

4 April 2016

Liquor Law Review
GPO Box 7060
Sydney NSW 2001
liquorlawreview@justice.nsw.gov.au

Newcastle's contribution to sustainable reductions in alcohol related harms whilst improving business prosperity

Overview

The Newcastle experience¹ associated with the adoption of precinct-wide enforceable 3am last drinks, 1.30am lockout (One way door policy "OWD") and range of other supply measures in March 2008, provides an important case study to evaluate and predict the impact of the similar reforms adopted in Sydney in February 2014.

Newcastle is the 6th largest city in Australia and our largest regional centre. It shared at its height, comparable crowd sizes with Kings Cross attracting approximate 20,000 patrons every weekend with the ability to be served nearly unlimited levels of alcohol to 5am².

The predictable deadly consequences of the primary industry self-regulation of this relative small segment of the liquor industry in Newcastle between 2000 and 2008 resulted in Newcastle Police Local Area Command having the highest level of assaults of all LACs.

It was literally a blood bath. Compliance with mandatory RSA provisions appeared virtually non-existent, something shared with Sydney prior to their 2014 modest reforms.

Despite a similar earlier Australian wide concerted campaign of misinformation and scaremongering concerning the Newcastle results suggesting "the draconian conditions had devastated Newcastle" (AHA), the reality is that not only has the level of assaults more than halved since March 2008, the number of licensed premises in Newcastle CBD has doubled with overwhelming community and patron support.

There is no independent evidence of displacement of alcohol related violence to Newcastle's neighbouring drinking precinct in Hamilton.

Newcastle has established that safer night economies are in fact, better for business.

More job opportunities have been created with the influx of more lively, inviting and diverse mixtures of venues into its CBD. This is a major boost to local business prosperity and transforming Newcastle's night time culture.

¹ I rely on my more detailed submissions provided to the Queensland Parliamentary Committee Inquiry into their (then) proposed Alcohol Violence prevention law reforms December 2015/16 <https://www.parliament.qld.gov.au/documents/committees/LACSC/2015/09-TacklingAFVLAB15/submissions/168.pdf> and <https://www.parliament.qld.gov.au/documents/committees/LACSC/2015/09-TacklingAFVLAB15/09-trns-ph01Feb2016.pdf> p61ff (also Prof Kypri's transcript p50ff)

² BOCSAR identify very high levels of failed RSA in Sydney survey <http://www.bocsar.nsw.gov.au/Documents/CJB/cjb162.pdf>

These compelling results are replicable elsewhere.

They more than justify any short-term inconvenience and dislocation associated with liquor outlets adopting more responsible and regulatory compliant (including RSA) business models not predicated on the “binge barn” model of service, and patrons quickly adjusting to modest controls on entry/last drinks times and service of alcohol practices.

The current Sydney experience of some industry interests exaggerating the short-term negative business/patron impact whilst discounting the substantial life and public cost saving benefits was unfortunately predictable and comes as no real surprise.

There is no prima facie reason why the same Newcastle triple win benefits cannot be derived in Australia’s other problematic late night drinking precincts including Sydney.

I encourage the Inquiry to identify and explore the real impediments preventing Sydney businesses deriving similar benefits from safer precincts and patrons’ alleged inability to adjust to the new small changes to drinking times.

The late trading liquor, live music and international tourism industries in Sydney have been gifted with a unique opportunity to rebrand and promote the benefits of now, much safer precincts – a demonstrable reduction in the violence, vandalism and vomit factor.

It has been their choice to date however, to exaggerate the short term negative impact of what are in reality, very minor changes to last drinks times and perpetuate the misleading exclamation that the city is “dead” – a self-fulfilling prophecy.

