

Independent Liquor Law Review

Submission to the Callinan Review

APRIL 2016

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 comment to the *Liquor Law Review*. This submission largely reiterates comments made to the Hon. Ian Callinan AC QC with regards to the impact of lock out laws, 3am cease drinks, and the annual licence base fee.

NSW café, restaurant, catering and takeaway businesses make a valuable contribution to the state and the late night economy. Cafes, restaurants and catering businesses generate \$13.8 billion, employ 169,700 people and deliver \$5.0 billion to state Gross Value Added. Food businesses are also the largest contributor to the late night economy, injecting \$1.7 billion into the Sydney local government area alone. As the industry representative of the largest number of liquor license holders in the state, R&CA recognises the need to promote a responsible and vibrant hospitality industry for the betterment of the NSW economy.

R&CA is cognisant of the NSW Government's desire to curtail alcohol related incidences in the Sydney CBD and Kings Cross precinct. R&CA also acknowledges that a majority of the liquor reforms introduced do not directly impact some café and restaurant operators, particularly those that do not trade past midnight. Indeed, results of R&CA's 2015 Benchmarking Report revealed that a majority of operators believe liquor license compliance activities to be either 'fair' or 'extremely fair'.

However, there is considerable sentiment among operators that the night-life and foot-traffic of these areas has changed when compared to trade prior to the lock out laws. A majority of businesses located in the Sydney CBD indicated that the number of walk-ins and covers (meals served) has declined, with sales up to 30 per cent lower than prior to the lock outs. Besides removing the lock out laws completely, operators believe increased police presence and late night transportation options would be the most effective means of maintaining business in these areas while improving the amenity of these precincts.

R&CA's position remains that the state's liquor laws and the annual base fee must recognise the low-risk nature of restaurant businesses, where the predominant focus remains the provision of food, not the service of alcohol. The collection of alcohol sales data in the Kings Cross Precinct continues to be a significant administrative burden for operators with no benefit demonstrated to industry. Precinct activation strategies, increased police presence and late night transport options are required in both the Sydney CBD and Kings Cross precinct to address the perception of changed foot traffic and lack of activities in these areas.

CAFES AND RESTAURANTS AND THE NIGHT TIME ECONOMY

SIZE AND VALUE OF THE SECTOR

The hospitality sector makes a vital contribution to the NSW economy. Cafes, restaurants and catering businesses generate \$13.8 billion, employ 169,700 people and deliver \$5.0 billion to state Gross Value Added¹. These business are small businesses, with 95 per cent of these businesses employing 19 employees or less.

Restaurants and cafes are also the largest contributors to the state's night-time economy (NTE). Night-time activities activate precincts, encourage extended visitation and increase expenditure in the local community. Research indicates the NTE contributes approximately \$3.3 billion to the Sydney Local Government Area (LGA) alone, with restaurants and food businesses generating approximately 51.4 per cent of NTE sales revenue, equating to approximately \$1.7 billion in receipts².

Restaurants and cafes provide alternative activities to do late at night, which in turn appeals to our key international source markets including China, the UK and USA. Good food and wine are key motivators for travel among these source markets, with Australia ranked either first or second as a destination for great food and wine³. The provision of these experiences is important in growing international visitation, which in turn supports growth and expenditure in the local economy.

R&CA has long advocated that café and restaurant establishments can be part of the solution in addressing alcohol related issues. Research indicates that venues that serve substantial meals pose a lower risk than venues that serve snacks or no food, as food plays a significant role in reducing the impact and effects of alcohol⁴. R&CA supports efforts to change the drinking culture associated with the late night economy, and believes activation strategies and efforts to encourage restaurants to provide late-night sittings is one such way to meet international demand and introduce new clientele into late night precincts.

¹ ABS 8501.0 Retail Trade, Australia; ABS 6291.0.55.033 Labour Force Australia, Detailed, Quarterly, Department of Employment trend data; TRA State Tourism Satellite Account 2013-14

² TBR (2013) The Australian Night Time Economy & the NTE Economic Performance of Key LGAs 2009 to 2013, p41

³ Tourism Australia (2015) Consumer Demand Project: Food & Wine

⁴ Green, J. & Plant, M.A. (2007) Bar bars: A review of risk factors, Journal of Substance Use, Vol. 12, Issue 3, pp. 157-189

AN EVALUATION OF LIQUOR LICENSE COMPLIANCE ACTIVITIES

In 2015, R&CA included a series of questions relating to liquor licensing laws in its Industry Benchmarking Survey. A majority of the states including NSW, QLD, and WA have underdone significant reform of their respective liquor acts, introducing new requirements and fees for on-premise liquor licenses. R&CA sought to gauge industry sentiment regarding current liquor licensing requirements in each state and the impact on hospitality businesses. A summary of both national and state-specific results are listed below.

