

4 April 2016

The Hon. Ian Callinan QC AC  
Independent Review of Liquor Amendment Act 2014  
PO Box 7060  
SYDNEY NSW 2000

Dear Mr Callinan,

**RE: Independent Review of 2014 Liquor Reforms**

The Australian Hotels Association (AHA) NSW is pleased to make a contribution to this review. As with the concurrent evaluation being undertaken by the Centre for Program Evaluation within NSW Treasury, we have confidence that the process will be undertaken independently and in consideration of both the quantitative and qualitative data.

We acknowledge we have exceeded the general word limit and apologise for this, however as the peak industry association representing the hotel industry we felt that the complexities of the issues deserved a comprehensive response.

Should you require further information or wish to discuss any of the issues raised in the attached submission, do not hesitate in contacting AHA NSW Director of Liquor and Policing John Green on email

[REDACTED] or telephone [REDACTED]



**JOHN WHELAN**  
Chief Executive Officer



SUBMISSION TO THE  
INDEPENDENT REVIEW  
OF THE  
LIQUOR AMENDMENT ACT 2014

April 2016

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## 1. Executive Summary

In January 2014, then NSW Premier Barry O'Farrell announced a series of liquor legislation measures in response to an intense and personal campaign following the criminal, fatal assault on Daniel Christie on a public street at 9pm. The legislative measures included a 1.30am lockout and 3am cease service of alcohol in the newly created Sydney CBD and Kings Cross Precincts, and a restriction on selling takeaway liquor after 10pm right across NSW.

The measures have had a substantial impact on businesses in the precincts. They were announced without consultation, nor were they underpinned by evidence of their effectiveness. Published just one month previous, the recommendations in the Government's own independent statutory review of the *Liquor Act 2007*, undertaken by respected former Commissioner of the Office of Liquor, Gaming and Racing Michael Foggo, stand in direct contradiction to the restrictions placed on the precincts.

The Foggo review did not support a 'one size fits' all approach, recognising the *Liquor Act* has sufficient teeth to deal with rogue operators, stating:

*A 'one size fits all' approach does not take into account environmental risks or fit well with calls for targeted enforcement action. The current legislative framework is considered sufficient to deal with risk areas through a variety of enforcement initiatives, including:*

- *Disciplinary action on an individual premises or a number of premises within a designated area which can include licence cancellation,*
- *Agreed operational changes as part of liquor accords,*
- *Disturbances complaint processes, including precinct based approaches,*
- *Issuing of directions, or*
- *Voluntary actions including operational changes, RSA marshals, etc.*

As an industry, we acknowledge that licensees, their staff and the industry association that represents them have a role to play in working to reduce the level of harm – it's something that has seen reductions in the levels of assaults in the precinct over an extended period.

Hotels in New South Wales have never been better run than they are today, offering five star food in a family-friendly atmosphere. Hotels have also never been safer –

they provide a regulated environment with appropriate security measures to protect the safety of their loyal patrons.

We have been and remain sceptical that the imposition of a lockout as a blanket measure is an effective strategy to reduce the overall incidence of violence and risk to safety.

Similarly, the state-wide restriction on off-premise alcohol sales after 10pm is a blunt policy instrument which erroneously conflates potential harm reduction in the Sydney CBD with alcohol availability in regional and rural New South Wales. This is more defined when it is considered that the majority of large retail liquor stores don't open after 10pm. The unintended consequence of the restriction is on hotels who provide takeaway sales as a convenience to tourists, farmers, hospitality workers and shift workers who would not otherwise be able to purchase liquor for takeaway sale prior to 10pm.

Interpreting and assessing information received in an impartial fashion is not something done easily without expertise. Most people look subjectively at the evidence, seeing only the points that favour their argument. This debate is no different.

The AHA NSW does not support blanket policy which unfairly penalises many safe, well run venues with a proven track record of compliance.

The AHA NSW strongly supports evidence-based policy. On this basis, we welcome an independent review that serves the public interest and provide the following submission to assist that process.

## 2. Summary of Recommendations

### Callinan Review Recommendations

Trading Hours		
Number	Recommendation	Page
1	That the <i>Liquor Act 2007</i> be amended removing the restriction on entry to patrons after 1.30am (Lockouts) in the Kings Cross and Sydney CBD Entertainment Precincts	24
2	That the <i>Liquor Act 2007</i> be amended restricting entry to new patrons after 3am in the Kings Cross and Sydney CBD Entertainment Precincts	25
3	That an amendment be made to the <i>Liquor Act 2007</i> to reinstate standard trading hours for take-away sales after 10pm in regional, remote and tourism areas	27
4	That an amendment be made to the <i>Liquor Act 2007</i> to reinstate standard trading hours for take-away sales after 10pm in Metropolitan areas in NSW	28
Annual Liquor Licensing Fees		
Number	Recommendation	Page
5	That a system of rewarding licensees for good performance be examined	28
6	That licensees who surrendered their trading hours in 2015 under duress be permitted to have those hours re-instated on application, on the proviso they apply for an "Occasional Extended Trading Condition"	29
7	That the Compliance and Capacity loading component of Annual Liquor Licensing fees be removed from the legislation	29
8	That Annual Liquor Licensing fees be directed towards infrastructure, resources and policing to support the night time economy	30

### Additional Recommendations

Number	Recommendation	Page
9	Extend late night train services to align closing times to patron movements	34
10	Encourage expansion of point to point services such as Uber in CBD by creating an additional ridesharing "super-rank"	34
11	That a Training Working Group comprising industry and the regulator develop appropriate and accredited training programs for licensees and managers	34
12	That the importance of the night time economy in the Central Business District and Kings Cross precincts to the financial, cultural and international viability of Sydney be acknowledged	36
13	That consideration be given to appointing a Night Ambassador to support and encourage the night time economy in the Sydney CBD and Kings Cross precincts	36

### 3. AHA NSW – A Snapshot

The Australian Hotels Association NSW (“AHA NSW”) strives to be the pre-eminent hospitality industry association in NSW, a federally registered industrial relations association representing employers of labour. We have a membership comprising over 1800 licensed premises throughout NSW including hotels, pubs, taverns, small bars, function venues and golf resorts. Over 1000 of these operate within regional NSW.

Tourism Accommodation Australia (TAA) NSW is a division of AHA NSW which represents the accommodation and tourism sector of the industry. TAA NSW represents over 200 3, 4 and 5 star hotels in NSW, including National, International and independently operated properties. A number of these properties are contained within the Sydney CBD Precinct.

Whilst the primary purpose of licensed premises is the service and supply of liquor, our members provide far more with food, accommodation and entertainment providing key components of their service mix. Hotels in NSW;

- Employ over 75,000 people,
- Donate more than \$25 million per year to charitable, community and sporting organisations in NSW,
- Contribute a further \$20 million per year to charitable organisations “in kind”
- Serve 2.5 million meals to visitors and locals each week
- Contribute over a billion dollars in taxes and other levies each year.
- Provide 14,000 pub accommodation beds in regional NSW

The role of AHA NSW is to represent the interests of these members across all levels of Government to allow them to conduct their businesses effectively.

It is noted that since 2010 the AHA NSW and its members have been banned from making political donations to Members of the Parliament of New South Wales, Councillors in Local Government Areas and registered parties or candidates seeking election to the Parliament of New South Wales or as a Councillor in a Local Government Area.

### 4. The Liquor Act 2007

#### **Objects of the Act**

The *Liquor Act 2007* (‘the Act’) contains three objectives;



*(a) to regulate and control the sale, supply and consumption of liquor in a way that is consistent with the expectations, needs and aspirations of the community,*

*(b) to facilitate the balanced development, in the public interest, of the liquor industry, through a flexible and practical regulatory system with minimal formality and technicality,*

*(c) to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries.*

It is noted that the object of the *Act* is not solely about regulation, restriction and compliance. There are legislated objects designed to support the industry, provided it is in the public interest.

### **Current powers of the *Liquor Act***

The *Act* currently has significant legislative powers that enable individual venues and their operators to be brought to justice for wrongdoing, have restrictions placed on the operations of their premises, or where the evidence supports it, their removal from the industry. Specifically:

#### **Licence cancellation**

- Section 141 (2)(a): Disciplinary powers of Authority
  - The Authority may also take a range of disciplinary actions under this provision to determine a complaint made under Part 9
- Section 130E (Minors):
  - Automatic licence cancellation for third offence

#### **Disqualify a person from having an interest in the business**

- Section 141 (5) and (6)

#### **Licence suspension**

- Section 141 (2)(b): Disciplinary powers of Authority
  - The Authority may also take a range of disciplinary actions under this provision to determine a complaint made under Part 9
- Section 130C & 130D (Minors):
  - The Secretary may order suspension for the first offence
  - Automatic licence suspension for second offence

#### **Other measures that can continue to be imposed**

- Section 52: Authority may impose special licence conditions

- This provision permits the Authority to impose conditions on a licence prohibiting or restricting activities that could encourage misuse or abuse of liquor.
- Section 53: Authority may impose, vary or revoke licence conditions
  - This provision permits the Authority to impose conditions on a licence.
- Section 54: Secretary may impose, vary or revoke licence conditions
  - This provision permits the Secretary to impose conditions on a licence.
- Section 82: short-term closure of licensed premises
  - This provision permits the Authority to order licensed premises to close on a short term basis;
- Section 84: Order by Authority for long-term closure of licensed premises
  - This provision permits the Authority to close licensed premises for a longer period than section 82 subject to meeting certain criteria.
- Section 85: Further long-term closure orders
  - The Authority may grant 2 or more orders in respect of premises under section 84.
- Section 87: Secretary may make late hour entry declaration
  - This allows the Secretary to make a declaration to prevent patrons entering licensed premises during late trading hours.

