

**Submission  
No 754**

## **SYDNEY'S NIGHT TIME ECONOMY**

**Organisation:** NSW Independent Bars Association

**Date Received:** 9 July 2019



**INDEPENDENT  
BARS ASSOCIATION**

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

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## **ABOUT THE NSW INDEPENDENT BARS ASSOCIATION (IBA)**

The Independent Bars Association (IBA) is a membership association with a vision to protect and promote the business interests of 51 independent/ small bars in NSW.

The association advocates on policy issues to improve the competitiveness and vibrancy of independent/ small bars, advises members on key issues affecting bars, and promotes high standards of service and conduct in independent/ small bars across NSW.

Our membership includes some of the state's most recognised and awarded independent/ small bars, including:

- Baxter Inn – voted 7th best bar in the world
- This Must Be the Place – winner, Time Out Sydney Bar of the Year 2017
- House of Pocket, one of the first operators under liquor reforms in 2008 (Venues: Pocket Bar, Stitch Bar, Button Bar, Crooked Tailor, Pocket Terrigal)
- Shady Pines Saloon
- The Lobo Plantation
- The Barber Shop
- The Duke of Clarence
- Grandma's
- Tios
- The Wild Rover
- Kittyhawk
- Bulletin Place
- Restaurant Hubert

## **EXECUTIVE SUMMARY**

The NSW Independent Bars Association congratulates the NSW Government on prioritising this inquiry to explore options to enhance Sydney's night time economy.

The impact of NSW Government measures to curb alcohol-related disorder in Sydney's CBD and Kings Cross, including the liquor licence freeze and lockouts, has been keenly felt by our members. While we acknowledge that these reforms were well-intentioned, the IBA believes the balance has shifted too far in favour of control and regulation at the expense of growth and vibrancy. Maintaining the status quo is simply unsustainable.

Sydney is home to world-class bars and some of the world's best bartenders; however, the lock-out laws have meant that venues are closing earlier and once vibrant precincts such as Darlinghurst and Kings Cross no longer benefitting from the footfall they historically enjoyed through late night trading.

Our members face onerous and unnecessarily complex processes to apply for liquor licences and comply with the plethora of conditions imposed on them. Consideration is rarely given to a venue's track record of compliance, or its staff to patron ratios, which are often higher than that of pubs or clubs and offer a more controlled environment for patrons to consume alcohol. Venue operators are instead required to engage with three different local and state government authorities to lodge their liquor licence (Liquor & Gaming NSW) and

development (local council) applications and plans of management for patron safety on-site (NSW Police). For venues like *Earl's Juke Joint* in Newtown, this process can take nearly six to twelve months to navigate and cost up to \$30,000.00 in processing and legal fees.

We recognise the changes made by the NSW Government in recent years to increase patron capacity, extend trading hours and lift spirits restrictions for small bars during late night trading; however, given the complexities described above, most cannot be easily implemented. Nearly 25% of our members operate their 'small bars' under a general or on-premises bar licence to provide greater patron capacity. For example, *House of Pocket* operates four bars – each with similar operations – under three different licence types to allow for greater capacity at some venues. Given that not all small bars operate under a small bar licence, many could not take advantage of changes to increase trading to 2am and lift restrictions on serving neat spirits after midnight.

The IBA believes community safety is best served when all licensed venues are required to play by the same set of rules and a single authority is tasked with overseeing their consistent application. Blanket conditions and trading restrictions, such as those contained in the CBD Plan of Management, should only be applied as an option of last resort, and only if a venue's compliance history indicates there is need to do so.

As small/independent bars, we pride ourselves on superior customer service that extends beyond offering premium drinking experiences to ensuring patron safety through greater personal interactions and closer monitoring of alcohol consumption. As a result, we have a lower risk profile that does not require population-based interventions like lockouts to manage antisocial behaviour. The IBA believes these interventions should be reconsidered in line with changes to Sydney's drinking culture. More Australians are choosing to drink less but better-quality alcohol<sup>1</sup> and there have been significant declines in people drinking at risky levels<sup>2</sup> or abstaining from consuming alcohol altogether.<sup>3</sup> For example, *House of Pocket*, reports that up to 70% of sales at their venues can be attributed to cocktails, designed for slower consumption, or non-alcoholic beverages.

