



Restaurant  
& Catering

# Review of Kings Cross Alcohol Sales Data Requirement

Submission to Liquor & Gaming NSW

APRIL 2017

## RESTAURANT & CATERING AUSTRALIA

Restaurant & Catering Australia (R&CA) is the national industry association representing the interests of 35,000 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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## EXECUTIVE SUMMARY

Restaurant & Catering Australia (R&CA) welcomes the opportunity to provide input to Liquor & Gaming NSW's review of the Kings Cross alcohol sales data requirement.

R&CA's position on the Kings Cross alcohol sales data requirement is that licensed restaurants and cafes within the precinct should be entirely exempt from having to do so. The current system which has been in place since January 2014 should be urgently updated to reflect the low-risk nature of licensed cafes and restaurants.

As part of this submission, R&CA presents five major reasons as to why licensed cafes and restaurants should be granted an exemption:

- The primary activity of cafes and restaurants is the provision of food rather than the sale of alcohol, leading to significantly less risk of alcohol-related assaults and anti-social behaviour;
- The mandatory collecting and reporting of alcohol sales data once per quarter places significant strain and an unfair administrative burden on cafes and restaurants who are already overburdened by existing regulation and red tape;
- Many cafes and restaurants are small, family-run businesses who, in comparison to larger licensed venues, do not possess the kind of technological capabilities to record alcohol sales data in a time and cost-efficient way;
- The data collected from alcohol sales at low-risk venues such as cafes and restaurants does not provide policymakers with a reliable indication of excessive drinking or anti-social behaviours occurring at these venues; and
- The initial premise of the alcohol sales data requirement is no longer valid or necessary given the dramatic reduction of assaults in Kings Cross precinct since the implementation of the current system.

In light of these concerns, R&CA argues that licensed cafes and restaurants in the Kings Cross precinct should be entirely exempted from the requirement of providing alcohol sales data.

# CAFES AND RESTAURANTS AND THE NIGHT TIME ECONOMY

## SIZE AND VALUE OF THE SECTOR

The hospitality sector, including cafes, restaurants, catering and takeaway businesses, makes a significant contribution to the NSW economy. As of February 2017, the total turnover of cafes, restaurants and takeaway businesses in NSW is approximately \$8.2 billion.<sup>1</sup> This accounts for 32.7 per cent of turnover amongst all cafes, restaurants and takeaway businesses Australia-wide.

NSW has just over 13,500 cafes and restaurants in operation as of June 2016, which grew 5.2 per cent over the last financial year.<sup>2</sup> Of these businesses, over 94 per cent are small businesses employing between 0 and 19 employees. Cafes and restaurants in NSW accounted for 34.6 per cent of all cafes and restaurants across Australia.

As well as making a sizeable contribution to the state economy, cafes and restaurants also form an integral part of Sydney's Kings Cross entertainment precinct. According to the City of Sydney's Late Night Management Areas Research (LNMAR) 2015 survey, of the 266 businesses open between 6pm and 10pm, 24 per cent were cafes and restaurants.<sup>3</sup> Between 10pm and 4am, out of 228 businesses open, 25 per cent were cafes and restaurants.<sup>4</sup> In both timeframes, more cafes and restaurants were open than pubs and bars and retail shops.<sup>5</sup>

The vitality of the King Cross precinct can also be attributed to the popularity of its cafes and restaurants with international and domestic visitors. Out of the 700,000 international visitors to Kings Cross in the year ending September 2016, eating out at restaurants and cafes was the most popular activity at 95 per cent.<sup>6</sup> In addition, dining at cafes and restaurants was also the most popular activity amongst the 500,000 domestic visitors to Kings Cross in the year ending September 2016 at 89 per cent.<sup>7</sup>

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<sup>1</sup> Australian Bureau of Statistics (ABS) (2017) *8501.0 - Retail Trade, Australia, Feb 2017*, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8501.0>

<sup>2</sup> Australian Bureau of Statistics (ABS) 2017 *8165.0 - Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016*, <http://www.abs.gov.au/ausstats/abs@.nsf/mf/8165.0>

