



# Late Night Trading Code of Practice – Review Outcome

The Liquor and Gambling Commissioner has completed a review of the Late Night Trading Code of Practice to assess its effectiveness in reducing alcohol related harm.

This report provides the outcome of the review and outlines amendments to the Late Night Trading Code of Practice informed by targeted and public consultation.

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## 1. Background

The *Liquor Licensing Act 1997 (Act)* controls the sale and consumption of alcohol. The Act seeks to minimise the harm associated with the consumption of alcohol in the community in South Australia. The Liquor and Gambling Commissioner (**Commissioner**) is responsible for administration of the Act through Consumer and Business Services (**CBS**) and compliance is a joint responsibility between CBS and South Australia Police (**SAPOL**).

In 2013, the Commissioner introduced the General Code of Practice (**General Code**) and Late Night Trading Code Practice (**Late Night Code**) under section 42(1) of the Act as a condition of licence that must be complied with. The General Code applies to all licensees, whilst the Late Night Code only applies to late night venues.

The General Code and Late Night Code were introduced to encourage responsible service and consumption of liquor and to reduce the level of alcohol-related harm that occurs in and around licensed venues. The Late Night Code prohibits the entry or re-entry of patrons into licensed premises after 3.00am (excluding the Adelaide Casino and restaurants). This is known as the 'lockout'.

On 5 December 2022 the Commissioner commenced broad public and targeted consultation inviting all interested parties to complete an online survey available on yourSAy and make submissions regarding the Late Night Code. Submissions closed on 20 January 2023.

The aim of the consultation was to assess whether the Late Night Code has successfully reduced alcohol-related harm in and around licensed venues, whether it has resulted in any unintended consequences and to provide recommendations (if any) for amendments to the Late Night Code.

## 2. Summary

The Commissioner has given full consideration to the survey responses and written submissions provided as part of the review of the Late Night Code, including supporting research, data, evidence and consideration of requirements in other jurisdictions.

The Late Night Code has generally been accepted by industry, patrons and the community with broad support received across all key areas of the Late Night Code, with the exception of the restriction on late night entry. However, the late night entry restriction received overwhelming support from businesses, local government, law enforcement and community and health based organisations.

Overall, submissions supported the Late Night Code as an important policy instrument that plays a role in curbing incidents of anti-social and violent behaviour, contributes to providing a fair balance between day and night time trade and reduces the harms arising from liquor consumption while facilitating the socially acceptable commercial economic development of various industries associated with liquor consumption – including live music, tourism and the hospitality industry.

Submissions highlighted that whilst the Late Night Code contains restrictions on entry and re-entry after 3am, licensed venues can continue to trade as authorised by their license, where this would not be the case if a 'last drinks' policy was adopted similar to Sydney, which is currently 3.30am.

Submissions that did not support the continuation of the Late Night Code posited that it no longer fulfils any legislative purpose and that it seeks to address a complex social situation that requires a more comprehensive response with a strong educational emphasis.

In relation to whether survey respondents supported the Late Night Code continuing, 46% of industry were supportive and 38% were not supportive, whilst 30% of the community were supportive and 55% were not supportive. Overall, 34% of all respondents agreed with the Late Night Code continuing, 15% were neutral or unsure and 52% did not agree with it continuing.

The Late Night Code, including the late night restricted entry provision, was noted in submissions as an important factor in reducing violence and anti-social behaviour in the Adelaide CBD. Offences linked to licensed premises in Adelaide between midnight and 7.00am decreased from 2015 to 2022. For example, during 2015 there were 311 offences against the person, this decreased to 245 in 2022. Between 2015 and 2022 there was also a significant decline in expiations issued for offensive/disorderly behaviour in or near licensed premises between midnight and 7.00am.

SAPOL further noted that its experience since the introduction of the Late Night Code is that the late night restricted entry clause has had a positive effect on reducing alcohol-related violence and disorder in the Adelaide CBD. SAPOL submitted that if the Late Night Code is removed or substantially altered there is a risk that alcohol-related violence and disorder in the Adelaide CBD would likely increase to levels witnessed before the Late Night Code's introduction.

SA Ambulance Service noted that drugs and alcohol are the second most causative factor identified in violence and aggression incidents that are reported, with adult inappropriate behaviour being the primary causative factor. It was noted that 77% of violence and aggression related incidents related to drugs and/or alcohol typically occur between 4pm and 3am. Further, incidents typically decreased sharply from 3am and remain low during the morning.

