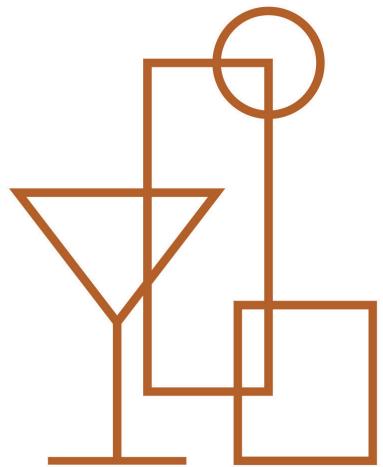


**Submission
No 696**

SYDNEY'S NIGHT TIME ECONOMY

Organisation: Spirits & Cocktails Australia

Date Received: 2 July 2019



Spirits & Cocktails

A U S T R A L I A

Submission to Joint Select Committee on Sydney's Night Time Economy

2 July 2019

Introduction

Spirits & Cocktails Australia welcomes the opportunity to make a submission to the parliamentary inquiry to explore options to enhance Sydney's night time economy.

About Spirits & Cocktails Australia

Spirits & Cocktails Australia is an incorporated association with a vision to promote and protect a spirits' sector which improves Australia's drinking culture to create social and economic opportunities for future generations.

The association represents the interests of spirits drinkers and all involved in the production, marketing and sale of spirits in Australia. Our members are:

- Bacardi-Martini Australia
- Beam Suntory
- Brown-Forman Australia
- Bundaberg Distilling Company
- Diageo Australia
- Moët Hennessy Australia
- Pernod Ricard Australia
- Remy Cointreau
- William Grant & Sons Australia

Executive summary

Spirits & Cocktails Australia makes this submission with a view that Sydney can meet the challenge of maximising individual and community safety and promoting a vibrant night-time economy to enhance its reputation as a global city.

Our members are fully committed to playing their part to ensure the responsible consumption of the drinks they produce. We recognise the critical role regulation plays in encouraging such responsible consumption and its importance in maintaining public safety.

We acknowledge the significant work undertaken by the Committee for Sydney in producing their report, '*Sydney as a 24-Hour City*', and agree with its conclusion that there is no 'silver bullet' in creating a diverse, accessible and vibrant 24-hour city. In principle, we support the recommendations of this report and agree that a strategy for the night-time economy requires a whole-of-government approach.

The responsible service of alcohol (RSA) along with education of consumers and enforcement aimed at antisocial behaviour are the bedrock that supports community safety and individual health outcomes and encourages good venue management. When RSA standards are consistently applied, intoxication can be largely prevented.

The CBD & Kings Cross Plans of Management and liquor regulations add to the legislated requirement for responsible service by layering additional, specific restrictions on the service of spirits and cocktails during the general late trading period:

These restrictions are inconsistent with the available evidence, which shows that spirits drinkers are statistically less likely to engage in antisocial or risky behaviour than beer and wine drinkers.¹ In addition to not being informed by evidence, the restrictions are illogical and inherently contradictory. They allow the service (after midnight) of a full bottle of wine (eight standard drinks) and a pint of beer (two standard drinks) but prohibit the service of a neat spirit (one standard drink), such as a 25-year single malt Scotch Whisky or a high-end cognac (unless consumed in a small bar).

Spirits & Cocktails Australia welcomed the NSW Government's decision in October 2017 to remove these restrictions from small bar licences. However, they remain in place for the vast majority of venues in the Kings Cross and Sydney CBD areas, and for small bars operating under a general bar licence or primary service authorisation.

This inconsistent treatment of alcoholic beverages has and continues to damage Sydney's reputation as a global city. There is also no evidence that one type of alcoholic beverage is riskier than another.²

Spirits & Cocktails Australia does not in any way support a relaxation of the current RSA obligations, which are the basis of creating safe environments. We believe that moving from the current narrow restrictions to an approach that focuses on behaviour, by both licensees and customers, will provide a better outcome both in terms of the vibrancy and safety of Sydney's nightlife.

