

Item 3.

Public Exhibition - Review of Outdoor Alcohol Restrictions

File No: X101671

Summary

In accordance with its legislative obligations under the Local Government Act 1993, the City considers valid applications for outdoor alcohol restrictions. These restrictions include alcohol-free zones which apply to public roads, footpaths and public carparks and alcohol prohibited areas which apply to parks and civic spaces. Council can resolve to establish an outdoor alcohol restriction for a maximum of four years or on a temporary basis for special events.

On 20 November 2023, Council resolved to approve the establishment of all existing alcohol-free zones and alcohol-prohibited areas for a nine-month period and resolved that the Chief Executive Officer be requested to:

- (i) continue to work with local residents and Aboriginal community-controlled organisations to co-design person-centred approaches to address alcohol-related harm alongside NSW Health, NSW Land and Housing Corporation, NSW Police and the NSW Department of Communities and Justice; and
- (ii) during the nine-month period approved, comprehensively review all existing alcohol-free zones and alcohol prohibited areas in broad consultation with local residents, communities in social housing estates, neighbourhood advisory boards, community services – including Aboriginal community-controlled organisations, Torres Strait Islander and culturally and linguistically diverse organisations, business and relevant NSW government agencies to determine which specific restrictions have broad community support and should be retained, and which can be lifted, and report back to Council with revised recommendations.

The City engaged Urbis to undertake the review which included: analysing data from NSW Bureau of Crime Statistics and Research; reviewing Sydney Your Say survey responses; conducting workshops with social housing residents, community organisations, Aboriginal and Torres Strait Islander community-controlled organisations; and, conducting interviews with community legal centres and state government agencies such as NSW Health, Homes NSW, the Office of the 24-Hour Economy Commissioner and NSW Police.

Through the review it became clear there are very different views within the community on what approaches should be implemented to manage alcohol consumption in the public domain. Whilst there was some support for the establishment of outdoor alcohol restrictions there was also considerable support for adopting a harm minimisation approach given that the restrictions can lead to the 'proactive policing' of priority communities.

A broad harm minimisation strategy for managing alcohol consumption in the public domain could include health interventions, public education, community outreach programs, public space design and policies encouraging responsible alcohol consumption, rather than a focus on regulation and compliance through the establishment of alcohol free zones.

The review also highlighted the need for more engagement with our priority communities, including Aboriginal and Torres Strait Islander communities, social housing residents and people experiencing homelessness to better understand the impact of outdoor alcohol restriction on those communities and to design community-led approaches to managing alcohol consumption in the public domain.

The key insights from the review are:

- (a) take more time for consultation;
- (b) enhance collaboration by integrating services for strategic harm reduction work across government and the community to adopt a 'harm minimisation' first approach; and,
- (c) encourage the sharing of evidence on the efficacy of Outdoor Alcohol Restrictions with communities, to allow informed and community-led decision-making.

A copy of the report by Urbis which brings together the feedback from community, relevant data and key insights is available at Attachment A.

Based on the findings of the review it is recommended that a reduced list of outdoor alcohol restrictions are placed on public exhibition for 30 days in accordance with section 644A of the Local Government Act 1993. This reduced list includes locations within late-night entertainment precincts, sports fields, playgrounds, open spaces within social housing estates, state-significant sites and areas with high incidents of alcohol-related crime.

Several new alcohol-free zones have been proposed by local business and community and will be placed on public exhibition in accordance with the NSW Ministerial Guidelines on alcohol-free zones. The City is required to exhibit all valid applications for alcohol-free zones.

To assist with monitoring the longer-term impact of reducing outdoor alcohol restrictions within the Local Government Area, the City will notify the NSW Bureau of Crime Statistics of those areas where outdoor alcohol restrictions have been removed and request, they develop a methodology to appropriately assess the outcomes arising from these removals.

In addition, it is recommended the City write to the NSW Office of Local Government requesting that they urgently revise the 2009 Ministerial Guidelines on Alcohol-free zones to include the provision for the application of alcohol-free zones as timed sites where alcohol consumption is permissible within designated times on streets. This would mean that restrictions are only applied at times where alcohol related activity may potentially negatively impact on public safety and amenity. This aligns with the flexibility available in the establishment of alcohol-prohibited areas in parks and open spaces.