Independent/ small bars provide the perfect setting to cater for Sydney's changed drinking preferences, but we are only contributor to Sydney's night time economy; greater diversity is needed to cater to Sydney's changing culture and enhance our reputation as a global city.

This inquiry provides an opportunity to develop a holistic approach to better support creativity, culture, retail, tourism and hospitality, as part of a more integrated night-time ecosystem. This submission will detail recommendations to achieve a better balance between regulatory arrangements and business vibrancy for Sydney's small/ independent bars. We will also demonstrate how these changes will actually help to improve community safety and enhance individual health outcomes. The IBA has also contributed to the development of the Night Time Industry Association's submission, which details recommendations to develop a more integrated approach to planning and transport, and more activities to enrich Sydney's night-time offering.

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<sup>1</sup> Sarah Agostino, 'Alcoholic drinks in Australia: Premiumisation is the future' *Euromonitor International* (2018) <<https://blog.euromonitor.com/alcoholic-drinks-australia-premiumisation-future/>>

<sup>2</sup> Drinkwise, 'A snapshot: Australian Drinking Habits 2007 vs 2017' (Report, 2017) 3.

<sup>3</sup> Ibid.

## **SUMMARY OF RECOMMENDATIONS**

The IBA fully supports the recommendations made in the Night Time Industries Association submission.

In addition, we make the following recommendations in line with the inquiry's terms of reference:

- 1. Create a single bar licence to replace the three different liquor licences currently available in NSW to trade as a bar.**
  - No capacity limit – subcategory for small bars allowing capacity of up to 150 patrons.
  - Opt-out conditions:
    - Minors authorisation
    - Off-site premise authorisation
    - Private functions authorisation
    - Live entertainment permitted
    - Trade on restricted day permitted (e.g. Good Friday).
- 2. Streamline the liquor licence application process by integrating local and state government applications**
  - Create a single application for council development and liquor licence applications
  - Provide greater transparency on processing times
  - Prioritise processing of applications with potential social, cultural and tourism benefits to improve Sydney's night time economy.
- 3. Recognise and reward good venue management by only imposing restrictions on venues with a poor history of compliance**
  - Remove CBD liquor licence freeze in Liquor Act (Division 41A Section 47)
  - Amend the CBD Plan of Management regulations so lockouts and restrictions only apply to venues with a poor history of compliance.
- 4. Clarify compliance responsibilities and/ or confer in a single authority**
  - Provide greater clarity as to the role and function of state and local government regulators, including guidance as to where their responsibilities begin and end; or
  - Confer regulatory oversight of licensed venues in a single authority.
- 5. Remove beverage-specific restrictions on service after midnight by amending/repealing restrictions in the *Liquor Act 2007 (NSW)* sch 4, s 5 and *Liquor Regulation 2018 (NSW)* pt 7, div 1, cl 92.**
  - Amend Liquor & Gaming NSW intoxication guidelines in line with this change to focus on behavioural strategies rather than beverage choices, using the standard drink as a guide to prevent excessive consumption.
- 6. Develop a NSW- wide vision for Sydney's night time economy and appoint a Night Time Commissioner (or equivalent) to oversee its implementation.**
  - Include more diverse cultural, creative, retail and tourism options at night
  - Improve late-night transport options.

## SYDNEY'S BAR OFFERING & DRINKING CULTURE HAS EVOLVED

In the years since regulations were changed to make bar licences more affordable and small bar licences were introduced, Sydney has seen a resurgence of cocktail culture, with unique bars opening throughout the city to provide an alternative to established hotels and clubs.

The Baxter Inn, offering an impressive array of over 100 whiskies and Shady Pines Saloon with its cowboy-inspired décor and Sunday setlist, have become synonymous with Sydney's burgeoning small bar scene, paving the way for over 200 small/ independent bars across NSW to follow in their footsteps.