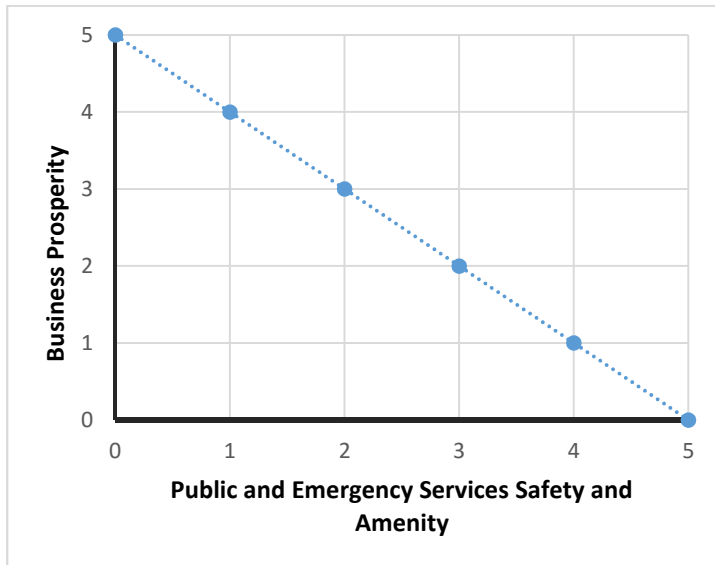
Those who oppose the modest alcohol law reforms fail to adequately address the disproportionate negative externalities (public and social costs) of the provision of the unlimited service of alcohol to satisfy their demand for “entertainment” gratification and associated business income. They also fail to resolve the equity issue of who should pay for the additional police and health resources to cater for the needs of this very small proportion of the overall alcohol consumer base.

The positive Newcastle outcome has effectively repudiated the current dominant (distributive model – “win – lose”) industry/political paradigm and associated rhetoric of a “trade-off” between liquor industry profits and public safety. The current NSW Liquor Act objects³ encode the concept of “balancing” or trading off⁴ the interests between the liquor industry and community/harm minimisation.

³ http://www.austlii.edu.au/au/legis/nsw/consol_act/la2007107/s3.html

⁴ For example see response by Mr Koh <http://www.smh.com.au/nsw/severe-facial-injuries-reduced-60-per-cent-since-lockouts-took-effect-20160331-gnv5pl.html>

Distributed outcome – Current Sydney “trade off” model



Newcastle has broken this costly and confrontational rhetorical mould currently playing out in Sydney.

The Newcastle “model” has passed the greatest test of all - the test of time.

Of the 14 original late trading licensed premises subject to the decision of the Liquor Administration Board in March 2008, 12 remain open. Of the other two, one (the Silk⁵) was closed by Police, the other (Civic) was destroyed by a fire⁶ in 2009.

Predicated on the primacy of alcohol harm prevention by the adoption of a package of proven simple cost saving measures, Newcastle has achieved and sustained a transformational “win –win” outcome (integrative model) where short term compromise of patrons’ drinking patterns has created a much safer precinct with a greater variety of venues catering for a much broader and responsible customer base^{7 8}.

⁵ <http://www.theherald.com.au/story/2870763/silk-hotel-licensee-banned-for-10-years/>

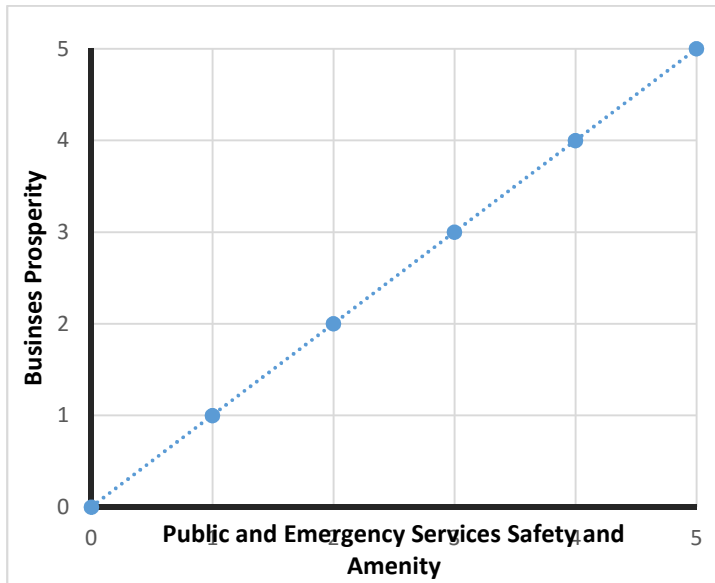
⁶ <http://www.theherald.com.au/story/443632/new-video-civic-hotel-fire-causes-chaos-in-newcastle-cbd/>

⁷ <http://www.newcastle.nsw.gov.au/Newcastle/media/Documents/Engagements/Completed/1857-NAD-Infographic-LR.pdf>

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http://www.newcastle.nsw.gov.au/Newcastle/media/Documents/Engagements/Completed/Newcastle-after-dark-report_final_v2.pdf

