



2020 Draft Liquor Amendment (24 Hour Economy) Bill

NSW Customer Service

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Introduction

The Hunter Business Chamber (the Chamber) appreciates this opportunity to provide feedback on the 2020 Draft Liquor Amendment (24 Hour Economy) Bill.

The Chamber is the Hunter Region's peak business and industry group, representing more than 2,000 member businesses across all sectors, ranging from SMEs to large corporations and organisations. We are connected to the business community statewide and nationally through affiliations with Business NSW and the Australian Chamber of Commerce and Industry and we advocate to government at all levels for policies that promote investment, growth and regional prosperity.

The Hunter Region in NSW is Australia's largest regional economy, with a Gross Regional Product of more than \$50 billion per year, driving more than one quarter of the total economic output of NSW. The City of Newcastle is the engine room of the regional economy, with a GRP of about \$17.6 billion¹, and regarded as the 'regional capital' of the Hunter. In the context of this inquiry, it has traditionally been an important 'social centre' for the region – a drawcard for people seeking entertainment and hospitality services from neighbouring LGAs as well as its own residents. The city's night economy, which is estimated to employ more than 13,000 people and generate nearly \$1.6 billion a year, is centred on the CBD area and neighbouring precincts. Core night economy activities (drinks, entertainment, food) represent an above average proportion of the city's total economy compared to that of New South Wales and Australia.²

Many establishments within the city operate under the liquor licence conditions known widely as the 'Newcastle Model', a set of restrictions initially placed on CBD hotels in 2008 in response to a high incidence of anti-social behavior that had resulted in an elevation of assaults and serious crime. Despite a widely acknowledged positive shift in that culture in the intervening 12 years, the restrictions remain in place. While a diversification and maturing of the city's nightlife has taken place since the introduction of the Newcastle Model, there is now a strong argument that those same restrictions are hindering the growth and evolution of the night economy by adversely affecting the viability of businesses that provide food and beverage services and rely on late-night trade.

For some years, there have been calls from the industry and many in the community for the restrictions to be relaxed to allow the new night economy to flourish. The Chamber argues that the consideration of this Bill provides an opportunity to review the impact of and grounds for ongoing, targeted measures of this nature. It is our view that the incentives and sanctions proposed by the Bill are adequate instruments of regulation and that a having specific set of rules and restrictions for establishments operating in parts of Newcastle is neither sustainable nor justified.

¹Remplan Economic Profile, City of Newcastle website <https://app.remplan.com.au/newcastle/economy/trends/gross-regional-product?state=lb5dUD!XnZlHoYz5HR181ahGqGrLcgcfofwMEFgfXf1xHkHoHKHDIMrK>

² Measuring the Australian Night Time economy 2018, Ingenium Research, p23. https://www.lordmayors.org/wp-content/uploads/2019/09/Measuring-the-Australian-NTE_2018_FINAL_OnlineVersion_2019-09-02.pdf

While comment on the mechanisms of the proposed reforms is best addressed by direct industry stakeholders, the Chamber seeks in this submission to provide feedback on the economic impacts of the Newcastle Model to support a case for punitive city-specific sanctions to be removed.

Newcastle Model: Social and economic impact

As previously mentioned, and referenced by other submissions to this consultation process, the 'Newcastle Model' of liquor regulations was introduced in 2008. The Liquor Administration Board imposed conditions on 14 venues that included restrictions on the sale and service of alcohol, 3am or 3.30am closing times and lockout periods beginning at either 1am or 1.30am. Drink restrictions after 10pm included no shots or service of drinks containing more than 30 ml of alcohol (precluding the service of cocktails) and 'last drinks' to be poured 30 minutes before closing time. In 2010, similar restrictions were placed on six licensed premises in the inner city suburb of Hamilton.³ A review of liquor licence conditions in the Newcastle CBD and surrounding areas was undertaken by Dr Jonathan Horton QC in 2018, but resulted in only minor changes to the regulatory regime⁴.

The imposition of the 2008 conditions is widely credited with having contributed to a substantial reduction in the rate of alcohol-related violence and assaults in the Newcastle CBD and surrounding areas. The Chamber acknowledges this outcome and shares the broad public view that the intervention was beneficial and at the time necessary to address a dangerous and destructive culture among late-night revellers. However, we also concur with the opinion that the city has changed and its night economy has matured. Where nightclubs and 'beer barn' hotels once dominated the late-night environment, there is now a mix of establishments catering for different tastes and price points, including small bars, upmarket hotels with a strong focus on food as well as beverage sales and restaurants-cum-bars that offer a range of dining choices, including tapas and 'small dish' menus that encourage a matched food-and-wine experience.