Bartenders from across the globe have brought world-class skills and expertise to Sydney, and bar training programs such as Beam-Suntory's *The Blend* and Diageo's *Bar Academy*, have supported the growth of domestic talent and creativity, producing the world's best bartender in Diageo's *World Class* competition in Berlin in 2018.<sup>4</sup>

*"Suddenly, you had bar owners who were bartenders, instead of lawyers or businessmen"* – Charlie Ainsbury, *This Must Be The Place*.<sup>5</sup>



(Sydney's bar scene: Multiple online sources)

<sup>4</sup> Riley Morgan, 'Australian Crowned World's Best Bartender', *SBS News* (10 October 2018)  
<<https://www.sbs.com.au/news/australian-named-the-world-s-best-bartender>>

<sup>5</sup> Paul Clarke, 'The Best of Sydney's Cocktails and Beer', *Imbibe Magazine* (28 November 2017)  
<<http://imbibemagazine.com/sydney-cocktails-and-beer/>>

However, the introduction of Sydney's lockout laws and other broad-stroke reforms aimed at curbing alcohol-related disorder has meant that world-class bars are forced to close early and footfall in once thriving precincts such as Darlinghurst and Kings Cross continues to decline, resulting in the permanent closure of some venues.

*"We've disrupted the ecosystem — venues change hands a lot these days, and they close a lot quicker — just have a walk around in Darlinghurst if you don't believe me, there are 'for lease' signs everywhere" – Karl Schlothauer, House of Pocket.*<sup>6</sup>

As venues continue to close in these areas, small bar entrepreneurs look to alternative nightlife destinations such as Melbourne, Singapore and New York for their next business ventures.

While Sydney's night-time ecosystem continues to change, so too has Australia's relationship with alcohol. For the most part, drinking to unwind, or to accompany a meal, or socialise with family and friends are the primary reasons people choose to drink. Over 60% of consumers only have two standard drinks on a day where they drink alcohol, and up to 20% of Australians abstain from alcohol (up 11% from 2007).<sup>7</sup>

*"We are now a society more defined by moderation than excess" – Drinkwise.*<sup>8</sup>

Recent retail liquor industry analysis shows that as consumers are drinking less, they are opting for higher quality drinking experiences<sup>9</sup> and lower alcohol alternatives.<sup>10</sup> In particular, consumers are seeking out drinking occasions centred around premium and responsible drinking.<sup>11</sup>

Premiumisation and greater consumer choice has also led to the development of new products, such as Lyres' new range of non-alcoholic spirits. A number of small bars, including *Stitch Bar* in Sydney's CBD, are developing new ranges of mocktails using Lyres' spirits to cater to consumers opting not to drink alcohol; while others are also offering lower-alcohol alternatives, such as *This Must Be The Place's* signature Aperol Spritz cocktails.

## **REGULATION HAS NOT EVOLVED IN LINE WITH SYDNEY'S CHANGED DRINKING CULTURE**

While Sydney's drinking culture has significantly shifted in favour of more moderate consumption and premium drinking experiences, regulatory arrangements have been slow to adapt to reflect this reduced risk profile.

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<sup>6</sup> Nick Sas, 'Sydney's small bar scene shakes off lockout law limbo, as Harbour City looks to revitalise nightlife', *ABC News*, (31 August 2018) <<https://www.abc.net.au/news/2018-08-31/sydney-small-bar-scene-shaking-off-lockout-law-malaise/10183578>>

<sup>7</sup> Drinkwise, 'A snapshot: Australian Drinking Habits 2007 vs 2017' (Report, 2017) 4.

<sup>8</sup> Ibid.

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

<sup>10</sup> Drinkwise, 'A snapshot: Australian Drinking Habits 2007 vs 2017' (Report, 2017) 5.

<sup>11</sup> Australian Liquor Stores Association, 'ALSA – IRI State of the Industry Report' (March 2018) 4.



Minor amendments were introduced in late 2016 to relax 1.30am lockouts (to 2am) and 3am last drinks provisions (to 3.30am), and incremental changes were made in 2017 to increase patron capacity at small bars to 100 and extend late-night trading until 2am. However, given the complexity of the current liquor licensing regime these changes to small bar licences proved difficult to implement for a number of venues operating in Sydney's CBD entertainment precinct.

### Current licensing arrangements

Under the current licensing regime, NSW venue operators can apply for up to three different licences to trade as a bar.<sup>12</sup> Each licence offers different patron capacities and trading hours, and operators are required to engage with three different authorities across state and local government in order to have their liquor licence granted:

- Liquor & Gaming NSW (state government) to lodge applications, change/ exemption requests;
- Local council to apply for development approval; and
- Police Local Area Command (state government) to lodge a plan of management for patron safety at the licensed premises.