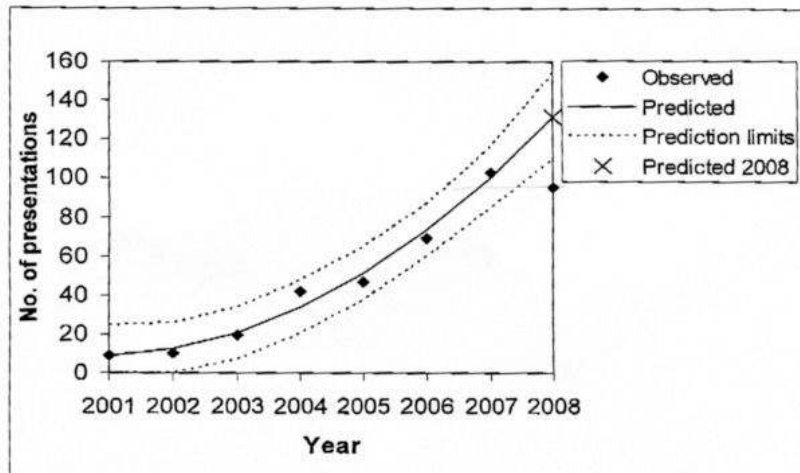
Integrative Outcome – Newcastle model “win –win”



Newcastle background

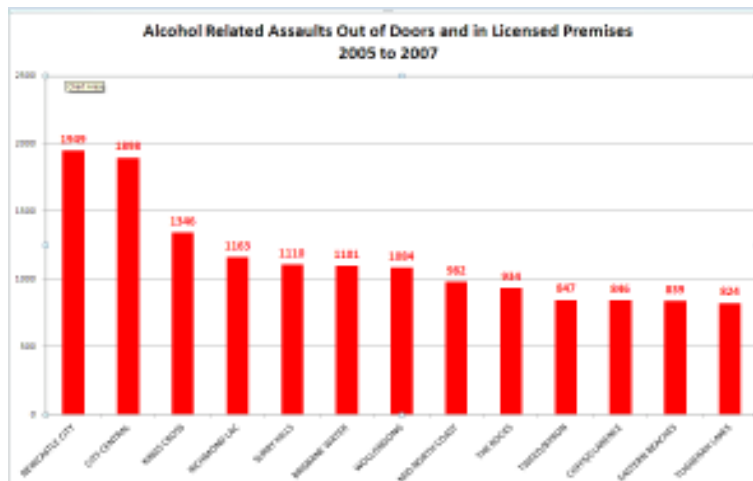
1. Coinciding with the relaxation of late trading hours restrictions in Newcastle CBD in 2000, the level of alcohol related non Domestic Violence (DV) and other harm indicators soared.

Figure 1: Number of recorded presentations to the John Hunter and Mater Calvary hospitals for assault-related injuries between 10pm and 6am Friday and Saturday nights from March to October, 2001-2008



Source: Prof. John Wiggers University of Newcastle

2. By 2007 one of NSW’s smallest Police local area commands (LAC) had the highest level of non DV alcohol related assaults in NSW.



It was also reported that Newcastle LAC had the highest rate of drink driving charges and the highest rate of assaults on Police officers.

3. An active Newcastle Liquor Accord oversaw the dramatic escalation in alcohol fuelled violence and related harms and crimes. Its motto was “fun city – safe city”. It was chaired by a senior public servant from the Premier’s Department with Newcastle Council providing the secretariat and promotion/publicity.

A key (failed) performance indicator was reducing the levels of alcohol related violence. No independent community/resident representatives were allowed to be members of this organisation.

4. Prior to the Liquor Admission Board proceedings in 2007, the industry itself trialled a number of measures similar to those currently supported by those opposing the more recent alcohol law reforms in Sydney. These measures included “demand” based activities such as education, RSA marshals, more police, high visibility police and security, some drink restrictions, transport etc⁹.

These measures proved ineffective. This is consistent with the available rigorous research literature. It is understood the key sticking point in Newcastle was the industry’s refusal to trial enforceable precinct-wide “supply” based modest reductions in last drinks times advocated by the Police.

5. A local Newcastle community coalition was formed to respond to the terrible levels of primarily preventable levels of alcohol related deaths, harms and disturbance and the apparent incapacity of the State Government and Local Council¹⁰ to effectively intervene to prevent the carnage, misery and suffering that was destroying the city’s reputation.
6. The community coalition took the unprecedented step of joining a Police s79 undue disturbance complaint against a raft of Newcastle CBD late licensed premises.

