



**BYRON  
SHIRE  
COUNCIL**

# **Policy**

## **Liquor Licensing and Approval**

**2023**

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## Information about this document

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DM982080		Res 10-406 (970614)
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DM1031806		Amended policy for exhibition as required by Res 10-947.
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	17/12/09	Resolution 09-1138 request development of a Policy in accord with Res 05/574 of 23 August 2005
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## Further Document Information and Relationships

Related Legislation	Liquor Act 2007
Related Policies	None
Related Standards, Procedures, Statements, documents	Byron Bay Liquor Accord <a href="http://www.byronbayliquoraccord.com/">http://www.byronbayliquoraccord.com/</a> Liquor & Gaming NSW – Fact Sheets for Councils <a href="https://www.liquorandgaming.nsw.gov.au/">https://www.liquorandgaming.nsw.gov.au/</a>

Note: Any reference to Legislation will be updated in the Policy as required. See website <http://www.legislation.nsw.gov.au/> for current Acts, Regulations and Environmental Planning Instruments.

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# 1. Objective

The objective of this policy is to manage the location and impacts of licensed premises in Byron Shire while maintaining the vibrancy, safety and inclusiveness of the surrounding area. The successful management of licensed premises is important for operators and owners as well as the general public who access the surrounding areas.

The policy aims to manage the location, patron capacity and hours of operation of licensed premises to protect the amenity of surrounding areas.

The policy aims to establish an environment which reduces the incidence of anti-social behaviour and the subsequent impacts on emergency services including local ambulance, hospital and police resources, and the victims of crime.

This policy applies to all applications for the extension or amendment of an existing liquor license or the approval of a new liquor licence in Byron Shire.

Note: Provisions are included in Byron Development Control Plan 2014 regarding the maximum hours of operation for licensed premises consistent with this Policy and the information required to accompany development applications for licensed premises (refer to Section D4.2.10).

## 2. Policy Statement

### 2.1 Scope of the Policy

- (a) The policy has been developed in response to the current trend to limit local government regulation of licensed activities and “places of public entertainment” activities. The prime agencies to regulate licensed premises under the *Liquor Act 2007* are now the Independent Liquor and Gaming Authority and NSW Police.
- (b) Local government has limited, if any, power to respond to the numerous complaints from residents and other community members who demand a response to the escalating noise, violence, associated criminal activity and disturbance of community amenity associated with licensed premise activities.
- (c) Premises applying to be licensed under the *Liquor Act 2007* are not able to be reviewed under the *Environmental Planning and Assessment Act 1979* i.e. local government cannot impose new consent conditions or amend existing consent conditions to address immediate and cumulative social impacts e.g. many issues relating to ‘night clubs’ and ‘late night bars’ are not able to be regulated in small coastal communities.
- (d) To better define the role of the ‘Byron Bay Liquor Accord’.
- (e) To provide guidance to council staff in the preparation of submissions to liquor license applications so that staff respond to each application in a timely manner.
- (f) Any applicant seeking a review of a liquor license application refusal to be provided with a copy of this Policy and the reasons for any Council objection.

## 2.2 Minimum Requirement

As a minimum requirement, all licensed premises within Byron Shire will satisfy the following:

- (a) Maintain active membership and participate in the Byron Bay Liquor Accord.
- (b) Adhere to the principles of the Byron Bay Liquor Accord.
- (c) The operation of licensed premises will not permit or cause adverse impact to the amenity of the area to occur out of or in connection with the use of the premises.

## 2.3 Noise

Noise emitted from the premises must be effectively managed and limited to comply with the EPA Industrial Noise Policy. Noise generated from all sources associated with the use of the licensed premises should not exceed the background noise level (dB(A)<sub>L<sub>90</sub>, 15 min</sub>) after 12 midnight on any Friday or Saturday; and 10pm on any other day, when measured at the property boundary. Exceptional circumstances for noise are agreed for New Year's Eve celebrations.

## 2.4 Safety

- (a) The operation of the licensed premises will ensure the safety of patrons. The maximum number of patrons and staff in any licensed premises shall be determined by current development consent for the operation of the premises; or the Building Code of Australia, whichever is the lesser number.
- (b) Premises should clearly display at the entry of the premises the maximum safe capacity of licensed premises, or a lesser number as may be specifically limited by development consent or liquor license. Licensees shall ensure that the safe capacity of the premises is not exceeded.
- (c) The operation of the licensed premises should not impact on the safety of the surrounding areas, and in particular, the safety of persons residing in or travelling through the area.
- (d) Where private transport arrangements include patron 'drop off' points are located within residential areas the consideration of patrons generating noise disturbance and anti-social behaviour should be appropriately managed to protect resident amenity.

## 2.5 Location

- (a) The location of licensed premises should not impinge upon residential properties. Council encourages the 'clustering' of licensed premises within the central business districts of Byron Shire in preference to development of isolated licensed premises in or near residential properties.
- (b) Council may not support any application proposing to locate a licensed premise within 100 metres of a school, childcare facility, place of worship, hospital, aged care facility or residential area.