In recent times, we have seen a number of examples of these powers being exercised.

Blanket measures imposed on a geographical area that align all licensed premises at the lowest competency level is poor policy, impedes investment in the industry and penalises good licensees who are committed to compliance and quality service.

#### **Case Study: Blanket Measures and The Kings Cross Hotel**

The Kings Cross Hotel is located opposite the famous Coca-Cola sign in the heart of Kings Cross. Operating over six levels with a capacity of well over 1,000 people since being purchased by the Solotel group in 2010, the venue employed over 50 staff, as well as security guards, RSA Marshals, over 30 DJs playing over seven nights per week, live bands, sound technicians, and housed a level run by a community radio station for local independent live music acts.

The venue had never appeared on the tiered 'violent venues' scheme, never received a penalty notice for offences involving intoxication or violence, and was an active member of the Kings Cross Liquor Accord. In late 2013, the venue and the

operator received multiple nominations in the AHA Awards for Excellence.

The blanket measures imposed on the venue in February 2014 have had a disturbingly negative impact upon the business. Nightly patronage has dropped more than 80%. Three levels of the venue are now closed due to the lack of patronage, including the level run by the community radio station. Staffing hours have decreased by a third, door takings have fallen by over 80%, while wages for security personnel have fallen by two thirds. Live music is no longer financially viable at the venue, while DJ entertainment is now provided only on weekends, with the roster reduced by more than two thirds.

The Kings Cross Hotel was a responsibly run venue that was unfairly punished due to its geographic location rather than its compliance history.

The failure to distinguish between venues that benefit their patrons, staff and the wider community and those who consistently operate outside of the law and community expectations is one of the central deficiencies of the measures as implemented.

## 5. The 2013 Foggo Review of the *Liquor Act*<sup>i</sup>

On 13 December 2013, just three weeks before the tragic assault on Daniel Christie on a public street at 9.30pm and five weeks before the new restrictions were announced, the five year statutory review of the *Liquor Act 2007* by the former Commissioner of the Office of Liquor, Gaming and Racing Michael Foggo was tabled in Parliament.

The review received 100 submissions from the community, government agencies, local councils, the liquor industry and the health sector containing over 1500 pages of comments, research material and discussion<sup>ii</sup>. The review found by and large that the objects of the *Act* remain valid.

The Foggo review made 91 separate recommendations, including a number relevant to the announcement made by Premier O'Farrell.

### Foggo Review - 1.30am Lockout

*"The adoption of a standard set of conditions to be applied to all existing late trading venues is not supported."* (Recommendation 31)

*"The [pre-lockout] strategy of applying a targeted approach to reducing alcohol-related problems associated with licensed premises is supported and should continue."* (Recommendation 30)

### **Foggo review - 3am cease service of alcohol**

*“While many of the submissions supported a 3am closure, (along with other prescribed conditions), there is insufficient research to inform the review that this is the optimal closure hour that would result in an acceleration of the rates of decline in alcohol-related violence evidenced since 2008.*

*The review also notes that closure of all late trading premises at a particular hour may result in considerable demand for the limited transport available at that time. Resulting queues and frustration experienced by patrons may present significant management problems for licensees, other businesses operating at those times, and law enforcement.*

*Therefore, the review does not support calls for blanket trading hours or a ‘one size fits all’ policy. Such a measure would unfairly penalise the vast majority of late trading venues that consistently operate within the law and make a positive contribution to the late night economy. The measure would also have a significant impact on local employment and economic activity.”*

### **Foggo Review - restriction on takeaway sales after 10pm**

The Review unequivocally supported retaining the standard off-premises trading hours, which allowed for liquor sales until midnight Monday to Saturday and 10pm on Sundays.

*“The [pre-lockout] standard trading hours for packaged licences should remain unchanged” [i.e. allow for sales until midnight]. (Recommendation 35)*

## **6. Catalysts to the 2014 Liquor Legislation**

The reforms announced in January 2014 followed on from immense political pressure applied personally to then Premier Barry O’Farrell arising from a series of well publicised criminal incidents that occurred in the public domain, two of them well before midnight.

What can be factually determined is that the perpetrators of the assaults that drove the 2014 reform agenda were no strangers to the criminal justice system.

The following section details further causal factors.

### **1. Thomas Kelly**

Thomas Kelly's attacker Kieran Loveridge had previous convictions for assaulting a police officer and assault occasioning actual bodily harm, both of which resulted in periods of probation and a good behaviour bond that was in force at the time of his assault on Kelly. In fact, in the Court of Criminal Appeal in allowing the Crown's appeal against the original sentence handed down, the decision stated *"Despite his relative youth, he had prior offences of violence. He was subject to conditional liberty for an alcohol-fuelled offence of violence, with that sentence having been passed by a court just one month prior to 7 July 2012."*

Shortly before 10pm on 12 July 2012, Thomas Kelly had travelled by taxi to Victoria Street with two female friends. After alighting from the taxi, they commenced walking towards Darlinghurst Rd where a male offender, Kieran Loveridge struck Mr Kelly to the side of the head whilst he was speaking on a mobile telephone. The blow caused Mr Kelly to fall unconscious, striking his head on the concrete footpath, causing fatal injuries. Loveridge had travelled from Quakers Hill with friends and with them had consumed a large quantity of double strength mixed spirits during the trip which were purchased at 5pm<sup>iii</sup>. He had also assaulted one other person prior to, and three persons after the assault of Mr Kelly following which he was actually spoken to but not detained by Kings Cross Police. He was subsequently arrested 10 days later.

### **2. Michael McEwen**

Michael McEwen's attacker David Hona was on bail and "having a big night" with friends because he was to go into custody the next day for an earlier offence of stealing a car. Media reports indicate he had served juvenile detention for convictions including reckless wounding, negligent driving and police pursuits.

In the early hours of 14 December 2013 Michael McEwen was walking on Campbell Parade, Bondi Beach when he was confronted by David Hona and another male, who had left a licensed premises over a kilometre away and approached and commenced an altercation with Mr McEwen, who had put his hands up as a non-aggressive stance. The assault was not "one punch", but instead a sustained attack on Mr McEwen. Hona was arrested on 14 February 2014, two months after the attack.

### **3. Daniel Christie**

Daniel Christie's attacker Shaun McNeil had an extensive criminal history, including four incidents of assault, multiple contraventions of Apprehended Violence Orders, drug possession and possession of a knife in public place. He was the subject of four good behaviour bonds over the course of six years, one of which he was fined \$500 for breaching.

About 9.30pm on 31 December 2013, Daniel Christie was with his brother in Victoria Street Potts Point. At that time they came upon Shaun McNeil who was remonstrating with two teenage persons as they were attempting to sell prohibited drugs to McNeil. Christie defended the young drug offenders against McNeil, who then assaulted Christie and who, within five metres of the location where Thomas Kelly was struck, also fell unconscious and struck his head on the concrete pathway. Christie would later pass away on 11 January 2014.

## **7. Criminal Records and Bail History of Offenders**

Research has shown that there are strong predictors of recidivist offenders: the younger the age at which a person commences offending, the more likely they are to be recidivist<sup>iv</sup>. Similarly, illicit drug use and more frequent and serious prior offending are both strongly correlated with recidivism. Assault offenders are more likely to commit the same offence again than any other criminal, apart from those who commit traffic offences<sup>v</sup>.

Despite this, a good behaviour bond issued under Section 9 of the *Crimes (Sentencing Procedure) Act*, rather than imprisonment following a conviction, is the most common penalty for common assault (40.8%), assault occasioning actual bodily harm (44.6%), and assault with intent on certain officers (35.4%). Combining this with the number of offenders who upon conviction receive orders under Section 10A (disposal of proceedings without penalty following a conviction) and Section 12 (suspended sentences), a total of 71% of common assault cases result in good behaviour bonds and non-conviction orders. Nearly 67.9% of assault occasioning bodily harm and 56.2% of assaults on certain officers result similarly<sup>vi</sup>.

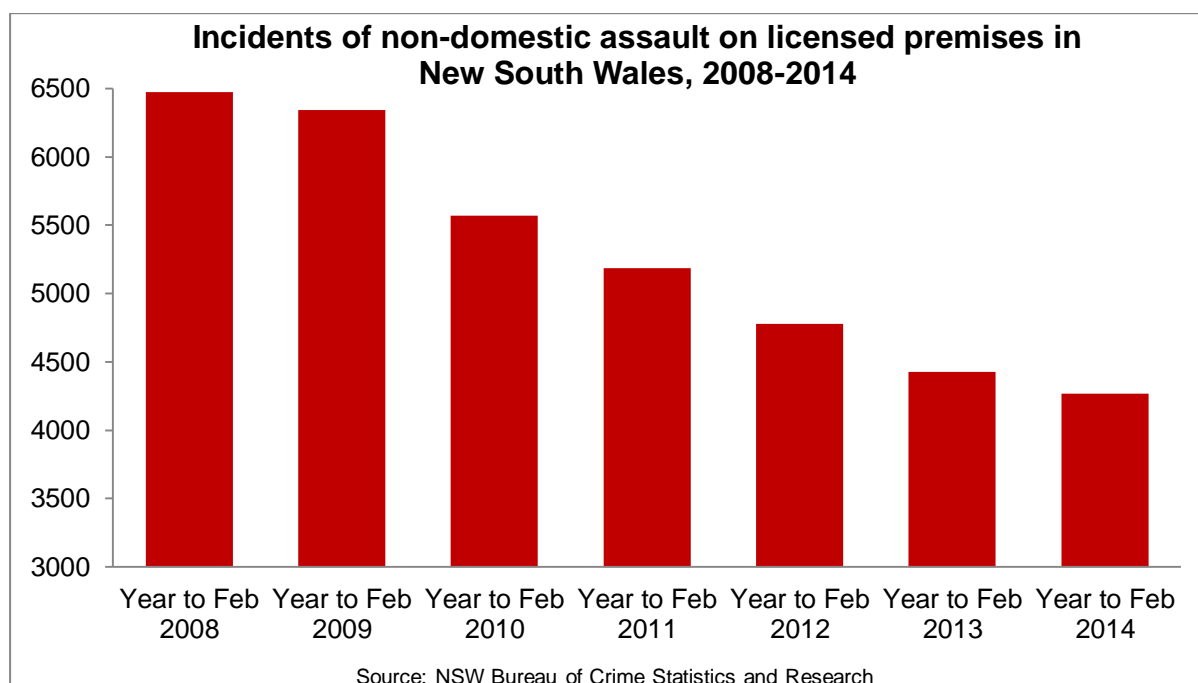
## **8. Licensed Premises and Violence**

When the January 2014 reforms were announced, both the media coverage and advocate led commentary indicated that the Sydney CBD/ Kings Cross Precincts and indeed across NSW had experienced a significant surge in “alcohol fuelled” violence. The reverse is the case.

