



Restaurant
& Catering

SAVOUR
AUSTRALIA



26 July 2018

2018 Remake of the Liquor Regulation
Liquor & Gaming NSW
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SYDNEY NSW 2001

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Dear Sir/Madam,

Restaurant & Catering Australia (R&CA) appreciates the opportunity to provide a submission regarding Liquor & Gaming NSW's (LGNSW) 'Proposed Regulation' (the regulation) containing impending changes to the *Liquor Act 2007*. R&CA supports the overarching objectives of the proposed regulation as outlined within LGNSW's *Regulatory Impact Statement*. R&CA is pleased to respond to specific clauses within the regulation impacting the café, restaurant and catering sector. R&CA's policy recommendations in relation to these clauses are outlined in further depth within this submission. R&CA notes that some of the feedback to the regulation also draws on its previous evidence submitted to LGNSW as part of recent consultations.

The café, restaurant and catering sector in NSW currently consists of over 15,500 individual businesses with over 90 per cent of these businesses employing 19 persons or less.¹ Furthermore, the sector in NSW currently generates \$8.9 billion of turnover annually (\$15.5 billion when including turnover generated from takeaway) which has grown 4.5 per cent YoY.² A significant proportion of these businesses operate with some type of liquor licence, with R&CA's recent 2018 Industry Benchmarking Report estimating that 82.9 per cent of businesses are either licensed or licensed accepting BYO.³ R&CA notes that the on-premises licence category, of which cafés and restaurants fall into, is the largest of all licensing categories and accounts for the highest number of new licence applications in NSW.

Schedule 1: Part 4 – Adjustment of Fees for Inflation (new provisions)

R&CA is concerned by the provisions in the proposed regulation allowing for annual increases to the cost of liquor licences in accordance with the Consumer Price Index (All Groups Index) for Sydney. There are extreme price sensitivities in the café, restaurant and catering sector, especially given the increased operating costs across all major business expenditure categories in the current

¹ ABS (2018) 8165.0 - *Counts of Australian Businesses, including Entries and Exits, Jun 2013 to Jun 2017*.

² ABS (2018) 8501.0 - *Retail Trade, Australia, May 2018*.

³ Restaurant & Catering Australia (R&CA) (2018) *2018 Industry Benchmarking Report*, p.7.



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business operating environment. Compounding these sensitivities is the fact that café, restaurant and catering business-owners are not in a position to simply pass on increased operating costs to customers. R&CA argues that the cost of obtaining an on-premises licence in NSW is already over-inflated, especially given the cost of obtaining a restaurant/café licence in Victoria is significantly cheaper at \$468.80 (compared to \$700.00 in NSW).⁴

R&CA argues that fee increases for liquor licence applications should continue to be frozen. However, should LGNSW proceed with an indexation of liquor licence application fees, R&CA contends that they should be indexed according to the more appropriate measure of *All Groups CPI excluding Alcohol and Tobacco; Australia* (ABS series ID A2332146W). In R&CA's view, the current (*All Groups Index*) for Sydney measure should not be used to index liquor licensing fees given that it is overly reliant on the rise in alcohol and tobacco excises as well as the comparatively high costs of housing associated with Sydney vis-à-vis other capital cities.

R&CA also notes that, under the current framework, prospective licensees are entitled to receive a 10 per cent discount on licence applications provided that they are lodged online. Should LGNSW proceed with the proposed increase in application fees as part of the updated legislation, R&CA argues that this discount should be increased to 25 per cent.

Clause 27: Submissions in relation to applications: 3(e)

R&CA welcomes LGNSW's insertion of Clause 27, reducing the amount of time for submissions to be made in relation to a restaurant licence not requiring a Community Impact Statement (CIS) from 30 days to 14 days. R&CA agrees with LGNSW that the reduction in the available time for submissions will not detract from the ability of stakeholders to give feedback regarding on-premise licence applications for restaurants. The granting of on-licences for established cafés and restaurants, in most cases, have minimal effects on local communities and as such do not generate copious amounts of stakeholder feedback. R&CA is anecdotally aware of some established businesses lodging spurious feedback on competitors' licence applications in an attempt to retard their progression.

Clause 42: Authorisation to trade on premises other than licensed premises

R&CA strongly supports the amendment as described in Clause 42 (5)(a) of the proposed legislation which removes the previous requirement for commercial caterers to provide LGNSW, local police and local Council with notification within 14 days of an event where alcohol is to be served, provided that the event in question is not open to the public and is to be attended by 100 guests or fewer.