The breathalyser does not discriminate based on the beverages consumed, but on a person's level of intoxication. The regulatory approach should seek to do the same; effectively safeguarding against intoxication, through a consistent application of RSA standards.

Summary of recommendations:

1. Simultaneously amend/ repeal prohibitions on spirits service in the *Liquor Act 2007* (NSW) sch 4, s 5 and Liquor Regulation 2018 (NSW) pt 7, div 1, cl 92 to remove beverage-specific restrictions after midnight.
2. Amend the CBD Plan of Management regulations so that only venues with a poor compliance record are subject to lockouts and related restrictions.
3. Simplify Liquor & Gaming NSW guidelines to licensees to the same effect so they focus on behaviour rather than beverage choice. Guidance and RSA should focus more precisely on targeting irresponsible behaviour and discouraging excessive/rapid consumption across the board, regardless of the type of alcohol or the vessel in which it is served.
4. Streamline and simplify the liquor licence application process to create a one-stop shop for applications, renewals, development applications and exemption requests.

¹ Australian National University, *Type of Beverage Consumed, Risky Behaviour and Socio-Demographic Factors* (2019) 32. More information available on request.

² Centre for Alcohol Policy Research, *Differences in trouble per litre of different alcoholic beverages – A global comparison with the GENACIS dataset* (2013)

Sydney is consuming alcohol more responsibly than ever before and the city is ready for a more vibrant night time economy

Sydney's night time economy is the strongest and most concentrated in Australia³ yet lags behind comparable global cities, such as London and Berlin⁴. For instance, the night time economy in the UK comprises 6% of their overall economy, whilst Australia's amounts to just 3.8%, representing a \$16B opportunity gap that could be exploited through further development of Sydney's night time industries.⁵

The hospitality sector has a key role to play in the continued growth of Sydney's night time economy. The food and drink sectors currently contribute a combined \$20.1B per annum to Sydney's night-time economy and directly employ 185,117 people, and there is strong consumer interest for continued growth of these sectors.

Less than 46% of Greater Sydney residents are satisfied with Sydney's current night-time offering yet many aged 18–34 indicated they would participate more in night time activities if there were greater options available to them. The most preferred late-night activities are:

- | | |
|----------------------------|---|
| 1. Dining out (48%) | 4. Live theatre/ music (42%) |
| 2. Shopping (46%) | 5. Go to a pub (38%) |
| 3. Movies (45%) | 6. Watch live sport (31%). ⁶ |

This aspiration for more diverse activities and strong interest in dining options, is reflected in the continued growth of the food sector in NSW, which grew by a further 3.5% in 2016-17 to represent 63% of the state's night time economy.⁷

Relevantly, research shows that drinking is part of the broader experience of enjoying food and socialising.⁸ More consumers are also opting to drink less but choosing higher quality drinking experiences, choosing more premium products such as malt scotch, craft spirits and beer, and champagne.⁹ This change in drinking habits is evidenced by the dollar growth of premium options across all alcohol categories outperforming volume growth 3:1.¹⁰ This trend extends to the on-premise environment, which has seen the 50% growth of small bars across NSW since the Government amended liquor regulations to increase the capacity and extend trading hours for small bars.¹¹ Although, the absolute number of venues operating under this type of licence in the CBD and Kings Cross still small (just over 40 in 2018) highlighting there is room for further growth.

³ Deloitte, 'Imagine Sydney: Play' (Report, 2019) 29.

<<http://images.content.deloitte.com.au/Web/DELOITTEAUSTRALIA/%7B725ffb22-cab6-47f4-9958-37305087bae%7D_20190211-cit-imagine-sydney-play-report.pdf>

⁴ Committee for Sydney, 'Sydney as a 24-Hour City' (Report, March 2018) 13 <http://www.sydney.org.au/wp-content/uploads/2015/10/CFS_Sydney-24hr-City_SINGLES_WEB_V11.pdf>

⁵ Deloitte, 'Imagine Sydney: Play' (Report, 2019) 34.

⁶ Committee for Sydney, 'Sydney as a 24-Hour City' (Report, March 2018) 11.