<sup>3</sup> City of Sydney, 2015, *Late Night Management Area Profile 2015 – Kings Cross*, Late Night Management Areas Research (LNMAR), [http://www.cityofsydney.nsw.gov.au/data/assets/pdf\\_file/0019/250192/2015-520073-Report-2015-LNMAR-Infographics-Kings-Cross.pdf](http://www.cityofsydney.nsw.gov.au/data/assets/pdf_file/0019/250192/2015-520073-Report-2015-LNMAR-Infographics-Kings-Cross.pdf)

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Destination NSW (2016) *Kings Cross Visitor Profile - Year Ended September 2016* <http://www.destinationnsw.com.au/wp-content/uploads/2013/01/Kings-Cross-Visitor-Profile-YE-Sept-2016.pdf>

<sup>7</sup> Ibid.

## EVALUATION OF KINGS CROSS ALCOHOL SALES DATA

### REQUIREMENT

R&CA argues that all licensed cafes and restaurants in the Kings Cross precinct should be granted an ongoing exemption from the requirement to collect and report quarterly alcohol sales data. R&CA's justification for granting this exemption is outlined in the five main reasons below.

#### LOW-RISK NATURE OF CAFES AND RESTAURANT BUSINESSES

The current system involving alcohol sales data requirements should be modified to reflect the nature of licensed cafes and restaurants as low-risk establishments. Cafes and restaurants are far less likely than other types of licensed venues to experience incidents of alcohol-related assaults and anti-social behaviour which should be recognised as part of this review.

Given that cafes and restaurants sell alcohol in conjunction with food, the risk of assaults and anti-social behaviour arising from excessive alcohol consumption is significantly lower. 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. Research has shown that venues which serve substantial meals pose a lower risk than venues which serve snacks or no food at all.<sup>8</sup> Therefore, it is unsurprising incidences of alcohol-related violence and assaults are highly unusual at cafes and restaurants and occur at a far lower frequency than other licensed venues.

A previous study of assault incidents across licensed venues in inner Sydney showed that out of a total of 1,153 assaults over a two-year period, only 67 assaults occurred at licensed restaurants, accounting for just 5.8 per cent of the total.<sup>9</sup> In the same study which examined assaults across licensed venues in both Newcastle and Wollongong, the authors found an even lower proportion of assault incidents occurring at licensed restaurants.<sup>10</sup> In Newcastle, 2 assaults out of a total of 225 (0.7 per cent) and in Wollongong, 2 assaults of total of 198 (1.0 per cent) occurred in licensed restaurants over the same two-year period.<sup>11</sup> An additional study of licensed venues in Western Australia also found that patrons of restaurants had a lower likelihood of being involved in incidents of alcohol-related violence than

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<sup>8</sup> Green, J. & Plant, M.A. (2007) *Bar bars: A review of risk factors*, *Journal of Substance Use*, vol.12, no.3, p.168.

<sup>9</sup> 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.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

patrons of nightclubs, hotels and taverns.<sup>12</sup> R&CA argues that applying alcohol sales data requirements to restaurants and cafes as a means of identifying high-risk venues in the Kings Cross area is unnecessary, given that the proportion of assaults occurring in these venues is already statistically insignificant.

The differing nature of alcohol consumption that takes place across the spectrum of licensed venues must also be considered during this review. The nature of alcohol consumption in cafes and restaurants varies significantly to other venues such as pubs, clubs and nightclubs. The behaviours associated with alcohol consumption in cafes and restaurants do not constitute a high degree of risk. For instance, wine-tasting in cafes and restaurants is an increasingly popular leisure activity involving alcohol which does not result in high levels of intoxication or subsequent anti-social behaviour.

## ADMINISTRATIVE BURDEN AND COSTS OF RED TAPE

Licensed cafes and restaurants in Kings Cross should also be exempted from having to provide alcohol sales data due to the significant strain and administrative burden that it places on these businesses. These cafes and restaurants are already subject to a myriad of other red tape measures to comply with government regulation and the requirement to provide quarterly alcohol sales data should be removed immediately to reduce the impact of this burden.

