

24 July 2018

Liquor Regulation Regulatory Impact Statement  
Liquor & Gaming NSW  
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policy.legislation@liquorandgaming.nsw.gov.au

Dear Sir/Madam

Re: Regulatory Impact Statement for Liquor Regulation 2018

The Alcohol and Drug Foundation (ADF) welcomes the opportunity to comment on the Regulatory Impact Statement for the proposed Liquor Regulation 2018. Alcohol is the psychoactive drug of most concern to the ADF as, excepting tobacco, it is responsible for most drug related harm in Australia, and an effective system of licensing laws and regulations is the front line for the control of alcohol and the reduction of related harms.

#### **Alcohol's cost to health and wellbeing**

Alcohol is a leading cause of disease burden in Australia and worldwide, ranked as the sixth leading risk factor for death and disability globally (Institute for Health Metrics and Evaluation, 2013). The most recent study of alcohol's contribution to the burden of disease in Australia found it to be associated with around 5,550 deaths and 157,000 hospital admissions (Gao, Ogeil, & Lloyd, 2014). The harmful use of alcohol is a causal factor in more than 200 disease and injury conditions (WHO, 2015) and recent research has found that 54% and 76% of alcohol-related deaths are attributable to cancers, cardiovascular disease, and digestive diseases in males and females, respectively (Callinan, Livingston, Room, & Dietze, 2016) (Gao, Ogeil, & Lloyd, 2014).

Acute use of alcohol is implicated in much violence on Australian streets and homes, in road traffic accidents, child maltreatment and neglect, lost productivity and costs to service systems including law enforcement, justice, welfare and health systems (Laslett, et al., 2010). Between 3 per cent and 11 per cent of all non-fatal workplace injuries have been attributed to high risk alcohol use (VicHealth, 2012). The total costs of alcohol-related harms in Australia is estimated in excess of \$15 billion per year – a financial penalty which is more than double the total annual alcohol tax revenue received by the Australian Government (Marsden Jacob Associates, 2012).

#### **The ADF role in New South Wales**

The ADF has a significant role in reducing alcohol and other drug related harm in New South Wales. This role includes coordinating the Good Sports program, coordinating the work of Community Drug Action Teams on behalf of the NSW Department of Health and developing a system of Local Drug Action Teams that are funded by the Australian Government.

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Community Drug Action Teams (CDATs) are groups of volunteer local residents, business people and workers from government and non-government services who have come together to make a difference in their community. Seventy CDATs are striving across NSW to make the local community safer, healthier and stronger by working to reduce the harms associated with the use of alcohol and other drugs. Their preventive work has a strong focus on alcohol as it is responsible for more community-based harm than other legal and illegal drugs. CDATs have responded to liquor licensing and development applications for many years and have a close interest in this subject.

The ADF is also coordinating the Local Drug Action Teams program (LDATs) that is supported by the Australian Government and is partially based on the CDAT program. This work provides a platform to enable communities to develop evidence-informed social change projects that prevent and reduce alcohol and other drug harms and issues. LDATs align their local community action plans to broader social and health plans of local, regional or state authorities. LDATs typically include combinations of non-government organisations, community groups, local government, police, sporting clubs and health services. At present 57 LDATs are operating in NSW and, as with the CDATs, alcohol related problems are a major focus.

#### Immediate Context

The ADF is concerned that licensed venues have been shown to face little penalty for blatantly ignoring licensing laws and regulations, even when they endanger their patrons and by extension the general community. A recent example is the sanction of a fine of \$2,200.00 for the Gangnam Station Korea restaurant which served three women eight shots of liquor each in less than one hour, and then dumped their unconscious bodies in the street. That is an inadequate sanction for a venue that deliberately served patrons a massive amount of alcohol in a brief period, so that they inevitably became severely and dangerously intoxicated. To compound that outrageous and brutal behavior, the staff took no responsibility for the safety and wellbeing of the women they had abused and deliberately exposed them to added peril.

The Director of Compliance Operations reportedly stated: "It's hard to imagine a worse case of a venue failing in its obligations to prevent misuse and abuse of alcohol".<sup>1</sup> However, this underestimates the culpability of the venue as it did not 'fail to prevent' alcohol abuse, but actively facilitated alcohol abuse. The licensed venue contravened every principle of responsible service of alcohol, endangered the lives of three people, and was fined a paltry amount of money. Although the Regulatory Impact Statement under review refers to the need for "rigorous regulatory approaches", the example of Gangnam Station Korea restaurant does not suggest licensed venues are subject to rigorous regulation.