This was acknowledged by Dr Horton in his 2018 review, in which he wrote that Newcastle was no longer a city "in need of a 'solution'", rather it needed "a licensing regime which prevents a return to past problems and allows for the City to develop in a balanced way and in accordance with community expectations, needs and aspirations". The revitalisation of the Newcastle CBD in recent years has further encouraged this positive evolution in the city's hospitality and entertainment offerings. The redevelopment of the former rail line into public

³ Liquor licensing restrictions to address alcohol-related violence in NSW: 2008 to 2014, NSW Parliamentary Research Service, April 2015. <https://www.parliament.nsw.gov.au/researchpapers/Documents/liquor-licensing-restrictions-to-address-alcohol/Liquor%20licensing%20restrictions%20to%20address%20alcohol-related%20violence%20in%20NSW%202008%20to%202014.pdf>

⁴ Review of Liquor Licence conditions in the Newcastle Central Business District and Surrounding Areas, Mar 2018. Jonathan Horton QC. <https://www.liquorandgaming.nsw.gov.au/documents/ilga/public-consultations/newcastle-licence-review-the-horton-report-2018.pdf>

spaces, the addition of light rail down a beautified main street, the construction of a modern university campus, and a significant uplift in inner-city apartment living have changed the mix of residents and visitors to the city, in turn creating demand for a greater variety of entertainment options.

However, feedback from operators suggests the success of the very venues that have cultivated this renaissance in the city's nightlife is now being hindered by the ongoing imposition of targeted trading restrictions that restrict the viability of their businesses.

Bars

The growth of small bars has had a positive impact on the Newcastle night economy, introducing new levels of sophistication and variety to the city's venue choice and promoting a new wave of mostly young entrepreneurs. Small bars have a different atmosphere to pubs and nightclubs; they don't have televisions, gambling machines, betting facilities or bottle shops and tend towards offering more premium-end beverage offerings that dissuade binge drinkers. They have added vibrancy to the city's hospitality sector and have brought about some welcome and well-executed examples of adaptive reuse of commercial buildings in the inner city. These outcomes are in line with the intent of the legislation that created the 'small bar' category in 2013. The then Hospitality Minister, George Souris, said these "smaller, more intimate" venues were considered to be of lesser risk, would encourage more diversity in how liquor is sold and supplied and help reduce alcohol-related violence.⁵

However, many small bar operators tell a familiar story of struggling to make ends meet under restricted trading conditions. Primary among their concerns is the imposition of 'early' closing times. While NSW liquor laws provide an extended trading authorisation permitting small bars to sell liquor until 2am, development consents are invariably imposed on venues in Newcastle that restrict trading hours to 11pm or midnight. Operators maintain that this significantly affects the profitability of their venues, as explained by the following comment by the owner of the popular small bar Coal and Cedar to the Newcastle Herald in 2016:

"It may look like there are plenty of bars around, but quite a few are struggling. Most only start to turn a profit in the last hour of trade, so if you could open just that extra hour until about 1am, it would make a big difference."

Ethan Ortlipp, co-owner, Coal and Cedar, Newcastle (midnight closing time)

The owners of the Coal and Cedar estimate that their turnover would improve by 40 per cent if they were permitted to open until 2am. They also commented on the impact of alcohol service restrictions on their trading capacity:

⁵ Liquor licensing restrictions to address alcohol-related violence in NSW: 2008 to 2014, NSW Parliamentary Research Service, April 2015. <https://www.parliament.nsw.gov.au/researchpapers/Documents/liquor-licensing-restrictions-to-address-alcohol/Liquor%20licensing%20restrictions%20to%20address%20alcohol-related%20violence%20in%20NSW%202008%20to%202014.pdf>

“Our current licence conditions restrict us to operating until midnight and 30ml drinks only after 10 pm. Therefore, given that our prime offering is cocktails, essentially the largest part of our incomes ceases at 10 pm.”

Some bar owners and operators are of the view that appealing for extended trading hours is futile because of an effective moratorium on granting later closing times for small bars in Newcastle. They feel that decisions are influenced by the ‘Newcastle Model’ precedent:

“We are hesitant to put a DA modify application through council for this to be knocked back and be a waste of our very limited revenue alongside confusion and being sent around in circles to get a straight answer from the local council, OLGR (ILGA) or police.”

Prudence Farquhar, co-owner, Blue Kahunas, Newcastle (midnight closing time)

A similar view was expressed in a Newcastle Herald article in 2016 in regard to applications by restaurants for a primary service authorisation, which allows the venue to serve alcohol without food.

“A restaurant licence with a primary service authority was best for our business model, but we were effectively told [by legal advisors] we should just go with the restaurant licence or we’d likely get nothing.”

Shawn Sherlock, Foghorn Brewhouse, Newcastle

Unfortunately, concerns about viability have been borne out by the closure of a number of CBD small bars after only a short time in operation. These include:

- Reserve Wine Bar, an upmarket food and beverage venue in a renovated landmark former bank building. Closed in 2019 after six years in operation;
- Le Passe Temps: A French-themed lounge bar also in a repurposed former bank building. Closed in 2017 after three years in operation;
- Flying Tiger: Stylishly fitted-out contemporary bar in Hunter Street. Closed in 2019 after two years in operation.

While there were doubtless a range of factors that contributed to the failure of these promising and popular premises, their inability to trade successfully for more than a few years points to a worrying trend that supports the views of other operators about the challenges of running small bars successfully in the Newcastle CBD. With COVID-19 restrictions now in place, trading conditions have become significantly more marginal; some venues have not yet reopened because limited floor space means they cannot accommodate a large enough crowd to trade viably, and some fear they will have to close permanently if current restrictions continue.