There is little coordination between authorities, meaning that if one amends a trading condition – such as extending trading hours for small bars – the same condition is not automatically updated with the remaining two agencies.

### CASE STUDY: BUTTON BAR APPLIES TO EXTEND TRADING TO 2AM

When Button Bar sought to take advantage of changes to NSW regulations that allowed extended trading for small bars up to 2am, the licensee needed to apply for separate development approval through the City of Sydney Council. This resulted in a nearly two-year long process, involving five applications and \$6,000 in processing and legal fees (note: the licensee managed this process in this example but if planners were engaged, each stage would have cost in excess of \$10K and an additional \$150K would be needed to have been spent to appeal refusals in the Land & Environment Court).

The venue has traded until midnight since it commenced operations in 2011. There have only ever been two alcohol-related incidents on the site – representing a 0.001% incidence of alcohol-related harm.

*Inset image: History of development applications lodged by the licensee.*

Suburbs		Application types		On exhibition			
SURRY HILLS		Development Applications		No [Blank]			
Application number	Address	Description	Lodged date	Decision date	Decision	Estimated cost	
<a href="#">RD/2007/141/B</a>	65-67 Foveaux Street SURRY HILLS NSW 2010	S8.2(1)(a) Review of determination of the refusal to amend approved trading hours of the licensed...	13/02/19	07/05/19	Approved with Conditions	\$150,000	
<a href="#">D/2007/141/D</a>	65-67 Foveaux Street SURRY HILLS NSW 2010	Section 4.55 (2) modification of consent to amend the approved trading hours of the li...	17/12/18	01/02/19	Refused	\$150,000	
<a href="#">RD/2007/141/A</a>	65-67 Foveaux Street SURRY HILLS NSW 2010	Section 96AB review of determination for extended trading hours of the licensed small bar 'Button...	16/02/18	08/05/18	Approved with Conditions	\$0	
<a href="#">D/2007/141/C</a>	65-67 Foveaux Street SURRY HILLS NSW 2010	Section 96(2) modification of consent to amend the approved trading hours of the licensed 'Button...	06/11/17	24/01/18	Refused	\$0	
<a href="#">D/2007/141/B</a>	65-67 Foveaux Street SURRY HILLS NSW 2010	Section 96(2) modification of consent to amend the approved trading hours of the licensed 'Button...	18/05/17	26/06/17	Refused	\$150,000	

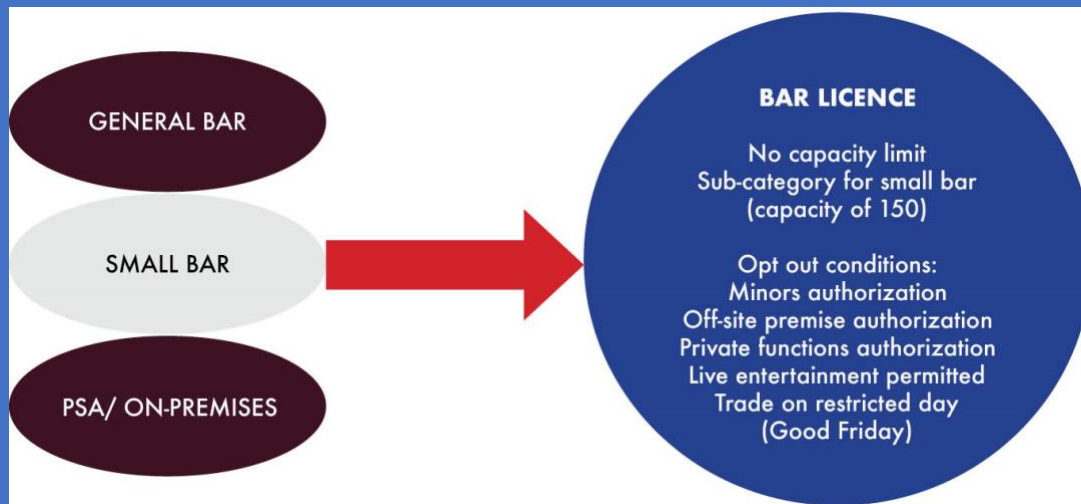
<sup>12</sup> Liquor & Gaming NSW, 'What licence type do I need' (2019)

<<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-types/what-licence-type-do-i-need>>



### **RECOMMENDATION 1:**

Create a single bar licence to replace the three different liquor licences currently available in NSW to trade as a bar.