⁷ Ingenium Research, 'Measuring the Australian Night Time Economy 2016-17' (Report, September 2018) 10.

⁸ Drinkwise, 'A snapshot: Australian Drinking Habits 2007 vs 2017' (Report, 2017) 10.

⁹ Australian Liquor Stores Association, 'ALSA – IRI State of the Industry Report' (March 2018) 4.

¹⁰ Ibid.

¹¹ (Note: 2017 figures) James Robertson, 'Sydney's small bar revival', *Sydney Morning Herald* (27 August 2017) <<https://www.smh.com.au/national/nsw/sydney-small-bar-revival-but-why-are-so-few-open-after-midnight-20170826-gy4snw.html>>

The Australian Health and Welfare Institute's comprehensive analysis of the 2016 National Drug Strategy Household Survey (NDHS) highlights a shift toward a more responsible drinking culture. Their analysis showed people were drinking less frequently, with a significantly lower proportion drinking daily or at least weekly, and a significantly higher proportion of people drinking less often than weekly.¹²

Notably, the NDHS signals these trends extend to teenagers and young adults, who will increasingly participate in Sydney's night-time economy:

- The proportion of teenagers (aged 12–17) who abstain from drinking alcohol has increased significantly, from 72% in 2013 to 82% in 2016.
- Fewer young adults (aged 18–24) are exceeding the National Health and Medical Research Council's lifetime risk guidelines – down from 31% in 2013 to 18.5% in 2016.¹³

Figure 1: Shift toward a responsible drinking culture¹⁴



Despite these changes in consumption and drinking trends, the potential growth of Sydney's night-time economy is being held back by a pervasive preoccupation with one aspect of the economy's ecosystem: the lock-outs.

Since their introduction in 2014, the lockouts have eroded perceptions of the vibrancy of Sydney's nightlife. Melbourne capitalised on the opportunity to position itself as a nightlife destination, with proponents such as the Premier, City of Melbourne and the Chapel Street Precinct leading calls for domestic and international tourists alike to abandon Sydney in favour of Melbourne.

¹² Australian Institute of Health & Welfare, 'National Drug Strategy Household Survey (NDSHS) 2016—key findings' (Report, June 2017). <<https://www.aihw.gov.au/reports/illicit-use-of-drugs/ndshs-2016-key-findings/contents/summary>>

¹³ Ibid.

¹⁴ Drinkwise, 'A snapshot: Australian Drinking Habits 2007 vs 2017' (Report, 2017) 3.

Figure 2: Melbourne positions itself as having Australia's most vibrant nightlife



(Image collage: Multiple public sources)

The Committee for Sydney's report concluded that the lockout laws have, "contributed to the perception that vibrancy of the night-time offer in Sydney has declined and as a result, the reputation of Sydney as a global city has been detrimentally impacted."¹⁵

A key factor driving the perception that Sydney's nightlife has declined is the loss of licensed venues in Sydney's CBD and Kings Cross. Reports showed that 418

¹⁵ Committee for Sydney, 'Sydney as a 24-Hour City' (Report, March 2018) 30.

licensed premises had closed down, while 242 small bar and on-premise licenses were granted; representing a net loss of 176 licensed venues.¹⁶

Figure 3: Sydney's perception of the lock-out laws



(Image collage: Multiple public sources)

Research conducted by the City of Sydney in 2018 shows that people “don’t want a city that is unsafe or shuts down after midnight” and specifically, want a city with a diverse and exciting night-time economy supported by better public transport.¹⁷

¹⁶ Andrew Taylor, ‘What the hell is going on in Sydney? 176 venues disappear’, *Sydney Morning Herald* (27 May 2018)