Hotels

The improved nightlife culture in Newcastle has not only been brought about by the emergence of new venues; existing hotels have also adapted their business models to respond to the changed trading environment and the varied demands of a broader clientele.

However, the original 14 premises subject to the 2008 conditions experienced a significant downturn in trade that affected their profitability, staff numbers and asset value.

These impacts are covered in more detail in the submission to this inquiry provided by the Newcastle Hunter branch of the Australian Hotels Association (AHA) but in summary, the main consequences across the group (as measured by the AHA in 2010) were:

- Loss of one in four hospitality workers;
- An approximate drop in sales revenue of 30 per cent;
- Asset value collectively decreased by \$22.5 million;
- Some hotels closed or went into receivership.

A recent update provided by the AHA on the status of the 14 hotels that initially fell under the 2008 conditions indicates that, 12 years later, only about half are trading week-round:

- Eight are trading six to seven days a week, most with closing times between 10pm and midnight;
- Two have closed permanently;
- Four are trading between one and four days a week

These were the trading patterns reported earlier this year. Since then, all of the hotels have been impacted significantly by COVID-19 restrictions and four that were previously trading have not reopened since the pandemic restrictions were put in place.

Most of the venues have changed hands since 2008 and many have changed their business models, with varying levels of success. As indicated in the AHA submission, the only hotelier who is operating in the same venue as he was in 2008 is Mick Angus, from the Grand Hotel. While that hotel has continued to operate, after adopting a stronger focus on food and accommodation, Mr Angus estimates that net profit loss over the past 12 years is in the order of \$3 million.

COVID-19 has had a significant impact on the night and visitor economies of Newcastle that has further exacerbated trading issues. Accommodation bookings are 10 per cent of normal room occupancy rates, bar trade is sitting at 20 per cent of regular sales, and food orders have reduced by more than 50 per cent across the CBD.

Visitor economy

It is the Chamber's view that the continuation of restrictions on licensed venues in Newcastle is at odds with the city's aspirations to develop its visitor economy and position itself as a destination for national and international events. Tourism is already a significant employer and driver of Newcastle's economy, with more than 5,000 people, or five per cent of the city's workforce, engaged in the industry, and many more employed in sectors that contribute to

the visitor economy, including hospitality, retail and creative arts.⁶ Tourism supports more than 17,000 jobs across the Hunter region and is an industry that will become increasingly important as the region continues to diversify its economy. Prospects for industry growth in Newcastle prior to COVID-19 were promising, with investment by international hotel groups demonstrating confidence. Two new hotels have opened in the past 18 months, one is due to open and two five-star hotels – the city’s first – are in the pipeline. These developments will significantly enhance the city’s attraction as an event and conference destination.

With its coastal location, revitalised CBD and vibrant arts scene, Newcastle has the potential to reinvent itself as a contemporary tourist destination in the tradition of post-industrial gateway cities such as Manchester and Bilbao. However, a diverse and thriving night economy is an essential element of a city’s tourist offering and the imposition of restrictions on late-night trading in licensed venues not only limits the visitor experience but also detracts from Newcastle’s image as a cosmopolitan city. The ‘food, beverage and after dark scene’ is recognised in the Newcastle Destination Management Plan as one of the city’s key tourism assets and attributes. The plan acknowledges the need for “longer operating hours” to stimulate nightlife.⁷ A healthy nightlife is also needed to support the city’s live music practitioners and the Hunter region’s \$1 billion creative industries economy.

Conclusion

The Chamber congratulates the NSW Government on developing legislation that aims to help create a vibrant, safe and strong 24-hour economy. A key aspect of these amendments is the proposed shift to a new system of incentives and sanctions system that will reward venues for good behavior, while simplifying and standardising the approach to managing risk in licensed premises. We argue that the move to this consistent approach provides the perfect opportunity to remove the city-specific trading restrictions that apply to some venues in Newcastle, given the broadly held view that the culture they sought to address has changed considerably for the better in the 12 years the sanctions have been in place. Removal of these restrictions would provide a more viable business environment for new and existing operators of licensed premises, further encourage the growth and diversification of the city’s night economy and support Newcastle’s continued development as a tourist destination.

We acknowledge that the ‘Newcastle Model’ of restrictions was a required antidote for the culture of anti-social behaviour that existed at the time of introduction but argue that the city’s night economy has matured sufficiently that such restrictions are no longer required. We believe a system that rewards good operators is preferable to a blanket punitive approach that penalises all operators for what are essentially misdeeds of the past.

⁶ Remplan Economy Profile, City of Newcastle website, <https://app.remplan.com.au/newcastle/economy/tourism/employment?state=3yqecL!Op7aUvLpBH7gRg9HLOLOZUVcrfyo8sr3830svf8GU1fMHVA8bTzRj>

⁷ Newcastle Destination Management Plan 2016-2019, p9 <https://www.dssn.com.au/app/uploads/2018/07/Newcastle-DMP.pdf>

The Chamber appreciates the opportunity to contribute feedback on this legislation and is happy to be involved in further discussion.

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