol-related anti-social behaviour.

Situations may arise where it is not possible to support additional licensed premises in areas where high densities occur and where anti-social behaviour is causing unacceptable impacts on the surrounding community.

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### F3.1.1 Land and development where this chapter applies

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This chapter applies to all land within the Woollahra Municipality.

Woollahra Local Environmental Plan 2014 (Woollahra LEP 2014) sets out where various land uses (including the use of land for the purposes of licensed premises) are permissible, either with or without development consent, or whether they are prohibited.

Under Woollahra LEP 2014, licensed premises of some categories are permissible in a number of the land use zones. The land use zones provide an indication of an area's environmental amenity sensitivity.

### F3.1.2 Development to which this chapter applies

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This chapter applies to all development proposals involving licensed premises.

Licensed premises are those premises which are licensed, or which require a licence to be issued, under the *Liquor Act 2007* (Liquor Act), Part 3, Division 1. The Liquor Act provides for various types of licences to be issued, as set out in Section 3.1.5 below.

This chapter of the DCP also applies to the following applications made under the *Environmental Planning and Assessment Act 1979* (EP&A Act):

- ▶ DAs for existing licensed premises;
- ▶ applications for the modification of development consents (s.96 applications);
- ▶ applications for the review of a determination of a DA (s.82A review); and
- ▶ reviewable conditions (s.80 (10B)).

In the Woollahra Municipality there are existing licensed premises located in zones where they are no longer permitted. These premises operate as existing uses and are subject to special provisions (see EP&A Act, Division Part 4, Division 10).

The controls in this chapter have been prepared to complement Council's procedure *Extension or Intensification of a Use* which relates to applying the Land and Environment Court Planning Principle for licensed premises established in *Vinson v Randwick Council [2005] NSWLEC 142*.

#### Where this DCP chapter does not apply

This chapter does not apply to the current operating conditions of existing licensed premises. Current operating conditions will only be considered where relevant to the determination of a DA. For example, a DA seeking the intensification of the current use such as extended trading hours or increased patron numbers.

### F3.1.3 Objectives

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The objectives of this chapter are:

- O1 To standardise the way we assess DAs and other related applications for licensed premises.
- O2 To provide certainty to applicants, residents and other stakeholders regarding our approach to, and planning requirements for, dealing with DAs and other related applications for licensed premises.
- O3 To achieve a more consistent approach to determining trading hours and operating conditions for licensed premises.

Note: This chapter is not intended to duplicate processes under the Liquor Act. However, we reserve our right to make submissions, which may be in the nature of objections, in relation to:

- ▶ the preparation of a Community Impact Statement as part of a licence application under the Liquor Act; and
- ▶ a licence application, or the terms of a licence application, under the Liquor Act.

We reserve this right notwithstanding that we may have granted a development consent in relation to the use of the premises for the purposes of a licensed premises.

### F3.1.4 Relationship to other parts of the DCP

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This chapter is to be read in conjunction with the other parts of the DCP that are relevant to the development proposal, including:

- ▶ If located in a residential area—the controls in Part B: General Residential, or Part C: Heritage Conservation Areas that apply to the land.
- ▶ If located in a business centre—the controls in Part D: Business Centres that apply to the land.
- ▶ Part E: General Controls for All Development - this part contains chapters on Parking and Access, Stormwater and Flood Risk Management, Tree Management, Contaminated Land, Waste Management, Sustainability, Signage and Adaptable Housing.

### F3.1.5 Relationship to other documents

#### *Liquor Act 2007*

The Liquor Act includes licensing provisions for the sale of alcohol which is based on the categorisation of licensed premises.

Matters to be considered before a licence can be issued under the Liquor Act are the social impacts of issuing a licence and whether the licensee would be a fit and proper person to hold a licence. If development consent is required under the EP&A Act for the use of premises, then proof that a consent is in force also needs to be provided.

The potential environmental risk associated with the different categories of licensed premises varies.

