

NSW Government Liquor Law Review Merivale Submission

To: liquorlawreview@justice.nsw.gov.au

1. Introduction

Since first launching Hotel CBD in 1995, Merivale has earned a reputation as Australia's leading and most innovative hospitality operator. We have since grown our portfolio of world-class licensed venues to over 60 restaurants, bars and function spaces both within and outside Sydney's CBD. We are a significant provider of employment and training for aspiring hospitality industry professionals, today employing more than 2800 people, the bulk of them young NSW residents. We are also a major contributor to the growth and success of the State's leisure and tourism sectors, and we care deeply about Sydney's reputation as a vibrant international city.

Merivale has been widely credited with redefining 'hotel culture' in NSW in the past two decades through our creation of fresher, more appealing and accessible licensed venues, the type of which didn't previously exist in NSW. From multi-themed entertainment precincts like Establishment, ivy and Coogee Pavilion, to elegant restaurants and bars like Felix, Mr Wong and Palmer & Co, we have invested enormous time, money and creative energy in developing venues that focus on design quality, service excellence and fun. Venues that more people want to visit to enjoy.

Our approach and execution has been very successful in attracting a much more diverse hotel audience profile in Sydney, one that is generally friendlier, more sophisticated and open to more experiences than it was 20 years ago. It has also set the tone and new benchmarks for others to follow, providing a platform for Sydney to be one of great hospitality cities in the world, on the same level as Paris, London or New York - provided we don't regulate ourselves into oblivion. There are disturbing signs that we have started down this path already in NSW with the closure of several landmark venues.

Merivale's achievements have been recognised with numerous hospitality industry awards, including the induction of both John and Justin Hemmes into the AHA NSW Hall of Fame in 2013. While peer recognition is welcomed, we take equal pride in the fact that in 2015 our venues played host to more than seven million guests from all parts of NSW, Australia and dozens of international destinations, and that our local workforce has grown tenfold since 1995. We believe the significance of the contribution that Merivale and our industry colleagues make to the NSW economy, not just the hospitality sector, needs to be understood when laws that affect the industry are developed and reviewed.

It is in this context as an established industry leader, with a reputation for knowing what works in Sydney and what doesn't, that Merivale provides this submission to the Review of the *Liquor Amendment Act 2014* in good faith. Broadly speaking, we support common-sense measures to reduce alcohol-related violence and we don't know any hospitality operator that doesn't. However, we have serious concerns about some blanket measures implemented under the Act that target a handful but affect many through unintended economic and social impacts such as job losses and tourism and cultural impacts. These are discussed further below.

2. Assessment of Reform Measures

As referenced in the call for submissions, the reforms implemented under the *Liquor Amendment Act 2014* were designed to “*tackle alcohol-related violence.*” The purpose of the independent review is to determine whether the policy objectives remain valid and whether the measures adopted remain relevant to achieving those objectives.

The chief measures implemented that will be examined include:

- the 1.30am lockout and 3am cessation of service measures in the Sydney CBD and Kings Cross.
- the state-wide 10pm take-away liquor restriction.
- the periodic liquor license fee scheme.

Merivale’s position on each these measures follows.

1:30am Lockout and 3am Cessation of Service

- *Merivale opposes the continuation of the lockout and cessation of service measures*

In Merivale's 21 years as a key participant in the hospitality industry in NSW, these measures have had a greater impact on the financial viability of hospitality venues in Sydney and the international perception of Sydney as a potential destination, than any others.

It is entirely appropriate for preventative measures and strong penalties to be targeted at the handful of people who go out to a licensed venue with reckless intent and commit a criminal act. We fully support sensible and balanced measures to this effect. It is not appropriate or balanced for those measures to be so broadly applied that they threaten the viability of hundreds of businesses and have a negative impact on so many community members.

While some policymakers point to the above measures as having had a direct correlation with a reduction in alcohol related violence at times when venues are not operating, their devastating economic impacts outweigh the benefits and runs counter to one of the principal objects of the Liquor Act – “*to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries*”.