⁹ Some of the same industry preferred measures were trialled by the government in Kings Cross in late 2012, they were equally unsuccessful. See Govt rpt Sept 2012 and 1 July 2013

<https://www.nsw.gov.au/sites/default/files/public-update-on-kx-plan-of-management-final.pdf>

¹⁰ <http://www.theherald.com.au/story/2619163/opinion-time-for-discussion-on-liquor-licensing/>

7. On 14 March 2008, Mr David Armati Chairperson of the (then) NSW Liquor Administration Board and Chief Magistrate NSW Licensing Court handed down his landmark decision applying enforceable earlier last drinks, a 1.00am restricted entry (one way door) and other supply measures to all respondent premises with the Newcastle CBD. The premises were required to reduce their licensed closing times by two hours.
8. The police subsequently struck a secret deal with the respondents without any community input (as a party), to extend the closing and restricted entry times by half an hour as full settlement of the hotels' appeal of the Armati decision.
9. The impact of the LAB decision in Newcastle and neighbouring drinking precinct in Hamilton has been the subject of substantial independent scientific research. This research has consistently established the efficiency and effectiveness of relying upon reducing late trading hours to disproportionately reduce alcohol related harms at no additional expense to taxpayers.

The research¹¹ including Perth, parts of Norway, Amsterdam and Brazil has found that increasing trading hours is correlated with disproportionately increasing the levels of harm.

I also rely upon the following extract for the DANTE report led by Prof. Peter Miller from Deakin University:-

“... In summary, the number of assaults in Newcastle dropped significantly during the study period whereas the community-based interventions had no significant effect in Geelong. This is in line with the current literature. Of note is the increase, rather than a decrease, in alcohol-related assault rates after the implementation of the alcohol industry funded ‘Just Think’ social marketing campaign. “...The most likely explanation for the different results between Geelong and Newcastle is that none of the interventions in Geelong address alcohol consumption ... Interventions that address total alcohol consumption have consistently been found to be the most effective in reducing alcohol-related violence (Anderson et al. 2009; Babor et al. 2010, 2003; Graham & Homel 2008). Increased surveillance technologies (eg ID scanners) may reduce incidents within venues, only to shift fighting onto the streets. Banning people may result in them being displaced to venues outside the main entertainment area. ID scanners and banning orders are also open to abuse, as seen in a recent case where the Supreme Court”¹².

10. It is noted that during the last 8 years of an overall significant decline of assaults in Newcastle, there were some increases in the level of reported assaults. This is attributed to an increase in the laxness (failed responsibility) of the premises' owners who found that the penalties imposed for being listed as the most, or one of the most violent premises in NSW, were less onerous (incentive for compliance) than the (then) relatively recent conditions imposed by the LAB.

¹¹ See for example www.qcaa.org.au/wp-content/uploads/KK-QCAA-forum-04FEB16.ppt

¹² P6 Executive Summary <http://www.ndlerf.gov.au/publications/monographs/monograph-43>

Following persistent community representations to the police on the increasing levels of violence, in 2012 the Newcastle police publicly warned¹³ the licensed premises that if there was no fall in assaults, they would consider seeking a further reduction in closing times. This had the desired effect¹⁴.

This point illustrates to the Inquiry that the review of earlier last drinks, restricted entry, earlier bottle shop closing times and impending risk based licensing laws cannot be effectively performed without active consideration of other essential co-dependent factors. This includes the effective and efficient operation of the NSW liquor compliance/disciplinary system such as:-

- the three strikes scheme^{15 16}
- violent premises list scheme¹⁷
- the basic willingness and capacity for licensing enforcement officers to consistently and fairly issue infringements
- the relative weighting of the cost of initiating legal proceedings against some NSW licensed premises and the subsequent penalties/sanctions, if any, imposed by the relevant court or authority¹⁸
- local government planning controls¹⁹

11. Newcastle experienced the same reported levels of dangerous overcrowding in late trading licensed venues that approximately doubled the approved patronage numbers. Any consideration of the numbers of patrons now attending Kings Cross venues must therefore be predicated on the permissible levels. It is understood that the safe maximum patron capacity for Kings Cross licensed premises is around 9,000 patrons. These levels were grossly exceeded prior to the introduction of the modest alcohol law reforms in February 2014.

12. The creation of much safer streets and more patrons enjoying a more diverse range of smaller and eclectic licensed premises in Newcastle has resulted in a resurgence of our live music scene.