#### Types of licences under the *Liquor Act 2007*

| Type of licence                         | Type of use or activity   |
|---|---|
| Hotel (including a general bar licence) | Pub   |
| Club                                    | Registered club   |
| Small bar                               | Small bar   |
| On-premises                             | Restaurant or cafe, entertainment facility, hotel or motel accommodation, function centre and other venues where liquor is consumed on the premises |
| Packaged liquor                         | Shops or online liquor sales  |
| Producer/wholesaler                     | Brewer, distiller, winemaker or wholesaler  |
| Limited                                 | Functions held by non-profit organisations, as well as special events and trade fairs   |

### F3.2 Licensed premises risk rating

The following table shows the risk rating for licensed premises.

| RISK RATING OF LICENSED PREMISES  |                    |             |
|---|--------------------|-------------|
| Type of licence   | Location/zone      | Risk rating |
| Hotels, clubs irrespective of their capacity  | Anywhere           | HIGH        |
| On-premises, packaged liquor, producer/wholesaler, limited with a capacity of 100 or more patrons               |                    |             |
| Any licensed premises   | R2 and R3 zones    | HIGH        |
| On-licences/small bars  | B1                 | HIGH        |
|   | B2, B4, SP3 and RE | LOW         |
| Small bars, on-premises, packaged liquor, producer/wholesaler, limited with a capacity of less than 100 patrons | B2                 | LOW         |

**F3.3 Objectives and controls**

| Objectives   | Controls  |
|--|---|
| <p>O1 Minimise the impact of licensed premises on the amenity of residential or other sensitive land uses.</p> | <p>C1 Before deciding on an application involving licensed premises, the following matters are considered:</p> <ul style="list-style-type: none"> <li>a) the location of the premises and the proximity of residential and other sensitive uses;</li> <li>b) the type of licensed premises;</li> <li>c) the size and capacity of the premises;</li> <li>d) trading hours;</li> <li>e) existing and likely cumulative impacts, including social impacts, of licensed premises on the amenity of surrounding areas;</li> <li>f) existing and proposed management practices relating to the operation of the premises and of the areas in the vicinity of the premises;</li> <li>g) the density of licensed premises in the vicinity of the proposed development;</li> <li>h) availability of car parking and proximity and access to public transport; and</li> <li>i) any recommendations/comments provided by NSW Police (applications involving licensed premises will be referred to NSW Police for comment in accordance with our Memorandum of Understanding - Crime Prevention Through Environmental Design).</li> </ul> |

Repealed by WDCP 2015 Amendment No. 8 on 20 January 2020

| Objectives |   | Controls |  |                               |
|------------|---|----------|--|-------------------------------|
| O2         | Identify appropriate trading hours for licensed premises  | C2       | The trading hours for licensed premises are as set out in the following table:   |                               |
|            |   |          | Internal (fully enclosed)  | External (not fully enclosed) |
|            |   |          | Base   | Extended                      |
|            |   |          | Base   | Extended                      |
| High       |   |          | 8am - 10pm   | 8am - midnight                |
| Low        |   |          | 8am - midnight   | 8am - 2am                     |
|            |   |          | 8am - 10pm   | 8am - midnight                |
|            | <p>Note: The base and extended trading hours referred to in the above table are not an ‘as of right’. Where licensed premises are located in close proximity to low density residential zones, Council may impose more restrictive trading hours than those shown in the table.</p> | C3       | <p>Consents for licensed premises will, by condition, limit trading hours so that they do not exceed the base trading hours as shown in the Trading Hours Table under C2 (consents may impose trading hours less than the base trading hours).</p>   |                               |
|            |   | C4       | <p>Extended trading hours may be permitted. The matters set out in C1 will be considered in the assessment of an application to extend trading hours. If approved, extending trading hours:</p> <ul style="list-style-type: none"> <li>a) will not exceed the extended trading hours in the Trading Hours Table under C2 (an approval may be subject to a condition which requires extended trading hours to be less than the hours shown in the table); and</li> <li>b) will be approved as a reviewable condition under s.80A (10b) of the EP&amp;A Act.</li> </ul> <p>Reviews of extended trading hours will only be undertaken if:</p> <ul style="list-style-type: none"> <li>a) Council has satisfactory evidence to suggest the extended trading hours are unduly impacting on the amenity of the neighbourhood; or</li> <li>b) NSW Police has requested a review.</li> </ul> <p>In these cases, reviews will be undertaken at the following intervals:</p> <ul style="list-style-type: none"> <li>► one year after the extended trading hours commence; or</li> <li>► two years after the first review, if that review does not result in a change to the extended trading hours; or</li> <li>► five years after the second or any subsequent review, if that second or subsequent review does not result in a change to the extended trading hours.</li> </ul> |                               |