Publicly available data from the independent NSW Bureau of Crime Statistics and Research (BOCSAR) shows that there was a pre-existing downward trend in non-domestic assaults on licensed premises across New South Wales. Between 2008 and immediately prior to the implementation of the lockout in 2014, assaults had already fallen by 34.8%.

Incidents of non-domestic assault on licensed premises in New South Wales			
Period	Number of Assaults	% Change year-on-year	Change cumulative (since 2008)
Year to Feb 2008	6473	-	-
Year to Feb 2009	6345	-2.0%	-2.0%
Year to Feb 2010	5572	-12.2%	-13.9%
Year to Feb 2011	5184	-7.0%	-19.9%
Year to Feb 2012	4780	-7.8%	-26.2%
Year to Feb 2013	4427	-7.4%	-31.6%
Year to Feb 2014	4267	-3.6%	-34.8%

Source: NSW Bureau of Crime Statistics and Research



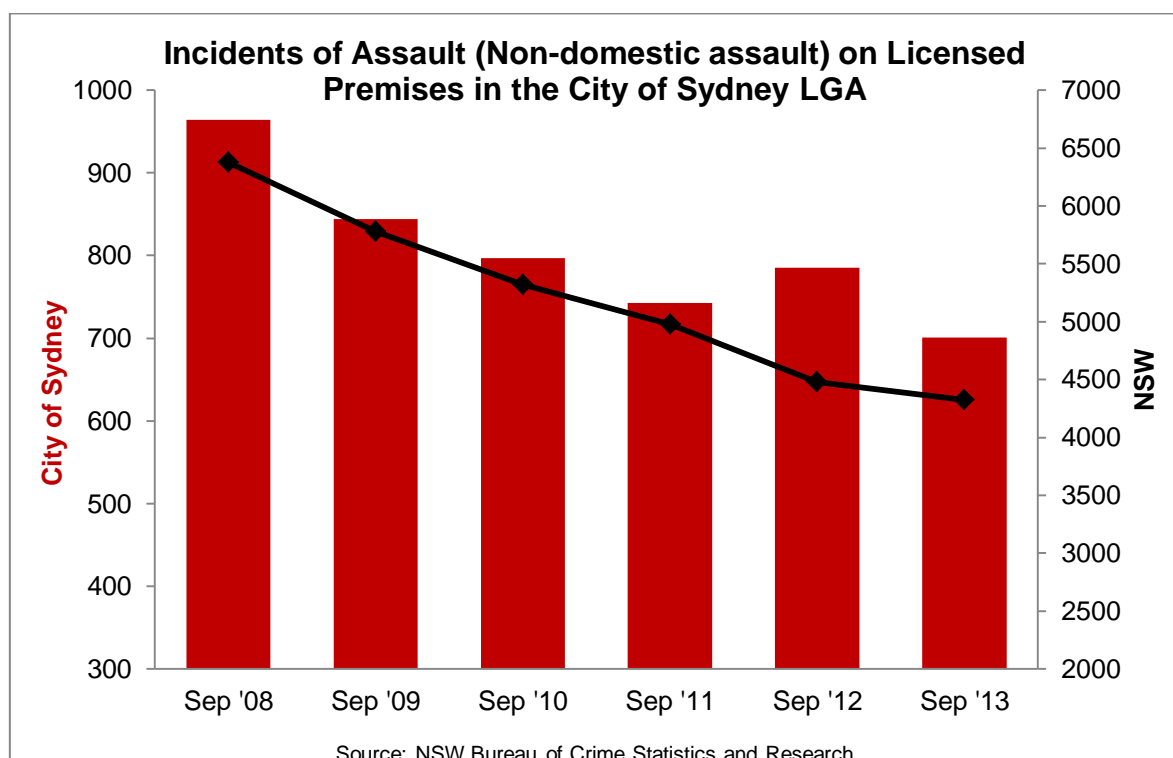
### Sydney CBD – prior to restrictions

This trend was replicated in the Sydney Central Business District. The publicly available figures demonstrate that there were 27.3% less assaults on licensed premises within the City of Sydney Local Government Area in the year to September 2013 compared to five years earlier.



Incidents of Assault (Non-domestic assault) on Licensed Premises in the City of Sydney Local Government Area			
Year to	Assaults	Change Year-on-year	Change cumulative (since 2008)
Sep '08	964	-	-
Sep '09	844	-12.4%	-12.4%
Sep '10	797	-5.6%	-17.3%
Sep '11	743	-6.8%	-22.9%
Sep '12	785	5.7%	-18.6%
Sep '13	701	-10.7%	-27.3%

Source: NSW Bureau of Crime Statistics and Research



Source: NSW Bureau of Crime Statistics and Research

A recent BOCSAR study<sup>vii</sup> examined the long-term trends in late-night assault and acute alcohol illness in the Sydney CBD Entertainment Precinct, concluding that “ambulance and police administrative data sources provided a consistent picture of a recent decline in late-night assault trends”. The study revealed that incidents of grievous bodily harm had more than halved in the Precinct between 2007 and 2013, and that late-night ambulance calls for assault in the CBD almost halved between 2008 and 2012. This pre-existing trend, the authors note, saw assaults in 2013 “at the lowest levels in 10 years”.

Importantly, the report notes that because of the introduction of numerous liquor reforms in almost concurrent or closely succeeding fashion between 2007 and 2013, it is almost impossible to determine what individual policy measures actually drove the change. The simultaneous introduction of the 1.30am lockout, 3am last drinks,



10pm takeaway restriction and annual licence fee scheme in February of 2014 will serve to further compound this problem.

The number of assaults in and around licensed premises has continued to fall across the state after the introduction of the Sydney CBD and Kings Cross measures in February 2014. BOCSAR statistics reveal that in the year to September 2015, there were fewer incidents of non-domestic assault on licensed premises than at any time since the mid-1990s, when records first become available. Due to the hard work of hoteliers, working in partnership with police and the wider community, hotels in New South Wales have never been safer.

## **9. The “Newcastle Model” – Flaws and Fallacies**

It is anticipated the Review will receive countless submissions from a range of sources lauding the success of a series of licence restrictions imposed on 15 late trading hotels in the Newcastle CBD in 2008.

Known variously as the “Newcastle model”, “Newcastle trial” or “Newcastle solution” – the licence conditions placed upon the licences of the late trading hotels in the inner Newcastle CBD were a component of a number of correlating actions that occurred throughout NSW and Newcastle at that time.

An accurate analysis of the reductions in Newcastle should be properly examined as part of this review.

In March 2008, the then Liquor Administration Board imposed a series of conditions on 15 hotels late trading hotels in the Newcastle CBD (one was closed at the time), as the result of a disturbance complaint conference convened under s.104 of the then *Liquor Act 1982*. The conditions were draconian in nature and included;

- A 1am lockout (1.30am for some hotels)
- A 3am close ( 3.30am for some hotels )
- Drink restrictions after 10pm (No shots, no drinks over 30 ml alcohol, no RTDs over 5%, no more than four drinks in one transaction)
- No stockpiling of drinks
- Independent audits of alcohol management practices
- Sales of alcohol to cease 30 minutes before close
- Hotels to use a shared radio network to communicate about problem patrons etc.

The restrictions effectively shut down the 2<sup>nd</sup> largest city in NSW after 3.00am, but without providing appropriate transport or policing services.

Eighteen months after the conditions were imposed, the Bureau of Crime Statistics and Research (BOCSAR) commissioned a study, *The Impact of restricted alcohol availability in Newcastle*, to assess the crime statistics following the imposition of these conditions<sup>viii</sup>. This analysis of the raw crime data alleged that the level of alcohol related assaults in licensed premises had reduced by 29%.

### **Impact of restrictions on Newcastle – Nightlife decimation**

The restrictions deterred many thousands of young people from heading to Newcastle. Just as we have seen in the Sydney CBD and more notably in Kings Cross, simple mathematic equations identify that the subsequent and easily predicted reduction in the number of incidents occurred because people who previously came from surrounding suburbs and regional centres, such as Maitland, Cessnock, and the Central Coast chose not to go to the Newcastle CBD.

For the 14 Newcastle premises (one was closed at the time), the cost of the extreme measures was significant -

- One in four hospitality workers laid off,
- Hotel closures, receivership and changes in ownership.
- Sales revenue - Down 30.8% (NSW rose 2.7%)
- Asset value – Down \$22.5 million
- Workforce – Decrease by 21.7%
- Live music down by \$1million per year
- Food, entertainment all impacted

### **Case Study – A Newcastle Hotel**

Recently, pro-lockout advocates have claimed that as none of the Newcastle hotels imposed with the licence conditions had closed, claims of hardship were exaggerated. Hotel licences, like a house mortgage don't just close. Financial institutions call in loans, licensees sell at lesser prices to pay debts.