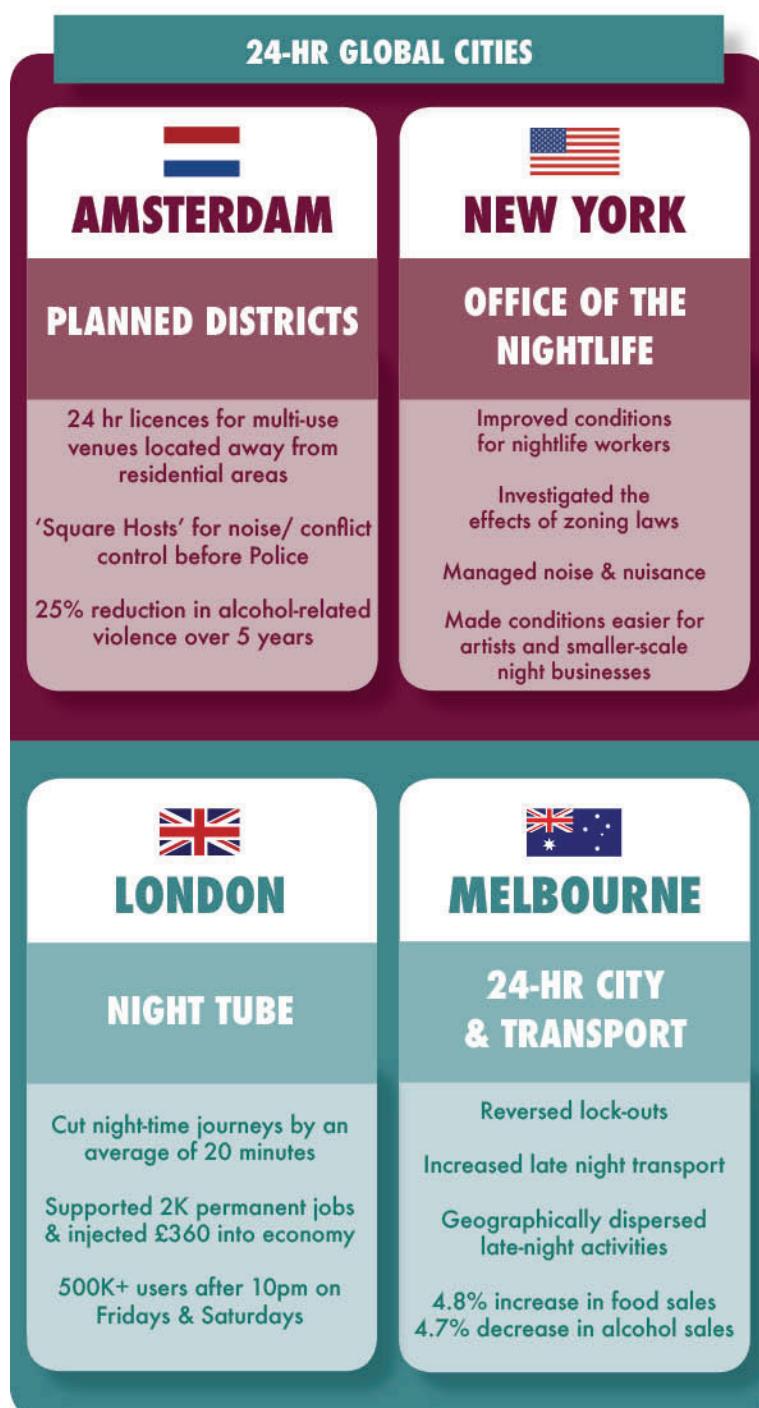
¹⁷ City of Sydney, ‘Sustainable Sydney 2030: Night-time economy’ (2018).

Sydney does not need to compromise safety to achieve vibrancy

The challenge of protecting community safety and promoting vibrancy is not unique to Sydney but rather, a challenge shared by any global city.

Other global cities have met this challenge with innovative approaches to planning and late-night transport to ensure customers can move safely between late night precincts, and home from them.