| Objectives  | Controls   |
|---|--|
| <p>O3 Identify the maximum number of persons permitted on the licensed premises (including outdoor areas) to:</p> <ul style="list-style-type: none"> <li>a) minimise the impact on the amenity of surrounding residential and sensitive land uses; and</li> <li>b) provide a safe environment for occupants.</li> </ul> | <p>C5 Consents for licensed premises will, by condition, limit the maximum number of persons permitted on licensed premises based on:</p> <ul style="list-style-type: none"> <li>a) an assessment of likely amenity impacts; and</li> <li>b) fire safety and other emergency situation considerations.</li> </ul> <p>C6 An increase in the maximum number of persons permitted on licensed premises may be permitted. Under no circumstances will an increase be permitted if the number of persons would exceed fire safety/emergency criteria.</p> <p>An increase in the maximum number of persons permitted on licensed premises will be approved as a reviewable condition under s.80A (10b) of the EP&amp;A Act.</p> <p>Reviews of an increase in the maximum number of persons on licensed premises will only be undertaken if:</p> <ul style="list-style-type: none"> <li>a) Council has satisfactory evidence to suggest the increased number of persons are unduly impacting on the amenity of the neighbourhood; or</li> <li>b) NSW Police has requested a review.</li> </ul> <p>In these cases, reviews will be only be undertaken at the following intervals:</p> <ul style="list-style-type: none"> <li>► one year after the increased number of persons permitted on the licensed premises commence; or</li> <li>► two years after the first review, if that review does not result in a change to the increased number of persons permitted on the licensed premises; or</li> <li>► five years after the second or any subsequent review, if that second or subsequent review does not result in a change to the increased number of persons permitted on the licensed premises.</li> </ul> |

| Objectives   | Controls  |
|--|---|
| <p>O4 Appropriate management practices are implemented for licensed premises to:</p> <ul style="list-style-type: none"> <li>a) minimise impacts, such as anti-social behaviour and crime, on surrounding residential and other sensitive land uses particularly at closing times and during periods of high patronage; and</li> <li>b) safeguard persons occupying licensed premises.</li> </ul> | <p>C7 DAs for licensed premises are accompanied by:</p> <ul style="list-style-type: none"> <li>a) a management plan (see DA Guide - Management Plan for Licensed Premises, for information to be included in a management plan) which contains appropriate management practices having regard to the risk rating of the premises.</li> <li>b) a social impact report (see DA Guide - Social Impact Report for Licensed Premises, for information to be included in a social impact report) which contains an appropriate level of information of social impacts having regard to the risk rating of the premises.</li> </ul> <p>C8 Provision is made for suitable active and passive surveillance of the premises and its surrounds, e.g. security personnel and CCTV cameras.</p> <p>C9 Revised management plans and social impact reports are submitted:</p> <ul style="list-style-type: none"> <li>a) for an application to extend trading hours;</li> <li>b) for an application to increase the maximum number of persons permitted in a building; and</li> <li>c) as part of review of condition that permits an extension of trading hours and/or that permits an increase in the number of persons permitted in a building.</li> </ul> |

| Objectives  | Controls   |
|---|--|
| <p><b>05</b> Buildings and areas accommodating licensed premises are designed and located to:</p> <ul style="list-style-type: none"> <li>a) minimise impacts on the amenity of surrounding residential and other sensitive uses; and</li> <li>b) provide a safe environment for its occupants.</li> </ul> | <p><b>C10</b> The location of:</p> <ul style="list-style-type: none"> <li>a) outdoor areas of licensed premises (includes smoking areas);</li> <li>b) window, door and other openings in external walls;</li> <li>c) plant and equipment; and</li> <li>d) waste collection and storage areas</li> </ul> <p>is to take into account the proximity of residential and other sensitive uses.</p> <p><b>C11</b> A report by an acoustic engineer is submitted with applications involving licensed premises, where relevant.</p> <p><b>C12</b> Consideration will be given to upgrading fire services, building structure, toilet facilities, etc. of existing buildings where applications involving licensed premises result in a change of use and/or an intensification of use of the building.</p> <p><b>C13</b> Lighting is installed to enable visibility of activities and surveillance of the frontage, entrances and exits of licensed premises.</p> <p><b>C14</b> The frontage of a licensed premises is active and in keeping with the streetscape. Blank facades are avoided.</p> |