#### **Assessment of Options to Achieve Objectives**

The Regulatory Impact Statement outlined four options by which the regulation of licensed premises in NSW might be achieved. They are:

- adopt the current Regulation prior to September 1 2018;
- allow the Regulation to lapse;
- enable the alcohol industry to self-regulate, or co-regulate alongside the state authority;
- regulate through ad hoc administrative mean.

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<sup>1</sup> SBS News, 10 July 2018. Sydney restaurant fined \$2200 for leaving drunk, unconscious women on footpath <https://www.sbs.com.au/yourlanguage/korean/en/article/2018/07/09/korean-restaurant-fined-dumping-two-unconscious-drunk-women-street>

We note that in relation to first option the RIS (p8) refers to the prospect of “rigorous, risk based regulatory approaches that are responsive to changes in community expectations” and we agree that regulation of licensed premises must be rigorous and responsive to the community.

**Recommendation 1:** That Liquor and Gaming adopt the current Regulation by 1 September 2018.

**Re Clause 118:** Community Impact Statement

The ADF is concerned at the proposal under Clause 118 of the Liquor Regulation that applicants for a liquor licence will be exempt from providing a Community Impact Statement (CIS) with their application, as community consultation will be allowed after the application has been lodged with Liquor and Gaming NSW. The effect of this proposition will restrict the capacity of community members to make representation of their view on a licensing application.

Communities are an important stakeholder in the licensing process as they bear many of the negative consequences associated with the operation of licensed premises: this includes antisocial behavior, violence, litter, and disruptions such as late-night noise and parking restrictions. In our view communities deserve to be given every opportunity to have early knowledge of licensing applications and an adequate period in which to lodge a comment or objection to the application if they so desire.

Under the current rules the applicant is required to complete a CIS which both notifies the local community of the application and is a mechanism for consulting with the community. While there is a requirement for the applicant to engage with prescribed stakeholders (i.e. local government, police, close neighbours and local Aboriginal leaders), this is not an exhaustive list of potential stakeholders and it does not ensure that all interested parties are included (Buffinton, 2014). Importantly, this consultation is limited to the stakeholders with whom the applicant chooses to consult, the engagement occurs at the discretion of the applicant and the applicant controls the way in which the results of the consultation are presented to the licensing authority (Buffinton, 2014).

According to the RIS this change, which reduces the amount of time the community will have to comment on an application to thirty days, will have little impact, because most comments are received in the 'second thirty day' period (p18). Yet this judgment does not take account of the time and effort that is required for interested community members to determine their attitude to a license application, to gather the requisite information and evidence that is necessary to mount a credible comment or objection. Interested community parties often must develop their submission in their own time, lack access to expert opinion and struggle to access the type of social data and information that is required.

Feedback from the Community Drug Action Teams indicates that limiting the period of consultation with community stakeholders to 30 days will severely hamper the ability of community members to participate in the licensing process. Members of CDATs are unpaid volunteers and it is not realistic or feasible to expect them to respond to applications if there is a reduction in the current time provided for community responses.

**Recommendation 2:** That Liquor and Gaming NSW not proceed with the exemption indicated in Clause 118.

**Re Clause 22**

The ADF supports the proposal to notify domestic violence services and Aboriginal medical services of a relevant licence application. However, to enhance community capacity to participate in the process, the relevant Community Drug Action Team should also be notified.

**Recommendation 3:** That the list of bodies to be notified of a licence application include the relevant local Community Drug Action Team.

**Re Assessment of costs and benefits of proposed amendments**

Sales data of alcohol is an important tool for the accurate monitoring of consumption and allows a closer view of the relationships between consumption and outcomes, including personal and social harms. The cost to industry is minimal because businesses collect it for their own purposes (Hall, Chikritzhs, & Room, 2008). Much research has found links between the volume of alcohol sold and alcohol related harms (Hahn, Kuzara, Elder, & et al, 2010) (Chapman, Cochrane, & Livingston, 2016) (AIC, 2017). Consequently, alcohol sales data should be considered a valuable resource for NSW policymakers and researchers and the collection and collation of data for Kings Cross should be continued.

**Recommendation 4:** That Liquor and Gaming NSW continue to require licensees in Kings Cross to collect and report on the sale of alcohol.



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