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The powerful role of the Department of Health

The Department of Health has the power to intervene in liquor licensing applications to express its concerns in relation to the potential harm or ill health an application may cause the community if granted. The Department can recommend to the licensing authority that specific conditions be imposed on the licence. Further, it may oppose the granting of an application altogether.

The Department of Health's submissions and concerns are often cited in the reasons for decisions by the Director of Liquor Licensing and obviously are a powerful influencing factor in the decision making process and outcome. The Department normally intervenes in all applications which it deems to be 'high risk'. Generally these include proposals for drinking establishments such as hotels, taverns and nightclubs, as well as those with extended trading hours.

The Department of Health regards one of the highest risk factors to be the presence of juveniles, either on the licensed premises or in its vicinity. For example, if the proposed premises are close to family orientated venues such as cinemas, amusement parlours and arcades, the Department is most likely to intervene on the basis that the presence of liquor near these venues will normalise the consumption of liquor in the eyes of the youth. The reasoning is that this can have the negative effect of desensitising juveniles to the harms and ill health liquor can cause.

For the same reason, the Department is highly likely to intervene if there is a strong link between a liquor licence application, sport and juveniles. This has recently occurred, for example, in the case of a country golf course. The Department supports recreation and sport in all forms but will intervene in almost any matter where liquor is to be consumed at a sporting venue or event.

It is critical for all liquor applicants to understand the role the Department of Health plays in the application process. Early detection of risk factors by the applicant allows the application to be tailored and amended so as to reduce any perceived risk. This could be the difference between an application's success or failure. Even if an application is ultimately successful in the face of an intervention, the delay in addressing the health issues slows the processing down considerably.

If you have any queries about the application process, potential harm and ill health risk factors or the role the Department of Health may play in your application, please do not hesitate to contact Dan Mossenson, Partner, on (08) 9288 6769 / dan.mossenson@lavanlegal.com.au or Alec Weston, Solicitor, on (08) 9288 6873 / alec.weston@lavanlegal.com.au.