Figure 4: Global cities' support of the night-time economy

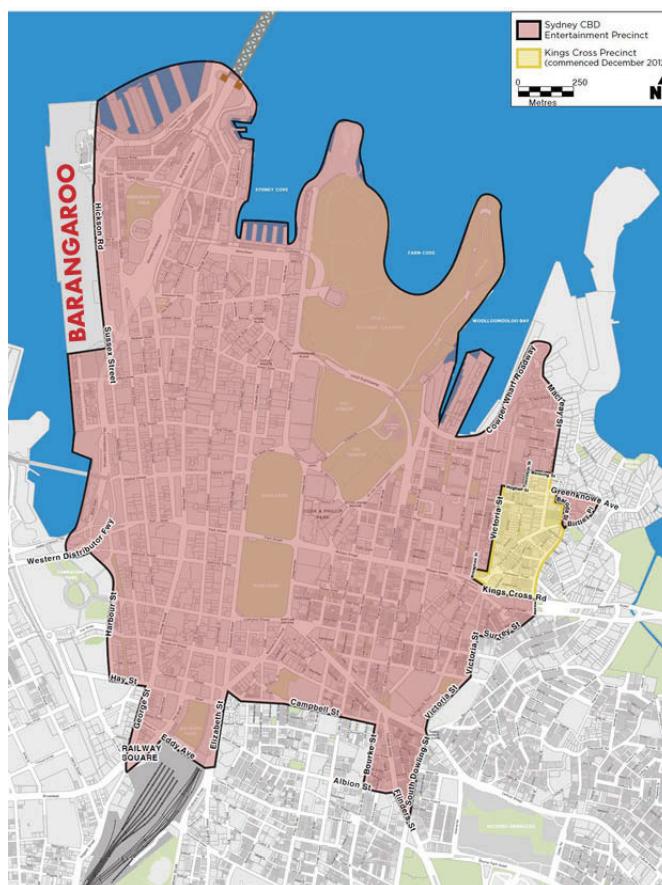


Since the introduction of the lockouts in 2014, on-demand ride-sharing through services such as Uber has also transformed customer movements throughout the city and provided a much-needed alternative to traditional taxis during the 3am taxi change-over period.

The NSW Government has invested heavily in expanding Sydney's public transport network, notably through the CBD/ Randwick light rail service (expected to open in late 2019), Northwest Metro (now open) and City/ South-East Metro (due for completion in 2024). Significant improvements have also been made in transport planning to provide more integrated services and seamless connections between modes of transport.

However, without effectively planning for a vibrant night-time economy, new transport services run the risk of being underutilised. Similarly, vibrancy risks being confined to new precincts, simply by virtue of them not having existed at the time the lockouts were introduced. The current exemption of Barangaroo from the CBD entertainment precinct risks creating two vastly different night-time ecosystems within mere streets of each other; creating further confusion for customers and layering additional complexity to the task of monitoring compliance with liquor laws. We are not aware that Barangaroo has become a hot spot for alcohol behaviour problems but rather, is rapidly becoming a destination of choice for locals and visitors alike.

Figure 5: Current CBD & Kings Cross precinct maps



Existing regulatory arrangements can be simplified to focus on behaviour rather than beverage to enhance safety and health outcomes

Spirits & Cocktails Australia firmly believes personal responsibility and the responsible service of alcohol are the primary vehicles through which alcohol consumption can be practically managed, regardless of the time of day or night.

If RSA is consistently applied and enforced, specific requirements prohibiting the service of neat spirits after midnight, for example, would be largely redundant. Moreover, individual health outcomes would be better supported, and community safety improved as intoxication could be largely prevented.

In its introduction to their RSA student course notes, Liquor & Gaming NSW identifies three key principles to comply with RSA and guidance for effective implementation:

To comply with RSA licensees and staff must:

- *not serve anyone under the age of 18;*
- *not serve anyone who is intoxicated; and*
- *comply with the liquor laws.*

To do this effectively, licensees and staff should:

- *keep up-to-date with any changes to the law;*
- *monitor consumption patterns and recognise the signs of impending intoxication;*
- *discourage patrons from engaging in activities which can harm themselves or others;*
- *understand the principles of ‘standard drinks’ and how alcohol can affect individuals; and*
- *understand the impact of alcohol abuse and misuse on the community.¹⁸*

It is increasingly difficult for venues and staff to navigate the liquor laws and regulations with which they are required to comply. The current regulatory regime is unnecessarily complex, comprising 400 pages of overlapping, interlocking and parallel legislative and guidance materials.