Feedback from the Department of Health and Wellbeing also suggests that the Late Night Code, as an overall measure, has been successful in reducing alcohol-related harm in and around licenced venues. Alcohol related presentations to the Royal Adelaide Hospital reduced from 544 in 2015 to 258 as at 30 November 2022.

The Commissioner has determined that the Late Night Code, including the restriction on late night entry, will continue in operation with a further review after three years. However, the review has identified some refinements to the Late Night Code which are anticipated to come into operation from 1 November 2023.

The following provides a summary of the key outcomes of the review and amendments to be made to the Late Night Code as outlined in this report:

- The role of the drinks marshal will be amended to clarify that they may exercise powers they have under the Act as a Responsible Person to actively intervene.
- The restriction on drinks that can be sold after 2am will be amended to clarify that "shooters" includes "shots".
- The requirement to operate a metal detector will be amended from a 'suitably trained employee' to 'security agent' to align with the *Security and Investigation Industry Act 1995*.
- The requirement relating to CCTV will be amended to define adequate lighting, clarify coverage within a venue and increase technical specifications to align with best practice.
- The Adelaide Accord will be re-established, comprising of licensed venues, SAPOL, SA Health, Adelaide City Council and other relevant agencies and organisations.
- Further education will be undertaken for both the community and industry, including consideration of guidance material to help induct staff.
- Requirements relating to Responsible Service of Alcohol Training, including consideration of Bystander Intervention Training, will receive further consideration as potential amendments to the General Code.

### 3. Consultation

As part of the review, the Commissioner wrote directly to key stakeholders seeking submissions and supporting research, data and evidence.

As these submissions have been crucial in determining the outcome of the review, they have been published along with any supporting material that was provided.

There were 18 submissions received, of which 13 were supportive and included advocacy for further amendments, 2 were neutral and provided information only and 3 did not support the continuation of the Late Night Code.

Submissions were received from industry, businesses, local government, law enforcement and community and health based organisations.

The consultation also consisted of two online surveys on the YourSAy website. The community survey(including patrons) had a total of 359 respondents while the industry survey had 97 respondents.

Responses to the survey questions are included in the relevant sections of this report. Please note that where a breakdown of results is only recorded for respondents that were supportive or not supportive in this report, the remaining percentage of respondents were neutral or unsure. Further, percentages for respondents that were supportive, neutral or unsure or not supportive have been recorded as a round number which may result in totals equaling 99% or 101%.

Survey responses from the community, patrons and industry participants were an important contribution to the review of the Late Night Code and have been considered in conjunction with the submissions that were lodged which provide further representations and basis for either support or opposition to the Late Night Code or certain provisions.

Submissions were received from the stakeholders listed below. As these submissions were not marked confidential, they have been published on the CBS website at <https://cbs.sa.gov.au/sections/LGL/late-night-code-review-consultation>.

1. Adelaide City Council
2. Adelaide West End Association
3. Adelaide Business Collective
4. Alcohol and Drug Foundation
5. Australian Hotels Association
6. Bianca Tropeano
7. ECON Group
8. Encounter Youth
9. Fletcher and Lawson Lawyers (representing Polites)
10. Public Health Association Australia
11. Royal Australasian College of Surgeons
12. SA Ambulance Service
13. South Australian Council of Social Services
14. SA Health
15. South Australian Network of Drug and Alcohol Services
16. South Australia Police (SAPOL)
17. South Australian Wine Industry Association
18. Working Women's Centre SA

## 4. Drinks Marshal

Clause 7: Between 2.01am and 7.00am at all times while open for trade, the licensee must ensure a Responsible Person under the Act is performing the duties of a drinks marshal.

Submissions largely supported the requirements relating to the drinks marshal and recognised the vital role that they play in moderating behaviours and ensuring compliance with the Act to not sell or supply liquor to intoxicated persons.

The majority of industry respondents (59%) were supportive of having a drinks marshal after 2am, while 27% were not supportive. The majority of community respondents (55%) were also supportive, while 22% were not supportive. Overall, 55% of all respondents supported this provision, 22% were neutral or unsure and 23% did not support this provision.

In response to whether industry has any issues with the requirement to have a drinks marshal after 2am, 42% of respondents have no issue, 18% of respondents have some issues and 40% advised that this requirement does not apply to their venue.

One of the proposed amendments raised in relation to the drinks marshal was for the duties of a drinks marshal to be clarified so that it is clear they have the authority to intervene and, where necessary, remove or have a person removed from a licensed premises and direct other staff to refuse service to an intoxicated person.

Clause 7 will be amended to clarify that a drinks marshal may exercise the powers they have under the Act as a Responsible Person to actively intervene.

