

Restaurant
& Catering

Liquor & Gaming NSW - Evaluation of the Community Impact Statement requirement for liquor licence applications

R&CA Submission

July 2017

RESTAURANT & CATERING AUSTRALIA

Restaurant & Catering Australia (R&CA) is the national industry association representing the interests of over 40,000 restaurants, cafes and catering businesses across Australia. R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector's operating environment.

R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.



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INTRODUCTION

As the industry association representing the interests of over 15,000 cafés, restaurants and catering businesses in New South Wales (NSW), R&CA welcomes the opportunity to provide input to Liquor & Gaming NSW's (LGNSW) evaluation of the Community Impact Statement (CIS) requirement. R&CA has been actively involved in the industry consultation process, having also provided verbal feedback to LGNSW during this evaluation. As the industry representative of the largest number of liquor license holders in the state, R&CA is committed to ensuring the profitability and sustainability of the hospitality sector and minimising the burden of red tape as much as possible.

Although a CIS is not a standard component of an on-premises liquor licence application, a café or restaurant must complete a CIS when applying for a Primary Service Authorisation (PSA) so they can serve customers alcohol without an accompanying meal. Licensed cafés and restaurants are also required to complete a CIS when applying for an Extended Trading Authorisation (ETA) so they can operate outside of standard trading hours. R&CA's position is that significant opportunities exist to reform the CIS as part of the first comprehensive review of the requirement in almost a decade.¹ Given the low-risk profile of the sector and the minimal adverse impacts on the community, R&CA believes that cafés and restaurants should be exempted from the CIS requirement when applying for a PSA. This is in line with recent amendments made to liquor licensing legislation in Queensland.

LGNSW identifies that the purpose of the CIS requirement is to describe 'the potential harm a liquor licence might have on a neighbourhood'.² R&CA argues that the potential harms associated with a licensed café or restaurant serving alcohol without an accompanying meal are very low. As such, the impacts on the surrounding community are minimal, negating the necessity for a CIS. R&CA also contends that the requirement for cafés and restaurants to advertise a PSA application for a 30-day period results in unnecessary delays in processing times and is a source of frustration for business owners. Whilst R&CA is cognisant of the need for community consultation as part of the approvals process for certain liquor licences, there remains significant opportunities to streamline the current process and amend the criteria for when a CIS is required.

¹ NSW Government (2017), *Have Your Say About Liquor Licensing*, Office of the Minister for Racing, Media Release, 15 June.

² Liquor & Gaming NSW (2017) *Community Impact Statements* <http://www.liquorandgaming.nsw.gov.au/Pages/liquor/community-involvement/community-impact-statements.aspx>

OVERVIEW OF THE HOSPITALITY SECTOR

SIZE AND VALUE

The hospitality sector, including cafés, restaurants and catering businesses, makes a significant contribution to the NSW economy. Total industry turnover for the sector in NSW, including turnover generated from takeaway sales, amounted to \$14.8 billion for the year ending May 2017.³ The turnover recorded in NSW accounted for 34.2 per cent of industry turnover Australia-wide.⁴

As of June 2016, there were just over 13,500 cafés and restaurants operating in NSW which grew 5.2 per cent over the 2015-16 financial year.⁵ Of these businesses, over 94 per cent are small businesses with 19 or less employees.⁶ Cafés and restaurants in NSW accounted for 34.6 per cent of all cafés and restaurants across Australia.⁷ The significant growth recorded in the number of cafés and restaurants in NSW is a reflection of increased popularity of dining out as a leisure activity amongst consumers.