The Association has consistently put forward the view that the current notification requirement for commercial caterers is overly onerous and an inefficient use of policing and Council resources. R&CA is pleased that this has been specifically acknowledged in the Regulation Impact Statement

⁴ Victorian Commission for Gambling and Liquor Regulation (VCGLR) (2018) Liquor licensing fact sheet – liquor licence fees, June.

recognising 'that the current 14-day notification requirement can prevent licensed caterers from taking up low-risk business opportunities where requested by potential customers at short notice.'⁵ R&CA argues that this amendment will amount to a significant red tape reduction for commercial caterers and generate increased economic output for the sector.

Clause 32: Issue of interim restaurant authorisations to applicants for restaurant licence

In R&CA's view, the interim restaurant authorisation, which has been in place since January 2017, has been an effective mechanism of reducing red tape for café and restaurant operators in NSW which has in turn had a positive economic effect on the hospitality industry. R&CA's position on the interim restaurant authorisation, as outlined in its November 2017 submission to LGNSW, remains unchanged. R&CA believes that there is scope to extend interim restaurant authorisations to cafés and restaurants who trade beyond the standard trading hours and serve liquor without a meal. R&CA argues that encouraging restaurants and cafés to open later is a key part of activating night-time economies and reductions in red tape measures would provide many of these businesses with an incentive to trade later into the evening and promote alternative late-night leisure activities.

Clause 122: Temporary freeze on licences and other authorisations in prescribed precincts

R&CA welcomes LGNSW's announcement from May 2018 excluding licensed restaurants and cafés in the Kings Cross precinct from the freeze on liquor licence applications. R&CA argues that this is a beneficial measure, aligning exemptions on on-premise licence applications for cafés and restaurants in Kings Cross with those already in place across the Sydney CBD precinct. R&CA argues that the remaining categories of licensees encompassed by the freeze policy should be progressively removed, given the significantly altered social and community dynamics of the Kings Cross precinct in the post-lockout law era.

Clause 129: Provisional approval of applications to change boundaries of licensed restaurants for outdoor dining purposes

R&CA notes that its 2018 *Industry Benchmarking Report* found that roughly three-quarters (74.6 per cent) of its members currently have an outdoor dining space at their premises.⁶ An increasing number of café and restaurant businesses are choosing to offer outdoor dining spaces given its rising popularity amongst consumers, especially in the summer months of the year and during daylight savings periods.

R&CA welcomes the provisional approval of applications to change boundaries of licensed restaurants for outdoor dining spaces if approval for the area has already been obtained from local Council. R&CA argues that this measure reduces duplication between the two entities and creates a simplified and more seamless application process for licensed cafés and restaurants wishing to expand their premises to include an outdoor dining space. R&CA notes that only a low percentage

⁵ Liquor & Gaming NSW (2018) *Regulatory Impact Statement – Liquor Regulation 2018*, p.24.

⁶ Restaurant & Catering Australia (R&CA) (2018) *2018 Industry Benchmarking Report*, p.34.

of its members found the application process to operate an outdoor dining area as ‘burdensome’ in its 2018 Benchmarking Report.⁷

Former clause 53T Liquor Regulation 2008 – Alcohol sales data – Kings Cross

R&CA supports the removal of the requirement for Kings Cross licensees to provide quarterly alcohol sales data, as announced by LGNSW in July 2017. R&CA explicitly recommended the removal of this requirement in its submission to the previous consultation in March 2017, arguing that “*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.*”⁸ R&CA notes the findings of a LGNSW review which stated that “*the requirement has made only a limited contribution to informing policy decisions by the Government and has contributed little to shaping compliance efforts in Kings Cross.*”⁹

Recognition of Prior Learning for Responsible Service of Alcohol Training

R&CA is supportive of the introduction of a tiered framework for Responsible Service of Alcohol (RSA) Training, as contained in Part 5 of the proposed regulation. R&CA however believes that there is scope to incorporate and acknowledge the value of recognition of prior learning (RPL) as part of this training which has been excluded from the current iteration of the proposed regulation. R&CA argues that various industry associations across a broad range of licence types already play a significant educative role in training licensees in best-practice RSA standards and that this could be recognised in the form of a discount or credit to acknowledge this knowledge transfer.

I appreciate your consideration of the items raised within this submission. Should there be any matters you wish to discuss, please do not hesitate to contact me at any time on (02) 9966 0055 or julianap@restaurantcater.asn.au.

Yours sincerely,



Juliana Payne
Chief Executive Officer
Restaurant & Catering Australia

⁷ Ibid, p.35.

⁸ Restaurant & Catering Australia (R&CA) 2017, Submission, p.x.

⁹ Liquor & Gaming NSW (2018) *Evaluation of the Kings Cross alcohol sales data requirement*, June, p.6.