## 5. First Aid

Clause 8: Between 2.01am and 7.00am at all times while open for trade, the licensee must ensure that at least one staff member is on duty who has been approved as a Responsible Person under the Act and successfully completed nationally accredited first aid training.

Submissions were supportive of the requirement to have a Responsible Person with accredited first aid training. One submission noted this as a sensible precaution and another stated that it should be in effect at all times, but acknowledged it becomes more prudent as the night goes on.

The majority of industry respondents (74%) were supportive of having a Responsible Person with accredited first aid training after 2am while 10% were not supportive. The majority of community respondents (84%) were also supportive while 5% were not supportive. Overall, 82% of all respondents supported this provision, 13% were neutral or unsure and 6% did not support this provision.

In response to whether industry has any issues with the requirement to have a Responsible Person with accredited first aid training after 2am, 57% of respondents have no issue, 9% of respondents have some issues and 33% advised that this requirement does not apply to their venue.

Clause 8 will be retained without amendment.

## 6. Beverages promoting rapid or excessive consumption

Clause 9: Between 2.01am and 7.00am at all times while open for trade, the licensee must not advertise the sale, offer for sale, or permit the sale or supply of any alcoholic beverage that may encourage the rapid/excessive consumption of alcohol.

Submissions were generally supportive of the restrictions on the sale and supply of beverages promoting rapid or excessive consumption with one stating that measures restricting the number of drinks sold to a customer at any one time are proven strategies to reduce alcohol-related violence and demonstrate a commitment to the responsible service of alcohol.

Over half of industry respondents (53%) were supportive of restrictions on beverages promoting rapid or excessive consumption after 2am, while 37% were not supportive. Slightly more community respondents (43%) were supportive than the 41% that were not supportive. Overall, 45% of all respondents supported this provision, 15% were neutral or unsure and 40% did not support this provision.

In response to whether industry has any issues with the restrictions on beverages promoting rapid or excessive consumption after 2am, 42% of respondents have no issue, 28% of respondents have some issues and 30% advised that this requirement does not apply to their venue.

Proposed amendments raised in relation to restrictions on beverages promoting rapid or excessive consumption included clarifying that “shooters” includes “shots” and restricting the sale or supply of any beverage equivalent to 1.5 standard drinks.

Clause 9 will be amended to clarify that this includes “shots”, however it is not proposed to extend the current restriction to any beverage equivalent to 1.5 standard drinks at this time as this should be considered in conjunction with any restrictions on the volume and quantity of beverages. The impact on licensees to comply with such restrictions including reviewing labelling of pre-mixed beverages must also be considered. This could be considered further by the Adelaide Accord which is discussed in section 10.

## 7. Footpaths and other outdoor areas

Clause 10: Between 2.01am and 7.00am at all times while open for trade, the licensee must not permit service or supply of liquor for consumption on any part of the licensed premises comprised of a footpath or other outdoor area to which the general public has access (not including beer gardens, balconies, enclosed courtyards or similar that are only accessible from within the licensed premises).

Submissions were supportive of the restriction on serving or supplying liquor on footpaths or outdoor areas accessible to the general public, recognising that this reduces the chances of disturbances between patrons and those using the footpath, creating a safer environment.

Whilst it was submitted that queueing is an ongoing issue on Hindley Street, it was noted that a previous clause of the Late Night Code relating to queue management still applies to late night venues but is now a requirement of the General Code and applies to all licensed venues.

Further, it was noted that Adelaide City Council Outdoor Dining permits require furniture that is not fixed to be removed from footpaths from 3am to support dispersal from the area and reduce potential congregation of persons who were unable to gain entry to the venue after 3am.

Slightly over half of industry respondents (53%) were supportive of restrictions on serving alcohol on footpaths and outside venues after 2am while 32% were not supportive. Half of the community respondents (50%) were supportive while 36% were not supportive. Overall, 50% of all respondents supported this provision, 14% were neutral or unsure and 35% did not support this provision.

In response to whether industry has any issues with the restrictions on serving alcohol on footpaths and outside venues after 2am, 41% of respondents have no issue, 18% of respondents have some issues and 41% advised that this requirement does not apply to their venue.

Proposed amendments raised in relation to footpaths and outdoor areas included monitoring of queue sizes by council inspectors or SAPOL so they do not create an obstruction and requiring removal of all footpath chairs and tables after 2am to encourage better flow of pedestrian foot traffic, especially where venue queuing occurs.

