

AHA NSW SUBMISSION – SMALL BARS REVIEW

“Small bars” became a licence type under legislation in 2013, with a statutory review of that legislation currently underway. Details of this are found in the Small Bars Review Information Paper. The Australian Hotels Association (AHA) NSW is pleased to make a brief submission to this review, which should be considered in conjunction with information provided during stakeholder interviews.

Currently, in NSW the following liquor licences are available to serve or supply liquor by retail;

- Small Bar licence
- On Premise
- On Premise with Primary Service Authorisation
- Producer/wholesaler with service authorisation (i.e. a boutique brewery)
- General Hotel
- Hotel licence (full)

It is the position of the AHA NSW that this current licensing regime is appropriate. The greater the capacity or complexity of the licence, the greater the level of assessment of the impact that licence would cause. Should the operator of a small bar see merit in increasing the patron capacity of their venue, they can opt to apply for the relevant licence type and undertake the probity and assessment required for that licence. In auditing a number of licensed premises across the CBD, it is clear that a number of licensees have done exactly that, including some proponents of small bar legislation.

The restrictions applied to small bars, including patron capacity and the prohibition on minors being present reflect the nature and intent of these types of licences. The concessions granted to applicants including reduced application and annual liquor licence fees, automatic late trading authorisations and the waiving of the requirement undertake a community impact assessment are designed to offset the restrictions.

In the current environment, maintaining the existing patron numbers for small bars is the right policy. The AHA NSW does not promote further restriction of the industry – however we do assert that the existing licence types available to businesses are appropriate in their current form.

With a limit of 60 patrons, small bars predominantly have less capacity than larger venues. However, patrons from small bars regularly start their night in a small bar before feeding into larger premises or other places in the public domain, so the argument that because they are smaller they provide less risk is, in our view flawed. The policy intent of legislation surrounding the introduction of small bars specifically referred to a desire to prevent small bars and other licence types “morphing” into larger licensed premises.

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Additional legislation was introduced to prevent the practice of “on-premise” licences with primary service authorisations (PSA) morphing into bars during their later trading hours. There are examples of this occurring – where cafes and restaurants change their primary purpose either at all times, or later into the trading period to become defacto bars. We have examples of this that can be provided upon request.

In relation to larger premises types which include full hotel licences of a type that AHA NSW traditionally represent, we submit that;

- In reality, hotels routinely comprise multiple bars with the capacity of a small bar, with each area having a commensurate level of staff.
- Having a greater capacity does not necessarily mean that there is a corresponding greater patronage – particularly in the CBD and Kings Cross.
- Larger venues provide more entertainment than merely the consumption of alcohol on premises, such as live music, TAB facilities, separate bistros, takeaway sales and in some cases a small number of poker machines. On average, hotels across NSW have 11.4 poker machines with a maximum number of 30.
- Larger premises have a greater level of business inspections by NSW Police Force, as well as Liquor & Gaming NSW.

One of the misconceptions regarding violence attributed to the misuse of alcohol is that the majority of incidents occur in, or are associated with larger hotels. In fact, by far the largest percentage of non-domestic assault occurs in the residential (28.1%) and public domain (~29.7%), while just 11.3% occur on or near licensed premises.

Whether those persons have come from small bars or other licence types is unknown. However, assaults committed on licensed premises are at their lowest levels since 1996. The vast majority of assaults attributed to alcohol that aren't domestic related and don't occur in the private home occur between 9pm and 3am on any Friday or Saturday night. Many hotels operating during those times have security (both on the front door or patrolling), RSA Marshalls, and CCTV, making them comparatively safer than small bars that have predominantly a minimal number of staff, none tasked with security and safety.

To summarise our position, and to confirm the feedback provided in person we submit;

- The 60 patron limit remains appropriate and represents a “small bar”.

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- Concessions granted to small bar licences including the automatic extension of trading hours to 2am, the exemption from Community Impact Statement requirements, and exemption from the liquor freeze, are neither fair nor equitable, but are in some way offset by the size and trading restrictions imposed upon small bar licences. Any increase in the patron capacity of a small bar would necessitate the removal of these concessions.
- Any change to the patron capacity of small bars would represent ‘venue morphing’ as described when the legislation was debated.
- There is no research on whether small bars contribute positively or negatively to instances of alcohol-attributed violence and anti-social behaviour, and to the extent that there are only 50 small bars, that evidence will remain difficult to quantify.
- The *Liquor Act 2007* currently has an appropriate licensing regime that allows for the sale of liquor by retail for consumption on the premises. Each licence type confers different trading restrictions and parameters. As the capacity and trading conditions increase, so too does the community engagement and assessment criteria.
- There are examples of small bar licensees that have changed their licence type (either “on premise with PSA, or General Bar (Hotel) licence, indicating that the licensing regime is operating as intended.
- Consideration should be given to multiple small bars opening in a cluster representing a larger bar, and whether this situation should be the subject of an EVAT assessment.
- The AHA remains concerned at any suggestion that small bar licensees be permitted to sell liquor for takeaway consumption. There have been a substantial increase in the number of packaged liquor licences in recent years and we submit that the current licensing arrangements allowing takeaway sales should not be expanded.