

**Submission  
No 789**

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

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## **NIGHT-TIME ECONOMY SUBMISSION**

### **TOPIC – RESTAURANTS PROVIDING MEALS – ALCOHOL SERVICE – ENTERTAINMENT**

On behalf of many restaurateurs who hold a Primary Authorisation Approval to sell alcohol without a meal we would like to raise the following concerns with current legislation and venue operation.

#### **BACKGROUND**

NSW restaurants have been permitted to obtain a liquor licence to sell alcohol auxiliary to a meal.

The old NSW Liquor Act 1982 was adjusted in the late 1990's in the lead up to the Sydney Olympics to obtain what was called a "Drink or Dine Authority". This allowed restaurants to have 70% of patrons needing to dine and 30% of patrons allowed to enter the premises and drink without needing to consume a meal. Under this structure restaurants were required to keep records of food and alcohol sales to enable Police and Liquor & Gaming (L&G) to closely monitor the operations of these venues. A number of these venues obtained a "Bar" title in the approved name by L&G.

Some restaurants constructed bars to cater for the 30% drinkers.

A number of these restaurants also obtained council approval to provide entertainment and obtain a Place of Public Entertainment (POPE) approval to provide a range of entertainment at these venues. Some venues as a result of obtaining the POPE and extended trading hours had special conditions placed on their liquor licence to require security personnel for crowd control.

The existing Liquor Act 2007 was introduced on 1 July 2008 and was adjusted for restaurant approvals. The new adjustment converted the old "drink or dine" to what is now known as a Primary Service Approval (PSA). This allows a restaurant to allow patrons enter and consume alcohol without needing to dine. This is now known as an On Premises licence – Restaurant with a Primary Service Authorisation

The sign (not mandatory) produced by L&G states "This restaurant is authorised to sell alcohol without a meal".

Restaurants continued to trade providing meals, bar services and entertainment as they had done in the past.

#### **CURRENT POSITION**

The government has now introduced a new Liquor Regulation 2018 which has effected the operation of these restaurants. These venues now need to meet the new "Primary Purpose Test". There is no formal document that can be printed from the L&G website that includes the test however; it is listed on their website – see attachment "A"

With the introduction of the Primary Purpose Test for restaurants it now allows both Police and L&G to review the operation of these venues and in some cases now say they are not allowed to operate

the way they have done in the past. This has placed stress on the restuanteers and their business and would now be and should be considered a restriction of trade.

One would agree that a standard restaurant with a PSA would be restricted in the way alcohol is served, however, the restaurants who have a name which includes the term "Bar" should be treated differently especially if they operated in such away in the past.

I would like to put forward the following example:

#### **JD's Bar and Grill Restaurant.**

This venue is located in Cronulla and has had the name approval from L&G for around 18 years. It falls under the category of transferring from the old "Drink or Dine Authority" to the new Restaurant with PSA.

The restaurant has established itself as a popular venue in the area providing quality food, bar and entertainment. The type of entertainment has varied over the years but now provides piano entertainment on Friday and Saturday nights. The Plan of Management approved by local Police and Council allows this type of operation.

The venue has an approved capacity of 280 people with 200 seats and is licenced to 1am. The venue has a special condition on the licence to provide security personnel. The venue provides restaurant style meals and converts to a supper menu later in the evening. This is clearly indicated by menu boards throughout the venue and the availability of cutlery etc.

Many people attend the venue for functions, enjoying a meal and some to just meet with friends and have a drink. Once they have either attended a function or just for a meal remain at the venue for a social drink and enjoy the entertainment provided by the venue.

This is now where the confusion begins.

Later in the night either the police or inspectors from L&G enter the premises and observe a number of people drinking and assume the venues only purpose is the sale of alcohol even though the venue still has the kitchen open and prepared to serve meals as this is the primary purpose of this liquor licence.

There is no clear guideline for any restaurant in NSW on how long a person can stay at the restaurant and continue to drink. Yes the average restaurant has patrons remaining for long periods of time and consuming alcohol after they completed a meal. Just relaxing and enjoying the evening with friends. As these restaurants are a small operation there is no concern form Police and L&G inspectors.

When the situation arises such as venue like JD's Bar & Grill as it is a popular location for people to attend and of course there will be a number of people wanting to do as they would normally do at any other restaurant is stay and enjoy themselves with friends and enjoy a few more drinks.

When police and L&G Inspectors arrive it is not the look they would find in a normal restaurant as this is a popular venue with a large approved capacity they assume the venue is operating in such away it is solely for the purpose of alcohol consumption and is not permitted under the Liquor Act

and Regulation and want to breach the venue as it does not appear to be meeting the so called "Primary Purpose Test".

The venue has the title BAR and when people are moving through the popular Cronulla Mall they see the sign for the venue they assume as anyone would that they can enter the premise and have a drink at the bar. Many people at this time have night especially following a function want to mingle with other guests and stand around the bar area. This raises concerns with Police and L&G Inspectors.

This venue pays \$3,140 per annum if trading until 1:30am.

This is not the only venue in the Cronulla area to experience this situation and no doubt other restaurants in popular areas would be experiencing the same stress of "What am I doing wrong" as they have been allowed to operate like this in the past.

## **OUTCOME**

The attitude towards restaurants being able to provide entertainment and bar facilities to their patrons once they have completed a meal must be reviewed. Popular venues are scrutinized only because they are popular and have larger numbers than the average small corner restaurant.

Having to pay \$3,140 for a liquor licence and the approval to trade late should allow these restaurants to keep the patrons on the premises to complete their night. If not the only thing that is achieved is the costly price of the licence, make your patrons leave after they have completed the meal and send them down the road to the local pub and club. When they get to these other venues what are they doing? Drinking just like they would have done at the restaurant.

The "primary Purpose Test" that is applied to all restaurants need urgent review to include exemptions for restaurants that have the title Bar to operate like a bar as the normal person on the street would expect in these venues.

The option of restaurants providing more entertainment would improve the responsible consumption of alcohol and minimise street issues as people would tend to want to stay at the same venue for the night and not be moved on to other venues.

The majority of venue operator do the right thing and serve alcohol responsibly and should be encouraged to stay open and provide options for patron to drink or consume a meal. Being a restaurant they are able to provide better food services during trading hours than let's say a nightclub and some late night trading pubs and clubs.