Clause 10 will be retained without amendment on the basis that Adelaide City Council Outdoor Dining permits require the removal of furniture and that queue management provisions are provided for in the General Code.

## 8. Entry and use of metal detectors

Clause 11: Between 12.01am and 7.00am at all times while open for trade the licensee must ensure that suitably trained employees are operating a metal detector to screen all patrons upon entry onto the licensed premises, to detect persons who may be carrying weapons or other potentially dangerous objects.

Submissions were varied but generally supportive of the requirement to use metal detectors for the safety of staff and patrons. There were views that the requirement should exclude restaurants and small venues as it may act as a disincentive to remain open after midnight and should not apply to venues that do not intend to trade beyond 3am. It was posited that the unintended consequence of this requirement is that it drives individuals illegally carrying weapons to venues that are not subject to this requirement or results in "planting" knives outside venues.

Further, it has been raised with the Commissioner that any person using a scanning device for the purpose of controlling crowds should be required to hold a security agent's licence under the *Security and Investigations Industry Act 1995*.

SAPOL submitted that there appears to be an increase in the detection of knives in the Adelaide CBD and that altercations with knives can have fatal consequences, however the use of metal detectors is a preventative measure for the protection of both staff and patrons.

Over half of industry respondents (55%) were supportive of the requirement to use metal detectors for entry after midnight, while 25% were not supportive. The majority of community respondents (57%) were also supportive, while 25% were not supportive. Overall, 56% of all respondents supported this provision, 19% were neutral or unsure and 25% did not support this provision.

In response to whether industry has any issues with the requirement to have metal detectors for entry after midnight, 40% of respondents have no issue, 19% of respondents have some issues and 41% advised that this requirement does not apply to their venue.

Proposed amendments raised in relation to the use of metal detectors included excluding restaurants, small venues and venues that do not intend to trade beyond 3am from this requirement and requiring staff using a scanning device to be a licensed crowd controller.

Clause 11 will be amended from 'suitably trained employees' to 'security agent' to align with requirements under the *Security and Investigation Industry Act 1995* which includes 'screening persons seeking to enter a place' in the definition of controlling crowds. The current wording of this clause may only relate to training in the use of the metal detector, whereas aligning this requirement with the *Security and Investigation Industry Act 1995* will ensure that staff operating the metal detector are security agents and better placed to manage a situation if a weapon or other potentially dangerous object is detected on a patron seeking to gain entry.

Further, it is not proposed to exclude restaurants, small venues or venues that do not intend to trade beyond 3am. This is on the basis that SAPOL has noted an apparent increase in the detection of knives in the Adelaide CBD. Venues may apply to the Commissioner for an exemption from this requirement, which will be assessed on a case-by-case basis.

## 9. Restrictions on the use of glassware

Clause 12: Between 3.01am and 7.00am at all times while open for trade the licensee must not allow any drink (whether it contains liquor or not) to be sold for consumption on the licensed premises in glassware unless it is tempered or polycarbonate glassware.

Submissions were generally supportive of the restriction on the use of glassware on the basis that it increased staff and patron safety as broken glass can easily inflict severe and sometimes fatal injuries. However, one submission advocated that this should be assessed based on the type and capacity of the venue so that, for example, cocktail and hotel lounge bars were excluded as they present a significantly lower risk than some other venues.

The majority of industry respondents (59%) were supportive of the restriction on the use of glassware after 3am, while 27% were not supportive. The majority of community respondents (57%) were also supportive, while 26% were not supportive. Overall, 58% of all respondents supported this provision, 16% were neutral or unsure and 26% did not support this provision.

In response to whether industry has any issues with the restriction on the use of glassware after 3am, 45% of respondents have no issue, 16% of respondents have some issues and 39% advised that this requirement does not apply to their venue.

One of the proposed amendments that was raised in relation to the restriction on the use of glassware was to exclude certain venues or classes of licence that may present lower risk.

Clause 12 will be retained without amendment at this time on the basis that not all of these venues may present a lower risk. Venues may apply to the Commissioner for an exemption from this requirement, which will be assessed on a case-by-case basis.

## 10. Late night restricted entry

Clause 13: Between 3.01am and 7.00am at all times while open for trade the licensee must not permit a patron (other than a resident) to re-enter the licensed premises.

Submissions were varied but generally supportive of the restriction on entering or re-entering venues after 3am, with 13 submissions supporting the restriction, 2 submissions that were silent on the matter and 3 submissions that did not support the restriction.