In addition to complexities arising from multiple liquor licence types, our members also experience lengthy delays in the processing of liquor licence applications, arising from the need to engage with multiple state and local government authorities.

### **CASE STUDY: 'BOOTH-GATE' AT JACOBY'S TIKI BAR**

*"When we started building the bar, there were times we felt submerged in development hell. We started off strong, dotted the i's and crossed the t's, got everything turned in to Council – and then the trouble began. What should have been a two-month process dragged out to six months. We felt like we were underwater, slowly climbing our way out.*

*It literally halted everything. We had these custom couches made for us for our booths, and because the delay happened, we had to find somewhere to store them. We called it 'booth-gate'. We'd find a place to store them, then something would happen, and we'd have to move them again. When we finally got them installed, we sat down on them and had a beer immediately. It was a long, tough slog, but we got through it" - Adrian Sanchez, Jacoby's Tiki Bar, Newtown.*



*Inset image: Patrons enjoy cocktails on the booths at Jacoby's.*

The IBA would welcome changes to streamline the application process by integrating local and state government applications in a single process, with greater transparency provided on processing times to offer greater certainty for businesses engaging in the process. Following the example of the WA Government, consideration could also be given to liquor licence applications that present potential social, cultural and tourism benefits to improve Sydney's night-time economy as part of this process.

**RECOMMENDATION 2:**

**Streamline the liquor licence application process by integrating local and state government applications**

- Create a single application for council development and liquor licence applications
- Provide greater transparency on processing times
- Potential social, cultural and tourism benefits to improve Sydney's night time economy could be considered as part of the application process.

**A MORE BALANCED REGULATORY FRAMEWORK CAN SIMULTANEOUSLY PROMOTE  
COMMUNITY SAFETY AND VIBRANCY**

In order to grow Sydney's night-time economy and ensure vibrancy, the IBA firmly believes existing regulatory arrangements for licensed venues need to be amended to achieve a better balance between the responsibilities of venue operators and regulators.

Current liquor regulations are inflexible, applying 'one-size-fits all' restrictions on all venues operating in the CBD and Kings Cross through Plans of Management. The plans layer an additional 21 (CBD) and 36 (Kings Cross) restrictions on top of existing liquor laws and regulations, including lock-outs and last drinks rules, and restrictions on the number and type of alcoholic beverages allowed to be served after midnight.<sup>13</sup>

While exemptions to some restrictions are available for venues operating within the CBD, the process is costly (a \$500 fee applies to be exempted from a single condition<sup>14</sup>) and requires licensees to re-engage with multiple state and local government authorities in order to amend their liquor licence, development approval and Police plan of management. The process is unduly one-sided, with venue operators required to seek out exemptions rather than regulators assessing a venue's risk profile before first imposing restrictions.

These restrictions contribute to the perception of over-regulation and in some instances, contradict established principles of the responsible service of alcohol – such as using the standard drink as a measure to prevent patron intoxication. For instance, a pint of beer (2 standard drinks) and bottle of wine (8 standard drinks) can be served after midnight in Sydney's CBD; however, a neat serve of spirits cannot.<sup>15</sup>

<sup>13</sup> *Liquor Act 2007* (NSW) pt 4, div 4, s 116I and sch 4, s 5; and *Liquor Regulation 2018* (NSW) pt 7, div 1, s 92

<sup>14</sup> Liquor & Gaming NSW, 'Prescribed Precincts' (2019) <<https://www.liquorandgaming.nsw.gov.au/operating-a-business/liquor-licences/liquor-licence-conditions-and-precincts/prescribed-precincts>>

<sup>15</sup> *Liquor Act 2007* (NSW) pt 4, div 4, s 116I and sch 4, s 5; and *Liquor Regulation 2018* (NSW) pt 7, div 1, cl 92