The CBD & Kings Cross Plans of Management and liquor regulations add to the legislated requirement for responsible service by layering additional, specific restrictions on the service of spirits and cocktails during the general late trading period:

- (2) *The following drinks must not be sold or supplied on subject premises during the general late trading period:*
 - (a) *any drink (commonly referred to as a “shot”, a “shooter” or a “bomb”) that is designed to be consumed rapidly;*
 - (b) *any drink containing more than 50% spirits or liqueur;*

¹⁸ NSW Department of Industry, ‘Responsible Service of Alcohol’ (Student course notes, 2018) 6.

- (c) any ready to drink beverage with an alcohol by volume content of more than 5%; and
 - (d) any drink prepared on the premises that contains more than 30mL of spirits or liqueur.
- (3) Subclause (2) does not (subject to subclause (4)) prevent the sale or supply of any alcoholic drink (commonly known as a “cocktail”) that contains spirits or liqueur (or both) mixed with other ingredients and that is not designed to be consumed rapidly.
- (4) Subclause (3) applies only if:
- (a) the alcoholic drink is listed on a document prepared by the licensee that is displayed on the subject premises and itemises the cocktails that may be sold or supplied on the premises during trading hours and the amount payable for each such cocktail throughout or during any particular period during those trading hours (the **cocktail list**), and
 - (b) no alcoholic drink listed on the cocktail list is sold or supplied on the subject premises between midnight and 3.30 am (or such earlier time at which the premises are required to cease serving liquor) at less than the amount specified on the cocktail list.¹⁹²⁰

The layering of additional requirements in the general late trading period detracts from the core principles of RSA: simply put, to not serve intoxicated people or minors. It also contradicts the regulator’s own guidance to use the principle of a standard drink to prevent intoxication.

Figure 7: Drinks permitted to be served after midnight and number of standard drinks