Less than half of industry respondents (33%) were supportive of the restriction on entering or re-entering venues after 3am while 58% were not supportive. Less than half of community respondents (30%) were supportive while 63% were not supportive. Overall, 31% of all respondents supported

this provision, 8% were neutral or unsure and 62% did not support this provision.

Submissions that did not support the restriction noted that no other jurisdiction has lockout laws and claimed they add no value to the late night economy experience but are a costly administrative burden that serves no purpose other than to create a barrier to vibrancy.

It was noted that that the Victorian Liquor Commission has not utilised its existing powers to impose a lockout and NSW removed its lockout following recommendations from a NSW Parliamentary Joint Select Committee on Sydney's Night Time Economy. The Committee heard evidence that Sydney was forgoing potential economic activity by not taking full advantage of the night time economy.

It should be noted that the Committee recommended, amongst other things, that the 1.30am lockout and the 3am cessation of service be urgently removed. Whilst the NSW Government removed the lockout, it retained the cessation of service but amended this to 3.30am.

Proponents for the removal of the restriction also stated that lockout laws take the issue of late night violence from the clubs to the streets and submitted that public safety improves by allowing people into venues because of the presence of security staff and the use of CCTV.

It was posited that the lockout laws have a localised impact, as the only places that are able to trade after 3am are on or nearby the late night precinct of Hindley Street, North Terrace and parts of Currie Street in the Adelaide CBD. Venues will generally only apply to trade for hours as authorised under their development approval. There are around 70 late night venues licensed to trade after 3am across South Australia, with 55% operating within Adelaide.

It was further noted that restrictions or conditions need to be based on evidence. One submission stated that the total offences against the person and against the property in annual filtered searches of the Adelaide CBD were already declining for three consecutive years prior to the lockout being introduced and therefore the lockout did not attribute to this decline.

It was also raised that citizens have a right to regulate their own behaviour to the extent it does not impinge on the rights of other individuals. However, it should be noted that public safety and health must be measured collectively in terms of the lives of individuals and on a population basis and this may require intervention that involves restriction of choice.

Submissions that supported the restriction noted that the Late Night Code, including the late night restricted entry provision, is an important factor in reducing violence and anti-social behaviour in the Adelaide CBD. Offences linked to licensed premises in Adelaide between midnight and 7.00am decreased from 2015 to 2022. For example, during 2015 there were 311 offences against the person, this decreased to 245 in 2022. Between 2015 and 2022 there was also a significant decline in expiations issued for offensive/disorderly behaviour in or near licensed premises between midnight and 7.00am.

Further, there is a noticeable and consistent peak in offences and offences linked to licensed premises around midnight to 1.00 am which gradually reduces over the subsequent hours. There is a marked decline in offences after 3.00 am and it could be argued that the implementation of the Late Night Code has been a significant contributing factor to this decrease.

SAPOL further noted that its experience since the introduction of the Late Night Code is that the late night restricted entry clause has had a positive effect on reducing alcohol-related violence and disorder in the Adelaide CBD. SAPOL submitted that if the Late Night Code is removed or substantially altered there is a risk that alcohol-related violence and disorder in the Adelaide CBD would likely increase to levels witnessed before the Late Night Code's introduction.

SA Ambulance Service noted that drugs and alcohol are the second most causative factor identified in violence and aggression incidents that are reported, with adult inappropriate behaviour being the primary causative factor. It was noted that 77% of violence and aggression related incidents related to drugs and/or alcohol typically occur between 4pm and 3am. Further, incidents typically decreased sharply from 3am and remain low during the morning.

Feedback from the Department of Health and Wellbeing also suggests that the Late Night Code, as an overall measure, has been successful in reducing alcohol-related harm in and around licenced venues.



Alcohol related presentations to the Royal Adelaide Hospital reduced from 544 in 2015 to 258 as at 30 November 2022.

A submission noted that the majority of businesses and people who work in the West End believe that the Late Night Code plays a role in curbing incidents of anti-social and violent behaviour and increasing the sense of safety for all who work, live and study in the West End. It was further submitted that since the introduction of the Late Night Code, anti-social incidents in the West End have been extremely rare if non-existent.

It was noted that whilst patrons cannot move between venues after 3am, licensees have the ability to continue to serve alcohol and trade until the time authorised on their licence, as opposed to the 3.30am cessation of service in Sydney often referred to as a 'last drinks' regime. This approach would have a significantly higher impact on licensees and can result in a large number of intoxicated patrons exiting venues around the same time as all venues being required to close.

