

Better Regulation and Innovation

Public Accountability Committee – 7 October 2020 NSW Government's Management of the COVID-19 Pandemic Questions on Notice

| <p>Question from the Hon John Graham</p> <p>The Hon. JOHN GRAHAM: I appreciate those comments. It is really the contradiction between what has been announced, what they thought has happened and what is in reality the public health order. Minister Dominello, one of the issues is that quite a few venues have suspended their operations at the moment. Liquor & Gaming NSW is reporting 532 licences are being temporarily suspended. That is up significantly. Can you give us an idea of how much that is up, or any sense you have got from your available data about how many venues have suspended their operations?</p> <p>Mr VICTOR DOMINELLO: I do not have the up-to-date data, but does Ms Webb or Mr Sariban have those?</p> <p>Ms WEBB: No, I do not think we have that. We could probably take it on notice and get you some details.</p> <p>Mr VICTOR DOMINELLO: Yes, take it on notice.</p> | | | | | | | | | | | | | | | | | | | | | |
|---|------|------|---------------|---------------|----------|------------|-----|-----|-----|--------|------------|-----|-----|-----|--------|------------|-----|-----|----|--------|--|
| <p>ANSWER</p> <p>A liquor licensee is required to notify the Independent Liquor & Gaming Authority when the premises temporarily ceases to trade for a continuous period of 6 weeks or longer. Notification is also required when the licence resumes trading.</p> <p>The number of licensees that have notified that they have ceased to trade has increased when comparing August, September and October 2019 with 2020. This is to be expected due to COVID-19.</p> <table border="1" data-bbox="167 1366 1125 1579"><thead><tr><th></th><th>2019</th><th>2020</th><th>Number Change</th><th>% Change</th></tr></thead><tbody><tr><td>Aug</td><td>435</td><td>549</td><td>114</td><td>26.21%</td></tr><tr><td>Sep</td><td>441</td><td>545</td><td>104</td><td>23.58%</td></tr><tr><td>Oct</td><td>453</td><td>532</td><td>79</td><td>17.44%</td></tr></tbody></table> <p>However, these figures rely solely on licensees that have ceased to trade, or have resumed trading, providing advice to that effect. A proportion of licensees do not provide such notification, and therefore Liquor & Gaming NSW is unable to determine precise numbers of liquor licences that have ceased to trade.</p> | | 2019 | 2020 | Number Change | % Change | Aug | 435 | 549 | 114 | 26.21% | Sep | 441 | 545 | 104 | 23.58% | Oct | 453 | 532 | 79 | 17.44% | |
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| <p>Questions from Mr David Shoebridge</p> <p>Mr DAVID SHOEBRIDGE: The good news is Ms Webb is here. A lot of this would fall within her bailiwick so it is very fortunate to have her here. What is happening with the changes to the construction code?</p> <p>Ms WEBB: I will have to take on notice whether it has been raised at the national level. I could certainly get the New South Wales representative to talk to that.</p> | | | | | | | | | | | | | | | | | | | | | |

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| <p>ANSWER</p> <p>The Australian Building Codes Board has received a Proposal for Change seeking to apply nationally, the current South Australian provisions for 'Small Arts Venues'. This proposal will be considered through the Board's Variation Management Project for possible inclusion in a future edition of the National Construction Code.</p> | |
| <p>The CHAIR: If they think that their primary purpose is providing live music, to which they have some food and alcohol attached to make it a go-in venue, is there a class of licence that they can apply for that will allow them to get the benefit of the 50 per cent rule, and therefore move from the definition of "pub" to the definition of an "entertainment venue" under the public health order?</p> <p>Mr SARIBAN: I think that, in limited circumstances, might be the case for some venues. But, again, it is a very case by case—not case by case, but it is quite a situational question.</p> <p>The Hon. JOHN GRAHAM: This is precisely the point. If they are trapped on a small bar licence, a hotel licence or a club licence, they would really have to move to being on a theatre licence, or a music hall or dance. I know that these do not really exist in the licensing; they do not operate in the real world.</p> <p>Mr SARIBAN: They are all on-premises licences, which can cover anything from a hairdresser through to a restaurant?</p> <p>The CHAIR: Say, the Factory in Enmore. It can hold 1,000 or maybe 1,200 people at maximum capacity. It has a liquor licence. Would that fit within the definition of "pub", Mr Sariban? Would you accept that the principal purpose of that place is not the retail sale of liquor for consumption?</p> <p>Mr SARIBAN: I would have to look at the liquor licence itself. I do not know off the top of my head. Again, the liquor licence itself is issued on the basis of what the business is seeking. The applicant does not come to the licensing authority and say, "I would like to open a venue that plays live music, give me a live music venue licence." They seek a pub licence. They will go through the different licence types to see what constraints are on each, and they will make a decision on what licence they should seek.</p> <p>The CHAIR: Minister, perhaps it is within your portfolio area to look at a small live music venue licence category and create that category. It seems to be that that is where a lot of the friction and pressure points are.</p> <p>Mr VICTOR DOMINELLO: I am happy to take that on notice and speak to the agency about it. It might be a faster route to craft something out of the public health order, but I am happy to take that on notice.</p> | |
| <p>ANSWER</p> <p>The definition of "entertainment facilities" under the public health orders excludes licensed premises with the principal purpose of the sale of liquor for consumption on the premises.</p> <p>Venues' whose liquor licence does not reflect their actual operations can apply to change their licence type. This would allow a venue that, for example, holds a</p> | |

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| <p>hotel licence but primarily operates as a music venue, to shift to an 'on premise' licence.</p> <p>A commitment has been made to investigate a music venue licence class as part of amendments to the Liquor Act being considered in the Legislative Council.</p> | |
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