Figure 1: Turnover in the Café, Restaurant & Catering Industry

Turnover in the Café, Restaurant & Catering Industry							
State	Sector	Month of May			Year Ending May		
		Mar 16 (\$M)	Mar 17 (\$M)	% Change MoM	Mar 16 (\$M)	Mar 17 (\$M)	% Change YoY
NSW	Café, Restaurant & Catering Services	656.6	693.7	5.7%	8217.1	8196.0	-0.3%
	Café, Restaurant & Takeaway Services	1155.1	1231.7	6.6%	14088.6	14819.2	5.2%
VIC	Café, Restaurant & Catering Services	505.6	534.0	5.6%	5946.1	6342.3	6.7%
	Café, Restaurant & Takeaway Services	808.9	845.2	4.5%	9569.5	10258.2	7.2%
QLD	Café, Restaurant & Catering Services	396.7	393.6	-0.8%	4981.4	4944.9	-0.7%
	Café, Restaurant & Takeaway Services	704.0	693.0	-1.6%	8675.1	8687.4	0.1%
SA	Café, Restaurant & Catering Services	100.8	120.6	19.6%	1070.0	1228.7	14.8%
	Café, Restaurant & Takeaway Services	187.1	208.2	11.3%	2094.7	2311.2	10.3%
WA	Café, Restaurant & Catering Services	276.3	298.2	7.9%	3340.6	3392.8	1.6%
	Café, Restaurant & Takeaway Services	422.0	461.5	9.4%	5099.5	5355.5	5.0%
TAS	Café, Restaurant & Catering Services	26.0	28.3	8.8%	293.5	317.3	8.1%
	Café, Restaurant & Takeaway Services	50.8	57.0	12.2%	586.9	646.5	10.2%
NT	Café, Restaurant & Catering Services	18.9	20.1	6.3%	230.2	239.3	4.0%
	Café, Restaurant & Takeaway Services	39.2	36.3	-7.4%	476.3	475.2	-0.2%
ACT	Café, Restaurant & Catering Services	40.4	41.0	1.5%	496.6	494.4	-0.4%
	Café, Restaurant & Takeaway Services	63.7	65.6	3.0%	751.6	786.3	4.6%
Total	Café, Restaurant & Catering Services	2021.3	2129.4	5.3%	24575.7	25155.1	2.4%
	Café, Restaurant & Takeaway Services	3431.0	3598.6	4.9%	41341.9	43339.7	4.8%

³ Australian Bureau of Statistics (ABS) (2017) 8501.0 - Retail Trade, Australia, Feb 2017.

⁴ Ibid.

⁵ Australian Bureau of Statistics (ABS) 2017 8165.0 - Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016.

⁶ Ibid.

⁷ Ibid.

EMPLOYMENT

In addition to its economic output, the café, restaurant and catering sector also makes a significant contribution to employment outcomes across the state. According to the Department of Employment, the food and beverage sectors employs 240,500 people. The café, restaurant and takeaway food sector accounts for a majority of this figure, as it employs 192,400 people in NSW.⁸ The sector is also forecast to experience significant employment growth in the future with 84,300 jobs to be created nation-wide by November 2020.⁹ At 14.8 per cent employment growth this is the largest out of any industry sector.¹⁰ To ensure that this growth is fully realised, it is vital for regulators to provide a business operating environment conducive to opening for more hours and employing more people.

LIQUOR LICENSING

R&CA's 2017 *Industry Benchmarking Report* found that 62.8 per cent of surveyed members operated as a licensed venue.¹¹ This was an increase from the 2016 survey where 59 per cent of members reported operating as a licensed venue.¹² 23.5 per cent of R&CA's members also reported operating as a licensed venue accepting BYO.¹³ 10.3 per cent of R&CA members indicated that they did not have a liquor licence which was a decrease from 12.4 per cent in 2016. R&CA would estimate that these figures are broadly consistent across the café, restaurant and catering industry. An overview of liquor licensing trends amongst R&CA's membership can be found in Figure 2 over the page.

⁸ Department of Employment (2017) *Australian Jobs 2017*, 28 June.

⁹ Department of Employment (2016) *Employment Outlook to November 2020*.

