

Responses received to additional questions

Night Time Industries Association

Mr Michael Rodrigues

Sydney Night Time Economy Inquiry

Response to Additional Questions

2 September 2019

1. What is your view of having the Small Business Commissioner co-ordinate night time economy policy? Would this be best done stand alone, or in company with the Department of Premier and Cabinet?

As the NTIA has observed in its submission and subsequent evidence, we believe an office of night time economy is needed in the first instance. If created what it is able to achieve will then be a function of:

- (a) a vision statement delivered by the Premier with clear goals and a directive to relevant portfolios to facilitate or support the achievement of those goals;
- (b) ministerial support across a number of portfolios including (at least):
 - Planning
 - Liquor
 - Police
 - Health
 - Transport
 - Arts
 - Tourism
- (c) the resource level as required by the office to work in co-ordination with industry (including large scale and small scale businesses), local government and residents.

The NTIA has read the submission by the Small Business Commissioner, and it recognises the valuable role that the small business commissioner office can play as part of an overall strategy. However, it is not clear to the extent to which the Small Business Commissioner in and of itself can drive the significant change that is required across multiple stakeholders to improve the overall performance of the night time economy.

Following on from this viewpoint is recognition that any office of night time economy might benefit from being close to DPC, particularly in the early going. Our stakeholders would welcome a senior “ministerial champion” for the sector who could work in conjunction with any office of night time to ensure key outcomes are achieved. We note for completeness that New York has an office of nightlife that might be a useful model for the Committee to consider.

<https://www1.nyc.gov/site/mome/nightlife/about-office-of-nightlife.page>

2. Is there a way to distinguish between rules governing the rapid consumption of shots and the consumption of neat, often high end, spirits?

Our comments below are made in the context of:

- (a) an overall regulatory regime that focusses (correctly) on responsible service of alcohol;
- (b) extensive guidelines by LGR on the suitability of drinks promotions and patron management
- (c) evidence given during the inquiry regarding (i) improving service standards and (ii) changing consumption habits

We note that the restrictions on service of neat spirits, either after midnight or at other times (due to the historic association that any neat spirit would be somehow deemed a shot) has become a service impediment for many venues, particularly small bars, restaurants and other non high volume establishments. The application of this rule is further complicated by the rules concerning the service of “listed cocktails” (often twice the alcohol content as a standard serve neat spirit in any case). Based on anecdotal feedback these prescriptive conditions are in particular confusing to visiting international visitors and business people.

In this context we consider that further definition around what is and what is not acceptable service of neat spirits (while theoretically possible) will only continue to perpetuate confusion for both venue owners and patrons alike. Further, it continues the pattern of focus on technical compliance, rather than patron welfare.

Our preference would be to remove these restrictions and instead focus on better education and industry compliance with the guidelines.

3. What other steps or regulatory changes could be taken to encourage small bars in NSW?

Formal recognition of small bars as lower impact

The main impediment for small bars is that they are for all intents and purposes regulated in the same manner as large scale venues notwithstanding that generally speaking they are lower impact venues. The City of Sydney's late night trading planning controls recognise reduced regulatory requirements for smaller venues, such as small bars, based on their lower environmental impact. This could be reflected in the planning system more broadly.

Time to open – single planning instrument

Small bar operators often wait 6 – 12 months for their DA and liquor license to be approved, incurring holding costs on the site which is the subject of the application. A related issue is the sheer length of time it takes for small bars to currently secure a DA and their liquor license, a process not aided by both instruments being referred to police separately for approval.

Liquor Freeze

We have recommended this be lifted, but in the alternative, changes to small bar licenses to allow increase in trading hours could be considered.

Increase small bar capacity to 120

The economics of a small bar are finely balanced. An increase in capacity under the small bar license to 120 should be considered.

Remove restrictions on service of neat spirits

This restriction directly impacts small bars, many of whom offer premium spirits selections.

Patron welfare over technical compliance

The inquiry has been given evidence of policing for technical compliance (e.g. sign placement, security guard lettering on t-shirts). Our comments regarding a vision and office of night time economy in question one are relevant here, as too, the piloting of Purple Flag (as raised in our submission) We see those positive interventions as creating an enabling environment for night time economy. We would envisage these initiatives together would produce better working relationships between venues and compliance officers, resulting in improved patron welfare rather than technical compliance.

4. Is there any evidence to suggest what has happened to the number of entertainment venues in NSW?

During the course of the Music and Arts Economy Inquiry (2018) it became clear that there is no single point of truth eg. a register, that has logged the number of entertainment venues. This matter is further complicated by whether or not there is an accepted definition of “entertainment venue” for the purpose of either this or the Music and Arts Economy Inquiry.

With reference to venues that had helped shape the careers of musicians evidence given during that inquiry suggested that a number of licensed venues either no longer exist or alternatively now exist but don't offer regular live music included:

- Flinders Bar
- The Basement
- The Hopetoun
- The Standard
- Johnny Wishbone's
- Spectrum
- Q Bar
- The lizard lounge
- Piano bar
- Deans at the Cross
- Candy's Apartment
- World Bar
- The Gaelic
- The Sandringham (later Newtown Social Club, later Holey Moley)

We would further note:

- Some of the above venues have closed and later reopened eg. The Basement (now Mary's Underground) or may still be trading, just without regular live music (eg. The Flinders and The Standard)
- the issue is not solely defined by aggregate number eg. there are a number of spaces within existing venues that continue to trade, but are not fully utilised e.g. the committee was given evidence by Solotel group as to the utilisation of Kings Cross Hotel, a 6 level venue that was home to live music, DJs and theatre but now has restricted trade to 2 levels for the main part.
- There is evidence that the “Sydney music scene” while restricted from operation in the CBD and Kings Cross due to the collapse of the ecosystem, is surfacing in the Inner West eg. Marrickville, Newtown in new venues



- In no small part due to the efforts of City of Sydney including its diversification grants program, operators are attempting to diversify their offerings into entertainment through the provision of occasional live music or comedy eg. Ramblin' Rascal Tavern now offers live music weekly, Papa Gedes offers comedy once a month.

As noted in the opening to this section, definitive data has simply not been recorded (to the best of our knowledge and belief) in an easy way to address the Committee's question. To the extent it is useful here are some other related references.

- Live Performance Australia submission to this Inquiry speaks in more detail as to commercial theatre space availability and usage
- The Deloitte Report [Imagine Play Sydney 2019](#) contains some broad information on cultural spaces (pg 12)
- The [Sydney Morning Herald reported](#) earlier this year: "Figures from Liquor & Gaming NSW show 418 licensed premises had closed in the Sydney CBD and Kings Cross since 2014, while 242 small bar and on premises licenses were granted."

Michael Rodrigues
Chair, Night Time Industries Association