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The closure of a string of small bars, hotels and restaurants in the lock-out zone is emblematic of the pain being experienced across the hospitality sector and more broadly. This includes:

- The impact on hundreds of jobs and reducing hospitality options and incentives to return for visiting tourists.
- Across the board turnover impacts on venues in the lockout and cessation zones are averaging 30% and resulting in the loss of hundreds of jobs as shifts are cut and positions deleted.

- The development of Sydney's music and entertainment industries are being constrained through decreased opportunity for live musicians to entertain. This affects the very heart and character of Sydney and makes it a less appealing tourist destination than our closest competitors.
- Surrounding small businesses in the CBD that rely on the visitor economy are being negatively impacted as traffic in major thoroughfares like George Street has rapidly declined.
- A healthy avenue of flexible student employment is being closed as casual jobs and shifts disappear. Merivale alone currently employs approximately 1000 students in NSW.
- Sydney's reputation as an international dining and hospitality destination is being impacted by reports from tourists and celebrities of our 'nanny state' laws. For example, Merivale venues have had to refuse entry to Grammy Award-winning artists (Madonna, Prince, Drake, Marilyn Manson, Ed Sheeran and the Smashing Pumpkins) and sporting heroes (James Harden, playing members of the Arsenal and Chelsea Football Clubs and British Lions Rugby team), generating negative social media comments.
- Surrounding small businesses in the CBD that rely on the visitor economy are being negatively impacted by declining traffic in major thoroughfares like George Street.

There is an opportunity through the review of the Act to address some of these unintended consequences caused the lockout and cessation measures. Individual patrons and venues ought to be assessed on their behaviour and their record of compliance with balanced measures that address the core issue of violence reduction. The current measures not only adopt the opposite position of penalising all venues and patrons within a defined area, they make no provision for responsible people and well managed venues to seek exemption from their operation. This is a fundamental flaw that is affecting Sydney's reputation as a hospitality and cultural destination.

The 10pm take-away liquor restriction

- *Merivale supports retention of the 10pm restriction.*

One of the great difficulties encountered by licensed venues in the Sydney CBD is the practice and prevalence of pre-fueling, where people consume liquor, whether in public or private, prior to entering licensed venues.

Pre-fueling is a known contributor to many alcohol-related incidents, including the tragic deaths of Thomas Kelly and Daniel Christie. As Professor Matt Barrie concluded:

“Both assaults occurred around 10pm, well before curfew hours that the lockout laws introduced. In the case of Thomas Kelly, the assailant Kieran Loveridge had been drinking heavily at home and in the car, prior to arriving in the city.”¹

The Periodic Liquor Licence Fee Scheme

- *Merivale opposes the current form of the liquor license fee scheme*

¹ See fn 1.

While not opposed to a periodic liquor license fee scheme in principle, Merivale is opposed to the current format for this scheme in calculating compliance history risk loading because it fails to appropriately differentiate between small and large venues or the severity of an offence that triggers the scheme. The effect is to punish an otherwise well-operated and well-managed large venue for one incident, regardless of its type.

For example, if a large and popular venue that attracts 50,000 patrons a week has one minor assault committed in a year, it is treated the same as a small venue that attracts 500 patrons a week and has one grievous bodily harm incident recorded in a year in calculating the compliance history risk loading. This is akin to assessing a driver travelling 5km over the speed limit in the same risk category as another driver travelling 50km over the limit or recording a dangerously high blood alcohol level. The current scheme also fails to give appropriate weight to the overall management record of a venue.

Again, while the intent of the current scheme has merit, its operation is palpably unfair and lacking in logic.

3. Conclusion

Thank you for the opportunity to make this submission.

Merivale has devoted enormous resources in the past two decades into creating world class venues that attract more discerning audiences and employ thousands of people. We are proud of our achievements and the role we have played in Sydney's cultural transformation. As a city, we have come too far to now abandon our rightful place as a leading international hospitality destination through a stubborn adherence to measures that are having damaging impacts. As stated earlier, we fully support sensible measures to reduce alcohol related violence, but we believe this can be achieved through alternative effective measures that don't have such negative consequences for the hospitality industry and broader community.

We trust the views expressed in this document will be given serious consideration. If any further industry input is required throughout the course of the Review, please consider us as willing to participate.