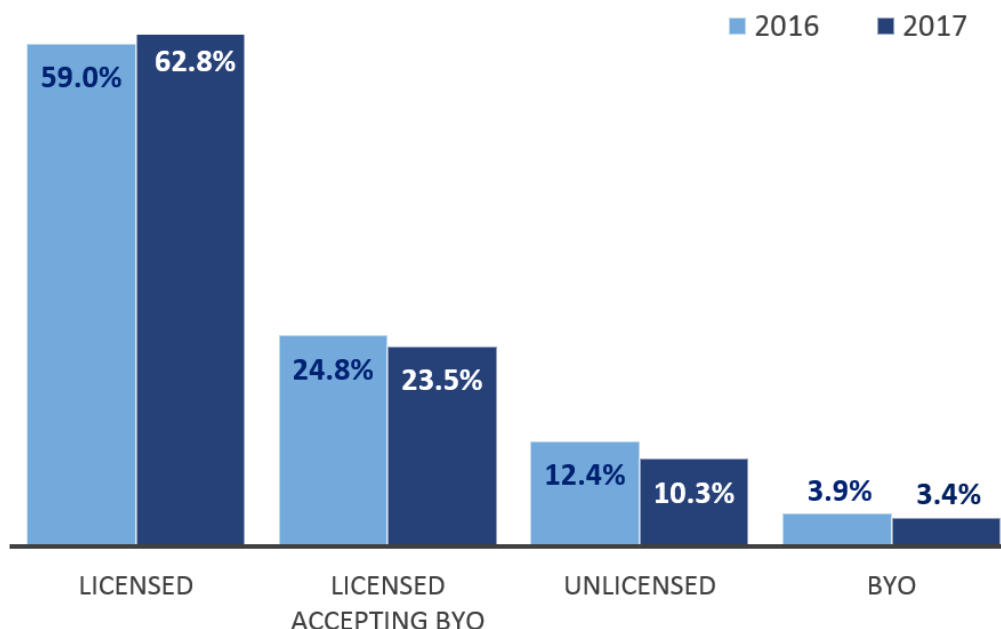
¹⁰ Ibid.

¹¹ Restaurant & Catering Australia (R&CA) *2017 Industry Benchmarking Report*.

¹² Ibid.

¹³ Ibid.

Figure 2: Liquor Licensing among R&CA's members



Source: R&CA 2017 Industry Benchmarking Report.

CONSUMER TRENDS

The most recent consumer trends indicate that dining out at a licensed restaurant has grown in popularity. According to data from Roy Morgan Research, 54.7 per cent of Australians dined at a licensed restaurant at least once in the last three months in 2016, compared to 50.6 per cent in 2006.¹⁴ At the same time, there has been a slight decrease in the number of Australians dining at BYO restaurants, decreasing from 25 per cent in 2006 to 23.6 per cent in 2016. This statistic is perhaps unsurprising given that there are fewer restaurants operating as BYO across the industry as demonstrated in Figure 1. Given the trend towards more consumers dining at licensed restaurants, R&CA is committed to ensuring that cafés and restaurants can cater to this demand without the hindrance of red tape and overregulation.

¹⁴ Roy Morgan Research (2017) *What a difference a decade makes: our changing culinary habits and attitudes*, Press Release, Finding No. 7179.

COMMUNITY IMPACT STATEMENT AND HOSPITALITY VENUES

STATUS QUO

As identified in LGNSW’s Discussion Paper on the CIS requirement, around 90 per cent of on-premises licence applications fell within the ‘No CIS’ category.¹⁵ This equated to 675 out of a total 755 applications between 1 April 2016 and 31 March 2017 or 89.4 per cent.¹⁶ Of the 675 applicants who were required to complete a CIS, the vast majority were Category A which accounted for 76 out of 80.¹⁷ R&CA believes that the 0.53 per cent of on-premises licence applications who completed a CIS B would most likely not have been cafés or restaurants. Given the relatively few scenarios in which a licensed café or restaurant is required to undertake a CIS, R&CA believes that granting an exemption for these premises would not represent a significant departure from the status quo. Further, of the licensed premises which *are* required to complete the CIS, these venues are of low risk to the community.