Historically, Newcastle was a crucible for live “pub rock” bands and audience. Many bands including Midnight Oil, Cold Chisel, Angels, Screaming Jets etc have credited Newcastle and its audience as a factor in their earlier success. Ironically, many of these bands first gained their success and wide audience following in Newcastle when most pubs closed at 10pm – with all closing by midnight.

¹³ <http://bit.ly/1MKLnvS>

¹⁴ The liquor industry and AHA have also sought to rely upon spurious comparisons with other locations and reasons such as “bail enforcement”, anthropological factors etc to discount the effectiveness of demonstrated supply based harm prevention measures – see <http://drinktank.org.au/2015/03/merchants-of-doubt/> by Prof. Miller

¹⁵ paper <http://www.olgr.nsw.gov.au/pdfs/three-strikes-issues-paper.pdf>

¹⁶ My submission to three strikes internal inquiry <http://naapa.org.au/wp-content/uploads/2016/02/20-jan-Community-focused-response-to-the-Review-of-the-Three-Strikes-Disciplinary-scheme-in-NSW-web.pdf>

¹⁷ http://www.olgr.nsw.gov.au/alcohol_restrictions_for_violent_venues.asp

¹⁸ See discussion in case study three (p14ff) of my above three strikes submission

¹⁹ See concluding paragraph <http://drinktank.org.au/2016/03/casula-community-get-their-day-in-court/>

There is no correlation between the quality of the music and the ambiance of the experience - with the time live bands perform.

I am unaware of any independent evidence that establishes patrons listening to live music in licensed venues have lower levels of intoxication and subsequently behave themselves in any better fashion than patrons who refrain from the same entertainment.

I encourage the Inquiry to critically examine any assertion that an essential prerequisite for patrons to attend and enjoy live music after 3am in a licensed premise must be the service and consumption of alcohol. We must reconsider this almost hegemonic narrative of the vocal industry and supporters of the repeal of the laws - that the unrestricted supply, service and consumption of alcohol is an essential prerequisite for "having a good time" and the sole source of business income derived by licensed premises trading after midnight and 3am.

Mr Peter De Angelis owner of a large hotel chain advised (October 2015) Liverpool City Council in his DA (1060/2015) for a large hotel in Casula that his proposed hotel would not be providing "live music" as this would reduce this risk of violence and disturbances to the surrounding community.

This indicates a clear schism in the liquor industry as to the alleged alcohol harm prevention qualities of the provision of live music.

The relative high profitability of hotel poker machines vis a vis live music with attendant costly overheads, and the general decline of patronage of hotels prior to the laws, are two factors those who seek exemptions for live music venues have failed to adequately and convincingly address when unfairly blaming the modest alcohol law reforms for a decline in live music.

Clover Moore's proposal²⁰ to exempt "live music" venues from the time and entry controls is fraught with danger particular given her Council's own record of effectively standing by, if not promoting through their Late night Trading DCP, a significant and rapid problematic increase in liquor outlet density (despite the Kings Cross "liquor freeze") and extended late trading hours.

Aggravating the Council's own performance record was their acknowledgment²¹ in 2009 that "Increases in alcohol availability will increase rates of alcohol related crime" (NDARC).

Sydney Council and OLGR had a poor record of supporting Police²² and local residents' serious objections against persistently non-compliant violent Kings Cross licensed premises. This record lends little credibility to Clover Moore's latest partisan suggestion of granting exemptions to "live music" and other so called "well behaved" premises

²⁰ <http://www.smh.com.au/nsw/clover-moore-wants-exemptions-for-livemusic-venues-top-bars-from-lockout-laws-20160403-gnx2kn.html>

²¹ See slide 35 <http://www.aius-nsw.org/common/pdf/speaker%20notes/The-City-after-Dark.pdf>

²² See Police submission to OLGR re complaint against Kings Cross Empire Hotel 7 July 2011

especially when Sydney Council and the local Police have a deliberate policy²³ not to push for liquor license infringements against non-compliant premises.

It is unfortunate that Sydney's Lord Mayor and her industry/patron supporters continue to ignore or discount the overwhelming life and public cost saving benefits derived from these modest law reforms over the last two years.

A current exemption process exists and apart from its lack of transparency and failure to provide for any input by the community, appears to be functioning satisfactorily.