The late night restricted entry aims to strike the right balance to allow venues to continue to trade whilst ensuring there are safeguards to protect patrons and the broader community from anti-social and violent behaviour. The restriction reduces movement between venues by intoxicated persons and further removes the opportunity for severely intoxicated persons to repeatedly seek entry to venues after being refused entry by other venues after 3am.

Submissions also noted that the restriction does not apply to the Adelaide Casino, which may limit its effectiveness as patrons are diverted from other venues to the casino after 3am.

Submissions that were both supportive and not supportive of the late night entry restriction proposed a number of amendments to this provision, including amending the restriction to apply from 6am to 8am or to all venues equally (i.e. two hours before closing), requiring all venues to be closed for a minimum of three continuous hours between 3am-9am, increased education and compliance, establishment of a 'Night Time Mayor', closing Hindley Street to traffic on weekends and re-establishing the Adelaide Accord to better communicate problems, intended objectives and goals.

While there are views that there is no evidence directly linking the reduction in anti-social and violent behaviour to the late night entry restriction, the representations and data provided indicate the Late Night Code has successfully reduced or contributed to the reduction in anti-social and violent behaviour.

On the information available, including representations and data provided by SAPOL, SA Health and SA Ambulance Service, in addition to first-hand observations by Encounter Youth, it is clear there has been a reduction in offences and violent behaviour throughout the time the Late Night Code has been in operation.

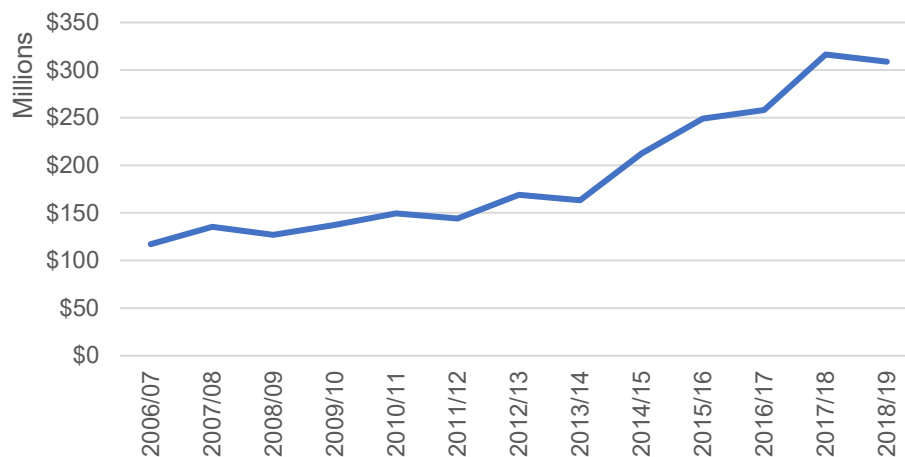
The Commissioner has determined that Clause 13 will be retained without amendment on the basis that there is insufficient evidence to remove or substantially diminish this restriction at this time without risking increased harm to patrons and the community. This decision is cognizant of the impact the restricted entry provision has on the late night economy in South Australia.

The total number of pubs, taverns and bars in Adelaide between 2006-07 and 2018-19 increased by 124% from 59 to 124 and the total annual turnover for these businesses increased by 164% from \$117 million to \$309 million<sup>1</sup>.

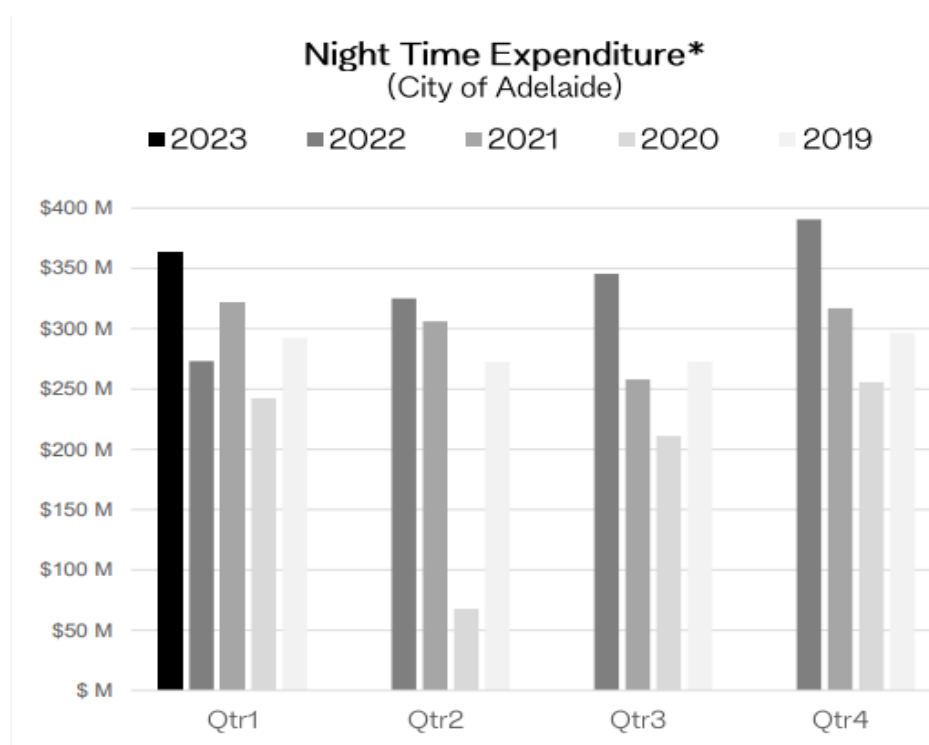
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<sup>1</sup> Australian Bureau of Statistics (2021) Microdata: Business Longitudinal Analytical Data Environment (BLADE) [DataLab], accessed 10 July 2023