Figure 3: Community Impact Statements by Licence Type

	1 April 2016 – 31 March 2017							
	Total apps.	Total CIS	CIS A	CIS A (%)	CIS B	CIS B (%)	No CIS	No CIS (%)
Club	3	3	0	0%	3	100%	0	0%
Hotel	20	16	0	0%	16	80%	4	20%
Limited Licence	1,672	0	0	0%	0	0%	1,672	100%
On-premises (e.g. restaurant, nightclub)	755	80	76	10.07%	4	0.53%	675	89.40%
Packaged Liquor (e.g. bottle shops)	124	121	81	65.32%	40	32.26%	3	2.42%
Producer/Wholesaler	145	0	0	0%	0	0%	145	100%
Small Bar (designated venues with capacity of 100 people or less)	27	4	0	0%	4	14.81%	23	85.19%

*Information in this table has been reproduced from Liquor & Gaming NSW (2017) *Evaluation of the Community Impact Statement requirement for liquor licence applications*, Discussion Paper.

¹⁵ Liquor & Gaming NSW (2017) *Evaluation of the Community Impact Statement requirement for liquor licence applications*, Discussion Paper, p.6.

¹⁶ Ibid.

¹⁷ Ibid.

REFORMS TO CIS REQUIREMENT

R&CA recognises that there is a need to consult stakeholders as part of certain liquor licence applications. However, R&CA argues that the objectives of the CIS can still be achieved with a streamlined system which reduces the regulatory burden on café and restaurant operators. At present, the completion of a CIS in accompaniment to an on-premises liquor licence can be an onerous, confusing and time-consuming task for these business owners. The process of a CIS can also be a significant impediment for business owners with English language difficulties. R&CA argues that reforms are required to the current system to simplify this process.

PRIMARY SERVICE AUTHORISATION (PSA)

As previously stated, the most common scenario where a café or restaurant is required to complete a CIS is during a PSA application. R&CA argues that the completion of a CIS as part of this process is unnecessary due to the low-risk nature of this activity. This is because the primary business function of a licensed restaurant or café remains the sale of food rather than the provision of alcohol. The low-risk profiles of licensed restaurants and cafés can be seen with the historically low levels of alcohol-related violence and anti-social behaviour. This was demonstrated in Briscoe and Donnelly's 2003 study which found that out of a total of 1,153 assaults in Inner Sydney over a two-year period, only 67 occurred at licensed restaurants, accounting for just 5.8 per cent of the total.¹⁸

R&CA argues that the low-risk associated with cafés and restaurants to some extent negates the necessity of the CIS requirement which LGNSW notes on its website is to describe 'the potential harm a liquor licence might have on a neighbourhood'.¹⁹ Whilst it is impossible to avoid any instances of harms occurring at all in licensed cafés and restaurants, the consumption of alcohol in licensed cafés and restaurants is of a low-risk nature which would not cause major harms for other community stakeholders. Given the low instances of harm occurring at cafés and restaurants, as demonstrated by data from Briscoe and Donnelly, R&CA argues that the completion of a CIS as part of an application for a PSI should not be required.

¹⁸ Briscoe, S. & Donnelly, N. (2003) *Problematic Licensed Premises for Assault in Inner Sydney, Newcastle and Wollongong*, The Australian and New Zealand Journal of Criminology, vol. 36, no.1, pp.18-33.

¹⁹ Liquor & Gaming NSW (2017) *Community Impact Statements* <http://www.liquorandgaming.nsw.gov.au/Pages/liquor/community-involvement/community-impact-statements.aspx>

DIVERSIFICATION OF LICENCE TYPES

In R&CA's view, the café and restaurant sector has a significant role to play in promoting a safe and sustainable night-life and minimising the risk of alcohol-related harms. R&CA argues that having an increased number of licensed cafés and restaurants operating later into the evening can assist LGNSW in meeting these objectives. R&CA has previously stated that restaurants and cafés can form part of this solution as licensed venues serving substantial meals pose a lower risk than venues only serving snacks or no food at all.²⁰ This is because the intoxicating effects of alcohol are substantially lessened when it is consumed in combination with food or as part of a meal. Furthermore, ensuring a thriving café and restaurant culture can assist in promoting alternative forms of leisure activities later at night.