At present, the level of detail that is required in Liquor & Gaming NSW's quarterly alcohol sales data document is too onerous and can take a lengthy amount of time to complete manually. Having to complete this documentation on a quarterly basis also compounds the administrative burden incurred by licensed cafes and restaurants. No other state in Australia with existing alcohol sales data requirements requires the submission of reports each quarter. In Western Australia (WA), the Australian Capital Territory (ACT), Queensland (QLD) and Victoria (VIC), alcohol sales data reporting is conducted on an annual basis.<sup>13</sup> The Northern Territory (NT) is currently the only Australian jurisdiction which requires alcohol sales data reporting each quarter.<sup>14</sup>

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<sup>12</sup> Stockwell, Somerford and Lang (1992) *The relationship between license type and alcohol-related problems attributed to licensed premises in Perth, Western Australia*, Journal of Studies on Alcohol, vol.53, no.5, pp.495–498.

<sup>13</sup> Foundation for Alcohol Research and Education (FARE) (2016) *Understanding alcohol sales data in Australia*, p.6. <http://www.fare.org.au/wp-content/uploads/research/Understanding-alcohol-sales-data-in-Australia.pdf>

<sup>14</sup> Ibid.

The current reporting deadline of 21 days following the conclusion of each quarter is also problematic for cafes and restaurants due to the highly seasonal nature of their trade. Large variations in the number of sales and foot traffic in certain months of the year make meeting this deadline more difficult for restaurant and café operators. For instance, in the month of December 2016, the café, restaurant and catering sector experienced an overall turnover of \$2.3 billion<sup>15</sup> compared to June 2016 where total turnover was \$1.9 billion.<sup>16</sup> In the peak periods of the year such as the months leading up to Christmas, café and restaurant owners face greater time pressures and constraints on their administrative resources. Consequently, a relaxation or extension of this deadline should be considered if a full exemption is not implemented.

## LIMITATION OF THE DATA

R&CA is of the view that cafes and restaurants in the Kings Cross precinct should be exempted from alcohol sales data reporting as the information collected from these venues is of little strategic value or utility to stakeholders. The consumption of alcohol at low-risk establishments such as cafes and restaurants does not provide policymakers with a reliable indication of excessive drinking or anti-social behaviours occurring throughout the precinct. In some cases, the data may in fact be unreliable. For instance, statistics pointing to increased purchasing of alcohol in cafes and restaurants throughout Kings Cross does not necessarily translate to an increase in anti-social behaviour associated with alcohol consumption.

The utility of the data collected is also severely undermined by the lack of public accessibility. At present, stakeholders outside of Liquor & Gaming NSW are unable to access the data and thus it is of no strategic benefit to the businesses reporting it. If restaurant and café owners were given access to this information, there may be trends surrounding the total expenditure on alcohol in the area as well as the timeframes which has been bought which may be of some interest. For instance, if there is less overall expenditure on alcohol in the Kings Cross region, this may translate to an increase in expenditure on food items such as takeaway meals, restaurant dinners or coffee. The failure to make the data publicly accessible to stakeholders also undermines the usefulness of this process as a whole.

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<sup>15</sup> Australian Bureau of Statistics (ABS) (2017) *8501.0 - Retail Trade, Australia, Dec 2016*, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8501.0Main+Features1Dec%202016?OpenDocument>

<sup>16</sup> Australian Bureau of Statistics, (2017) *8501.0 - Retail Trade, Australia, Jun 2016*, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/91B151ABF261FD58CA2580200012F5CB?opendocument>



## DISPROPORTIONATE IMPACT ON SMALL BUSINESS

R&CA believes that requiring quarterly reporting of alcohol sales data for licensed Kings Cross venues unfairly impacts small businesses. Small businesses, many of which are licensed restaurants and cafes, are far less likely to possess the kind of advanced technology needed to automatically record alcohol sales data. As a result, many smaller cafes and restaurants are using much less sophisticated recording mechanisms for alcohol sales which, in turn, magnifies the level of inconvenience placed on these businesses. Given that larger venues have more adequate resources to collect alcohol sales data in a time and cost-efficient way, smaller venues without access to such robust systems are placed at a competitive disadvantage and thus should be exempted from these requirements.