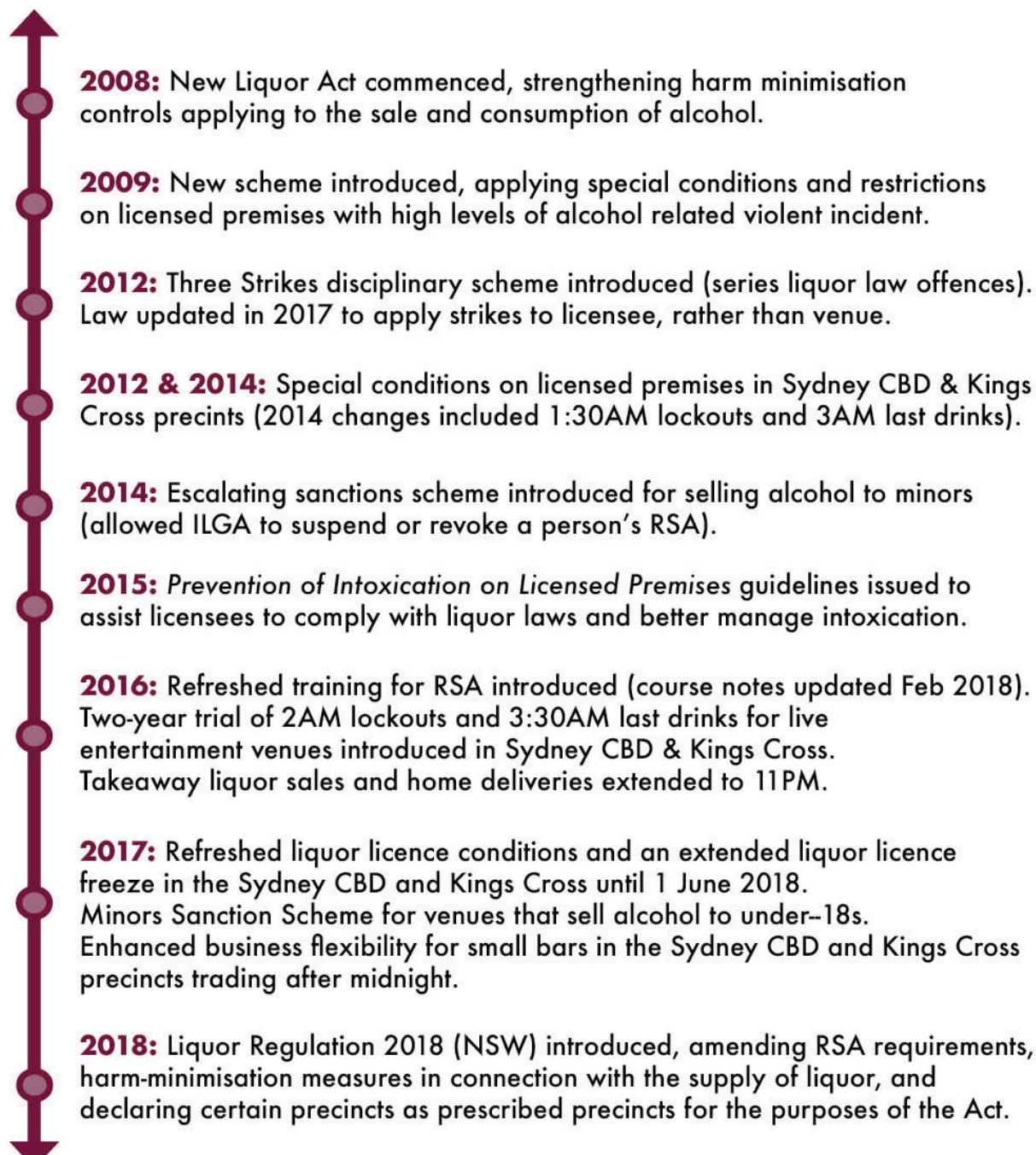


¹⁹ Liquor Act 2007 (NSW) sch 4, s 5; and Liquor Regulation 2018 (NSW) pt 7, div 1, cl 92.

²⁰ Liquor Regulation 2018 (NSW) pt 7, div 1, cl 92.

The frequency at which the regulations have changed, particularly in the last decade, has made it even more challenging to maintain an up-to-date knowledge of relevant liquor laws. During this time the principles underpinning RSA have not changed: this is significant as the first requirement for effective implementation above is legalistic and unlike the other points, not itself linked to creating a safe environment.

Figure 6: Changes to liquor laws and regulations in the last decade²¹



²¹ Ibid.

NSW spirits restrictions are not founded in evidence

This excessive regulation of post-midnight drinks service negates any level of personal responsibility and refers responsibility almost entirely to licensees. It also ignores the fact that the actual risk of alcohol-related violence on a night out in Australia is between just 0.0125% to 0.11%.²²

Recent analysis conducted by the Australian National University shows that spirits drinkers are no more likely to engage in antisocial behaviour than drinkers of other alcoholic beverages. Indeed, spirits drinkers are statistically less likely to engage in antisocial or risky behaviour than beer and wine drinkers.²³

The lack of evidence in support of the current restrictions is particularly concerning to Spirits & Cocktails Australia. The restrictions overtly disadvantage spirits, and limit service options during general late trading. While we support measures to reduce rapid intoxication, such as restricting the service of shots and shooters after midnight, we would welcome the removal of beverage-specific restrictions to provide greater competitive neutrality and offer customers greater choice.

RECOMMENDATION 1:

Simultaneously amend/ repeal prohibitions on spirits service in the *Liquor Act 2007 (NSW) sch 4, s 5 and Liquor Regulation 2018 (NSW) pt 7, div 1, cl 92* to remove beverage-specific restrictions after midnight.

Changes to liquor laws should be principles-based to provide the necessary flexibility to respond to changes in the night-time economy

Spirits & Cocktails Australia firmly believes any changes to NSW liquor laws resulting from this inquiry should be principles-based to provide greater flexibility to respond to growth and changes within the night-time economy over time.