In such an environment, measures that materially impact community safety, such as ensuring Responsible Service of Alcohol principles are consistently applied, come second to nuisance provisions to ensure compliance with overly prescriptive regulations; like ensuring signage is correctly located at venue entrances or ensuring bouncers' shirts have the word 'security' printed on both sides in 100 point font.<sup>16</sup>

#### **CASE STUDY: THE IMPACT OF RESTRICTIONS ON *THIS MUST BE THE PLACE***

Trading since 2015, This Must Be The Place (TMBTP) has an exemplary trading record and has been recognised as one of Sydney's best bars, winning *Time Out Sydney's* 'Bar of the Year' award in 2017. It operates under a general liquor licence due to historic prior ownership reasons. For all intents and purposes, TMBTP is a small bar, however moving to a small bar licence would mean capping the number of patrons it can admit at 100 instead of the 120 it can admit now, and this is not economically feasible.

When owner/ operator, Luke Ashton, updated the Development Approval with the venue's new name, an additional condition to have security at TMBTP on Friday and Saturday night was automatically applied to the DA, simply because it was located in the CBD and subject to the CBD Plan of Management. The condition had not applied for the previous ownership and the venue has never had any alcohol-related incidents on-site. For this reason, Luke sought to have the condition removed when he later applied to extend TMBTP's trading hours to midnight, and was successful in doing so; however, TMBTP spent over \$65K in security fees until this condition was removed from the DA – a significant cost for a small business, with no material safety benefit to justify the cost.

In 2018 TMBTP applied to extend its trading hours again, from midnight to 2am. This application was rejected automatically. No consideration was given to the venue's excellent compliance record, or that expressions of support had been received from all neighbours as well as the Council.

In the words of TMBTP's owners: "We have always had a great relationship with the Police and Liquor & Gaming NSW, and deeply appreciate the difficulty and complexity of their jobs. But unduly harsh conditions and restrictions are being imposed by the NSW Government on both good bar operators and the responsible drinking public. We recently applied for a 2am licence and submitted a petition from all our neighbours, who agreed we are good operators and would be in support of us trading later. Council, despite acknowledging we were good operators, were unable to allow us to extend our trading hours. Their hands were tied due to current legislation; namely the 'temporary' liquor licence freeze in the CBD, which has been extended yet again for a further 12 months. It is incredibly frustrating" – Luke Ashton, owner/ operator, *This Must Be The Place, Darlinghurst*.

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<sup>16</sup> Liquor Regulation 2018 (NSW) pt 4, div 3.

The IBA believes community safety can be better served by regulators adopting a more targeted, risk-based approach to regulating venues that trade late, applying restrictions as an option of last resort, rather than as standard.

The ‘Three Strikes Scheme’ and existing mechanisms in the *Liquor Act 2007* (NSW) can be used as an alternate enforcement mechanism, with restrictions in the Plan of Management only applied in instances of serious non-compliance.

### **RECOMMENDATION 3:**

**Recognise and reward good venue management by only imposing restrictions on venues with a poor history of compliance**

- Remove CBD liquor licence freeze in Liquor Act (Division 41A Section 47)
- Amend the CBD Plan of Management regulations so lockouts and restrictions only apply to venues with a poor history of compliance.

Additionally, the role of state and local authorities in ensuring venue compliance needs to be more clearly defined to remove ambiguity for venue operators and provide greater certainty as to the benefit of this oversight for venue management and patron safety.

Under current arrangements, a licensed venue can be inspected by three authorities to assess compliance against three different instruments:

<b>Authority</b>	<b>Instrument/s against which it can assess compliance</b>
Local council (local government)	Development Consent Venue’s plan of management Liquor licence Food regulations
Liquor & Gaming NSW (state government)	Liquor licence Relevant liquor laws and regulations Venue’s plan of management
Police Local Area Command (state government)	Venue’s plan of management Relevant liquor laws and regulations Development consent Liquor license OH&S standards Fire controls

*“It’s like playing a game of football with three referees. There’s no clear line between who does what and the venue ends up playing mediator between the three authorities” – Karl Schlothauer, House of Pocket.*

Alternatively, in line with a streamlined liquor licence application process, the IBA would support amendments to confer regulatory oversight in a single authority.