Recommendation

It is resolved that:

- (A) Council approve the 30-day public exhibition of the list of proposed alcohol-free zones and alcohol-prohibited areas on City streets and public spaces for a four year period as outlined in Attachment B to the subject report;
- (B) the Chief Executive Officer be requested to:
 - (i) write to the NSW Office of Local Government requesting the 2009 Ministerial Guidelines on Alcohol-free zones be revised to include provision for local governments to establish alcohol-free zones as timed sites where alcohol consumption is permissible within designated times as appropriate;
 - (ii) advocate to NSW Health and Homes NSW to work with social housing residents to develop and implement harm minimisation measures that improve the community's health and safety;
 - (iii) write to Homes NSW to take on responsibility and management of outdoor alcohol restrictions on their own land;
 - (iv) write to the Commissioner of the NSW Police Force to request NSW Police provide data on the use of enforcement under outdoor alcohol restrictions to inform the development and implementation of harm minimisation approaches to alcohol management within the community;
 - (v) write to NSW Bureau of Crime Statistics to notify them of those locations where outdoor alcohol restrictions have been removed and request they develop a methodology to appropriately assess the outcomes arising from those removals; and,
 - (vi) continue to work with community legal centres, Aboriginal and Torres Strait Islander community-controlled organisations, community groups, social housing residents, local business and NSW Government agencies to determine appropriate strategies for managing alcohol consumption in the public domain.

Attachments

- Attachment A.** Outdoor Alcohol Restrictions Review Report - Urbis
- Attachment B.** List of Outdoor Alcohol Restrictions for Public Exhibition
- Attachment C.** Map of Outdoor Alcohol Restrictions Currently in Place
- Attachment D.** Map of Alcohol Restrictions Proposed for Public Exhibition - New and Renewal
- Attachment E.** Map of Alcohol Restrictions Proposed for Public Exhibition - By Type

Background

1. A safe city can contribute to increased economic prosperity, create a thriving, globally connected community, and further enhance Sydney's international reputation as a great place to visit, live, work, invest and study. Sydney was recently ranked the fourth safest destination in the world for travellers in the 2024 State of Travel Insurance Safest Destinations report.
2. In accordance with its legislative requirements under the Local Government Act 1993, the City considers valid applications for outdoor alcohol restrictions. These restrictions include alcohol-free zones which apply to public roads, footpaths and public carparks and alcohol prohibited areas which apply to parks and civic spaces. Council can resolve to establish an outdoor alcohol restriction for a maximum of four years or on a temporary basis for special events.
3. Alcohol-free zones apply 24 hours a day. Alcohol prohibited areas can be timed sites where alcohol consumption is permissible within designated times, usually between 10am to 10pm. The use of timed alcohol restrictions can contribute to balancing the operational requirements of NSW Police and the responsible consumption of alcohol in public places such as local parks.
4. NSW Police are responsible for enforcing outdoor alcohol restrictions. Restrictions provide NSW Police with the authority to tip out or confiscate alcohol within designated public areas. There are no fines associated with the offence in NSW.
5. Under the Law Enforcement (Powers and Responsibilities) ACT (LEPRA) 2002, the NSW Police have other powers for managing alcohol-related crime and antisocial behaviour however these can result in fines and/or detainment.
6. In comparison, other capital cities within Australia have 24-hour whole of local government alcohol restrictions with potential fines for non-compliance.
7. In November 2023, Council resolved that the CEO be requested to comprehensively review all existing alcohol-free zones and alcohol prohibited areas in broad consultation with community, business and other stakeholders to determine which specific restrictions have broad community support and should be retained, and which can be lifted, and report back to Council with revised recommendations.

Review process

8. In January 2024, the City engaged Urbis to undertake the comprehensive review which included the following:
 - (a) reviewing data from NSW Bureau of Crime Statistics and Research (BOCSAR);
 - (b) analysing Sydney Your Say survey responses;
 - (c) conducting interviews with community legal centres and state government agencies including NSW Health, Homes NSW, the Office of the 24-Hour Economy Commissioner and NSW Police; and
 - (d) conducting workshops with social housing residents, community organisations, Aboriginal and Torres Strait Islander community-controlled organisations.