The current approach to regulation includes specific restrictions and conditions for venues located in certain ‘prescribed precincts’. This effectively fixes the regulations to a moment in time, which cannot be easily amended to respond to changes in alcohol consumption habits or the emergence of new entertainment precincts like Barangaroo.

²² Galahad SMS Ltd, ‘How Often Does a Night Out lead to an Assault, Data Analysis Australia’ (Report, 2014) 3. <<http://www.galahad.co.uk/downloads/>>

²³ Australian National University, *Type of Beverage Consumed, Risky Behaviour and Socio-Demographic Factors* (2019) 33–34. More information available on request.

A more practical approach may be to provide flexibility within a framework: essentially 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.

RECOMMENDATION 2:

Amend the CBD Plan of Management regulations so that only venues with a poor compliance record are subject to lockouts and related restrictions.

The same focus on principles can also be applied to regulating intoxication in venues; adopting a more common-sense approach that allows venue staff to use their experience and discretion to determine how to manage intoxication, rather than relying on their familiarity with over 400 pages of regulatory materials.

A similar approach has been taken by the Victorian Government to develop its responsible alcohol advertising and promotion guidelines, which provide a series of guiding principles and practical examples to support venue managers when developing their promotions.²⁴ This approach could be extended to provide practical guidance to NSW venue operators to better manage supply and intoxication.

A recent independent evaluation of the implementation of the Three Cheers Program at Oxford Art Factory, showed that proactive patron management – focused on behaviour rather than beverage (as prescribed in current regulations) – significantly improved rates of intoxication (down 75%) and alcohol-related incidents (down 56%) over a one-year trial period.²⁵

RECOMMENDATION 3:

Simplify Liquor & Gaming NSW guidelines to licensees to the same effect so they focus on behaviour rather than beverage choice. Guidance and RSA should focus more precisely on targeting irresponsible behaviour and discouraging excessive/rapid consumption across the board, regardless of the type of alcohol or the vessel in which it is served.

²⁴ Victorian Commission for Gambling and Liquor Regulation, 'Guidelines for responsible liquor advertising and promotions' (August 2013)

<<https://www.vcglr.vic.gov.au/sites/default/files/Guidelines%20for%20responsible%20liquor%20advertising%20and%20promotions.pdf>>

²⁵ Three Cheers Training, 'Licensed Venue Trial of three Cheers SASH Program at the Oxford Art Factory' (Report, April 2019) 1. <<http://threecheerstraining.com.au/wp-content/uploads/2019/04/OAF-SASH-Deakin-Uni-Trial-Final-Report.pdf>>

Streamlining liquor licence processes will provide managers more time to invest back into running world-class, responsible venues

While the majority of alcohol is sold off-premise, alcohol sales in licensed venues still represents around 20% of total alcohol sales. In addition to the significant direct economic effect of these sales, the on-premise channel presents the greatest opportunity for brand building particularly for new brands.

This is one reason Spirits & Cocktails Australia members invest heavily in value-added education and recognition of bar staff. Such educational activities include brand masterclasses that help bar staff understand the heritage of brands and expand their repertoire of serving options, including lower alcohol content options. Recognition activities celebrate the knowledge and creativity of bar staff which cocktail competitions such as Bacardi Legacy, Diageo World Class, Woodford Reserve Cocktail Challenge, the Perfect Blend and The World's Most Experimental Bartender. In many cases the production of lower alcohol cocktails is integral to the competition as is the knowledge and practice of great responsible service.

As an industry, we are committed to continuing and expanding investment in bar staff education and recognition to contribute to a more vibrant on-premise sector. However, the complexity of the current liquor licensing regime presents a barrier for new entrants into the sector and increasingly absorbs valuable management time in liaising with multiple layers of government and legal professionals to navigate exemptions to licence conditions. As such, we welcome changes to simplify and streamline liquor licence processes to ensure bar managers and staff can get on with doing what they do best: creating unique experiences for customers that showcase world-class spirit brands to enjoy alcohol responsibly.

RECOMMENDATION 4:

Streamline and simplify the liquor licence application process to create a one-stop shop for applications, renewals, development applications and exemption requests.

For more information on this submission, contact:

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