



22 July 2016

Review of Small Bars Legislation
Liquor & Gaming NSW
Level 6, 323 Castlereagh Street
Haymarket, NSW 2000

Via email: smallbars.review@olgr.nsw.gov.au

Sydney Business Chamber
Street address
Level 12, 83 Clarence Street,
Sydney, 2000
Postal address
GPO Box 4280 Sydney NSW
2001
DX 10109
t (02) 9350 8119
f (02) 9350 8199
e enquiries@thechamber.com.au

Dear Sir/Madam

The Sydney Business Chamber (“the Chamber”) welcomes the opportunity to comment on the NSW Government’s review of the Small Bars Legislation (“the Legislation”). The Chamber is a division of the NSW Business Chamber and represents Sydney’s leading corporations, advocating for Sydney to be a competitive and sustainable global city. The Chamber strives to identify, develop and promote the major issues that contribute to economic activity and growth in Australia’s only global city, Sydney. This is achieved on behalf of business by representation and collaboration with governments at the local, state and federal level.

As a global city that is connected, productive and liveable, Sydney needs a diverse and vibrant night-time economy. Smaller venues provide an alternative and intimate night-time offering, attracting a more varied consumer market. Smaller venues also have a lower risk profile than larger venues.¹

Awareness of Small Bar Licences

Given there are only 50 small bar licences across NSW, and more than half of these are in the City of Sydney, the Chamber believes there is limited awareness of the availability and conditions of small bar licences.

However, the Chamber has heard from the Small Bars Association, NSW that the main factor behind the low number of small bar licences is the low patronage limit which has meant that many bars, considered by the community to be small bars, instead are licenced under either a Hotel – General Licence or an On-Premise Licence, despite the greater regulatory compliance requirements accompanying these licences. This patronage issue is explored further below.

¹ Based on research conducted in 2013 by Woolcott Research for the City of Sydney. See: http://www.cityofsydney.nsw.gov.au/_data/assets/pdf_file/0010/253891/City-of-Sydney-Submission-NSW-Liquor-Law-Review-4-April-2016.pdf (p. 21)

In addition, many businesses may not be aware of the different conditions of each licencing category, such as the exemption from the Community Impact Statement. The Chamber recommends the NSW Government increase their communications around the key conditions of each licence category.

We note that, at the commencement of the small bars license, the City of Sydney allocated a specific resource to assist with small bar applications. With the licence having now been available for some time, this resource has now ceased. It had been used to both assist applicants and council staff better understand the specific requirement of the licence – with the licence and its application now rightly considered as “business as usual”. Councils wishing to diversify their night time offering should consider how replicating a similar resource in their own local government area (LGA) might assist in growing local opportunities.

It would also be interesting to note the success rate of small bar licence applications to understand whether the licence process is adequate or whether it could be improved. The provision of further data on this from Liquor and Gaming may assist in identifying where policy improvements might be made.

In addition, the Chamber notes the positive work being undertaken by Service NSW in relation to the State Priority to Make NSW the easiest State to start a new business. The Easy to do Business initiative focusses on five priority sub sectors (cafes, restaurants and small bars/clothing retail/print/housing construction/freight transport) and is looking at ways to simplify the commencement of a new business in these sectors by bringing applications for development and licensing under a unified digital platform.

The Chamber is pleased with the progress of the program, with the first stage of live beta testing of the platform for cafes, restaurants and small bars underway with Parramatta City Council². The Chamber believes that this program, implemented effectively, can serve to significantly improve the regulatory performance of both local government and state government agencies (including Liquor and Gaming) and more effectively encourage uptake of the small bars licence.

Outcomes and Appropriateness of Small Bar Licence Requirements

Number of Patrons

The current capacity of a small bar is limited to a maximum of 60 patrons allowed on the premises during liquor trading hours. The Chamber has heard from bar owners that this limit raises commercial viability issues as the fixed costs of running a small bar, such as rents (especially in the Sydney CBD) and wages, are likely to exceed the potential revenue of a bar operating at such a low capacity.