## 2.6 Hours of operation

- (a) Council will generally support applications for licensed premises across the Shire, unless Council determines otherwise, within the following hours of operation:
- Friday and Saturday 10 am to 2 am the following morning
  - Sunday (and public holidays) 10 am to 12 midnight
  - Good Friday and ANZAC Day 12 noon to 12 midnight
  - New Years Eve 10 am to 3 am the following morning
  - Any other day 10 am to 1 am the following morning
- (b) Council supports the staggered closing of licensed premises to ensure that there are not large groups of people congregating, unable to access public transport and taxi services, which may lead to anti-social behaviour, property damage and vandalism.
- (c) Due to residential amenity issues, there will be licensed premises that may be restricted to closing hours of less than 1 am.

## 2.7 Complaints

- (a) Licensed premises to develop standard procedures to be undertaken by all staff and security personnel in the event of complaints.
- (b) Any person who appears intoxicated or affected by alcohol (or any other substance) and is evicted or excluded from a licensed premises shall be monitored to ensure that they are not placed at risk of serious harm or injury.

## 2.8 Disturbance Complaints

A disturbance complaint can be made by councils, police or three or more residents to the Secretary of the Department of Customer Service where the quiet and good order of a neighbourhood is unduly disturbed by the:

- Operation of licensed premises; and, or
- Behaviour of patrons after leaving the premises (such as anti-social behaviour and alcohol related violence).

In determining a complaint, the Secretary can impose conditions on a liquor licence relating to:

- a) Noise restriction;
- b) Trading restriction including lockouts/curfews;
- c) Restrictions on sale/supply of liquor.
- d) Restrictions on security, or additional security patrols, in and around the venue; and
- e) Requiring the licensee to participate in a local liquor accord.

The Director will determine if the neighbourhood is being unduly disturbed. Where a council makes a complaint, either in its own right or on behalf of residents, evidence is crucial in establishing the level of disturbance, and what measures may be necessary to address it.

The complaint process operates more efficiently and outcomes are more effective where evidence is precise and complete.

Please refer to the Disturbance complaints fact sheet available from [Liquor & Gaming NSW](#) for more information about the disturbance complaint process.

## 2.9 Responding to Liquor License applications

### (a) Council's Role

The determination of development applications under the planning laws for (proposed) licensed premises, and the provision of submissions by councils to the Independent Liquor and Gaming Authority (ILGA), will affect the outcome of liquor licensing applications.

There are also a number of options for councils to deal with local neighbourhood problems involving existing licensed premises.

On the basis of notification by Liquor & Gaming NSW of any proposed applications for liquor licensing, Council reviews the status of development consent, including hours of operation, prior to providing a submission to Liquor and Gaming NSW.

### (b) NSW Police Role

NSW Police receive formal notification of all license applications and accordingly provide submissions to Liquor & Gaming NSW. As part of these submissions, local crime data and Bureau of Crime Statistics information is considered in making recommendations to either support or object to a proposed application.

### (c) Community Role

The local community are notified about proposals for liquor licenses by the applicant, with formal notices placed at each subject premises. Upon completion of the notification period, the community can also access the Liquor & Gaming NSW application tracking website. Where any individual chooses to make a submission in support or objection to an application, their response is considered, following the close of the notification period.

## 2.10 Type of Applications

All liquor licensing applications are determined by the ILGA. In certain cases, a liquor licence application must be accompanied by a community impact statement. This table outlines the categories of liquor licence that can be issued under the *Liquor Act 2007*. Further information is available at [Liquor & Gaming NSW](#).

Type of licence	Type of activity	Community Impact Statement (CIS) required
Hotel (including a general bar licence)	Hotel, bar, tavern	Yes*



Type of licence	Type of activity	Community Impact Statement (CIS) required
Club	A registered club selling liquor to members and their guests	Yes*
On-premises	Can be a restaurant, public entertainment venue, motel, function centre and other venues where liquor is consumed on the premises	Yes, but only where the on-premises licence relates to a public entertainment venue (other than a cinema or theatre), or an application is made for a primary service authorisation for an on-premises licence
Small bar	Small bar (as defined in the <i>Liquor Act 2007</i> )	*No, provided the applicants lodging a development application with Council notify local police and the Director General of the Department of Trade and Investment within two working days. If this notification is not undertaken a CIS will be required.
Packaged liquor	Liquor stores, internet operators selling liquor to the public	Yes*
Producer/wholesaler	Brewer, distiller winemaker, wholesaler	No
Limited	Functions held by non-profit organisations as well as special events and trade fairs	No

## 2.11 Implementation

The implementation of this Policy will include the following actions:

- (a) Preparation of a standard template for council submissions to Liquor & Gaming NSW incorporating a link to the most recent Bureau of Crime Statistics and other local crime information.
- (b) Related section on the Council website with a link to the Liquor & Gaming NSW website
- (c) Maintain a councillor representative on the Byron Bay Liquor accord

- (d) Council to continue to monitor signage and promotion of alcohol to ensure compliance with Council's signage and sponsorship requirements.

### **3. Getting more information on liquor licensing**

- 3.1. Council directs applicants and the community to the web site of Liquor & Gaming NSW <https://www.liquorandgaming.nsw.gov.au/>
- 3.2. Byron Liquor Accord <http://www.byronbayliquoraccord.com/>
- 3.3. All licensed premises are listed on the NSW Government website <https://www.onegov.nsw.gov.au/publicregister/#/publicregister/search/Liquor>