

SUBMISSION TO REVIEW OF NEWCASTLE CBD LIQUOR LICENCE CONDITIONS

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PURPOSE

The purpose of this submission is to contribute to the Review of the Newcastle CBD Liquor Licence Conditions that is conducted by Jonathan Horton QC on behalf of the Independent Liquor and Gaming Authority of New South Wales.

THE ALCOHOL AND DRUG FOUNDATION

Founded in 1959, the Alcohol and Drug Foundation (ADF) has contributed nearly 60 years of continuous service to the community. The ADF is working to prevent alcohol and other drug problems in communities around the nation and is one of the few national, primary prevention-focused organisations in the alcohol and drug field.

Our vision is an Australia that is composed of 'Healthy People, Strong Communities'. Our focus is prevention and early intervention and our strategies include community action, health promotion, education, information, policy, advocacy and research. We reach millions of Australians through our work in the home, in the workplace and in grassroots community and professional sporting clubs.

The ADF is the pre-eminent source of information regarding alcohol and other drugs, accessible free of charge for all community members via our internet services telephone, email and telephone services. We conduct seminars and webinars which for professionals working in the AOD field, researchers, academics and policy makers, as well as the general public hosting other information and education events.

Our services include alcohol harm reduction programs for workplaces (Good Hosts, ADF Inform, Workplace Consultancy Services) that have been implemented in numerous businesses and workplaces, including the Australian Defence Force, Comcare, RioTinto, St George Bank, NRMA, local government, and the tertiary education sector.

We are active in community and professional sport. Our multi-award winning *Good Sports* program has transformed the drinking culture of thousands of community sport clubs, assisting them to become safer, healthier, and more family friendly places.

We are committed to social inclusion and closing the gap in health and life expectancy between Indigenous and non-Indigenous Australians through partnerships and collaborations with Indigenous communities across the country.

While we work to address all types of drug related harm, we principally focus on alcohol because of its major contribution to the burden of harm and overall cost to the Australian community compared to other drugs. Alcohol is second only to tobacco as a preventable cause of drug-related harm in Australia.

RECOMMENDATIONS

RECOMMENDATION 1. That the Review of the Newcastle CBD Liquor Licence Conditions acknowledge that the conditions under which the Newcastle CBD venues have operated under 2008 have been successful in reducing the incidence of alcohol related violence, and have thereby protected the health and wellbeing of residents and visitors who frequent the entertainment precincts of Newcastle.

RECOMMENDATION 2. That the Review of the Newcastle CBD Liquor Licence Conditions determine that there is no reason to alter the said Licence Conditions and that they be retained for the continuing protection of residents and visitors who frequent the entertainment precincts of Newcastle.

NEWCASTLE REVIEW TERMS OF REFERENCE

The Terms of Reference for the Newcastle CBD Liquor Licence Conditions Review state the review will:

- a. investigate (without the exercise of any coercive powers) the issues bearing upon liquor -licensing and related measures that have been implemented in the Newcastle CBD and surrounding areas to reduce the risk of alcohol-related violence and anti-social behaviour, including the current appropriateness of the licence conditions of venues in the Newcastle CBD and surrounding areas, having regard to the objects of the Liquor Act
- b. compile, summarise and distil the material referred to in a above;
- c. identify and advise upon the statutory and other measures open to ILGA, including the imposition or alteration of liquor licence conditions.

The review will take into account:

- a. the report of the Honourable I D F Callinan AC, Review of the Amendments to the Liquor Act, of 13 September 2016;
 - b. amendments made to the Liquor Act consequent upon that review;
 - c. the decision of the former Liquor Administration Board of 14 March 2008 and the changes to the orders of that Board later made by consent;
 - d. research undertaken by the New South Wales Bureau of Crime Statistics and Research;
 - e. scholarly work considering the effect of the conditions imposed by the Liquor Administration Board, and later varied by consent;
 - f. the views of interested persons including indigenous groups, local residents, businesses, the Police, the Local Health District, and the owners and operators of licensed venues, expressed through an appropriate consultation process ;
 - g. other material that informs an understanding of community safety and amenity and business operations in and around the Newcastle CBD, including an assessment of the adequacy of liquor licence conditions in the Newcastle CBD.
7. Mr Horton QC will proceed in such manner as he considers will appropriately assist and inform ILGA.
8. The consultation period will close on Wednesday, 24 January 2018 [subsequently extended to 07 February 2018]

CONTEXT OF THE REVIEW

The Alcohol and Drug Foundation is concerned that the Independent Liquor and Gaming Authority (ILGA) is under pressure to weaken the package of reforms that led to a permanent reduction in alcohol related violence in the CBD of Newcastle since 2008. The present review originated from a plea by the Australian Hotels Association that the ILGA inquire into the 2008 reforms only twelve months after the Callinan Review led to modification of the conditions imposed upon venues in Sydney and Kings Cross in 2014 due to alcohol related disorder including high levels of violence. (Whelan, 2017). The AHA represents hotels in the Newcastle CBD that strenuously opposed the reforms in 2008. As the Callinan Review indicated, in matters of alcohol harm reduction policy, commercial alcohol interests are not authoritative and medical and emergency workers have greater objectivity. Callinan also noted that the Sydney CBD/Kings Cross reforms had succeeded in reducing violence and improving amenity and that there is a distinct risk in relaxing those new conditions (Callinan, 2016). Public health researchers who have monitored the Newcastle situation continuously since 2008, have found a continuing and significant public benefit to the 2008 reforms.³⁴ (Kypri K J. C., 2011) (Kypri K M. P., 2014).

THE DRAFT NATIONAL ALCOHOL STRATEGY 2018-26

It is instructive to consider the current review of Newcastle licensing conditions in light of the newly-released **Consultation Draft of the National Alcohol Strategy 2018-26**. (Department of Health, 2018) The purpose of the strategy is “to provide a framework to prevent and minimise alcohol related harms among individual families and the community.” Three of the four Priorities enumerated within the Strategy speak directly to the importance of controlling the sale and consumption of alcohol on licensed premises and the role of liquor licensing regulations in maintaining control.

Priority 1 is to *Improve Community Safety and Amenity*. Under this priority the second Objective is, ‘Safer Drinking Settings’. Two Opportunities for Action identified by the Strategy that can realise this Objective are relevant for the current review: they are, “Supporting licensing decision making to achieve outcomes that contribute to reducing or minimising alcohol related harm and ill-health,” and “Implement policy and legislation around serving restrictions after a set time and the type of drinks which can be purchased and cessation of sales”.

Priority 2 is *Managing Availability, Price and Promotion* and the first Objective for this priority is ‘Strengthen controls on Access and Availability’. Among the Opportunities for Action is, “Licensing procedures that consider outlet density trading hours impact on amenity and related risks and harms drawing on local evidence and local community concerns”.

Priority 4 is *Promoting Healthier Communities* which has the first Objective of ‘Improving Awareness and Understanding of Alcohol Harms’: an Opportunity for Action is “Improve capacity of communities to identify, prevent and minimise alcohol related harm through evidence based activities”.

The realisation of these new Priorities and Objectives of the National Alcohol Strategy is advanced by the conditions of the Newcastle licensing reforms of 2008 and for that reason the ADF believes they should be retained. This submission cites strong evidence that the Newcastle reforms have materially reduced alcohol related harms in the form of violence, assault and loss of amenity and it would seem perverse that those reforms could be degraded when the new draft Strategy is calling on licensing authorities to ensure licensing plays its part in reducing alcohol related harm.

NEWCASTLE CONDITIONS 2008

The conditions that 14 venues in Newcastle CBD were required to comply with were as follows:

- A lock out from 1.00am or 1.30am.
- Closing times of 3.00am or 3.30am.
- Licensees provide to the Liquor Administration Board a Plan of Management within six weeks.
- Licensees must ensure an independent compliance audit is carried out every three months to ensure compliance with the Plan of Management (this is a summary of the condition).
- From 11.00pm an employee must be employed whose only function is to ensure that responsible service of alcohol and responsible consumption of alcohol occurs throughout the premises (this is a summary of the condition).
- Restrictions on serving alcohol after 10.00pm that comprised
 - No shots
 - No mixed drinks with more than 30mls of alcohol
 - No RTD drinks with an alcohol by volume greater than 5%
 - Not more than four drinks to be served to any patron at the one time.
- Free water stations on every bar

- Sale and supply of alcohol must cease 30 minutes prior to closing time
- Licensees must ensure that no patron is stockpiling drinks (i.e. having two unconsumed drinks at a time) (this is a summary of the condition)
- Within 3 months the licensee must have entered into an agreement with each of the other licensees to share a radio network to be used by management and security to communicate with the other premises (this is a summary of the condition).

PSYCHOPHARMACOLOGICAL EFFECT OF ALCOHOL

The ADF believes the introduction of these conditions was necessary in the light of the high levels of violence and disorder in and around the licensed premises of the Newcastle CBD which was associated with excessive serving and drinking practices within those venues.

It is established that the psychopharmacological effect of alcohol can trigger uninhibited behavior including conflict, aggression and violence (Graham, Osgood, Wells, & Stockwell, 2006) (Boyle, Mortensen, Gronbaek, & Barefoot, 2008). Alcohol has a disinhibiting effect that can lead the individual to act with increased impulsivity and recklessness, and to take greater risks due to a reduction in anxiety or fear regarding social or physical sanctions within a context of heightened emotionality and a narrowing of the perceptual field (Graham & Homel, 2008) (Wells S, 2009). These conditions undermine the intoxicated drinker's ability to assess and resist problematic and hazardous situations they otherwise might avoid when not affected by alcohol, and can result in various adverse consequences. In short, acute alcohol intoxication is predictive of aggressive responses and violence that includes offensive behaviour, drink driving, various forms of violence (assault, aggravated assault, sexual assault) and homicide (Miller P. T. J., 2012) (Wells, Tremblay, & Graham, 2013).

The facilitating role of alcohol in violence is confirmed by the finding that a BAC of 0.11 is reported among participants in conflicts that occur without violence, whereas violence is more likely to occur when participants have a BAC of 0.19 (Murphy, O'Farrell, Fals-Stewart, & Feehan, 2001). Alcohol is implicated in 40% of homicides (Dearden & Payne, 2009), 30% of road fatalities (Morgan & McAtamney, 2009) and between 23% and 73% of all recorded assaults. Of people detained by police, 43% believe alcohol was a contributor to their offending behaviour (Australian Institute of Criminology, 2008).

Consequently, regulation of licensed premises should aim to prevent prevalence and incidence of severe intoxication among the patrons of premises. Extensive research evidence indicates that liquor licensing policies do moderate the risk of intoxication and subsequent reckless and criminal behavior (WHO, 2007).

In the light of that research record and the record of the Newcastle entertainment precinct in the years preceding 2008, the ADF is concerned by the suggestion of the Australian Hotels Association that the liquor licensing authority remove the restriction on late night serving of shots in the problematic Newcastle venues. As shots are known as 'rapid intoxicating drinks,' there is good reason to limit their serving and consumption late at night to reduce the risk of increasing the levels of patron intoxication.

RELATIONSHIP BETWEEN TRADING HOURS OF LICENSED VENUES AND ALCOHOL RELATED VIOLENCE

The World Health Organization Expert Committee on Problems Related to Alcohol Consumption concluded that "reducing the hours or days of sale of alcohol beverages results in fewer alcohol-related problems, including homicides and assaults" (WHO, 2007). The WHO conclusion is based on extensive research findings that consumption of alcohol and the incidence of alcohol-related harms both increase as days of sale and trading hours are extended;

conversely, when trading hours and days of sale are decreased, so does the level of consumption and the incidence of harms (Babor, et al., 2010). In confirmation, a recent Norwegian study that investigated changes in late night trading in 18 cities found that for every additional hour of trading, there occurred a 16 per cent increase in assaults; additionally, for every hour of reduced trading there was a 20 per cent reduction in assaults (Rossow I, 2012).

A large body of Australian and international research has established a strong relationship between liquor outlet trading hours of on-premises venues and levels of violence and other major alcohol-related harm (Manton, 2014). In Western Australia, Chikritzhs and Stockwell found significant increases in assaults and in impaired driver road crashes associated with the limited extension of hotel trading hours by one hour from midnight to 1.00am. (Chikritzhs T, 2007). Elsewhere, hotels with extended hours or 24-hour trading recorded more assaults than venues with standard trading hours (Briscoe & Donnelly, 2001). More recent research by Miller and colleagues found violence in entertainment precincts is most common and frequent between midnight and 3.00am during the 'high alcohol times' of Friday, Saturday and Sunday nights (Miller, 2013). A notable finding common to this research is the result that a change of only one hour or two hours in trading times has a substantial impact on the incidence of alcohol related harm. (Manton, 2014)

Given the common worldwide research finding of a strong relationship between late night trading hours and intoxication, and intoxication and violence, it could be expected that the reduction of trading hours introduced for problematic venues in Newcastle in 2008 would reduce the scale of alcohol related harm experienced in Newcastle. That result appears to have occurred, as is outlined in the next section.

EFFECT OF REDUCTION OF TRADING HOURS IN NEWCASTLE AND SYDNEY

An early study of into the consequences of the Newcastle reforms which reported on outcomes eighteen months after the introduction of the 2008 Amendments, found that changing liquor outlet closing times (from 5.00am to 3.00am and then to 3.30am) had produced a 37 per cent reduction in assaults between 10.00pm and 6.00am in Newcastle when compared to the nearby control district of Hamilton. In Newcastle the number of assaults per quarter fell from 99.0 to 66.7, while in Hamilton there was no change: 23.4 assaults and 23.5 assaults respectively. In empirical terms, having the Newcastle CBD outlets close earlier saved 33 assaults per quarter (Kypri K J. C., 2011). However, Hamilton had also introduced some changes to licensed premises as from 2010, a 1.00am lockout was introduced for hotels, although their trading hours remained unchanged and patrons inside the venues could continue drinking until 5am. Some additional management requirements accompanied the Hamilton lockout. Nevertheless, the stability in the rate of assaults in Hamilton following the intervention leads to the conclusion that the earlier closing time for the Newcastle venues was responsible for the lower level of violence in Newcastle (Kypri K J. C., 2011). A follow up study of the Newcastle reforms after five years found that the significant reduction in the number of assaults over the first 18 months in Newcastle was sustained in the subsequent 3.5 years, while the rate of assaults continued unabated in Hamilton (Kypri K M. P., 2014). There was no sign that the violence that previously occurred in the Newcastle CBD had 'migrated' or been displaced into neighbouring areas (Kypri K M. P., 2014).

The finding that the earlier closing hours is most likely responsible for reduction in violence is supported by evaluations of the similar changes to licensing conditions in the Sydney Central Business District and Kings Cross, including earlier closing times, introduced in 2014. A study by the Bureau of Crime Statistics and Research found that the interventions resulted in a 45.1% per cent reduction in non-domestic assaults in Kings Cross and a 20.3% per cent reduction in the Sydney CBD, while most proximate areas showed no increase in assaults (Bureau of Crime Statistics and Research, 2016). In a study of the Sydney intervention published in 2015, the authors found immediate and substantial reductions in assault in Kings Cross, and less immediate but substantial reductions in assaults in the Sydney CBD. While assaults did increase around the Star Casino, where the interventions did not apply, the increases were far

smaller than the decreases in assault in Kings Cross and the CBD (Menendez, Weatherburn, Kypros, & Fitzgerald, 2015).

AMBIVALENT VIEWS OF ALCOHOL INDUSTRY STAKEHOLDERS

A comparative study of the effects of attempts to lessen late-night alcohol related disorder, in the cities of Geelong and Newcastle, reported an interesting finding from licensees and other alcohol industry personnel. While some industry personnel rejected the restrictions on trading hours, possibly due to the reduction of trade and revenue, others welcomed the restrictions because they had been unable to voluntarily adopt them due to perceived pressure from their patrons (Miller P. T. J., 2014). This is an important finding because it suggests that some licensees, at least, privately understand the value of earlier closing times, and support them, as long as the condition applies equally to all venues in the area. Significantly, the current conditions under review for Newcastle apply to all on-premises venues. The study also found that the trading hour reductions imposed in Newcastle had “an immediate and long term” reduction on alcohol related harm, while various voluntary measures introduced in Geelong had no discernible effect. (Miller P. T. J., 2014). A computer assisted telephone survey of citizens in both cities (n=693) found strong support for restrictions on trading hours as 71.1% of respondents agreed with that condition (Miller P. T. J., 2014).

LOCK OUTS

A ‘lockout’ bars patrons from entering a licensed premises after a designated time in order to prevent disorder, conflict and violence between patrons as they migrate between venues late at night (De Andrade, Homel, & Townsley, 2016). Lockouts have been implemented as a single, stand-alone intervention and as part of a multi-pronged package of measures. A number of evaluations have found that though stand-alone lockouts are not effective, they may be useful when part of a multi-pronged strategy to reduce excessive drinking and intoxication in late-night entertainment areas (De Andrade, Homel, & Townsley, 2016). A recent evaluation of a stand-alone lockout of 3.00am, with a closing time of 5.00am, in Surfers Paradise in 2004 reported that it did not significantly reduce rates of weekend crime, violence, ambulance attendees, head and neck injuries, ambulance-recorded assaults or alcohol overdoses (De Andrade, Homel, & Townsley, 2016).

Miller *et al* investigated reports on lockouts in Ballarat, Queensland, Melbourne, Geelong, North Queensland and Newcastle and found the results were inconclusive at best (Miller P. P. D., 2014). In some cases, the evaluation design was flawed, in others the results were unclear, or were confused by confounding factors that were not or could not be accounted for: the Newcastle lockout was a case in point because it was one of ‘four broad conditions and eleven other specific changes to practice’ (Miller P. P. D., 2014). Alongside the 1.30am lockout and 3.30am close, Newcastle licensees were required to implement a management plan, be audited regularly, employ an RSA officer from 11.00pm, ban ‘shots’ after 10.00pm, not allow drink stockpiling and cease serving alcohol 30 minutes before closing.