One hotel was purchased in 2008 for \$6.8 million to provide financial security into the future for a family. It had an annual turnover of \$10 million. The hotel opened a restaurant which awarded as National AHA's Regional Restaurant of the year in 2009.

By 2013 the hotel was in receivership, sold for \$2.4 million with a turnover of \$6 million annually. The cost to the licensee and his family was immense, but as the hotel now trades on under different ownership, the public perception is that nothing has changed.

### What would the impact be if implemented across NSW?

The AHA NSW engaged Price Waterhouse Coopers to examine the impact should the Newcastle measures be adopted across NSW. The results painted a bleak picture, including;

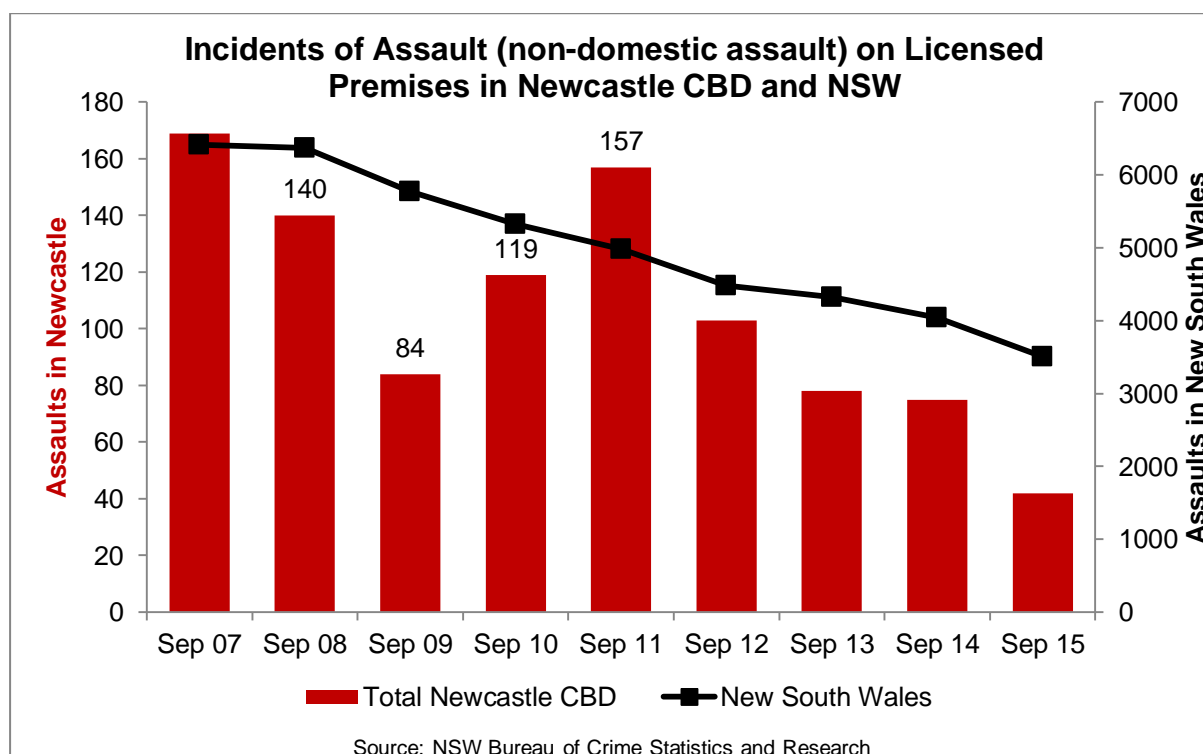
- Trading revenue down between \$759 and \$994 million (15.7% - 20.6%)
- Hospitality employment down between 8,500 and 14,500 (15.5% - 26.4%)
- Between 300 and 410 premises facing closure
- Asset values falling by a total of up to \$2.618 billion
- Gaming tax paid falling by up to \$131 million (down 31.3% on 2011 figures)
- Reduction of up to \$67.9 million in labour income
- Donations & sponsorships down by up to \$13.1 million

The total costs to the Sydney CBD are as yet unknown, but what is certain is that the music industry has suffered, and hospitality staff finishing work around 1.30am have nowhere in the precinct to go.

### Have the Newcastle conditions been effective?

These costs to employment and the economy may be justifiable if the evidence supported the effectiveness of the conditions, however this is simply not the case.

Whilst the number of assaults in licensed premises in Newcastle CBD declined in the year following the introduction of trading restrictions in 2008, they rose again to levels higher than 2008.

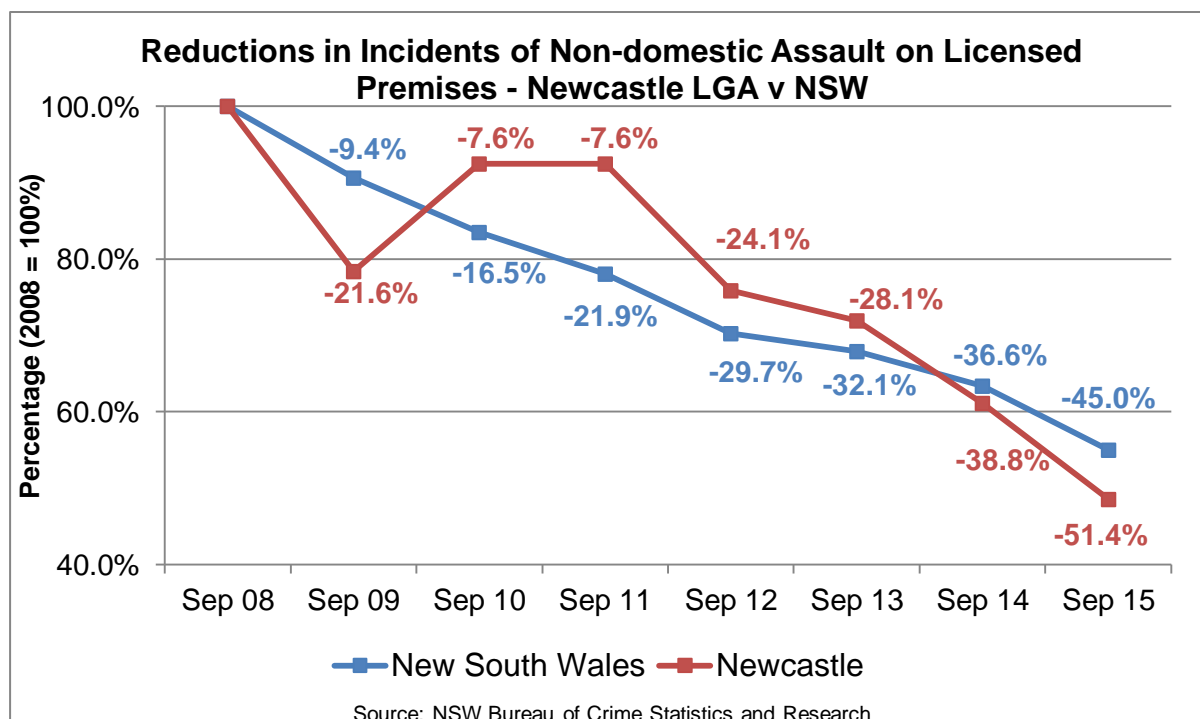


Incidents of Assault (non-domestic assault) on Licensed Premises in Newcastle CBD and NSW									
	2007	2008	2009	2010	2011	2012	2013	2014	2015
New South Wales	6418	6374	5777	5321	4978	4479	4326	4038	3507
Newcastle	141	109	58	76	99	68	41	41	26
Newcastle East	0	0	1	0	1	0	0	1	0
Newcastle West	28	31	25	43	57	35	37	33	16
Total Newcastle CBD	169	140	84	119	157	103	78	75	42

Source; NSW Bureau of Crime Statistics and Research

Between 2009 and 2011 the number of assaults in the Newcastle LGA increased by approximately 21% - the largest single increase of any Local Government Area across NSW.

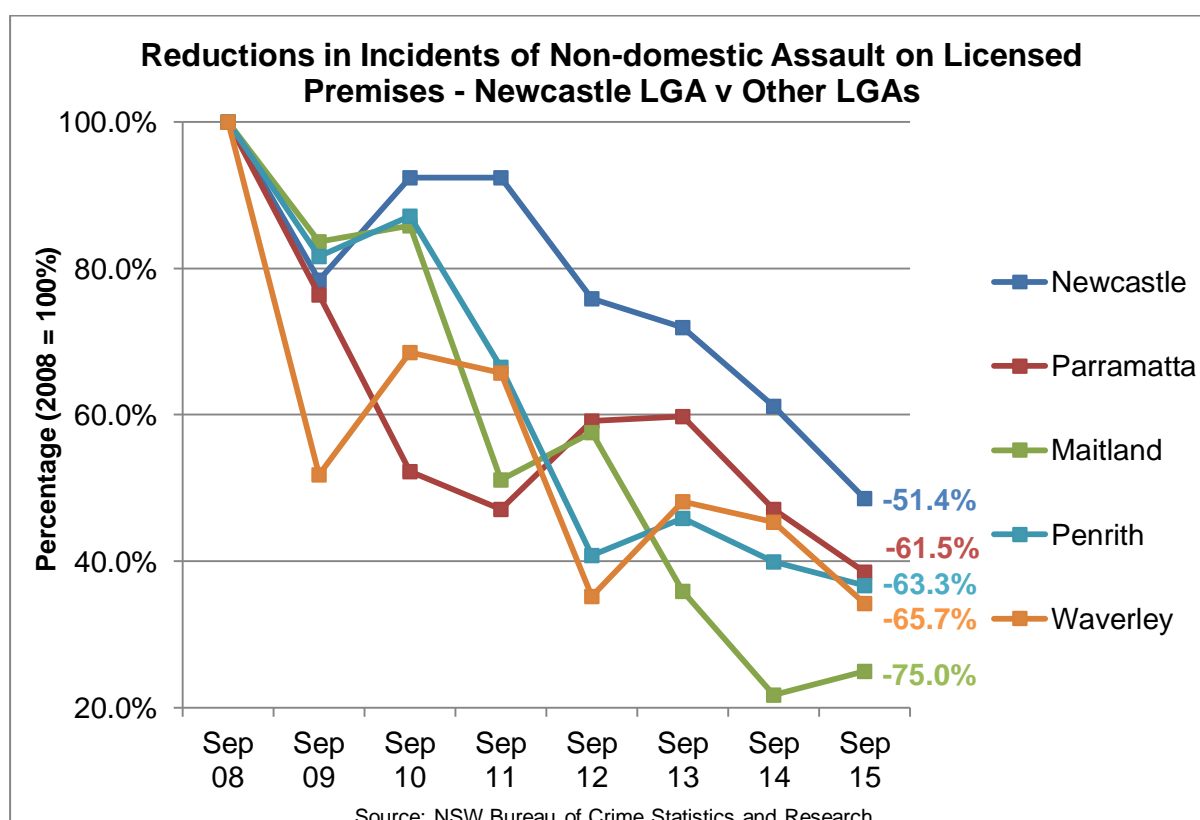
At that time, the remaining late trading hotels formed the “Newcastle Entertainment Precinct” (NEP). The NEP then developed a localised solution to deal with the increase in assaults - a process of banning violent or anti-social patrons from all member hotels. The result of this strategy was to arrest the rise in recorded assaults with sustained reductions since that period.