The benefits of expanding the number of on-premises liquor licenses was discussed in Allen Consulting Group's April 2012 report delivered to the NSW Office of Liquor, Gaming and Racing. This report found that stakeholders believed that an increase in the proportion of on-premises licences in an area would lead 'to improvements to the culture around the consumption of alcohol'²¹ as well as 'reducing the extent of alcohol-related harms'.²² Previous cited research has also found that the proportion of licensed restaurants in inner urban areas is associated with fewer assaults.²³ R&CA believes the cafés and restaurants are particularly well-equipped to foster the type of drinking culture associated with the least amount of risk and anti-social behaviour.

To diversify the types of licensed venues trading later into the evening, R&A argues that it is imperative for LGNSW to reduce the current regulatory barriers for cafés and restaurants. R&CA believes that in granting licensed cafés and restaurants an exemption from completing the CIS as part of an ETA application, this will actively encourage them to operate their premises for additional evening hours and thus reduce the risk of alcohol-related harms and minimise levels of anti-social behaviour. By reducing the amount of regulations licensed cafés and restaurants are required to comply with, this incentivises these venues to trade later.

²⁰ Green, J. & Plant, M.A. (2007) *Bar bars: A review of risk factors*, *Journal of Substance Use*, vol.12, no.3, p.168.

²¹ The Allen Consulting Group (2012) *The Environment and Venue Assessment Tool – Companion Guide*, December, Report to the NSW Office of Liquor, Gaming and Racing.

²² *Ibid.*

²³ Briscoe & Donnelly (2001) *Assaults on licensed premises in inner-urban areas* as cited in ACIL Allen Consulting (2014) *Advice on the Update of the EVAT*, 14 April.

Figure 4: Assault Incidents on Licensed Premises in Inner Sydney, Newcastle and Wollongong by Licence Type

Licence Type	Inner Sydney		Inner Newcastle		Inner Wollongong	
	N	%	n	%	N	%
Hotel	871	75.5	229	77.6	120	60.6
Registered Club	38	3.3	26	8.8	12	6.1
Restaurant	67	5.8	2	0.7	2	1.0
Nightclub	66	5.7	32	10.8	61	30.8
Casino	65	5.6	0	0.0	0	0.0
Other	31	2.7	1	0.3	3	1.5
Unknown	15	1.3	5	1.7	0	0.0
Total	1153	100.0	295	100.0	198	100.0

*Information in this graph has been reproduced from Briscoe & Donnelly (2001) *Assaults on licensed premises in inner-urban areas as cited in ACIL Allen Consulting (2014) Advice on the Update of the EVAT, 14 April.*

QUEENSLAND REFORMS

The precedent of exempting low-risk cafés and restaurants from the CIS requirement has already been established in other Australian jurisdictions. In Queensland, for instance, low-risk cafés and restaurants were granted an exemption from the CIS requirement resulting from the *Liquor and Gaming (Red Tape Reduction) and Other Legislation Amendment Act 2013*. The reforms were announced in May 2013 by then Queensland Attorney-General, The Hon Jarrod Bleijie MP, and were designed to streamline the application process for low-risk venues such as cafés and restaurants.²⁴ Under the Queensland system, the Commissioner can waive the CIS requirement for licensed venues provided it meets certain criteria.²⁵ Given the minimal adverse effects that licensed cafés and restaurants have on the community, R&CA argues that an exemption to the CIS requirement should be granted when applying for a PSA.

LGNSW COMMUNITY NOTICEBOARD

As present, a licensed restaurant or café applying for a PSA or ETA is required to have their application and accompanying CIS advertised on LGNSW's Community Noticeboard for 30 days. This requirement results in processing times of up to three months which R&CA believes is too long. In the absence of a total exemption for licensed cafés and restaurants from the CIS requirement, R&CA proposes a 14-day notice period on the Community Noticeboard. This would still give the community and other relevant stakeholders adequate time to express feedback on applications without unnecessarily

²⁴ Queensland Government (2013), *Changes slash red tape for community events*, Media Statement, Attorney-General and Minister for Justice, The Honourable Jarrod Bleijie, May 23.