Overall, a majority of NSW respondents indicated that liquor license compliance activities were either 'fair' or 'extremely fair'. However, the state did receive above average 'burdensome' ratings in terms of reducing alcohol-related violence. Comments from operators that participated in the survey can be found on page 7.

Table 1: Average rating of liquor license compliance activities

	Extremely fair	Fair	Neutral	Burdensome	Extremely Burdensome
Complexity	4.7%	35.2%	28.2%	21.5%	29.9%
License Fees - cost	6.1%	41.1%	25.3%	17.5%	26.3%
Compliance activities of inspectors	8.4%	43.6%	32.1%	8.1%	11.8%
Reducing alcohol-related violence	11.4%	47.5%	27.9%	4.7%	8.1%
Trading restrictions/lock-outs (if applicable)	10.2%	35.0%	26.2%	9.5%	14.6%

Table 2: Average NSW rating of liquor license compliance activities

	Extremely fair	Fair	Neutral	Burdensome	Extremely Burdensome
Complexity	6.0%	28.6%	36.9%	19.0%	7.1%
License Fees - cost	6.0%	38.1%	32.1%	15.5%	6.0%
Compliance activities of inspectors	9.5%	41.7%	38.1%	4.8%	3.6%
Reducing alcohol-related violence	15.5%	42.9%	21.4%	6.0%	7.1%
Trading restrictions/lock-outs (if applicable)	13.3%	37.3%	20.5%	7.2%	4.8%

Operator comments on liquor licensing laws

Regional extra fees for Sydney Lock outs not too fair!!!

I am annoyed by the cost of the extra levy placed upon restaurants being \$440 when a small bar only pays half this. Licenced restaurants with 70 seats or less would in no way have the same alcohol related problems stemming from them as small bars would - our predominant sales are food for goodness sake.

I have answered this question more as a consumer. I have no issues with the laws as a restaurant owner. However, I was out in Sydney one night with lock out laws inplace and final drinks called at 3.00am. It appeared that there were A LOT MORE people - drunk people - on the streets and the taxi services were very poor. It felt more dangerous with many people vying for a taxi, taxis going off shift and not wanting to go to many areas. I think lockout laws are ok, but last drinks leads to more venues closing at the same time and more people on the streets to cause trouble as public transport in Sydney cannot cope with the quantities! As for the last take away drinks at the pub by 10.00 - this is not very well thought of either. I run a restaurant and sometimes people want to go to the pub after dinner to buy a bottle of wine but when they have had a long dinner and finish after 10.00pm, they cannot do this. This affects many small businesses.

Dedicated and established food restaurants should not be subject to the 'special area' licensing laws due to their location.

Get rid of the restrictions.

The imposition of the new anti-violence fees on venues where there has been no incidents is unfair. Particularly on producer licenses. My business will be charged twice because I have 2 licenses at the one venue, a producers license (Brewery) and a Restaurant License.

Does not really impact our style of restaurant.

Not looking forward to the new annual fees affecting restaurants.

We had a liquor license which we cancelled as we didn't sell enough to warrant paying the \$400 annual fee that has been introduced.

DIRECT IMPACT OF LOCK OUT LAWS

In 2016, R&CA conducted a short survey⁵ of café and restaurant businesses operating in the Sydney CBD and surrounding suburbs to gauge the impact of the lock out laws on their business. The survey provides a brief snapshot of the impact on operators as a result of the new liquor laws:

ABOUT THE PARTICIPANTS

Restaurants with a liquor license that provide a dinner service represented a majority of the respondents to the survey (56 per cent). Cafes with a liquor license operating dinner services were the second largest group of respondents (18 per cent). A majority of respondents indicated they were located in the surrounding suburbs to the Sydney CBD precinct (50 per cent), while those establishments trading in the Sydney CBD represented 31 per cent of respondents. A vast majority of these operators are small businesses, employing 19 people or less (75 per cent of respondents).

CHANGES IN BUSINESS PATRONAGE

Businesses were asked whether there had been a change in the amount of meals (covers) and walk-ins since the lock out laws were implemented. A majority of respondents indicated that there had been no change in the amount of covers (43 per cent) or walk-ins (57 per cent) when comparing trade before and after the lock outs. However, 29 per cent did indicate that covers were significantly lower, while 36 per cent indicated that walk-ins were significantly lower. When looking at the responses from operators specifically located in the Sydney Entertainment Precinct, 50 per cent indicated that covers were significantly lower, while 75 per cent indicated walk-ins were significantly lower.