The same BOCSAR data identifies that the reductions were far greater in many other Local Government Areas across NSW. The graph below illustrates that the

reduction in incidents of assault in and around licensed premises seen in Newcastle (down 51.4% since 2008) was bettered in a variety of LGAs without trading restrictions. Maitland (close to Newcastle, down 75%), Parramatta (Sydney's 'second CBD', down 61.5%), Penrith (Western Sydney entertainment destination, down 63.3%), and Waverley (which includes tourist hub Bondi Beach, down 65.7%) all recorded significantly greater reductions in the level of violent crime in their venues that have not had the draconian conditions in force. Also of note, since 2008:

- Assaults in and around licensed premises in Wollongong are down 51.6%
- Assaults in and around licensed premises in Lake Macquarie are down 51.8%
- Assaults in and around licensed premises in Fairfield are down 54.1%
- Assaults in and around licensed premises in Dubbo are down 57.9%
- Assaults in and around licensed premises in Liverpool are down 62.0%
- Assaults in and around licensed premises in Leichhardt are down 64.8%
- Assaults in and around licensed premises in The Hills Shire are down 73.2%



## 10. The Callinan Liquor Law Review – 1.30am Lockouts

Lockouts, “one way doors” policies, or curfews are considered to be most effective as a localised strategy in “closed” communities – that is where once you aren’t in a premises there is nowhere else for you to go. From a policing point of view, in a closed community with a lockout, once the lockout is in effect, anyone on the street can be engaged and sent home.

The AHA NSW has previously supported lockouts in closed circumstances when introduced voluntarily based upon local needs. Tamworth and Wagga Wagga are examples where this strategy has been effective.

However, where lockouts are imposed in “open” communities the effectiveness is significantly less, and the consequences detrimental.

Open communities are considered to be those where other businesses in that community or communities in reasonable proximity to where the lockout is in place remain open. The impact in these situations sees patrons either remain in the public space after the lockout commences, persons travel to areas outside the lockout community, or make a decision not to come to the community with the lockout in the first instance.

In the case of the Sydney CBD and Kings Cross, the substantial reductions in pedestrian movements prior to and after the 1.30am lockout indicates people are either leaving the area earlier, or not coming at all.

A question on the efficacy of lockouts is that while some people have hailed them as the silver bullet – the one successful measure in Kings Cross and the CBD – no one has actually explained what it is that the “lockout” is actually achieving, or how a “lockout” can have any impact on intoxication, poor behaviour or violence.

The CBD and Kings Cross lockouts are a blunt policy instrument; they prevent entry to anyone that was not inside a licensed premises at the time the lockout is imposed, regardless of their sobriety, demeanour or frailty. They also keep persons inside licensed premises that may otherwise filter away, as they will not be able to gain entry elsewhere without leaving the precinct.

It should also be noted there are some 36 measures that have been imposed in Kings Cross since 2012, and 21 for premises in the Sydney CBD Entertainment Precinct. These measures have been imposed prior to proper evaluation and assessment of previous measures. The result is a plethora of measures where it isn’t known which work, and which don’t.

Lockouts can also cause conflict that would otherwise not be present. Whereas without lockouts the only persons being refused entry are those that are assessed, or reassessed as being intoxicated, violent or quarrelsome, lockouts cause additional conflict from persons who are refused entry;

- despite them only just completing their shift and have not had anything to drink,
- when they are looking to meet up with friends who are inside the premises,
- when they are seeking to retrieve items left at the premises,
- when they assist friends leaving the premises safely and then wish to re-enter themselves,
- when they intend to enjoy the venue's facilities (eg live music) without drinking at all,
- when they seek to exit the venue to smoke.

### **Case study - Lockouts and New Year's Eve**

Lock-outs have been removed in Sydney for New Year's Eve 2015 and 2016.

During these nights additional policing resources are deployed and transport systems operate overnight. The experience of the past two NYE celebrations has been overtly positive, with no discernible increase in anti-social incidents.

For example, on 1 January 2015, the 1.30am lockout was relaxed, with Police describing the night as the "safest New Year's Eves we've ever had", with media reports indicating that only 31 arrests had been made across the state as of 6am<sup>ix</sup>. Similarly, when the lockout was again not operational on 1 January 2016, police publicly praised the behaviour of revellers, while noting that of the 30 arrests made throughout the night, around half were drug-related offences<sup>x</sup>.

As a result, Sydney on New Year's experiences little or no substantial issues with the lockout removed. Police Association of NSW President and Last Drinks Coalition spokesperson Scott Weber noted that during the 2015 New Year's Eve's Operation Devlin,

*Over a million people flooded into the city but they saw a great New Year's Eve that was very well structured by the City of Sydney with emergency services out in force, ensuring that most people had a great time<sup>xi</sup>.*

The deployment of additional Police officers engaged in high visibility operations, combined with 24-hour train services to remove the crowds from the Sydney CBD, mean that violence and anti-social behaviour are rare occurrences, serving to demonstrate an alternative to the blunt policy instrument of the lockout.



### **Lockouts – what the academics say.**

Of all the measures imposed upon licensed premises in the precincts, the lockout is the measure with the least academic rigor behind it. Although crime rates in Kings Cross and the Sydney CBD appear to have fallen since February 2014, there is no evidence for the effectiveness of the 'lockout' measure specifically. A recent evaluation by Kypri and colleagues of the 'Newcastle Solution' found that there was no evidence that the lockout measure had any impact on rates of assault<sup>xii</sup>.

Similarly, a KPMG review found that the Melbourne lockout actually increased assaults<sup>xiii</sup>, while a NSW Parliamentary Library Research briefing compiled in November 2008 noted that..."In Victoria, a controversial 2am lockout was trialled between June and September 2008 and applied to designated trouble spots in Melbourne. Once concluded, the Victorian Government declined to extend the trial and has since announced that the policy has been abandoned altogether"<sup>xiv</sup>.

A soon-to-be-published review of the Gold Coast lockout found no statistically significant impact on crime, violence, head and neck injuries, or intoxication, and identified that violence intensified in some pre-existing hot spots<sup>xv</sup>. Studies on other locations that have a lockout, such as Ballarat<sup>xvi</sup>, Adelaide<sup>xvii</sup> and Geelong<sup>xviii</sup> identify a range of problematic issues generated by the policy, such the unintentional promotion of illicit drugs. Professor Ross Homel labelled the Queensland lockout,

*"...a complete, absolute 100 per cent failure from all of the data that we have been able to observe... It is what I regard as a politically attractive but completely ineffective strategy. But it is effective in the sense that it got the problem off the front page for a while"*<sup>xix</sup>.

The most comprehensive review of the existing academic evidence on and support for various alcohol policies, funded by The National Drug Law Enforcement Research Fund (NDLERF), examined lockout interventions and concluded that,

*"...the balance of the evidence suggests that precinct-wide lockouts are ineffective in reducing alcohol-related harm in night-life districts, and are associated with some negative consequences"*<sup>xx</sup>.

The AHA NSW does not support blanket policy which unfairly penalises many safe, well run venues with a proven track record of compliance.

The AHA NSW remains convinced imposed lockouts are not an effective strategy, and the detrimental consequences to business substantially outweigh any perceived benefits. In the absence of specific data proving the lockout measure to be successful, we advocate its removal.



**Recommendation 1:**

**That the *Liquor Act 2007* be amended removing the restriction on entry to patrons after 1.30am (Lockouts) in the Kings Cross and Sydney CBD Entertainment Precincts**

## **11. The Callinan Liquor Law Review - 3am Cease Alcohol Sales**

In line with our view on 1:30am lock-outs, the AHA NSW does not support blanket policy, such as the 3am cease service, which unfairly penalises many safe, well run venues with a proven track record of compliance.

The AHA NSW also notes that research in other jurisdictions has found no evidence of a link between extended trading hours and rates of violent assault, and that some countries have in fact introduced longer trading hours in order to prevent the harms associated with early fixed closing times<sup>xxi</sup>.