Small businesses are also disproportionately affected by the one-size-fits-all approach to the enforcement of the current scheme. Whilst R&CA is cognisant of the need to enforce the regulations, this should not be at the expense of small businesses being able to operate. Given the low average profit margins of restaurant and cafes, an \$11,000 fine for failure to submit alcohol sales data once per quarter has the potential to permanently close these small businesses down.

## CHANGING NATURE OF THE KINGS CROSS AREA

The review of the Kings Cross alcohol sales data requirement needs to carefully consider the changing nature of this precinct and whether the current system is still necessary. The circumstances affecting the Kings Cross precinct have changed significantly since the requirements to provide quarterly alcohol sales data were introduced and as such the existing policy settings should be updated to reflect that. As reported in the NSW Bureau of Crime Statistics and Research's (BOCSAR) February 2017 report, there has been a 'statistically significant'<sup>17</sup> reduction in the number of assaults in the Kings Cross region. According to the report, the rate of non-domestic assault incidents in the Kings Cross precinct has declined by 49 per cent.<sup>18</sup> Given the changing nature of the Kings Cross precinct and declining instances of violence and anti-social behaviour in the area, the initial premise of the alcohol sales data requirement is no longer valid or necessary.

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<sup>17</sup> Donnelly, N., Poynton, S., and Weatherburn, D. (2017) *The effect of lockout and last drinks laws on non-domestic assaults in Sydney* (Crime and Justice Bulletin No. 201), NSW Bureau of Crime Statistics and Research, <http://www.bocsar.nsw.gov.au/Documents/CJB/Report-2017-Effect-of-lockout-and-last-drinks-laws-on-non-domestic-assaults-cjb201.pdf>

<sup>18</sup> Ibid.

Finally, R&CA is also opposed to any proposed extension of the alcohol sales data requirement to licensed venues outside of the current Kings Cross precinct. Whilst the mandatory reporting of alcohol sales data currently only applies to licensed venues in the Kings Cross precinct, forcing venues in other areas of Sydney or the State would be ill-advised in R&CA's view due to the aforementioned reasons in this submission.

## CONCLUSION

R&CA welcomes the opportunity to provide comment to Liquor and Gaming NSW's evaluation process of the Kings Cross alcohol sales data requirement. The hospitality sector, including cafes, restaurants, catering and takeaway businesses are an integral aspect of King's Cross social and cultural appeal, attracting millions of international and domestic visitors to the precinct each year. These small businesses also make a significant contribution to the night time economy in the Kings Cross precinct and across the rest of the State.

R&CA's argues that licensed cafes and restaurants in Kings Cross should be exempt from having to submit alcohol sales data for five main reasons. Firstly, these businesses are low-risk with significantly less alcohol-related assaults and anti-social behaviour than other venues. Second, this system places considerable strain on cafes and restaurants already overburdened by existing red tape. Third, collecting alcohol sales data from low-risk venues is of limited utility as it fails to reflect the level of anti-social behaviour occurring in cafes and restaurants. Fourth, the current system has a disproportionate impact on small businesses who do not have the technological capabilities to record alcohol sales data in a seamless way. Finally, the initial premise of the system is no longer valid given the dramatic reduction in violence in the Kings Cross precinct.

Cafes and restaurants can play a significant role in the overall policy objective of reducing alcohol-related assaults and anti-social behaviour in the Kings Cross precinct by promoting alternative sources of leisure activity. There is a strong imperative to promote a fair and balanced regulatory environment so that cafes and restaurants can continue to thrive and contribute to the night time economy in the Kings Cross area. R&CA believes that this can be achieved by granting an exemption to these small, low-risk businesses from the alcohol sales reporting requirement.

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