Key issues and insights

9. To inform the review an analysis of BOCSAR 'Consume alcohol in alcohol free zone' incidents (2019 to 2023) data was undertaken. The analysis identified the number of incidents reported by NSW Police across the City's 10 Villages. According to the data the recorded incidents of 'consume alcohol in an alcohol-free zone' in the City's LGA have decreased by an average of 26 per cent per year over the period 2019-2023.
10. The City requested data from NSW Police for each of the six Police Area Commands that operate within the City. It was identified that the recording of incidents is not consistent across NSW Police Area Commands. The NSW Police Regional Command advised that their preference is not to record incidents under the restrictions to avoid unnecessary recording and administration.
11. Through the survey on Sydney Your Say, which was open from 29 January to 1 March 2024, a total of 373 responses were received. Of the responses from community and business, 57 per cent indicated they support the restrictions in public places, 36 per cent indicated they did not support the restrictions, and 5 per cent had no opinion. There was a strong indication that the restrictions should remain in place for parks, either timed to allow drinking alcohol during the day or ensuring alcohol consumption is restricted near land uses, such as children's playgrounds and sporting fields.
12. Through the five interviews with community legal centres and state government agencies including NSW Health, Homes NSW, the Office of the 24-Hour Economy Commissioner and NSW Police the following issues and insights were identified:
 - (a) NSW Police, Homes NSW, Liquor and Gaming NSW and the NSW Office of the 24-Hour Economy Commissioner advised that outdoor alcohol restrictions and enforcement play an important role in managing alcohol consumption in the public domain and preventing the escalation of anti-social behaviour or crime. They support these restrictions as an effective, pre-emptive tool that helps manage a safe vibrant night life without escalation to more serious offences.
 - (b) NSW Police advised that established restrictions help prevent alcohol related anti-social behaviour and crime including damage to property, public urination, littering and noise impacts. This intervention can also assist police in managing pre-drinking near licenced premises.
 - (c) Homes NSW advised they support outdoor alcohol restrictions on land owned by NSW Land and Housing Corporation and advised that these restrictions support safer neighbourhoods, with less issues related to antisocial behaviour when enforced by NSW Police.
 - (d) In contrast, NSW Health and community legal services advised they were supportive of a harm minimisation approach to alcohol management and raised concerns that outdoor alcohol restrictions can result in the 'proactive policing' of priority communities. They also advised that more data and evidence was needed on the efficacy of outdoor alcohol restrictions.

- (e) Community legal centres advised that outdoor alcohol restrictions create a pretext for NSW Police to approach populations who experience vulnerability to systemic injustice which may disproportionately cause harm to those communities. They advised that their clients often experience negative interactions with NSW police in the local area and expanding any restrictions would exacerbate these interactions. It was noted that more effective harm minimisation methods including expanding homelessness services, mental health services or managed alcohol services, are a better approach to managing alcohol consumption in public areas.
13. Through the three workshops with social housing residents, community organisations, Aboriginal and Torres Strait Islander community-controlled organisations the following issues and insights were identified:
- (a) Aboriginal and Torres Strait Islander community-controlled organisations advised there is a need to consider how the structural and systemic impacts of outdoor alcohol restrictions disproportionately affect Aboriginal and Torres Strait Islander communities. They advised that gathering outdoors holds significant cultural value for people to share information and feel more connected to community. Waterloo Green was noted as a safe space for communities to gather.
- (b) Aboriginal and Torres Strait Islander community-controlled organisations raised concerns that many events and programs held in the public domain, such as alfresco dining are not inclusive. and support alcohol consumption for more affluent communities. It was noted that community safety is often considered narrowly and from the perspective of non-Aboriginal communities..
- (c) Aboriginal and Torres Strait Islander community-controlled organisations noted that more evidence on the efficacy of outdoor alcohol restrictions was required. In addition, they requested that more engagement with people who drink in public spaces is needed to better understand the impact of outdoor alcohol restrictions on their community and design community-led approaches to managing alcohol consumption in the public domain.
- (d) In contrast, social housing residents advised the restrictions help to manage outdoor drinking and reduce the potential for alcohol-related crime and antisocial behaviour in social housing estates, neighbouring streets and open spaces. Residents acknowledged that for some in the community, alcohol is a health issue, and support services need to be made available.
- (e) Generally social housing residents view the restrictions as necessary to ensure residential amenity and perceived safety, particularly for women, when walking through open spaces such as Waterloo Green. Social housing residents in Waterloo also acknowledged that late night noise from people drinking in the area can impact the amenity of those living in the nearby high-rise buildings.
- (f) Representatives of community legal centres, community service providers, public interest groups, and NSW Drug Health advised that the restrictions can lead to the 'proactive policing' of priority communities, including Aboriginal and Torres Strait Islander people, people experiencing homelessness and social housing residents. It was requested that consideration be given to the establishment of timed alcohol-free zones for City streets so that people within these communities could gather and drink in public spaces during the day, with restrictions only applied in the night time hours.

14. During the review, City Services staff advised that there are several locations within the City where the restrictions are important for managing ongoing issues with waste and broken glass, including Hyde Park, Belmore Park, Wynyard Park, Wentworth Park, Prince Alfred Park and Woollahroomooloo.
15. Through the review it became clear there are very different views within the community on what approaches should be implemented to manage alcohol consumption in the public domain. Whilst there was some support for the establishment of outdoor alcohol restrictions there was also considerable support for adopting a harm minimisation approach given that the restrictions can lead to the 'proactive policing' of priority communities.
16. The review also highlighted the need for more engagement with our priority communities, including Aboriginal and Torres Strait Islander communities, social housing residents and people experiencing homelessness to better understand the impact of outdoor alcohol restriction on their community and to design community-led approaches to managing alcohol consumption in the public domain.