For example, in the United Kingdom following the introduction 24-hour trading under the *Licensing Act*, there were reductions in per-capita alcohol consumption, binge-drinking, violent crime, alcohol-related emergency department admissions, and late-night traffic accidents<sup>xxii</sup>. Similarly, many cities in the US have liberalised trading hours, resulting in net reductions in violence<sup>xxiii</sup>.

### **Case Study – Newtown Liquor Accord – Local Solutions**

In mid-2015 the Newtown Liquor Accord discussed local issues impacting upon their venues following the introduction of the CBD Plan of Management. As a pro-active strategy, the accord voluntarily introduced a series of measures on Friday and Saturday nights only;

- No new patrons\* after 3am
- Drink restrictions after midnight
- Conflict resolution training for late trading venue staff and security funding by City of Sydney Council
- A Code of R.E.S.P.E.C.T. developed for patrons and staff

\*"No new patrons" is the sensible and pragmatic alternative to a lockout. Existing patrons can leave to have a cigarette or obtain food whilst other persons can pre-plan their attendance and notify the premises, with that position in the venue held for their arrival.

The locally developed strategy has received the support of NSW Local Member Jenny Leong, Ralph Kelly, Police, Office of Liquor, Gaming and Racing and Deputy Premier Troy Grant MP, with limited support from the Police Association. Initial data suggests the measures have been effective and the 2015 City of Sydney's Late Night Area Research now identifies Newtown as the safest village in the Local Government Area.

This 'No new patrons after 3am' policy allows venues to continue to trade and patrons to enter and re-enter premises. Unlike a lockout this retains a level of safety in the public domain as they are not drained of people and left with only persons excluded or unable to enter premises.

This policy also ensures all patrons do not end up on the footpath at the same time, which is the case in the CBD when all late trading venues now close at 3am. Instead patrons enjoying a night in late trading Newtown venues are able to gradually leave throughout the evening.

Further, new patrons are aware there is no chance of entry after 3am, eliminating queues on the street and potential frustration and conflict.

Finally, consideration should also be given to permitting entry after a specific period to particular classes of person who have just completed work including police, emergency services, taxi drivers and hospitality workers.

**Recommendation 2:**

**That the *Liquor Act 2007* be amended restricting entry to new patrons after 3am in the Kings Cross and Sydney CBD Entertainment Precincts**

## **12. The Callinan Liquor Law Review - 10pm Takeaway Liquor Restrictions**

AHA NSW sees that the restriction on the sale of takeaway liquor after 10pm in Metropolitan and Regional NSW as different issues, and have therefore provided additional points on each in our submission

The rationale provided reducing authorised trading hours for the sale by retail was to prevent preloading and reduce the overall consumption of takeaway liquor, and in particular discounted liquor<sup>xxiv</sup>. The facts on the restriction of sales after 10pm across NSW are that;

- No evidence has been provided that the closure of bottle-shops after 10pm was necessary
- No specific information was provided on what issue this measure was designed to impact upon
- People do not "pre-load" after 10pm

- No large discount chain packaged liquor outlets operated after 10pm, nor did the vast majority of packaged liquor outlets that were not part of a hotel licence.

### **10pm takeaway restrictions – Regional NSW specific issues**

There has been no evidence presented that demonstrates a clear reduction in assaults (both domestic violence and non-domestic violence related) and other anti-social behaviours in Regional NSW as a result of the 10pm takeaway restriction, which suggests that the measure has been ineffective. Notwithstanding, there are strong arguments for hotels in regional NSW to have their standard trading hours restored.

Specifically in regard to regional NSW,

- People who work on the land do so by the sun, not by a clock. In many scenarios these people don't get back to their residences until after dark which in summer is approaching 9pm. By the time they shower and head to town, it can be already approaching 10pm and by the time they have a meal or a drink it is after 10pm.
- Tourists from inter and intrastate arrive into towns at all times of the day and evening after travelling from other centres and having a late meal before picking up some takeaway liquor before heading to their accommodation. In these circumstances it is not an option to obtain their liquor earlier in the night.
- Many shift workers from mines or other industry types finish their afternoon shifts at 9pm, 10pm or often 11pm.
- Transport haulage and other drivers who arrive in town and are constrained by log book and other restrictions may arrive into a country centre and wish to purchase a six pack of beer or other reasonable quantity of liquor to relax and wind down.
- The significant distances between liquor outlets and some workers and residents in regional New South Wales mean that just 'going around the corner' after work or during the course of a day is not a viable option, as it is in metropolitan areas.

In terms of the views of people in country and regional NSW, following the introduction of these laws in 2014 a petition calling on the Government to rescind these laws was circulated throughout regional NSW hotels by country hotelier Bevan Douglas from Tamworth. This petition exceeded 10,000 signatures and in accordance with Parliamentary Protocols was tabled by Tamworth MP Kevin Anderson and was the subject of a debate in the House.

A survey of regional and rural hoteliers undertaken by the AHA NSW revealed that 52.8% of hotels had either reduced the number of staff working hours or permanently put off staff due to the impact of the 10pm takeaway restriction.

AHA NSW considers that the appropriate policy response is to reinstate the standard trading hours.

**Recommendation 3:**

**That an amendment be made to the *Liquor Act 2007* to reinstate standard trading hours for take-away sales after 10pm in regional, remote and tourism areas**

**Takeaway sales of liquor after 10pm – Metropolitan areas**

Similarly, in relation to the Metropolitan areas in NSW, no evidence has been presented to indicate the reduction in the authorised hours for the sale of takeaway liquor has been effective in reducing assaults and other harms. On this basis alone the strategy should be questioned.

In an increasingly globalised and 24-hour economy, the shift towards flexible working arrangements necessitates a retail and service sector that is able to cater for the needs of workers who operate outside of a traditional '9 to 5' lifestyle. Whereas metropolitan Sydney now has trading hours that limit the sale of takeaway alcohol to 10pm, the deregulation of retail trading hours and the off-premise availability of alcohol in other large international cities reflects this shift.

City	Off-premise availability
Melbourne	24 hours
London	24 hours
Paris	24 hours
New York	24 hours
Berlin	24 hours
Tokyo	24 hours
Hong Kong	24 hours
Amsterdam	24 hours
Singapore	Midnight

A large number of international tourists visit metropolitan areas within NSW, and with those visitations comes an expectation of the availability of goods and services on demand. The sale of liquor for takeaway consumption is one of those items.

Additionally, many metropolitan suburbs have BYO restaurants that trade past 10pm. The AHA NSW is strongly of the view that BYO restaurant patrons should be able to purchase a bottle of wine after 10pm to enjoy with their meal.

The AHA NSW notes the growth of takeaway liquor outlets since the *Liquor Act 2007* commenced. Statistics show that since the removal of the 'needs test' and adoption of the National Competition Policy, over 700 new packaged liquor licenses have been granted in NSW in this decade alone (of 2,400 or so total). Of these, over 500 have been approved in metropolitan areas.

If the intent of the legislation was to restrict access to take-away liquor and the incidence of pre-fuelling across NSW and specifically metropolitan Sydney, then it would be reasonable to expect that the granting of new packaged liquor licences would have been restricted. As this has not occurred, nor has there been a demonstrated reduction in harms since the restriction was imposed, the validity and justification for this measure is questioned.

**Recommendation 4:**

**That an amendment be made to the Liquor Act 2007 to reinstate standard trading hours for take-away sales after 10pm in Metropolitan areas in NSW**

### **13. The Callinan Liquor Law Review - Periodic Liquor Licence Fees**

#### **Impact of the Periodic licensing system on businesses**

The measurement of risk has been determined on a range of factors, with hotel licences automatically being assessed as high risk, and late trading being equally targeted. Many hotels are safer than other licence types due to the resources and measures they have in place, such as security guards and RSA marshals. Hotels along with clubs are far more likely than other premises types to be active members of their local liquor accords, committed to providing safe and enjoyable times.

The AHA NSW is supportive of a stick and carrot approach to risk based licensing. Good venues should pay zero or even receive a rebate whilst problematic venues may pay larger more punitive fees.

**Recommendation 5:**

**That a system of rewarding licensees for good performance be examined**

### Trading hours risk component

The “Trading Hours” loading component of Annual Liquor Licensing comprises a fee for licensed premises that hold a liquor licence with an “Extended Trading Authorisation” (ETA) in place that allows them to trade after midnight. However, trading hours loading was not based upon actual hours traded, but rather the authorised hours.

In 2016 Liquor and Gaming NSW introduced the option of licensees applying for an “Occasional Extended Trading Condition” (OETC), whereby they would retain their Extended Trading Authorisation (ETA) as a valuable part of their licence, on the basis that they accept a condition on their licence that they would only trade up to 12 occasions after midnight in a calendar year, for no additional fee. The OETC is a much fairer process that retains the value of their licence. Unfortunately those licensees who did not have this availability in 2015, and could not afford their trading hours loading were forced to surrender their hours.

#### **Recommendation 6:**

**That licensees who surrendered their trading hours in 2015 under duress be permitted to have those hours re-instated on application, on the proviso they apply for an “Occasional Extended Trading Condition”**

### Compliance loading component

Prior to being deferred until after this review, the Compliance loading component of Annual Liquor Licensing Scheme was to have commenced in 2016, with licensees having to pay additional licence fees for “convictions” for any breach of liquor licence conditions under s.11 (2) of the Act that occurred during the previous calendar year.

This would have seen the payment of a penalty notice result in a substantially higher penalty than the \$1100 fine. For example, for a licensed premises situated in Sydney CBD with a capacity of 400, a single licence breach for failing to display a sign with the name and licence type of the premises (s.95[1] *Liquor Act 2007*) for \$1,100.00 issued by a NSW Police Officer would actually equate to \$14,100, being the initial fine plus additional fees of \$13,000 (\$3,000 compliance loading, \$8,000 capacity loading and \$2,000 location loading). The AHA NSW does not believe this level of additional fees is reasonable, considering the relatively minor nature of the breach.