#### **RECOMMENDATION 4:**

Clarify compliance responsibilities and/ or confer in a single authority

- Provide greater clarity as to the role and function of state and local government regulators, including guidance as to where their responsibilities begin and end; or
- Confer regulatory oversight of licensed venues in a single authority.

### **SHIFTING THE FOCUS TO BEHAVIOUR RATHER THAN BEVERAGE DURING LATE-NIGHT TRADING WILL BETTER SUPPORT INDIVIDUAL HEALTH OUTCOMES & COMMUNITY SAFETY**

Innovative, world-class bars are expected to have sophisticated spirit and cocktail offerings to provide discerning patrons with options to enjoy their favourite drinks in the manner they desire. However, such freedoms are limited in Sydney by spirit restrictions contained in the CBD & Kings Cross Plans of Management, including:

- *Restrictions on shots and neat serves of spirits after midnight*
- *Restrictions on doubles after midnight*
- *Restrictions on drinks with greater than 50% spirits or liqueur*
- *Restrictions on high ABV ready to drink products after midnight*
- *No cocktails to be sold after midnight unless found in a cocktail list with ingredients listed.*<sup>17</sup>

Currently, only venues operating under small bar licences are exempt from these restrictions. As previously stated, up to 25% of IBA members currently operate their small bars under a general licence and 15% on a primary service authorisation, meaning they cannot apply to be exempt from these conditions. This creates an uneven playing field for bars engaged in late night trading and adds to the complexity of monitoring compliance with restrictions on drinks allowed to be served after midnight at different venues.

*"It's easier to get a pokie in a pub or club than it is to get approval to serve a shot of alcohol, neat — that's ridiculous. It's such a backwards mentality"*

— Natalie Ng, Doorknock.<sup>18</sup>

To compound the matter, there is currently no evidence to support restrictions on spirits service during late night trading, nor is there any correlation between the type of drink consumed and its harm/ risk to the individual. Research conducted by the Centre for Alcohol

<sup>17</sup> *Liquor Act 2007* (NSW) pt 4, div 4, s 116I and sch 4, s 5; and *Liquor Regulation 2018* (NSW) pt 7, div 1, s 92

<sup>18</sup> Nick Sas, 'Sydney's small bar scene shakes off lockout law limbo, as Harbour City looks to revitalise nightlife', *ABC News*, (31 August 2018) <<https://www.abc.net.au/news/2018-08-31/sydney-small-bar-scene-shaking-off-lockout-law-malaise/10183578>>

Policy Research concluded: “there is nothing inherent in wine, beer or spirits which would universally result in one of these, compared with another, producing a greater range of problems.”<sup>19</sup>

The restrictions also unduly refer responsibility for intoxication and excessive consumption to licensees and presumes patrons are incapable of moderating their own consumption. This approach ignores positive progress made in respect of Australia’s drinking culture, which has resulted in significant reductions in people drinking to excess when consuming alcohol<sup>20</sup> and more patrons consuming less but better-quality alcohol.<sup>21</sup>

The IBA supports a shift to a more principles-based focus to manage patron behaviour, rather than prescriptive regulation that restricts service of specific beverages. We believe this will more appropriately safeguard against excessive consumption and intoxication and provide small/ independent bars with greater flexibility to serve spirits during late night trading.

#### **RECOMMENDATION 5:**

**Remove beverage-specific restrictions on service after midnight by amending/repealing restrictions in the *Liquor Act 2007* (NSW) sch 4, s 5 and *Liquor Regulation 2018* (NSW) pt 7, div 1, cl 92.**

**Amend Liquor & Gaming NSW intoxication guidelines in line with this change to focus on behavioural strategies rather than beverage choices, using the standard drink as a guide to prevent excessive consumption.**

### **SYDNEY’S NIGHT-TIME ECONOMY IS FALLING BEHIND OTHER GLOBAL CITIES AND NEEDS TO GROW TO REMAIN COMPETITIVE**

Sydney is one of the world’s most sought-after tourist destinations, offering an unbeatable climate and some of the world’s most famous beaches, world-class entertainment, and a burgeoning hospitality scene that showcases the best of our local talent and produce.