² <https://www.service.nsw.gov.au/transaction/open-cafe-restaurant-or-small-bar-nsw>

The Chamber recommends that this maximum number is doubled to 120 patrons based on advice from the Potts Point Partnership, the Darlinghurst Business Partnership and the Small Bar Association, NSW. The 120-patron proposal is determined by commercial viability considerations as well as community perceptions of what a small bar looks like. This would encourage more small bars to apply for the Small Bar Licence which would help achieve the original purpose of the Small Bars Legislation which is to promote diversity in how liquor is sold and supplied, and encourage a safe and multi-faceted night-time economy.

The Chamber supports the NSW Small Bar Association's suggestion that increasing the patronage limit will increase the mix of small bar operators by encouraging a new wave of entrepreneurs and business-owners in NSW to exist alongside bigger, established businesses, thereby increasing competition in the night-time economy:

The small bar culture has enabled diversity in that it encourages entrepreneurs and people who are passionate about the industry to have a go and open a business, rather than only the next of kin pub families, private equity firms and big businesses being able to afford to do so. However, these businesses are NOT viable if restricted just to 60 patrons.³

Trading Hours

It is the Chamber's view that authorised trading hours for small bars are unnecessary. Trading hours of small bar licence holders should be at the discretion of business, only subject to local community impacts. Allowing this level of flexibility would allow business to better respond to market demands – opening later during key events such as Vivid or New Year's Eve without the need to apply for a trading hours exemption.

Exemption from Community Impact Statement Requirements

The small bar exemption from Community Impact Statement requirements is appropriate where community impacts are covered under the local council application process, and therefore this exemption avoids unnecessary duplication. It is important for local councils to require serious consideration of community impacts so that small bars can operate with the support and goodwill from their local community. This will help grow the small bar industry and further encourage a diverse night-time economy.

Exemption from Liquor Licence Freeze

The small bar exemption from the liquor licence freeze in the CBD precinct is appropriate for small bars. Small bars have a significantly lower risk profile than larger venues, and small bars should be encouraged to further grow NSW's night-time economy while promoting diversity in night-time offerings.

³ Small Bar Association, NSW (2016) *Submission in Response to the Department of Justice Small Bars Review*, NSW (provided to NSW Business Chamber).

It should be noted that we have heard anecdotal evidence that, despite this exemption, there is reluctance from licensing authorities in approving small bar licences within the 'lockout' precinct, which should be addressed.

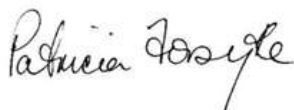
While outside of the remit of this review, the Chamber has previously stated that the licence freeze remains a sledgehammer approach, punishing existing businesses and preventing new operators from entering the market, and therefore should be overturned.

Recommendations

1. Liquor & Gaming NSW should increase industry awareness of small bar licences and conditions.
2. Liquor & Gaming NSW should provide data around the success rate of small bar licence applications to clarify whether there is a need to improve the application process.
3. Local councils should consider allocating resources to assist with small bar licence applications to promote small bars in their LGA.
4. The capacity limit of small bar licences should be increased from 60 patrons to 120 patrons.
5. Small bar licence holders should be able to determine their own trading hours, subject to local community impacts.
6. The exemption from Community Impact Statement requirements should be maintained for small bar licence holders where community impacts have already been considered under the local council application processes.
7. The exemption from the liquor licence freeze for small bar licence holders remains appropriate given the lower risk profile of small bars. Liquor & Gaming NSW should address any reluctance on its part to issue small bar licences applications in the freeze area.

Thank you for the opportunity to comment on the review of the Small Bars Legislation. Please contact Larissa Cassidy on 02 9458 7359 or Larissa.Cassidy@nswbc.com.au if you would like to discuss anything further.

Yours sincerely

A handwritten signature in black ink that reads "Patricia Forsythe".

The Hon. Patricia Forsythe
Executive Director
Sydney Business Chamber