The further unintended consequence of this loading would be a substantial increase in the number of defended prosecutions for any liquor licence breach, on the basis of the cost of the combined loading versus the cost of a court challenge. This would result in an increased burden on the NSW court system for administrative licensing matters, something the introduction of the *Act* in 2008 was supposed to remove.

**Recommendation7:**

**That the Compliance and Capacity loading component of Annual Liquor Licensing fees be removed from the legislation**

**Use of funds raised through the Annual Liquor Licensing Scheme**

The Office of Liquor, Gaming and Racing estimated in 2015 that the Annual Liquor Licensing Scheme would raise approximately \$20 million dollars annually. At the time, the AHA NSW recommended that rather than depositing these funds into consolidated revenue, the monies raised should instead be hypothecated towards providing infrastructure and resources to improve the night time economy, including policing, transport and lighting/CCTV cameras.

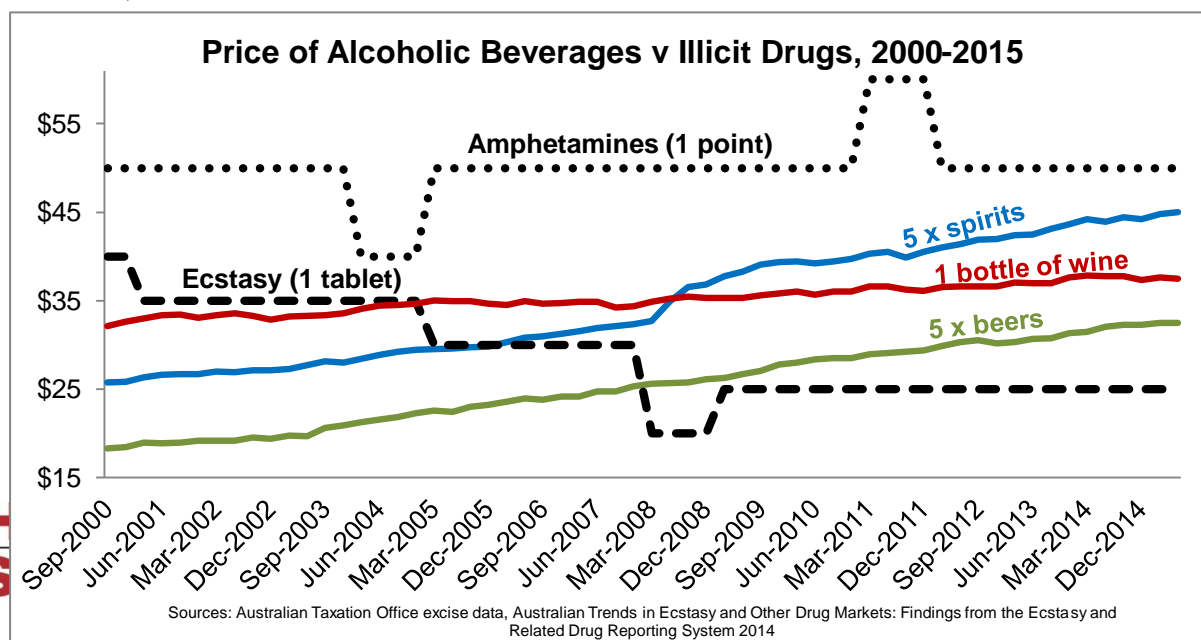
**Recommendation 8:**

**That Annual Liquor Licensing fees be directed towards infrastructure, resources and policing to support the night time economy**

**14. Other Issues - Illicit Drugs**

Any review of the measures should properly assess the role played by alcohol, and given the history of the offenders as detailed above, the harm generated by illicit drug and steroid consumption. The deaths of seven young people at music festivals across Australia since 2013, including two at the same event in different cities last year, serve as tragic illustrations of the inherent dangers of illicit drugs, and the hundreds arrested for possession or dealing at each event are a testament to their growing popularity.

To some extent, this may be explained by the increasing comparative affordability of illicit substances compared to alcohol. While the price of alcohol is indexed to the Consumer Price Index and thus consistently rises year on year, research has shown that the price of ecstasy and amphetamines has remained stable or fallen since 2000<sup>xxv</sup>, as illustrated below.





As the average price of a bottle of wine, five serves of spirits or five schooners of beer in a licensed premises is now significantly more expensive than one ecstasy pill, it is reasonable to assume that young people may choose to consume the illicit substance instead. In a recent episode of Four Corners, one ecstasy user was quoted as saying that,

*... one pill's \$20 and it'll last you four hours of just... not even thinking about what you're doing, just having fun. Whereas alcohol: we pay \$8 for a bloody schooner of beer these days and you need six to eight beers to even start loosening up.*<sup>xxvi</sup>

Although the scale of the problem is difficult to quantify, one study estimated that between 20% to 40% of people attending Night Time Entertainment Districts in Australia had used some form of illicit drug<sup>xxvii</sup>.

Alarming, over 60% of methamphetamine users admit to problems with aggression and 47% to committing a violent crime<sup>xxviii</sup>. Given the proven links between illicit substance use, aggressive behaviour, and recidivist violent offending<sup>xxix</sup>, the AHA NSW submits more attention should be directed to dealing with illicit drug use in the night time environment.

## 15. Other Strategies to be Considered - Transport

### Best Practise

Research has demonstrated that there is a consistent and significant relationship between overcrowded environments and patron aggression<sup>xxx</sup>, and that large patron volumes leaving licensed premises at similar times can overwhelm local transport capacity, particularly taxis and buses<sup>xxxi</sup>. In the absence of sufficient transport, patrons looking to return home are forced to spend longer in entertainment precincts, creating frustration and competition over resources and increasing the potential for conflict<sup>xxxii</sup>. The provision of frequent, reliable and safe late night transportation is therefore an important intervention for both patron safety and crowd dispersal, and a key element in the management of the late night economy.

Given the fact that not everybody who participates in the night time economy can necessarily afford a taxi fare, ensuring that affordable, non-taxi public transportation is readily available at all times of the night is a vital step in ensuring the safety of patrons, particularly those who live further distances away from entertainment precincts. For those who can afford a taxi, secure taxi ranks equipped with security



guards and CCTV have been introduced in some cities to safeguard passengers while they wait for transport to become available, which researchers have declared “a sensible addition to most entertainment districts”<sup>xxxiii</sup>.

## **Melbourne**

On New Year’s Eve 2015, The Victorian Government introduced a trial of 24-hour weekend public transport, both within Melbourne and connecting the CBD to selected regional centres. The strategy, which will run every weekend during 2016 at a cost of \$50 million, aims to improve late night safety by ensuring that over 70% of Melburnians have an all-night train, tram or bus within one kilometre of their home, while residents of Geelong, Bendigo, Ballarat and Traralgon are provided the option of a late-night coach service<sup>xxxiv</sup>. Secure taxi ranks are found throughout the CBD, and are staffed with security guards from 11pm to 5am<sup>xxxv</sup>.

Early reports have indicated that the service is seeing three times the volume of passengers the previous limited nightrider bus service served, helping up to 10,000 people leave the CBD during the first weekend of operation<sup>xxxvi</sup>. Announcing the initiative, Minister for Public Transport Jacinta Allan said that “a world-class city deserves 24-hour public transport. It’s good for our economy, for shift workers and for people who want to get home safe after a night out”<sup>xxxvii</sup>.

## **International Evidence**

Internationally, many large cities provide 24-hour public transportation, particularly on the weekends from entertainment precincts. Berlin, famed for its safe and vibrant nightlife, runs U-Bahn and S-Bahn trains 24-hours in 15 minute intervals on weekends, complementing the city’s 24-hour bus service and extensive taxi network<sup>xxxviii</sup>.

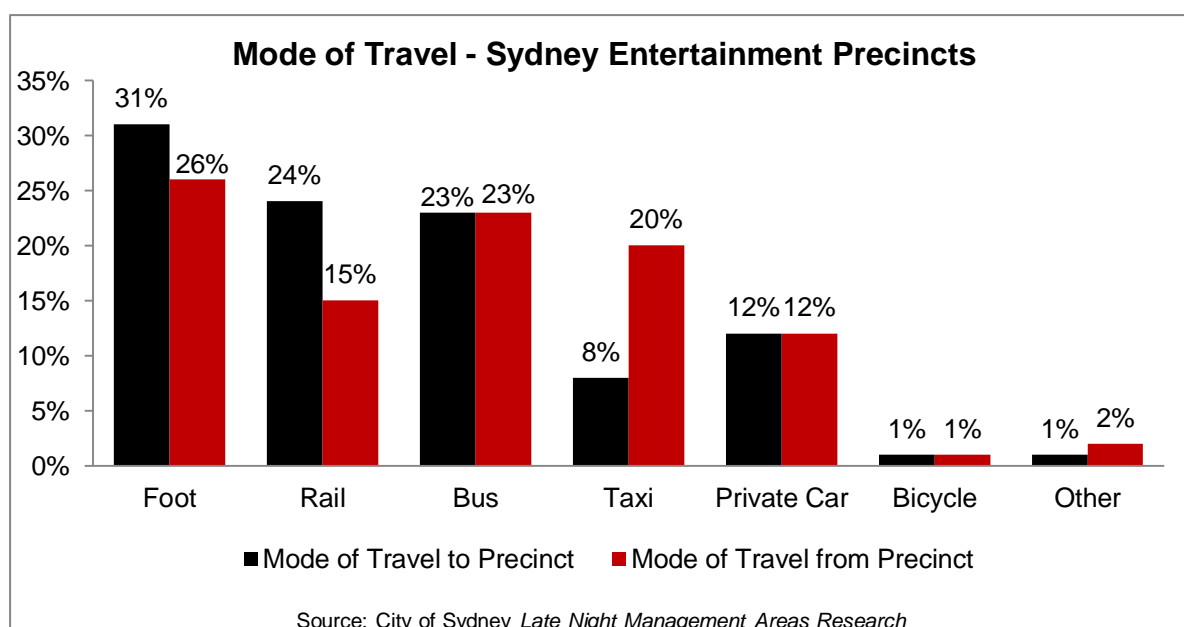
New York City runs 24 hour ‘Late night Subway’ on selected lines to allow participants in the night time economy to travel home safely and conveniently, despite having abundant ‘yellow cab’ taxi services available. London are supplementing their iconic black cabs with a weekend ‘Night Tube’, alongside marshalled taxi ranks as part of the Safer Travel at Night Initiative<sup>xxxix</sup>.

