



## GUIDELINES FOR LICENSEES SEEKING TO ESTABLISH 'BREAKOUT AREAS'

[Effective: 22 July 2005]

### Disclaimer

This guideline is designed to provide information in regard to the subject matter covered, and with the understanding that the Director of Liquor Licensing is not passing legal opinion or interpretation or other professional advice. The information is provided on the understanding that all persons undertake responsibility for assessing the relevance and accuracy of its contents.

To facilitate the changes to the *Health (Smoking in Enclosed Public Places) Regulations*, the Government, *inter alia*, recognises and commits to meeting public and industry needs for greater flexibility in the use of outdoor areas of licensed premises. The Government will commit to allow patrons to smoke and consume alcohol in designated outdoor areas within or adjacent to licensed premises. As a consequence, some licensees may wish to establish 'breakout areas' for smokers. A 'breakout area' is a small area, which will form part of the licensed premises, where smokers may temporarily smoke and consume liquor.

Depending upon individual circumstances, licensees will need to lodge either an application for alteration/redefinition of their premises (section 77) or an extended trading permit (section 60(4)(h)).

An application must be accompanied with the following documentation:

### Alteration/Redefinition:

- application form;
- application fee;
- plans;
- section 40 certificate from the local authority;
- building licence or exemption from the local authority;
- if it is an extension to the existing licensed area, evidence that the licensee will have exclusive possession of the proposed area (i.e. lease).

### Extended Trading Permit:

- application form;
- application fee;
- plans;
- letter of consent from the local authority for use of the area;
- identify how the area is to be defined (i.e. planter boxes). NB: It is in the licensee's interest to have a suitable barrier so that the area can be properly managed.

All applicants will need to confirm the following with their application:

- the purpose of the application is to establish a short stop or short term 'breakout area' for smokers;
- there will be no bars or service of liquor in the area;
- there will be no music or entertainment in the area;
- appropriate ashtrays will be installed and the area regularly cleaned;
- smokers will be discouraged from remaining in the area longer than necessary than to have a smoke.

The establishment of these areas does not abrogate a licensee's obligations and responsibilities under the *Liquor Licensing Act 1988* and all applications must ultimately be considered on their merits.

Where an applicant is seeking to establish a small 'breakout area' (i.e. 10% or less of the existing licensed area), the application will not be required to be advertised unless the proposed area is likely to have a negative impact on surrounding residents.

Trading hours of the area may be up to the permitted hours depending upon any impact on the amenity of the area.

Peter Minchin  
ACTING DIRECTOR OF LIQUOR LICENSING

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Filename: