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7 February 2018

Mr Jonathan Horton QC
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Dear Mr Horton

SUBMISSION TO THE NEWCASTLE CBD LIQUOR LICENCE CONDITIONS REVIEW

Thank you for the invitation to Hunter England Local Health District to provide a written submission to the *Newcastle CBD Liquor Licence Conditions Review*.

This submission (See Attached) is made in accordance with the purpose of local health districts as defined by the NSW Health Services Act, 1997, ie: a) to provide relief to sick and injured persons through the provision of care and treatment, and (b) to promote, protect and maintain the health of the community (Health Services Act 1997, 1998). The Hunter New England Health Local Health District (HNELHD) delivers services to meet these purposes to the approximately 920,000 residents of the Hunter New England region of New South Wales, an area that includes the Newcastle Local Government Area (LGA) (Hunter New England Local Health District, 2018).

Thank you once again for the opportunity to raise these important issues with you.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'DiRienzo'.

Michael DiRienzo
Chief Executive

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**SUBMISSION TO THE NEWCASTLE CBD LIQUOR LICENCE CONDITIONS REVIEW
- HUNTER NEW ENGLAND LOCAL HEALTH DISTRICT
Wednesday 7 February 2018**

Background

Alcohol and health and well-being

Alcohol is a drug that is used by a large proportion of the Australian population, including that of the Hunter New England region and Newcastle Local Government Area (LGA). Given its common use, the production, sale and consumption of alcohol make significant contributions to the social fabric and economy of Australia, the region and Newcastle.

Alcohol is also a drug that, when misused (i.e. excessively consumed) is an acknowledged Group 1 carcinogen, a teratogen, a poison, an intoxicant and an addictive substance. Given these multiple mechanisms of harm, alcohol misuse can have significant negative impacts on the health and well-being of individuals and families, and have significant adverse effects on community safety and amenity, the delivery of public services, and the economy.

The negative impacts of alcohol misuse on health and well-being, and community order and safety have long been recognised by governments as requiring regulation, regulation that has focused on what, where, when and by whom alcohol is able to be sold and/or consumed. In particular, given that excessive consumption of alcohol is the primary cause of alcohol-related harms, regulation of the strength and amount of time that alcohol is able to be sold/consumed, and under what conditions, are proven strategies for reducing the likelihood of such harms (Babor et al 2010), and are key elements of government regulation in NSW, other jurisdictions, and the Newcastle CBD Liquor Licence Conditions.

Alcohol and health and well-being in the Hunter New England Region

The rates of deaths and of hospitalisations attributable to alcohol, and the proportions of people consuming alcohol at levels that pose a risk to long-term health, and that pose an immediate risk to health have historically been, and remain, greater in the Hunter New England Region than in NSW as a whole (Centre for Epidemiology and Evidence, 2018).

Despite a decline in assault-related incidents in Newcastle over the past decade, Newcastle continues to have higher rates of such incidents relative to NSW, and remains a state designated assault-related crime hotspot (NSW Bureau of Crime Statistics and Research, 2018).

These indicators, particularly those relating to the occurrence of assault incidents in Newcastle, demonstrate that the circumstances that led to the initial introduction of the licensing conditions in

Newcastle, and to the continuation of those conditions under subsequent reviews, are yet to be fully resolved.

Preventing alcohol misuse and related harms – a shared community responsibility

In response to the occurrence of alcohol-related harms in its region, HNELHD makes a significant investment of public monies in the provision of services that address the prevention and treatment of alcohol misuse, including specific Drug and Alcohol treatment and prevention services. In addition, almost all clinical services provided by HNELHD are routinely involved in the treatment of patients presenting with conditions/symptoms or consequences of alcohol misuse, including Emergency Department services, hospital inpatient services (including trauma surgery), specialist outpatient services, rehabilitation services, community health services and mental health services. Alcohol misuse similarly significantly impacts on other parts of the public health system in Newcastle and the HNELHD region, particularly on demand for ambulance and general practice services.

Despite the significant investments by the health system in the prevention and treatment of alcohol-related harms, limiting the negative impact of alcohol misuse on illness, injury and well-being cannot be the sole responsibility of, or be achieved by health services alone. This responsibility sits with all public agencies, particularly local government, police and liquor licensing authorities, in addition to members of community and of the alcohol industry. The introduction of additional liquor license conditions in the Newcastle CBD by the Liquor Administration Board in 2008 (Armati DB, 2008), their continuation following subsequent reviews, and the response by key stakeholders such as local government, police and the alcohol industry represents a striking example of Newcastle community stakeholders responding to this shared responsibility. The subsequent positive outcomes of this shared response demonstrate the need for its enhancement by those same stakeholders if the remaining high levels of alcohol-related harms in Newcastle are to be reduced.

Newcastle CBD liquor license conditions

Given its legislated interest in the provision of public health services, and the evident ongoing alcohol-related health and well-being needs of the Newcastle community, HNELHD wishes to submit the following views with regard to the merit of the Newcastle CBD liquor license conditions and to their continuation and/or modification. The views are based on the experience of the Health District in the delivery of its services, evidence obtained from research conducted by the Health District in collaboration with several Universities, and evidence from the peer-reviewed literature. The submission is structured according to the issues posed in your invitation to make a submission, and a number of related issues.

1 Whether the conditions imposed in 2008 proved successful in reducing alcohol-related violence

Strong independent peer-reviewed evidence demonstrates that the introduction of the Newcastle licensing conditions has resulted in a marked and sustained reduction in the occurrence of police-attended non-domestic assaults, a reduction in the order of 30% (Jones et al 2009, Kypri et al 2010, Kypri et al 2014, Kypri et al 2015, Miller et al 2012). Based on the rate of such assaults prior to the introduction of the conditions, this reduction represents many thousands of community members and visitors to Newcastle not having been the victim of such an assault. Given that the independent evaluations have shown that the harm-reduction benefit has been sustained over time, and recent NSW Police data demonstrate that this reduction has continued to the present day, maintenance and enhancement of the licensing conditions into the future has the ability to ensure that thousands more community members and visitors will not experience an assault in Newcastle.

From the health care delivery perspective of the HNELHD, the introduction of the licensing conditions in Newcastle has resulted in a similar marked and sustained reduction in the number of assault-related presentations to its Emergency Departments. As shown in Figure 1 below, relative to the period before the introduction of the licensing conditions, there has been a 31% reduction in the number of such Emergency Department presentations since 2008. In addition to the benefit of this reduction to the health and well-being of individuals and their families, such a reduction has had a marked beneficial impact on the functioning of the Emergency Departments in terms of more timely access to care for Emergency Department patients and improved safety of clinical staff.

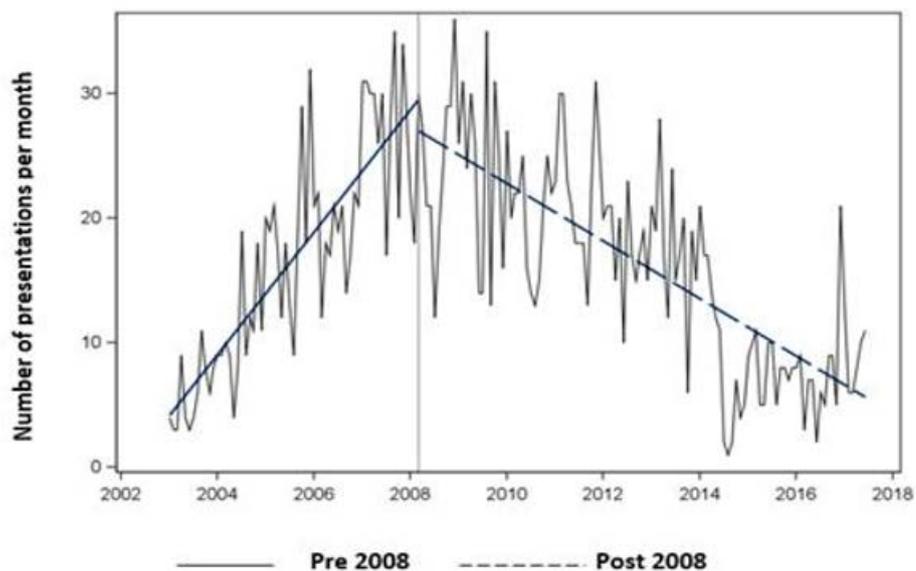


Figure 1: Number of assault-related injury emergency department assault-related injury presentations 2003 to 2017 (Hunter New England Local Health District 2018)

Similar outcomes have been found in terms of patients admitted as inpatients to HNELHD hospitals. For example, a substantial decline has occurred in the number of patients being admitted with oral and maxillofacial assault-related injuries. Analysis has found an increase of such presentations of 14% each year prior to the introduction of the conditions, and a reduction of 21% in such presentations each year following the introduction of the conditions (Hoffman et al, 2017).

Both the HNE Emergency Department and hospital admission data demonstrate that the introduction of the licensing conditions in Newcastle has had marked beneficial impacts on the health and wellbeing of Newcastle residents and visitors, and on the ability of HNELHD to deliver care to the Newcastle population, benefits that warrant the conditions being maintained and enhanced to obtain further improvements in community health and well-being.

The findings of marked reductions in alcohol-related harms in Newcastle, measured in terms of both police and health service data, are consistent with peer reviewed findings of similar interventions in other locations in Australia and around the world. Such evaluations have reported that for each hour of additional licensed premises trading, an increase in alcohol-related harms of up to 20% can be expected (Menendez et al 2015, Fulde et al 2015, Donnelly et al 2017, Wilkinson et al 2016, De Goeij et al 2015, Humphreys et al 2014, Chikritzhs et al 2007, Chikritzhs et al 2006, Chikritzhs 2002, Hobday et al 2015).

2 Whether the conditions imposed in 2008, if successful in reducing alcohol-related violence, should be removed or reduced

A high level of alcohol-related violence harm continues to occur in Newcastle, and at a higher rate than in NSW generally, a level of harm that suggests that the removal or reduction of conditions is inappropriate and that need exists for their enhancement. Peer-reviewed literature evaluations of the introduction of licensing conditions in Newcastle in 2008 and the experience of the HNELHD demonstrate that assault-related harms measured in a number of different ways declined by approximately 30%. Given this, approximately 70% of such harms remain (approximately 1000 police-attended non-domestic assault incidents in a year and approximately 100 late night assault-related injury ED presentations). This continuing level of harm, a level more than twice the reduction achieved by the introduction of the licensing conditions, results in a significant ongoing negative impact on the health of Newcastle residents and visitors, to the safety and amenity of Newcastle, to the delivery of public services such as health services, and to the local economy. The rate of police-attended non-domestic assaults in Newcastle exceeds, as reported by the NSW Government, the rate of such assaults for NSW as a whole (Figure 2). Further, the ongoing level of alcohol-related violence in Newcastle has resulted in the state Government classifying Newcastle CBD as having a high level of non-domestic assaults (Figure 3).

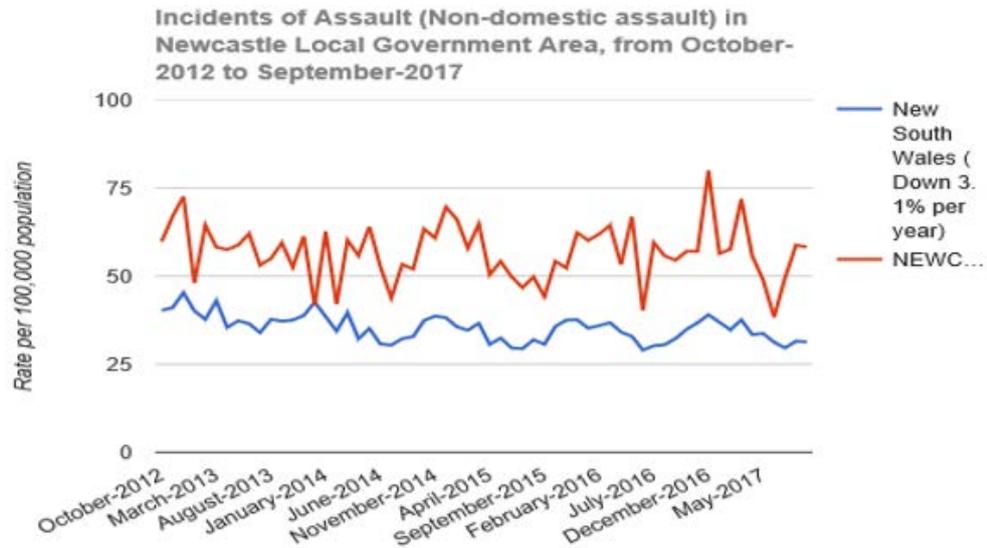


Figure 2: Incidents of assault in the Newcastle LGA, October 2012 to September 2017 (NSW Bureau of Crimes Statistics and Research)

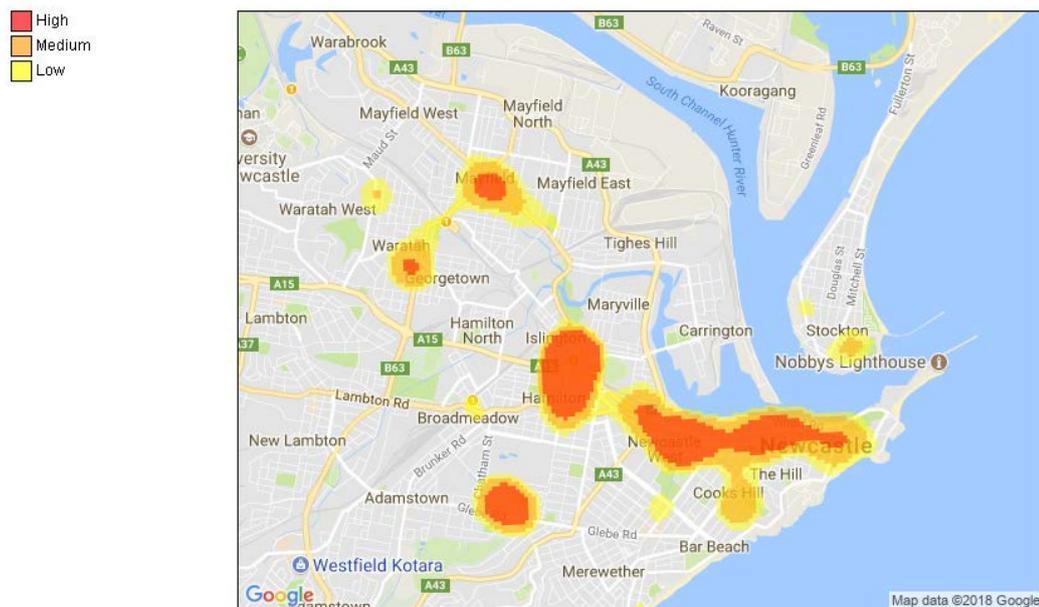


Figure 3: Incidents of assault in Newcastle, October 2016 to September 2017 (NSW Bureau of Crimes Statistics and Research)

3 Whether the conditions imposed in 2008 have had a deleterious impact on the opportunities for alcohol consumption in Newcastle

Since the introduction of the licensing conditions in Newcastle, all but 1 of the licensed premises listed in 2008 continues to trade. At least 3 of the initial listed licensed premises have undergone major redevelopments. Such figures suggest that the introduction of the licensing conditions and resultant improvement in community safety and amenity have resulted in an environment that remains conducive to the continued and enhanced operations of those businesses in Newcastle.

Similarly, the number of premises licensed to serve alcohol in Newcastle has increased at the same, if not greater rate than that in Sydney, Wollongong and NSW as a whole, further suggesting that the improved safety and amenity of Newcastle since 2008 has enabled the city to benefit from a growth of this form of economic activity. The large majority of new licensed premises operating in Newcastle have been 'small bars', 'prescribed service authority' establishments and restaurants, demonstrating a marked diversification of opportunities for the consumption of alcohol in Newcastle since 2008, a goal shared by local and state Governments and the community.

4 Whether changes in the demographic, drinking culture and nature and density of licensed venues in the Newcastle CBD are such that the licensing conditions, or conditions of that kind, ought to be reconsidered.

As described in the points above, significant benefits have accrued to the Newcastle community following the introduction of the licensing changes in 2008, with those benefits taking the form of a significant reduction in alcohol-related violence and a coinciding enhancement and diversification of the Newcastle night-time economy. Also coinciding with these developments has been the redevelopment and enhancement of the Newcastle CBD as a residential area and educational precinct.

Should a reconsideration of the licensing conditions involve a weakening of the conditions, particularly of those relating to the availability of alcohol (trading hours and strength of alcoholic drinks available), local and international evidence clearly demonstrates that an increase in the occurrence of alcohol-related violence can be expected to occur (Babor et al 2010, Burton et al 2017, Fitterer et al 2015, Anderson 2009, Popova 2009). Such an impact is incompatible with the safety and amenity needs of a rapidly growing city residential population.

The ongoing high levels of violence in Newcastle and the classification of Newcastle as an assault related-crime hotspot are similarly incompatible with the safety and amenity needs of an increasing CBD residential population. In this context, reconsideration of the existing licensing conditions is warranted in terms of identifying additional licensing conditions and/or enhancements to the existing conditions such that the remaining high levels of alcohol-related violence are further reduced. Such additional conditions and enhancements should have a priority focus on reducing the availability of and consumption of alcohol given excess consumption of alcohol is the primary driver of the occurrence of alcohol-related harms.

5 Whether the management and compliance of licensed premises has improved such that varied conditions might be appropriate.

The AHA request for the Independent Liquor and Gaming Authority to take action under Section 53 (2) (B) of the Liquor Act 2007 (22 June 2017) suggests that a number of voluntary changes have occurred in the management of licensed premises following the introduction of the additional licensing conditions in 2008. Any weakening or removal of those conditions therefore carries the significant risk of management practices changing in a manner that puts at risk the harm reduction and night-time economy benefits achieved since 2008. Given the scale and sustained achievement of such benefits, such a risk is considered unacceptable.

No peer reviewed evidence has been reported that demonstrate a harm reduction benefit from a weakening of licensing conditions based on the compliance behaviour of individual licensees/owners. However, where variation in licensing conditions and/or exemptions from certain licensing conditions has been available to select licensees, the evidence (e.g. Melbourne lockouts, Queensland liquor licensing conditions) indicates that the effectiveness of the licensing conditions in reducing alcohol-related harms has been compromised to the extent that no harm reduction benefits are realised. Given this, a weakening of, or exemption from the existing licensing conditions for specific licensees would not only put at risk the existing harm reduction benefits in Newcastle, but would make no contribution to, and contradict the need for additional/enhanced strategies to reduce the acknowledged remaining high levels of violence in Newcastle.

In the context of such a need for additional conditions/strategies, the existing licensing conditions should be considered to be the base conditions applicable to all licensed premises, and additional conditions applied according to the risk, harm and compliance characteristics of individual premises. Given the association between the excessive consumption of alcohol and the occurrence of alcohol-related violence, such additional conditions should have a focus on further reducing the availability of alcohol, such as further restrictions on licensed premises trading hours (Atkinson et al 2018). Such an approach provides for the existence of 'varied conditions' between licensed premises, variations based on premises risk and performance, but at a level above, not below, the existing conditions.

6 Whether and to what extent there is any justification for the conditions in Newcastle being the same as those applicable in the Sydney CBD.

The closing times, types of alcohol products sold, prices, style and tone of premises, and staffing and management practices of licensed premises all vary, appropriately, between premises in and outside of the Newcastle CBD, between premises in and outside of the Sydney Entertainment Precinct and between premises located in the Newcastle, Sydney and any other entertainment precinct in NSW. This indicated by the AHA request, stating that the operational characteristics of licensed premises,

particularly those regarding ‘use of extended trading hours’ occurs at the discretion of each licensee. In these common circumstances, patrons of licensed premises are more than familiar with the differences in operational characteristics of individual licensed premises, and the need to comply with those different requirements. No independent evidence has been reported that demonstrates that differences in such characteristics between premises in Sydney and Newcastle increases the risk of alcohol-related violence in either location. The finding of a marked reduction in violence in Newcastle between 2008 and 2014 when a more marked difference in licensing conditions existed between licensed premises in Newcastle and Sydney suggests that such differences had no or negligible impact on the rate of violence in Newcastle.

7 Whether the strategic priorities of the Newcastle City Council with respect to the night-time economy justify or demand a change to licensing conditions in the Newcastle CBD.

Under the Local Government Act, Local Councils have a variety of functions and are required, when executing these functions, to address a number of community needs that include, among others, the health of the community and its economic prosperity. In this context, a strategic priority of promoting the night time economy should not be the sole consideration of any Council when considering the licensing conditions of licensed premises in its jurisdiction. Given the acknowledged history of alcohol-related violence in Newcastle prior to 2008, and the acknowledged beneficial reductions in the occurrence of such violence and related harms since that date, any proposed change to the original licensing conditions by any party should be supported by an evidence-based estimate of the impact of the proposed changes on the rate of alcohol-related violence.

Any consideration of changes to the licensing conditions should also take account of the views of Newcastle community members. A number of studies have reported a very high level of community support for the existing conditions, with the level of support increasing over time, including among patrons of licensed premises (Table 1) (Tindall et al 2015, Wiggers et al 2018).

Table 1: Community knowledge and support for the Newcastle Liquor Licensing Conditions

	Total (N=689)			Night-time visitor to entertainment precinct		
	Time 1 2010 (N=376)	Time 2 2013 (N=313)	Change over time	Time 1 'Yes' (N=133)	Time 2 'Yes' (N=107)	Change over time
	%	%	<i>p</i>	%	%	<i>p</i>
Are you aware of the additional licensing conditions?	89.9	86.8	0.13	91	90.6	0.50
<i>Early closing</i>	94.1	85.5	<0.001	97	89.6	0.02
<i>Aware of drink restrictions</i>	79	84.9	0.03	93.2	93.4	0.86
<i>Lock outs</i>	84.8	85.9	0.62	94	90.6	0.40
Do you support the additional licensing conditions?						
<i>Early closing</i>	77.2	82.1	0.24	66.6	77.2	0.12
<i>Drink restrictions(any of 8)</i>	88.9	91.7	0.44	79.2	84	0.47
<i>Lock outs</i>	80.4	83.5	0.47	72.1	76.1	0.64

8 Whether there exists other factors which warrant the reconsideration of the conditions imposed by the Liquor Administration Board.

The original conditions imposed on licensed premises in 2008 required the implementation of a shared radio network as a means of enhancing the management of and communication between licensed premises. The voluntary implementation of linked ID scanners by a select small number of premises represents a current technological solution for achieving these objectives. The retention of a condition with the purpose of enhancing the management of and communication between all late trading premises (beyond midnight) is strongly supported, with the cost of implementing such a system to be met by licensed premises.

The original conditions imposed on premises in 2008 also required the development of management plans and the conduct of audits of the compliance of premises with such plans. As performance plans, and audits thereof are a proven strategy in both public and private organisations for achieving organisational performance and compliance benchmarks, the retention and strengthening of such a condition is strongly supported for all premises. A strengthening of the performance requirements included in such plans could be differentially applied to late-trading, high-risk premises and those with a poor compliance history.

Recommendations

- 1 That, given the substantial health, safety and economic improvements that have occurred in Newcastle following 2008, and given the acknowledged ongoing and high level of assaults in Newcastle and the incompatibility of such incidents with a rapidly growing inner city residential population, the existing package of Newcastle Liquor License Conditions should be retained in full, and the ongoing application of those conditions to all liquor licensing decisions be continued
- 2 That, as the ongoing high level of assaults in Newcastle demonstrates that the circumstances that led to the initial introduction of the licensing conditions in Newcastle are yet to be fully resolved, and that this level of assaults is incompatible with a rapidly growing inner city residential population, additional licensing conditions and alcohol harm reduction strategies should be implemented.
- 3 That the implementation of additional licensing conditions and harm reduction strategies have a particular focus on addressing the risk of excessive alcohol consumption given that the excessive consumption of alcohol is the primary driver of the occurrence of alcohol related violence and harms.
- 4 That, the existing licensing conditions be considered as the base level of conditions applicable to all licensed premises, and that additional licensing conditions be applied to late night, high risk licensed premises and those with a poor compliance history.
- 5 That, given the substantial health, safety and economic improvements that have occurred in Newcastle following 2008, any proposed change to either the existing package of conditions and/or the ongoing application of those conditions to liquor licensing decisions be required to provide an evidence-based estimate of the likely impact of the proposed change on the rate of assaults in Newcastle.
- 6 That, the existing licensing condition regarding the implementation of a radio network to enhance the management of and communication between licensed premises be modified to be technology neutral, and that the purpose and outcomes of such a condition be stipulated.
- 7 That the implementation of technology to enhance the management of and communication between licensed premises be mandatory for all licensed premises and at the cost of licensed premises
- 8 That the condition relating to the development and audit of Management Plans be strengthened to ensure that:
 - a the actions included in the Plans have a primary focus on evidence-based strategies for reducing excessive alcohol consumption

- b the audit processes are evidence-based and include appropriate feedback and consequences for observed non-compliance.

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