## **Sydney**

In contrast to the examples above, the last train on a Saturday night from Kings Cross station departs at 1.44am, from Circular Quay station at 12.57am, and from Town Hall at 1.49am, with services not restarting until around 5am. Compounding the lack of readily available non-taxi transport during these hours, the most common time of night for taxi drivers to change shifts is 3am, meaning that late-night economy patrons looking to get home compete for the scarce few still operating, leading many drivers to refuse shorter trips in favour of waiting for more lucrative fares. One journalist documented approaching 106 taxis seeking to go to Bondi Beach from Kings Cross (approximately 5km), resulting in being offered a flat fare by 11 drivers, and having his fare refused 82 times<sup>xl</sup>.

On New Year's Eve each year, train services in the Sydney CBD run all night. Along with increased police visibility, this leads to very low levels of violence on the busiest night of the year, for what is internationally recognised as one of the best celebrations of the New Year globally.

Recent research has demonstrated the popularity of public transport as a mode of getting to and from late night entertainment precincts. The City of Sydney's *Late Night Management Area Research* report found that the vast majority of patrons surveyed use transport other than a private car to arrive and depart from entertainment precincts (88%). Further illustrating the strain on the existing Sydney taxi fleet late at night, while just 8% of patrons arrived in the precincts via taxi, up to 20% planned to use a taxi to get home.



The lack of regular late night non-taxi public transport from the Entertainment precinct has been at least partially offset by the recent introduction of Uber in Sydney. UberX, the 'ridesharing' component of the Uber service, assisted over 50,000 people in returning home from the Sydney Entertainment Precinct after midnight on Fridays and Saturdays in its first year of operation<sup>xli</sup> - representing approximately 5% of total UberX fares. The fact that *Choice* found that UberX is cheaper than a taxi nine times out of ten, and that taxis were 40% more expensive than UberX on average<sup>xlii</sup> further illustrates the sizeable gap between the late night transport options currently on offer and patron desire for more affordable, frequent and reliable services.

Despite the recent announcement of a new regulatory framework for point to point transport, the taxi industry in New South Wales will retain the exclusive access to the

rank and hail market<sup>xliii</sup>. It is our submission that the ‘secure taxi rank’ model of patron management should not limit the provision of security to only those who can afford that particular form of public transport. Therefore, we advocate the development of a “Super Rank” for ridesharing services, preferably limited in operation to late at night, which would serve to protect patrons as they left the precinct while facilitating the development of an alternative transportation service for the Sydney CBD.

**Recommendation 9:**

**Extend late night train services to align closing times to patron movements**

**Recommendation 10:**

**Encourage expansion of point to point services such as Uber in CBD by creating an additional ridesharing “super-rank”**

## **16. Other Strategies to be Considered - Education and Training**

AHA NSW supports of effective and appropriate training for people working in the hospitality industry. We are a Registered Training Organisation and have partnered with another RTO to ensure our members and their staff have access to accredited courses to improve their service and knowledge. Presently, the only mandated training courses available for someone wishing to become a licensee is the Provide Responsible Service of Alcohol course, and the Responsible Conduct of Gaming Course, although staff working within the Kings Cross Precinct also have to undergo the privacy training module to enable use of ID scanning systems.

In 2015, a Training Working Group was established by OLGR to examine training in the hospitality sector. A tiered training program that included a licensee course as a mandatory requirement, developed in collaboration between industry and the regulator was strongly supported and continues to be sought.

Whereas there are a limited number of high schools within the CBD and Kings Cross precincts that the review is considering, it is acknowledged that many other young adults that attend the areas have attended high schools across NSW. The importance of these young people having an understanding of the responsible service of alcohol laws is considered important. The possibility of making Responsible Service of Alcohol training available to high school students, in order to increase the knowledge of the risks associated with the misuse of alcohol and foster a sensible and responsible attitude before students are permitted to consume alcohol on licensed premises, should be a matter for further consideration.

**Recommendation 11:**

**That a Training Working Group comprising industry and the regulator develop appropriate and accredited training programs for licensees and managers**

## **17. Other Issues - The Importance of the Night Time Economy**

The night time economy encompasses a range of leisure activities and experiences – eating, drinking, socialising, cultural activities, and the opportunity to hear live music amongst them – that are directly supported by hotels. As noted by late night economy expert Phil Hadfield, “licensed premises, particularly at night, will often be particular kinds of social situation in which people seek to socialise, relax and experience ‘time out’ from their daily lives”<sup>xliv</sup>.

Many people speak of the value of the night time economy (NTE) as a source of employment and prosperity. Research has found that the value of the Sydney night time economy was estimated to have been \$3.28 billion dollars in 2013, directly employing some 30,000 people (7.8% of local employment). The NSW NTE was found to make up 30.8% of the Australian NTE, which was measured at \$102 billion.<sup>xlv</sup> This makes the NTE as important to the economy as tourism.

Throughout Europe there has been a recent and rapid spread in the concept of what is variously referred to as ‘Night Mayors’, ‘or ‘Night Ambassadors’. At present, there are night ambassadors in 15 municipalities in the Netherlands, several Belgian cities, Paris, Nantes, and Toulouse, with Berlin, Cologne and London in the process of creating similar positions. The role of a Late Night Ambassador is to ‘bridge the gap’ between night time economy businesses, patrons, residents and Government – all stakeholders in the balanced development of a vibrant nightlife.

Current night mayor of Amsterdam Mirik Milan has frequently reflected on the tendency for policymakers to treat the night industries different from the day in the media<sup>xlvi</sup>, stating for example,

*When it comes to night culture, there's always a lot of misunderstanding. The night is always treated differently to the day. If we have a problem at night the first thing policymakers will often do is say: ‘We can't do it anymore.’ They decide to ban things and end up killing an industry.*<sup>xlvii</sup>

BOCSAR statistics reveal that there were fewer incidents of non-domestic assault at night in NSW during 2013 than at any time since the late 1990s. Despite this, there is significant tangible and anecdotal evidence to suggest the policies introduced have resulted in a disproportionately negative effect on nightlife. The impact of restricting trade in one part of the late night economy is having a ‘ripple effect’ throughout the related industries, where the positive effects appear to have been outweighed by the costs.

A number of hotels, such as The Flinders Hotel, The Crest Hotel, The Piccadilly Hotel, The Exchange Hotel, Bar Century, and The Bank Hotel have closed since the restrictions were introduced. Across the broader hospitality industry, award-winning cocktail bars, nightclubs, and wine bars have also ceased to trade. Businesses that do not rely on the sale of alcohol, such as newsagencies and food vendors, have also shut their doors as the customer base has decreased.

The impact has also been felt in the cultural industries; data released by APRA AMCOS through the Live Music Office revealed that there has been a 40% drop in live performance revenue at venues within the Sydney CBD lockout area. The data also shows a 19% decrease in attendance figures at nightclubs and dance venues since the lockout precinct was introduced in 2014<sup>xlviii</sup>.

It is unknown at this time what the exact economic impact of the 2014 liquor reforms has been, although the current evaluation being undertaken by the NSW Treasury's Centre for Program Evaluation (CPE) may provide some insight. Social impacts, while widely felt, are notoriously difficult to quantify. Ultimately, the future value of activities that occur after dark, both to the economy and to social vitality, should be monitored, valued, cultivated and advocated for.

The balanced development of the liquor industry and the responsible development of related industries are objects of the *Liquor Act 2007*. The sale and consumption of liquor on licensed premises most commonly occurs in the evening, and the patronage generated by licensed premises is a key driver of other night industries. Activities that occur after dark are key drivers of the economy, and the industries that support those activities should be cultivated and advocated for. The role of the Sydney CBD and Kings Cross precincts in job creation, economic development, cultural production and enhancing the international reputation of Sydney should be acknowledged and defended. The AHA NSW believes that one method of achieving this may be the appointment of a Night Ambassador to act as an independent intermediary between all night time economy stakeholders.

**Recommendation 12:**

**That the importance of the night time economy in the Central Business District and Kings Cross precincts to the financial, cultural and international viability of Sydney be acknowledged**

**Recommendation 13:**

**That consideration be given to appointing a Night Ambassador to support and encourage the night time economy in the Sydney CBD, Kings Cross and associated precincts**

## 18. Conclusion

In January 2014 a series of legislative initiatives were introduced without consultation and without the support of evidence. This statutory review of those laws affords an opportunity that was not undertaken at that time – to look closely and independently at the evidence and to examine the totality of impacts that these laws have had across the Sydney CBD and Kings Cross Precincts.

The AHA NSW supports the imposition of measures that target those that cause violence, anti-social or criminal behaviour and who do not comply with existing laws – be they individuals or businesses.

The importance of taking personal responsibility and not looking to blame other persons, drugs or alcohol cannot and should not be dismissed as a motherhood statement – it is a real concept that should be acknowledged. Those individuals and businesses should be held accountable for their own actions, whilst the vast majority that enjoy our city or conduct business lawfully should be allowed to do so.



## 19. Endnotes

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