²⁵ Queensland Government (2016) *Community Impact Statement*, 7 July. <https://www.business.qld.gov.au/industries/hospitality-tourism-sport/liquor-gaming/liquor/licensing/cis>

delaying the outcome. In doing so, LGNSW could expedite the approval process for these applications. R&CA also notes that the process of having a liquor licence approved may also be slowed down by vexatious claims from competitors to a business located in the same community.

SIMPLIFICATION OF CIS

R&CA argues that the CIS requirement in its current form can be a significantly time-consuming and onerous task for the business owner of a licensed café or restaurant owner. Based on anecdotal evidence from members, R&CA believes that the current CIS process actively discourages café and restaurant from seeking a PSA or an ETA. Simplifying the CIS would not only remove this disincentive for café and restaurant owners to apply for a PSA or ETA but would also nullify the need to hire professional companies for assistance which is what happens currently. The complexities associated with the CIS requirement also acts as a disadvantage to smaller licensed venues such as cafés and restaurants who may not have the resources to hire professional companies for assistance.

NOTIFICATION REQUIREMENTS

One area of simplification associated with the current CIS requirements is the need to distribute written notification to stakeholders via mail or a letterbox drop. This procedure is problematic for licensed venues in densely populated areas of NSW such as Haymarket or Green Square. Licensed restaurants and cafés in these areas are also the one most likely to apply for a PSA or ETA due to the potential patronage. The owners of these businesses however may be discouraged from doing so due to the logistical challenges involved in notifying community stakeholders living in adjacent high-rise residential buildings. R&CA argues that LGNSW should consider an online means of providing notice to stakeholders in the first instance rather than the requirement of a letterbox drop. This would help simplify the tasks required for the licensee to complete the CIS whilst still providing community stakeholders with the relevant written notification.

TRANSLATION SERVICES AND NON-ENGLISH FORMS

R&CA also believes that the requirement to complete a CIS can present significant difficulties to business-owners without a proficient grasp of the English language. These owners may face be unable to either understand or comprehend certain aspects of the CIS, including the relevant concerns raised by community stakeholders. The need to consider the needs of business owners speaking English as a second language (ESL) is identified in LGNSW's Discussion Paper on page 7 'Does

the CIS process meet the needs of people from culturally diverse background or people with a disability, including applicants and community stakeholders?'.²⁶ R&CA believes that further assistance is necessary for liquor licensees with ESL requirements. This is particularly relevant for licensees in the café and restaurant sector which has a significant number of business-owners from culturally diverse backgrounds. In order to assist business operators with difficulty in understanding and comprehending English, R&CA urges LGNSW to offer translation services as well as guides to completing forms written in major non-English languages.

²⁶ Liquor & Gaming NSW (2017) *Evaluation of the Community Impact Statement requirement for liquor licence applications*, Discussion Paper, p.7.

CONCLUSION

R&CA welcomes the opportunity to provide comment to LGNSW's evaluation of the CIS requirement. R&CA believes that the major objectives of the CIS can still be achieved with a streamlined system which reduces the regulatory burden on licensed café and restaurant operators. To this end, several opportunities exist to reform the current CIS requirement. R&CA argues that licensed café and restaurant owners should be exempted from having to complete a CIS as part of an application for a PSA or ETA. The impact of removing the CIS requirement for licensed cafés and restaurants would not compromise the integrity of the existing system, nor would it represent a significant departure from the status quo.

The café and restaurant sector has a significant role to play in promoting a safe and sustainable night-life as well as minimising incidences of alcohol-related harms or anti-social behaviour. To achieve a diversification of licensed venues which has a demonstrated correlation with fewer assaults, it is necessary to reduce regulatory barriers for entry for licensed cafés and restaurants. In doing so, R&CA believes that there would be a significant uptake in the number of licensed cafés and restaurants seeking to trade later into the evening. The low-risk nature of the sector has already been recognised in Queensland, exempting licensed cafés and restaurants from the CIS requirement and R&CA would implore LGNSW to do the same.

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