Proposed approach

17. Using the following criteria, City staff have developed a list of proposed alcohol-free zones and alcohol-prohibited areas on City streets and public spaces to be placed on public exhibition for 30 days (See Attachment B):
 - (a) Late night management areas;
 - (b) Locations with high incidents of alcohol-related crime and assaults (including domestic violence);
 - (c) Areas of concerns as identified through the review;
 - (d) Resident applications and/or support for Restriction from Sydney Your Say survey;
 - (e) Internal advice from the City Cleansing and Resource Recovery, City Greening and Leisure, Security and Emergency Management and Major Events and Festivals units; and,
 - (f) Children's playgrounds, sports fields and state-significant sites.
18. In addition, alcohol-free zones which cover street locations have been reduced to only cover those areas along a street where crime is more likely to occur.
19. Given several areas of concern identified through the review are in social housing estates, such as Waterloo Green and Poet's Corner it is considered more appropriate for Homes NSW to manage outdoor alcohol restrictions on their own land. This would provide them with the opportunity to develop a community-led approach to managing alcohol consumption within social housing communities.

20. Through the public exhibition process we will also seek to determine if there is community support to reduce the operational hours of alcohol free zones by identifying sites where timed restrictions, i.e. from 10pm to 10am can be established. Timed restrictions would support a more balanced approach to managing alcohol consumption in the public domain over a 24-hour period with the restrictions focussed on addressing noise and antisocial behaviour late at night. It is noted that this is not an option that is currently available to councils and the City will contact the Office of Local Government seeking a review of their guidelines to provide greater flexibility in relation to timing of alcohol free zones.
21. Following the public exhibition period, a report will be provided to Council with recommendations on those alcohol-free zones and alcohol prohibited areas to be established based on feedback received from the community and local business.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

22. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (i) Direction 7 - Resilient and diverse communities - Objective 7.5 - People feel safe in the City.
 - (ii) Direction 10 - Housing for all - Objective 10.2 - Work in partnership to enhance the safety, liveability and amenity of social housing communities and properties.

Risks

23. All restrictions are currently scheduled to expire on 20 August 2024. Public exhibition is required to ensure that alcohol free zones and alcohol prohibited areas can be continued after that time in high priority areas and for events such as New Years Eve and the Sydney Gay and Lesbian Mardi Gras.

Social / Cultural / Community

24. Communities have expressed concerns that the enforcement of alcohol restrictions can disproportionately impact people from our diverse communities who consume alcohol in public places, including those experiencing systemic racism, homelessness, or social and economic disadvantage. Conversely members of the community have also supported the establishment of alcohol free zones to reduce the impacts of alcohol-related anti-social behaviour.

Economic

25. Outdoor alcohol restrictions aim to reduce anti-social behaviour and increase public safety and amenity. Maintaining and promoting Sydney's safety can contribute to increased economic prosperity; create a thriving, globally connected community; and further enhance Sydney's international reputation as a great place to visit, live, work, invest and study.
26. Liquor licensed areas are exempt from alcohol-free zone restrictions, including footway approvals and outdoor dining areas.

27. Outdoor alcohol restrictions prevent the drinking of packaged liquor in a public place and may increase revenue of small bars and other premises with a liquor licence.
28. The City supports a safe and vibrant night-time economy including the consumption of alcohol in managed locations such as liquor licensed premises and alfresco dining areas where the responsible service of alcohol is practiced. Liquor licensed areas, including footway licenses and liquor licensed areas at outdoor events are exempt from alcohol restrictions.

Financial Implications

29. Sufficient funds signage updates and removals are provided for in City Business and Safety Unit's operational budget for the 2024/25 financial year.
30. Funding for updates, installation or removal of signage is included in the City Infrastructure and Traffic Operations capital works budget.

Relevant Legislation

31. Local Government Act 1993
32. Liquor Act 2007
33. Roads Act 1993

Critical Dates / Time Frames

34. All outdoor alcohol restrictions currently will expire on 20 August 2024.
35. All proposed alcohol restrictions are subject to a minimum of 30 days public exhibition and community consultation.

Public Consultation

- 36. A survey was conducted on Sydney Your Say from 29 January to 1 March 2024 and the survey was advertised in the 'Sydney Your Say' emailed newsletter. A total of 373 survey responses were received.

- 37. Notification of the survey was sent to local residents, community groups, government agencies and business representatives, including social housing residents, Aboriginal community-controlled organisations, community legal centres, homelessness services, health services, Women's advocacy groups, faith-based groups, LGBTIQ+ community organisations, community and resident groups, youth services, local business chambers, sports clubs, backpacker Premises, liquor licensees, community garden groups and the NSW Anti-Discrimination Board.

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