

## Responses received to additional questions

**Spirits & Cocktails Australia**

Mr Alec Wagstaff

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

Tinkering with often confusing definitions between shots and neat spirits will not address the other types of drinks impacted by these restrictions (e.g. Baileys and off-list cocktails) and risks going further down the track of micro-regulation with its compliance complexity.

The Commonwealth Department of Health, after explaining that the effect of alcohol varies by individual, highlights that the key variables for intoxication are the amount of alcohol consumed (measured best by standard drinks) and the time taken to drink it.<sup>1</sup>

Spirits & Cocktails Australia recommends simultaneously repealing references to ‘rapid intoxication drinks’ that restrict the sale of spirits in licenced venues after midnight in:

- *Liquor Act 2007* (NSW) sch 4, s 5; and
- Liquor Regulation 2018 (NSW) pt 7, div 1, cl 92.

Additionally, we recommend any parallel references to these restrictions in Liquor & Gaming NSW ‘Prevention of Intoxication Guidelines (GL4002)’ – Part 3(d)(i)–(iii) also be removed. It is important to note these guidelines are referred to in the *Liquor Act 2007* (NSW) in reference to a licensee taking appropriate action to not permit intoxication on-site (see pt 1, div 5, cl 73(5A)).

All forms of alcohol can be consumed rapidly, which is why a focus on behaviour is key.

The ‘Prevention of Intoxication Guidelines’ already outline clear responsibilities for licensees and staff to monitor liquor consumption and patron behaviour. However, they currently rely on judging the intent of the design of the beverage rather than customer behaviour. For example, not selling or supplying “any drink (commonly referred to as a “shot”, a “shooter” or a “bomb”) that is designed to be consumed rapidly” between midnight and 5am.<sup>2</sup>

This guidance could be enhanced by adapting sensible principles and practical examples of the types of drinker behaviour that will lead to intoxication, from Liquor & Gaming NSW’s Liquor Promotion Guidelines (GL4001) and including them in the ‘Prevention of Intoxication Guidelines’. Such principles and examples include:

*Principle 3 – Non-Standard Measures Promotions must not involve the use of nonstandard measures that encourage irresponsible drinking and is likely to result in intoxication.*

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<sup>1</sup> Commonwealth Department of Health, 2019, <<https://www.health.gov.au/health-topics/alcohol/about-alcohol/what-are-the-effects-of-alcohol>>

<sup>2</sup> Liquor & Gaming NSW, 2017, <<https://www.liquorandgaming.nsw.gov.au/documents/gl/gl4002-prevention-of-intoxication-on-licensed-premises-guidelines.pdf>>

*Examples of unacceptable promotions*

- *Encouraging the consumption of liquor in a yard glass for skolling.*
- *Encouraging the consumption of laybacks, slammers, blasters, bombs or consumption from a water pistol or test tubes with no stand.*
- *Encouraging an individual to purchase and consume on their own an alcoholic drink intended to be shared (that is, a drink containing a significant number of standard drinks).*
- *Encouraging the consumption of multiple shooters or shots by an individual.*

*Principle 6 – Irresponsible, Rapid or Excessive Consumption Promotions should not otherwise encourage irresponsible, rapid or excessive consumption of liquor.*

*Examples of unacceptable promotions*

- *Using drinkware which encourages rapid consumption, such as test tubes, water pistols or yard glasses.*
- *Drinking games, competitions, challenges, dares, scoreboards, lotteries or games of chance that involve the rapid or excessive consumption of liquor (e.g. beer pong, skolling games, flip and win, 'around the world', '60 shots in 60 minutes', pub golf).*
- *Challenging or daring patrons to drink a particular drink because of its higher alcohol content.*
- *Happy hours occurring late into the trading period or early hours of the morning.*
- *Encourage the stockpiling of drinks*

The specific drinks restrictions which we recommend be removed are imposed over and above the Responsible Service of Alcohol-based guidelines outlined above. They are unnecessary, discriminatory, not based on any evidence and significantly impact on the reputation of Sydney's hospitality offering.

## **2. What other steps or regulatory changes could be taken to encourage small bars in**

### **NSW?**

Spirits & Cocktails Australia believes encouraging participation from a diverse range of licensed venues is key to a thriving and vibrant night-time offering, regardless of the size of the venue.

As referred to in our oral evidence, Australia's drinking culture has changed significantly since the introduction of the lockouts. Small bars have played a pivotal role in shaping customers' enjoyment of spirits and cocktails, providing a lower-tempo alternative to larger licensed venues.

Small bars could be further encouraged by regulatory change to:

- Simplify regulatory requirements by removing conditions and restrictions that do not materially improve safety. For example, requirements that stipulate the size of the word

'security' on security staff shirts.

- Encourage diversity of options in the late night trading period by holding all licensed venues to the same standards, irrespective of their size or location, and only imposing restrictions on venues whose compliance history demonstrates they need further intervention.
- Streamline the liquor licence application process to combine the separate applications to local council, Police and Liquor & Gaming NSW required to operate a small bar. This will ease the administrative burden on small business owners from dealing with multiple authorities.
- Applying regulatory restrictions as an option of last resort. All bars should be treated as 'innocent until proven guilty' and a risk-based approach should be taken to acknowledge the lower risk profile of venues, their compliance histories and higher staff-to-patron ratios.