Newcastle modest reforms - summary of achievements

1. Reduction in assaults by 64% (Newcastle Police data) since 2008
2. More than doubled number of licensed premises mainly restaurants and smaller bars
3. Enjoys around 80% community & patron support (NCC, Uni of Newcastle)
4. More prosperous, diverse and likely NTE – more jobs
5. Estimated to have prevented more than 5000 young people from being assaulted
6. Transformed the culture by sensible harm prevention law reforms like seat belts, RBT, helmets

Number of licensed premises in Newcastle CBD 2008 - 2015

	March 2008	March 2013	July 2015	% increase 2008
Hotels	13	17	23*	77%
Registered Clubs	5	5	5	stable
On Premises	41	66	98	140%
Packaged Liquor	5	5	8	ns
Total	64	94	134	110%

* includes 3 small bars

Source: Licensing information provided by Newcastle Police 20 July 2015

²³ See Case study one p5 <http://naapa.org.au/wp-content/uploads/2016/02/20-jan-Community-focused-response-to-the-Review-of-the-Three-Strikes-Disciplinary-scheme-in-NSW-web.pdf>



Recent picture of queue outside *Argyle House* (former *Fanny's*) c/o Newcastle Herald

Recommendations

1. Last drinks time

I support the retention of the 2014 alcohol law reforms for Kings Cross and Central Sydney based on what has been achieved in Newcastle since 2008 and the significant reductions in assaults in Kings Cross and central Sydney.

I encourage their immediate adoption across all of NSW with consideration to reducing last drinks by the same two hours in problematic region centres such as Byron Bay²⁴, Tamworth, Albury, Orange, Coffs Harbour etc that currently practice 3am and/or 5am closing.

I consider sufficient evidence exists for the NSW government to declare a moratorium on all Development Applications and Liquor license applications related to extending the service of alcohol past midnight.

There is no substantive evidence to support the attribution that the last drink laws have directly contributed to any significant further decline in “live” music than what is being experienced in some other interstate cities with no similar controls.

No exemptions to the alcohol law reforms should be made for live music and alleged “well managed” venues.

2. One way door policy

I support the retention and extension of this requirement and those related to sensible drink restrictions. Whilst there may be little independent scientific evidence supporting their effectiveness in isolation of earlier last drinks, they reportedly provide public order and logistical support to the Police in clearing the streets of intoxicated patrons and preventing the disturbances associated with intoxicated patron migration between venues.

²⁴ <http://www.echo.net.au/2015/09/street-crime-still-a-problem-in-byron/>

3. Bottle shop 10 pm closing

I support these very important measures particularly as they are crucial in limiting preloading (a key precursor to alcohol violence) and alcohol fuelled domestic violence. I note that around 18 NSW Local Government areas have DV rates equal to or greater than twice the NSW average rate (BOCSAR).

All 18 of these LGAs are in regional NSW and it is of great concern that some of these regions' MPs²⁵ seek exemptions for their electorates from this life saving measure.

4. Risk based licensing

I support this measure but note that it is no effective substitute for the state-wide adoption of modest reductions in last drinks times, earlier bottle shop closings of 10pm and effective and consistent enforcement of liquor and related planning laws.

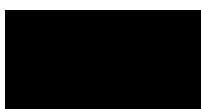
The biggest weakness of this RBL scheme is that it relies upon the presently non-existent consistent, uniform and stringent enforcement and consequently effective and proportional deterrence measures for non-compliance by all NSW licensed premises.

It is unfortunate that the important and related Three Strikes disciplinary scheme is only subject to a current internal Departmental review²⁶ with submissions not made public till after the review is concluded.

The RBL scheme does not come close to fully compensating each NSW family for the estimated (2010) total social cost of \$3.87 billion dollars per year or \$1565 per household responding to alcohol related abuse²⁷ from the operations of a relative small sector of the NSW liquor industry.

Thank you for the opportunity to provide input into this important Inquiry.

Tony Brown



²⁵ <http://www.northerndailyleader.com.au/story/3756796/cut-off-time-unfair-10pm-closure-for-bottle-shops-impacts-rural-towns-mp/>

²⁶ <https://www.liquorandgaming.justice.nsw.gov.au/Documents/public-consultation/three-strikes-issues-paper.pdf>

²⁷

https://www.audit.nsw.gov.au/ArticleDocuments/281/03_Cost_of_alcohol_abuse_NSW_Government_Executive_Summary.pdf.aspx?Embed=Y