### Total turnover for pubs, taverns and bars (including late night venues) in Adelaide



Whilst there has been a reduction of 20 venues licensed to trade after 3am in Adelaide over the last four years, spending during the evening between has been at record highs supporting the night-time economy. The following graph has been published by the Adelaide Economic Development Agency (AEDA) as a subsidiary of the City of Adelaide under section 42 of the *Local Government Act 1999*:<sup>2</sup>



\* Spending during the hours of 6pm-6am

In relation to extending the restriction, it cannot be extended to include unlicensed venues, nor will it be extended to include restaurant and catering licensees on the basis that these venues may present less risk than those to which the Late Night Code currently applies. The restriction will also not be extended to include the Adelaide Casino as its existing obligations already outweigh that of late night venues due to the increased risk of gambling related harm. This decision has taken into consideration the broader impact the late night restricted entry provision would have should it be

<sup>2</sup> [Narrative \(d31atr86jnqrq2.cloudfront.net\)](https://d31atr86jnqrq2.cloudfront.net)

imposed on the sole casino licensee for the State. Further, the Adelaide Casino has recently been subject to increased oversight and review as evidenced by the Commissioner's decision to engage the Hon. Brian Martin AO KC to conduct an investigation and the announcement to appoint an independent monitor.

Due to the time of operation of late night venues, compliance is generally undertaken by SAPOL, who work closely with CBS as required regarding non-compliance. A range of compliance and enforcement options are available to the Commissioner to address non-compliance, including s43 of the Act where the Commissioner may impose licence conditions (such as a condition to vary the trading hours).

The Adelaide Accord will be re-established comprising of licensed venues, SAPOL, SA Health, the Adelaide City Council and other relevant agencies and organisations to encourage and promote a high standard of behaviour in and around licensed premises.

The Adelaide Accord will also consider issues raised in submissions to this review with respect to monitoring, compliance and available data in relation to the effectiveness of the Late Night Code.

Proposed amendments that fall outside of the remit of the Late Night Code, such as a Late Night Mayor and closing traffic on Hindley Street on weekends, will be raised with the responsible bodies and may be discussed further at the Adelaide Accord.

## 11. Digital closed circuit television

Clause 14: At all times while open for trade, the licensee must have a digital CCTV system in place to take visual recordings at all entry and exit points, the footpath immediately adjacent to the premises and all other internal and external licensed areas (excluding toilets) to which patrons have access.

Submissions were generally supportive of the requirement to have CCTV as this contributed to the safety of patrons, reducing crime and assisting police with investigations. However, there was advocacy to reduce the period of time which recorded footage must be retained and views that this requirement should be expanded to include high-risk areas outside venues, such as alleyways, car parks, stairwells and parklands. Representations were also made about improving the quality and detail of CCTV footage to enable identification and recognition of a person with a high degree of certainty.

The majority of industry respondents (76%) were supportive of the requirement to have CCTV to monitor the venue while open for trade while 7% were not supportive. The majority of community respondents (77%) were also supportive while 12% were not supportive. Overall, 77% of all respondents supported this provision, 12% were neutral or unsure and 11% did not support this provision.

In response to whether industry has any issues with the requirement to have CCTV to monitor the venue while open for trade, 68% of respondents have no issue, 6% of respondents have some issues and 26% advised that this requirement does not apply to their venue.