The available evidence suggests that reduced trading hours are more effective in reducing alcohol related harm than lockouts and that a lockout implemented as a sole intervention is less effective than a lockout which is complementary to a package of interventions. However, police have stated that a lockout can be helpful in maintaining control of streets in entertainment areas. (Nicholas R., 2014)

CALLINAN REPORT 2016

In 2016 Justice Callinan reviewed the Amendments to the NSW Liquor Act legislated in 2014 following community concern over the high level of inter-personal violence and social disorder in inner Sydney that was identifiably related to excessive drinking. The Amendments included a 1.30am lockout in the Sydney CBD and Kings Cross; last drinks at

3.00am; a freeze on new liquor licenses in the Sydney CBD and Kings Cross; a ban on takeaway alcohol sales after 10.00pm; the extension of temporary bans of ‘troublemakers’ from licensed premises; the introduction of a risk-based licence system where the annual fee is determined by factors including depending on licence type, opening hours and the record of compliance; and the suspension of online RSA training.

It is notable that the Callinan Review found the objectives of the Amendments were valid and that the Amendments had: successfully reduced violence in Sydney and that that violence had not been displaced to other precincts; liberated police for duty elsewhere; reduced the burden on hospital emergency departments; improved amenity by reducing abusive behavior, especially directed towards females, within the entertainment precincts; and improved amenity for residents (Callinan, 2016). Justice Callinan also noted that there was little or no evidence for various claims made by opponents of the Amendments, including assertions that the new conditions were unique in the world, placed Sydney out of step with international entertainment practice, were responsible for deterring tourists, closing venues, and that there were superior ways of achieving the same outcomes (Callinan, 2016).

ADF VIEW

The Alcohol and Drug Foundation thinks the reformed licensing conditions that were introduced in Newcastle in 2008 should be retained. It is incontrovertible that there is a nexus between the trading hours of on-premises venues and the incidence of various forms of violence and assault in and around those premises, various forms of social disorder, and loss of amenity, as well as increased drink driving.

It is also incontrovertible that those changes to licensing conditions in Newcastle from 2008 successfully reduced the level of violence, assault and other forms of social disorder and loss of amenity in Newcastle. Those reforms were hard won by a combination of residents, community members and academic researchers who agitated for several years to convince the authorities that the licensing conditions that governed Newcastle licensed venues needed modification to lessen the extreme violence that was evident in the Newcastle entertainment. Although the local alcohol industry fought against those changes, and is now trying to overturn some of them, the reformers have been proven correct as the evidence shows that street mayhem has lessened dramatically since 2008.

Local elements of the alcohol industry may aim to remove the conditions imposed in 2008 by a gradual nibbling away of individual restrictions, but independent research suggests that some licensees and their staff in Newcastle do (privately) understand that there is a social value in reducing hours of trading and are not opposed to it as long as they are not disadvantaged in comparison to competitors.

Our view is that it would not be responsible to wind back the reformed licensing conditions unless there was compelling evidence that it would be safe to do so, and we are not aware that such evidence exists. In fact the weight of evidence suggests that to relax the conditions would risk a higher level of dangerous consumption inside licensed venues and a concomitant rise in violence assaults and other harms. Our view is buttressed by the draft National Alcohol Strategy which identifies managing access to and availability of alcohol, and liquor licensing regulations in particular as key means of reducing and limiting harmful consequences of alcohol. The strategy also recognises the value of community views and community participation in efforts to control alcohol problems and the ADF believes the review should be cognisant that the Newcastle reforms were enacted after extensive advocacy by community, non-commercial interests.

An important duty of government and its institutions and authorities is to protect citizens from preventable harm and to secure their safety as far as is possible without unnecessarily intruding on their individual rights. The present

licensing regime in Newcastle does not interfere with the citizen's right to consume alcohol, nor does it deny access to alcohol on licensed premises late at night; rather, it is shown to reduce violence and assault and other harms, an effect that improves citizens' right to enjoy their leisure without being interfered with by others who are intoxicated by alcohol and disinhibited by excessive drinking.

The ADF believes there is no reason to alter the licensing conditions that are applied to venues in the Newcastle CBD as those conditions have reduced violence and thereby protected the health and wellbeing of residents and visitors who frequent the Newcastle CBD for entertainment purposes. The ADF believes those residents and visitors deserve to benefit from that protection on a continuing basis.

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