CHANGE IN SALES REVENUE

When asked about weekly sales revenue a majority of respondents (57 per cent) indicated that their sales were either 'significantly lower' or 'somewhat lower' than prior to the lock outs being introduced. A further 38 per cent indicated their businesses had remained revenue neutral, while 7 per cent of respondents actually reported sales being 'somewhat higher'. Fifty per cent of businesses indicated their sales were 11-20 per cent lower since the establishment of the lockout laws.

⁵ Sample size <30. Caution should be used when interpreting data. Results may not be reflective of total market sentiment.

ADDRESSING ALCOHOL RELATED INCIDENCES

Businesses were asked whether the lock out laws and associated measures (risk-based licensing scheme) were appropriate and measured in reducing alcohol-related issues in the CBD. Fifty seven per cent of respondents indicated the laws were not measured. However, thirty six percent believed the measures were effective in reducing alcohol related issues. When respondents were asked what should occur in relation to the lock outs, 43 per cent of businesses believed that the 1.30am lock out law should be removed completely while a further 43 per cent believed there should be an increase in police presence and late-night transportation options available in the CBD and surrounding suburbs. A further 21 per cent believed the 1.30am lock out should remain but the licence fee for restaurant operators should be reduced. A summary of qualitative responses to the survey have been provided below:

Operator comments on lock out laws

Yes but its carried (the problem) over to Newtown.

Give back people the freedom to dine and drink when they like and responsible operators to fulfill this need. Trust the individual to act responsibly, trust operators to ensure the safety of patrons within a venue, trust police to control people in the streets with added CCTV, lighting and police presence.

Remove it or take it state wide and make it a level playing field. Whilst the Kings Cross and CBD statistics on violence are reduced (slightly) so too is the foot traffic (dramatically). There is no significant drop in CBD regional statistics because the problems have simply spread out into surrounding areas around the CBD that are not being reported on.

Remove 1:30am lockout restriction on food orientated premise such as restaurants.

Hard to make a profit!!

There seems to be an understanding within the community and the authorities that the lock out laws has only affected businesses that trade after 1am, however it has reduced CBD foot traffic at night time and venues are experiencing the decline in customers overall not just late at night. In December 2015 at a Liquor Accord meeting the Police presented statistics for the previous 3-month period to show the number of "assaults" in the same 3 month [period the year before] had dropped by ONE. Whilst 68 assaults is a concern for any community, the members present did not feel like their massive decline in business was acceptable when informed there was only

ONE less assault. The Government needs to be reminded that this all came about by the 'minority' who were operating as 'rogue business owners'. The majority were and still are running very good businesses. Restaurants should be what they ENCOURAGE as we are the venues feeding the CBD night people. We are the ones with a full kitchen, employing qualified chefs, providing full size meals we are not putting up 'pies n chips' or toasted sandwiches as some of the late venues are doing. We are running the highly food focused business which everyone knows are at the lower end of profit margins, so even more the reason restaurants need to be assisted.

I have just SOLD my business after trading for 9.5 years because of the lockout laws - it [is] no longer profitable.

My business had not survived the relentless activities and restrictions brought about by the NSW government. The CBD site is now permanently closed. The loss is more than half a million dollars for a 120m² restaurant.

The harm reduction speaks for itself.

We don't agree with these lockout / liquor laws but the new laws implemented should be for everyone and everywhere (Casino should not be excluded).

EVALUATION OF LOCK OUT LAWS & LICENSING SCHEME

As the representative of the largest group of licence holders in the state, R&CA seeks to ensure the liquor licensing system remains equitable, easy to navigate, and encourages a responsible drinking service culture. R&CA has summarised its key points for the review below:

ANNUAL LICENSE BASE FEE

The annual base fee of \$408 for a on-premise liquor licence continues to be an area of serious contention for restaurant and café operators, particularly in light of the base fees paid by a small bar (\$204). The primary purpose of a restaurant remains the provision of food and not the service of alcohol. This is distinctly different to that of a small bar where the provision of food is often a secondary focus. R&CA does however recognise that small bars have a limited patron capacity (120 persons), however contends the risk-profile is significantly different to that of a restaurant.

Further, the \$2,500 fee for licensees choosing to operate between 12am - 1.30am represents a substantial impost to small restaurateurs that may only seek to use their extended trading authorisation to take advantage of increased patronage during the warmer months or Christmas trading period. As a result, most businesses have chosen to surrender their extended trading authorizations, with a significant opportunity cost to their business.

In light of the feedback that has been provided by operators on the impact of lock out laws and inequity in the base fees, R&CA is seeking a review of the annual licence fee to more accurately reflect the risk profile and primary purpose of restaurant and cafe businesses. R&CA does not support further measures that fail to recognise the low risk nature of these businesses.

Further, the process for applying for a waiver to base fees is onerous for operators, particularly those in regional areas that provide a greater service to the community. Greater consideration should be given to regional concessions where financial hardship can be demonstrated.