The Committee for Sydney’s recent review of Sydney’s night-time economy estimates that it generates over \$19.3bn in sales turnover and accounts for 27% of total employment.<sup>22</sup> However Sydney’s night-time spending falls significantly behind that of other developed night-time economies including Berlin, London, San Francisco and Hong Kong.<sup>23</sup> Indeed, while other global cities spend more on restaurants and bars at night (accounting for 37% of

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<sup>19</sup> Centre for Alcohol Policy Research, ‘Differences In Trouble Per Litre of Different Alcoholic Beverages – A Global Comparison with the GENACIS Database’ (2013).

<sup>20</sup> Drinkwise, ‘A snapshot: Australian Drinking Habits 2007 vs 2017’ (Report, 2017) 14.

<sup>21</sup> Australian Liquor Stores Association, ‘ALSA – IRI State of the Industry Report’ (March 2018) 4.

<sup>22</sup> Committee for Sydney, ‘Sydney as a 24-Hour City’ (Report, March 2018) 10.

<sup>23</sup> Ibid, 13.

Hong Kong's night time spending vs. Sydney's 12%) and live performances (3.8% of London's night-time spending vs. 0.1% in Sydney) the highest proportion of Sydney's night-time spending is attributable to the sale of groceries (27% vs. 14% in London).<sup>24</sup>

A recent report by Deloitte estimates the opportunity cost of Sydney's under-developed night-time economy as \$16bn.<sup>25</sup> There is a perception among travellers that Sydney 'shuts early'<sup>26</sup> and that interventions such as the lock-outs have detrimentally impacted our reputation as a global city.<sup>27</sup> On domestic level, we have noticed a shift in patron behaviour with many choosing to both go out – and leave – venues earlier. Internationally, these perceptions of Sydney are impacting our attractiveness as a night-time destination.

***"There is significant untapped potential for a more integrated and diverse night-time offer in Sydney" – Committee for Sydney.***<sup>28</sup>

Opportunities to promote the growth of Sydney's night-time economy need to extend beyond licensed venues and hospitality. World-class bars and hospitality need to sit within a more vibrant night-time ecosystem, including options that don't involve alcohol. Sydney has succeeded in creating internationally attractive events such as Vivid, which has now entered its tenth year of operation, but greater investment is needed to nurture local arts, sports and cultural events all year round. Such an ecosystem needs to function cohesively; improved late-night entertainment needs to be supported by bars and hospitality options to cater for revellers before and after events. Late night public transport needs to be provided to move people safely around the city, and home from such events.

However, changes to currently regulatory arrangements and late-night services need to be made to support a truly integrated late-night ecosystem. For example, when a show finishes late at the Eternity Playhouse in Darlinghurst, audiences often seek to continue their night with a drink at Mister Pocket after the show; however, as the bar is required to close at midnight, there is little point to admitting patrons after 11.30pm.

Changes to services and regulatory arrangements require a whole-of-government approach to ensure cohesive planning and practical implementation across different sectors, in order to embed a mindset where going out at 10pm is as normal as going out at 10am. It is currently unclear as to where such responsibility for such oversight would sit within existing NSW Government departments as Transport for NSW, Planning, Industry & Environment and Premier & Cabinet all have key roles to play in ensuring its success.

The IBA would support the appointment of a Night-Time Commissioner, similar to Amsterdam's Night Mayor, to advocate for integrated services to support night-time industries and oversee the implementation of a holistic vision to grow Sydney's night-time economy.

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<sup>24</sup> Ibid, 14.

<sup>25</sup> Deloitte, 'Imagine Sydney: Play' (Report, 2019) 34.

<sup>26</sup> Lonely Planet, 'Sydney in Detail Drinking & Nightlife', <<https://www.lonelyplanet.com/australia/sydney/in-location/drinking-and-nightlife/a/nar/39fb3152-566c-46cb-892a-6b9ceb01fccc/362319>>

<sup>27</sup> Committee for Sydney, 'Sydney as a 24-Hour City' (Report, March 2018)

<sup>28</sup> Ibid, 11.



**RECOMMENDATION 6:**

**Develop a NSW- wide vision for Sydney’s night time economy and appoint a Night Time Commissioner (or equivalent) to oversee its implementation.**

- **Include more diverse cultural, creative, retail and tourism options at night-time**
- **Improve late-night transport options.**

**Contact for more information on this submission:**



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