Proposed amendments that were raised in relation to CCTV included:

- clarifying required coverage within a venue and defining adequate lighting;
- extending coverage to include alley ways, carparks, stairwells and parklands;
- requiring footage to be retained for 7-14 days rather than 28 days;
- increasing penalties as footage may be vital evidence; and
- increasing technical specifications required for recording to align with best practice and other Australian jurisdictions.

Clause 14 will be amended to define adequate lighting, clarify coverage within a venue that must be recorded and increase technical specifications to align with best practice and other Australian jurisdictions to enable visual identification of a person.

The requirement to retain footage for 28 days will remain to allow sufficient time for SAPOL or CBS to investigate alleged breaches of the Late Night Code or other illegal activity, which may include a period of time for a patron or other person to report alleged conduct.

## 12. Further Feedback

Submissions about the Late Night Code raised further issues for consideration, which included scope, education, training, compliance and other new obligations on licensees. A summary of some of these issues is provided below.

There was a proposal that the Late Night Code exclude short-term licences, such as those granted for special sporting events and that the Late Night Code clarifies the nature of harms it seeks to reduce and to whom certain provisions apply, such as patrons, staff and/or the local community.

The Late Night Code is not proposed to be amended at this time to exclude short-term licences on the basis that these may not present a lower risk. Venues may apply to the Commissioner for an exemption from this requirement, which will be assessed on a case-by-case basis.

Further, it is not proposed to specify the nature of harms the Late Night Code seeks to reduce or specify to whom certain provisions apply. Section 3 of the Late Night Code already outlines the purpose of the Code. Education may assist in the first instance if there is any ambiguity in relation to whom certain provisions apply.

There were representations made in submissions advocating for increased education campaigns for the public and for licensees, including guidance for the induction of new staff to clarify their obligations.

CBS will undertake increased education of the public and industry in relation to the proposed amendments outlined in this report and will engage with industry through the re-established Adelaide Accord in relation to any future or ongoing education, including guidance that can be provided to assist with the induction of new staff.

Submissions providing feedback on staff training advocated for strengthening Responsible Service of Alcohol (RSA) training, including Bystander Intervention Training, late night transport options, refresher training and considering training aimed at the reduction of violence and better anger management.

As RSA Training is a requirement of the General Code which applies to all licensees, the Commissioner has undertaken to consider the issues further as amendments to the General Code.

Submissions providing feedback on compliance-related matters with the Late Night Code included advocacy that SAPOL and CBS receive adequate funding for enforcement and that the process to report alleged misconduct be streamlined. There were further representations supporting increased penalties, including the ability to increase the restricted entry time for licensees that do not comply, making it a strict liability offence to allow entry to or serve or supply an intoxicated person, and if a person knows it might render the licensee guilty of a penalty, making them also guilty of an offence.

CBS funding and resource allocation is reviewed as required and is subject to reporting in annual reports and the State Budget process through Parliamentary Estimates Committees. CBS has amended its website to provide a specific option to report non-compliance of the liquor licensing General Code or Late Night Code, which is available at [www.cbs.sa.gov.au/contact-cbs](http://www.cbs.sa.gov.au/contact-cbs).

Advocacy for increased penalties and additional offences or offences of strict liability will be considered further as amendments to the General Code or Act when they are next reviewed. As noted in section 10 a range of compliance and enforcement options are already available to the Commissioner to address non-compliance, including s43 of the Act where the Commissioner may impose licence conditions.

There were a number of new obligations for licensees proposed in submissions, including strengthening the right of a licensee to refuse entry to an intoxicated person, making it an offence to allow entry to an intoxicated person, requiring appropriate monitoring and support to an intoxicated person who is evicted and including a positive obligation to prevent any risk of sexual harassment or violence in venues.

Advocacy for these additional obligations on licensees would be better addressed within the General Code or Act and will be considered further when they are next reviewed.

### 13. Next Steps

The Commissioner is grateful for the level of engagement from the community and stakeholders in the review of the Late Night Code, with all feedback receiving thorough consideration to help inform the outcome of the review. Data and representations made by Government agencies has also been invaluable in reviewing the effectiveness of the Late Night Code.

Subject to any further representations being received from key stakeholders on the drafting of these amendments, the revised Late Night Code will be progressed and is proposed to come into effect from 1 November 2023.

Confirmation of the revised Late Night Code will be provided to key stakeholders and licensees and will be made available on CBS' website at [www.sa.gov.au/topics/business-and-trade/liquor/running-a-licensed-venue/codes-of-practice](http://www.sa.gov.au/topics/business-and-trade/liquor/running-a-licensed-venue/codes-of-practice).