ALCOHOL SALES DATA

The provision of hourly alcohol sales data by operators in Kings Cross is a significant impost and administrative burden with very little demonstrated benefit to compliance activities or community safety. To provide the data in the appropriate format required changes to point of sales systems, and in some instances the appointment of a single staff member to conduct the audit every hour. This is a significant

constraint placed on small business operators, where resources could be more effectively used elsewhere in their business. R&CA's position remains that on-premise liquor license holders should not be required to provide alcohol sales data, either in Kings Cross or the Sydney CBD (currently not required).

A SAFER DRINKING CULTURE

R&CA recognises the government's objective in minimising alcohol-related harm to the community through measured regulation. The industry remains committed to working with government to ensure patrons consume alcohol safely and responsibly. R&CA has previously stated that restaurant and café businesses can be part of the solution, as the provision of substantial meals can minimise intoxication. Further, ensuring a vibrant café and restaurant culture can encourage alternative forms of leisure activities later at night.

R&CA advocates for the development of precinct activation strategies in the Kings Cross and Sydney CBD area to address the loss of trade and foot traffic raised by operators and to encourage patrons to re-visit these precincts. Further consideration must also be given to increased police presence and public transport options late at night to mitigate safety concerns of patrons and operators.

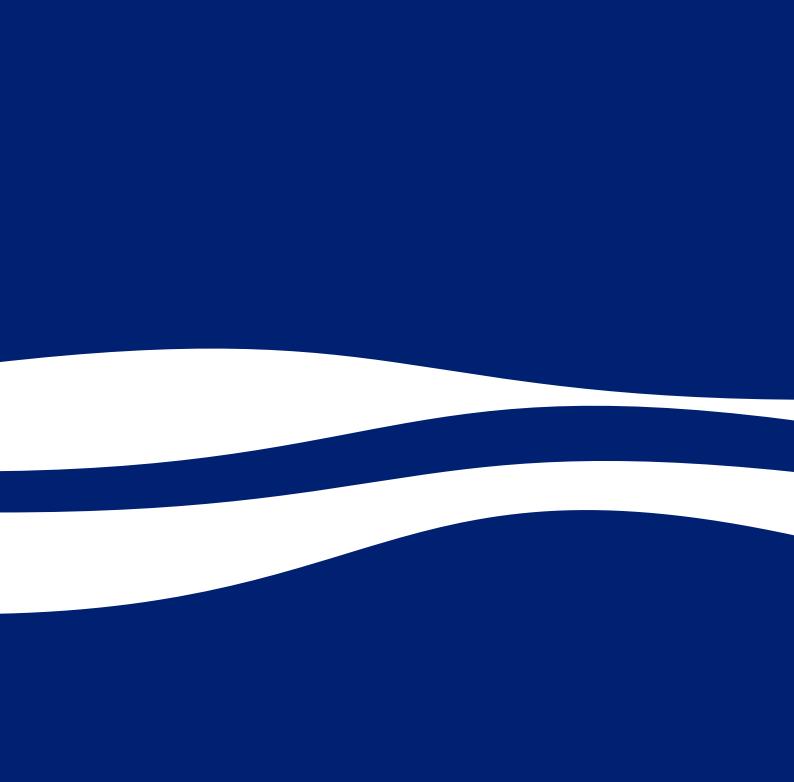
The industry is also seeking full disclosure of how funds raised through annual license fees are being used to effectively mitigate alcohol related issues and ensure compliance amongst operators. Industry believes the funds raised through annual fees should contribute to the mitigation strategies noted above.

CONCLUSION

R&CA welcomes the opportunity to provide comment to the *Liquor Law Review*. Cafes, restaurants and caterers are an integral part of the hospitality industry in NSW; making a significant contribution to the social and economic fabric of the state, and adding value and attraction to the visitor economy.

R&CA recognises the government's objective in minimising alcohol-related harm to the community through measured regulation. While most operators deem compliance activities to be fair, café and restaurant operators have reported significant decreases in sales, covers and foot traffic since the operation of the lock out laws.

The hospitality industry is seeking a system that effectively recognises the low-risk nature of café and restaurant businesses and the contribution these operators make to the late night economy. This includes a review of the annual base fee for on-premise liquor licenses to accurately reflect the service of alcohol is ancillary to a meal. The requirement for alcohol sales data by Kings Cross operators is onerous and must be removed. Finally, R&CA is seeking a commitment from Government and relevant agencies to invest in increased police presence, additional transportation options and targeted precinct activation strategies particularly in Kings Cross to address changes in foot traffic and loss of sales as a result of the lock out laws.



RESTAURANT & CATERING AUSTRALIA

PO Box 121 SURRY HILLS NSW 2010

T | 1300 722 878

F | 1300 722 396