

Submission to review of small bar legislation

Introduction and disclosure

I have a financial interest in two hotels (operated under general bar licenses), a small brewery and will soon be applying for a Producer/Wholesale license for a new distillery venture. My personal and professional view is that small bars have had a great effect on improving amenity in the local communities where they operate and have helped create an initial market for local startup producers (such as mine). I enjoy patronizing small bars myself and their owners are approachable, helpful and easy to do business with.

With regard to the review's Key Issues for Stakeholder Comment, I'd like to make the following comments:

The 60 patron limit

By definition, a small bar should be small, however a fixed limit of 60 patrons can impose a number of otherwise avoidable problems for small bar operators. For example, finding a space that can comfortably fit a maximum of 60 patrons and has an affordable rent can be very difficult: commercial rents (particularly in Sydney) can be quite high and, while there is always a choice of spaces on offer and the ability to negotiate rents with landlords, hosting a maximum of 60 patrons reduces the number of suitable spaces to a very limited type and size of building. The difference in a space which can comfortably hold 45 patrons and one which can comfortably hold 60 can be the difference between hiring an extra bartender and the owner being required to work seven days a week.

I've spoken to many existing and prospective small bar operators about particular spaces and the conversation most often ends up being about how the space would be suitable for a bar but, given the rent being asked, slightly too big to be profitable unless the limit could be raised to 70 or 80 patrons. Even with a reasonable rent being asked, sometimes the space is simply too big to create the intimate small bar atmosphere these operators are aiming to provide: they want it to "feel" full without actually holding a large number of patrons.

I believe applicants for Small Bar Licenses should be able to apply for an extension to the maximum number of patrons, subject to an appropriate floorspace-to-patron ratio.

I have heard some industry professionals say the limit should be raised to 100 or 120 patrons, and perhaps that may be an appropriate maximum, but simply raising the limit would still retain an arbitrary cap on capacity rather than a cap based on how many patrons can comfortably and safely enjoy the space. A "patrons per square meter" formula for operators with slightly larger spaces would be a fair and logical way of allowing licensees to make efficient use of the area they have available.

I don't know what such a ratio should be and doubtless there are people far better qualified than I am to create a formula for calculating it, but I believe a floorspace-to-patron ratio would be a better way of permitting an increase in the maximum capacity for any given venue, over and above the current 60 patron maximum.

Red tape and uptake of small bar licenses

In my experience, the deliberate reduction in paperwork and regulatory compliance through the introduction of the Small Bar License has been of great assistance to venue operators and allowed dozens of new business owners to launch new venues, create employment and provide an income for themselves.

I'd like to note, however, that prospective licensees still have to deal with their local council for development application (DA) approval, as well as Liquor & Gaming NSW at the state government level. This comes on top of the normal commercial dealings with landlords, and I have spoken to several small bar operators who faced lengthy delays in opening their venues due to conflicting advice from officials in different departments and delays in processing paperwork. One of operator I know quite well was left in bureaucratic limbo for more than five months and would have gone broke had he not chanced upon a sympathetic landlord who agreed to a grace period for payment those first five months of rent until after the venue was permitted to open its doors to the public. No reason was ever given for the delay, and it was eventually

found that an official simply hadn't got around to signing the approval. Oversights do, of course, occur everywhere, however it would be nice to think that processes could be improved to reduce them and the resultant costs borne by the entrepreneur.

Situations such as this have a hugely negative effect on the uptake of small bar licenses, particularly where the aspiring operator is an experienced industry professional but with limited financial backing. A veteran bartender or venue manager looking to go out on their own is required to factor regulatory failure and delays into their business plans, in addition to commercial risks. Scraping up \$60-\$70,000 in savings only to see \$15,000 used paying rent on venue that isn't permitted to open for three or four months is not only a drain on financial resources but incredibly demotivating.

As such, I would support the introduction of a "presumption of approval" policy for Small Bar Licenses, whereby a provisional license certificate would be granted on receipt of the application. This would allow the applicant to proceed with the required development applications with their local council and assist in their commercial dealings with landlords, banks and trade suppliers who require a record of the liquor license for credit applications, etc.

Ideally, a provisional license would be for the existing maximum of 60 patrons, with applications for a higher maximum being available upon receipt of a full license and subject to the floorspace-to-patron ratio (mentioned above) at the state level and fire, safety and amenity requirements at the local council level. From my understanding and conversations with existing small bar owners, local police are generally quite supportive of small bars (far more so than larger venues) and simply want to be informed of their presence and reassured that owners and staff are aware of their licensing requirements and responsible service of alcohol obligations.

My understanding is that there is quite a lot of data to suggest that small bars lower the risk of alcohol fueled violence and anti-social behavior, relative to other categories of on-premise license. I believe this is less the result of a rigorous regulatory environment than it is to the nature of small bars themselves, where the quality of the alcohol is generally higher (and usually more expensive) and the more intimate nature of the social interactions which take place there. In catering to niche markets, these small bars tend to attract like-minded patrons based on themed decor, alcohol type or simply residents who live nearby and prefer small bars to the environment at a traditional, local pub. The lower degree of anonymity and higher level of personal interactions between patrons and staff combine to create a less aggressive and more inclusive atmosphere.

I, and my colleagues in the industry all recognize the danger and damage caused by alcohol fueled violence, however I would struggle to find anyone who would confidently assert that it occurs to any significant degree in or around small bars. While I believe it is right and proper for there to be regulatory oversight of the sale and consumption of alcohol, any unnecessary bureaucratic impediments create an even greater burden on top of the already significant pressures of opening and operating a small business. Any reason for refusing a license application is most likely known by the applicant already. For example, a convicted drug dealer would know that they are not a fit and proper person to hold a liquor license. Applicants could be warned in advance that a provisional license will be cancelled and a full license refused if they fail to meet the requirements on a checklist i.e. "Reasons you would NOT be granted a license". Such a checklist would enable the applicant to verify that they are personally able to meet the requirements of the license and where they might face delays in the issuance of a full license.

In short, while "red tape" is undoubtedly necessary, it's implementation could be more efficient and less burdensome while still retaining integrity in the ultimate outcome.

Final note

The state government and Liquor and Gaming NSW deserve congratulations for facilitating and assisting small bars and helping facilitate the genuine, positive change in Australia's drinking culture. Speaking to an old friend in the real estate industry recently, he told me "You know an area is improving when someone opens a small bar". To me, this says that the introduction of the Small Bar License has been a great policy success.

Kind regards,

Alex Hardie
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